

MINUTES

LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

July 27, 2023

Ord, Nebraska

The July meeting of the Board of Directors of the Lower Loup Natural Resources District was held at the Headquarters Office, 2620 Airport Drive, Ord, Nebraska, on July 27, 2023. Chairman Eschliman called the meeting to order at 5:00 p.m.

CALL TO ORDER

Directors in attendance:

James C. Adams
Timothy E. Bartak
John R. Coffey, Secretary
Randy Kauk
Gary A. Kruse
Larry Mohrman
Alan Petersen
Gerald Smith
Rick Vlach

Rollie D. Amsberry, Treasurer
Robert L. Bauer
James Eschliman, Chairman
Thomas L. Knutson
Matt Lukasiewicz
Todd Nitsch
Chad J. Podolak
Alexander L. Vlach

Directors absent:

Darwin B. Anderson
Henry J. Thoene, Vice Chairman

N. Richard Hadenfeldt

Staff in attendance:

Russell G. Callan, General Manager
Irene F. Kreifels, Administrative Assistant
Alan Bartels, I & E Coordinator
Dell Harris, Water Resources Specialist
Kevin Gustafson, District Engineer
Brian Kolar, Projects Specialist
Aron Lewis, Conservation Forester

Tylr Naprstek, Asst. General Manager
Kim A. Lyons, Financial Secretary
Brant Bechtold, I & E Specialist
V. Anne Freeman, Water Programs Secretary
Cacey Wilken, Water Modeling Coordinator
Jason Moudry, Water Programs Specialist

VERIFICATION OF MEETING NOTICE AND ADOPTION OF AGENDA

Chairman Eschliman asked for verification of the meeting notice. General Manager Russell Callan stated that the agenda was current, and that the meeting notices were properly published in all required newspapers, posted at the NRD Headquarters office in Ord, on the NRD website, and in the eight field office locations.

EXCUSED ABSENCES

Eschliman stated Director Bartak would be late and that Directors Anderson, Hadenfeldt, and Thoene had asked to be excused.

Smith motioned, seconded by Adams, to excuse absent directors. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Bauer, Coffey, Eschliman, Kauk, Knutson, Kruse, Lukasiewicz, Mohrman, Nitsch, Petersen, Podolak, Smith, A. Vlach, R. Vlach. Directors absent: Anderson, Bartak, Hadenfeldt, Thoene.

MINUTES

Eschliman asked for corrections and/or additions to the June 22, 2023, Board meeting minutes. None were heard.

Knutson motioned, seconded by Nitsch, to approve the June 22, 2023, Board meeting minutes as presented. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Coffey, Eschliman, Kauk, Knutson, Kruse, Lukasiewicz, Mohrman, Nitsch, Petersen, Podolak, Smith, A. Vlach, R. Vlach. Director abstaining: Bauer. Directors absent: Anderson, Bartak, Hadenfeldt, Thoene.

TREASURER'S REPORT

Russell Callan, General Manager, highlighted expenditures of \$66,530.00 to FNIC for the District's insurance policies; \$7,226.55 to JEO Consulting Group Inc. for WFPO work; and \$12,334.05 to Sack Lumber Company for cabinets in the water lab. He also noted expenditures of \$15,904.65 to NARD for Director registration and lodging for the Washington D.C. trip and Basin Tour; \$9,500.24 to NARD for employee registration and lodging for the Washington D.C. trip and various Managers meetings; \$4,500.00 to Porter & Company for the Federal audit; \$9,132.00 to USGS for stream gauges; \$19,893.84 to JEO Consulting Group, Inc for WFPO work; and \$25,272.50 to Flatwater Group for the Buffalo County Cover Crop Study.

Bartak arrived at 5:05 p.m.

Adams asked about the \$9,531.31 expense to Dworak Paint & Body. Callan stated that repairs were being made from hail damage to the suburban.

Kauk motioned, seconded by Kruse, to approve the July 27, 2023, Treasurer's Report. Motion carried by electronic vote, all present voting yes.

PUBLIC COMMENTS

Eschliman asked for comments from the public. None were heard.

FORESTER'S REPORT

Aron Lewis, Conservation Forester, reported that he has been working on FRP cost-share and windbreak renovations. He reported there are three forestry improvement projects, and he is also working with the Bovee timber fire sale in Halsey.

Lewis reported that 47,905 trees were sold this year – 14,226 shrubs; 29,451 conifers; and 4,228 broadleaf trees. The best-selling shrub was the American plum, the best-selling conifer was Eastern redcedar, and the best-selling broadleaf was Bur oak.

NRCS REPORT

NRCS was not present to report.

RESOLUTION FOR MAINTENANCE ASSESSMENT ON DUNCAN EAST IPA

Callan introduced Resolution FY2024-001, as follows:

Resolution FY 2024-001

Resolution to set the 2023 Duncan East IPA Assessment for Maintenance

WHEREAS, the levy of special assessments for initial project construction has been made for the Duncan East Improvement Project Area by the Board of Directors of the Lower Loup Natural Resources District in accordance with Section 2-3254.04, RRS, 1943, Nebraska; and

WHEREAS, the Board of Directors may also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project, in accordance with Section 2-3254(4), RRS, 1943, Nebraska;

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of the Lower Loup Natural Resources District authorize that such schedule of the amounts proposed to be assessed against each separate piece of property for current operation and maintenance, such amounts totaling \$11,000.00 be transmitted to the County Clerk of Platte County, and order the same to be collected and accounted for by the Platte County Treasurer, and such assessments shall be and remain a perpetual lien against such real estate until paid in full. All provisions of laws for the sale, redemption and foreclosure in ordinary true matters shall apply to this special assessment.

Kruse motioned, seconded by R. Vlach, to adopt Resolution *FY2024-001: Resolution to set the 2023 Duncan East IPA Assessment for Maintenance*. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Bartak, Bauer, Eschliman, Kauk, Knutson, Kruse, Lukasiewicz, Mohrman, Nitsch, Petersen, Podolak, Smith, A. Vlach, R. Vlach. Director abstaining: Coffey. Directors absent: Anderson, Hadenfeldt, Thoene.

INFORMATION & EDUCATION REPORT

I&E Meeting

Alan Bartels, I&E Coordinator, reported that the I&E meeting was held in Ord and a tour of Zangger Popcorn and Scratchtown Brewery was given, as well as a presentation on food plots, etc. at Aagaard Farm. He said the group also talked about using a Scantron system for scoring land judging.

Quarterly Newsletter

Bartels reported that *In the Loup* would be sent out August 15th.

NARD Annual Conference

Bartels reported that the NARD Annual Conference would be held September 24-26 in Kearney.

Kruse asked when *Water Matters* would be mailed again. Bartels stated it would be sent again in the fall, as it is now mailed two times a year.

ASSISTANT GENERAL MANAGER'S REPORT

Recreation Areas

Tylr Naprstek, Assistant General Manager, reported that water levels at Davis Creek are maintaining well and that the campgrounds have been full. He stated that last weekend Merritt Recreation Retreat came out with approximately 180 kids. He reported that sites were reserved throughout the remainder of the summer and that access would be shut down in October for road improvements.

Naprstek reported that musk thistle has been treated on the island at Pibel Lake and that around 26 geese were counted. He stated that the lake was not triggering a beach watch; however, there is some algae forming around the auxiliary spillway that will be watched.

Currently, only Swanson Lake is on health alert for microcystin. Naprstek noted that these levels can be found on NDEE's website.

Drought Report

Naprstek showed the drought monitoring report and stated that there was not much difference from last week. He stated that there were communities such as Genoa and Fullerton that have been proactive. Fullerton has put water restrictions on lawns. Wells in the City of Fullerton are down about 5½ feet from normal pumping levels. They are hoping to put in a third well north of the Cedar River, with construction to begin next spring. Jason Moudry, Water Programs Specialist, reported that water levels in the south well, located two miles north of Genoa, are down. Static water levels in that well are usually 165 feet but had dropped to as low as 191.6 feet. Currently, the SWL is 179 feet. The bad part is that the pumping water level was 193 feet and the bowls are about 220 feet. Staff is watching this situation closely and staying in touch with the city. Genoa's north well is being watched closely, as well, because of the high nitrate levels.

Naprstek reported that Genoa contacted NRD for advice and was advised to shut down extra watering lawns, the ball field, etc. Naprstek stated he hadn't heard anything from the Petersburg area.

Next fall, Lower Loup will be installing new monitoring wells with pressure transducers so that, in the future, we will be able to monitor drawdowns.

Chemigation

Naprstek reported that Lower Loup had received roughly 3,500 chemigation permits. He stated that some techs have 2-3 weeks of inspections left. He said one producer was issued an emergency permit after being caught chemigating without a valid permit.

Naprstek stated there was a chemigation outreach flyer being circulated. He stated there will be a seminar on precision ag application called "Sunset Seminar" in Bellwood on August 8th that is sponsored by the University and Lower Platte North NRD.

Water Sampling

Naprstek reported that water sampling on irrigation systems were being conducted and that staff would be switching to monitoring livestock and domestic wells this fall. He stated that Lorenz and Hellbusch were working in Areas 28 & 30 and that Dawson was working in Area 29 to collect samples.

PROGRAMS/PROJECTS COMMITTEE

Davis Creek Road Project

Kruse stated that Gustafson would report later.

Mud Creek WFPO – Ansley

Kruse reported that NRCS has required an economic loss survey to be completed by businesses in Ansley. Callan stated all had been done and turned in.

Kevin Gustafson, District Engineer, reported on results from the survey. He stated that there were 10-11 businesses that completed the loss survey. The bigger ticket items listed were inventory, equipment, and records. He stated there were some structural values included in the figures as well. Total potential flood losses reported by the businesses in Ansley could be roughly \$12 million. This figure does not include any potential losses to residential properties. He stated that, after reviewing, JEO will put the information into the watershed plan.

Coffey asked what the total project cost was. Gustafson stated it would be approximately \$5 million.

Davis Creek Road Project

Gustafson reported on the Davis Creek Road Project. He said that the 65% design was received by Flatwater Group on June 26th and that the 95% design is scheduled to be in by the first part of August. The final design should be ready by August 21st. He added that everything was on schedule for a bid opening on September 21st, with closing of Davis Creek Recreation Area by October 1st for construction to begin.

Eschliman asked how long the entire project would take. Gustafson stated he wasn't sure, that it would depend on weather; however, the road paving should go quickly, with the approaches and pads taking more time. Gustafson added that they plan to be completed by January 31st, but the plans state by Memorial Day 2024.

Gustafson stated the preliminary cost estimate for Phase I, including \$143,000 design costs, is \$755,000 which covers a 2,250-foot concrete road from the west property boundary to the new camping loop exit. He said the original design included culvert replacement which has been determined unnecessary which will save about \$101,000. He stated that the BOR has granted the NRD \$500,000 in Title 28 funds for the project.

Potential future components of the project include Phase II, which is 950 feet of concrete road to the entrance of the east camping loop at a cost of \$395,000; and Phase III, which is 2,000 feet of road from the east camping loop entrance, around the boat ramp, at a cost of \$684,000.

Kruse asked if this was included in the budget. Callan stated the \$800,000 includes extra for maintenance.

Gustafson stated that some of Flatwater's costs of \$143,000 could be reduced by about \$20,000 since they have not done the construction oversight of all three phases at this time.

Drone video, by Flatwater Group, was shown and the cutoff points for each proposed phase was shown. Gustafson explained which portions would be paved in Phase I of construction.

Mira Creek WFPO – North Loup

Gustafson stated that he talked to Mike Placke today, and they were going to start the process to get the plan put in. He stated that an economic survey would be done in North Loup, so that process will be started as well.

Sargent Flood Project

Kruse stated that information has been submitted to NEMA for a grant. Callan added that there has been no word back yet.

Arboretum

Kruse reported that tree work will be done on dead/dying trees in the arboretum.

Children's Museum in Columbus

Kruse reported that the executive director of the museum presented to the Board at the June Board meeting and that Bartels presented at the July Committee meeting. He said that the Committee discussed and approved a contribution to the project. Kruse stated that a list of participants was provided and that discussions have been held on how recognition would be given for the NRD's contribution. It was discussed that the NRD could have a certain area they sponsor and could work to help design the display to show how it related to the NRD and its goals. Logo placement was also discussed. It was added that the NRD could host educational events there.

Kruse motioned, seconded by Knutson, to approve a \$30,000 contribution to the Columbus Children's Museum.

Kruse stated it is common for NRDs to participate in these projects. Kauk stated that publication fees have been discussed and this will start education at a kid's level. Lukasiewicz asked how the contribution amount was determined. Callan stated he went with the same as other organizations. Coffey stated he has trouble seeing where this fits in compared to other projects, like Genoa and Fullerton, that are requesting money. Callan stated that it does help with promotion and education. Coffey expressed disinterest in the project. Mohrman added that it is a substantial amount of money, but he would rather see the money spent on more grass roots projects, such as this, instead of others like trails. Knutson stated it would be good to get our name out there and that education is very important and with this project, kids get the opportunity to learn the importance of water and soil early on. Podolak stated he felt the Loup River is under-appreciated and that education needs to be out there on it.

Adams asked if all their figures were set, or if there would be additional requests from them. He added that he is all for education, he just wants to be sure their funding and budget are correct. Lukasiewicz asked if the \$30,000 is safe, and if the project falls through if the money would be returned. Callan stated that the NRD would have a “seat at the table” during construction. Mohrman stated that other donors are paying over a period of time and wondered if the NRD should do the same. Eschliman stated that with our policies, checks are not issued on projects until the money is spent and proper documentation is provided.

Amsberry asked if the NRD would be replaced if someone else stepped in and gave more money in a few years. Bartels stated that we get 10 years recognition for the donation. Callan stated the contribution would be comparable to just a small portion of our advertising budget and would help to educate the public and get the NRD’s name out there. Bartak expressed concern that this will be just in the Columbus area, whereas a newsletter reaches the entire District. Podolak stated that it should be recognized that we are engaging in education of water and soil. Nitsch added that this is focused on children; however, there would be adults taking them there as well. Petersen stated that he felt the contribution amount is on the lower end for who we are and what we do.

Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Bauer, Eschliman, Kauk, Knutson, Kruse, Lukasiewicz, Mohrman, Nitsch, Petersen, Podolak, Smith, R. Vlach. Directors voting no: Bartak, Coffey, A. Vlach. Directors absent: Anderson, Hadenfeldt, Thoene.

WATER RESOURCES COMMITTEE

Instream Flow Subordination Agreements

Naprstek stated that staff had talked to Blankenau on how our water rights should be administered. Blankenau has been drafting subordination agreements for instream flow rights in the Niobrara River. Naprstek said that Niobrara River subordination agreements basically state that junior water rights are allowed to use the water while operating under the NRD’s agreement. The things that we are trying to protect are 1) that our water rights are not eroded, and 2) if there is determination of non-use, that DNR does not take it away. Naprstek stated there would need to be an agreement.

Naprstek informed the Board that there was 440 acre-feet of depletion that was allocated between 2017 and 2021. Callan stated that it allows people that got their rights after we filed ours, to continue to operate with just an agreement in place with us. He added that if a large producer comes in, it allows the ones there today to continue for their set fee and the new producer could be denied if necessary.

Callan stated that the fee could be set at any amount, even \$1, and it can be reviewed every year. Naprstek stated that a fee charged forces DNR to enforce our water right, whereas right now, DNR can say the water right isn’t being used as it should. Kauk asked what the fee should be. Callan stated there just needs to be some fee, that we don’t need to make money off it, we just need it to initiate the agreements.

Naprstek and staff have been working to see how many will qualify.

Callan stated that DNR must enforce our right and if water goes below a certain level, DNR can stop the pumping. Callan said it basically states that producers can use the water even though we have the right.

Kauk asked for clarification and the main purpose for the \$1 fee. Callan stated it is just to bind the contract. Kauk asked why this is all of a sudden. Callan stated that we got our instream flow last year and to keep it active, we need to have these agreements in place. He added that when we started noticing water levels declining in 2017, we applied. Mohrman asked why it took so long to get it. Callan said that between changes in Directors at DNR and various other things in the process, it took a long time to finish.

Mohrman asked where the numbers came from. Callan answered that we hired a geologist, hydrologist, and others to gather the information and file it with DNR. He added that the only thing not approved in the application was the avian portion; however, we received the amount of water we wanted. Kauk asked if other NRDs have instream flow rights. Callan stated that some do, but not all.

Lukasiewicz asked if the right was necessary if we aren't going to do anything with it and reviewed Board minutes from 2017 discussions. Callan stated at the time it was applied for it was necessary to be sure we didn't lose the rights. Callan added that the other option was to not do subordination agreements and just administer the rights.

Smith motioned, seconded by Adams, to ask DNR to administer our instream flow right and consider entering into Subordination Agreements with a use fee to be revisited and revised annually for all contracts. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Bartak, Bauer, Coffey, Eschliman, Kruse, Mohrman, Nitsch, Petersen, Podolak, Smith, Knutson, A. Vlach, R. Vlach. Directors voting no: Kauk, Lukasiewicz. Directors absent: Anderson, Hadenfeldt, Thoene.

Callan stated the agreements would also be reviewed with new irrigated acres.

Nitrate Vulnerability Model

Naprstek went over the breakdown that was handed out. Naprstek and Wilken went over data and put it into a model to determine the numbers. Naprstek reviewed the different levels of each factored in to get the vulnerability figures. He discussed the residual pounds per acre and triggers. He explained that if there is a trigger, a nutrient management plan would be required to see where figures came from and how the issue can be remedied.

Sites in Area 29 that are higher were shown, as well as sites in Area 28. A graph was shown of producers with very high rankings. Naprstek stated that out of 88 total fields, there were 44 "High" and 44 "Very High" rankings. He said that one producer has 15 fields that are "Very High".

Smith motioned, seconded by Coffey, to require nutrient management plans on fields identified as “Very High” on the Nitrate Vulnerability Model. Motion carried by electronic vote, all present voting yes.

Callan stated he thought it would be good to notify the producers with “High” rankings and let them know where they stand, so they aren’t blindsided by it. He added that it may keep them out of the management plan level. Mohrman agreed that it would be good to notify them ahead of time. Directors agreed that no extra motion was necessary, that it would just be part of the process to notify producers that rank “High” in the model.

Naprstek stated that staff is expanding soil sampling and doing educational outreach. Mohrman asked if spots were marked so samples can be taken in the same place each time for accuracy. Callan stated that staff uses GPS to identify and log where samples are taken.

Drought Management Plan

Naprstek reviewed the 20 drought management areas. He stated that areas 18 and 20 have triggered and meet the criteria on drought status with triggering static water levels. He stated the ones in Area 18 are in southern Buffalo County and the other, in Area 20, are by Fullerton and over to the edge of the District, where they are the lowest levels recorded. He stated that by the criteria of the drought management plan, they are triggered for meter requirements.

Smith motioned, seconded by Kauk, to start the hearing process to require flowmeters on all irrigation systems in Drought Management Area 18 and Area 20.

Coffey stated there are probably 500 in Area 18 and 300 in Area 20 that would need to be installed. Kruse asked how much is in the budget for this. Callan stated that there is no amount right now; however, this is a rule change so it must go through the public hearing process. He added that a second motion could be done for cost-share for the flowmeters. Mohrman stated it would be good to have it all included in the same process.

Adams asked to amend the motion to take out Area 18 and only do Area 20, to reduce staff load for the first year.

Kruse asked what the desired result is. Callan stated we are trying to collect data to determine allocation amounts, if need be, to keep water levels sustainable. Bartak added that the Drought Management Plan triggered for them to have meters required, and we are following the plan that was set up a year ago. Callan stated meters will provide education and we can look at allocations later down the road if we need to. He added that the data can be used, and there may not be any allocation until we get into a drought situation. Callan stated that right now all we can do is ask people not to pump, until we have meters to show pumping records. After we get data, we can see what needs to be done to get back to good water levels, but meters are needed to back up enforcement.

Lukasiewicz added that the data is vital and that most producers also value the data. Nitsch stated that if we choose not to do something, not only will irrigation water be reduced, but it could eventually lead to drinking water decline.

Adams withdrew the amendment request.

Callan stated that he doesn't see why cost-share should be provided. He stated that it was done in water quality areas because of different circumstances and added that we have not put money in the budget to do it yet. Eschliman stated that the Board can address cost-share later.

Callan stated we have time before the rule change would take effect, that there must be a hearing process. Coffey added that we have from now until November to work out the kinks and then most likely give them two years to put them on. Coffey added that he felt that we needed to enforce our rules.

Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Bartak, Bauer, Coffey, Eschliman, Kauk, Lukasiewicz, Nitsch, Petersen, Podolak, Smith, Knutson, A. Vlach, R. Vlach. Directors voting no: Kruse, Mohrman. Directors absent: Anderson, Hadenfeldt, Thoene.

Genoa Municipal Well Issues

Water restrictions in Genoa were reviewed as well as the current drought status.

USGS Vadose Agreement

Jason Moudry, Water Programs Specialist, went over the three counties -- Platte, Nance, and Boone -- where focus needs to be placed. He discussed the timeline and stated that sampling has been taking place since spring. He stated they have done samples between a depth of 8 feet to 30 feet to see if nitrogen is escaping the root zone.

Pictures were shown of sampling and the process was explained. He said that staff was hoping to sample for three years, and that Lorenz was working on lining up fields. Moudry stated that all samples would be taken in duplicates and reviewed, and results would be made available regularly.

The cost breakdown for the next three years was reviewed. It was stated that it would be \$51,000 for year 1; \$68,000 for year 2; and \$87,000 for year 3, for a total of \$206,000.

Smith motioned, seconded by Bauer, to participate in the USGS Vadose Project. Motion carried by electronic vote, all present voting yes.

Naprstek added that the NRD was promoting the soil sampling cost-share that was recently implemented. Callan stated that three of the producers that protested on the fall fertilizer ban are participating in the testing.

Well Decommissioning Cost-Share

Naprstek stated that staff was reviewing numbers.

Columbus Recharge Project

Callan pointed out the award that was received for Engineering and Design of the project. He reported that Kolar was working on pressure sensor pipes and has been reviewing pumping scenarios and it was about done.

ENGINEER'S REPORT

Gustafson's report was given during the Programs & Projects Committee reports.

MANAGER'S REPORT

Litigation Update

Callan reported that there was nothing new with the Platte Republican diversion.

New Hires

No new hires.

Non-Action Reports

Callan stated that Anderson will be inducted into the NRD Hall of Fame this year.

Podolak asked if there was any value to having offsite Board meetings, to give Directors a chance to see various things in the area. Callan stated he would discourage the idea for Board meetings; however, it could work for Committee or other special meetings.

NARD REPORT

Eschliman stated the next meeting would be held Monday.

NRC REPORT

Amsberry reported that they met July 19th in Kearney to review applications. He said that two major projects were approved for \$8.8 million total and that seven small projects across the state were approved for \$1.47 million total. He added that Riley was present for the meeting and that there may be upcoming changes to the ranking and scoring process.

Callan stated that the NRD did get approved for the Nitrate Legacy Program.

ANNOUNCEMENTS / FUTURE MEETING TOPICS

No announcements were made.

ADJOURNMENT

With no further business before the Board, Chairman Eschliman declared the meeting adjourned at 7:17 p.m.

Roster for attendance of this meeting and tally of votes cast on motions at this meeting are being filed with the official minutes of this meeting at the Lower Loup Natural Resources District's Headquarters Office, 2620 Airport Drive, Ord, Nebraska. Publication notification of this meeting was made via required newspapers. The next Board of Directors meeting will be held August 31, 2023, at 1:00 p.m., at the Headquarters Office in Ord, Nebraska.

John R. Coffey
Secretary