



## UPPER NIOBRARA WHITE NATURAL RESOURCES DISTRICT

**Board of Directors' Meeting  
August 14th, 2014**

In accordance with LB 325, Eighty-fourth Legislature, First Session (1975), the Upper Niobrara White Natural Resources District held a public meeting at 9:00 a.m. on Thursday, August 14th, 2014, at the Upper Niobrara White NRD Office in Chadron, NE. An agenda for this meeting to be considered at such date, time and place was kept continually current and was available in the NRD office. Seven days prior to the meeting, the agenda was mailed to each member of the Board of Directors and other interested and affected persons. Notice of the meeting was given to the public by publishing a legal notice on the UNWNRD website and The Chadron Record on August 6th, 2014.

### **Open Meeting Law Act**

Chairman Zochol pointed out the Open Meeting Law Act that was displayed at the entrance of the meeting room.

### **Roll Call & Introduction of Guests**

Chairman, Richard Zochol, called the meeting to order at 9:00 a.m. and roll call was taken with the following directors present:

Scott Berndt	Curt Roth
Steve Sandberg	Kevin Oligmueller
Dave Kadlecak	Rich Zochol
Dave Carlson	Tod Dorshorst
Jim Lees (9:07am)	Larry Teahon

Absent: John Burke

### **Others present:**

Pat O'Brien, NRD General Manger	Lynn Webster, NRD Assistant Manager
Sheri Daniels, NRD Water Resources Manager	Kylen Weingart, NRD Office Manager
Travis Nitsch, NRD Resources Coordinator	Lindsey Glock, NRD Resource Technician
Robin Foulk, NRCS District Conservationist	Seth Peterson, NFS
Andy Curd	Nancy Nixon
Don Grein	Nancy Fisher
James Mapes	Gordon Kearney
Tim Hruby	Mike Belknap
Brian Iodence	Dixie Lees

### **Emergency Agenda Additions**

None.

**NRCS**  
**Robin Foulk**

Robin reviewed her written report by discussing the Regional Conservation Partnership Program and the current EQIP applications the NRCS office is working on. Robin also discussed the Mirage Flats Dam Assessment that had been a topic of the last meeting. NRCS had previously needed the NRD to sponsor the project but will now be doing the Dam Assessment on their own by the end of September. The NRD's role now is necessary only if the assessment of the Mirage Flats Dam concludes that the Dam will need to be repaired or upgraded. Those repairs will fall to the NRD as sponsors if the district chooses to undertake the project.

**Nebraska Forest Service**  
**Seth Peterson**

Seth reported to the Board about his recent involvement in the wild land fires in Washington and was the first Nebraska State employee sent out of state to help fight fire. Seth was gone a total of 18 days to help with the control of wild fires in the state of Washington. He also discussed some of the ways in which home owners can help to protect their own homes from wild fires. Educating people in the Pine Ridge area on how they can help keep their own homes safe in the event of a wild fire is now his new goal.

While in Washington, Seth also helped land owners locate missing livestock and was able to recruit the help from local Job Corps students to locate the missing livestock for land owners in the area.

Seth discussed how Single Engine Air Tanker or SEAT Planes are being used to help to quickly extinguish fires in the Pine Ridge and other areas. Additional planes can be requested from South Dakota to help when needed.

**Proposed Modifications to IMP & Cottonwood Creek Groundwater Problems**  
**Andy Curd & Others**

Mr. Curd discussed the modifications to the Integrated Management Plan, specifically the trigger levels. Mr. Curd believes the following sentence in the IMP gives the NRD Board of Directors "unrestrained power" to allocate groundwater in the district:

*"The District Board of Directors may choose to implement management phases prior to meeting trigger levels, if it is determined to be in the best interest of the resource."*

Mr. Curd would like this sentence removed from the IMP. He continued with his presentation by discussing his previously stated opposition at the Public Hearing in Hemingford, NE on August 5<sup>th</sup>, 2014. He also mentioned the testimony Nancy Nixon gave at the previous Board Meeting, in which Mrs. Nixon stated that she has problems with the water flow on her property near Cottonwood Creek School, when the irrigators in the area use their pivots. Mr. Curd also mentioned Director Sandberg's response to Mrs. Nixon's statement saying that a new sub area may need to be created to conserve water in that area. Mr. Curd believes this is a problem not just because he owns two pivots 1.5 miles west of the area in which Mrs. Nixon is having problems with her water flow, but because he believes this is how the Board plans to operate without management controls.

Mr. Curd went on to introduce Gordon Kearney, another resident living in the Cottonwood Creek area. Mr. Kearney wrote and read a letter aloud to the Board regarding the water use in the area of Cottonwood Creek. He claimed that he personally has not had problems with his domestic wells, nor had the previous owners of his property. Mr. Kearney stated that he believed the trigger levels were put in place to help protect both the landowners and the resources itself. He mentioned that he spoke with a previous school board member of Cottonwood Creek School and he stated that there had never been a problem with the water flow to the school but that at one point the school's well needed to be re-drilled due to bacteria in the water.

Mr. Curd next introduced Tim Hruby another resident of the Cottonwood Creek area. Mr. Hruby also runs Hruby Enterprises, a company that works to repair or drill wells. He believes the trigger levels should remain in place as well. Mr. Hruby also gathered some information from a few other wells in the Cottonwood Creek area. He stated that none of these wells have needed to be re-drilled because they had run dry or sanded in.

Director Olligmueller asked Mr. Hruby where he heard that the board was planning to remove the trigger levels. Mr. Hruby stated that he understood that the Board was trying to remove the trigger levels from the IMP. Director Zochol clarified that the Board has never tried to remove these trigger levels from the GWMA Rules and Regulations nor would they.

Mr. Curd introduced Jim Mapes, Mr. Mapes stated that he did not have any comment; he was just there to learn.

Mike Belknap was next introduced; he discussed some of the ponds near his house stating that the water level in these ponds had not changed over the years. He believes that the ponds are evidence of the water table at the surface.

Mr. Curd concluded his presentation by saying that problems in one domestic well should not be cause to regulate an entire area and that the removal of management triggers is a bad idea. He provided a written account of his presentation to the Board following the conclusion of his presentation.

**Cottonwood Creek  
Nancy Nixon**

Mrs. Nixon mentioned that she, her husband, her son and a Geologist met with Mr. Curd the night before to discuss some of the issues she had mentioned at the previous board meeting pertaining to water flow at her home near Cottonwood Creek School. She stated that all the other land owners in the area who were mentioned were to the northwest of her families land and may not see any change in water level as the water flows from the northwest across the land.

Mrs. Nixon discussed that the original 85 foot well they used to use to water cattle would no longer support the cattle so a new solar well was put in place in 2003 to support these cattle. After this solar well was installed they did not have problems with the water flow, however their sub irrigated field continued to have problems. In 2004 the Cottonwood Creek School contacted Mr. and Mrs. Nixon for permission to pump water up to the school because the school was running out of water. Mr. and Mrs. Nixon were unable to do this because of all the water being used in that area in the late summer and fall by local irrigators. The schools well was 45 feet deep when it was installed and by 2005 they began to run of our water. Mrs. Nixon stated that this was evidence of a 40 foot drop in the water table.

**General Manager  
Pat O'Brien**

Pat added the following to his written report:

- Pat gave a brief overview of the current standing of the LR 491 Interim Study. Director Teahon added to the discussion of the interim study.

**Assistant Manager  
Lynn Webster**

Lynn added the following to his written report:

- Lynn discussed a permitted out of state water transfer to South Dakota; Dawes County Rural Water District #1 is out of compliance with its permitted amount for calendar year 2013. A letter of response from Dawes County Rural Water District #1 to the Department of Natural Resources describing the plan to address compliance was handed out to the Board members for review.

**Water Resources Manager  
Sheri Daniels**

Sheri added the following to her written report:

- Sheri mentioned that we are in the process of getting the new Resources Technician, Lindsey Glock, trained on chemigation inspections.

- Sheri also stated that Robin Foulk has submitted a conservation award nomination in the area of education for John Cogdill and Mary Beth Moore as the teachers who are responsible for starting up the FFA chapter at Chadron High School and since this was the only nominee we will award this at some time in the future.
- September 16<sup>th</sup> will be the Range Judging contest in the Alliance area.

**Resources Coordinator  
Travis Nitsch**

Travis added the following to his written report:

- Travis reminded everyone that the Windbreak Renovation Field Day will be August 21<sup>st</sup>.

**Resources Technician  
Haley Anders**

Haley was not present at the meeting but provided a written report.

**Resources Technician  
Lindsey Glock**

Lindsey gave a brief introduction.

**Approval of Consent Agenda**

There was a correction to the consent agenda where adjustments to the NSWCP Balance Sheet needed to be made to the carry over numbers from the previous year.

Dave Kadlecek moved to approve the consent agenda with the NSWCP amendment, Steve Sandberg seconded the motion. Roll call: (10) ayes, (0) nays; absent: John Burke.

**Agency Reports**

**Nebraska Association of Resources Districts  
Curtis Roth**

Director Roth reported on the following:

- Fall conference is September 21<sup>st</sup>-23<sup>rd</sup> in Kearney, NE.
- The Board needs to select a voting delegate for the NARD business session to be held at the Fall Conference as well as an alternate.

Dave Carlson moved that Curtis Roth be the Voting Delegate for the Board of Directors and Larry Teahon be the Alternate, Steve Sandberg seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

**Nebraska Natural Resources Commission  
Dave Kadlecek**

Director Kadlecek reported on the following:

- There was an NRC meeting August 13<sup>th</sup>, but Director Kadlecek was unable to attend due to the Board Meeting. The commission continues to work on rules, regulations and criteria for the ranking of projects and the distribution of the funds.

**Niobrara River Basin Alliance  
Dave Carlson**

Director Carlson reported on the following:

- The last meeting was July 23<sup>rd</sup> in Valentine, NE, where they discussed the current budget.

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- Discussion on basin plan will occur in the Water Committee Report.

**Water Committee Report  
Tod Dorshorst**

Director Dorshorst reported on the following:

- GWMA Rules and Regulations: the water committee has decided that since the phrase in the GWMA Rules and Regulations about trigger levels has always been part of the Rules and Regulations, it is now simply in an additional location in the document, it did not need to be removed in order to adopt the new amendments to the GWMA Rules and Regulations.

Tod Dorshorst motioned to adopt the GWMA Rules and Regulation as they are written, Dave Carlson seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

- There was also a chemigation violation in Sheridan County. The landowner was chemigating without a permit on five systems and claimed to be unaware that a permit was needed as he was from out of state. All information regarding the violation was turned over to NDEQ who did concur that a violation had occurred and at this time will defer enforcement to the district. The district may take action through the Sheridan County attorney and he Board will need to decide whether or not to turn the violation over to the Sheridan County Attorney for further action. In the past the board has turned similar violation over to the county attorney for enforcement.

Tod Dorshorst motioned to turn the Sheridan County chemigation violation over to the County Attorney, Dave Kadlecek seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

- The NRBA board voted at the July 23 meeting to begin developing a voluntarily basin plan pending the approval by the individual NRD boards. Discussion was held on this process.

Tod Dorshorst moved to participate in the NRBA Basin Plan, Dave Carlson seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

**Operating, Personnel, and Safety Policy Committee  
Dave Kadlecek**

Director Kadlecek reported on the following:

- Lynn discussed the NSWCP Allocation for this fiscal year. The proposed allocation will have a smaller over allocation than in years previous as to make sure we do not over obligate funds.

Dave Kadlecek moved that the NSWCP Allocation be approved as presented, Dave Carlson seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

- Director Kadlecek discussed the Long Range Plan that was previously discussed at the OPP Committee Meeting. The plan will be sent out to the remaining Board Members before the next meeting and they will vote at the next meeting.
- Pat discussed a proposal made to the NRD by the Forest service, regarding the partnering on a new position for the NFS. Lindsey Glock has experience in GIS mapping with the Forest Service so her position would become a partnered position with the NFS. Pat mentioned that the trial period would be one year so that the NRD could make sure they had enough coverage in the technician position. The board will vote at the next meeting.

Pat O'Brien discussed the changes that were made to the budget for the 2014-2015 Fiscal year. The Budget Committee met and made recommendations to the Budget as it was submitted in the packet. The Board would need to vote to post the Public Notice of Budget Approval.

Larry Teahon moved that the budget be approved as presented pending Public Notice and hold a public hearing at 0945 on September 11, 2014, Tod Dorshorst seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

#### Old or New Business

Pat discussed the Ground Water Association and Panhandle RC&D requests for participation. In the past the NRD has chosen not to participate in either of these two programs. The Board would need to decide whether or not to participate in the future.

Larry Teahon moved that the NRD not participate in the Ground Water Management and Panhandle Resource Management programs, Steve Sandberg seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

Lynn discussed a UNL Field day in Brule, NE. If anyone is interested in participating, they need to let Lynn know as soon as possible. Haley will be attending on behalf of the NRD.

#### Excused Absences

Tod Dorshorst motioned to excuse John Burke from the Board Meeting, Dave Carlson seconded the motion. Roll Call: (10) ayes, (0) nays; absent: John Burke.

#### Public Comment

Gordon Kearney reminded the Board that they are public servants and to keep that in mind because of the decisions they made to leave the "offending statement" in the Rule and Regulations regarding trigger levels. He believes that this statement gives the Board a lot of power.

Director Dorshorst and Director Kadlecek discussed with Mr. Kearney that this statement has always been in the Rules and Regulations but has been restated in the document to an additional location for clarification purposes. The Directors encouraged Mr. Kearney to read the previous version of the document.

Director Zochol commented that this is not a rogue board with a hidden agenda. The decisions made by the Board will not always be viewed by all members of the public favorably but that they do make decisions with the best interest of the land owners and the natural resources in mind at all times.

Director Sandberg also chose to clarify the statements he was quoted as making to members of the public after the public hearing in Hemingford on August 5<sup>th</sup>, 2014. In his discussion with Mike Machata and other members of the public he stated that the line in the GWMA Rules and Regulations regarding trigger levels needed to be in place because of drainage areas like the Cottonwood Creek area. He also stated that if sufficient data could be gathered, a new sub area may need to be made to protect the ground water in areas like that, but that the NRD currently does not have the data to make that decision nor would they until sufficient data had been gathered.

#### Adjournment

There being no further business, the meeting was adjourned at 10:40 a.m.

  
Rich Zochol, Chairman of the Board

  
Patrick O'Brien, General Manager

Date Signed 9-11-14