

MINUTES
Middle Republican Natural Resources District
Board of Directors Meeting
Tuesday, February 15, 2011 at 1:30 PM
Curtis, Nebraska

Board Members Present: Kevin Fornoff, Joe Anderjaska, Brad Randel, Buck Haag, James Uerling, Rick McConville, Rick Spencer, Steve Cappel, John Palic, Blaine Stinson, Bill Hoyt

Board Members Absent: None

NRD Staff: Dan Smith, Bob Merrigan, Roger Lawson, Stacie Owens

NRCS Staff: Jason Kennedy

Others: Brad Edgerton, Clint Sheets, Justin Bass, Nate Jenkins, Aaron Thompson, Craig Scott, Jayson Bishop, Craig Clough, Justin Pieper, Jarred Fichtner, Ralph Scott, Dean Large, Benjie Loomis, Josh Friesen, Brad Johnson, Stan Moore, Rod Clough, Kyle Clough, Pat Aylward, Dick Hasenauer

Information E-mailed to Directors:

E-mail from Smith dated 1/3/2011	Legislative Bill 229 via e-mail 1/13
Legislative summary in numerical order	E-Notes dated Jan. 11, 18, 25 & Feb 8Draft
Testimony E-mailed 1/13	Jan. 25 th Special Mtg Agenda & Notes
E-mail from Smith re: mtg dated 1/27/11	NARD Washington DC Agenda
Irrigation Leader February 2011	
Legislative Updates for Jan. 7, 14, 21, 28 & Feb. 11	
E-mail from Smith dated 1/13 re: Intervention Petition	

Information Mailed to Directors:

Agenda	Board Meeting Notes
Public Hearing Agenda	Minutes from Regular Meeting
Minutes from Special Meeting	Variance Request VAR1-2011
Heads Up Civil Rights Resources	I & E Report
College Scholarship Program	

Information Distributed at Meeting:

Agenda	Public Hearing Agenda
Financial Report	Profit & Loss Budget vs Actual
NNRC Meeting Brief	Article by Ron Bishop
Upper Republican News Release	Article by Brad Edgerton
RRBC Agenda	RRMDA Agenda
Surface Water Report	Reclamation – Safety of Dams
Cost Share Summary	Letter from Bureau to Dunnigan
Bureau’s Testimony on LRNRD Proposed IMP	

REGULAR MEETING

1. The regular monthly board meeting was called to order by Chairman Haag at 1:36 pm.

- a. Verify Quorum.
 - b. Excused Absences – None.
2. The agenda and roster were circulated to those present.
3. Notice of the regular monthly meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted at the **MRNRD Office** and on the **District Website** at www.mrnrd.org. As a courtesy it was also provided to local radio stations. Guests should also note the location of a current copy of the statutes dealing with public meetings and the booklet with the information provided to directors.
4. The Minutes for the January Regular Board Meeting and January Special Meeting were mailed to Directors.

◆ A motion was made by Anderjaska and seconded by Hoyt to approve the January Regular Board Meeting and January Special Meeting.

Ayes - 11 Nays – 0 Motion Carried

- 5. Open Hearing for Variance Request. None.
- 6. Close Hearing.

7. CONSIDER VARIANCE REQUEST

None.

8. FINANCIAL ACTIONS

- a. The January Financial Report and Monthly Income and Expense Report were presented by Smith. The County Treasurers’ Balance was \$51,603.26.

◆ A motion was made by Fornoff and seconded by Spencer to approve the January Financial Report as presented.

Ayes- 11 Nays- 0 Motion Carried

A copy of this report is filed with the Minutes.

- b. Occupation Tax – Surface water acres.

Smith explained the occupation tax and how it was taxed on all irrigated acres, not just groundwater irrigated acres. Uerling explained why he wanted this topic to be brought up as he doesn’t think the occupation tax should be applying to surface water. Smith explained the one year decertification process that producers could request and reminded everyone that the occupation tax will also benefit surface water irrigators.

◆ A motion was made by Uerling and seconded by Hoyt to exempt all surface water acres from the occupation tax for this fiscal year.

Ayes- 2

Nays- Fornoff, Haag, Hoyt, McConville, Palic, Stinson, Anderjaska, Randel, Spencer
Motion Failed

Anderjaska and Fornoff stated that this was the wrong time frame for making changes. The occupation tax for this year has already been levied, statements sent out and many taxes have already been paid.

◆ A motion was made by Uerling and seconded by Cappel to exempt all acres without a supplemental well from the 2011 occupation tax.

Ayes- 3

Nays- Haag, McConville, Palic, Randel, Fornoff, Spencer, Stinson, Anderjaska

Motion Failed

9. LEGAL MATTERS

a. Occupation Tax Challenge – NE Supreme Court – Awaiting Decision.
Nothing new.

b. IMP Challenges DNR – Request to Intervene.

Smith reported that DNR has not responded to our petition to intervene as of yet. DNR has not yet decided to accept the petitions and is possibly looking at a Motion to Dismiss. Discussion was held.

◆ A motion was made by Uerling and seconded by Hoyt to quit funding legal counsel with regards to representation on the Petition to Intervene filed with DNR.

Ayes- 7 Nays- Randel, Spencer, Anderjaska, Fornoff Motion Carried

c. Kansas vs. Nebraska filing.
Nothing new.

d. Discussion with Domina

Uerling went over his notes taken from a meeting with Domina in Lincoln during the Legislative Conference which he, Haag, Stinson, Cappel and Palic attended. They discussed the current IMP and Domina's current opinions and his work with the Lower Republican NRD. Discussions were held regarding finding a qualified attorney to help redraft a new IMP. Smith suggested putting together a list of attorneys, their qualifications and prices to bring forth to the board to evaluate. Uerling requested Domina be one of the candidates.

◆ A motion was made by Cappel and seconded by Uerling to direct Smith to put together a list of possible attorneys for basic representation prior to next month's meeting.

Ayes- 9

Nays- Anderjaska, Fornoff

Motion Carried

10. OPEN FORUM

Bill Barger, Culbertson. Commented on surface water transfers and asked some questions of Brad Edgerton of Frenchman-Cambridge Irrigation District.

Tim McKillip, Hayes Center. Questioned what the definition of a "legal well" was which Smith explained and gave some examples.

11. REPORTS – AGENCIES, ASSOCIATIONS, OTHERS

A. NRCS REPORT.

1. District Cons. Report. Jason Kennedy reported that the AWEP allocation was received and it only amounted to about 34% of what was requested. There is a possibility of receiving more but at the current time, this was not enough money to fund the applications received. The board members asked Kennedy to research some answers to some questions. Kennedy finished reporting on other NRCS activities.

2. Support for Range Workshop.

Smith reported on a meeting held with Nadine Bishop relating to starting up a Range Workshop. They discussed holding it in the Upper Republican NRD this year and then at the Middle Republican next year. Alternating it between the two districts would give the workshop a chance to reach two different groups of producers.

- ◆ A motion was made by Anderjaska and seconded by Palic to endorse support for the Range Workshop with publication and postage costs.

Ayes – 11 Nays – 0 Motion Carried

Kennedy went to make some calls.

B. NARD

1. Report – Anderjaska reported on the January meeting and the current remodeling of the NARD office in Lincoln.

2. Conference Reports. Anderjaska reported that the turnout was very good this year and reminded board members to e-mail their Senators and thank them for their time.

C. NNRC

1. Report. Nelsen reported on the January meeting and discussed items he included in the meeting handouts for the Board. Next meeting will be June 8th and 9th in Sidney.

D. INFORMATION AND EDUCATION – LAWSON.

1. Reports. Lawson went over his report and asked Haag if he was able to be the master of ceremony for the water conference in March. If Haag is unable to attend, he will appoint someone from the Board.

E. REPUBLICAN RIVER BASIN COALITION

1. Reports. Nate Jenkins gave a report on the activities of the RRBC. He announced that results of the water balance study will be presented at the water conference in March. Jasper Fanning of the Upper Republican NRD spoke about their augmentation project they are working on, how it all came about and how it will benefit the State for compliance.

2. Next Meeting, February 16th, Imperial.

Jenkins reminded Board Members about the meeting and encouraged them to attend. He announced that Zimmerman from DNR would be there to discuss legislation and grants available that could be beneficial for the NRD's.

Smith stated that the next two items were requested by a board member to be placed on the agenda. He discussed that our membership was already budgeted and there are goals that the coalition is working towards.

3. Membership Consideration. Cappel wondered whether it was worth being in the coalition. Discussion was held.

◆ A motion was made by Uerling and seconded by Cappel to reconsider membership in the new budget year.

Ayes- 7 Nays- Randel, Spencer, Anderjaska, Fornoff Motion Carried

4. Consultant consideration. Smith discussed some of the things that Kris Polly has done in Washington DC on our behalf. He does a very good job of keeping us informed and keeping contacts up between agencies. Smith expressed a preference of leaving Polly in the budget for now and discussing further for the new budget year. Discussion was held.

◆ A motion was made by Uerling and seconded by Cappel to reconsider consultant in the new budget year.

Ayes- 8 Nays- Anderjaska, Fornoff, Randel Motion Carried

5. Basin Study Support.

None. Aaron Thompson will announce program from consideration under agenda Item G.3.

11.A. NRCS REPORT CONTINUED: Kennedy provided answers to some of the questions that were asked of the Board. Discussion held.

◆ A motion was made by Hoyt and seconded by Uerling to increase the current funding of \$150 for all permanent AWEP applicants to \$250.

Ayes- 11 Nays- 0 Motion Carried

Further discussion held.

◆ A motion was made by Randel and seconded by Cappel to add an additional \$500 to the \$250 payment, increasing the payment to \$750 for those permanent AWEP applicants who have wells in depletion areas of 48% and higher.

Ayes- 11 Nays- 0 Motion Carried

F. NE REPUBLICAN RIVER MANAGEMENT DISTRICTS ASSOCIATION.

1. Reports & Preliminary Forecast.
Agenda for meeting included in handouts.
2. Next Meeting, February 16th, Imperial at 10 AM.

G. OTHER AGENCIES OR ASSOCIATIONS.

1. RC&D – None.

2. Larry Umberger, Midwest Electric Cooperative. Jason Bishop, the Load Manager for Midwest Electric Cooperative, spoke on behalf of Larry. He gave a PowerPoint presentation relating to different scenarios based on the 3 options that were provided by DNR and explained that Option 3 is the best option that would have the least effect on their electric company and presumably the other electric companies. The other 2 options would prove to cost the producers and, eventually their other customers, a very large increase in their costs.

3. Aaron Thompson, Bureau of Reclamation. Thompson talked about the Water Smart Program Proposals which provided a federal cost share of 50-50 on projects. The proposals are due March 1st. He encouraged the Board to look into the program and maybe even partner with other republican river groups. Thompson answered questions relating to this program and also answered questions relating to the Lower Republican's IMP as well as providing the Board with a copy of the Bureau's testimony. He also stated that the Bureau would be willing to help us write a new IMP.

H. LEGISLATION.

1. Sustainability Task Force Report – Anderjaska/Fornoff. Fornoff and Anderjaska discussed the progress being made despite it being slow. Smith also discussed a manager's meeting that was held with Anthony.

2. Legislative Updates and Bill Consideration.
Smith discussed LB229 and LB645.

12. GROUND WATER MANAGEMENT AREA

A. CONSIDERATION OF BOARD MEMBER REQUESTS. Smith included notes in the board packets relating to his thoughts on each of these items. He went over them again. Uerling went over his comments relating to these items and his concern for surface water protection, Colorado's lack of compliance. Others had some questions on dates, legislation and the process of how things worked.

1. Option 3 Consideration.
2. Well and Certification after January 1, 2003.
3. Over Appropriated Status.
4. Compliance Standards in IMP.
5. Colorado Compliance.

Discussion held.

◆ A motion was made by Uerling and seconded by Hoyt to direct Smith to write a letter formally requesting DNR to reevaluate the 44-30-26 percentage split and Colorado's non-compliance.

Ayes- 11 Nays- 0 Motion Carried

6. Transfers.
Nothing at this time.

B. GROUND WATER MANAGEMENT AREA

1. REPORTS.

(a) WELL PERMITS

Nothing new.

(b) SURFACE WATER

Bureau's report handed out.

(c) METER PROGRAM

Owens reported that she submitted the DNR report yesterday but there were a few meters that we were still awaiting electric records. The average district use as of right now is 8.12”.

(d) AWEP.

Discussed under NRCS report.

(e) ARP.

Nothing new.

2. TRANSFERS REQUESTS.

(a) INITIAL REVIEW LIST – None.

(b) FINAL REVIEW – None.

3. IMP DISCUSSION.

(a) Management Actions – Leases, Augmentation.

Smith requested going into executive session towards the end of the meeting to discuss.

(b) Future Revisions.

Discussed previously.

4. GROUNDWATER COMMITTEE REPORT.

1. Rules and Regulation Discussion.

Uerling requested discussion during executive session towards the end of the meeting.

5. NOTICES OF NON-COMPLIANCE ISSUED.

None.

6. CEASE AND DESIST ORDER – AFFIRM STAFF ACTION.

None.

7. SCHEDULE ADJUDICATORY HEARING FOR KOETTER.

◆ A motion was made by Anderjaska and seconded by Uerling to schedule the Adjudicatory Hearing for Koetter at 1:30 pm on March 8, 2011.

Ayes- 9

Nays- Haag, Hoyt

Motion Carried

B. GROUND WATER QUALITY MANAGEMENT AREA –

None.

C. OTHER GROUND WATER ACTIVITY

Ginns Lakers North Shore – Nitrate Testing. Smith reported that problems were again arising in this area and provided some history. He requested that we volunteer helping them do some testing in that area.

♦ A motion was made by Hoyt and seconded by Fornoff to authorize Smith to contact them and offer assistance.

Ayes- 11 Nays- 0 Motion Carried

13. PROGRAMS

A. COST-SHARE FUNDS – LCP/NSWCP.

1. **Approve Applications.** Smith went over the cost share report and answered questions.

♦ A motion was made by Fornoff and seconded by McConville to approve the Cost Share Summary as presented.

Ayes- 11 Nays- 0 Motion Carried

B. WATERSHEDS – REHAB.

1. Progress on 32A and 80A.
No report. In winter shutdown.

2. Review of Future Repairs.

Smith reported that the team from Lincoln and Jim Hicks were planning to go out and evaluate our other structures. Smith suggested that they take a look at the Spencer and Mustion dams first. They plan on creating a 1 year, 2 year, and 5 year plan based on their review.

C. COMPLAINTS – REPORTS ON PREVIOUS COMPLAINTS.

None.

D. CHEMIGATION.

Smith reported that Mary was sending them out now and they are due on May 1st.

E. TREE PLANTING.

None.

F. BUFFER STRIPS.

None.

G. LIVESTOCK WASTE CONTROL APPLICATIONS.

None.

14. GENERAL OPERATIONS.

A. PERSONNEL.

None.

B. SALES AND RENTAL EQUIPMENT.

None.

◆ A motion was made by Uerling and seconded by Spencer to enter into executive session to discuss negotiations relating to water leases, groundwater committee items and open meeting act necessities.

Ayes- 11 Nays- 0 Motion Carried

Chairman Haag restated, for the record, the limitation of the subject matter of the closed session.

Entered into Executive Session at 5:50 pm.

◆ A motion was made by Palic and seconded by Uerling to exit executive session.

Ayes- 11 Nays- 0 Motion Carried

Exited Executive Session at 6:27 pm.

◆ A motion was made by Uerling and seconded by Spencer to authorize Smith to negotiate with landowners and irrigation districts concerning water leases or purchases.

Ayes- 11 Nays- 0 Motion Carried

The meeting was adjourned at 6:29 pm.

The next regular meeting will be held Tuesday, March 8, 2011 at 3:00 p.m., at the Community Center at 201 Garlick Avenue in Curtis, Nebraska.

Stacie M. Owens
Board Secretary