

N-CORPE

Nebraska Cooperative Republican Platte Enhancement Project

Board of Directors Meeting Minutes January 22, 2014, 9 a.m.

McMillen Hall Room 213, McCook Community College, McCook, Neb.

Agendas were sent to all Board Members and all others requesting agendas. Agendas were posted in the following offices: Twin Platte NRD; Lower Republican NRD; Middle Republican NRD; and Upper Republican NRD.

Board Members Present: Bill Bose (Lower Republican NRD); Brad Randel (Middle Republican NRD); Jerry Weaver (Twin Platte NRD); and Terry Martin (Upper Republican NRD).

Others Present: Jasper Fanning, Nate Jenkins, James Meismer, Benjie Loomis, Jack Russell, Mike Keller, Kent Miller, Mike Clements, Dave Bartels, Dean Large, Kevin Fornoff, Chase Dodson, Dan Estermann, Marlene Estermann

Information Sent to Board Members: Agenda; minutes of the Dec. 18, 2013 meeting.

Information Available at Board Meeting: Agenda; minutes of the Dec. 18, 2013 meeting; financial report; profit and loss statement; proposed change to NCORPE bylaws; wellfield map; proposed wellfield operations policy.

Chairman Terry Martin called the meeting to order at 9:06 a.m. He turned the meeting over to Jasper Fanning, manager of the Upper Republican NRD. Fanning announced that a copy of the Open Meetings Act was posted in the meeting room. Roll call was taken. Voting representatives from URNRD (Terry Martin); TPNRD (Jerry Weaver); and LRNRD (Bill Bose) and Middle Republican NRD (Brad Randel) were present.

Minutes:

- Martin moved to approve the minutes of the December 18, 2013 meeting as presented. Seconded by Bose. Roll call vote: 3-yes. 0-no. 1-abstain (MRNRD). Motion approved.

Financial Report: Fanning reviewed the financial report and January payables and December profit and loss. The CPA hired by NCORPE had health issues and so was not able to review the current financials but was expected to next month. Weaver and Fanning confirmed that the auditor that would be hired by NCORPE, Bob Meyer, was separate from the CPA.

- Weaver moved to pay the accounts payable and accept the financial report as presented. Seconded by Martin. Roll call vote: 4-yes. 0-no. Motion approved.

Project Update

- A.) **Construction Status/Progress** – Fanning said the pipeline for Phase I may be completed by the following day. Pumps on Phase II would be installed soon and Phase II should be online shortly after the first of February. Laying pipe underneath the natural gas pipeline was continuing. High groundwater levels have

required significant dewatering. Going under the gas line has caused some delays. Once pressure testing is done operations can be phased in. The drop-dead date for operations will depend somewhat on whether the Middle Republican NRD finalizes a lease of surface water.

B.) Contract Change Orders/Medicine Creek Structures – A fire hydrant has been added to the entrance of the farm. A water cooler heat exchanger will be changed to an air conditioner at no cost. One air relief valve will be moved; another removed. Pipe was able to be buried deeper, allowing one to be removed. Much of the riprap has been delivered to the discharge. Culvert work will also be part of a future change order.

C.) Medicine Creek Structures – Construction is ongoing on crossings where there are agreements. Discussions are ongoing with other landowners. Fanning gave an overview of the crossing work. There have been issues at crossing #11 because of boggy soils but it will be addressed by establishing a solid base with rock. There are 14 crossings upstream of the Wellfleet Lake to improve. Letters have been sent to crossing owners downstream of Wellfleet Lake. Wellfleet Lake will handle all of the project flow and much more. Maintenance of the dam has been minimal over the years. The dam was constructed by a predecessor of Game and Parks but it is on School Lands.

Project Operations Policy – Kent Miller circulated a proposed operations policy for the project and there was discussion of it. There was agreement it was a good starting point and should be approved with the ability to amend it in the future. Each District's share of the capacity of the wellfield is 25%. Each District shall pay the operation and pumping costs prorated based on its share of the volume of pumping required by the District. Should any limitation be imposed on NCORPE's operation of the project via allocation or other control in the Republican Basin, NCORPE shall prorate the allocation to the individual member Districts in the Republican Basin. Should any limitation be imposed on NCORPE's operation of the project in the Platte Basin, NCORPE shall prorate that allocation to the Twin Platte NRD. A Republican Basin District can't use more than its share of any allocation that would prevent another District in the Basin from using its proportional share of any NCORPE allocation. On the Medicine Creek pipeline, if an allocation is implemented then a Republican Basin District's annual share of the capacity shall be prorated based on the percentage of unused allocation of each Republican Basin District. Should an allocation be implemented that doesn't permit those conditions the Republican Basin District prevented from using its share of the allocation will be reimbursed at the cost of \$200 per acre foot. Members agreed that the policy was a starting point.

- Bose moved to approve the operations as presented and reflected in the redlined copy provided by Kent Miller; seconded by Martin. Roll call vote: 4-yes. 0-no. Motion approved.

Medicine Creek Channel Clearing – Mike Clements discussed the possibility having Southwest Weed Management clear Medicine Creek downstream of Harry Strunk Lake to the main stem of the Republican River. The weed management district would pay half the cost. Nearly full participation from landowners would be needed. The cost to NCORPE would be \$16,500. The board agreed that Frenchman Cambridge Irrigation District should possibly be approached to see if they were willing to participate.

Hydrology Consulting Services – Brad Randel said there was interest in having an outside hydrologist analyze aspects of NCORPE, including wellfield capacity over time. Kent Miller said an existing contract with HDR could include that and TPNRD has a hydrologist on staff. Loomis asked if there was any need for additional staff. Fanning said Keller was capable of handling duties onsite.

Bylaws Modification – Authorized Representative Delegation – Jenkins reviewed a proposed bylaws change that would allow the chairman to delegate the ability of signing documents on behalf of NCORPE when he wasn't available to other board members or staff. Under current bylaws, proposed changes must be reviewed for 5 days so no action was taken.

Legislative Update – NCORPE attorney Don Blankenau said the State Constitution prohibits the levying of property tax on publicly owned property being used for a public purpose. His firm had attempted to write a law that would allow taxes

to be paid despite the constitutional prohibition. But there were significant obstacles to doing so. He concluded that possibly the best option was to pay taxes on those NCORPE lands that are incidental to the project, such as those that are leased for farming or grazing. There is no viable legislative fix to paying full irrigated property taxes for the project. When and if project lands are leased for grazing they could be taxed. Blankenau said if the board voluntarily tried to pay taxes NCORPE could be held liable. Blankenau said forming an interlocal agreement with other political subdivisions so as to pay them to offset any decrease in tax revenue would likely also conflict with the constitutional prohibition. Randel asked if proceeds from any sale of NCORPE lands could be given to other political subdivisions, such as schools. Blankenau said that would likely be considered illegal circumvention of the constitution. Fanning said NCORPE is currently paying last year's taxes. The constitution could be amended, but that would be difficult. Fanning asked if it would work to provide school district(s) a quarter of land to do conservation/ag education and then allow them to sell the land after a period of years. Blankenau said it would be worth researching.

- Bose moved to direct legal counsel to research the possibility of donating land to school districts; seconded by Randel. Roll call vote: 4-yes. 0-no. Motion approved.

Open Forum – David Pieper of North Platte asked questions about the upcoming lease of 8 quarters of NCORPE land. Chase Dodson of AgriAffiliates discussed how the bid process will work. NCORPE will have the ability to reject any and all offers. Dan Estermann of Wellfleet said he was concerned about groundwater levels on NCORPE property.

Executive Session – Bose moved to enter into executive session for the purpose of real estate and easement negotiations to include Dan Estermann, NRD representatives and legal counsel; seconded by Martin. Roll call vote: 4-yes. 0-no. Motion approved.

The board entered into executive session at 11:47 a.m.

Martin moved to exit executive session; seconded by Bose. Roll call vote: 4-yes. 0-no. Motion approved.

The board exited executive session and entered open session at 1:22 p.m.

Martin moved for NCORPE to continue negotiations for flowage easements and culvert installation access and if negotiations fail to initiate condemnation proceedings; seconded by Bose. Roll call vote: 4-yes. 0-no. Motion approved.

Fanning said an emergency item should be added to the agenda: The proposed sale of two dry land quarters owned by NCORPE that had been listed with AgriAffiliates. An offer has been received and has a time limit because the buyer will be out of the country for the next couple months.

- Martin moved to add to the agenda as an emergency item consideration of an offer to buy 313 acres as dry land that have been listed for sale by NCORPE; seconded by Randel. Roll call vote: 4-yes. 0-no. Motion approved.

Sale of 313 Acres of Dryland Property-

- Martin moved to accept an offer and sign a contract for the sale of 313 dry land acres for \$300,000; seconded by Randel. Roll call vote: 3-yes. 1-absentation (Weaver). Motion approved.

Next Meeting: The next meeting was scheduled for 9 a.m. on Feb. 19 at the same location at McCook Community College.

The meeting adjourned at 1:28 p.m.