

**Upper Republican Natural Resources District
Board of Directors Special Meeting
June 22, 2010 at 2:00 p.m.
511 East 5th Street, Imperial, NE**

Agendas were sent to all Board Members and all others requesting agendas. Agendas were posted in the NRD Office in Imperial, the NRCS Offices in Grant and Imperial, and the FSA Office in Benkelman. The meeting was announced over KADL-Imperial, KRVN-Lexington and KOGA-Ogallala and published in area newspapers.

Board Members Present: Gaschler, Large, Martin, Mosel, Pelster, Schilke, Schroder, Strand Terryberry, Wallin and Bernhardt.

NRD Staff: Jasper Fanning, Dirk Dinnel and Deb Hayes.

NRD Legal Counsel: Joel Burke.

Others present: Loren Jessen, Kent Crawford, Brad Johnson, Shannon O'Neil, Lloyd Meeske, John C. Engbrecht, Roger Shillington, James Uerling, Robert Tigner, Brad Edgerton, Craig Scott and Don Weiss Jr.

Information mailed to Directors: Agenda

Information distributed at Board meeting: Agenda

Chairman Pelster called the meeting to order at 2:03 p.m.

Chairman Pelster announced that the Open Meetings Act is posted if anyone would like to review it.

INTRODUCTIONS:

Guests, Board members and NRD staff were introduced.

OPEN FORUMS:

There were no public comments during this time. There was a written letter submitted for comment by Lex and Jodi Thompson. This letter was mailed to Board members.

GROUNDWATER MANAGEMENT/RULES AND REGULATIONS:

- Large moved to remove from the table the item from the June 16, 2010 Special Board meeting. Seconded by Schroder.

Roll call vote: 9-yes, 2-absent. Motion carried.

Dean Large requested to withdraw his amendment with permission of the second. The second was in agreed with this. Amendment was withdrawn.

Terry Martin requested to withdraw his motion with permission of the second. Due to the absence of the second Chairman Pelster agreed to allow the motion to be withdrawn.

Russ Pankonin asked for clarification on the amendment and the motion.

The amendment was “Move to amend the main motion to add a 5 year limitation and then the landowner can reapply and possibly have items reinstated by the Board and items would fall under those current Rules and Regulations.”

The main motion was, “Moved that the Board finds the alleged violations in CAD 2010-02 are true and as sanctions for the violation the Board finds that the certified acres, allocation and carry forward be removed from the property effective June 16, 2010.”

Chairman Pelster stated that there are individuals present at this meeting that were not present at the last meeting. These individuals have the right to discuss the alleged violations in executive session with the Board. Jack Bond requested to go into Executive Session.

- Martin moved to go into executive session to discuss the alleged violations of the Rules and Regulations with the purpose to protect the rights of and to prevent needless injury to the reputation of the individuals with the Board, Management, Legal Counsel, staff, Jack Bond and Bruce Kramer. Seconded by Strand.

Roll call vote: 9-yes, 2-absent. Motion carried.

The Board went into Executive Session at 2:15 pm.

Board Members Mike Mosel and Jeff Wallin arrived at 2:15 p.m. and joined the Executive Session.

- Large moved to come out of Executive Session at 2:48 p.m. Seconded by Mosel.

Roll call vote: 11-yes. Motion carried.

Chairman Pelster asked two other Respondents if they would like a closed session with the Board. The Respondents requested an Executive Session together.

- Martin moved to go into executive session to discuss the alleged violations of the Rules and Regulations with the purpose to protect the rights of and to prevent needless injury to the reputation of the individuals with the Board, Management, Legal Counsel, staff and the respondents. Seconded by Strand.

Roll call vote: 11-yes. Motion carried.

The Board went into Executive Session at 2:51 p.m.

- Large moved to come out of Executive Session at 3:23 p.m. Seconded by Bernhardt.

Roll call vote: 11-yes. Motion carried.

Jasper reviewed a spreadsheet summarizing a committee recommendation of appropriate sanctions for the violations.

The Board discussed the tenants that have this year’s crop planted and if they should be allowed to irrigate this year. Discussion was held on the sanctions that should be held to tenants or new

landowners. There was also discussion that the respondents do not agree with the sanctions they can ask for an adjudicatory hearing with the Board.

A Committee recommendation on penalties was presented to the Board as a starting point for discussion. Joel reminded everyone that these were Committee recommendations only and changes could be made to these.

Chairman Pelster called a 15 minute recess at 3:45 p.m.

Chairman Pelster called the meeting back in session at 4:02 p.m.

Martin reviewed the Committees spreadsheet and suggested changes to the proposed sanctions. The Board discussed these changes.

Chairman Pelster called a 30 minute recess at 4:24 p.m. to allow the changes to be made on the spreadsheets.

Chairman Pelster called the meeting back in session at 4:49 p.m.

The Board reviewed the updated spreadsheet and discussed the effective dates of the sanctions.

- Terryberry moved in regards to CAD #2010-12 that the wells be disconnected from each other for the purpose of preventing unauthorized transfers. Seconded by Strand.

Discussion.

Roll call vote: 9-yes, 2-no. Motion carried

Voting yes: Bernhardt, Gaschler, Large, Martin, Mosel, Pelster, Schroder, Strand, and Terryberry. Voting no: Schilke and Wallin.

Chairman Pelster called a ten minute recess at 5:50 p.m.

Chairman Pelster called the meeting back in session at 6:03 p.m.

- Mosel moved to direct management and legal counsel to draft orders stating the Board finds there is reasonable cause to believe there have been violations of the Districts rules and regulations set forth in the spreadsheet, stated as Exhibit A, and cease and desist orders in regard to the violations and imposing sanctions contained on the spreadsheet for CAD#2010-12. Seconded by Martin.

Discussion.

- Wallin moved to amend the main motion to change the effective date to January 1, 2011 for the disconnection of the wells and the loss of carryforward on the SE ¼ 24-9-40. Seconded by Schilke.

Discussion.

Roll call vote: 10-yes, 1-no. Amendment carried.

Voting yes: Gaschler, Large, Martin, Mosel, Schilke, Schroder, Strand, Terryberry, Wallin and Bernhardt. Voting no: Pelster.

- Terryberry moved to amend the main motion to limit the amount of water use to 13” per actual irrigated acre. Seconded by Mosel.

Discussion.

Roll call vote: 9-yes, 2-no. Amendment carried.

Voting yes: Large, Martin, Mosel, Pelster, Schroder, Strand, Terryberry, Bernhardt, Gaschler.
Voting no: Wallin and Schilke

The main motion now reads: Move to direct management and legal counsel to draft orders stating the Board finds there is reasonable cause to believe there have been violations of the Districts rules and regulations set forth in the spreadsheet, stated as Exhibit A, as amended, in regard to the violations and imposing sanctions contained on the spreadsheet for CAD#2010-12 and change the effective date to January 1, 2011 for the disconnection of wells and the loss of carryforward on the SE ¼ 24-9-40 and limit the amount of water use allowed to 13”per actual irrigated acres for the 2010 growing season.

Roll call vote: 11-yes. Amended Motion carried.

- Martin moved to direct management and legal counsel to draft orders stating the Board finds there is reasonable cause to believe there have been violations of the Districts rules and regulations set forth in the spreadsheet and imposing sanctions contained on the spreadsheet, exhibit “A” as amended excluding the CAD’s that has already been acted on. Seconded by Bernhardt.

Discussion.

- Mosel moved to amend the main motion and add to allow 2” per planted acre from now until September 15, 2010 to plant a cover crop on Section 34 and Section 27 all in 9-39. Seconded by Wallin.

Discussion.

Roll call vote: 11-yes. Amendment carried.

Tom Gaschler stated he will not be able to vote due to a conflict of interest on CAD#2010-03 and 2010-04.

- Wallin moved to amend the main motion to change the effective date from immediate to January 1, 2011 on CAD# 2010-08, 2010-09, 2010-10, 2010-17. Seconded by Schilke.

Discussion.

- Mosel moved to amend the amendment and add not to exceed 13” per irrigated acre for this growing season. Seconded by Martin.

Discussion.

Roll call vote: 10-yes, 1-abstain. Amended amendment carried.

- Strand moved to amend the main motion and remove 2010-08 from the list. Seconded by Bernhardt.

Roll call vote: 10-yes, 1-abstain. Amendment carried.

The amendment now reads: Move to amend the main motion to change the effective date from immediate to January 1, 2011 on CAD# 2010-09, 2010-10, 2010-17 and not to exceed 13” per irrigated acre for this growing season.

Roll call vote on amendment: 3-yes, 7-no, 1-abstain. Amendment failed.

Voting yes: Schilke, Wallin and Large. Voting no: Terryberry, Strand, Schroder, Schilke, Pelster, Mosel and Bernhardt. Abstain: Gaschler.

- Wallin moved to amend the main motion to change all permanent sanctions to 10 yr loss and all the 10 yr loss go to 5 yr loss and carryforward loss. Seconded by Schilke.

Discussion.

Roll call vote: 2-yes, 8-no, 1-abstain. Amendment failed.

Voting yes: Schilke and Wallin. Voting no: Terryberry, Strand, Schroder, Schilke, Pelster, Mosel, Large and Bernhardt. Abstain: Gaschler.

The main motion now reads: Move to direct management and legal counsel to draft orders stating the Board finds there is reasonable cause to believe there have been violations of the Districts rules and regulations set forth in the spreadsheet and cease and desist orders and imposing sanctions contained on the spreadsheet, exhibit "A" as amended excluding the CAD's that have been already acted on individually, and allow 2" per irrigated acre from now until September 15, 2010 to plant a cover crop on Section 34 and Section 27 all in 9-39.

Roll call vote on main motion: 8-yes, 2-no, 1-abstain. Amended motion carried.

Voting yes: Bernhardt, Gaschler, Large, Martin, Mosel, Pelster, Schroder, Strand, and Terryberry. Voting no: Wallin and Schilke. Abstain: Gaschler.

- Martin moved that on CAD#2010-2 the transfer of irrigated acres on the SW ¼ 26-5-36, that was approved at the February Regular Board meeting be rescinded. Seconded by Strand.

Roll call vote: 10-yes, 1-no. Motion carried.

Chairman Pelster adjourned the meeting at 7:10 pm.

Respectfully submitted

Tom Terryberry
Secretary/Treasurer