

**Board of Directors Regular Meeting  
December 20, 2022 at 9:00 am  
511 East 5<sup>th</sup> Street, Imperial, NE**

Agendas were sent to all Board Members and 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, and posted on the District website. The meeting was announced over KADL-Imperial, KRVN-Lexington and KOGA-Ogallala and published in area newspapers.

**Board Members Present:** Dave Brown, Jason Kunkel, Dean Large, Jay Lee, Harry Merrihew, Terry Martin, Tom Schroder, Brock Stromberger, Janice Stroup, CJ Swanson and Tyler Turner.

**Board Member Absent:** None.

**NRD Staff:** Jasper Fanning, Nate Jenkins and Deb Hayes.

**Others Present:** Joel Burke, (NRD Legal Counsel), Andy Keep (NRCS), Maureen Behlke, Nathan Behlke, Kort Kemp, Shad Stamm, Steve Krug, Lane Krug, Duane Dinnel.

**Information emailed to Directors:**

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| Agenda   | Variance information |
| Regular Board Meeting minutes November 8, 2022 |                      |

**Information distributed at Board meeting:**

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| Agenda   | Variance information                                      |
| Regular Board Meeting minutes November 8, 2022 | Report of District Applications, Contracts and Agreements |
| Financial reports                              | Carbon Generation Agreement 2022                          |
| Audit Report FY 21-22                          | Draft Agenda NARD Legislative Conference                  |
| NRCS report                                    |   |
| Draft Rules/Regulations Order 36               |   |

Chairman Martin called the regular meeting to order at 9:07 a.m.

Chairman Martin announced that the Open Meetings Act was posted in the NRD Office. Introductions of Board Members, Staff and Public.

**MINUTES:**

- Brown moved to approve the November 8, 2022 Regular Board meeting minutes as presented. Seconded by Merrihew.

Roll call vote: 8-yes, 3-abstain. Motion carried.

**FINANCIAL REPORT:**

The Financial Report was presented to the Board.

- Kunkel moved to accept the Treasurer's report and pay the Accounts Payable. Seconded by Stromberger.

Roll call vote: 11-yes. Motion carried.

### **AUDIT REPORT:**

Jasper presented the Audit for FY 2021 – 2022 to the Board.

- Large moved to accept the FY 21-22 audit report from RJ Meyer and Associates. Seconded by Turner.

Roll call vote: 11-yes. Motion carried.

### **NRCS REPORT:**

Andy Keep gave the NRCS report and reported on a partnership between the federal government, State of Nebraska and the Bird Conservancy of the Rockies. The Bird Conservancy of the Rockies has a Partner Wildlife Biologist position in Trenton. This position is a partnership between the Bird Conservancy of the Rockies, Nebraska Game and Parks Commission and NRCS. Jackson Ebbers has been selected for the position and will start in January at the Trenton Field office. This position will primarily focus on woody encroachment on grasslands within Southwest Nebraska.

- Large moved to approve the NRCS Report of Planning Activity dated December 13, 2022, to include the Conservation Plans as signed for Chase and Perkins County. Seconded by Lee.

Roll call vote: 11-yes. Motion carried.

**PUBLIC COMMENTS:** None.

### **GROUNDWATER MANGEMENT/RULES AND REGULATIONS:**

Dean Large and Jasper reviewed the Draft Rules and Regulations Order 36 to the Board. The Groundwater Committee cleaned up the rules and there are a few more changes to make. Don Blankenau rewrote the section on violations, cease and desist orders, penalties and procedures for handling these. A few other items include Changing the allocation from 13 inches to 12.5 inches, which is 62.5 over five years; making the terminology for what are currently known as transfers match state statutes so that they are described as a procedure for tracking offsets and the impacts of new uses; and expanding pooling contracts from 6 miles to 9 miles, among other changes on pooling. Jasper will visit with Don Blankenau and Joel Burke and review a few items; the Groundwater Committee will be meeting after the Board meeting and will make their final comments and then we can send them to DNR and NDEE for their review and any comments they may have. Then between January and February any Board comments can be reviewed before it goes to hearing.

### **VARIANCE COMMITTEE:**

Brock Stromberger gave the Variance Committee report.

#1 Philip Weston Friesen is requesting to drill a new irrigation well in the NE ¼ 19-12-38 to irrigate 126.0 certified acres currently being irrigated by the well in the SE ¼ 19-12-38. He is also requesting no reduction in certified acres due to historical use. He would also like to continue to use the well in the SE ¼ to irrigate the 125.6 certified acres in the SE ¼ 19-12-38. The well in the SE ¼ 19-12-38 currently irrigates both fields in the E ½ 19-12-38 and he would like to be able to better irrigate both fields. The single well does not allow him to water both fields as well as he would like to be able to.

The 5-year historical average use for the NE 19-12-38 is 10.96 inches, the transferable acres based on historical use are 106.2 The SDF in the E ½ 19-12-38 is 0.01%.

Brock reported that the Variance Committee met with Mr. Friesen and gave them a proposal after reviewing other Variances that were similar to this Variance and after going back on the historical use on the two pivots that this would end up being a 9 ½ inch allocation with no carryforward. At this time the request will be tabled for a month to allow Mr. Weston to think about this and if it is something he wants to pursue.

#2 Ted and Maureen Behlke, Eric and Carrie Behlke and Nathan and Allie Behlke are requesting to transfer 100% of the available certified acres from the SW ¼ 24-2-38 and NW ¼ 31-2-37 to the S ½ 28-4-37. The acres transferred will be based on the 2018-2022 average use. Any non-transferable certified acres will be decertified. The two irrigation wells on the former properties will be retired and a new irrigation well will be drilled on the latter property. Consistent with other wells in the immediate vicinity, the capacity of the well on the former property has dwindled from historical standards. Therefore, the request is being made to transfer water rights from the current area to an area with productive farm ground with a greater potential for a more consistent water supply. The distance of the transfer from the SW 24-2-38 to S ½ 28-4-37 is 11.1 miles. The distance of the transfer from the NW 31-2-37 to S ½ 28-4-37 is 12.1 miles. The SDF at SW 4-2-38 is 17.1%, the SDF at NW 31-2-37 is 17.3%, the SDF at S ½ 28-4-37 is 3.9% for and SDF decrease of about 13.3%.

Nathan Behlke read a letter on behalf of the Behlke family concerning this Variance request. The Board asked Mr. Behlke a few questions also.

Steve Krug expressed his concerns to the Board. He has wells in this area and with the water dynamics changing he is concerned about adding another well in this area and how it could affect things in the future.

Shad Stamm expressed his concerns to the Board. He farms and lives about ¾ of a mile of proposed site. His concern is with the changing dynamics and allowing variances to keep moving North to impact everyone in that area. He said it looks like things are being moved out of an area that is over developed to the North which will eventually make that area over developed also.

- Stromberger on behalf of the Variance Committee makes the recommendation to approve the Variance request of Ted and Maureen Behlke, Eric and Carrie Behlke and Nathan and Allie Behlke to transfer 100% of the available certified acres from the SW ¼ 24-2-38 and NW ¼ 31-2-37 to the S ½ 28-4-37. The acres transferred will be based on the 2018-2022 average use. Any non-transferable certified acres will be decertified. The two irrigation wells on the former properties will be retired and a new irrigation well will be drilled on the latter property. There will be no carryforward, no end guns and the extra acres will be on the corners.

Discussion.

Roll call vote: 4- yes, 6-no, 1-abstain. Motion failed.

Voting yes- Martin, Schroder, Stromberger and Turner. Voting no- Brown, Kunkel, Large, Lee, Stroup and Swanson. Abstain – Merrihew.

## **REPORT OF DISTRICT APPLICATIONS, CONTRACTS, AGREEMENTS:**

- Large moved to approve the URNRD Report of District applications, contracts and agreements dated December 13, 2022 to include the NSWCP applications and the Pooling contracts. Seconded by Kunkel.

Roll call vote: 11-yes. Motion carried.

**LEGAL COUNSEL REPORT:** None.

**REPUBLICAN RIVER BASIN MEETING/COMPACT REPORT:**

Jasper reported that there was nothing new to report.

**AUGMENTATION PROJECT:**

Jasper reported that NCORPE is having issues with their wells and air conditioning and issues with VFD drives and electronics. They are working with a company to get things updated on their SCADA system.

Jasper reported that Olsson & Associated would like to come out in January and to a presentation on the model and would like to know if Wednesday, January 11<sup>th</sup> would work with the Board. The Board agreed this would work in January.

**ASSISTANT MANAGER'S REPORT:**

Nate reviewed with the Board the Agoro Carbon Sequestration proposed contract for the NRD's Rock Creek. Don Blankenau has an attorney on staff working on these projects and Nate has been working with her on this. The Board authorized Nate to continue working with Agoro.

**INFORMATION & EDUCATION:** No report.

**LEGISLATION:** No report.

**STATE ASSOCIATION:**

NARD Legislative Conference will be held January 24<sup>th</sup> and 25<sup>th</sup> in Lincoln at Embassy Suites. Let Deb know by January 3<sup>rd</sup> if you are attending.

**BOARD OF DIRECTORS:**

Chairman Martin adjourned the meeting at 10:43 am. The January Board meeting will be held Wednesday, January 11, 2023, at 9:00 am.

Respectfully submitted.

CJ Swanson  
Secretary/Treasurer