

**Board of Directors Special Meeting  
September 29, 2020 at 7:30 p.m.  
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 Post Office and the Courthouse in Imperial and Grant, the NRCS Offices in Grant and Imperial, and the FSA Office and NAPA in Benkelman, and posted on the District website. The meeting was announced over KADL-Imperial, KRVN-Lexington, Coyote Country-McCook and KOGA-Ogallala and published in the McCook Gazette.

**Board Members Present:** Kerry Bernhardt, Jay Lee, Janice Stroup, Dean Large, Terry Martin, Harry Merrihew, Brock Stromberger, Jason Kunkel, Tyler Turner, Tom Terryberry, Tom Schroder.

**Board Members Absent:** None.

**NRD Staff:** Jasper Fanning, Nate Jenkins, Bruce Curtis, Julia Strand and Deb Hayes.

**Others Present:** Joel Burke, Shawn Jones, Grant Jones, Bob Ahrens, Burnetta Ahrens, Jonathon Colbert, Debra Colbert.

**Information mailed to Directors:**

Agenda

Variance request information

**Information distributed at Board meeting:**

Agenda

Minutes of September 8, 2020 Regular Board Meeting


Variance request information

Chairman Martin called the meeting to order at 8:10 p.m.

Chairman Martin announced that the Open Meetings Act was posted in the NRD Office.

Introductions of Board, Staff and others present were done.

**MINUTES:**

 Stromberger moved to approve the September 8, 2020 Regular Board meeting minutes as presented. Seconded by Merrihew.

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

Chairman Martin read the following statement for the purpose of the Special meeting:

The Upper Republican NRD is holding a special meeting tonight with an emergency agenda item to deal with the variances before the board that deal with transferring acres that could otherwise be enrolled in CREP. The District was informed that CREP enrollment cannot be canceled after September 30th without a substantial penalty; this prompted scheduling of the emergency agenda item tonight, so that the lands can be enrolled for the District's benefit or contracts cancelled to avoid a penalty assessment to the landowner.

The items were all on last month's agenda for action and were postponed for staff to perform a modelling analysis of impacts, which was recently completed. Prior to last month's meeting, required meeting notice was provided. Because of the nature of the variances, we also provided notice and information that exceeds what is normally provided and is statutorily required by mailing adjoining landowners with registered wells details of the variance requests.

Prior to this special meeting for the emergency agenda item, the meeting was noticed in the McCook Gazette as soon as practical given publication deadlines and our need to schedule the meeting before Sept. 30. Notice was also posted at locations in the district, the homepage of the NRD's website, and provided to four area radio stations. Additionally, all members of the public or landowners who attended the last meeting or communicated with the District about the variance requests were notified personally via phone and emailed the modeling information if desired.

**PUBLIC COMMENT:**

Shawn Jones had questions on CREP acres and the last time wells would have been used if they were enrolled in CREP.

**RULES AND REGULATIONS:**

Bruce presented the Groundwater Modeling maps to the Board and the Public. The Board discussed all the information presented to them for these Variance requests at great length. The Board and Staff answered questions that were presented by Board Members and guests.

**VARIANCE COMMITTEE:**

Kerry Bernhardt, Chairman of the Variance Committee, presented the Variance request of Brad Loker and George Seward to the Board.

1. Brad Loker and George Seward are requesting a Variance to transfer 116.0 certified acres from SW 21-2-39, 128.0 certified acres from NE 28-2-39, 132.0 certified acres from NW 28-2-39, 130.2 certified acres from SW 28-2-39, 158.6 certified acres from NW 34-2-39, and 130.0 certified acres from NE 33-2-39 to SE 14-4-41, SW 14-4-41, NE 15-4-41, SE 10-4-41, and SW 10-4-41 and drill 5 new irrigation wells to develop new irrigated ground. Each new pivot will receive 150.0 certified acres for a total of 750.00 certified acres. The remaining 44.8 certified acres will be transferred to the corners of SE 31-3-41 (30.8 certified acres) and NE 31-3-41 (14 certified acres) with the stipulation that no new acres will be irrigated. The wells on SW 21-2-39, NE 28-2-39, NW 28-2-39, SW 28-2-39, NW 34-2-39, and NE 33-2-39 will be decommissioned

or converted to livestock wells. This transfer will take place after the certified acres come out of CREP in October 2020.

- ✚ Bernhardt on behalf of the Variance Committee made the recommendation to approve the Variance request of Brad Loker and George Seward to transfer 116.0 certified acres from SW 21-2-39, 128.0 certified acres from NE 28-2-39, 132.0 certified acres from NW 28-2-39, 130.2 certified acres from SW 28-2-39, 158.6 certified acres from NW 34-2-39, and 130.0 certified acres from NE 33-2-39 to SE 14-4-41, SW 14-4-41, NE 15-4-41, SE 10-4-41, and SW 10-4-41 and drill 5 new irrigation wells to develop new irrigated ground. Each new pivot will receive 150.0 certified acres for a total of 750.00 certified acres. The remaining 44.8 certified acres will be transferred to the corners of SE 31-3-41 (30.8 certified acres) and NE 31-3-41 (14 certified acres) with the stipulation that no new acres will be irrigated. The wells on SW 21-2-39, NE 28-2-39, NW 28-2-39, SW 28-2-39, NW 34-2-39, and NE 33-2-39 will be decommissioned or converted to livestock wells. This transfer will take place after the certified acres come out of CREP in October 2020 with the following stipulations;
1. 123 irrigated acres are allowed under each circle
  2. No carryforward
  3. 13" allocation or the remaining of Loker's allocation
  4. The 5 wells can only be pooled together and not with any other wells.

#### Discussion.

Roll call vote: 3-yes, 8-no. Motion failed.

Voting yes: Terry Martin, Tom Schroder, Brock Stromberger. Voting no: Kerry Bernhardt, Jason Kunkel, Dean Large, Jay Lee, Harry Merrihew, Janice Stroup, Tom Terryberry and Tyler Turner.

Kerry Bernhardt, Chairman of the Variance Committee, presented George Seward's Variance request to the Board.

- George Seward is requesting a Variance to transfer 126.2 certified acres from NW 9-1-40 and 87.0 certified acres from NW 23-1-40 to the corners of NW 15-4-41 (21.51 certified acres), NW 24-4-42 (35.35 certified acres), and NE 31-3-41 (16.22 certified acres), NE 14-3-42 (13.8 certified acres), NW 14-3-42 (14.17 certified acres), SW 14-3-42 (6.62 certified acres), SE 2-3-42 (39.75 certified acres), SW 2-3-42 (21.75 certified acres), NW 11-3-42 (20.05 certified acres), and S2 11-3-42 (23.98 certified acres) for a total of 213.2 certified acres transferred with no reduction of certified acres due to historical use and no increase in acres irrigated. The certified acres transferrable off NW 9-1-40 based on historical use are 66.58 certified acres and the certified acres transferrable off NW 23-1-40 based on historical use are 32.38 certified acres. The wells on NW 9-1-40 and NW 23-1-40 will be decommissioned or converted to livestock wells. The transfer will take place after the certified acres come out of CREP in October 2020.

Bernhard reported that Mr. Seward is requesting the full 213.2 certified acres transferred and the Variance Committee was only going to allow 98.9 certified acres to be transferred.


- ✚ Bernhardt on behalf of the Variance Committee made the recommendation that the George Seward's Variance request be denied to transfer 126.2 certified acres from NW 9-1-40 and 87.0 certified acres from NW 23-1-40 to the corners of NW 15-4-41 (21.51 certified acres), NW 24-4-42 (35.35 certified acres), and NE 31-3-41 (16.22 certified

acres), NE 14-3-42 (13.8 certified acres), NW 14-3-42 (14.17 certified acres), SW 14-3-42 (6.62 certified acres), SE 2-3-42 (39.75 certified acres), SW 2-3-42 (21.75 certified acres), NW 11-3-42 (20.05 certified acres), and S2 11-3-42 (23.98 certified acres) for a total of 213.2 certified acres transferred with no reduction of certified acres due to historical use and no increase in acres irrigated. The certified acres transferrable off NW 9-1-40 based on historical use are 66.58 certified acres and the certified acres transferrable off NW 23-1-40 based on historical use are 32.38 certified acres. The wells on NW 9-1-40 and NW 23-1-40 will be decommissioned or converted to livestock wells. The transfer will take place after the certified acres come out of CREP in October 2020.

Roll call vote: 11-yes. Motion carried.

Kerry Bernhardt, Chairman of the Variance Committee, presented George Seward's Variance request to the Board.

3. George Seward is requesting a Variance to transfer 128.49 certified acres from NE 11-1-39 to NW 15-4-41 and drill a new irrigation well to develop new irrigated acres. The well on NE 11-1-39 will be decommissioned or converted to a livestock well. The transfer will take place after the certified acres come out of CREP in October 2020.

 Bernhardt on behalf of the Variance Committee made the recommendation to approve George Seward's Variance request to transfer 128.49 certified acres from NE 11-1-39 to NW 15-4-41 and drill a new irrigation well to develop new irrigated acres. The well on NE 11-1-39 will be decommissioned or converted to a livestock well. The transfer will take place after the certified acres come out of CREP in October 2020.

Discussion.

Roll call vote: 11-no. Motion failed.

#### **STATE ASSOCIATION:**

Terry Martin attended the NARD Business meetings in Kearney. Terry reported to the URNRD Board on finding a new location for the NARD Office. The NARD building was destroyed during the riots and the Building Committee has been looking for buildings to rent and they were not having good luck. The NARD Board gave the Building Committee the go ahead to purchase a new building for NARD.

Terry also asked that the expenses that are usually needed for NARD Annual Conference be added to the agenda for the October 6<sup>th</sup> Regular Board meeting.

Chairman Martin adjourned the meeting at 9:45 p.m. The next Regular Board meeting will be Tuesday, October 6, 2020 at 9:00 am.

Respectfully submitted

Tom Terryberry  
Secretary/Treasurer