




LOWER PLATTE SOUTH natural resources district

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Memorandum

Date: September 17, 2019
To: Each Director
From: Paul D. Zillig, General Manager 
Subject: Water Resources Subcommittee Meeting Minutes

The Water Resources Subcommittee met in the NRD Office at 5:30 p.m. on Monday, September 16, 2019. Subcommittee members present included Bob Andersen, Vern Barrett, Greg Osborn, Don Jacobson, Mark Spangler, and David Landis. Others present included Don Olson & Leo Benes, Steve Seglin & Corey Wasserburger (Corey's daughter also attended), Katie Cameron, Dan Schulz, Steve Herdzina, Jared Nelson, Dick Ehrman, Maclane Scott, Chris Witthuhn, David Potter, and myself.

Listed below is a brief description of each of the agenda items followed by the discussion and actions by the Subcommittee.

Chair Andersen opened the meeting and asked Potter to report on the Oak-Middle 82-B bids.

8a. Consideration of Oak-Middle 82-B Watershed Rehabilitation Project construction bids – The NRD opened bids on Thursday, September 12th. A total of two bids were received. The bidders were Goes Construction, LLC of Talmage, NE \$485,078.40; and High Plains Enterprises, Inc of Martell, NE \$693,546.25. The bids are under review by staff and legal counsel. As with nearly all construction bids for this type of work, since the March flood event, the bid exceeds the cost of constructing a similar project prior to the March flooding (more work to get done than there are contractors to do it). This is likely to continue well into 2020 and beyond. The Subcommittee will review legal counsel's recommendation and they consider the pro's and con's of either recommending approval of a bid or rejecting all the bids, and rebidding the project.

Potter reviewed the status of the project and Nelson handed out and reviewed the attached bid summary sheet. It was pointed out that Goes Construction, LLC forgot to attach the written acknowledgment of Amendment #1, NRD legal counsel declared this an informality and it was waived by the General Manager. The Subcommittee discussed the bids and that recently nearly all projects are bid for more than the engineer's estimate. The Subcommittee discussed that

USDA/NRCS will be reimbursing the NRD for 65% of the cost and the NRD needs to get the project under construction while the funding is still available.

It was moved by Landis, seconded by Osborn and unanimously approved by the Subcommittee to **recommend the Board of Directors approve the low bid from Goes Construction, LLC of Talmage, Nebraska in the amount of \$485,078.40 for the construction of the Oak-Middle Creek Watershed 82-B Rehabilitation Project.**

The next item on the agenda was to consider an agreement to extend USGS's time to complete the ENWRA Age Dating Project.

8b. Consideration of a United States Geologic Service (USGS) Agreement to extend the Eastern Nebraska Water Resources Assessment (ENWRA) Age Dating Project -

The NRD entered into this agreement, on behalf of ENWRA, in August of 2016. We have paid USGS for their work. The only work remaining is to give a final presentation of the data and finish the report. USGS is requesting a one year extension to complete the work. The new completion date will be September 30, 2020. ENWRA is recommending the Board approve Modification #002 to the USGS Age Dating Project Agreement (16EMNE000280), see attachment.

Cameron explained that status of the work and the need to extend the agreement so USGS can complete the work. It was moved by Landis, seconded by Jacobson, and unanimously approved by the Subcommittee to **recommend the Board of Directors, on behalf of the Eastern Nebraska Water Resources Assessment, approve Modification #002 to the USGS Age Dating Project Agreement 16EMNE00280.**

Potter then reported on the status of the Upper Salt 3-A landrights negotiations (see below) and that we don't anticipate being ready for additional Board action at the September Board Meeting.

8c. Consideration of landrights negotiations for the Upper Salt 3-A Watershed Rehabilitation project. -

Negotiations have been successfully completed with six of the landowners for this project. Negotiations continue with the one remaining landowner, DSC Properties, LLC/David Cabela. They have proposed some easement wording changes, which are being reviewed by NRD legal counsel, and they have provided a counter offer. The Board has authorized a counter offer, once we review the proposed easement changes we will reject their offer and propose the counter offer. This item may require the Board to go into closed session at the Board Meeting.

The next item was to consider the investigation into potential irrigation runoff from Irrigation Runoff Complaint #002 (Benes Service Co. 34-13-5). Andersen asked Steve Herdzina, NRD Water Resources Compliance Specialist, to review his Investigative Report (attached). Herdzina reviewed his report and the conditions he observed during his inspection September 6th with Mr.

Olson. Herdzina also reported on his discussions with the Benes' and the rainfall records from radar that are also included in the report. His report concluded that there is no evidence that the water impounded on the Olson property is the result of groundwater irrigation runoff.

Olson reviewed this rainfall records for late August and early September which were generally close to the rainfall estimates in the report. Olson expressed his displeasure with the operation of the water & sediment control basin and compared it to a dripping faucet problem. I responded that NRCS designed the basin and they have indicated it is constructed properly and doing it's job.

Leo Benes reported to the Subcommittee his irrigation operation in 2019 and that it's been a pretty wet year with not much need to irrigate as compared to previous years. Benes reported that the basin was designed by NRCS and he shuts the gates when he's irrigating.

8d. Consideration of investigation into Irrigation Runoff Complaint #002. - The NRD received a phone call from Don Olson on Friday, September 6th reporting the presence of water in his grassed waterway downstream of the basin on the neighboring Benes Service Company property. Don was concerned that it was irrigation runoff, from the land currently under a cease and desist order to not allow irrigation runoff. NRD Water Resources Compliance Specialist, Steve Herdzina, traveled to the site and conducted an inspection. A copy of his report is attached. The investigation concluded that "there is no evidence that the water impounded on the Olson property is the result of ground water irrigation runoff". The Subcommittee will review the report and prepare a recommendation for Board consideration.

It was moved by Osborn, seconded by Landis, and unanimously approved by the subcommittee to **recommend the Board of Directors approve the September 11, 2019 Report of Investigation and find that there was no irrigation runoff in violation of the NRD's April 22, 2015 Cease and Desist Order against Benes Service Company, Inc.**

The final item on the agenda was to review the proposed modifications to the NRD Groundwater Rules & Regulations (see below).

8e. Reports -- Proposed "Draft" Modifications to the NRD Groundwater Rules & Regulations. - Earlier this year WRS and the Dwight-Valparaiso-Brainard Special Management Area (DVB SMA) Citizen's Advisory Group reviewed and provided input on some of the proposed changes to the LPSNRD Groundwater Rules and Regulations. As you will recall we are in the final year of the DVB SMA three year allocation so action is necessary to extend the allocation. Attached is an email summary of the proposed changes. A redline version of the GW R&R was attached to the September 13th memo to the Board.

Dick Ehrman reviewed the proposed changes, most relate to the need to extend our allocation limits a second time (3 years) in the DVB SMA. The Subcommittee discussed the changes and the need

to discuss further “public interest”. Benes stated that he is on the DVB Advisory Group and feels that a change to a “rolling average” will save water. Landis appreciated the work of the Advisory Group and felt that they have provided good positive input.

It was moved by Landis, seconded by Jacobson, and unanimously approved by the Subcommittee to **recommend the Board of Directors direct staff to conduct a public hearing on the Draft modifications to the Groundwater Rules and Regulations.**

There being no further business the meeting adjourned at 6:18 pm.

PDZ/pz

Encl. 4

Pc: Steve Seglin
Corey Wasserburger