

NEBRASKA PLATTE-REPUBLICAN CONSERVATION RESERVE ENHANCEMENT PROGRAM  
STEERING COMMITTEE  
MINUTES OF JULY 7, 2009, MEETING  
KEARNEY, NEBRASKA

Attendees:

Dan Steinkruger, USDA Farm Service Agency  
Greg Reisdorf, USDA Farm Service Agency  
Tim McCoy, Nebraska Game and Parks Commission  
Keith Koupal, Nebraska Game and Parks Commission  
Dan Smith, Middle Republican Natural Resources District  
Glen Bowers, Twin Platte Natural Resources District  
Rod L. Horn, South Platte Natural Resources District  
Deb VanMatre, Congressman Adrian Smith  
Phil Johansen, Senator Ben Nelson  
Marcia Trompke, Central Nebraska Public Power and Irrigation District  
Cory Steinke, Central Nebraska Public Power and Irrigation District  
Bobbie Kriz-Wickham, Nebraska Department of Agriculture  
Ritch Nelson, USDA Natural Resources Conservation Service  
Bob Bettger, Nebraska Department of Natural Resources  
Susan France, Nebraska Department of Natural Resources  
Doug Hallum, Nebraska Department of Natural Resources

Attending by teleconference call: Tina Kurtz, North Platte Natural Resources District

Bob Bettger called the meeting to order and those in attendance introduced themselves. Bob then asked for a vote to approve the agenda and there was a unanimous vote to approve.

Susan France explained that the Department of Natural Resources had looked at the Memorandum of Agreement, specifically part VI.C and asked the Attorney General's office whether this committee came under the Public Meetings Act. A copy of the Attorney General's response was passed amongst those in attendance. Susan explained that it was required that the minutes of the meeting reflect what the policy was on future notices of meetings. The Committee unanimously decided that posting the notice on the Department of Natural Resources' website at the same time the notice is sent to the Committee members was sufficient. A discussion was then held on whether a subcommittee should be formed to write By-laws of the committee which would set out the membership, quorum requirements, and other necessary details of how the Committee will operate. Dan Smith asked that Susan France draft a document for Committee Review.

Discussion was held on what the membership should be. The Committee believed that anyone who had provided in-kind services that were attributed to the CREP program should be included in addition to the other parties who have regularly attended the meetings. This will include Bostwick Irrigation District. When asked what conservation group should be contacted to be part of the Committee, Bobbie Kriz-Wickham recommended that Pete Berthelsen of Pheasants Forever be contacted and the Committee agreed. Mr. Berthelsen assisted in the original CREP Forum.

The Committee then reviewed the proposed changes to the Memorandum of Agreement with the Federal Government. All proposed modifications were acceptable except for two. The Committee agreed that the Department of Environmental Quality should be added as a member of the Steering Committee. Two items that need further work include the wording of paragraph VI.C and paragraph VII.G at the end of the document. After much discussion, Keith Koupal requested that a subcommittee be formed to work on the wording of paragraph "G." The Committee agreed. Those to be on the subcommittee would include: Dan Smith; Bobbie Kriz-Wickham; Marcia Trompke; Susan France; and Randy Zach.

As for paragraph VI.C, Ritch Nelson asked whether we could remove the wording regarding a representative from the State technical Committee because there really is no membership to the State technical Committee. Keith Koupal asked whether we should recommend removing the last sentence of paragraph VI.C so that we would not have to operate by a vote but rather could continue to operate by consensus. The FSA representatives were asked whether this was a requirement, and they were unsure. The Committee wanted to know what the Governor would think of removing such wording. Susan volunteered to try to obtain answers to these questions and get the answers to the Committee.

Susan France then reviewed the Department's recommendations to changes to the Platte CREP Area. The Department's recommendation included expanding the Platte Area to include all of the hydrologically connected area to the over appropriated basin for the North Platte and the Platte River portion. As to Lodgepole Creek and Pumpkin Creek, the Department recommended an area one mile from the mainstem of both creeks. All areas in the Platte would be squared off to the newest section line. Rod Horn requested that we revise the proposed changes in the Lodgepole Creek area to include the entire hydrologically connected area, which includes Sidney Draw. Discussion included a reminder that to be eligible irrigation must have occurred in four out of six years from 1996 to 2001. The Committee members agreed with Rod's proposal. Tina Kurtz said that the North Platte Natural Resources District was in agreement with the one-mile designation for Pumpkin Creek. All Committee members agreed with the squaring off of the area by section lines.

The proposed Amendment to the Water Use Contract was discussed. Dan Smith asked that the Department of Natural Resources draft an Amendment for his district and possibly others in the Republican Basin to use when they purchase permanent easements of lands included under CREP with money solely from the districts. Dan stated that he wanted to be able to use such purchases as offsets for new uses. Susan explained that discussions within the Department of Natural Resources resulted in the wording recommended in paragraph VII.G of the proposed Amendment #3 to the Memorandum of Agreement. Susan stated she could, with the help of staff attorneys, draft a proposed Amendment to the Water Use Contract that would be in agreement with VII.G as it now reads, and if it is changed after the subcommittee, we could alter the draft Amendments to the Water Use Contract to meet the final wording.

Dan Smith asked why the Department of Natural Resources felt that they had to sign the amendments to the Water Use Contract and why the natural resources districts couldn't sign their own amendments to the contract. Susan explained that the Water Use Contract signatories are the landowners and the Department of Natural Resources. Dan Smith pointed out that the natural resources districts sign them also. Susan replied that the portion of the contract where the district representative signs is just a verification of the information on the ground water well(s) and any allocation associated

with the well(s), and that the parties to the contract are the landowner and the Department.

Susan then introduced the proposed changes to the Water Use Contract, including Dan Smith's proposal to eliminate most of the wording regarding the examples on how to determine 75 percent of the remaining allocation of groundwater found at the bottom of page 7 of the contract. The Committee agreed that such wording should be eliminated. Susan then went over the provisions of LB 477 which will go into effect soon, and the Department's proposal to require all landowners applying to be included in the CREP program (including those having surface water rights) to provide a title search. Dan Smith stated that the cost was about \$100. The Committee was in agreement with this proposal, except that Marcia Trompke said that she would like to discuss this issue with Don Kraus, Manager of Central Nebraska Public Power and Irrigation District. Susan also discussed adding more explanation on the 20 percent liquidated damages. The Committee agreed.

For item 7 on the agenda, Susan explained the Department's requirement that surface water appropriators pay the costs of publication of notices associated with a transfer of a surface water right to a stream augmentation right as discussed in the Water Use Contract. Susan explained that this was a statutory requirement and explained that possible costs associated with the publication. The Committee felt that this fee would likely negate any individual surface water right holders from coming into the program. Keith Koupal recommended that the Department advise the Governor and ask whether legislation could be proposed to amend the statutory requirement for purposes of complying with CREP, such that notices for such transfers only be given on the Department's website. The Committee agreed.

Dan Smith's discussion on permanent buyouts in the Republican Basin will be handled through the subcommittee appointed to look at paragraph VII.G of the Amendment to the Memorandum of Agreement.

Tim McCoy reported that there are additional incentives available now through an NET grant including one that can add \$25 per acre as a one-time payment. He handed out information to the Committee.

Bobbie Kriz-Wickham reported that the money left over from the CREP Forum now amounts to \$8,000 and is in a fund managed by Pheasants Forever. The Committee thought that the money could be used to do a media blitz when we have all the new parts put together. Bobbie said that when the Committee was ready to propose this, she would need to get back to the Forum partners to obtain permission to use the money and she named the Forum partners.

Greg Reisdorff reported again on the possible requirement of an environmental assessment because of the permanent buyout proposal. He had reported last time that he was told that changing the boundaries likely would not cause the requirement of an environmental assessment, nor would any other changes, but that possibly the permanent retirement would. He said that the State would be required to hire an outside consultant to do an assessment if required. He suggested we get all changes agreed to and then it forward to see whether an assessment would be necessary.

Meeting adjourned.

DRAFT