

**UPPER ELKHORN NATURAL RESOURCES DISTRICT  
BOARD OF DIRECTORS MEETING  
December 27, 2021 – 2:30 P.M.  
O’Neill, Nebraska**

**CALL TO ORDER, STATEMENT OF ADVERTISEMENT AND OPEN MEETING LAW NOTIFICATION:**

The regular meeting of the Board of Directors was called to order. The statement of advertisement and the open meetings law posting were all noted at 2:30 P.M. by Chairman Michael Moser.

**DIRECTORS PRESENT:**

Gary Bartak	Kevin Blair	Cody Frank	Marv Fritz	Curtis Gotschall
Keith Heithoff	Gene Kelly	Michael Moser	Aaron Rice	Roy Stewart
Art Tanderup	John Vogel	Chip Whitaker		

**DIRECTORS ABSENT:**

Chris Dierks                      Jim Keller

**STAFF PRESENT:**

Dennis Schueth, General Manager  
Joslynn VanDerslice, Water Resources Manager  
Kelly Kloppenborg, Water Resource Technician  
Wayne Frederick, Water Resource Technician  
Brett Sholes, Agronomy Resource Technician  
Beth Walsh, Information & Education Coordinator

**GUESTS PRESENT:**

Brandon Peterson, NRCS – O’Neill  
Roger Bergman, Orchard, NE  
Rodney Bergman, Orchard, NE  
Jeff Kerkman, Neligh, NE  
Duane Kerkman, Neligh, NE  
Lee Winkler, Atkinson, NE  
Jim Koenig, Clearwater, NE  
Kathy Koenig, Clearwater, NE  
Whitney Gappa, Norfolk, NE – BGMA Coordinator

**ADOPTION OF AGENDA:**

It was moved by Marv Fritz and seconded by Gene Kelly to adopt the agenda. **AYE:** Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. **NAY:** None. **ABSTAIN:** None. **ABSENT:** Dierks & Keller. **MOTION CARRIED.**

**MINUTES:**

The Directors reviewed the minutes of the November Meeting. There was a correction noted by Whitaker. ⇒ It was moved by Curtis Gotschall and seconded by Gene Kelly to approve the minutes of the November Meeting with corrections. **AYE:** Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. **NAY:** None. **ABSTAIN:** None. **ABSENT:** Dierks & Keller. **MOTION CARRIED.**

### **TREASURERS REPORT:**

The November treasurers report was reviewed by the Directors. ⇒ **It was moved by Roy Stewart and seconded by Keith Heithoff to approve the November Treasurers Report. AYE: Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. NAY: None. ABSTAIN: None. ABSENT: Dierks & Keller. MOTION CARRIED.**

### **PUBLIC FORUM, INPUT OR COMMENTS:**

Due to the number of people attending the meeting for the purpose of Agenda item 8.b.1. that may wish to speak, Chairman Moser moved this item to the next item on the agenda.

### **COMMITTEE REPORTS:**

#### **Water Resources and Watershed Committee Report & Recommendations:**

**Action on October Groundwater Acre Expansion Applications:** Aaron Rice reported that the Water Resources and Watershed Committee held a mid-month meeting with NRD attorney Don Blankenau; and, Jennifer Schellpeper (Water Planning Division Head) and Jeremy Gehle (Water Administration Division Head) from the Nebraska Department of Natural Resources regarding some of the issues surrounding the Expansion of Groundwater Irrigated Acres applications for 2021. ⇒ **It was moved by Aaron Rice and seconded by Marv Fritz to approve the qualifying Expansion of Groundwater Irrigated acres applications except for application numbers 21-21 and 21-22. AYE: Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart & Tanderup. NAY: Vogel & Whitaker. ABSTAIN: None. ABSENT: Dierks & Keller. MOTION CARRIED. ⇒ It was moved by Aaron Rice and seconded by Marv Fritz that the October 2021 acre expansion applications submitted by Jeff Kerkman (21-21 & 21-22) be issued with the condition that Mr. Kerkman first relinquish all surface water appropriations issued by the Nebraska Dept. of Natural Resources to the lands identified in his applications showing what he intends to irrigate using groundwater. Proof of the relinquishment shall be an order from the Nebraska Dept. of Natural Resources showing the relinquishment has occurred. Upon submission of the relinquishment order to the District office, District staff shall issue the permit within 30 days. AYE: Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup & Whitaker. NAY: Vogel. ABSTAIN: None. ABSENT: Dierks & Keller. MOTION CARRIED. Jeff Kerkman addressed the Board to clarify the conditions being attached to the approval of his Expansion of Groundwater Irrigated Acre applications. These conditions were attached because of a previous surface water appropriation.**

### **AGENCY & STAFF REPORTS:**

**NARD Report:** Gene Kelly reported that the NARD Legislative Conference is scheduled for January 25 & 26, 2022 at the Embassy Suites in Lincoln. The UENRD will need to appoint voting delegates for this conference. Beth Walsh reviewed the board members attending the conference. ⇒ **It was moved by Keith Heithoff and seconded by Curtis Gotschall to approve Gene Kelly as the Voting Delegate and Marv Fritz as the Alternate. AYE: Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. NAY: None. ABSTAIN: None. ABSENT: Dierks & Keller. MOTION CARRIED.**

**NeDNR Report:** Dennis Schueth reported that he attended the Commission meeting where they announced Water Sustainability Fund recipients.

**NRCS Report:** Brandon Peterson's report was mailed out to the Directors. Brandon reported that they are beginning the ranking process for EQIP; CSP contracts have been obligated for this year and new contract evaluations will begin in the spring; and, all CRP contracts have been completed. Brandon also reported that both the Neligh and O'Neill NRCS offices are now at 75% capacity based on Covid restrictions reviewed weekly by the state office. They also hope to make a selection for the new and permanent State Conservationist by mid January.

## **RC&D Reports:**

**North Central RC&D:** No Report.

**Loup Basin RC&D:** No Report.

**Northeast RC&D:** No Report.

**Information & Education Report:** Beth Walsh's report was mailed out in the Directors packets. The NARD Legislative Conference is scheduled for January 25 & 26, 2022 at the Embassy Suites in Lincoln. Beth reviewed the attendee's earlier in the meeting.

**Water Resources Report:** Joslynn VanDerslice's report was mailed out in the Directors packets. Joslynn reported that the deadline for Phase II reports is Friday and so far there have been approximately 28% submitted. She has also been working on the UENRD redistricting due to the new census numbers with Beth for submission to the Secretary of State. Joslynn handed out a flyer announcing a free webinar series dealing with Public Health and Water Quality.

**Bazile Management Area Report:** Whitney Gappa and Jeremy Milander's reports were included in the director's packets. Whitney Gappa, BGMA Coordinator, reported that she has been working on 2021 contract payments; EQIP contracts; Communications Team meeting; and, training. She reviewed the Winter Meeting information; and, it was also noted that the BGMA project will be receiving additional NWQI funds for the upcoming year to be directed towards programs that deal with the areas water quality issues.

**Holt County Extension:** No Report.

## **EXCUSED ABSENCES:**

⇒ It was moved by Curtis Gotschall and seconded by Gene Kelly to excuse the absence of Chris Dierks and Jim Keller. **AYE:** Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. **NAY:** None. **ABSTAIN:** None. **ABSENT:** Dierks & Keller. **MOTION CARRIED.**

## **COMMITTEE REPORTS:**

### **Legislative, Finance and Planning Committee Report:**

- 1. Action on Current bills and Cost Share Requests:** The Committee met prior to the Board meeting and reviewed the bills, accounts receivable and bank statements. Roy Stewart noted that the accounts receivable looked good. Roy also asked for an explanation of the Geo-Cloud database; and, what the status of the LiDAR data was. The Committee would like a proposal to get the LiDAR data into a working format. ⇒ It was moved by Roy Stewart and seconded by Art Tanderup to approve the current bills for payment. **AYE:** Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. **NAY:** None. **ABSTAIN:** None. **ABSENT:** Dierks & Keller. **MOTION CARRIED.**

### **Water Resources and Watershed Committee Report (Continued):**

- Action on October Groundwater Acre Expansion Applications, update on Acre Certification and Groundwater Acre Transfers:** Aaron Rice reported that the Committee received a request for the certification of previously irrigated acres. The landowner provided documentation from neighbors stating that they witnessed the irrigation of acres in the SE of the NW 1-26-5. ⇒ It was moved by Aaron Rice and seconded by Cody Frank to approve the request for acre certification on the SE NW 1-26-5 at 95%. **AYE:** Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. **NAY:** None. **ABSTAIN:** None. **ABSENT:** Dierks & Keller. **MOTION CARRIED.**

- **Tiling – Lift Stations Update:** Aaron Rice reported on what was discussed at the mid-month committee meeting with the attorney and DNR personnel. The attorney pointed out that there has not been a state or local agency involved in a issue such as this and noted that they have been handled in the past by civil suit. There will be legislation drafted this upcoming session to try and deal with these types of situations. It was pointed out that the NRD could permit the site as a well but DNR would not register it as a well. Discussion was also held regarding the complainant and whether or not they pursued the issue with the FSA or NRCS. It appears they have not. Based on contact with some county officials the county does not appear to want to step in either. It does not appear that there is any legal action that the NRD can take regarding this matter. It should be pursued by the landowner who is being effected.
- **UENRD Data Management Update – Longitude 103:** Staff updated the Committee regarding a proposal to integrate several UENRD programs into one database. These programs would consist of static water level data, flowmeter data, nitrate levels, Chemigation and acre certification. This company has NRD background and understands the needs of the NRDs. There is an initial cost for transferring data into the program and then an annual fee for licensing, maintenance and support. At this time there is also cost share through DNR for the data migration. ⇒ **It was moved by Aaron Rice and seconded by Gary Bartak to move forward with working with Longitude 103 for UENRD Data Management. AYE: Bartak, Blair, Frank, Fritz, Gotschall, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. NAY: Heithoff. ABSTAIN: None. ABSENT: Dierks & Keller. MOTION CARRIED.**

#### **COALITIONS UPDATE:**

**Niobrara River Basin Alliance:** Dennis Schueth reported that discussions are still being held between NDNR, UNW-NRD, MNDRD, LNNRD and federal agencies on how to move forward with new groundwater and surface water development. As reported earlier, the federal agencies were offering 6,000 acres of development over the next 100 years which is unacceptable. Both USGS and NDNR models are still being developed which should help in decision making.

**Lower Platte River Basin Water Management Plan Coalition:** Dennis Schueth reported that the Technical and Management committees have met and will be bringing recommendations to the Coalition regarding the allocations for the next five year increment.

**Nebraska Habitat Conservation Coalition (Piping Plover):** No Report.

**Nebraska Ground Water Management Coalition:** No Report.

#### **Administrative Report:**

Dennis Schueth's report was mailed out in the Director's packets prior to the board meeting. A copy is included with the official copy of the minutes in the office. Dennis reported that he has received a call from a landowner regarding the weather station that used to be located on his ground. Due to funding and location, the weather station was removed. This leaves only one weather station remaining in the UENRD. These weather stations have been used in the past for modeling purposes. Dennis commented on LR 23 – Interim Study to examine the progress of natural resources districts in fulfilling their originally intended purpose – there are Senators in Nebraska who are not NRD supporters and are looking into the NRD activities. Nitrate issues are just one aspect of their study. We need to keep monitoring this study. Dennis also extended condolences to Keith Heithoff for the passing of his father; and, the passing of Chris Dierks' mother Gloria.

**JANUARY BOARD MEETING:**

Due to the NARD Legislative Conference and Martin Luther King Day, the January board meeting date will be changed to Tuesday, January 18, 2022 at 2:30 PM with committee meetings being held prior to the board meeting.

**ADJOURNMENT:**

⇒ It was moved by Gene Kelly and seconded by Keith Heithoff to adjourn at 3:36 PM. AYE: Bartak, Blair, Frank, Fritz, Gotschall, Heithoff, Kelly, Moser, Rice, Stewart, Tanderup, Vogel & Whitaker. NAY: None. ABSTAIN: None. ABSENT: Dierks & Keller. MOTION CARRIED.

I, the undersigned Secretary/Treasurer of the Upper Elkhorn Natural Resources District hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Board of Directors on December 27, 2021 that all of the subjects included in the foregoing proceedings were contained in the agenda for at least twenty-four hours prior to said meeting; the minutes of the Chairman and the Board were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; and, that all news media requesting notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Gene Kelly, Secretary/Treasurer