



**PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT
BOARD OF DIRECTORS MEETING MINUTES
December 13, 2018**

PLEDGE OF ALLEGIANCE

MEETING CALLED TO ORDER: A regular meeting of the Papio-Missouri River Natural Resources District Board of Directors was held at the Natural Resources Center, 8901 S. 154th Street, Omaha, NE on December 13, 2018. The meeting was called to order by Chairperson Jim Thompson at 7:00 p.m.

NOTIFICATION OF OPEN MEETINGS ACT POSTING AND MEETING PROCEDURE

QUORUM CALL: The following Directors were present for the Quorum Call:

Larry Bradley	Ted Japp
Fred Conley	David Klug
John Conley	Patrick Leahy
Tim Fowler	Rich Tesar
Mark Gruenewald	Jim Thompson

ADOPTION OF AGENDA:

- **MOTION NO. 1:** It was moved by Director Klug and seconded by Director Tesar that the meeting agenda be adopted.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

ADOPTION OF CONSENT AGENDA:

- **MOTION NO. 2:** It was moved by Director J. Conley and seconded by Director Bradley that the following resolution be adopted:

BE IT RESOLVED that the following resolutions on the consent agenda are hereby adopted.

Agenda Item 3.A.

BE IT RESOLVED that the absences of the following Director(s) from the December 13, 2018 Board of Director Meeting are excused:

John Wiese.

Agenda Item 7.A. and Agenda Item 7.B.

BE IT RESOLVED that the November 8, 2018 Papio-Missouri River NRD Board Meeting minutes and the November 14, 2018 Dakota County Rural Water Advisory Board Meeting minutes are approved as printed.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

PROOFS OF PUBLICATION OF MEETING NOTICE: Notice of the meeting was published in the Omaha World Herald on December 6, 2018. The District's October 12 through November 8, 2018 expenditures were published in the Douglas County Post-Gazette on November 13, 2018. The Chairperson ordered the Proofs of Publication recorded in the minutes of this meeting. (They are contained as part of the file copy of these minutes.)

AGENCY AND ASSOCIATION REPORTS:

A. Natural Resources Conservation Service Report: Neil Jensen, NRCS District Conservationist, gave the Board an update on NRCS activities. Neil Jensen's report is posted to the website and attached to the file copy of these meeting minutes.

B. Nebraska Association of Resources Districts: Director Tesar reported the NARD Board meeting was held November 11-12, 2018 in Holdrege, NE. He also informed the Board that the NARD Legislative Conference will be January 29-30, 2019 in Lincoln, NE and encouraged the Board members to attend.

C. Nebraska Natural Resources Commission: Chairperson Thompson informed the Board the NNRC meeting will be December 18, 2018 in Kearney, NE at which time the Commission will vote on 2019 project funding.

D. National Association of Conservation Districts: Director Fowler reported that he would be representing the District at the National Association of Conservation Districts' annual meeting in San Antonio, Texas on February 2-6, 2019.

WASHINGTON COUNTY RURAL WATER SYSTEM BACKFLOW PREVENTER PROGRAM ENFORCEMENT:

Project Manager Zach Nelson gave the Board information about contamination risks involved with non-compliance of the District's Backflow Prevention Program which is enforced by the District, Environmental Protection Agency, and the State of Nebraska Health Dept. Mick and Beth Goslin, 2797 Herbert Henry Lane, Ft. Calhoun, NE 68023, shared their concerns about the procedure and requirements of the Backflow Prevention Program. General Manager John Winkler indicated that he will address their concerns. There was Board discussion and no action was taken.

SUBCOMMITTEE REPORTS:

A. Personnel, Legislative and Public Affairs Subcommittee: Director Fred Conley reported that the PLPA Subcommittee met on December 11, 2018 and gave a brief recap of the meeting.

- **MOTION NO. 3:** It was moved by Director F. Conley that the following recommendation be adopted:

PLPA Recommendation #1: 2019 Pay Program Administration Manual: Recommendation that the proposed amendments to the Papio-Missouri River NRD Pay Program Administration Manual for 2019 be adopted and incorporated in the District's Policy Manual.

Roll call vote was held on the motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

- **MOTION NO. 4:** It was moved by Director F. Conley that the following recommendation be adopted:

PLPA Recommendation #2: Update to the District's Employee Handbook: Recommendation that the proposed amended language to the Papio-Missouri River NRD Employee Handbook be adopted and incorporated in the District's Policy Manual.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

B. Papio PL-566 Work Plan Ad Hoc Consultant Selection Subcommittee: Director Tim Fowler reported that the Ad Hoc Subcommittee met on December 11, 2018 and gave a brief recap of the meeting.

- **MOTION NO. 5:** It was moved by Director Fowler that the following recommendation be adopted:

Ad Hoc Recommendation #1: Professional Services Contract with FYRA Engineering: Recommendation that the General Manager be authorized to execute a Professional Services Agreement with FYRA Engineering for the Papio PL-566 Work Plan Update, in an amount not-to-exceed \$559,822, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

C. Programs, Projects and Operations Subcommittee: Director John Conley reported that the PPO Subcommittee met on December 11, 2018 and gave a brief recap of the meeting.

- **MOTION NO. 6:** It was moved by Director J. Conley that the following recommendation be adopted:

PPO Recommendation #1: Agreement with Mike and Lori Walker for the Washington County Rural Water System – Surfside Club Water Main Extension Project: Recommendation that the General Manager be authorized to execute the proposed agreement with Mike and Lori Walker for the Washington County Rural Water System Surfside Water Main Extension Project, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

- **MOTION NO. 7:** It was moved by Director J. Conley that the following recommendation be adopted:

PPO Recommendation #2: Amendment No. 4 to Professional Services Contract with HDR

Engineering for Zorinsky Basin 2: Recommendation that the General Manager be authorized to execute Amendment No. 4 to the Professional Services Agreement with HDR Engineering, Inc. for the Zorinsky Basin 2 project in an amount not-to-exceed \$280,431, bringing the total contract not-to-exceed amount to \$1,723,991, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

•• **MOTION NO. 8:** It was moved by Director J. Conley that the following recommendation be adopted:

PPO Recommendation #3: Thomas Creek Improvements Phase 1 Interlocal Agreement with City of Omaha: Recommendation that the General Manager be authorized to execute the proposed Interlocal Cooperation Agreement with the City of Omaha for Thomas Creek Improvements Phase 1, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Project Manager Eric Williams answered Directors questions.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

•• **MOTION NO. 9:** It was moved by Director J. Conley that the following recommendation be adopted:

PPO Recommendation #4: Amendments to the District's Policy Manual: Recommendation that the proposed amendments to District Policies 17.0 through 17.44 and 18.0 through 18.50 be and are hereby approved, and furthermore; the proposed amendments to District Policies 2.0 through 2.7 and 15.0 through 15.9 be tabled for consideration at the next regular meeting of the Board.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
 Voting Nay - None
 Abstaining - None
 Excused Absence - Wiese
 Absent - Wiese

D. Finance, Expenditure and Legal Subcommittee: Director Rich Tesar reported that the FEL Subcommittee met on December 11, 2018 and gave a brief recap of the meeting.

•• **MOTION NO. 10:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #1: Fiscal Year 2018 Audit Report: Recommendation that the FY2018 Audit Report prepared by BerganKDV (formerly HSMC Orizon, LLC), be accepted and that the General Manager be directed to file an authenticated copy of the audit report with the Nebraska Auditor of Public Accounts and the Nebraska Natural Resources Commission.

Director J. Conley and Chairperson Thompson complimented Carey Fry and the staff, on a clean audit and their excellent work in the Accounting Department.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
 Voting Nay - None
 Abstaining - None
 Excused Absence - Wiese
 Absent - Wiese

Land Acquisition for Missouri River Levee R613/R616 Levee Improvement:

The following individual addressed the Board:

➤ John Iske, 15402 S. 5th St., Bellevue, NE 68123

•• **MOTION NO. 11:** It was moved by Director Tesar and seconded by Director Klug that the Board move into Executive Session for the purpose of discussing land acquisition for the Missouri River R613/R616 Levee Improvement Project.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea. The Board went into Executive Session at 8:00 p.m.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
 Voting Nay - None

Abstaining - None
Excused Absence - Wiese
Absent - Wiese

- **MOTION NO. 12:** It was moved by Director Tesar and seconded by Director Klug that the Board come out of Executive Session.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea. The Board came out of Executive Session at 8:07 p.m.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - None
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

- **MOTION NO. 13:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.a: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Twenty Club Corp, R-613 Tract 4: Recommendation that the General Manager be authorized to execute a purchase agreement with Twenty Club Corp, a Nebraska corporation, in the amount of \$5,800 for an area containing 2.346 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

- **MOTION NO. 14:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.b: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Salvation Army, R-613 Tract 5B: Recommendation that the General Manager be authorized to execute a permanent easement purchase agreement with Salvation Army, an Illinois non-profit corporation, in the amount of \$131,700 for an area containing 26.798 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

•• **MOTION NO. 15:** It was moved by Director Tesar that the following recommendation be adopted, as amended by the Board:

FEL Recommendation #2.c: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Farmer's Daughter, LLC and Whiske Farms, LLC, R-613 Tract 12: Recommendation that the General Manager be authorized to execute a purchase agreement with Farmer's Daughter, LLC, a Nebraska limited liability company, and Whiske Farms, LLC, a Nebraska limited liability company, in the amount of \$60,540 for an area containing 5.044 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

•• **MOTION NO. 16:** It was moved by Director Tesar that the following recommendation be adopted, as amended by the Board:

FEL Recommendation #2.d: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Farmer's Daughter, LLC and Whiske Farms, LLC, R-613 Tract 16: Recommendation that the General Manager be authorized to execute a permanent easement purchase agreement with Farmer's Daughter, LLC, a Nebraska limited liability company, and Whiske Farms, LLC, a Nebraska limited liability company, in the amount of \$43,060 for an area containing 8.36 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald

Abstaining - None
Excused Absence - Wiese
Absent - Wiese

- **MOTION NO. 17:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.e: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Rita F. Hurlbutt Revocable Trust, dated September 27, 2004, R-616 Tract 3: Recommendation that the General Manager be authorized to execute a purchase agreement with Rita F. Hurlbutt Revocable Trust, dated September 27, 2004 in the amount of \$62,600 for an area containing 5.607 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

- **MOTION NO. 18:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.f: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Wendl Properties, LLC, R-616 Tracts 4, 5: Recommendation that the General Manager be authorized to execute a purchase agreement with Wendl Properties, LLC, a Nebraska limited liability company, in the amount of \$80,000 for an area containing 7.11 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

- **MOTION NO. 19:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.g: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - BCR Properties Limited Partnership, R-616 Tracts 6, 7: Recommendation that the General Manager be authorized to execute a purchase agreement with BCR Properties Limited Partnership, a Nebraska limited partnership, in the amount of \$34,000 for an area containing 3.192 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

•• **MOTION NO. 20:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.h: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Jason Hagen, R-616 Tract 8: Recommendation that the General Manager be authorized to execute a purchase agreement with Jason Hagen in the amount of \$24,000 for an area containing 2.024 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

•• **MOTION NO. 21:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.i: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Paddington-Wilson, LLC, R-616 Tract 9: Recommendation that the General Manager be authorized to execute a permanent easement purchase agreement with Paddington Wilson, L.L.C., a Nebraska limited liability company, in the amount of \$15,720 for an area containing 1.309 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject to changes

deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

•• **MOTION NO. 22:** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2.j: Land Acquisition for Missouri River R613/R616 Levee Improvement Project - Dowd Grain Company, Inc. et al, R-616 Tract 35: Recommendation that the General Manager be authorized to execute a purchase agreement with Dowd Grain Company, Inc. et al in the amount of \$41,000 for an area containing 0.833 acres of land for the Missouri River R613/R616 Levee Improvement Project, subject changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Project Manager Paul Woodward answered Director Japp's question about method of valuation for this property.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

•• **MOTION NO. 23:** It was moved by Director Tesar that the following recommendation be adopted, as amended by the Board:

FEL Recommendation #2.k: Condemnation filings for the Missouri River R613/R616 Levee Improvement Project: Recommendation that the Board authorize District Legal Counsel to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the District, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the following landowners:

PCS Nitrogen Fertilizer LP/Nutrien, Ltd.- R-613 Tracts 6, 7
PCS Nitrogen Fertilizer LP/Nutrien, Ltd.- R-613 Tract 8
Horse Creek Farms- R-613 Tract 15

1904 Farm, LLC et al- R-613 Tract 18
1904 Farm, LLC- R-613 Tract 19
Pete Ciaccio- R-613 Tracts 29-30
Eric S. Dawson- R-616 Tracts 13-15

from the District's acquisition of the necessary land right for the Missouri River R613/R616 Levee Improvement Project; and that the following resolutions be adopted:

WHEREAS, the Pappio-Missouri River Natural Resources District ("the DISTRICT") has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the "PROJECT") in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613;
and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

- A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,
- B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the "PERMANENT EASEMENTS"), hereinafter described, in, on, over and across lands owned by PCS Nitrogen Fertilizer Limited Partnership, a Delaware limited partnership ("CONDEMNNEES") part of Gov. Lot 1, Gov. Lot 2 and Lot 4; together with part of N1/2SE1/4 and part of N1/2 SW1/4 all in Section 25, T13, R13 and Tax Lot 1 of Gov. Lot 1, Section 31, T13, R14 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,
- C. The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full

fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT'S acquisition of the EASEMENTS; and, the DISTRICT'S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT'S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

- D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.
- E. Approvals by other agencies of this action are not required; and,
- F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibits A-1 and A-2 ("Easement Area"), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner's property.
2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT

EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the PERMANENT EASEMENTS.

WHEREAS, the Papio-Missouri River Natural Resources District ("the DISTRICT") has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the "PROJECT") in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613;

and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit: 2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

- A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,
- B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the "PERMANENT EASEMENTS"), hereinafter described, in, on, over and across lands owned by Arcadian Fertilizer, LP, a Delaware limited partnership, now owned by PCS Nitrogen Fertilizer Limited Partnership, a Delaware limited partnership ("CONDEMNEES") in the SW 1/4 of lying west of the Missouri River, Section 30, T13, R 14 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,
- C. The DISTRICT previously negotiated in good faith with CONDEMNEES in that: the DISTRICT offered to CONDEMNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNEES as a result of the DISTRICT'S acquisition of the EASEMENTS;

and, the DISTRICT'S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT'S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

E. Approvals by other agencies of this action are not required; and,

F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-3 ("Easement Area"), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner's property.
2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska,

on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the PERMANENT EASEMENTS.

WHEREAS, the Pappio-Missouri River Natural Resources District ("the DISTRICT") has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the "PROJECT") in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

- A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,
- B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the "PERMANENT EASEMENTS"), hereinafter described, in, on, over and across lands owned by Horse Creek Farms, a Colorado Partnership ("CONDEMNEDS") in Tax Lot 7 located in the SE1/4 and Tax Lot 12 located in the SW1/4 all in Section 24, T13N, R 13 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,
- C. The DISTRICT previously negotiated in good faith with CONDEMNEDS in that: the DISTRICT offered to CONDEMNEDS an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNEDS as a result of the DISTRICT'S acquisition of the EASEMENTS; and, the DISTRICT'S representatives made reasonable efforts to induce CONDEMNEDS to accept the DISTRICT'S offer, but such offer was implicitly rejected by CONDEMNEDS, by not providing any counteroffer within a reasonable time, leaving the negotiations at an impasse.

D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

E. Approvals by other agencies of this action are not required; and,

F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-4 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner’s property.

The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.

This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT’S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT’S acquisition of the PERMANENT EASEMENTS.

WHEREAS, the Papio-Missouri River Natural Resources District (“the DISTRICT”) has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the “PROJECT”) in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

- A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,
- B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by 1904 Farm, LLC, a Nebraska limited liability company, as to 50% interest, Farmer’s Daughter, L.L.C., a Nebraska limited liability company, as to a 25% interest, and Whiske Farms, L.L.C., a Nebraska limited liability company, as to a 25% interest (“CONDEMNNEES”) in N1/2 of SE1/4 and Tax Lots 16B and 5B, Section 24, T13N, R 13 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,
- C. The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

- D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.
- E. Approvals by other agencies of this action are not required; and,
- F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-5 (“Easement Area”), conditioned as follows, to-wit:

- (i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

- 2. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner’s property.

The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.

This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT’S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT’S acquisition of the PERMANENT EASEMENTS.

WHEREAS, the Papio-Missouri River Natural Resources District (“the DISTRICT”) has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the “PROJECT”) in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

- A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,
- B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by 1904 Farm, LLC, a Nebraska limited liability company (“CONDEMNNEES”) in Tax Lot 3 in the S1/2 SE1/4 Section 14, T13N, R 13 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,
- C. The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.
- D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.
- E. Approvals by other agencies of this action are not required; and,

F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-6 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

3. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner’s property.

The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.

This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT’S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT’S acquisition of the PERMANENT EASEMENTS.

WHEREAS, the Pappio-Missouri River Natural Resources District (“the DISTRICT”) has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the “PROJECT”) in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

- A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,
- B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by Pete Ciaccio, also known as Peter Ciaccio, Trustee, or his Successor in Trust, Under the Ciaccio Living Trust Dated June 1, 2007 (“CONDEMNNEES”) in Tax Lot 14: Lots 12B & 13C in Butterfields Sub., Section 10, T13N, R 13 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,
- C. The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.
- D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.
- E. Approvals by other agencies of this action are not required; and,
- F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the

PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-7 and A-8 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

4. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner’s property.

The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.

This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT’S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT’S acquisition of the PERMANENT EASEMENTS.

WHEREAS, the Pappio-Missouri River Natural Resources District (“the DISTRICT”) has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the “PROJECT”) in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,

B. The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by Eric S. Dawson (“CONDEMNNEES”) part of S1/2 SE1/4, lying west of the NRD Dike in Section 6, T13N, R14 and Tax Lot 5B , part of Tax Lot 5A lying east of the railroad in Section 6, T13N, R14, and part of Tax Lot 14 in NE1/4 of Section 7 T13N, R14 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,

C. The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

D. Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

E. Approvals by other agencies of this action are not required; and,

F. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-9, A-10 and A-11 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner's property.
2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the PERMANENT EASEMENTS.

Director Gruenewald indicated he did not support the levee project.

Roll call vote was held on the motion. The motion carried on a vote of 8-yea and 2-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Klug, Leahy, Tesar, Thompson
Voting Nay	-	Gruenewald, Japp
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

FEL Recommendation #3: Expense Claim Reimbursements for Director Gruenewald: No action was taken by the Subcommittee.

TREASURER'S REPORT:

- **MOTION NO. 24:** It was moved by Director J. Conley and seconded by Director Klug that the following resolution be adopted:

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (1) claims listed in the November, 2018 financial report; and, (2) any claims made prior to the next Board meeting for (a) earned salaries of District employees, (b) withholding taxes, (c) social security payments, (d) retirement program contributions, (e) utilities, (f) registration fees and expenses for upcoming meetings and conferences, (g) certified completed CAP and Special Project Area applications, (h) invoices which offer a credit or discount for payment made prior to the next Board meeting, (i) postage, and, (j) building and grounds contract expenses.

BE IT FURTHER RESOLVED that the Treasurer is authorized to pay, from the respective operating accounts of the Dakota County, Thurston County and Washington County Rural Water Supply System, the Elkhorn River Bank Stabilization Project, the Elkhorn Breakout Project, the Elk/Pigeon Creek Drainage Project, the Western Sarpy Drainage District, the Papillion Creek Watershed Partnership, and the Southern Sarpy Watershed Partnership project bills listed on the November, 2018 financial report, and future claims for project utilities.

BE IT FURTHER RESOLVED that the financial reports be affixed to and made a part of the minutes.

Roll call vote was held on the motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Fowler, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Wiese
Absent	-	Wiese

Take from the Table and Consideration of Amendments to District Policies proposed at the Board of Directors Meeting on November 8, 2018:

- 16.9 District Property-Donation Recognition
- 9.3 PPO Subcommittee-Jurisdiction

- **MOTION NO. 25:** It was moved by Director J. Conley and seconded by Director Klug to take item 16.9 – District Property-Donation Recognition and item

9.3 PPO Subcommittee-Jurisdiction from the table and to incorporate the changes into the District's Policy Manual.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
Voting Nay - None
Abstaining - None
Excused Absence - Wiese
Absent - Wiese

CHAIRPERSON'S REPORT: Chairperson Jim Thompson

A. Special Presentation: Chairperson Thompson recognized Director John Conley and Director David Klug for their years of service to the District:

B. P-MRNRD Employee Service Awards: Chairperson Thompson recognized the following District Employees for their years of service to the District:

Zach Nelson, Project Manager	5 Years
Bill Brush, IT Manager	5 Years
Carey Fry, Senior Accountant	10 Years
Lance Olerich, Water Supply Superintendent	15 Years
Ryan Trapp, Heavy Equipment Operator	20 Years
Jean Tait, Administrative Coordinator	25 Years
Marty Nissen, Draftsman	30 Years
Teresa Murphy, Program Assistant	30 Years
Kelly Fravel, Program Assistant	30 Years
John Zaugg, Field Representative	35 Years
Bill Warren, O&M/Park Superintendent	40 Years
Martin Cleveland, Construction Engineer	40 Years

The Chairperson concluded his report by thanking everyone for their years of service.

GENERAL MANAGER'S REPORT: General Manager Winkler reviewed the GM Report with the Board. His written report is posted to the website and attached to the file copy of these minutes. GM Winkler added his appreciation to the departing Directors. GM Winkler reflected on the hard work of District staff and the progress of District projects over the past year. He also spoke to the importance of the Missouri River Levee Project, its safety impact to Offutt AFB, its economic impact of the base to the state of Nebraska. He also asked the Board to consider that December 24 and December 31 be designated as a holiday(s) for Papio-Missouri River NRD employees.

- **MOTION NO. 26:** It was moved by Director Klug and seconded by Director J. Conley that the General Manager be authorized to designate December 24 and December 31 as holiday(s) for Papio-Missouri River NRD employees.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea - Bradley, F. Conley, J. Conley, Fowler, Gruenewald, Japp, Klug, Leahy, Tesar, Thompson
 Voting Nay - None
 Abstaining - None
 Excused Absence - Wiese
 Absent - Wiese

INFORMATIONAL ITEMS:

A. Future Meetings:

December 24, 2018	Christmas Holiday - P-MRNRD Offices Closed
December 25, 2018	Christmas Holiday - P-MRNRD Offices Closed
December 31, 2018	New Year's Holiday - P-MRNRD Offices Closed
January 1, 2019	New Year's Holiday - P-MRNRD Offices Closed
January 8, 2019	P-MRNRD Subcommittee Meetings
January 10, 2019	P-MRNRD Board Meeting
January 21, 2019	Martin Luther King, Jr. Day - P-MRNRD Offices Closed
January 24, 2019	Papillion Creek Watershed Partnership Meeting, 10:00 a.m. at the NRC
January 29-30, 2019	NARD Legislative Conference, Lincoln, NE
February 2-6, 2019	NACD 2019 Annual Meeting, San Antonio, Texas

B. Next Meeting – January 10, 2019 at the NRC.

ADJOURNMENT: Being no further business, the Chairperson declared that the meeting was adjourned at 8:48 p.m.

NOTE: These minutes reflect the actions and votes taken at the December 13, 2018 Board of Directors Meeting of the Papio-Missouri River Natural Resources District and are not an official transcript of the meeting. The audio cast of this meeting can be found on our website at www.papionrd.org.

I, the undersigned, Secretary of the Papio-Missouri River Natural Resources District, hereby certify that the foregoing are true and correct minutes of a meeting of the Board of Directors of the District held on December 13, 2018 that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the District; that such subjects were contained in said agenda at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the minutes 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 meeting of said body were provided advance notification of the time and place of said meeting.

Richard Tesar
District Secretary