



# Nebraska's Natural Resources Districts

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Protecting Lives • Protecting Property • Protecting the Future

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August 14, 2009

TO: NARD Board and NRD Managers

FROM: Dean E. Edson, Executive Director

## **RE: RESOLUTIONS PACKET & Inactive Status Policies**

Attached are five resolutions that were submitted to NARD as of August 14, 2009. The voting procedures for the conference are also included. The NARD Legislative Committee is also recommending 2 policies to be placed in the inactive file.

*The Resolution and Voting Procedures are on page 2. The Voting Delegates will be listed in the final packet provided at the conference.*

### **Resolutions Submitted by the August 14<sup>th</sup> Deadline**

- **NARD Resolution 2009-1** -- Proactive Development and Implementation of Integrated Management Plans. Submitted by Lower Platte South NRD. (Page 3)
- **NARD Resolution 2009-2** -- Nebraska Department of Natural Resources. Submitted by Lower Loup NRD and Twin Platte NRD. (Page 4)
- **NARD Resolution 2009-3** -- Water Banking. Submitted by Lower Loup NRD. (Page 5)
- **NARD Resolution 2009-4** -- Compacts, Decrees, Agreements and Financing Water Programs. Submitted by the Middle Republican NRD. (Pages 6-7)
- **NARD Resolution 2009-5** -- Review surface water rights converted to groundwater use. Submitted by the Middle Republican NRD. (page 8)

### **Policies Recommended for Inactive Status by the NARD Legislative Committee**

The Legislative Committee reviews the book every year to make recommendations, if any, for delegate action at the annual meeting. Placing policies in the inactive status only removes them from the annual policy book and does not rescind them unless specifically noted and passed by the delegates. The committee is recommending placing two policies in the inactive file that have been enacted with the passage of LB 209 and LB 477. The delegates at the annual meeting in September will vote on the proposal.

- *NARD Policy "2008-4 Storage permit deadline for beginning dam construction" on page 20 of the NARD Policy Book (Passed by LB 209 in 2009).*
- *NARD Policy "2008-1 Certified Irrigated Land Transfers" on page 16 of the NARD Policy Book (Passed by LB 477 in 2009)*

## **RESOLUTION & VOTING PROCEDURES**

1. Each NARD member district that is in good standing shall be able to submit resolutions for consideration by the Association membership on policy issues pertinent to the mission and goals of the Association. A majority of the 23 districts shall constitute a quorum.
2. The voting delegate for the member district, or the alternate in the case of the delegate's absence, shall be the only individual to make the motion on behalf of their respective district. Any district representative may speak on the merits of a motion or issue during the discussion period once recognized by the chair.
3. We encourage more information on the issues. However, a non-voting participant may only speak on an issue and/or provide additional information at the request of a voting delegate of a district in good standing or at the request of the chair.
4. A copy of all resolutions submitted to the NARD Office prior to the Annual Meeting is included in the Resolutions Packet. Resolutions received by the deadline require a majority of the members voting for consideration. Resolutions received after the deadline must follow 5.b. below.
5. Additional resolutions may be submitted for consideration at the first Business Session at the Annual Conference for discussion provided that:
  - a) The member district is responsible for providing enough copies so members may read the resolution before discussion begins.
  - b) If 2/3 of the members voting approve the Motion to place the resolution before the body, the resolution shall be added to the agenda for consideration (example: 2/3rds of 115 = 77).
6. Resolutions shall be discussed and motions shall be made at the 1<sup>st</sup> Business Session. No final voting for approval of resolutions shall be taken on the first day. This provides discussion time at caucus before final approval.
7. Motions/resolutions shall be voted on at the 2<sup>nd</sup> Business Session.
8. Amendments may be made on either the first or second day during the Business Session. A written copy of the amendment(s) must be provided to the Chairman of the Legislative Committee.
9. Each member district shall have five votes.
10. To help avoid any distractions during the Business Session, all cell phones must be silenced during the session. Anyone whose cell phone rings during the Business Session will be fined \$5 for each occurrence and proceeds will be contributed to the NARD Foundation Account. Contributions to the NARD Foundation are tax deductible.

# NARD Resolution 2009-1

## Proactive Development and Implementation of Integrated Management Plans

Submitted by Lower Platte South NRD

**WHEREAS**, current Nebraska statutes allow Natural Resources Districts and the Nebraska Department of Natural Resources to develop and implement Integrated Management Plans for the management of ground and surface water resources in river basins that have been designated as fully appropriated or overappropriated; and

**WHEREAS**, current Nebraska statutes also state the desirability of maintaining the status of not fully appropriated in those areas that have not been designated as fully appropriated or overappropriated; and

**WHEREAS**, development and implementation of an Integrated Management Plan can be a component of comprehensive management of water resources in a given Natural Resources District; and

**WHEREAS**, proactive efforts to maintain the designation of not fully appropriated will enhance economic productivity and sustainability and protect current and future property values and uses;

**NOW THEREFORE BE IT RESOLVED** that the Nebraska Association of Resources Districts shall seek to enact legislation amending current Nebraska statutes to allow Natural Resources Districts and the Nebraska Department of Natural Resources to voluntarily develop and implement Integrated Management Plans on a proactive basis in river basins or portions of river basins that have not been designated as fully appropriated or overappropriated with the objective of maintaining those areas in the status of not fully appropriated.

*Monday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

*Tuesday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

## NARD Resolution 2009-2

### Nebraska Department of Natural Resources Submitted by Lower Loup NRD and Twin Platte NRD

**WHEREAS**, the Nebraska Department of Natural Resources was created by a merger of the Nebraska Natural Resources Commission and the Nebraska Department of Water Resources; and

**WHEREAS**, the Nebraska Natural Resources Commission was a planning agency; and

**WHEREAS**, the Nebraska Department of Water Resources was a regulatory agency; and

**WHEREAS**, the surrounding states of Kansas, Colorado, Wyoming, and South Dakota have separate water planning and water regulatory agencies; and

**WHEREAS**, there are water projects needs across the state that are critical to Nebraska in order to protect our economy and/or meet our compact or agreement commitments to other states or groups; and

**WHEREAS**, an example is the Platte River Program where Nebraska has an opportunity to benefit from several water action projects designed to increase flows in the Platte River in order to benefit threatened and endangered species as Nebraska has reserved part of the water from several of those projects to meet another of Nebraska's commitments, which is to offset certain depletions to the Platte River; and

**WHEREAS**, we have a situation where Nebraska's Director needs to be a project advocate and even better an active participant in planning but that same Department Director must act as an impartial judge in determining whether or not to issue a water right and the necessary permits and must act as an impartial regulator in the enforcement of water rights and priorities; now

**NOW THEREFORE BE IT RESOLVED** that the Nebraska Association of Resources Districts supports a Department to regulate surface water and work with Natural Resources Districts for the integrated management of ground water and a Commission to plan, promote, and develop water projects in cooperation with Natural Resources Districts and other local and regional agencies.

*Monday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

*Tuesday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

# NARD Resolution 2009-3

## Water Banking Submitted by Lower Loup NRD

**WHEREAS**, it is a necessity for the citizens of the State of Nebraska and residents of individual river basins to manage and protect our water resources; and,

**WHEREAS**, it is imperative that actions to manage and protect this most precious resource safeguards a source for today as well as future use within the river basin and the State of Nebraska; and,

**WHEREAS**, Natural Resources Districts have been given the responsibility to manage and regulate the current and future use of groundwater in their basins and in the State; and,

**WHEREAS**, the State determines whether a river basin, sub-basin, or reach of a river basin is fully appropriated, and should a basin be determined fully appropriated, the Natural Resources District must provide off-set for future ground water projects and new municipal and economic uses of ground water within the designated basin, sub-basin, or reach; and,

**WHEREAS**, the State recognizes 'water banking' as a method of holding and providing off-set for future uses of groundwater in fully and over-appropriated river basins; and,

**WHEREAS**, there is groundwater resources available in Districts and basins not declared fully appropriated; and,

**WHEREAS**, there are Natural Resources Districts in river basins that are not yet declared fully appropriated who wish to limit current groundwater development and hold or 'bank' it for future development projects and new uses of ground water within the District, and have it held in a 'bank,' recognized and protected within the District for future ground water off-sets and economic development uses within the water basin; and,

**WHEREAS**, there is no current method or accounting procedure available for the Natural Resources District to recognize and protect a District's 'bank' in non-fully appropriated Districts;

**NOW THEREFORE BE IT RESOLVED** that the Nebraska Association of Resources Districts supports legislation to provide for a process and procedures to recognize and protect the use of water banking in all Natural Resources Districts in the State regardless of a river basin's designation.

*Monday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

*Tuesday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

## NARD Resolution 2009-4

### Compacts, Decrees, Agreements and Financing Water Programs Submitted by the Middle Republican NRD

**WHEREAS**, the NRDs provide the primary enforcement of groundwater use in the Republican Basin and all other river basins in the state.

**WHEREAS**, the June 30, 2009 Arbitrator's Final Decision in the Kansas v. Nebraska and Colorado Republican River Compact issue identified several areas that Nebraska could improve water management plans to reach goals and objectives of compliance.

**WHEREAS**, the arbitrator identified that the State of Nebraska needed to establish programs and projects that will generate 20,000 to 30,000 acre-feet per year annual savings to ensure compact compliance during prolonged dry-year conditions.

**WHEREAS**, the arbitrator identified the primary means that Nebraska and the Republican River NRDs have available to offset exceeding Nebraska's future allocations is the leasing of surface water supplies.

**WHEREAS**, the arbitrator identified the Integrated Management Plans (IMPs) for the Republican River NRDs are enforceable, but the current IMPs adopted by Nebraska and the Republican River NRDs are inadequate to ensure compliance during prolonged dry year conditions such as occurred from 2002 through 2006.

**WHEREAS**, the central authority that can impose the necessary actions to ensure compliance is the State of Nebraska.

**WHEREAS**, the only method to finance the leases of surface water by the Republican NRDs is the occupation tax on irrigated land.

**WHEREAS**, the occupation tax is being challenged in court because it is only available to the Republican Basin NRDs.

**WHEREAS**, because the occupation tax is being challenged, the Republican Basin NRDs can not finance necessary water management programs to implement the arbitrator's decision to ensure compliance during prolonged dry year conditions.

**WHEREAS**, the NRDs included in the Platte River Recovery Implementation Program also need the ability to reduce water use in the Platte Basin by up to 250,000 acres in the first 15-year increment of the program while also securing water for future domestic and economic uses, but do not have the financial capacity or state funding to implement such a large program.

**NOW THEREFORE BE IT RESOLVED**, that the Nebraska Association of Resources Districts work to support legislation for state and local funding programs for the augmentation of stream flow, under the authorities as identified in section 2-3226.04 of Nebraska Statutes, that will allow all NRDs to enact local regulations in order to reduce the impact from ground water use and assist the state of Nebraska in achieving and maintaining compliance with river basin Compacts, Decrees or other designations affecting a basin, sub-basin or reach.

**NOW BE IT FURTHER RESOLVED**, that the State of Nebraska work with NRDs toward obtaining permanent water supply contracts with surface water irrigators.

**NOW BE IT FURTHER RESOLVED**, that the occupation tax authority be extended, as permissive authority, to all NRDs with a fully- or over-appropriated designation and that this authority be not limited to bonding only.

**NOW BE IT FURTHER RESOLVED**, that the NARD delegates reaffirm NARD Policy 2008-2 on page 10 of the 2009 NARD Policy Book which supports the concept of a revolving loan fund to be utilized by all districts for all authorities with priority for ground water management in fully- and over-appropriated basins.

*Monday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

*Tuesday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

**NARD Resolution 2009-5**

**Review surface water rights converted to groundwater use  
Submitted by the Middle Republican NRD**

**WHEREAS**, surface water appropriations are approved by the State for beneficial use of the waters of the state, and

**WHEREAS**, a majority of the surface water appropriations for use by an irrigation district, company or other similar organization were approved 60 or more years ago, and

**WHEREAS**, irrigation has a preference above uses other than domestic, and

**WHEREAS**, a number of the streams of this state are runoff based, and

**WHEREAS**, the return flows that are calculated as part of an appropriation have decreased due to increased efficiency and yields 100% or more higher than when most permits were approved, and

**WHEREAS**, conservation measures such as terraces, dams, pits and no till or minimum till farming practices have significantly reduced runoff into our rivers and streams, and

**WHEREAS**, stored water in reservoirs may have as much economic benefit to the state as irrigation releases,

**WHEREAS**, many irrigation districts service area is also capable of or is already receiving service by ground water wells, and

**WHEREAS**, the state has obligations with regard to compacts, decrees and other agreements, and

**WHEREAS**, the state has the responsibility to see that the most efficient and beneficial uses of the waters of the state occur,

**NOW THEREFORE BE IT RESOLVED** that the NARD seek legislation that would require the Department of Natural Resources to review, modify, and/ or revoke all surface water appropriations back to a level that accounts for reductions in service area resulting from conversion of uses to groundwater and,

**BE IT FURTHER RESOLVED** that the impacts from conservation and diminished runoff be used to determine the reduced appropriation if it were to be considered for approval under existing conditions,

**BE IT FURTHER RESOLVED** that this review be focused on over and fully appropriated basins, other basins or sub-basins as prioritized by the Department and lastly with individual appropriators.

*Monday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_

*Tuesday Business Session:* \_\_\_\_\_

*Amendment No. 1:* \_\_\_\_\_

*Amendment No. 2:* \_\_\_\_\_