

**Papio-Missouri River Natural Resources District
Board of Directors Meeting
Suggested Resolutions/Recommendations
July 9, 2009**

***Agenda Item 4 - Agenda**

BE IT RESOLVED that the agenda be adopted.

***Agenda Item 5 – Consent Agenda**

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

Agenda Item 3.A.:

BE IT RESOLVED that the absence of the following Director(s) from the July 9, 2009, Board of Directors Meeting is excused:

John Schwope

Agenda Item 7 A, B & C.

BE IT RESOLVED that the June 11, 2009 Papio-Missouri River NRD Board meeting minutes; the June 10, 2009 Dakota County Rural Water Advisory Board meeting minutes; and, the June 30, 2009 Thurston County Rural Water Advisory Board meeting minutes are approved as printed.

***Agenda Item 9.A. – Resolution Imposing Permanent Stay**

BE IT RESOLVED that the following resolution be adopted by the Papio-Missouri River NRD Board of Directors:

**RESOLUTION
Stay on the Expansion of Groundwater Irrigated Acres
And the Construction of New Irrigation Wells**

1) DEFINITIONS:

“Historically Irrigated Acres” shall mean acres irrigated with groundwater during two of the previous ten years, unless the acres were a part of a federal set aside program. Acres

that were a part of a federal set aside program that were irrigated using groundwater prior to entering into the federal set aside program shall be considered Historically Irrigated Acres.

“Annual Evaluation” shall mean the “2009 Annual Evaluation of Availability of Hydrologically Connected Water Supplies”, published April 8, 2009 by the Nebraska Department of Natural Resources.

“Irrigation Well” shall mean any well constructed for the purpose of irrigating cropland.

“Hydrologically Connected Area” shall mean the area within the Papio-Missouri Natural Resource District determined to be hydrologically connected to surface water as listed in the Annual Evaluation.

“Replacement Well” shall mean an Irrigation Well constructed for the purposes of irrigating Historically Irrigated Acres and for replacing an Irrigation Well that has been properly de-commissioned in the State of Nebraska.

2) PURPOSE AND AUTHORITY:

The purpose and authority of these rules and regulations are in accord with Nebraska Revised Statute 46-707(2) and 46-714(12) to:

- a) Limit the expansion of irrigated acres to approximately 2,500 acres per year for the calendar years 2009, 2010, 2011 and 2012 with a maximum not exceeding 10,000 acres in such four year period.
- b) Maintain the status of not fully appropriated based on the most recent Annual Evaluation.

3) IMMEDIATE STAY ON THE EXPANSION OF GROUNDWATER IRRIGATED ACRES:

Effective immediately, there shall be no additional groundwater irrigated acres, beyond those considered to be historically irrigated, within the Hydrologically Connected Area without a variance being granted by the District.

4) IMMEDIATE STAY ON THE CONSTRUCTION OF NEW IRRIGATION WELLS:

Effective immediately, there shall be no additional irrigation wells, not considered as Replacement Wells, constructed in the Hydrologically Connected Area without a variance being granted by the District for the expansion of groundwater irrigated acres.

***Agenda Item 9.B. – Resolution Adopting Rules and Regulations for the Granting of Variances from the Stay on the Expansion of Groundwater Irrigated Acres**

BE IT RESOLVED that the following resolution be adopted by the Papio-Missouri River NRD Board of Directors:

**RESOLUTION
Rules and Regulations for the Granting of Variances from the Stay
on the Expansion of Groundwater Irrigated Acres**

SECTION 1 DEFINITIONS:

“**Annual Evaluation**” shall mean the “Annual Evaluation of Availability of Hydrologically Connected Water Supplies,” published by the Nebraska Department of Natural Resources (Department). The most recent Annual Evaluation was published April 8, 2009 by the Department (NDNR 2009).

“**Certified Acres**” shall mean those acres recognized by the Papio-Missouri River Natural Resources District (District) as being Historically Irrigated.

“**Fully Appropriated**” shall mean a river basin, designated by the Department, where the surface and groundwater supplies are just sufficient to meet the demand on those supplies. Fully Appropriated is determined by the Department in its Annual Evaluation.

“**Historically Irrigated Acres**” shall mean acres irrigated, with groundwater, two years out of the previous ten years, unless the acres were a part of a federal set aside program. Acres that were a part of a federal set aside program that were irrigated using groundwater, prior to entering into the federal set aside program, shall be considered Historically Irrigated Acres.

“**Hydrologically Connected Area**” (HCA) shall mean the area within the Papio-Missouri Natural Resource District where groundwater is determined to be hydrologically connected to surface water as listed in the Annual Evaluation. A listing of the sections within the Hydrologically Connected Area is included in Section 2, *infra*.

“**Irrigation Well**” shall mean any well constructed for the purpose of irrigating cropland.

“**Planning Period**” shall mean the four year period starting on January 1, 2009 and ending December 31, 2012.

“**Replacement Well**” shall mean an Irrigation Well constructed for the purposes of irrigating Historically Irrigated Acres and for replacing an Irrigation Well that has been properly de-commissioned with the State of Nebraska.

SECTION 2 HYDROLOGICALLY CONNECTED AREA

The Hydrologically Connected Area (HCA) is comprised of those sections that the Department determined to have hydrologically connected surface water and

groundwater in the Annual Evaluation for 2009 (NDNR 2009). The HCA is designated as the sections or portions of sections, as listed below, within the Pappio-Missouri River Natural Resources District:

Dodge County: Township 17 North, Range 08 East, Sections 25, 35, 36; Township 17 North, Range 09 East, Section 31

Douglas County: Township 14 North , Range 09 East, Section 01; Township 14 North, Range 10 East, Sections 03, 04, 05, 06, 07, 08, 09; Township 15 North, Range 09 East, Sections 01, 02, 03, 11, 12, 13, 24, 25, 36; Township 15 North, Range 10 East, Sections 02 ,03,04, 05, 06, 07, 08, 09, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34; Township 16 North, Range 08 East, Section 01; Township 16 North, Range 09 East, Sections 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36; Township 16 North, Range 10 East, Sections 04, 05, 06, 07, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34

Sarpy County: Township 12 North, Range 10 East, Sections 03, 04, 05, 09, 10, 11, 12, 13; Township 12 North, Range 11 East, Sections 01, 02, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21; Township 12 North, Range 12 East, Sections 06; Township 13 North, Range 10 East, Sections 03, 04, 05, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 32, 33; Township 13 North, Range 11 East, Sections 25, 36; Township 13 North, Range 12 East, Sections 25, 26, 27, 28, 29, 30, 31, 32, 33; Township 13 North, Range 13 East, Sections 03, 10, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 13 North, Range 14 East, Sections 30, 31; Township 14 North, Range 10 East, Sections 16, 17, 20, 21, 28, 29, 32, 33;

Washington County: Township 17 North, Range 09 East, Sections 02, 03, 11, 12, 13; Township 17 North, Range 10 East, Sections 18, 20, 29, 32, 33; Township 18 North, Range 09 East, 05, 08, 17, 20, 28, 29, 33, 34.

SECTION 3 PURPOSE AND AUTHORITY:

The purpose and authority of these rules and regulations are in accord with Nebraska Revised Statutes Sections 46-707(2) and 46-714(12) as amended by Legislative Bill 483 (LB 483). A portion of Section 46-714(12) is excerpted below:

“(d) The rules and regulations adopted by each affected natural resources district in accordance with subdivision (c) of this subsection shall (i) allow a limited number of total new ground water irrigated acres annually, (ii) be created with the purpose of maintaining the status of not fully appropriated based on the most recent basin determination, (iii) be for a term of not less than four years, and (iv) limit the number of new permits so that total new ground water irrigated acres do not exceed the number set in the rules and regulations. The department shall approve the proposed new number of ground water irrigated acres within sixty days after approval by the natural resources district if such district meets the conditions set forth in subdivision (d)(ii) of this subsection, based on the most recent basin determination.” Nebraska Revised Statutes 46-714(12)(d).

The purpose of these rules and regulations is to provide for the following:

1. Limit the expansion of irrigated acres that utilize groundwater sources within the Hydrologically Connected Area to approximately 2,500 additional acres per year within the Planning Period with a total expansion not to exceed 10,000 acres over the entire Planning Period.
2. Maintain the status of not fully appropriated, for the Planning Period, based on the most recent Annual Evaluation.

SECTION 4 CERTIFICATION OF IRRIGATED ACRES:

Rule 1 Certification of irrigated acres (Certification) shall consist of providing documentation to the District that an Irrigation Well is located in the Hydrologically Connected Area and documentation of the number of acres irrigated using that Irrigation Well. The determination of Certified Acres shall be done by District management.

Rule 2 Such documentation of an Irrigation Well shall consist of providing the District with the state well registration number. An Irrigation Well not registered with the Nebraska Department of Natural Resources shall not be used in the certification process. Additional documentation that can be submitted to the District regarding an Irrigation Well can consist of location and construction information specific to the Irrigation Well including the following:

3. The county, township, range and section number of the Irrigation Well and the offset distances for the Irrigation Well from the nearest two section lines,
4. The latitude and longitude of the Irrigation Well,
5. Construction information for the Irrigation Well including, but not limited to, casing diameter, screened interval(s), total depth, column pipe diameter and pumping capacity,
6. Any other location or construction information relevant to the Irrigation Well.

Rule 3 Such documentation of the proposed Certified Acres shall include a legal description of the proposed acres to be certified. Documentation shall also include the appropriate records to show that the proposed Certified Acres have been irrigated for no less than two of the years from 2000 through 2009. Documentation may consist of the following:

7. U.S Department of Agriculture (USDA) Farm Services Administration (FSA) Report of Commodities,
8. County tax assessor records,

9. Crop insurance records,

10. Other administrative records that verify, to the satisfaction of the District, that the proposed acres were Historically Irrigated.

Rule 4 Certification of irrigated acres shall be completed by December 18, 2009. All landowners requesting certification shall submit sufficient documentation by December 1, 2009. The District may grant an exception for good cause shown to determine Certified Acres on a case-by-case basis. The District may record the Certified Acres with the appropriate county assessor's office.

Rule 5 Certified Acres shall not be transferred to another property, Irrigation Well or location.

SECTION 5 GROUNDWATER IRRIGATION ALLOWANCES:

Rule 1 Expansion of groundwater irrigation shall be done through application to the District for a variance to the imposed stay on the expansion of irrigated acres and the construction of new irrigation wells (Stay). District management shall determine the variances to be granted.

Rule 2 For the first calendar year of the Planning Period (2009), the application period for a variance from the Stay shall be from September 1, 2009 to September 30, 2009. The application period for the remaining years in the Planning Period shall be from January 1 to the last day of February of the given calendar year. All persons wishing to construct a new Irrigation Well, convert an existing well to an Irrigation Well or expand the use of an existing Irrigation Well that results in an increase of groundwater irrigated acres, shall obtain from the District a variance to the Stay.

Rule 3 The District shall determine, no later than 30 days after the end of the application period, which applications for variance to the Stay shall be granted.

Rule 4 Certification shall be completed upon submittal to the District, by the applicant, of a state well registration number for new well construction or by submittal, by the applicant, of appropriate documentation of modification to the Irrigation Well. District management shall make the determination of Certified Acres and notify the applicant.

Rule 6 A variance shall be voided if the completion of the new Irrigation Well or other required piping and appurtenances to the existing Irrigation Well are not completed within the calendar year of the granting of the variance.

SECTION 6 ENFORCEMENT AND APPEAL:

Rule 1 The District shall enforce these rules and regulations adopted herein pursuant to and in accordance with the enforcement procedures provided in the Nebraska Groundwater Management and Protection Act. Any landowner, not satisfied with a determination by the District, may request to address the District Board of Directors.

***Agenda Item 11.A. – Personnel, Legislative and Public Affairs Subcommittee**

BE IT RESOLVED that the minutes of the July 7, 2009, Personnel, Legislative and Public Affairs Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Extension of Government Relations Contract with Husch Blackwell Sanders – Recommendation that the General Manager be authorized to execute the proposed contract with Husch Blackwell Sanders, LLP, for the provision of intergovernmental and professional lobbying services, in accordance with the terms and conditions outlined in the agreement presented to this meeting.

***Agenda Item 11.B. – Programs, Projects and Operations Subcommittee**

BE IT RESOLVED that the minutes of the July 7, 2009, Programs, Projects and Operations Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Whitted Creek Stream Restoration Project Bids – Recommendation that the General Manager be authorized to execute a contract for construction of the Whitted Creek Stream Restoration Project with Heimes Corporation for the total base bid of \$1,488,610.
2. Pigeon/Jones Site #15:
 - a. Contract Proposal from Olsson Associates for Pigeon/Jones Site #15 Design for Recreation Facility – Recommendation that the General Manager be authorized to execute the proposed Amendment to the Pigeon/Jones Site #15 contract with Olsson Associates for additional project services, increasing the maximum not to exceed amount of the contract to \$1,098,953.
 - b. Report on P-MRNRD Request for Funding from the Federal Sport Fish Restoration Program – No action required.
3. Urban Drainageway Program – Millard Park SID Request for Additional Funds – Recommendation that the District approve the request of Sarpy County SID #162 for an increase in the cost-share amount for Phase 1 of the project, from \$63,300 to \$197,460, subject to inclusion of such additional amount in the NRD'S FY 2010 Budget.
4. Groundwater Management Program Rules and Regulations – Recommendation that rules and regulations for the issuance of variances from the stay on the construction of new irrigation wells and the expansion of groundwater irrigated acres, heretofore adopted, be added to the District's Policy Manual.

5. Blair Airport Authority Agreement on Waterline Construction for Washington County Rural Water #2 – Recommendation that the General Manager be authorized to execute the Agreement among the District, the Blair Airport Authority and Jana Joan Simmonds in the form as presented to this meeting, with such changes as deemed necessary by the General Manager and approved as to form by the District's Legal Counsel.

***Agenda Item 11.C. – Finance, Expenditures and Legal Subcommittee**

BE IT RESOLVED that the minutes of the July 7, 2009, Finance, Expenditures and Legal Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. FY 2010 Budget – Draft 2 – Recommendation that the draft FY 2010 budget, as presented at this meeting, be approved as the proposed budget of the District and presented for public hearing and final consideration at the August 13, 2009 meeting of the Board of Directors, with the provision that the General Manager be authorized to make necessary adjustments once final figures are available, to achieve compliance of state statutes regarding the lid.
2. Accounts Over 110%: - Acct # - 01 01-00 4636 – Maintenance – Dakota County Service Center – Recommendation that the following accounts be allowed to exceed 110% of the budgeted amount:
 - Acct # - 01 01-00 4636 – Maintenance – Dakota County Service Center

***Agenda Item 12. A.-I. - Financials**

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (l) claims listed in the June, 2009, 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 #1 and Washington County #2 rural water supply projects, the Elkhorn River Bank Stabilization Project, the Elkhorn Breakout Project, the Elk/Pigeon Creek Drainage Project, and the Western Sarpy Drainage District, the project bills listed on the June, 2009, 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.

***Agenda Item 14.F. – Change Time of Board Meetings**

BE IT RESOLVED that the following amendments to District Policy 4.0 be adopted and incorporated into the District Policy Manual:

4.0 Board Meetings - Regular Monthly Meetings. Unless otherwise designated by the Board, the regularly scheduled monthly meeting of the Board shall be held on the second Thursday of each month, at the principal office of the District. Each meeting shall begin at ~~8:00~~ 7:00 p.m. unless otherwise designated. If, prior to the meeting time the General Manager and the Chairperson determine that weather conditions are or will be dangerous for travel to and from the meeting, the regularly scheduled monthly meeting shall be postponed until ~~8:00~~ 7:00 o'clock p.m. on the Thursday following such scheduled meeting date, or, if such date is a legal holiday, until ~~8:00~~ 7:00 p.m. on the second Thursday following such scheduled meeting date. The General Manager shall cause every reasonable effort to be made to notify each director of such postponement.

[December 5, 1986; December 8, 1988; July 9, 2009]

***Agenda Item 15 and 16. – Election of P-MRNRD Officers and NARD Director and Alternate Director**

BE IT RESOLVED that the following named persons be and are hereby elected officers of the Papio-Missouri River Natural Resources District for the coming year and until a successor has been elected: _____, Chairperson; _____; Vice-Chairperson; _____, Secretary; and, _____, Treasurer.

BE IT FURTHER RESOLVED that the Treasurer's written designation of _____ as Assistant Treasurer is concurred in by the Board of Directors.

[BE IT FURTHER RESOLVED that the presently elected Treasurer, John Conley, and the designated Assistant Treasurer, Fred Conley, be and are hereby authorized to serve until such time as bonding is completed on the Treasurer-elect and the Assistant Treasurer designate.]

BE IT FURTHER RESOLVED that _____ is hereby elected the Nebraska Association of Resources Districts Director for the coming year; and, _____ is hereby elected the Nebraska Association of Resources Districts Alternate Director for the coming year.