

AGENDA – July 13th, 2004

The Middle Republican NRD Board of Directors will hold their regular meeting at the 4-H Bldg. meeting room at the Fairgrounds in McCook, Nebraska on Tuesday, July 13, 2004 at 7:30 P. M.

Regular Meeting:

1. Meeting called to order.
 - a. Verify quorum
 - b. Excused absences
2. Circulate agenda and roster
 - a. Items added since mailing

3. OFFICIAL NOTICE OF THIS MEETING WAS PUBLISHED IN THE NORTH PLATTE TELEGRAPH AND THE MCCOOK DAILY GAZETTE AND WAS POSTED IN THE NRD OFFICE AND ON THE DISTRICT WEBSITE AT WWW.MRNRD.ORG. AS A COURTESY IT WAS ALSO PROVIDED TO LOCAL RADIO STATIONS.
4. Approve minutes for June 8, 2004, regular board meeting and hearing.

5. Open Hearing For Variance Request
6. Close Hearing
7. Consider Variance Requests

8. Legal Matters
 - a. Jon Schroeder
 - b. Case status

9. Financial Actions
 - a. Approve Financial Report for June, 2004
 - b. Consider draft budget
 - c. Audit July 14, 15, 16
 - d. Consider dues for 04-05

10. Open Forum – Comments from guests

11. Reports – Agencies, Associations, Others
 - a. NRCS – 1) District Conservationist Report 2) Consider Agreements
 - b. NARD – 1) Report-Anderjaska 2) Resolutions for September
 - c. NACD – 1) Newsletters
 - d. NNRC – Roberts & Madsen
 - e. Information & Education

- f. NE Republican River Management Districts Association
 - 1) Next Meeting – July 22 Alma – Report on PPDs study
- g. Other Agencies or Associations
 - 1) Rural Development
- h. Legislation – Interim studies

12. Ground Water Management

- a. Ground Water Management Area
 - 1) Well permits 2) Consider late Certified Acres
 - 3) Report on July 9 meeting
 - 4) Consider allocation alternatives to resubmit to DNR.
 - 5) Consider rule changes
 - 6) Consider Basin Boundary Issue
 - 7) Consider Hearing schedule
 - 8) Foundation concept
- b. Ground Water Quality Management Area
- c. Other Ground Water Activity

13. Programs

- a. WILD
- b. Buffer Strips
- c. Livestock Waste Control Applications
- d. Conservation Management Funds
 - NSWCP items
 - LCP items
 - Meters
 - Approve Applications
- e. Watersheds
- f. Complaints
- g. Chemigation
- h. Tree Planting

14. General Operations

- a. Personnel – I & E position
- b. Sales and Rental Equipment
- c. Consider Building offer
- d. Plotter Purchase

Adjourn

Next regular meeting date – August 10, 2004 at 7:30 P. M., at the NRD office in Curtis, Nebraska.

MIDDLE REPUBLICAN NRD

ATTENDANCE ROSTER

7-13 2004

NAME	ADDRESS	DESIRE TO SPEAK	AGENDA ITEM NUMBER
Oeffner Kevin Jones	Cambridge Hayes Center		
Stan Moore	Bartley		
Jelly West	TRENTON		
Gayle Haag	Bartley		
Dan Smith	Maywood		
Wayne Madsen	Trenton		
Bruno Dodson	Maywood		
Don Roberts	McCook		
Joe Cadyorka	Hayes Center		
Dunsmuir	Cull.		
Robert Merrigan	Curtis		
Earl O Jones	h)		

MIDDLE REPUBLICAN NRD

ATTENDANCE ROSTER

7-13 2004

NAME	ADDRESS	DESIRE TO SPEAK	AGENDA ITEM NUMBER
Steve Juppitt	Curtis		
Tim McKillop	Waunakee		
Benjie Loomis	Maywood		
Brad Hock	Calbertson		
Marc Rasmussen	Cambridge		
Bob Haug	Indianaola		
LLOYD BENHAMIR	W COOK		
Ann Bled	DNR		
Roger Patterson	DNR		
Justin Lawrence	As office		
Ernie Fugate	North Platte		
Dick Heston	Wallace		
Larry L. Richards	Hayes Center		
Ray L. Richards	Hayes Center		
Robert Kitt	Wauneta		
Ken Ham	Wauneta		
JOEY LARGE	Hayes Center		
Mark Christensen	Imperial		
Brad Edgerton	Cambridge, DNR		
Mike Thompson	Lincoln, DNR		
M. A. K. L.	N.P.		

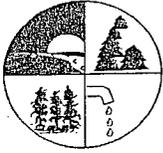
Jim McCloud
Gary Jeffers

W.P.
Hayes Center

Not Sure

Lucas Coggins
Raymond Duma Bartley
Red Spence
Marty Schum Maywood
Dana Thomas Maywood
Tom Harding Waverly
Matt Skene Imperial
~~Steve~~ ~~Shuler~~ ~~Capitoli~~
Ricky Northwick Culberson
For Spence Culberson
Raymond Dittler Farnam
Matthew Allen Farnam
Randy Hileman TRENTON
Orlo R. Baughof Cambridge
Bruce Wood Stockville
Judy Wood Stockville
Charlotte Myers - Hamlet
Dorey M. in
McOlsen Wallace
Jan Dunn
Dad W. Smith
Ryan G. Kullman
Pat Aylward Dickers
Lucas Hag Bartley

Vernon W. Waller
Clifford Waller
Scott Harris Dickers
Cory Nelson Waller
Della F. H. C.
Mike Cox H.C.
Steve Gross
Robert Stinson
Charlynn Hamilton Hayes
Kurt Applegate Palis
Matthew Applegate Palis
Mary G. Howard Palis
Duan Howard Palis
Rick Spencer



220 Center Ave.
PO Box 81
Curtis, NE 69025

Phone: 800-873-5613
Fax: 308-367-4285
Email: office@mrrnd.org

Middle Republican Natural Resources District

MEETING NOTICE

The Middle Republican Natural Resources District Board of Directors will hold their regular monthly meeting at the Red Willow County Fairgrounds in McCook, Nebraska on July 13, 2004 at 7:30 P.M., The agenda, kept current, is available during regular business hours at the NRD office in Curtis. Individuals requiring physical or sensory accommodations should call the NRD at 308-367-4281 or 800-873-5613 five days prior to the meeting.

Publish no later than July 1, 2004



220 Center Ave.
PO Box 81
Curtis, NE 69025

Phone: 800-873-5613
Fax: 308-367-4285
Email: office@mrrrd.org

Middle Republican Natural Resources District

MEETING NOTICE

The Middle Republican Natural Resources District Board of Directors will hold a series of informational meetings for the purpose of providing information to the public. No action will be taken at these meetings. The meetings will be June 14 at the American Legion Hall in Wallace at 7:00p.m., June 15 at the Red Willow County Fairgrounds Community Building in McCook at 7:00p.m., June 16 at the 4-H Building in Hayes Center at 7:00p.m., June 17 at the Community Building in Trenton at 7:00p.m., and June 18 at the American Legion Hall in Curtis at 7:00p.m. All times are central time. The agenda will be as follows:

- 1) Meeting called to order
- 2) Information presented
- 3) Public comment
- 4) Meeting adjourned

Individuals requiring physical or sensory accommodations should call the NRD at 308-367-4281 or 800-873-5613 five days prior to the meeting.

Publish no later than June 7, 2004

MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT

PO BOX 81, CURTIS, NE 69025

1-800-873-5613 or 308-367-4281

FAX: 1-308-367-4285

Email: rmerrigan@mrnrd.org



MRNRD Board Meeting

13 JULY 2004

Requests for Certified Acres

Additional acres:

Riley Morthole 34.9
Dean Berndt 17.6
Lloyd Benjamin 28.1
Jeff Brooks 6.8
Gary Conell 35

Late certification:

James Schmadeke 335.9
Arlo Banzhaf
Gary Poindexter
Larry Jeffers
David & Mark McConville
Randy Hileman
Bob Haag
Robert Spencer

MINUTES
Middle Republican Natural Resources District
Board of Directors Meeting
June 8, 2004
McCook, Nebraska

Board Members Present: Joe Anderjaska, Duane Dodson, Kevin Fornoff, Del Harsh, Gayle Haag, Dennis Hoyt, Stan Moore, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Wayne Madsen

NRD Staff: Dan Smith, Robert Merrigan, Cheryl Griffith and Christy Peterson

NRCS Staff: Dave Griffith

Others: Kevin Owens, Conrad Nelson, Scott Harris, Benjie Loomis, Sean Lacey, Russ Gohl, Don Barger, Steve Barger, Jerry Barger, Thad McDermott, Bruce McDermott, John Skalsky, Allen McGregor, Raymond Durner, Doug McDermott, Bruce Dodson, Dan Sandberg, Brad Johnson, Laura Macfee, John Sullivan, Mike O'Brien, Ed Halm, Marvin Knoll, Mick Cox, Randy Robinson, Marty Schurr, Dick Hasenauer, Dave Mortensen, John Scharf, Jr, John Scharf, Sr, Barry Carl, Bernie Pieper, Dan Carl, Jerry Repass, Tom Gohl, Jerry Unger, Bruce Fulk, Guy Rundback, Ryan Kuhlman, Matt Sheffield, Don Oppliger, C.K. Swanson, Jon Swanson, Brad Johnson, Earl Johnston, Russell Spickelmier, Claude Cappel, Roger Goltl, Albert Holm, Dean Snider, Vern Friesen, Josh Friesen, Larry Frederick, Jim Smith

Information Mailed to Directors:

June Agenda	June Public Hearing Agenda-Late Certification
June Hearing Agenda Failure to Report	Draft Budget
May Minutes	E-Notes 5-25-04
May Financial Report	E-Notes 6-1-04
May 25 IMP Proposal	Information Meeting Schedule
Information & Education Report	LB962 Brochure

Information Distributed at Meeting:

Cost Share	Flow Meter Cost Share
Well Permit Report	Certified Acres Requests
May Budget Summary	Settlement Funds Summary
Tri-Basin Proposed Rules Article	2004 Nebraska Rural Institute flyer
2004 EQIP Request Summary	2004 Nebraska EQIP Allocation

REGULAR MEETING

The regular monthly board meeting was called to order by Chairman Haag at 7:32 p.m. The agenda and roster were circulated to those present.

Items added to the agenda: 12c) District Insurance, 17a3) June 11 Closure

Official notice of the regular monthly meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office** and on the District Website at www.mrnrd.org. As a courtesy it was also announced on **local radio stations**.

MINUTES

The minutes for the regular board meeting on May 11, 2004 were presented.

- ◆ A motion was made by Harsh and second by Fornoff to approve the minutes for the May regular board meeting as corrected.

Ayes-9 Nays-0 motion carried

LEGAL MATTERS

Smith reported that the District has trial scheduled for Friday, June 11 in Stockville.

The meeting was recessed at 7:34p.m. to open the Noncompliance-Late Certification hearing. The meeting was reconvened at 7:45 p.m.

LATE CERTIFICATION

Discussion was held on the lateness of these certifications. In some cases, the right owners have not received the paperwork because of ownership changes that were not completed.

- ◆ A motion was made by Fornoff and second by Wertz to approve the certified acres as presented with the condition that wells owned by Mike Gufford and Kent Meyers be brought into compliance before the acres are certified.

Ayes-8 Nays-Anderjaska motion carried

A list of late certified acres requests is on file with the minutes.

The meeting was recessed at 7:48p.m. to open the noncompliance-Failure to certify hearing. The meeting was reconvened at 8:15p.m.

FAILURE TO CERTIFY

- ◆ A motion was made by Harsh and second by Roberts to table action on the well owned by Guy Rundback until further information showing history of irrigation is provided.

Ayes-9 Nays-0 motion carried

Discussion was held on whether the other wells that owners were requesting certified acres on were in compliance with the other rules and regulations of the District. Two of the wells need to have meters installed. One of the wells is a northwest quarter, and therefore, would have until the end of 2004 to install the meter. The well for Willa Mortimer is an alluvial well and needs to have a meter installed. Requests were received for an approximately 1250 acres.

- ◆ A motion was made by Fornoff and second by Dodson to approve the remaining requests for certified acres conditional on the wells being brought into compliance with the District rules and regulations.

Ayes-9 Nays-0 motion carried

A list of certified acres requests for the failure to certify hearing is on file with the minutes.

FINANCIAL ACTIONS

The financial report for May was presented. The County Treasurer's Balance was \$30,885.57. Smith reviewed the reports.

- ◆ A motion was made by Roberts and second by Wertz to approve the May financial report as presented.

Ayes-9 Nays-0 motion carried

The monthly budget comparison was presented and reviewed. A summary of the lawsuit settlement funds was also handed out.

BUDGET

A rough draft budget was mailed to Directors. Smith reviewed changes made since personnel & operations meeting.

DISTRICT INSURANCE

Carl Bibb presented a quote for the Districts insurance. The quote for the general insurance is the same as last years. The worker compensation carrier will be changing. Bibb reviewed the quote. A copy of this report is on file with the minutes. The premium has increased about \$1400. The premium would be \$13,201 for 2004-2005.

- ◆ A motion was made by Harsh and second by Fornoff to approve the insurance quote as presented.

Ayes-9 Nays-0 motion carried

NRCS REPORT

Dave Griffith gave a report on NRCS activities. EQIP applications are being processed. Griffith circulated a report showing EQIP allocations for the State of Nebraska. The Middle Republican received a total allocation of \$1,039,000. Griffith also circulated a report showing the total by county of applications received. Griffith reported that he has accepted the State Water Quality Specialist position in Lincoln. He will start on August 9, 2004. Federal offices will be closed Friday due to Ronald Reagan's funeral. Moore arrived at 8:52p.m.

NARD

The next Association meeting is scheduled June 21 in South Sioux City. There is a tour scheduled in conjunction with the meeting. If anyone wants to attend the tour, there are still openings. Anderjaska reported on the progress being made on insurance. One of the alternatives being considered has an increase of about 25% in premiums. The managers recommended the Association pursue the proposal that has the NARD pay 15% of the increase and employees pay 10%. There are also numerous changes being recommended in deductibles, co-pays and benefit levels. General consensus of the Directors supported the recommendation by the managers to divide the increase between NARD and employees.

NACD

E-notes for 5-25-04 and 6-1-04 were mailed to Directors.

NNRC

Roberts reported that the Commission met in May.

INFORMATION & EDUCATION

Griffith reviewed the information and education report. Thank-you notes received by the District were circulated. Information for the 2004 Nebraska Rural Institute scheduled for September 21-23, 2004 was circulated. Griffith reviewed the meeting on the Environmental Trust program that she attended. The meeting was designed to get input from those who have filed grants concerning grant priorities. The dates for the informational meetings were circulated.

No educator scholarship applications were received. One late application was received for camp scholarships. Jacoba Nutt, a student from Medicine Valley High School has applied for a scholarship for range camp.

- A motion was made by Roberts and second by Fornoff to approve the scholarship for Jacoba Nutt.

Ayes-10 Nays-0 motion carried

Griffith reported that she has submitted her resignation effective June 30, 2004.

NEBRASKA REPUBLICAN RIVER MANAGEMENT DISTRICTS ASSOC.

The next meeting will be July 22, 2004 in Alma. The economic impact report being done for the power districts is scheduled to be released at this meeting.

LEGISLATION

A handout was sent on LB962. It takes effect July 16, 2004. Smith reviewed the issues that will affect this District. If a District has a temporary suspension of well drilling currently in place, this suspension will expire and replaced with a stay on well drilling by the State of Nebraska. The stay will be in place until the District does something to have it lifted. Smith recommends waiting until after the July 16 date to hold hearings for new rules to avoid confusion with date issues. LB962 also impacts the budgeting process. It gives the District new options to increase the levy. Some Districts in the state have reached their maximum levy rate. This will give these Districts an opportunity for funding for ground water issues. LB962 also changed how disagreements between DNR and the Districts are handled. In cases where DNR and the NRD cannot come to agreement, arbitration has been the next required step. LB962 eliminates this step.

GROUND WATER MANAGEMENT

The well permits report was handed out at the meeting. No new permits. Harsh requested clarification on the spacing requirements for a replacement well. Smith indicated that a replacement well has to irrigate the same track of ground. It does not have to be drilled in the same location.

Haag reminded those present that no new rules have been adopted. All items discussed are strictly proposals.

A packet of proposals was mailed to Directors. The packet contains the proposal that the Directors created at the May board meeting to present to DNR at the May 14 meeting. Smith reviewed the proposal. Roger Patterson felt the 15 inch allocation proposed was still too high. Patterson recommended a 14 inch allocation. A subcommittee met May 25, 2004 and created an alternate proposal. The proposal provided 30 inches over 3 years, 10 inches per year. It then provided a plan for purchasing additional inches. The proposal also looked at creating a fund for permanent and/or temporary retirement programs. There are no State funds available currently for incentive programs.

~~Many residents of the District attended the meeting and had numerous questions and concerns about the proposals.~~

Discussion was held on the authority the District has to treat wells differently based on completion date and/or location. Concern was expressed that giving wells drilled after 1998 a lower allocation, while making a huge impact to the well owners, would have very little impact to the overall picture. At the same time, alluvial well owners do not want to be treated differently because, while they have a greater short-term impact, in the long term the impact is equal.

A member of the District asked the board whether they had looked at any economic impact studies concerning the effect the allocations would have in the Basin. Smith indicated that an economy impact study has been done by the power companies. This study is scheduled to be released July 22. A study has been completed by DNR but study has not been released.

Concern was expressed on whether the Directors have considered the impact the allocations would have. The Directors have considered this issue but also have to deal with the issue of coming into compliance with the settlement. Nebraska has overused in 2003 and will probably overuse in 2004 which complicates matters. Discussion was held on where the other Districts in the Basin are in the process.

Concern was expressed by the residents that DNR was dictating what the Directors are doing

without knowing how things are done in this part of the State. Smith assured those present that the Directors were the ones creating the regulations, but the District did need to come to an agreement with DNR. This would require compromising. Questions concerning the documentation of the water level decline were asked. Smith indicated that he intended to have these records at the informational meetings to be held next week. USGS also has records of well levels older than those of the District.

Discussion concerning the proposed buyout plan was held. Concern was expressed in having to purchase the inches during February through May instead of permitting the purchase when the irrigator determines they need the water. A recommendation was made by the public to not proceed with the water purchase proposal.

The majority present were opposed to buying water. Haag reviewed the dates and locations for the informational meetings scheduled June 14-June 18.

- ◆ A motion was made by Roberts and second by Harsh to present the two current proposals at the public meetings scheduled June 14-June 18 and use information collected there to determine the next action.

Ayes-10 Nays-0 motion carried

Discussion was held on what to present at the informational meetings. The public needs to be made aware of not only what the Directors are considering, but the options available to Kansas if Nebraska does not comply.

General consensus is to wait until August before trying to hold hearings for new rules to get past the July 16 date.

OTHER GROUND WATER ACTIVITY

Chris Miller has applied for a grant to complete a regional water quality study. The District would assist with this project. There would be a 10% match which would equal approximately \$3000.

SOIL AND WATER CONSERVATION MANAGEMENT FUNDS

Smith reviewed the cost-share summary report and the cost-share summary report on flow meters. Merrigan reported that there is approximately 206 wells left to meter.

- ◆ A motion was made by Wertz and second by Roberts to accept these reports as presented and approve the applications.

Ayes-10 Nays-0 motion carried

A copy of these reports is on file with the minutes.

WATERSHEDS

Griffith reported on watershed projects in the District that have not been completed. The District can not get the storage permits from the State to complete the projects. It has been requested that the District close the projects.

- ◆ A motion was made by Dodson and second by Fornoff to close the Upper Medicine Creek, Lower Medicine Creek, and Blackwood watershed projects.

Ayes-10 Nays-0 motion carried

CHEMIGATION

735 chemigation permits have been renewed.

TREE PLANTING

Tree planting is done. A lot of trees were left over due to several cancelled plans.

PERSONNEL

Smith reported that Cheryl Griffith has resigned from the Information and Education Coordinator position. Her last day will be June 30, 2004. An ad was submitted to several newspapers in the area. Discussion was held on the salary that should be offered.

- ◆ A motion was made by Harsh and second by Dodson to set the starting salary for the Information and Education Coordinator position at 18,500.

Ayes-Dodson, Harsh, and Haag

Nays-Anderjaska, Fornoff, Hoyt, Moore, Peters, Roberts, and Wertz motion failed

- ◆ A motion was made by Fornoff and second by Roberts set the starting salary for the Information and Education Coordinator position at \$20,000.

Ayes-7 Nays-Anderjaska, Harsh, and Moore motion carried

Sandy Miller, Hitchcock County field office secretary, will be retiring in August. Miller indicated that she would like to discuss the opening with Aubree Merrill. Merrill is currently a part-time technician in Trenton.

- ◆ A motion was made by Dodson and second by Wertz to accept Griffith's resignation.

Ayes-10 Nays-0 motion carried

The Directors expressed their gratitude to Griffith for her 12 years of service.

Federal and State offices will be closing June 11 in memory of Ronald Reagan. The District has court this day. Therefore the office in Curtis will be open. All of the NRCS offices will be closed. General consensus was to allow the field office secretaries administrative leave for June 11, 2004.

CONSIDER BUILDING OFFER

The building to the south of the NRD office in Curtis is for sale. Many of the Directors looked at the building prior to the meeting. Discussion was held on the use of the extra space. Haag suggested that the District look into using settlement funds to purchase the building. The extra space could be used for a larger meeting room. The owner, Shirley Adkisson indicated to Smith that she would like to sell the property for \$30,000. The assessed value is \$15,000 but there have been some improvements made that are not reflected in the assessed value. Discussion was held on the cost of remodeling the new building.

- ◆ A motion was made by Harsh and second by Anderjaska to offer Adkisson \$18,000 for the building south of the NRD office.

Ayes-8 Nays-Hoyt, Moore motion carried

If the offer is declined, any further negotiations will be handled by the executive committee.

Chairman Haag adjourned the board meeting at 11:25p.m.

The next meeting will be Tuesday, July 13, 2004 at the Red Willow County Fairgrounds in McCook Nebraska starting at 7:30 p.m.



Christy Peterson
Secretary to the Board

MINUTES
Middle Republican Natural Resources District
Informational Meeting
June 14, 2004
Wallace, Nebraska

Board Members Present: Joseph Anderjaska, Duane Dodson, Kevin Fornoff, Gayle Haag, Del Harsh, Stan Moore, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Dennis Hoyt and Wayne Madsen

NRD Staff: Dan Smith, Bob Merrigan, Mike Keahey, and Cheryl Griffith

DNR Staff: Mike Thompson, Brad Edgerton

REGULAR MEETING

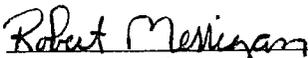
The informational meeting was called to order by Chairman Haag at 7:05p.m.

Official notice of the informational meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office**. As a courtesy it was also announced on **local radio stations** and advertisements were placed in **weekly publications** throughout the District.

Dan Smith, manager, gave a presentation reviewing the Kansas vs. Nebraska lawsuit and the reasons why the District is looking at allocations. Smith also reviewed to proposals for allocations that the District is considering.

Public comments were received after the presentation.

Haag adjourned the meeting at 9:45p.m.



Robert Merrigan

Recorder

MINUTES
Middle Republican Natural Resources District
Informational Meeting
June 15, 2004
McCook, Nebraska

Board Members Present: Joseph Anderjaska, Duane Dodson, Kevin Fornoff, Gayle Haag, Del Harsh, Dennis Hoyt, Stan Moore, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Wayne Madsen

NRD Staff: Dan Smith, Bob Merrigan, Mike Keahey, Christy Peterson, and Cheryl Griffith

DNR Staff: Mike Thompson, Brad Edgerton

REGULAR MEETING

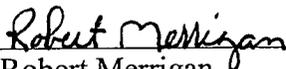
The informational meeting was called to order by Chairman Haag at 7:05p.m.

Official notice of the informational meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office**. As a courtesy it was also announced on **local radio stations** and advertisements were placed in **weekly publications** throughout the District.

Dan Smith, manager, gave a presentation reviewing the Kansas vs. Nebraska lawsuit and the reasons why the District is looking at allocations. Smith also reviewed to proposals for allocations that the District is considering.

Public comments were received after the presentation.

Haag adjourned the meeting at 9:05p.m.



Robert Merrigan

Recorder

MINUTES
Middle Republican Natural Resources District
Informational Meeting
June 16, 2004
Hayes Center, Nebraska

Board Members Present: Joseph Anderjaska, Duane Dodson, Kevin Fornoff, Gayle Haag, Dennis Hoyt, Stan Moore, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Del Harsh and Wayne Madsen

NRD Staff: Dan Smith, Bob Merrigan, and Cheryl Griffith

DNR Staff: Ann Bleed and Brad Edgerton

REGULAR MEETING

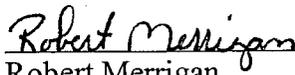
The informational meeting was called to order by Chairman Haag at 7:03p.m.

Official notice of the informational meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office**. As a courtesy it was also announced on **local radio stations** and advertisements were placed in **weekly publications** throughout the District.

Dan Smith, manager, gave a presentation reviewing the Kansas vs. Nebraska lawsuit and the reasons why the District is looking at allocations. Smith also reviewed to proposals for allocations that the District is considering.

Public comments were received after the presentation.

Haag adjourned the meeting at 9:20p.m.



Robert Merrigan

Recorder

MINUTES
Middle Republican Natural Resources District
Informational Meeting
June 18, 2004
Curtis, Nebraska

Board Members Present: Joseph Anderjaska, Duane Dodson, Kevin Fornoff, Gayle Haag, Stan Moore, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Del Harsh, Dennis Hoyt and Wayne Madsen

NRD Staff: Dan Smith, Bob Merrigan and Chris Berke

DNR Staff: Ann Bleed, Tina Kurtz

REGULAR MEETING

The informational meeting was called to order by Chairman Haag at 7:05p.m.

Official notice of the informational meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office**. As a courtesy it was also announced on **local radio stations** and advertisements were placed in **weekly publications** throughout the District.

Dan Smith, manager, gave a presentation reviewing the Kansas vs. Nebraska lawsuit and the reasons why the District is looking at allocations. Smith also reviewed to proposals for allocations that the District is considering.

Public comments were received after the presentation.

Haag adjourned the meeting at 8:50 p.m.

Robert Merrigan

Robert Merrigan

Recorder

MINUTES
Middle Republican Natural Resources District
Informational Meeting
June 17, 2004
Trenton, Nebraska

Board Members Present: Joseph Anderjaska, Kevin Fornoff, Gayle Haag, Del Harsh, Dennis Hoyt, Stan Moore, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Duane Dodson and Wayne Madsen

NRD Staff: Dan Smith and Bob Merrigan

DNR Staff: Mike Thompson

NRCS & FSA Staff: Darwin Hinrichs, Ken Carriker

REGULAR MEETING

The informational meeting was called to order by Chairman Haag at 7:03p.m.

Official notice of the informational meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office**. As a courtesy it was also announced on **local radio stations** and advertisements were placed in **weekly publications** throughout the District.

Dan Smith, manager, gave a presentation reviewing the Kansas vs. Nebraska lawsuit and the reasons why the District is looking at allocations. Smith also reviewed to proposals for allocations that the District is considering.

Public comments were received after the presentation.

Haag adjourned the meeting at 9:05 p.m.

Robert Merrigan

Robert Merrigan

Recorder

MINUTES
Middle Republican Natural Resources District
Public Hearing
June 8, 2004
Curtis, Nebraska

Board Members Present: Joe Anderjaska, Duane Dodson, Kevin Fornoff, Del Harsh, Gayle Haag, Dennis Hoyt, Mike Peters, Don Roberts, and Kelly Wertz

Board Members Absent: Wayne Madsen and Stan Moore

NRD Staff: Dan Smith, Robert Merrigan, Cheryl Griffith and Christy Peterson

NRCS Staff: Dave Griffith

Those presenting testimony: John Swanson, Albert Holms, Laura Macfee, Steve Barger, Dan Sandberg, Guy Rundback, Kevin Owens, and Don Barger

PUBLIC HEARING

Chairman Haag called the public hearing to order at 7:49 p.m. The agenda and roster were circulated to those present.

OFFICIAL NOTICE OF THIS PUBLIC HEARING WAS PUBLISHED NOT LESS THAN TEN DAYS PRIOR TO THE HEARING IN THE NORTH PLATTE TELEGRAPH AND THE MCCOOK GAZETTE. INDIVIDUALS INVOLVED IN THE HEARING WERE NOTIFIED BY MAIL.

STATEMENT OF PURPOSE

The purpose of this hearing is to receive testimony concerning a complaint of non-compliance with the District's Ground Water Management Area Rules and Regulations, specifically failure to report certified acres in accordance with Rule 8. Individuals were notified by certified mail and regular mail.

TESTIMONY

Robert Merrigan, assistant manager, testified for the District. Letters for Non-compliance were sent out May 24, 2004. Many of these people had been in contact with the NRD office after receiving their notices.

John Swanson, CK Swanson Inc., offered testimony concerning certifying acres for C.K. Swanson Inc., and/or Cottonwood Farms. John indicated that he thought they had certified all the acres currently being irrigated. He had been in contact with the NRD office and thought he had everything taken care of. Merrigan explained that these wells may be unused or inactive wells. The District needs Swanson to verify this though. Swanson asked if he would be able to use these wells at a later time if he needed to use them to supplement the other wells. No new acres could be added, but the wells could be used to irrigate acres currently certified to other wells. Swanson testified that all wells that he received non-compliance notices on are currently unused wells and should be certified for 0 acres.

Albert Holms provided testified concerning 3 pivots that the acres have not been certified. Holms has been working with the NRD staff to complete change of ownership forms on two of the wells. Holms has 55 acres irrigated by a well in the section 14 township 10 range 34, 115 acres irrigated by a well in section 25 township 10 range 34, and 119 acres irrigated by a well also located in

section 25 township 20 range 34.

Laura Macfee offered testimony for Katherine Macfee. Macfee is requesting certification of 68.7 acres in section 5 township 2 range 29. Laura indicated that Katherine did not understand the first mailings.

Steve Barger offered testimony for his father, Robert Barger, who has been deceased since 1999. His mother has been receiving the mailings and she has been ill. Steve testified that there is 122.1 acres in section 1 of township 4 and range 31. This well is metered. In section 6 township 4 range 30 has a well that irrigates 127.4 acres. Two wells in section 26-4-31 irrigate 66 acres. A well located in sec 24 township 4 range 30 irrigates 125 acres and a well in section 27 township 4 range 31 irrigates 121.5 acres. All of the wells are now metered. Steve would like all mailings to go to him instead of his mother.

Dan Sandberg testified that he has 113 acres in section 19 township 2 range 35 that is irrigated and needs to be certified. Sandberg provided a map of the acres to Merrigan.

Guy Rundback testified that he has a well in section 25 range 5 township 34 that he would like to certify 48 acres. Rundback purchased this land a year ago and had ownership changed. Merrigan reported that they have not been able to establish history on the field. The former owner carried the well as unused.

Kevin Owens presented testimony for his mother Willa Mortimore. Mortimore has one well in the NW quarter of section 26 township 8 range 29 that was recently registered. According to FSA, the well irrigates 10 acres. Kevin asked whose acres to use, FSA or County Assessor's records. The well is not currently metered, but will be in the near future. Smith indicated that to start with FSA acres could be used. This would need to match County Assessor records in the near future.

Don Barger offered testimony for Margaret Wasson, Wasson is the landowner. She lives in California and has been gone on an extended vacation. Wasson called the NRD to indicate that she had just received the non-compliance notice. Barger testified that there is 127 acres that is irrigated. The well is located in the NW quarter of section 1 township 4 range 31. It is required to be metered sometime in 2004.

Chairman Haag closed the hearing at 8:15p.m.



Christy Peterson
Board Secretary

MINUTES
Middle Republican Natural Resources District
Public Hearing
June 8, 2004
Curtis, Nebraska

Board Members Present: Joe Anderjaska, Duane Dodson, Kevin Fornoff, Del Harsh, Gayle Haag, Dennis Hoyt, Mike Peters, Don Roberts, and Kelly Wertz
Board Members Absent: Wayne Madsen and Stan Moore
NRD Staff: Dan Smith, Robert Merrigan, Cheryl Griffith and Christy Peterson
NRCS Staff: Dave Griffith
Those presenting testimony: none

PUBLIC HEARING

Chairman Haag called the public hearing to order at 7:35p.m. The agenda and roster were circulated to those present.

OFFICIAL NOTICE OF THIS PUBLIC HEARING WAS PUBLISHED NOT LESS THAN TEN DAYS PRIOR TO THE HEARING IN THE NORTH PLATTE TELEGRAPH AND THE MCCOOK GAZETTE. INDIVIDUALS INVOLVED IN THE HEARING WERE NOTIFIED BY MAIL.

STATEMENT OF PURPOSE

The purpose of this hearing is to receive testimony concerning a complaint of non-compliance with the District's Ground Water Management Area Rules and Regulations, specifically late certification of irrigated acres not in accordance with Rule 8.

TESTIMONY

Robert Merrigan, assistant manager, presented testimony for the District. Most of the requests Merrigan presented were received immediately after the last meeting. A few were received before the May board meeting but were not presented at that meeting. All of the requests were received prior to the mailing of the non-compliance notices. A report showing the acres requested was handed out. The total of acres requested is 4082.6. This brings the total certified acres to 308,918. All of the wells listed are in compliance with the District's rules and regulations except for the well owned by Mike Gufford has been carried as unused and needs a meter. Also some of the wells for Kent Meyers have recently been registered and need to be metered. Merrigan suggests that if the Directors approve the acres, the approval be granted only if the wells are brought into compliance by meters being installed.

Smith read the list of those requesting acres. None of these individuals were present to testify.

Chairman Haag closed the hearing at 7:45 p.m.



Christy Peterson
Board Secretary

Permit to Construct
Summary
July 13, 2004

		# of Apps	Completed	Open	EXP/CNX Suspended	Replacement
FY 97-98	(SPA only)	44	34	0	10	0
FY 99		53	46	0	7	6
FY 2000		42	32	0	10	7
FY 2001		71	56	0	15	14
FY 2002		111	100	0	11	18
FY 2003		51	32	12	7	38

Open Applications FY2001

Name	CO	Legal	Status	
Don Hagan & Sons	HI	NW 26-4-34	EXP	
George Seward	HA	SE 15-8-31	EXP	
Scheel Investment	HA	NW 28-7-35	Completed	
Paul Nichols	HI	NE 27-3-32	EXP	
Paul Nichols	HI	NW 27-3-32	EXP	

Open Applications FY2002

Jack Wagner	HI	SW 8-3-31	EXP	Replacement
Jinx Cattle Co.	FR	SW 36-8-30	Suspended	
Jinx Cattle Co.	FR	SE 12-8-30	Suspended	
Don Olson	RW	SW 22-3-30	EXP	Replacement
Albert Holm	LI	NE 14-10-34	Suspended	
Tom Evans	HI	SE 20-3-31	Suspended	
Stan Moore	FR	NW 27-5-27	Suspended	
Tim Lundvall	LI	NW 9-9-34	Suspended	
Scheel Investments	HA	NE 25-8-35	Suspended	
Robert Wilcox Sr.	RW	NW 6-2-29	EXP	Replacement

Bruce McDermott	LI	SW 8-10-31	Suspended	
Doug McDermott	LI	NE 17-10-31	Suspended	
Doug McDermott	LI	NW 19-10-31	Suspended	
Doug McDermott	LI	NW 24-10-32	Suspended	
Doug McDermott	LI	NE 19-10-31	Complete	

FY 2003

Spring Water Farms	HI	SW 30-3-32	Complete	
Spring Water Farms	HI	SW 30-3-32	Complete	
Spring Water Farms	HI	SW 30-3-32	Complete	
Spring Water Farms	HI	SW 30-3-32	EXP	
Les Schmidt	RW	SE 13-4-28	Complete	Replacement
Ron Montross	HI	SE 20-2-35	Complete	Replacement
City of McCook	RW	NE 4-4-30	Complete	(Dave Unger)
City of McCook	RW	SW 1-4-30	EXP	(Solomon)
City of McCook	RW	NW 31-3-27	EXP	(Ervin Schaffert)

City of McCook	RW	SE 16-4-29	Complete	(Gayle Ruggles)
Ron Montross	HI	SW 20-2-35	Complete	Replacement
Ron Montross	HI	SW 20-2-35	EXP	Replacement
Terry Ellinger	HI	SE 22-4-31	Complete	Replacement
Willow Farms Inc	HA	SW 2-6-31	Complete	Replacement
Larry Burke	FR	NW 20-6-34	Complete	Replacement
Darrel Deterding	RW	SE 10-3-26	Complete	Replacement
Richard Drake	RW	SW 16-3-30	Complete	Replacement
Dorsey Resler	HA	NW 33-8-35	EXP	Replacement
Pat Stritt	RW	NW 12-3-27	Complete	Replacement
Orville Kaschke	LI	NW 36-11-30	Complete	Replacement
Hohensee Land Co.	HI	SE 19-3-35	Complete	Replacement
Kester Land Co.	FR	NW 31-6-25	Complete	Replacement
Witte Inc.	RW	NE 11-3-26	Complete	Replacement
Jcannie Eisenach	HI	NE 22-4-33	EXP	Replacement
Claude Cappel	RW	SW 20-3-30	Complete	Replacement
Claude Cappel	RW	SW 20-3-30	Complete	Replacement
Claude Cappel	RW	SW 20-3-30	Complete	Replacement
Richard Wilcox	RW	SE 36-3-30	EXP	Replacement
Gene Kleinschmidt	HI	NW 18-2-34	Complete	Replacement
Wendell Peterson	FR	SW 26-8-28	Complete	Replacement
J. T. Kiplinger	RW	SE 7-2-29	Complete	Replacement
Darrell Wulf	RW	NE 13-4-26	Complete	Replacement (LP)
Village of Bartley	RW	NE 12-4-27	CNX	Test Well
Tom Remus	LI	SE 4-10-30	Complete	Replacement
Village of Maywood	FR	NW 21-8-29	Complete	Replacement
Nina Wagner	HI	SW 8-3-31		Replacement
Southwest Biofuels	RW	SE 20-3-30		Industrial
Southwest Biofuels	RW	SE 20-3-30		Industrial
Southwest Biofuels	RW	SE 20-3-30		Replacement
Village of Bartley	RW	SE 6-4-26		Test Well-Expedited
Mary Jane McKillip Trust	RW	NW 7-3-26	Complete	Replacement
K & R Farms	HA	SW 7-5-35		Replacement
Tom Baker	HI	NW 7-3-32		Replacement (Ind)
Kester Land Co.	FR	SW 25-6-26		Replacement
Clara Grabenstein	FR	NW 8-8-27		Industrial
Warren Schaffert	HI	NW 4-2-32	Complete	Replacement
Scott Hanchera	RW	NE 14-3-28	Complete	Replacement
Baker Corp.	HI	NW 7-3-32	Complete	Industrial
Craig Nelson	HA	SW 28-6-34		Replacement
George Seward	HA	NE 23-7-35		Replacement
Robert Korrell	HA	NW 23-5-32		Replacement

STATE OF NEBRASKA



DEPARTMENT OF NATURAL RESOURCES
Roger K. Patterson
 Director

April 9, 2003

IN REPLY REFER TO:

Mike Johanns
 Governor

Lower Republican NRD Board
 706 Second Street
 P.O. Box 618
 Alma, NE 68920

Dear Board Members:

As you know, the settlement of the Republican River Compact litigation with Kansas may require that in most years Nebraska maintain, or in some years reduce, its existing levels of water consumption within the Republican River Basin to comply with the Compact. That requirement creates challenges for both the Department of Natural Resources and each of the NRDs within the basin. I am aware that the Lower Republican Natural Resources District ("LRNRD") is diligently working toward the adoption of rules and regulations necessary to comply with the Compact. To assist you in drafting those rules, I would like to offer some thoughts and considerations.

To begin with, the certification of irrigated acres should be considered a priority. We suggest that you establish certified irrigated acres using lands that were actually irrigated at least once between 1998 and 2002. No operator should be permitted to irrigate lands that have not been irrigated at least once during the 1998 through 2002 timeframe unless there was a special circumstance, such as enrollment of previously irrigated acres in a federal program that prohibited irrigation, such as CRP. Another exception may be the use of ground water to supplement lands irrigated under a surface water appropriation. As you know, there are a number of acres within the alluvial valleys that receive surface water and may also be served from ground water wells. In these cases where the ground water well has not been used in the past five years because adequate surface water was available it would be appropriate to certify those acres since it may be necessary to irrigate them with ground water in the future.

We recognize that this is a particularly difficult issue for the LRNRD given that approximately 300 new wells have been drilled just prior to the moratorium being implemented. The consumptive use of water within the LRNRD will increase significantly if and when those wells are placed into service. For instance, if each of the 300 new irrigation wells irrigates 100 acres of new land, there will be an additional 30,000 acres of new lands irrigated in the LRNRD. That level of increased water consumption will increase the amount of cutback within the LRNRD that will be needed in a dry year. This means adding new acres will result in smaller allocations to all irrigated acres and that fewer acres can be irrigated in dry years. The NRD may want to

rlsharc@patterson

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DNR 000209

Lower Republican NRD Board
April 9, 2003
Page 2

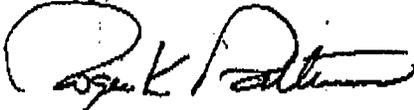
consider requiring any new wells be used no later than July 1, 2003 to be certified for use in future years. You may also want to cap the number of acres that can be certified at a certain gpm/acre. In any event, additional new land irrigated will result in less water being available for existing users.

The same principle applies to replacement wells that have the potential to result in additional acres being put into service. Pursuant to the settlement agreement, replacement wells should irrigate only those acres which received irrigation water from the well being replaced.

Finally, we would be glad to work with the LRNRD to develop rules and regulations to allow for the transfer of certified acres from one tract of land to another. These transfers could occur within lands owned by the same operator or from one operator to another. Transfers of certified acres could also be used to allow for municipal or industrial expansions. However the process is done, the end result must be that there is no increase of the consumptive use of water that would impact the surface flows of the basin. Naturally, our staff is willing to assist in making such determinations at the appropriate time.

I hope this guidance is useful to you. We look forward to working with you further on this important project.

Sincerely,



Roger K. Patterson
Director

sm

cc: David Cookson
Don Blankenau

October 2, 2002

I am requesting the Middle Republican Natural Recourse District board to consider a few items and comments of mine.

I can see no way the Middle Republican Natural Recourse District can postpone the fact there will someday need to be an allocation on the amount of water that can be pumped out of the district. When this does happen I feel there will need to be a time period to get the acre data needed to set the allotments and get the information out and have hearings on the rules. There will no doubt be some adjustments and appeals. It would be good to have at least one year from the basic establishment of the criteria to the implementation of them.

My request to you, the Middle Republican Natural Recourse District board, is to set the irrigated acres base for each field, to the acres that were irrigated in 2002. This would save water and give notice of when the controls will start. If you don't establish the acres until a later date, I know of two major water use things that will happen. First, a lot of new irrigated acres will be added to existing wells. I have already seen this happening this fall and that is why I feel it should be set on what ever was irrigated in 2002 or if in the case it was a pivot just installed and operational this fall, it could be grandfathered in. Second, In my case, in a year like 2002, we are short of water on some of our fields, mainly because of the drought and no supplemental surface water we had planed on. We did water these fields this year with ground water, but in harvesting them, we should of watered less acres. Unless the base acre allotment is established using 2002, we will for our own protection of our base acre allotment keep watering the same acres until it is established what is our irrigated base is. This same scenario will probably happen with most of the irrigator's who have went from almost 100% surface irrigation to predominately or total ground water irrigation.

This year several domestic, stock, and irrigation wells in the area have pumped down and are pumping considerable amounts of air. My house well is 7 years old, and had 60 feet of water when drilled. In late August it began pumping more air then water. I am over 4 miles north of the river. Several homes in the Perry area are going dry, however 50 years ago they had the same problem before surface water irrigation came in and raised the water table.

The land owners and farmers will need to make the necessary preparations also. Some of changes are, new leases will be needed to address over use of the allotted amount of water to protect the land owner, plans will be made for different crops and rotations and/or irrigating less acres in a field to get a greater amount of water for a crop in a smaller area. It needs to be known if and how transfer of water will be allowed.

Claude L Cappel

July 8, 2004

To the Board of Directors of the Middle Republican Natural Resources District.

It is my contention that the Middle Republican Natural Resources District (MRNRD) has allowed the addition of an unlimited number of irrigated acres, totally by passing the logical reasoning for previously putting on a moratorium in mid 2002 in order to meet the consumptive use limitation and other stipulations of the Kansas, Colorado, and Nebraska settlement of the lawsuit over the Kansas, Colorado, and Nebraska Compact requirements for the three states. All of these new irrigated acres (called new acres or expanded acres) will be added with the acres of the irrigated acres that actually being were watered, when the lawsuit settlement was agreed upon and made public on December 16, 2002. The new acres will significantly increase the total consumptive use. Since the MRNRD was already consuming more water at the end of 2002 than what the generally perceived requirements for fully irrigating a crop in this area, the additional acres should not be allowed. The maximum allotment allowed should only be those acres on the amount of land that was certified in 2002 as irrigated crop land at the Farm Service Agency (FSA) and/or the land that was taxed as irrigation in 2002, but not certified as irrigated or average over a 1998 to 2002 period. There could/should be exemption if some one purchased a pivot after the 2002 certification and had paid some of the purchase price (binding purchase contract) before December 16, 2002 should probably receive an exemption. There could/should also be special exemptions. These corrections should be updated.

This allowance of additional irrigated acres has done the following things. (1) Gave the party that added the acres an additional allotment of acre inches of water for their land. (2) Diluted (decreased) the amount of acres inches of allotment that the irrigated land owner/operator will receive that did not add additional acres. ***(This is because there is "one" total allotment of acre inches for the whole basin as determined by the Department of Natural Resources Director to stay in compliance with the Kansas, Nebraska settlement.)*** (3) Since the vast majority of the additional acres are receiving water from deep upland wells and since those wells are hydrologically connected ground water and surface water, this will lessen the amount of water that would have eventually gotten to the streams and rivers in order to meet the Kansas Compact Requirements. This in turn will require more restrictions on the alluvial wells and irrigation wells in the former surface water areas where there is no longer a surface water supply. (4) With the "rights to use" (a term developed and now used by the State and NRD's instead of using the term "Water Rights. ***(You don't own it and yet can sell it)*** Water "rights to us" is able to be bought and sold, this is taking value away from one party and giving that value to another party.

In October of 2000 I requested in writing to the MRNRD board to set the allotments based upon the 2002 irrigated acres. (Request attached) This request told them what was happening and what was going to happen. Even before that time they knew and I knew that a proposed settlement with Kansas was most likely going to be announced December 16, 2002 and all the affected NRDs needed to have a moratorium in place by then. The fact that a settlement was in all probability going to happen, was kept secret from the public, as ordered by the Special

Master, until announced December 16, 2002 and what I said in the request was the most I felt I could say without disclosing anything. They chose to ignore my request and a similar request the DNR director sent on April 9, 2003. This allowed irrigators to feel they could add any/all of the additional land they wanted to an existing well. The developers were told there was nothing to stop them from adding more acres. They were also told if you had a irrigation well and used it any time after 1992 you could get an allotment by certifying you had irrigated a tract of land. I know of several different instances where a tract was abandoned and water pipe to totally different field in the past in order to utilize a pivot or other reasons. Both plots, former and new, now have certified acres. Even if a well was drilled and never used it, it could be certified. In fact I have over three pages of different new expanded acres which are a few of the many different examples of the many different instances that the Middle Republican Natural Resources district is allowing to happen. Some of these I was told about in general conservation, some were visible from a road, some from pivot and irrigation people, some from fertilizer people, and some by a neighbor who just felt it was wrong. I believe they are true and some I have seen. If necessary I will personally look at each one and probably hear about a lot more if a lawsuit develops.. Everyone is getting very defensive of what has been developed in 2003 and the dealers that supply them are afraid of losing business if I expose them. Unless there is a lawsuit I will not disclose any more about what, who and where.

I feel when the irrigators who did not expand their acres after 2002 find out just how much water allotment they lost because of the additional acres added in 2003, they will not be happy. The example I have for the acres we farm shows a water value from \$10.00 per inch to \$18.00. I feel for our farm after we deduct the pumping cost and harvesting cost, water is worth approximately \$14.00 per acre inch. **The loss of 1 ½ inch of allotment amounts to \$75,444.18 per year net income just on our farming operation.** There most likely many farmers who will join this lawsuit who didn't expand, when the value of the loss is know.

The NRD is getting sued by McDermott because he drilled a well after the moratorium was adopted and they would not let him use it. From what I know, the MRNRD is right.. I testified for the Moratorium. I have not heard one negative comment from anyone I have talked to personally who feels the MRNRD is wrong in defending the lawsuit or putting on the moratorium. There are a lot who felt the moratorium should of been sooner.

The reality is if McDermott would not have been stubborn, he could have of put in new pivots connected to his existing wells and been totally legal, the MRNRD would have approved it. What is the difference? In water use, if he had put in pivots connected to an existing well or been allowed to keep the well he drilled after the moratorium would consume the same amount of water. The MRNRD knowingly circumvented the intent of the settlement by allowing the expansion in one way and not another.

At the MRNRD hearing on allotments, I gave a written statement and testified on the 5% rule. I stated it would be better written if additional non crop acres were needed to be watered by a pivot, it should only be the acres the pivot covers less the end gun, up to a maximum of 5%. This was talked over by the NRD and their committee. It was stated it was their intent to not only include just pivots, but side rolls, tow lines, lateral moves and hand moved sprinklers and

left it the way it was. I also stated they should only allow irrigators to add acres as long as they didn't consume more water than the original acres the well had watered. I stated this because the MRNRD rules were allowing several thousand acres to be certified that had never been previously irrigated, had the water moved to a different location or had not been irrigated in the recent past.

It is my understanding the MRNRD has the power by state law, to be able to shut off any and all wells drilled after Jan 1, 2001. I don't feel this would be right. I do feel the reasoning and intent of this law when it was being developed should be looked into. I think it was passed to stop the development of additional irrigated acres in the Republican River Basin, with out putting a moratorium on, while the lawsuit was in progress and there by not admit guilt.

All I'm wanting is for the NRD board to be Fair, Equitable and Non discriminatory. When let a little rip off start or what ever you want call it to be allowed, it starts to expand to several other different things. You do because your neighbor is doing it. You don't have to look very far east to see a good example of a loss of control. What if every one would of expanded that had the opportunity. Fear of the loss of investment, knowing it was wrong and lack of water in the southern half of the MRNRD district is what kept it from going ramped here.

I have asked for a Moratorium for years, as most of you know. It should of been put on in 98. You can treat any well drilled after July, 98 different. You can shut off all wells after Jan 1, 2001. I'm not asking for this. I'm just asking that you give out the allotment based upon what was irrigated and taxes paid upon that helped supported the community prior to settlement on Dec 16, 2002 or Jan 1, 2003 base on FSA certification or property tax payment between 1998 and 2003. An exemption should be made to an irrigator had made a commitment to irrigate a tract of land, such as a pivot purchase, buried pipe or leveled land and had a deposit on it. There are probably other true hardship exemptions that will need to be made.

By not giving allotments on the expanded acres, the people who expanded acre would get the allotment on only the acres they would have gotten before the expansion of acres in 2003 and would have to view the expansion as a satellite pivot. They can still irrigate the expanded acres and it is done in the URNRD relatively consistently. They could also buy Right to Use water allotments. They all knew they were on thin ice. I did change things for what was coming, but didn't not expand an acre. I had ample opportunity but felt it was wrong.

There was/is no sympathy for the surface water who lost all their water. There are a lot of pivots sitting idle. There was a tremendous lose of investment in equipment and land values. There were even new pivots that had never run a drop of water.

Another area that there is cheating going on is in Prevented planting. Even though the economics were better to get it, especially where you could water it later, it was wrong. The prevented planting is for the irrigator who does not have supplemental wells of capacity to water the crop and then they can factor down. The surface water irrigator who has no supplemental wells can enroll all eligible irrigated land. My feeling is if you couldn't irrigate it this year from ground water and need prevented planting, you should not get a ground water allotment. If you only use the 2004 FSA prevented planting certification and make the producer show their 2004 FSA certified acreage report, in the surface irrigated areas, you will see what I mean.

For your information, we did not use prevented planting in 2002 or 2004. We would have come out a lot better, especially in 2002 had we used it as we were short on water in places and had poor yields. We did enroll some land in 2003. We added several pivots and miles of pipe line to be able to distribute the water better in 2004 and prior to that we could not get the distribution or quantity when needed. We had been set up for surface and ground water in conjunction with each other.

If you disallow the expanded acres from getting an allotment, you won't be guaranteed you won't be sued by somebody. You just need to decide which side you want to defend. It's going to be individuals' money spent against tax money..

Claude L Cappel

This proposal is based on economics. Cost and return on production. I feel with the technology advances and looking at the past decreases made in the required consumption, we could learn to make it on 9 to 12 inches average. If Texas or Kansas had the technology that is there today when they started to pump years ago, they would still have an abundant water supply, if they would of had allotments for the amount they needed. If we don't mine out our water, we both have a good supply and lower pumping cost.

(1) 9" base allotment

(2) At the producers option and prior to (---Date between April and June) pay \$6.00 for an additional 3" this addition would be for 3" only.
It can not be 1" or 2" or 4"

If the additional 3" is not paid for prior to that date and the producer wants an additional 3" he pays \$9.00 for the 3" prior to Sept 10, of that year

- (3) If a producer uses over 12" up to 15" the cost would be \$15.00 per acre inch over 12 inches. This would be billed after the meter reading is over by the NRD and payable prior to the producer getting next years allotment.
- (4) If a producer uses over 15" the cost would be \$20.00 per acre inch over 15'. This would be billed after the meter reading is over by the NRD and payable prior to the producer getting next years allotment.

(Most years anything over 18" would percolated back into the water table--no consumptive use)

- (4) 18" limit on the water used **unless** the producer has paid for the additional inches over 18" in advance and not a water short year. If not paid for in advance a cost of \$25.00 per acre inch would be charged.
- (5) I don't have all the info you have on water short years etc. I'm wondering if this wouldn't take care of them where we would not have to cut back at all and/or the money collected couldn't buyout acres need to retired in those water short years. I feel the only time you would need a limit on the amount of water purchased is if the price of a crop went up a lot. On the other side, the cost of energy could limit a lot of pumping in the future, especially if crop prices are not high.

Use the money **only** for CREP, retire acres, reading and monitoring meters, etc. aim for sustainability in the district as a goal. \$15.00 to \$25.00 an acre inch is going to buy out a lot of the retireable acres for the next water year. If to much money is accumulated, bonus inch or inches could be given to the base allotment.

With this concept, I question if there would be any need for carry over of allotments.

The rules and regulations would have to be made where that producers water allotment is considered as one unit. If he only wanted to use 9", he would have the option of only using part of his ground. A pivot and flood irrigator might just want to use 9" in his pivot and quit flooding.

Transfers would have to be looked at to make sure it is not skirted.
This would allow the most productive land to be water and the other not.

Before any transfer is considered the well capacity must be measured at the producers expense by the NRD. If the well capacity is marginal for the acres it has allotment of, you could only transfer the amount of allotment the original well could of supported. (You would need a certain amount of GPM per acre irrigated as set by the NRD .) The well would need to run a period of time before measuring, preferable during season or a reduction factor to get close to it's true pumping capacity during season.

1. No transfers of allocations for the following irrigated acres.
2. Land that had not been irrigated the year preceding the transfer.
3. The additional 5 % for non cropped under a sprinkler system.
4. Any allocation acres, except for land certified as irrigated between 1998 thru 2002 by/at the FSA. The transferor land owner would be required to furnish the FSA form 578 for those years. It would be best if the land owners or FSA keep a permanent record on file.
5. FSA records are checked to make sure a irrigation well was not used, in alternating years, to water one track and a different tract in another year. (Checking the well capacity could do the same thing, maybe)

Additional limits on transfers could be put on wells drilled after July 16, 1998 like only allow 1/2 of the acres or something like that. A severer limitation could be put on any well drilled after Jan1, 2001. (I believe these dates are correct)

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Any body who has run surface water of a canal, especially the old canal under natural flow, knows that when you are short, you do not have a dependable stream for even 12 hours. You can't keep a pumped primed and in a most cases you have to spill some to keep the ditch level up for siphon tubes. Without a dependable supply to last the season you have to over water early or lose it. 6" or less you usually get shut off in the middle of August. Somebody always has to pay the cost each year. On our farm, we have paid over \$40,000.00 starting in 2002 for no water. I would not curtail the selling of surface water to another user, as it is beneficial to both, or it wouldn't happen. I don't know of any natural flow water being bought, but there is a lot for sale. My feeling are the following are still pretty restrictive.

- Surface water. 0 to 3" no reduction.
3" to 6" ----1/2" reduction for each inch in that range.
6" to 9" 1/3" reduction for each inch in that range.

Additional surface water only above 9"ok with no ground water pumping. Above 9" total water use with ground water pumping, pays (2) and (3) for additional.