

TWIN PLATTE NATURAL RESOURCES DISTRICT  
Board of Directors Meeting  
October 11, 2012

The Twin Platte Natural Resources District (TPNRD) Board of Directors meeting was held at the Great Western Bank Meeting Room, Second Floor, 111 South Dewey Street, North Platte, Nebraska on October 11, 2012. Mr. Schilz called the meeting to order at 7:33 pm CDT (6:33 pm MDT). A legal notice of the meeting was published in the NORTH PLATTE TELEGRAPH. A news release containing the agenda for the meeting and including the time and place was sent to the news media in the District.

BOARD MEMBERS PRESENT

Eric S Hansen  
James Meisner  
Robert L Petersen  
Bob Peterson  
Dennis Schilz  
Douglas L Stack  
Joe Wahlgren  
Jerry Weaver  
John W Williams  
Robert Wiseman

BOARD MEMBERS ABSENT

Shane Storer

NRCS PERSONNEL PRESENT

None

STAFF PRESENT

Ann Dimmitt, IMP Coordinator  
Amy Mapes, Administrative Assistant  
Kent O Miller, General Manager

OTHERS PRESENT

Justin Brei, PRRIP  
Brad Johnson, Sargent Irrigation  
Jerry Kenny, PRRIP  
Steve Scholz, Producer  
Jeff Shafer, NPPD

ANNOUNCEMENTS

Nebraska Open Meeting Act – Mr. Schilz reported that the Nebraska Open Meeting Act requires public bodies to make available at least one current copy of the Open Meeting Act which may be posted in the meeting room at a location accessible to members of the public, and at the beginning of the meeting the public shall be informed about the location of the

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posted information. Mr. Schilz reported that the current Open Meeting Act was on the counter in the back of the meeting room and accessible to members of the public.

Report of Directors Excused – Mr. Schilz reported that Operating Policy Number 4: BOARD OF DIRECTORS ABSENCES provides that a Director will be considered excused if the Director notifies the office prior to the meeting that he will be absent and that the minutes will reflect whether an absent Director is excused or unexcused. Mr. Schilz reported that Mr. Storer notified the office he would be absent and is therefore excused.

Information Packet and Notebook available for the Public – Mr. Schilz reported that on the shelf in the back of the room is a copy of the Board Meeting Notebook and the Board Meeting Information Packet that each Board member has that are available for viewing by the public attending the Board of Directors meeting.

Other Announcements – None presented.

PUBLIC FORUM

Mr. Schilz opened the Public Forum. There were no comments. Mr. Schilz closed the Public Forum.

AGENDA MODIFICATION

None presented.

HEARING

Open Proceedings – Mr. Schilz, opened the hearing.

Mr. Schilz reported that the purpose of the hearing was to address the Steven C. and Tricia K. Scholz violation of the TPNRD Rules and Regulations, violation of the July 12, 2012 Variance Approval, and to allow Mr. and Mrs. Scholz an opportunity to address the Board.

Mr. Schilz reported that a letter was mailed on September 27, 2012 by certified mail conveying notice of this hearing to address the violation of the TPNRD Rules and Regulations and the violation of the July 12, 2012 variance approved related to the irrigation of land not certified for ground water irrigation.

Mr. Schilz reported that the TPNRD Rules and Regulations were available at the back of the Board meeting room.

Mr. Schilz reviewed the following Relevant Documents:

- a. Copy of the July 12, 2012 TPNRD Board of Directors meeting minutes approving a variance requested by Mr. and Mrs. Scholz

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- b. Copy of the September 26, 2012 letter to Mr. and Mrs. Scholz to notify them of the TPNRD reason to believe that irrigation of lands owned by Mr. and Mrs. Scholz that are not certified and not entitled to be irrigated has occurred and to notify Mr. and Mrs. Scholz of the TPNRD's intention to undertake a field inspection
- c. Copy of the September 27, 2012 letter to Mr. and Mrs. Scholz notifying them of the violation, providing notice as to the October 11, 2012 Board hearing, and informing them that they may participate in such hearing, and conveying a copy of the TPNRD's staff report of a field inspection that occurred on September 26, 2012
- d. Copy of the September 26, 2012 TPNRD field inspection

Mr. Schilz reported that Steven and/or Tricia Scholz now have an opportunity to present testimony.

Mr. Scholz distributed a letter that he had previously emailed to the TPNRD office on October 10, 2012.

Mr. Scholz presented testimony.

Members of the Board of Directors asked questions that were responded to by Mr. Scholz.

Close Proceedings – Mr. Schilz, closed the hearing.

VIOLATION

Mr. Weaver moved to approve the following:

The TPNRD, having considered the documents on record and the information provided during the hearing, hereby find and order as follows:

- Steve and Tricia Scholz have violated Section 3.3.1 of the TPNRD's Rules and Regulations by irrigating certain lands located within the NW ¼ and the SE ¼ of Section 27, Township 16 North, Range 29 West, Lincoln County, Nebraska, without having the proper certification in place. Such violations were documented by the TPNRD staff in the September 27, 2012 letter.
- Steve and Tricia Scholz are hereby ordered to cease and desist such violations, and are prohibited from irrigating these lands until they are properly certified pursuant to the TPNRD's Rules and Regulations and the penalty imposed is paid in full.
- Steve and Tricia Scholz, in a letter delivered to the TPNRD on October 11, 2012, stated that "we have not irrigated the acres in question since we were notified of the violation on September 26, 2012", "we both believe there should be a penalty", and "perhaps we should pay any financial gain that you feel we may have benefitted from for the 26 days that we violated NRD rules on the acres in question".

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- The TPNRD has determined to impose a penalty for the violation that was the subject of this hearing in the amount of \$8,000.00, which includes an amount that is punitive for violating the TPNRD Rules and Regulations and includes an amount that is an estimate of the financial gain for Steve and Tricia Scholz from irrigating those lands without the proper certification in place. Such penalty shall be paid within seven (7) business days (excluding Saturdays, Sundays, and TPNRD Holidays) from the date of this hearing.

The Board finds that this matter has now been resolved. (Motion #1)

Mr. Meismer seconded the motion. (Motion #1)

Mr. Wahlgren moved to amend Motion #1 to strike \$8,000.00 and insert \$4,000. Mr. Peterson seconded the motion. The motion carried. (Motion #2)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Wahlgren, Weaver,  
Williams  
Nay: Stack  
Abstain: Wiseman  
Absent & Excused: Storer

Motion #1 as amended.

The TPNRD, having considered the documents on record and the information provided during the hearing, hereby find and order as follows:

- Steve and Tricia Scholz have violated Section 3.3.1 of the TPNRD's Rules and Regulations by irrigating certain lands located within the NW ¼ and the SE ¼ of Section 27, Township 16 North, Range 29 West, Lincoln County, Nebraska, without having the proper certification in place. Such violations were documented by the TPNRD staff in the September 27, 2012 letter.
- Steve and Tricia Scholz are hereby ordered to cease and desist such violations, and are prohibited from irrigating these lands until they are properly certified pursuant to the TPNRD's Rules and Regulations and the penalty imposed is paid in full.
- Steve and Tricia Scholz, in a letter delivered to the TPNRD on October 11, 2012, stated that "we have not irrigated the acres in question since we were notified of the violation on September 26, 2012", "we both believe there should be a penalty", and "perhaps we should pay any financial gain that you feel we may have benefitted from for the 26 days that we violated NRD rules on the acres in question".
- The TPNRD has determined to impose a penalty for the violation that was the subject of this hearing in the amount of \$4,000.00, which includes an amount that is punitive for violating the TPNRD Rules and Regulations and includes an amount that is an estimate of the financial gain for Steve and Tricia Scholz from irrigating those lands without the proper certification in place. Such penalty shall

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be paid within seven (7) business days (excluding Saturdays, Sundays, and TPNRD Holidays) from the date of this hearing.  
The Board finds that this matter has now been resolved.

The amended motion carried. (Motion #2)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams  
Nay: None  
Abstain: Wiseman  
Absent & Excused: Storer

GENERAL INFORMATION

Platte River Recovery Implementation Program (PRRIP) – Choke Point at North Platte -  
Jerry Kenny, Executive Director, PRRIP, presented a report in regard to options the PRRIP is considering for the Choke Point on the North Platte River at North Platte.

BOARD OF DIRECTORS MINUTES

Minutes for September 13, 2012 Meeting – Mr. Schilz reported that the Minutes for the September 13, 2012 Board of Directors meeting was available for the Directors’ and he asked if there were any corrections or additions.

Mr. Meismer moved that the Minutes of the September 13, 2012 Board of Directors meeting be approved. Mr. Petersen seconded the motion. The motion carried. (Motion #3)

Aye: Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren, Weaver,  
Williams, Wiseman  
Nay: None  
Absent & Excused: Storer  
Out of Room: Hansen

REQUESTS FOR ASSISTANCE

None presented.

COOPERATING AGENCIES REPORT

USDA Natural Resources Conservation Service (NRCS) – District Conservationist Report –  
Mr. Miller reported that a written report, prepared by the NRCS, was available for the Directors’.

SUBCOMMITTEE MEETINGS REPORT

Land Resources SubCommittee

No report presented.

SUBCOMMITTEE MEETINGS REPORT  
Water Resources SubCommittee

Mr. Meismer, Water Resources Subcommittee Chairperson, presented a report for the Subcommittee meeting held on October 11, 2012.

Ground Water Management – Variances – Don Chandler – Mr. Meismer reported that the TPNRD received a request for a variance from Don Chandler. Mr. Meismer asked Mrs. Dimmitt to report on the request.

Mr. Meismer moved the Water Resources Subcommittee’s recommendation to the Board of Directors to approve granting a variance to Don Chandler to certify 186.0 irrigated acres in the NE¼ Section 31, Township 15 North, Range 36 West, Keith County, Nebraska. Mr. Weaver seconded the motion. The motion carried. (Motion #4)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams, Wiseman  
Nay: None  
Absent & Excused: Storer

Ground Water Management – Variances – Steve Scholz and Don Chandler – Mr. Meismer reported that the TPNRD received a request for a variance from Steve Scholz and Don Chandler. Mr. Meismer asked Mrs. Dimmitt to report on the request.

Mr. Meismer moved the Water Resources Subcommittee’s recommendation to the Board of Directors to approve granting a variance to Steve Scholz and Don Chandler to transfer a total of 186.0 certified ground water irrigated acres from the NE¼ Section 31, Township 15 North, Range 36 West, Keith County; to be relocated in the NW¼ and the SE¼ of Section 27, Township 16 North, Range 29 West, Lincoln County, Nebraska. Mr. Wahlgren seconded the motion. The motion carried. (Motion #5)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams, Wiseman  
Nay: None  
Absent & Excused: Storer

Integrated Management Plan (IMP) – NE Department of Natural Resources Letter – Mr. Meismer reported that a letter from the Nebraska Department of Natural Resources (NEDNR) was available for the Directors’. Mr. Meismer reported that the TPNRD Integrated Management Plan (IMP) jointly developed by the TPNRD and the NEDNR states that a trigger will be evaluated at the end of 2012. Mr. Meismer reported that based upon previously completed evaluations by COHYST, the data gathered and provided by the TPNRD through the reporting process described in Chapter 7 of the IMP, and the TPNRDs management actions taken to date, it was the NEDNR's assessment that no additional actions are required

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at this time. Mr. Meismer reported that according to the IMP, the next trigger is to be evaluated at the end of 2015.

Mr. Meismer moved the Water Resources Subcommittee’s recommendation to the Board of Directors to approve that the TPNRD concurs with the NEDNRs assessment that no additional actions are required at this time for the TPNRDs Integrated Management Plan. Mr. Williams seconded the motion. The motion carried. (Motion #6)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams, Wiseman

Nay: None

Absent & Excused: Storer

Integrated Management Plan (IMP) – Offset Water – Opportunity for Purchasing Permanent Offset Water – Mr. Meismer reported that the Water Resources Subcommittee agreed to recommend to the Board of Directors that the Board of Directors go into Executive Session to discuss legal matters related to the TPNRD acquiring real estate for offset water for river flow enhancement related to the Platte River basin and the Republican River basin and required by the TPNRD Integrated Management Plan.

Mr. Schilz reported that this agenda item would be moved to the end of the board meeting. Mr. Schilz reported that there could be action items following the Executive Session.

Integrated Management Plan (IMP) – Offset Water – Conservation Study – Mr. Meismer reported that information was available for the Directors’ for a conservation study by the cooperating partners: Central Platte NRD, North Platte NRD, South Plate NRD, Tri-Basin NRD, Twin Platte NRD and State of Nebraska Department of Natural Resources; working cooperatively under an interlocal agreement as the Platte Basin Coalition. Mr. Meismer reported that the study would be funded by State of Nebraska funds available to the Platte Basin Coalition.

SUBCOMMITTEE MEETINGS REPORT  
Wildlife Habitat & Urban Affairs Subcommittee

No report presented.

SUBCOMMITTEE MEETINGS REPORT  
Executive Subcommittee

No report presented.

FINANCIAL REPORT

Financial Statement - Mr. Meismer reported that the Financial Statement for September 2012 was available for the Directors’.

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Accounts Payable - Mr. Meismer reported that the Accounts Payable report was available for the Directors' and that he had reviewed the Accounts Payable and found the report to be in order.

Mr. Meismer moved that the Financial Statement for September 2012 be received and placed on file for audit and to approve payment of the invoices presented on October 11, 2012 in the amount of \$16,679.90. Mr. Petersen seconded the motion. The motion carried. (Motion #7)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams, Wiseman

Nay: None

Absent & Excused: Storer

Budget Status – Mr. Meismer reported that the Budget Status report was available for the Directors'.

Bids/Proposals – None presented.

Bids/Proposals Scheduled to be Presented for Consideration during the November 8, 2012 Board of Directors Meeting – Mr. Miller reported that the District Policy provides that “The staff will notify the Board during the Board meeting immediately prior to the Board meeting at which bids will be presented for consideration”. Mr. Miller reported that there are no bids to be presented at the November board meeting.

### DIRECTORS REPORTS

Nebraska Association of Resources Districts (NARD) – Board of Directors – Mr. Meismer reported on the NARD Board of Directors meeting held on September 25, 2012.

Nebraska Association of Resources Districts (NARD) – Annual Conference, September 24-25, 2012, Kearney, NE – Mr. Meismer reported on the NARD Annual Conference held on September 24-25, 2012. Mr. Meismer reported that information was available for the Directors'.

Sandhills Resources, Conservation & Development Council – Mr. Hansen reported that information was available for the Directors'.

Requests for Authorization to Travel – No requests were presented.

### DISTRICT REPORT

Water Programs – Integrated Management Plan – No report presented.

Water Programs – Regulatory – No report presented.

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Brule Watershed – No report presented.

Conservation Programs - Trees – No report presented.

Conservation Programs - Regulatory – No report presented.

Cost-Share Programs – NE Soil & Water Conservation Program – Mr. Miller reported that in the Director’s notebook was a report and \$49,714.88 was available for funding contracts. Mr. Miller reported that there were no new contracts to approve.

Cost-Share Programs – District Conservation Programs – Mr. Miller reported that a report was available for the Directors’ and \$8,525.70 was available for new contracts.

Habitat Programs – No report presented.

Information & Education Programs – No report presented.

Requests for Authorization to Travel – No requests presented.

Meetings and Dates of Interest – Mr. Miller reported that various items of information were available for the Directors’.

Miscellaneous Information – Mr. Miller reported that various items of information were available for the Directors’.

OTHER BUSINESS

There was no other business.

SUBCOMMITTEE MEETINGS REPORT

Water Resources Subcommittees

Integrated Management Plan (IMP) – Offset Water – Opportunity for Purchasing Permanent Offset Water –

Mr. Wahlgren moved that the Board of Directors go into Executive Session to discuss legal matters related to the TPNRD acquiring real estate for offset water for river flow enhancement related to the Platte River basin and the Republican River basin and required by the TPNRD Integrated Management Plan. Mr. Petersen seconded the motion. The motion carried. (Motion #8)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams, Wiseman

Nay: None

Absent & Excused: Storer

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Mr. Schilz reported that the Board of Directors was going into Executive Session to discuss legal matters related to the TPNRD acquiring real estate for offset water for river flow enhancement related to the Platte River basin and the Republican River basin and required by the TPNRD Integrated Management Plan.

The Board of Directors went into Executive Session at 9:06 pm.

Mr. Schilz opened the Board meeting room at 10:07 pm

Mr. Petersen moved that the Board of Directors return to Regular Session. Mr. Williams seconded the motion. The motion carried. (Motion #9)

Aye: Hansen, Meismer, Petersen, Peterson, Schilz, Stack, Wahlgren,  
Weaver, Williams, Wiseman

Nay: None

Absent & Excused: Storer

Mr. Meismer moved to approve that the Twin Platte Natural Resources District (TPNRD) will cooperate with certain other Natural Resources Districts in the Republican River Basin

- To acquire certain real estate located within the TPNRD and the Middle Republican Natural Resources District for river flow enhancement related to the Platte River basin and the Republican River basin and required by the TPNRD Integrated Management Plan for the Platte River Basin and the TPNRD will fund the TPNRD share of up to 50% of the total cost for the purchase of the certain real estate with the TPNRD share being equal to the share of the water obtained that can be transported to the South Platte River
- Will fund the construction of works of improvements to transport the TPNRD share of water obtained of up to 50% of the water available with the acquisition of the certain real estate
- Will fund operation of the works of improvements to transport the TPNRD share of water to the South Platte River

Mr. Petersen seconded the motion. The motion carried. (Motion #10)

Aye: Hansen, Meismer, Petersen, Schilz, Wahlgren, Weaver, Williams,  
Wiseman

Nay: Peterson, Stack

Absent & Excused: Storer

Mr. Meismer moved to approve the following:

BE IT RESOLVED by the Board of Directors of the Twin Platte Natural Resources District (the “District”) as follows:

- Section 1. The District, in cooperation with certain other natural resources districts of the State of Nebraska (the “Cooperating Districts”) is currently taking preliminary steps toward the acquisition of certain real estate in order to effect better ground water quality management and river flow

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enhancement related to the Platte River watershed and the Republican River watershed (the “Project”) and further hereby finds and determines that it is necessary and appropriate to declare an official intent to issue or have issued on behalf of the District tax-exempt bonds to finance all or a portion of the Project. In addition, the District’s reasonable expectations are to reimburse certain expenditures of the District’s funds with the proceeds of such bonds as proposed to be issued by or on behalf of the District in connection with such Project.

Section 2. This resolution shall stand as a statement of the official intent of the District under Treasury Regulation Section 1.150-2 and for such purpose the following information is hereby given:

1. A general functional description of the Project for which expenditures may be made and reimbursement from bond proceeds provided is: acquisition of land and the making of improvements to land to establish wildlife and soil conservation reserves in order to accomplish certain ground water quality management and river flow enhancement objectives, all relating to the Platte River watershed and the Republican River watershed in the State of Nebraska.
2. The maximum principal amount of debt expected to be issued for permanent financing for the District and the Cooperating Districts for such Project is \$100,000,000.

Mr. Williams seconded the motion. The motion carried. (Motion #11)

Aye: Hansen, Meismer, Petersen, Schilz, Wahlgren, Weaver, Williams,  
Wiseman  
Nay: Peterson, Stack  
Absent & Excused: Storer

ADJOURNMENT

The meeting adjourned at 10:10 pm.

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Jerry Weaver, Secretary