

MINUTES

River Basin Natural Resource District Oversight Advisory Task Force



Kim Vanneman, Chair
Representative John Wiik, Vice Chair

**First Meeting, 2016 Interim
Monday, June 20, 2016**

**Room 413 – State Capitol
Pierre, South Dakota**

The first meeting of the River Basin Natural Resource District Oversight Advisory Task Force was called to order by Ms. Kim Vanneman (Chair) at 10:04 a.m. (CDT), on Monday, June 20, 2016, in Room 413 in the State Capitol in Pierre, South Dakota.

A quorum was determined with the following members present: Senators Jason Frerichs and Arthur Rusch; Representative John Wiik; Ms. Kim Vanneman; and Messrs. Paul Casper, Karl Jensen, and Dennis Kiner. Representative Steven McCleerey (appearing telephonically) joined the meeting for the afternoon. Staff members present included David Ortbahn, Chief Analyst for Research and Legal Services; Amanda Jacobs, Research Analyst; Jessica LaMie, Research Analyst; Jason Simmons, Senior Fiscal Analyst; and Kris Schneider, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was recorded by South Dakota Public Broadcasting. The committee documents and archived recording are available at the LRC website at <http://sdlegislature.gov> under "Interim – Agendas, Minutes and Committee Documents." For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

Mr. Karl Jensen moved, seconded by Representative John Wiik, that the minutes of the December 11, 2016, meeting be approved. Motion prevailed on a voice vote.

Remarks from the Chair

Ms. Kim Vanneman, Chair, provided a brief recap of the task force's progress thus far and explained the reasoning for not introducing legislation this past year. She set goals for the upcoming year which include finalizing the boundaries for the districts and subdistricts, working on the governance portion so elections can occur in 2018, and making decisions regarding a pilot water management plan in the Red River and Minnesota River Basin Natural Resource District.

Nebraska's Experience with Natural Resource Districts

Mr. Dean Edson, Executive Director, Nebraska Association of Resource Districts, provided an overview of the Nebraska's Natural Resources Districts (NRDs) which were created in 1969 and effective in 1972 ([Document 1](#)). A video of the history of the NRDs entitled "*Keeping Nebraska Local, a Unique Approach to Resource Management*" was distributed to the members ([Document 2](#)). A pamphlet entitled "*Nebraska's Natural Resources Districts*" which provides information on the various programs

that are offered by the NRDs and the contact information for each of the districts was also distributed ([Document 3](#)). Nebraska's 13 river basins are divided into 23 NRDs. The boundaries were designed to stay as close to the basin boundaries as possible using the county roads as the dividing point. The NRDs include the entire state, major municipalities are not excluded. The boundaries are set by the Nebraska Natural Resources Commission, not in statute. There is a process by which landowners can petition for boundary changes. Mr. Edson also reviewed the board structure and election options for the NRDs. A breakdown on the election basis, structure, and the number of directors for each of the NRDs was provided ([Document 4](#)).

Mr. Edson provided a brief history of Nebraska Water Laws regarding surface water and groundwater. Water permits are granted by the Department of Natural Resources (DNR) and NRDs. All 23 NRDs have a Groundwater Management Plan which is approved by the DNR and the Department of Environmental Quality (DEQ). Each NRD has local rules and regulations in place to manage the groundwater for quantity and quality. A four-phase system is used to monitor nitrate levels and determines what testing and reporting are required. The NRDs issue permits and regulate the Chemigation Program. This program encourages farmers to apply fertilizer as needed. A map entitled "*NRD Groundwater Quality and Quantity Regulations*" and a copy of the "*Upper Big Blue NRD Newsletter*" were distributed as examples of the different phases and requirements regarding quality and quantity management plans and regulations ([Document 5](#) and [Document 6](#)). Mr. Edson commented that they have access to 45 years of data from both DNR and the University of Nebraska-Lincoln. Historical and accurate data is key. All of the NRDs require certification of irrigated acres, require well permits over 50 gpm, have minimum depth requirements as well as spacing requirements. All of the quantity management plans have trigger levels based on groundwater levels and include variance requests and transfers (see Document 6 for more information regarding transfers).

In 1996 their state law was changed to make the NRDs responsible for both surface water and groundwater. Since then Integrated Water Management Plans (IMPs) were implemented and became mandatory for fully or over-appropriated NRDs to sustain a balance between basin water supplies and uses for both ground and surface water. Currently 21 of 23 NRDs have or are developing IMPs, 10 of 23 are mandatory. Mr. Edson provided a copy of an "*Integrated Management Plan*" and a "*Basin Wide Plan*" ([Document 7](#) and [Document 8](#)).

Mr. Edson briefly highlighted current and future water challenges. As far as funding, the NRDs have the ability to levy up to 8.5 cents per \$100 of valuation for property tax, as determined by the local board. An occupation tax on irrigated land is also available, up to \$10 per acre, as determined by the local board. It was noted that the occupation tax is seldom used. Nebraska is currently expanding NRD bonding authority to allow more general obligation bond use. In response to a question on the NRDs' budget, Mr. Edson responded their budget is about \$240 million, \$60 million is from property tax dollars, some is local tax funding, there are various state aid grant programs, and they also are eligible for federal dollars. More information on Nebraska's NRDs can be found on their website at <https://www.nrdnet.org/>.

Election of Council Members – Legislation Needed

Ms. Shantel Krebs, Secretary of State, spoke regarding several issues the task force needs to consider regarding the election of the council members ([Document 9](#)). She suggested the districts, at a minimum, be set following township boundaries and that the initial terms be staggered. Similar to the soil conservation district elections, petitions would be submitted to her office only if it was a multi-county election, otherwise the counties would receive the petitions. She suggested having an odd number of board members, that all registered voters in the district be allowed to vote, and candidates must be a registered voter and a resident within the subdistrict they are running. There will also need to be provisions on how vacancies will be filled. It was recommended vacancies be filled by appointment for the remainder of the term. Secretary Krebs noted that if boundary changes are allowed after the initial creation, it should only be done during odd numbered years and not during election cycles because of county auditor workloads. **Ms. Kea Warne**, Deputy Secretary of State, Election Services, spoke regarding some of the areas in statute that will need to be addressed.

Review of District and Subdistrict Boundaries

Mr. David Ortbahn, Chief Analyst for Research and Legal Services, and **Mr. Jason Simmons**, Senior Fiscal Analyst reviewed the proposed River Basin Maps that had been updated and posted on the LRC website http://www.sdlegislature.gov/Reference_Materials/Maps/RiverBasins.aspx.

Following a brief discussion, it was the consensus of the task force to continue using the township lines for the boundaries of the districts.

Task Force Discussion and Public Testimony

Each of the natural resource districts maps were discussed and some were tweaked based on comments of the task force members and public testimony from the following interested parties:

- Mr. Jay Gilbertson**, Brookings, East Dakota Water Development District;
- Mr. Frank James**, Day County;
- Mr. Bob Whitmeyer**, Webster;
- Ms. Angela Ehlers**, Presho, South Dakota Association of Conservation Districts; and
- Mr. Dave Bartel**, Huron, James River Water Development District.

LRC staff will make the changes as discussed and the revised maps will be posted on LRC's website. It was noted that the subdistrict boundaries will also need to be revised to equalize the subdistricts population for election purposes.

Additional Public Testimony

Ms. Ehlers commented that the candidates for the council members should be a registered voter and a resident of the subdistrict.

Mr. Brad Preheim, Centerville, Manager, Vermillion Basin Water Development District and TLC Water Project District, commented that he hoped the legislation is moved forward during the upcoming legislative session.

Mr. Paul Lepisto, Pierre, South Dakota Izaak Walton League of America, stated he was an advocate for total inclusion of everyone, including those residing in municipalities of the first class, in the process.

Future Meeting Dates

It was the consensus of the task force that that the following meeting dates be set for 2016: August 16, September 20, and November 22.

Adjournment

Senator Art Rusch moved, seconded by Representative Wiik, that the meeting be adjourned. The motion prevailed on a voice vote.

The Chair adjourned the meeting at 2:59 p.m.