

**LINCOLN CONSERVATION DISTRICT
BOARD OF SUPERVISORS MEETING
Zoom Meeting
February 15, 2023, 4:00 p.m.**

Attendance:

Board of Supervisors: Kathleen Johnson, Chairperson; Mike Garner, Vice Chairperson; Laura Garner; Don Crawford; Darris Flanagan; John DeLeo

Absent:

Associate Supervisor(s): Wayne Maahs

Advisor(s): Brian Stephens, MT FW&P; Brian Ressel, NRCS

District Administrator: Rae Lynn Hays

Guest(s): Jesse Haag, Lincoln County; Jance Phillips and Misty Phillips; Ron and Bonnie Dawson; Bob Vadasy

Called to order: 4:00 p.m. by Chairperson, Kathleen Johnson

Public Comment:

Minutes:

- January 18, 2023, meeting minutes
 - **Motion** by Mike Garner to approve the minutes of the January 18, 2023, meeting. **Second** by Darris Flanagan. **Motion passed unanimously.**

Financial Report:

- Laura G. presented the January financial report.
- **Motion** by Darris F. to approve the January financial report. **Second** by John DeLeo. **Motion passed unanimously.**
- **Motion** by Darris F. to approve the November report. **Second** by John D. **Motion passed unanimously.**

NRCS Report – Brian Ressel

Brin Ressel reported that the local NRCS office has been busy completing contracts. He said there is nothing new regarding programs. The agency is beginning to see how Inflation Reduction Act funding will be utilized and Brian expects to see different program opportunities. Much of the funding appears to be earmarked for programs geared towards climate change.

MTFW&P Report – Brian Stephens

- No Report

District Administrator's Report – Rae Lynn Hays

- Volunteer hours were recorded.
- Rae Lynn reported that she listed to a presentation from Payne West. The agent hoped to have a pool put together, however yesterday she learned that it would

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be too expensive for CDs and won't be an option. Premiums will be increasing. Another meeting will be presented by Rocky Mountain Insurance.

- FWP sent a contract for the inspection station. The contract incorrectly listed LCD as Lincoln County Conservation District. It has been returned for corrections.
- Rae Lynn will be attending a Zoom meeting to learn more about Gilly. It appears there will not be a cost to use it.
- Rae Lynn will be attending an AIS Partner meeting on February 22-23 and an Area 5 meeting and pollinator training on February 28.

Planning Board Report – Laura Garner

- No report

310's

Li-02-01-23, Jones Flower Creek

- John D. and Brian Stephens conducted a site visit. Mr. Jones plans to raise his bridge above the high-water mark. He needs access to the other side of the creek for the ability to fight fire and manage weeds on his property. He also plans to remove concrete pylons.
- Don Crawford said Mr. Jones intends to use Tom Cole as a contractor. Mr. Cole plans to ford the creek with his equipment. The 310 application does not address fording the creek.
- **Motion** by Mike G. to postpone decision and ask applicant for more information including how he intends to install the bridge and remove the concrete. He should identify what equipment will cross the creek and how many stream crosses are needed to complete the process. **Second** by Don C.
- **Motion** passed unanimously.

C-02-02-23, Cote, Smith, Pinkham Creek,

- Kathleen Johnson and Brian S. attempted to view the site from the Smith property. The team had not made contact with Mr. Cote. It was not possible to see the entire site from the Smith property.
- **Motion** by Darris F. to postpone until a site visit on the Cote property can be arranged. **Second** by Mike G.
- **Motion** passed unanimously.

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Li-02-03023, Anderson, Betts Lake

- Brian S. said he would like to have another site visit and visit with the contractor to better understand the culvert placement and the potential for impact to the outlet.
- **Motion** by Don C. to postpone. Second by Mike G.
- **Motion** passed unanimously.

Li-02-04-23, Lincoln Electric, Sherman Creek

- **Motion** by Darris to approve the utility bore. **Second** by Laura G. Mike G. abstains.
- Motion passed unanimously.

C-10-02-22, Neumann, Phillips, Fisher River – Civil Penalty

- Don C. said he is looking for action, not looking for cash. Procedurally, we have done everything the way we should, and I am disappointed that he has not communicated with us. I believe he thinks he has a valid water right and that the dam is apart of that. He may think that he is in the right and will fight that. John D. said he may think that he is in the right, but the violation has been ongoing for months. We are six months down the road and he isn't talking to us.
- Wayne M. said the penalty is \$500 for the violation and \$500 each day an individual continues to be in violation. However, the board could assess less money.
- Rae Lynn H. said she spoke with Caitlin Overland, MACD attorney and Jason Garber, DNRC, to ask if the violation should begin from the deadline Mr. Neumann was asked to have turned in a 310 application or from the date that the work was to be completed. Rae Lynn was advised that the civil penalty could begin at either date.
- Ron Dawson said he owns the property at the end of the dam where the headgate is located. He is concerned that Mr. Neumann has raised part of the height of the dam. He would like this corrected prior to highwater. If it floods, it will affect power, sheds, etc.
- Jesse H. said Mr. Neumann has not made an attempt to respond to the CD 310 violation or the floodplain permit either. Spring run off will be coming sooner than later. We need to protect public health and safety. The potential is there for flooding. My concern is that the engineer is saying it may be next year. There are emergency protocols in place and we can take emergency action. Lincoln County will also be following up on the floodplain permit issue as well.

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- Don C. asked Jesse if he had any historical data. That dam has been there 60 plus years and Dave has raised it a small percentage, maybe a foot? I don't want to be adversarial.

C-10-02-22, Neumann, Phillips, Fisher River – Civil Penalty cont.

- **Motion** by Darris F. to assess a civil penalty of \$500 against David Neumann for initiating work in the bed and/or immediate banks of Pleasant Valley Fisher River without a 310 Permit. In addition, Mr. Neumann failed to submit a 310 application to address a plan for removing the concrete and rebar and did not complete the remediation work by February 7, 2023. Additionally, LCD will assess a civil penalty of \$500/day for a total of 7 days for continuing to be in violation of the 310 Law. Mr. Neumann must turn in a 310 application with a plan to remove the concrete and rebar by March 6, 2023. The civil penalty total of \$4,000 is due March 17, 2023. **Second** by Mike G.
- **Motion** passed. Don C. opposed.

C-08-07-22, Huber, Kissner, Yaak River

- Rae Lynn H. said she had not received the 310 application to address the violation since Mr. Kissner asked for assistance.
- **Motion** by Laura G. to send a letter to Mr. Kissner requesting that the permit be submitted by the next meeting, or we will take action to assess a civil penalty.
- **Motion** by Mike G. to postpone decision, have Rae Lynn call to make an appointment for him to meet with a supervisor for assistance completing the application. **Second** by John D.
- **Motion** passed. Darris F. opposed.

LI-08-04-22, Dugopolski, Pike Creek

- Brian S. said he believes the sandbags need to come out given the non-permanent nature of them and potential to impact sedimentation as well as plastic in the stream. That is not to say you couldn't consider alternatives to the sandbags with that have no impact on the stream.
- **Motion** by Mike G. to deny the Dugopolski's request to leave the sandbags in place. **Second** by Darris F.
- **Motion** passed unanimously.

Postponed 310's.

New Business:

1. NRCS Civil Rights Review

- **Postponed.** Brian R. left the meeting.

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2. LCD Board Officer Elections

- **Motion** by Darris F. to elect Kathleen J. as Chairperson, Mike G. as Vice Chairperson, and Laura G. as Treasurer. **Second** by Don C.
- **Motion** passed unanimously.

3. Supervisor for District Administrator

- **Motion** by Laura G. to appoint Mike G. to serve as Rae Lynn H.'s immediate supervisor. **Second** by Darris F.
- **Motion** passed unanimously.

4. CDAC Survey

- a. Kathleen J. asked everyone to email their responses to Rae Lynn so she can submit the results to DNRC for the district.

5. Forest Service Road/Culvert Project Partner Request

- a. Don C. said there are definitely needs out there, but it would depend on what the project is.
- b. **Motion** by Laura G. that the LCD not get involved unless there is a specific individual project request that they submit to us. **Second** by Mike G.
- c. **Motion** passed unanimously.

6. AIS Inspection Station Hiring Committee

- a. Laura G. and Kathleen J. agreed to serve. Mike G. will volunteer if an alternate is needed.

Unfinished Business:

• Best Management Practices (Project Considerations) Document

- **Motion** by Kathleen J. that this document not be titled BMPs, but Project Considerations and attached to the letter that is sent to individuals who receive a permit. **Second** by Don C.
- **Motion** passed unanimously.

• Filling Supervisor Vacancy

- Supervisors discussed letters of interest from Barry Roose and Gary Pershall.
- **Motion** by Laura G. to recommend Gary Pershall to the Town of Eureka to replace Darris Flanagan. **Second** by John D.
- **Motion** passes unanimously. LCD is still seeking a supervisor for the south end of the county.

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Final Inspection Reports

Li-08-05-22, Chappelow No Name Creek – Requires Site Visit. Brian S. and Darris F. visited the site, but it is buried in snow. Will need to see when snow melts.

Li-12-01-21, Russell, Fortine Creek – Brian S. said there was remarkably little disturbance at the site and recommend the file be closed.

Open Mic and Other Business –

Meeting adjourned at 6:08 p.m.

Respectfully Submitted,

Kathleen Johnson, Chairperson

Rae Lynn Hays, District Administrator

Date: _____