

City of Scottsbluff, Nebraska

Monday, September 15, 2014

Regular Meeting

Item Reports4

Council to authorize City Manager to send a letter to the City of Minatare regarding the permit for transfer of water to Minatare.

Staff Contact: Rick Kuckkahn, City Manager

DRAFT
City of Scottsbluff

A municipal water transfer permit has not yet been obtained from the Nebraska Department of Natural Resources. As the City of Minatare is well aware, the permit will not be obtained at this time unless the permit application addresses the change in ground water location and the potential affect or negative impact upon third-party users of the surface water in the North Platte River. To address this concern, the City of Minatare is working with the North Platte Natural Recourses District (“NRD”) to retire certain acres of groundwater in the potentially affected area along the North Platte River. The Scottsbluff City Council certainly does not oppose this effort to address the concern, so long as the efforts ultimately obtain the permit required before Scottsbluff can transfer ground water to Minatare and its citizens.

At this time, however, the Scottsbluff City Council feels it is important for both parties to understand their rights and options under the agreement signed in December 2011, as those rights and obligations will impact Scottsbluff’s actions if a permit ultimately is not obtained. Under paragraph 8 of the agreement, Minatare is responsible for complying with all requirements necessary to return any ground water to the North Platte River, and for taking all actions necessary to mitigate any potentially negative impact upon third-party users of the surface water in the North Platte River. It is clear Minatare is indeed attempting to honor this obligation. Scottsbluff will cooperate in good faith when necessary for Minatare to achieve the mitigation objective, but it will not take the primary role in the process.

If the permit is ultimately not granted by the end of February 2015, due to the fact that Minatare cannot address the change in ground water location and the potential affect or negative impact upon third-party users of the surface water in the North Platte River (i.e., cannot mitigate), Scottsbluff will determine according to paragraph 24 of the agreement that the agreement is void, and Scottsbluff will have no further obligation to transfer ground water for Minatare and its citizens. Scottsbluff regrets having to plan for this action and hopes Minatare is successful in its mitigation efforts.