

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager's Report

DATE: November 7, 2014

FROM: John Winkler, General Manager



A. **INFORMATION/EDUCATION REPORT:** The Information and Education Report detailing the department's activities for the month of October, 2014, is attached for your review.

B. **PERSONNEL/MISCELLANEOUS ITEMS:**

1. **Michael Bickley**, Land Steward, has resigned from his position effective October 24, 2014. Mike started with the District in August of 2008. We wish Mike the best of luck in his new endeavor. The District will begin advertising for a Land Steward in the spring.
2. **Jerry Herbster**, District Park Superintendent, departed from the District on October 24, 2014. Jerry had served the District for more than 26 years. In order to take advantage of some efficiency, the District will merge the Park Superintendent tasks into the Operation and Maintenance Superintendent and Lead Land Steward positions. Bill Warren will serve as the Operation & Maintenance/Park Superintendent and Tom Pleiss will serve as the Assistant Park Superintendent. I wish Bill and Tom the best of luck in their newly defined positions.
3. A memo with the results from the Papio-Missouri River NRD Scrap Tire Collection that was held in West Point, Nebraska on September 5th, 2014, is attached for your review. The event collected 452.03 tons of tires. I want to thank all the volunteers and District staff members that helped to make this a huge success.
4. The General Election Result List is attached for your review. Congratulations to Fred Conley - Subdistrict #2; John Conley - Subdistrict #4; Jim Thompson - Subdistrict #6; Tim Fowler - Subdistrict #8; and Dave Klug - Subdistrict #10. District staff and I look forward to serving you for another four years!
5. The current Nebraska Unicameral Legislature's Schedule of Interim Committee Hearings is attached for your review.

C. **REPORT ON PURCHASES – CONSTRUCTION SERVICES, PROFESSIONAL SERVICES AND PERSONAL PROPERTY:** Pursuant to Board direction, attached is a

report indicating construction services, professional services and personal property purchases from the month of October, 2014. Please review this report and contact me if you have any questions.

- D. **CURRENT AND ON-GOING PROJECTS – P-MRNRD LEGAL COUNSEL:** Attached is a copy of the current and on-going projects for District Legal Counsel, Husch Blackwell, as of October 13, 2014. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** The Papillion Creek Watershed Partnership meeting was held on October 23, 2014, and the meeting minutes are attached for your review. The next Partnership meeting is scheduled for November 20, 2014.
- F. **NEWS CLIPS:**
- ✓ October 10, 2014, Omaha World Herald article, Brasch, Japp on election homestretch
 - ✓ October 10, 2014, Washington Co. Enterprise article, Japp attempts to buy soil by the millions
 - ✓ October 13, 2014, Omaha World Herald article, Kansas' accusation that Nebraska violated Republican River pact lands at U.S. Supreme Court
 - ✓ October 16, 2014, Pender Times article, Rosalie getting water upgrade
 - ✓ October 19, 2014, Omaha World Herald article, Flood control dominates in five Papio-Missouri River NRD races
 - ✓ October 21, 2014, Omaha World Herald article, In opening of Missouri River bridge, Bellevue sees its opportunity to attract development
 - ✓ October 24, 2014, Water Online article, Nebraska: Beacon of Good Water Policy?
 - ✓ October 28, 2014, Omaha World Herald editorial: Four for Papio NRD flood work
 - ✓ November 5, 2014, Omaha World Herald article, Sarpy County's Prairie Queen Recreation Area will offer fishing and flood protection
 - ✓ November 7, 2014, Omaha World Herald article, Papio-Missouri River NRD board member Scott Japp must cooperate in dam dirt spat
 - ✓ November 9, 2014, Omaha World Herald editorial: Feds should heed concerns over 'water rules'
 - ✓ November 10, 2014, Midlands Voices article: 'Waters of the U.S.' rule is needless

October, 2014 Information/Education Report

Information

- Distributed News releases
- Completed digital archiving of slides and photos
- Attended Social Media workshop
- Updated web site and Facebook page
- Continued work on Spectrum Newsletter
- Photographed WP-5 reservoir and began work on brochure
- Began work on digital archiving of Spectrum Newsletters
- Began preparations for Omaha Boat Sports and Travel show

Education:

October Programming Schedule:

- 10/1-** Skyline Elementary- Insects- 53 students (2nd grade)
- 10/2-** Heritage Nature Night- 100 people
- 10/3-** Sagewood Elementary- Reptiles- 52 people (4th grade)
- 10/6-** Millard Library program- Fall/Leaves- 35 people
- 10/7-** Rohwer Elementary- Animals/Ecosystems- 96 students (4th grade)
- 10/8-** Regional Land Judging- David City
- 10/9-** Catlin Elementary Nature Night- 150 people
- 10/13-** Heartland Christian– Insects- 46 students (K- 5th grade)
- 10/15-** Montessori Co-op School – Insects- 14 students (1st-3rd grade)
- 10/16-** Sump Library – Owls- 36 people
- 10/21-** Montclair Elementary – Insects- 44 students (2nd grade)
- 10/23-** Sandoz Tiger/Cub Explorers, Nature Club, 100 Students, Wildlife Encounters Program
- 10/26-** Lauritzen Gardens- Reptiles- 1000 people
- 10/28-** Westgate Elementary – Owls- 63 students (K-3rd grade)
- 10/29-** Neihardt Elementary – Owls- 88 students (4th grade)
- 10/30-** St. Pius/St. Leo- Owls- 78 students (3rd grade)

Planning:

Spring Nature Nights
Winter Programming
Prairie Construction-Aviaries
Update MORE Nature Website
Updates/Monitoring of Papio-Missouri River NRD Facebook Page and Web Pages
Cultivation Teacher Newsletter, Printed and Mailed
Inventory/Label Education Donations

Meetings/Training:

Statewide I&E Conference Call
Omaha Advertising/LaGreca Group Marketing Meeting
Social Media Marketing Training at ACOE

2014 PMRNRD Scrap Tire Collection—West Point, NE

The 2014 scrap tire collection at the Cuming County Fairgrounds was a huge success. The event collected 452.03 tons of tires. These tires were removed by Champlin Tire Recycling, Inc. of Concordia, KS. Champlin has several end uses for these tires. Some tires will be processed for rubber to manufacture park benches and picnic tables. Other uses include reclamation of tires meeting used tire specs for local market distribution, repair/retread of salvageable casings, separation and recycling of tubes, and manufacture of feed bunks. Any material not turned back into an end market is processed into a primary shred and stored in a state licensed monofill to be reclaimed as downstream markets develop.

The volume of tires collected does not include 3-6 loads of tractor tires removed by G&J Enterprises for recycling into shade screens for cattle.

There is a very good chance this event will turn out to be the largest single day tire collection in the state. Rain and mud decreased the number of participants bringing tires to the collection and made unloading a challenge. A total of 351 vehicles were unloaded in 4.5 hours. This was accomplished through the hard work of 27 volunteers which included 13 PMRNRD employees and volunteers from the Nebraska Loess Hills RC&D, Cuming County Supervisors, City of West Point, Cuming County Road Dept., Stalp Gravel Co., Rhea Cattle, and the UNL extension in Cuming County.

The following local businesses donated food, ice and water for the volunteers: Pizza Ranch (pizza), West Point Subway (sandwiches), Caseys South, Graybeal Foods and Lincoln Street Market (bottled water and ice).

Funding for the collection was provided through a grant to Cuming County from the Nebraska Department of Environmental Quality. The grant application was prepared, submitted and administered by PMRNRD on behalf of Cuming County. PMRNRD has finished final reporting and the grant has been successfully closed out by NDEQ.

Unofficial General Election Results

November 4, 2014

(Extracted from the Nebraska Secretary of State Website – 11/5/2014)

<u>SUBDISTRICT 2</u>	<u>VOTES</u>	<u>PERCENT</u>
Fred Conley	5,201	75.94%
Joseph Charbonneau	1,648	24.06%

<u>SUBDISTRICT 4</u>	<u>VOTES</u>	<u>PERCENT</u>
John Conley	8,688	57.34%
Barbara Nichols	6,464	42.66%

<u>SUBDISTRICT 6</u>	<u>VOTES</u>	<u>PERCENT</u>
Jim Thompson	5,876	100%

<u>SUBDISTRICT 8</u>	<u>VOTES</u>	<u>PERCENT</u>
Tim Fowler	5,867	53.33%
Jim Kusek	5,135	46.67%

<u>SUBDISTRICT 10</u>	<u>VOTES</u>	<u>PERCENT</u>
David Klug	11,066	76.69%
R. Lee Menges	3,363	23.31%

**NEBRASKA UNICAMERAL LEGISLATURE
ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION
WEEKLY SCHEDULE OF INTERIM COMMITTEE HEARINGS
November 7, 2014**

Friday, November 7, 2014

Urban Affairs Committee

1:30 p.m. – Room 1510, State Capitol, Lincoln, NE

LR555 (Crawford) Interim study to examine how cities and villages provide services to residents located in the extraterritorial jurisdiction or sanitary improvement districts of such cities and villages

Monday, November 10, 2014

Appropriations Committee and Revenue Committee

9:00 a.m. - Room 1113, State Capitol, Lincoln, NE

Presentation of the 2014 Tax Expenditure Report

Transportation and Telecommunications Committee and Appropriations Committee

1:30 p.m. - Room 1113, State Capitol, Lincoln, NE

Joint hearing of the Transportation and Telecommunications Committee and the Appropriations Committee State Highway Needs Assessment Briefing

Open to the public, invited testimony only.

Friday, November 14, 2014

Appropriations Committee and Health and Human Services Committee

1:30 p.m. – Room 1510, State Capitol, Lincoln, NE

LR535 (Mello) Interim study to conduct a comprehensive review of the structure of health and human services functions currently administered by the Department of Health and Human Services

Open to the public, invited testimony only.

Health and Human Services Committee and Banking, Commerce and Insurance Committee

10:30 a.m. - Room 1510, State Capitol, Lincoln, NE

Health Care Data Base Advisory Committee Update Briefing

Development of policy recommendations towards transformation of Nebraska Health Care system, pursuant to LR422

Judiciary Committee

1:30 p.m. - Room 1113, State Capitol, Lincoln, NE

LR433 (Crawford) Interim study to examine issues relating to production, possession, and use of hemp oil for the purposes of treating epileptic seizures

Wednesday, November 19, 2014

Education Committee

1:30 p.m. – Room 1525, State Capitol, Lincoln, NE

Hearing on potential uses of the lottery proceeds dedicated to education as required by LB497 (2013)

Nebraska Retirement Systems Committee

10:00 a.m. – Room 1524, State Capitol, Lincoln, NE

LR521 (Nordquist) Interim study to examine the public employees retirement systems administered by the Public Employees Retirement Board

Presentation of Actuarial Reports

Presentation of reports by political subdivisions with underfunded defined benefit plans

Thursday, November 20, 2014

Meeting of the Legislative Council

1:15 p.m. – Dougherty Conference Center, Offutt Air Force Base, NE

Meeting of the Legislative Council

Friday, November 21, 2014

Meeting of the Legislative Council

8:45 a.m. – Dougherty Conference Center, Offutt Air Force Base, NE

Meeting of the Legislative Council

Tuesday, December 2, 2014

Agriculture Committee

1:30 p.m. - Room 1524, State Capitol, Lincoln, NE

LR560 (Schilz) Interim study to provide a forum for receiving the dairy industry report authorized pursuant to LB941, which was enacted during the 2014 legislative session

Health and Human Services Committee

10:30 a.m. - Room 1510, State Capitol, Lincoln, NE

LR601 (Davis) Interim study to examine the impact of implementing, and the impact of failing to implement, medicaid expansion in Nebraska

Friday, December 5, 2014

Transportation and Telecommunications Committee

1:30 p.m. - Room 1113, State Capitol, Lincoln, NE

Next Generation 911 Briefing

Open to the public, invited testimony only.

Tuesday, December 9, 2014

Revenue Committee *Note canceled resolution*****

1:30 p.m. - Room 1524, State Capitol, Lincoln, NE

LR566 (Hadley) Interim study to examine methods used by other states to determine the taxable value of agricultural land

LR571 (Hadley) Interim study to examine Nebraska's individual and corporate income tax systems

*****Canceled*** LR570 (Hadley)** Interim study to examine the compliance and enforcement issues relative to Nebraska's tax incentive programs

Remaining legislative resolution reports will be distributed at the briefing

Open to the public, invited testimony only.

If auxiliary aids or reasonable accommodations are needed for attendance at a hearing, please call the office of the Clerk of the Legislature at (402) 471-2271, or for persons with hearing and/or speech impairments, please call the Nebraska Relay at (800) 833-7352 TTY or (800) 833-0920 Voice (24 hours notice is requested). Advance notice of ten business days is needed when requesting an interpreter.

The Interim Hearing Schedule is also available via the Internet at www.nebraskalegislature.gov

Clerk of the Legislature
State Capitol
PO Box 94604
Lincoln, NE 68509-4604
03-22-03

**Report on Purchases
Construction Services, Professional Services, Personal Property**

October, 2014

Date	Project Name	Item / Task	Company	Cost
10/1-31/2014	Project Maintenance	Rip Rap	Martin Marietta	\$
10/22/2014	Machinery & Equip.	Boss VBX Salt & Sand Spreader	Ty's Outdoor Power, Inc.	\$5,550
10/23/2014	Papio Creek Levee	Supply eight replacement floodgates for drainage structures.	Royal Iron, Inc.	\$6,693
10/24/2014	Little Papio Channel (Center to Grover)	Channel instability investigation.	HDR Engineering	\$29,625
10/28/2014	Pigeon/Jones Project	PJ Weir repairs	Niewolner Construction, Inc.	\$29,075
10/29/2014	Thompson Creek Improvement Project	Wetland Delineation	Alfred Benesch & Company	\$8,600
10/30/2014	MoPac Trail	MoPac Trail Drainage Repair	Schemmer Associates	\$22,755

Updated: October 13, 2014

Current and On-Going Projects P-MRNRD Legal Counsel

★ = Top Priority

F = Future Work – No Assignment

N = New Assignment

O = Others Handling

W = Work in Progress

P = Counsel Portion Completed

- **Little Papio:** (Cleveland)

- **Big Papio:** (Cleveland)
 - Interlocal Agreement with Papillion & La Vista & SIDs on Fricke Drainage (W)

- **West Branch:** (Cleveland)
 - Land Exchange with Sarpy Co. (96th St.) (P)

- **Western Sarpy Dike:** (Cleveland)
 - ★ Saunders County side ROW purchase agreements and easements (W)
 - NRDs/NE-ARNG Interlocal for Camp Ashland Property (P)

- **Floodway Purchase Program:** (Laster/Grint)
 - Iske Place Purchase Agreements – Individual (W)
 - Review MAPA agreement for King Lake HMGP (W)

- **Trail Projects:** (Williams)
 - Mo Pac (Springfield to Platte River) drainage repair easements (F)
 - ★ West Papio (90th – Giles) Construction Contract review (W)

- **Missouri River Corridor Project:** (Becic)

- **USDA PL 566 Projects, Silver Creek and Pigeon/Jones Watershed:** (Schumacher/Cleveland)
 - ✦ Papio W-3 Eminent Domain (Camden) (W)
 - Papio W-3 Access-Quiet Title Action (W)
 - Tek/Mud PL 566 Site 41A access (W)
 - ✦ Tek/MUD PL 566 Rehab Agreement w/NRCS (W)

- **Papio Watershed Dam Sites:** (Grint/Laster/Williams)
 - ✦ DS-15A purchase agreements, deeds and easements (W)
 - ✦ DS-15A Eminent Domain (Kuker) (W)

- **Papio Creek Watershed Partnership (Stormwater):** (Grint)

- **Missouri River R-613 and R-616 Levees:** (Cleveland/Henkel)

- **Rural Water Projects:** (Nelson)
 - ✦ Fort Calhoun Lawsuits on WCRW (W)
 - Curt Hofer - Hidden Acres Developer Agreement (W)
 - Bartlett-West contract for TCRW Rosalie extension (N)

- **Other:**
 - ✦ Elkhorn River 240th Street Land Acquisition Documents (N) (Williams)
 - ✦ GW Control Rules & Regulations (P) (Henkel)

MONTHLY UPDATE

October 2014



A Partnership meeting was held on October 23, 2014 at 10am at the NRC Building. Minutes are updated regularly on the Partnership's website: www.papiopartnership.org.

Update on Omaha Permix Website

Jesse Poore with FHU talked with the group about the Omaha Permix website.

The Permix website was created as a way to keep track of post-construction stormwater management plans and best management practices (BMPs) after the Partnership communities adopted post-construction stormwater management regulations in 2009.

After the initial development of the Permix website, a plan was formed to combine the existing grading permit application website with the Permix website. This would allow for some reduction in effort by project designers as the application information needed for both grading permits and post-construction management plans is similar.

In the spring of 2014, the grading permit system was migrated to Permix. There have been a few minor issues with the migration, mostly with projects that have an open grading permit.

FHU has worked with the Partnership communities and with users of the Permix website to address these issues. By December 2014, all bug fixes will be deployed which should resolve all known issues. FHU will continue to work with the communities moving forward to make sure the system works as needed.

Permix will also allow the public to view grading permits and to submit comments or concerns on projects throughout the metro area.

319 Grant Application

Amanda Grint discussed with the group the application that was submitted by the City of Omaha for watershed planning for the Papio Watershed and Missouri River Tributaries that are included in the Omaha metropolitan area. If approved by Nebraska Department of Environmental Quality (NDEQ), it would provide the opportunity for the creation of the Omaha Regional Nonpoint Source Watershed Plan. This plan would take some information from the Papillion Creek Watershed Plan and include additional data to address all nine elements required for an Environmental Protection Agency (EPA) watershed plan. By doing this planning the communities in the Partnership would be able to look at specific practices to address impaired water bodies and set areas of priority. Creating this plan will also give communities in the Partnership the opportunity to receive NDEQ 319 funding for projects that address impaired water bodies. Examples of projects that have been funded in the past are Cole Creek stream restoration, Thompson Creek floodplain buyout and restoration. The application was submitted on September 2, 2014 to NDEQ and the application included some cost share by the Partnership. If the grant is approved, the Partnership will vote to determine if funds should be used to help fund this plan.

Next Meeting:

The next Partnership meeting will be November 20, 2014 at 10 am at the NRC building.



Brasch, Japp on election homestretch

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Lydia Brasch and Scott Japp

Posted: Friday, October 10, 2014 8:44 am | Updated: 9:46 am, Fri Oct 10, 2014.

Brasch, Japp on election homestretch By Katie Rohman Washington County Enterprise and Pilot Tribune | 0 comments

The two candidates for Nebraska Legislative District 16 participated in an informal discussion during the Nebraska Chamber of Commerce & Industry's legislative forum at Fernando's on Monday.

Scott Japp of Arlington is challenging first-term senator Lydia Brasch of Bancroft in the general election Nov. 4. Legislative District 16 includes Washington, Burt and Cuming counties. Senators are elected to four-year terms.

Brasch touts experience

Brasch is vice chairwoman of the natural resources standing committee, state-tribal relations special committee and rules select committee. She was employed in media and public relations for the Nebraska Department of Revenue, and worked under four governors and six state tax commissioners.

Brasch currently helps her husband, Lee, on the farm and also sells educational software.

She said she has a perfect attendance record in the Legislature.

"I have not missed a day on your watch," she said.

The state should finish 2014-15 with a projected ending balance of \$248.5 million — \$2.15 million above the statutory minimum 3 percent reserve. The next 90-day session begins Jan. 7. She said the focus of will be on "where we can apply our tax dollars more wisely" and how to make students more "job-ready."

Brasch said her priorities have been early childhood development, rural economic development, ready-to-work solutions and energy.

"We've started a good start with us in the black," she said. "I believe the experience is beneficial."

Japp doesn't 'sugar-coat'

Japp is a Washington County native who grew up working with his family's soil construction business. He has served on the Papio-Missouri River Natural Resources District (PMRNRD) Board of Directors for Subdistrict 1 since 2009.

Japp said he doesn't "sugar-coat" anything on the PMRNRD board, and he "will be doing the same in the Legislature."

His campaign is focusing on education funding, government spending and groundwater management.

Japp said Nebraska's school system relies too heavily on property taxes.

"We subsidize failure," he said.

He proposes a voucher system that would give each student a voucher to attend any public or private school of his or her choice.

Japp is also a critic of proposals for dams in his district and in the region.

"I don't want the State of Nebraska owning the water under my land," he said.

Both agree: Taxes top priority

When asked what should be done with the state's \$693 million cash reserve, Japp said that any amount over that should be "returned to the state."

Brasch said infrastructure projects should be addressed, but high ag land values and lowering taxes should be considered as well.

Both candidates agreed that high taxes are the No. 1 issue in the state.

"How are we going to continue to fund our rural schools?" Brasch said.

"We need to follow the examples of the neighboring states," Japp said.

Japp attempts to buy soil by the millions

Washington County Enterprise Posted: Friday, October 10, 2014 9:45 am

Japp attempts to buy soil by the millions By Tammy Bain Washington County Enterprise and Pilot Tribune | 0 comments

Ten-million cubic yards at \$1 per yard.

That's what Scott Japp, the Papio-Missouri River Natural Resources District (PMRNRD) director representing Washington County, proposed to buy at an Oct. 7 subcommittee meeting. The soil is from one of the PMRNRD's ongoing dam projects, near 168th and Fort streets near Elkhorn.

"It's kind of bizarre," said John Winkler, general manager of PMRNRD.

Winkler said that the PMRNRD hasn't advertised to sell any of its soil in the project, but Japp presented a \$10.1 million proposal, with scarce details on how he will pay for it. Winkler said Japp was acting "very elusive" about what he plans to do with the soil once he makes the purchase.

"Even for it not to be a conflict of interest, you have to make full disclosure," Winkler said.

So the board declined to vote on the proposal.

"He won't come up with any information, but he wants us to sign off on something," said Tim Fowler, PMRNRD board member. Fowler and Winkler both said that Japp proposed something similar last month, and that the proposal appears to be a conflict of interest.

Japp said that had his proposal been approved, he'd turn around and sell the soil to numerous commercial and residential developments, road and street projects, and also donate 200,000 square feet of the topsoil to a national cemetery.

Japp calls the proposal a "quarry agreement."

"I'm not buying the land; I'm buying the rights," he said. His contract states he has 60 days to "reimburse" PMRNRD for its expenses, he said.

Japp said that even though he opposes the dam project, which he says only provides 5 percent flood protection in the event of a 100-year flood — a statement Winkler says is inaccurate — his proposal at the meeting was not associated with the dam project issue.

"Previous projects have done nothing to salvage topsoil," he said. Japp said the PMRNRD project will flood the best topsoil, and that topsoil is "very difficult to find."

Winkler said Japp provided very little about how much he would sell his newly-gained topsoil for if his proposal been accepted.

Had his proposal been accepted, Japp said he would sell the topsoil for about \$8 per yard, of which \$1 per yard would go to the PMRNRD; \$6 per yard would go toward expenses; and \$1 would earn Japp profit.

Winkler said he suspects Japp may turn the non-vote around and say the PMRNRD wants taxpayers to pay more money, which he said is not true.

"(Japp) made up the proposal, but we didn't have land to sell," he said. "There's no excess dirt. It's not like we have a bunch of soil that we don't have use for."

Winkler noted Japp's previous antics, saying that Japp can be a disruption to business as usual.

"Nobody has a problem with an opposite opinion," he said.

Fowler said that had Japp provided more information, he may have considered the proposal, though he said there would be skepticism because "this guy's blistered the board."

"I'm looking to look at anything face-value if it's legal (and) ethical," Fowler said. "Just be upfront. He didn't do that. There's something just not right."

COMING TO A HEAD

Kansas' accusation that Nebraska violated Republican River pact lands at U.S. Supreme Court

POSTED: MONDAY, OCTOBER 13, 2014 12:30 AM

Kansas' accusation that Nebraska violated Republican River pact lands at U.S. Supreme Court By David Hendee / World-Herald staff writer The Omaha World-Herald

'Everything's in place' for Nebraska to avoid new violations

The long-running dispute between Nebraska and Kansas over Republican River water washes up to the U.S. Supreme Court this week.

On Tuesday, attorneys for the states will argue their appeals of a judge's recommendation last year that largely sided with Nebraska's contention that it did not intend to use more water than legally permitted and has spent significant money to prevent it from happening again.

The judge concluded that Nebraska owes Kansas \$5.5 million for overusing water in the historic drought year of 2006. But Kansas had wanted more: \$80 million, an order that Nebraska shut down irrigation on thousands of acres and federal control of the river.

The case is more about the future than the past and could be costly to Nebraska taxpayers and have devastating implications for the agricultural economy in southwest and south-central Nebraska if Kansas prevails in its lawsuit, according to legal and natural resources authorities.

"Now we're dealing with the uncertainty that emerged after we thought we had this settled once," said Anthony Schutz, an associate professor at the University of Nebraska College of Law whose specialties include agricultural and water issues.

Dean Edson, executive director of the Nebraska Association of Resources Districts, said he expects the high court to look favorably on the strict irrigation limitations imposed on 1.1 million acres in the basin and other projects launched in recent years to keep water in the river.

The dispute centers on the Republican River Compact, an agreement signed by Nebraska, Kansas and Colorado in 1943 that allocates 49 percent of the river's water to Nebraska, 40 percent to Kansas and 11 percent to Colorado.

In its appeal, Kansas says Nebraska is a serial violator and hasn't taken responsibility for its repeated failures to take appropriate action to avoid using too much river water. Based on documents filed with the high court, Kansas Solicitor General Stephen McAllister is expected to argue that:

- » Nebraska's efforts to stem its overuse of the water in the past decade were "feeble and ineffective" and the state continues to blame factors beyond its control, such as drought.
- » Nebraska refuses to acknowledge or accept its "reckless march" to noncompliance with a water agreement between the states.
- » Nebraska needs "strong encouragement" from the court to ensure future compliance. Kansas says it wants Nebraska to pay \$11.1 million for its violation. Kansas originally sought \$80 million.

Last year a judge known as a special master and appointed by the Supreme Court recommended the \$5.5 million penalty. That represented \$3.7 million for Kansas' loss, plus \$1.8 million representing a portion of the amount by which Nebraska farmers' gain exceeded Kansas farmers' loss.

Kansas beseeched the court to adopt "meaningful and robust remedies to put an end to a long and sad history" of Nebraska's overuse of the river.

Nebraska Chief Deputy Attorney General David Cookson will argue that the state never knowingly violated the compact. He will say that strict pumping limits, imposed on the state's irrigators in the basin in recent years, and new pipelines to pump underground water into the river as needed are more than adequate to protect the river flows that Kansas needs, even in dry years.

He also will say the judge correctly determined that Nebraska had been wrongly charged with consuming Republican River water that it naturally imports from outside the basin. The imported water originates as leakage from Platte River irrigation canals and from farmers watering cropland near the northern edge of the Republican basin. Over time, the water migrates south from the Platte basin into the Republican basin, where wells withdraw some of it for irrigation use again.

Cookson will contend that the special master's recommended \$3.7 million penalty — what Nebraska owes Kansas in estimated actual damages for using too much Republican River water — is proper, and that there is no basis for a punitive award of \$1.8 million or any other amount.

The river has been the source of irritation and interstate legal battles for years, especially after farmers in the three states drilled thousands of wells into the aquifer to tap water for irrigating crops.

Few places in Nebraska suffer from as much scarcity of water flows as the Republican River. The river is not mountain-fed. It relies on tributary streams and underground water to feed its channel. The Republican rises in Colorado's eastern plains, crosses the tip of northwest Kansas into Nebraska and then flows across a section of southern Nebraska before re-entering Kansas.

Decades of unchecked agricultural pumping from the aquifer caused deep declines in the underground supplies and sapped water from the river. For years, Nebraska was reluctant to severely restrict groundwater pumping for Kansas' benefit and struggled to stay within its water allotment in dry years.

Kansas initially sued Nebraska in 1998. The states settled the case five years later.

Historic drought — deeper than the dry Dust Bowl years — complicated the balance a decade ago and triggered another Kansas lawsuit.

Interstate water cases are filed directly with the Supreme Court, which usually appoints a special master who sits as a judge to review evidence and make recommendations to the justices. That's what happened in 1998 and again in 2010, when Kansas returned to the court and accused Nebraska of violating terms of the 2003 settlement.

The trial was held in Portland, Maine, before William Kayatta, the special master, in August 2012.

Kayatta rejected Kansas' claim that Nebraska should pay \$80 million. He also turned down Kansas' call that Nebraska shut down irrigation on 302,000 acres in the basin. And he dismissed Kansas' request for a federal river czar to oversee water use in the river.

The judge noted Nebraska's strong efforts to resolve the dispute.

Nebraska's expenditures on water from 2006 to 2008 to mitigate its noncompliance were not the actions of a state callous to the downstream ramifications of its conduct, the judge wrote. He also wrote that Nebraska presented a credible case that in 2007 it started planning for compliance with more care and urgency.

Nebraska's solution took several years of painful negotiations and decisions that led to regulations that helped irrigators work toward compliance without drying up the area's

agricultural economy by shutting down thousands of irrigated cropland acres, said Edson, who represents the state's natural resources districts. New pumping regulations and irrigation efficiencies are now the norm, he said.

The suit includes Colorado as a co-defendant. The Colorado Attorney General's Office filed arguments supporting Nebraska, saying the state's breach of the compact was neither intentional nor opportunistic.

The U.S. Solicitor General's Office has asked the high court to let the special master's decision stand.

The arguments are part of the justices' review of the special master's decision. The court is expected to issue a final ruling before the end of the year.

Nebraska Attorney General Jon Bruning said the state has been proactive in working to meet its water obligations and will defend its record.

"This is a critical issue for Nebraskans," he said.

Contact the writer: 402-444-1127, david.hendee@owh.com



Rosalie getting water upgrade

The Papio-Missouri River Natural Resources District Board of Directors has approved a \$123,550 contract with the Bartlett and West Company for the design, bidding and construction observation work on a Rosalie Water Main Extension Project that will enhance domestic water supplies for the town.

"The village has been experiencing poor water quality and this project will provide clean water that is so necessary for healthy living," said John Winkler, NRD General Manager.

The Village of Rosalie has been awarded funds from the USDA Rural Development Program and Community Development Block Grant Program to upgrade its current water main infrastructure as well as connect to the Papio-

Missouri River NRD's Thurston County Rural Water System as a wholesale water customer.

The project will consist of installing approximately nine miles of four-inch PVC water main that will tie into the NRD's existing Thurston County Rural Water Project main near the intersection of Hwy 94 I, County Road 22 and then run south to the Village of Rosalie.

Under a draft version of the water purchase agreement between the NRD and the Village of Rosalie, the District will be responsible for hiring an engineering firm to design the water main extension and to hire a contractor to perform the work. The District will be reimbursed all associated engineering and construction costs by the Village. It is anticipated a final water purchase agreement between the NRD and the village will be presented to the NRD Board for consideration in November.

The tentative project schedule is to bid the project in the spring of 2015 and complete construction that fall.

"No one should need to live without a healthy water supply. A major component of our responsibility as a Natural Resources District is to protect our domestic water supplies and provide quality water in rural areas of Nebraska," Winkler said.

For more information on the NRD's rural water projects and helpful recommendations on how we can all act to preserve water quality, visit the NRD's website at www.papionrd.org.

Flood control dominates in five Papio-Missouri River NRD races

By Cody Winchester / World-Herald staff writer | Posted: Sunday, October 19, 2014 1:00 am

See more on the candidates for Papio-Missouri River NRD board at dataomaha.com/electionguide

* * *

Flood control and recreation are the hot topics in campaigns for five seats on the Papio-Missouri River Natural Resources District board.

The agency has a low profile but a big footprint: Its 11-member board oversees an \$85 million budget used to build dams and levees, maintain recreational trails and manage conservation programs across a six-county watershed.

The NRD has kept its tax levy flat for nine years. But it has borrowed millions to finance major flood-control projects, nearly maxing out the bonding authority it was granted in 2009.

District officials also are trying to come up with \$25 million to overhaul the levees that protect parts of Bellevue and Offutt Air Force Base.

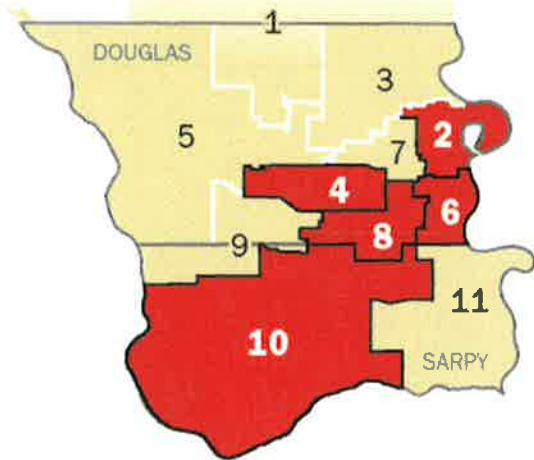
In Subdistrict 2, which includes neighborhoods in north Omaha and Carter Lake, Joseph Charbonneau is challenging longtime board member Fred Conley.

Conley said he would continue to be a good steward of property tax dollars, and he's eager to start building the district's latest big dam project, a \$43 million, 225-acre reservoir in northwestern Omaha.

"I'd like to see that through," he said.

Conley said he's looking for more opportunities to build trails in northeast Omaha, and the former Omaha city councilman suggested working more closely with the City of Omaha to identify possible trail heads as crews work on the \$2 billion sewer overhaul.

PAPIO-MISSOURI RIVER NRD BOARD SUBDISTRICTS 2, 4, 6, 8, 10



THE WORLD-HERALD

nrdgraphic

Charbonneau, an ordained minister who works at PayPal, said serving on the NRD board squares with his religious ideal of being a good steward of the land. He said he has solid relationship-building skills.

“I would like to see more done in central Omaha for lead reclamation,” he said. “It’s certainly within (the NRD’s) mission.”

The Subdistrict 4 race is a rematch between 15-year incumbent John Conley and former board member Barb Nichols.

John Conley said his top priority is upgrading the Offutt levees, which are at risk of being decertified, finding grants and other funding sources to pay for the federal government mandate.

“The feds have us over a barrel,” he said.

The district also needs to keep ahead of developers as it looks for potential land for new flood-control projects, John Conley said.

Nichols has challenged John Conley in the past two elections and lost.

In 2006, it was revealed that Nichols was in a relationship with then-NRD general manager Steve Oltmans, who is married. Oltmans was fired.

Nichols, who describes herself as a fiscal conservative, said she would bring fresh energy and enthusiasm to the board. She’d like the district to focus on smaller urban flood control projects, on habitat preservation and sediment control projects.

“I stand for quality of life and opportunity for people,” she said.

In South Omaha’s Subdistrict 6, board member Jim Thompson is running unopposed.

In Subdistrict 8 in the Ralston area, retiree Jim Kusek is taking on incumbent Tim Fowler.

Fowler said voters can count on a “steady hand at the wheel” if he is re-elected. He, too, is concerned about paying for the levee upgrades at Offutt, where he works as a defense research analyst for Millennium Corp.

“We bit off a lot, and we’re going to finish a lot of projects that need to be put to bed,” he said.

Fowler said he would continue to champion quality-of-life projects such as a long-sought connector trail that forms an east-west corridor through his district.

Kusek, a retiree who spent decades in the energy industry, said he would offer a new perspective. He said he would use his consensus-building skills to bring harmony to the board, which has an ongoing dispute with board member Scott Japp.

The NRD manages tax dollars well, Kusek said, but it needs to explain better to citizens how the money is spent. "I would be a more proactive board member," he said.

In Subdistrict 10, which covers most of Sarpy County, Lee Menges of Springfield is challenging incumbent David Klug.

Menges, an avid sportsman, said the district should do more to set aside public areas for habitat preservation and spend less time pursuing big flood-control projects.

Apart from the time and expense of building dams, he said, the farmers whose land is flooded "aren't getting a fair shake" from the NRD. He's skeptical of the benefit those projects provide.

"If Mother Nature wants to flood, she's going to flood," he said. "That's just the way it rolls."

Klug, who was elected board chairman this year, said he'll keep a sharp eye on the budget. He voted against issuing much of the bond debt the NRD now holds, calling the spending irresponsible.

"We've put the district, and our constituents, in way too much debt," he said.

His top priority is finishing the Offutt levee project, he said. After that, it's time to step back and "realign the budget."

"We've taken on enough big projects, enough debt," he said.

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In opening of Missouri River bridge, Bellevue sees its opportunity to attract development



highway 34 bridge map

Highway 34 bridge project facts

- » After two decades of planning, the project broke ground in September 2010. It originally was set to open in late 2013 but was delayed until this year because of historic Missouri River flooding in 2011 and wildlife restrictions. The bridge will open to traffic Wednesday afternoon.
- » The whole project, which includes the bridge and its approaches, cost about \$115 million, with the federal government paying 80 percent of the cost and Iowa and Nebraska splitting 20 percent. The bridge itself cost \$61 million. Jensen Construction Co. of Des Moines was the primary contractor on the bridge.
- » There has never been a bridge at this location. The last new bridge over the Missouri between Iowa and Nebraska was the Bob Kerrey Pedestrian Bridge, which opened in 2008. The rebuilt Veterans Memorial Bridge opened to traffic in 2010. The last entirely new bridge meant for vehicles was the Bellevue toll bridge, built in 1950.

Sources: Iowa Department of Transportation and Nebraska Department of Roads

Bellevue's land of opportunity is south of the city, where thousands of acres are about to open up to development.

This week, the long-awaited Missouri River bridge will open to traffic, providing a new highway link between the Omaha area and Interstate 29 in Iowa. The wide-open Highway 34 corridor is expected to be attractive to businesses.

Now some Bellevue officials hope to persuade voters to make an investment in the area.

In November, Bellevue residents will vote on a proposition that would allow the city to spend up to \$750,000 a year on economic development in the bridge area. If approved, Bellevue could spend the money on infrastructure; the city is focusing on sewer lines.

Plans call for the area to develop into a rail-served industrial hub. But with the four-lane bridge now complete, Bellevue officials say the development will not arrive without financial incentives from the city.

The Bellevue City Council unanimously approved putting the proposition before voters, but not without some reservation. One councilman doubted that Bellevue's already stretched budget could put any money toward business incentives, and another worried that a tax hike would be needed.

Bellevue Chamber of Commerce President Jim Ristow said the program would help the corridor become shovel-ready for businesses.

Ristow said that the program would rely on Bellevue's existing tax revenue and that the council could decide how much to fund it each year. The program would be in effect for 25 years starting next year, he said.

"If there is a windfall," Ristow suggested, "shift that to this."

Many city officials believe the program is what Bellevue needs to boost development.

In recent years, the state's third-largest city has lost out on major development to its Sarpy County neighbors. The Werner Park baseball stadium, for example, went to a site outside of Papillion instead of along Kennedy Freeway in Bellevue.

While Bellevue has tried to step up development efforts, voters haven't always been receptive.

Two years ago, residents overwhelmingly rejected two propositions meant to boost economic activity, one of which would have raised the Bellevue sales tax.

Councilwoman Carol Blood said the initiatives weren't properly presented. This time around, people will vote only on the economic program.

Blood, who's running for the Legislature, said the program is needed to "move Bellevue forward."

"The people that complain about Bellevue never being developed have to look at the parameters Bellevue has to work in," she said. "We don't have the benefits that Papillion and La Vista have. They have room to grow. For us, there's only once place (to go), and that's south."

City Administrator Dan Berlowitz said offering incentives is part of the game. If Bellevue doesn't have incentives, he said, businesses will pass up the city for others that will.

"If they're going to invest in a facility and equipment and bring operating capital, they clearly expect not to have to pay for water, sewer, power, gas and, to a certain degree, good

roads,” Berlowitz said. “They look at that as the local community’s contribution or investment in order for them to invest.”

Bellevue Councilman Paul Cook said he supports having the initiative go before voters. But when he goes to the polls, he plans to vote no.

Cook said Bellevue taxpayers should not be the only ones paying for development that will help the entire metro area.

Bellevue and Sarpy County already have an agreement to work together to provide sewer service to the Highway 34 corridor. But Cook said three stakeholders in the area — Bellevue, Sarpy County and Omaha — should pursue an agreement to jointly pay for infrastructure.

Several neighboring communities — including La Vista, Plattsmouth and Blair — have adopted economic programs allowed under state law passed in 1991.

The program allows cities to offer incentives such as loans or grants, which businesses can put toward job training, working capital or fixed assets like their building or equipment. Residents have some oversight because the program requires a citizen advisory committee.

La Vista voters approved its economic program in 2003, giving the city authority to spend up to \$2 million a year for development. The Sarpy city used the money to help attract the conference center in the Southport development.

La Vista Mayor Doug Kindig said that project would not have happened without La Vista’s program.

Sarpy County Board member Tom Richards of Bellevue said passing the ballot initiative would be a good first step for Bellevue. He said officials need to be mindful that the area competes for business not only with other Nebraska cities, but also with Iowa.

“It’s a two-way street,” he said. “The Iowa side of the river has potential, too. We’re in a competition for resources to attract businesses.”

Larry Winum, president of the Mills County Economic Development Foundation and co-chairman of the Southwest Iowa Coalition, said water and sewer lines have been extended to some of the area on the Iowa side. The Mills County Economic Development Foundation and the county also created a district to encourage development.

While that district includes plans for distribution centers, light commercial development and a business park, Winum said he expects hotels, fast food restaurants and truck stops in the area, too.

“There’s people or landowners certainly entertaining the thought of selling,” he said. “You really don’t know until the bridge opens and you start looking at traffic.”

At a public presentation last week, Tom Ackley, who’s on the board of directors for the Bellevue Chamber, said that if the economic program is rejected, Bellevue could continue to miss out on business and industry opportunities.

That, Ackley said, could result in higher property taxes and limit employment opportunities in Bellevue.

Ristow said the Highway 34 corridor is attractive, and the economic program would make it even more attractive to businesses. He said a business prospect he’s talked with during the last year jumped at the idea of sewers serving the area soon.

“These guys were in the car faster than we could bat an eye,” he said.

World-Herald staff writer Andrew J. Nelson contributed to this report.

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[Drinking Water \(/solution/drinking-water\)](#) [Wastewater \(/solution/wastewater\)](#) [Industrial \(/topic/industrial-water-and-wastewater\)](#)

[Utility Management \(/topic/utility-management\)](#) [Providers \(/providersearch\)](#) [WEFTEC 2014 \(/solution/weftec\)](#)

News Feature | October 24, 2014

Nebraska: Beacon Of Good Water Policy?

By Sara Jerome (/author/sara-jerome)
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Is Nebraska a model for sensible water regulation?

"With ongoing summer droughts in many states across the country, water scarcity continues to be a threat, [which is shifting] water regulation policies in some states to focus on more local management plans like Nebraska has," Nebraska News Service recently reported (<http://www.mccookgazette.com/story/2122425.html>).

Nebraska regulates water at a local level through Natural Resources Districts (NRDs). It has 23 NRDs.

"The NRDs are divided by river basin boundaries and have legal authority to create water regulation policies within each district. Nebraska's system is unique compared to other states because of the way boundaries are drawn and the significant legal authority NRDs are given, said Dean Edson, executive director of the Nebraska Association of Resources Districts," the report said.

This approach makes Nebraska different from many other areas of the country.

"Many other states have water laws controlled at the state level or are beginning to change their water laws in response to increasing concerns. A number of factors can affect water regulation in a state, such as number of irrigated acres, population size and how much water the state has," the report said.

Dave Aiken, University of Nebraska-Lincoln professor and water law specialist, explained the differences between Nebraska and other states.

"When you look at the states that actually have the groundwater, they all have less regulation than the states where the groundwater is really scarce," he said. "And so the states where it is really scarce, they regulate the most, because it is so scarce."

Another dividing line: western states tends to regulate differently than eastern states.

"In the eastern U.S., most states follow a riparian rights system, which allows only those who border streams or water basins to use the water from that source. In certain cases these water users can divert the stream flow if it doesn't harm anyone else and the use is reasonable. During times of water shortage, lawsuits often arise over whose water use is reasonable and whose is unreasonable," the report said.

In California, some experts say policies are so muddled (<http://www.wateronline.com/doc/water-rights-policies-not-just-weather-drying-up-california-0001>) that they exacerbate the effects of the drought.

But like anywhere else, Nebraska faces plenty of challenges when it comes to water.

Nebraska has reported \$1.8 billion in drinking water infrastructure needs over the next two decades, according to (<http://www.infrastructurereportcard.org/nebraska/nebraska-overview/>) the American Society of Civil Engineers. It has reported \$3.2 billion in wastewater infrastructure needs over the same period.

And no state is immune to the the big challenges, including climate change.

A new report from the University of Nebraska-Lincoln shows that "changes noted globally are reflected in Nebraska, which has experienced an overall warming of about 1°F since 1895," according to a recent university announcement (<http://watercenter.unl.edu/Archives/2014/ClimateChange.asp>).

For more on policy and politics, check out Water Online's Regulations & Legislation Solution Center (<http://www.wateronline.com/topic/drinking-water-regulations>).

Image credit: "Welcome to Nebraska," Mike Tigas © 2009, used under an Attribution 2.0 Generic license: <https://creativecommons.org/licenses/by/2.0/>

World-Herald editorial: Four for Papio NRD flood work

POSTED: TUESDAY, OCTOBER 28, 2014 1:00 AM

World-Herald editorial: Four for Papio NRD flood work

No work the Papio-Missouri River Natural Resources District does is more important than its mission to prevent flooding.

Residents in the NRD, which covers six eastern Nebraska counties north of the Platte River, saw the value of those levees, dams and reservoirs during the 2011 Missouri River flooding. The 11-member board, which manages the NRD and its \$85 million budget, clearly has a big job.

Five board seats are up for election Nov. 4, with one race uncontested. In the other four, the incumbents all have earned another term.

In north Omaha's Subdistrict 2, Fred Conley, a former city councilman, correctly emphasizes the need for continued flood control work and related recreational opportunities. He adds that property taxpayers' interests also need to be protected.

In center-west Omaha's Subdistrict 4, John Conley's leadership has focused on major structures to prevent massive flooding. The engineer and certified water plant operator worked nearly 40 years at the Metropolitan Utilities District.

Fellow incumbent Tim Fowler emphasizes the need to focus attention on making sure Offutt Air Force Base is properly protected with levees that federal officials will recognize. Fowler, a defense contractor at Offutt, faces a capable challenger in south-central and southwest Omaha's Subdistrict 8. But Fowler's Offutt ties and his understanding of the economic importance of improving those levees make him the best choice.

In western Sarpy County's Subdistrict 10, board chairman David Klug has worked to keep the board's focus where it belongs. He voted against some large projects, but he understands when investments must be made. He plans to re-evaluate and pare back the board's list of projects once the Offutt-related work is done.

Papio-Missouri River NRD voters should re-elect incumbents Fred Conley in Subdistrict 2, John Conley in Subdistrict 4, Tim Fowler in Subdistrict 8 and David Klug in Subdistrict 10.

Sarpy County's Prairie Queen Recreation Area will offer fishing and flood protection



KENT SIEVERS/THE WORLD-HERALD

The Papio-Missouri River NRD is finishing up work on Prairie Queen Recreation Area, located outside the city of Papillion by Werner Park, although it won't open to the public until March or April.



KENT SIEVERS/THE WORLD-HERALD

A Savanna sparrow perched lakeside at soon-to-open Prairie Queen Reservoir by Werner Park near 132nd and Highway 370 in Papillion.

Location: 132nd Street and Cornhusker Road, west of Werner Park

Reservoir: 135 acres

Parkland: 335 acres

Trails: 4 miles

Fish: Channel catfish, largemouth bass, bluegill, red-ear sunfish, black crappie

Opens: Spring 2015

Sarpy County's Prairie Queen Recreation Area to offer fishing, flood protection WEDNESDAY, NOVEMBER 5, 2014

By Cody Winchester / World-Herald staff writer The Omaha World-Herald

Sarpy County's newest recreation area and reservoir is almost ready for prime time.

The Papio-Missouri River Natural Resources District is putting the finishing touches on Prairie Queen Recreation Area, its first major dam site project in eight years.

The park, located outside Papillion by Werner Park, won't open until March or April, but the work is substantially finished — trails are poured, the grass seeded, the pedestrian bridges built. And the park's 135-acre reservoir, created by damming Westmont Creek, is full of water and growing fish.

The park has 335 acres of green space seeded with fescue, bluestem, wild rye and other native grasses. Wetlands were encouraged in low-lying areas to benefit waterfowl. A 4-mile trail loop connects to Lincoln Road, with walking and bike access to Werner Park.

"It'll be a perfect place for families to get together — have a picnic, take in a ballgame," said NRD board Chairman Dave Klug, who represents the area.

For now, though, Prairie Queen is closed to visitors. The NRD typically shuts down its recreation areas for the winter on Nov. 1, General Manager John Winkler said. Another winter will give the NRD time to find seasonal help and give the fish time to grow to a catchable size.

Prairie Queen took two years to build on a budget of \$35.8 million, with \$18.45 million of that cost funded by new bond debt. The project is coming in roughly on time and so far about \$3.8 million under budget, said Amanda Grint, a water resources engineer at the NRD.

Beyond the site's recreational potential, the dam is a key component of a flood control plan to reduce flows downstream, local officials said. The creek flows north from the spillway and joins Papillion Creek, which flows through the City of Papillion.

"(The dam) provides much greater flood protection for Papillion," city spokesman Darren Carlson said.

Even with the added flood control, the city will need to raise bridges at 66th and 84th Streets and rehabilitate the levees protecting the city. But Prairie Queen will greatly reduce the cost and scope of those projects, Carlson said.

Prairie Queen lies between two existing NRD reservoirs — Wehrspann Lake and Walnut Creek Lake. Its average depth is 10 to 15 feet, with deeper sections about 40 feet down in the former creek channel, Grint said.

A portion of Cornhusker Road, once a two-lane gravel turnoff at 132nd Street, is now one of several breakwaters that slow waves and give shore anglers room to cast. There's a boat ramp on the west side. A stand of trees remains in the lake bed, with lanes carved out for boat access. Other trees were cut, bundled and sunk for fish habitat.

The Nebraska Game and Parks Commission has been stocking the lake with largemouth bass, channel catfish, bluegill, red-ear sunfish and black crappie, said Steve Satra, a program specialist in the commission's fisheries division.

The reservoir was designed with underwater shoals, coves, gravel for spawning beds and other features attractive to fish, Satra said.

Eventually, the fishing will be good, Satra said. But when the park opens in the spring, "there's not going to be a lot of fish ready to go home," he said.

Prairie Queen will draw some traffic away from the Walnut Creek Recreation Area in Papillion, which will be a good thing, Winkler said.

"On weekends, you can almost walk across the water without getting wet — just stepping in boats," he said.

Local officials hope Prairie Queen will spur development around Werner Park, which has been slow to materialize.

On a recent visit, fall sounds of rattling leaves and honking geese were joined by the rumble of heavy equipment moving dirt at North Shore, a housing development underway east of the park near a partially built elementary school that shares a name with the reservoir.

Along 132nd Street, the NRD has 46 acres of land that wasn't part of the park design. The property could be sold off to a developer or incorporated into the park as green space.

Eventually, Prairie Queen will become part of Papillion. The city will assume management of the park in 2025 or whenever the area is annexed, whichever comes first.

The idea was for the NRD to build the park and provide basic amenities such as picnic shelters and restrooms, and Papillion can further develop the park when it takes over. That's a ways off, Carlson said, so it's too early to speculate on what that might look like.

But Carlson said Prairie Queen will be a boon to people in the area. The popularity of Walnut Creek, he said, is "an obvious example to follow."

"I think you'll see the same thing with Prairie Queen," he said.

Papio-Missouri River NRD board member Scott Japp must cooperate in dam dirt spat

By Cody Winchester / World-Herald staff
writer The Omaha World-Herald POSTED: FRIDAY, NOVEMBER 7, 2014 1:00 AM

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- Related: **Board member: Letter was ploy to ensnare NRD**
- Related: **NRD board member subject to ethics probe offers deal: He'll pay up to \$10M to buy dirt**

POSTED: FRIDAY, NOVEMBER 7, 2014 1:00 AM

Judges in two counties have ruled that a local official and his lawyer must cooperate with subpoenas for information related to a supposed plan to buy dirt from an Omaha dam site.

Papio-Missouri River Natural Resources District board member Scott Japp is under scrutiny for his role in a proposal to quarry soil from Dam Site 15A, a new reservoir project in northwest Omaha.

Last week, Lancaster County District Judge Steven Burns ordered Japp and his lawyer, K.C. Engdahl, to produce documents subpoenaed by the Nebraska Accountability and Disclosure Commission. The commission is seeking records from a company, Canudigit LLC, that purportedly wanted to buy the dirt. Engdahl is the registered agent.

NRD attorneys pursuing a court injunction against Japp in Douglas County also have subpoenaed company records. In an order last week, Douglas County District Judge Timothy Burns ruled that Engdahl must produce the documents within 30 days. He also ordered Japp to comply with the NRD's request to depose him.

In court filings and at board meetings, Japp and Engdahl insist that Japp has nothing to do with the company. The NRD's actions, they say, are part of an intimidation campaign meant to silence the outspoken board member, who has criticized the NRD's dam-building plan, its fiscal priorities and its dealings with landowners.

Engdahl registered Canudigit in February, after the NRD board voted to have then-Chairman Fred Conley file an ethics complaint against Japp with the Nebraska Accountability and Disclosure Commission.

The commission opened an inquiry, but Japp and Engdahl refused to answer subpoenas issued by state attorneys investigating the complaint.

The state went to court to compel their cooperation, leading to the judges' rulings.

Engdahl declined to comment. Japp didn't return messages.

World-Herald editorial: Feds should heed concerns over 'water rules'

POSTED: SUNDAY, NOVEMBER 9, 2014 1:00 AM

World-Herald editorial: Feds should heed concerns over 'water rules'

Last spring, federal regulators asked the American public a question: Is a new, 371-page regulation proposal called “Waters of the U.S.” a good idea?

The controversial changes could expand federal regulatory authority to include some types of small streams and ponds, roadside ditches, low-lying farm ground that floods at times and spots where water pools when it rains.

the response from the public has identified a host of practical, serious concerns. That spurred officials to extend the comment period until Friday. Comments — more than 215,000 so far — can be posted online by going to www2.epa.gov/uswaters and clicking at the top on the link, “Submit a formal comment.”

Ag producers in the Midlands have warned of major disruptions to the agricultural economy because farmers and ranchers would be required for the first time to get federal permits for a range of activities, adding delays and raising costs for an already challenging economic endeavor.

Examples include putting in or changing drainage ditches; installing small dams and terracing; applying fertilizer, pesticides and manure; and using stock ponds for watering animals.

The fact-based concerns voiced in recent months should give regulators ample reason to press the pause button and re-examine their plan.

A key example came last week, when Nebraska’s 23 natural resources districts formally submitted their concerns to the Environmental Protection Agency. The proposal, they said, would result “in significant cost increases and delays in economic and management activities for landowners, homeowners, agencies and businesses.”

Under current regulations, the federal permits take around 18 months to process and cost up to \$100,000, the NRDs said. The proposed changes would add both time and expense, they said.

The NRDs said it is troubling that federal regulators would place the burden on a landowner to show that a federal permit isn’t needed. That would be a reversal from current policy, by which the obligation falls on regulators to demonstrate the need for a permit.

The proposal would make groundwater subject to federal control for the first time, the NRDs said, with a huge impact on Nebraska agriculture.

Among other concerns raised in recent months:

>> Michael Linder, who headed Nebraska's Department of Environmental Quality from 1999 to 2013, has written a detailed analysis for the Nebraska Farm Bureau. He concludes that "Nebraska agricultural producers should have deep concerns" about the proposal.

Among the problems he identifies: The proposal would impose a rigid set of new regulations, providing no flexibility. Definitions of key terms, such as "tributaries," would be so broad as to allow far-reaching, controversial regulatory expansion. The rules would substitute federal control for long-standing state procedures encouraged directly by the Clean Water Act and proven to strike practical balances between environmental protection and producers' interests.

The proposal, Linder says, even would have the unintended consequence of discouraging producers from installing certain conservation measures because the structures would be subject for the first time to federal permits.

Overall, Linder writes, the proposal would add up to "a tremendous negative impact" for the state's ag producers. His warning has particular credibility, given his long experience with Nebraska environmental issues.

>> An Oct. 1 letter from the Office of Advocacy, an independent agency within the federal Small Business Administration, called for the EPA proposal to be withdrawn. The proposal "would have direct, significant effects on small businesses," the office wrote. It expressed concern that the EPA did only "limited economic analysis" on what the real-world costs would be for small businesses.

Environmental protection is a vital social need. So is the continued vitality of our economy. Regulators should heed the warnings from the public about these legitimate concerns.

The "Waters of the U.S." proposal should be replaced with a more measured approach that strikes a practical, sensible balance.

Midlands Voices: 'Waters of the U.S.' rule is needless

POSTED: MONDAY, NOVEMBER 10, 2014 1:00 AM

By Tom Briesc

The writer is an agricultural producer in Albion, Nebraska.

Earlier this year, the Environmental Protection Agency and U.S. Army Corps of Engineers published for public comment a "Waters of the U.S." proposal defining the scope of waters protected by the Clean Water Act.

Congress enacted the Federal Water Pollution Control Act, or Clean Water Act, in 1972, "to restore and maintain the chemical, physical and biological integrity of the Nation's waters."

Under the Clean Water Act, the EPA and Army Corps of Engineers have unquestioned jurisdiction over traditional navigable waters. Jurisdiction over other waters can require a finding of a nexus between such waters and their navigable counterpart.

Under the proposed rule, however, jurisdiction becomes automatic over tributary systems to navigable waters, along with all waters adjacent to these tributaries. Adjacent waters include neighboring waters, wetlands and riparian areas.

The EPA and Corps suggest this proposal, and its blanket assumption of jurisdiction over the above waters, "will eliminate the need to make a case-specific significant nexus determination for tributaries or for their adjacent waters." They further claim it will provide "certainty and predictability, and minimiz[e] the number of case-specific determinations."

But as noted in an analysis of this rule by Michael Linder, former director of the Nebraska Department of Environmental Quality, this "creates a blanket jurisdictional determination without the ability to interject judgment or common sense where needed."

In the Cornhusker State, proposals such as the Waters of the U.S. must be judged by one standard — is it good for Nebraska? And in Nebraska, the analysis ultimately must focus on the impact to the engine that drives our economy — agriculture.

The EPA and Corps assert that "Waters of the United States ... provide many functions and services critical for our nation's economic and environmental health." But noticeably absent from the proposal is compelling evidence that these waters are not being adequately protected under the current regulatory scheme.

This would suggest the proposed rule is unnecessary for effective implementation of the Clean Water Act. And its negative impact on our state's agricultural producers is undeniable.

In his analysis, Linder suggests that because of the expanded definition of subject waters, many livestock operations currently exempt from permitting requirements may find themselves out of compliance. He also cites the possibility of more producers needing to prepare a Spill Prevention, Control and Countermeasures Plan. Linder further suggests the additional number of water bodies potentially subject to quality standards "will put added burdens on producers."

In a recent press release, the American Farm Bureau Federation states that the proposal "would dramatically increase the number" of waters subject to Clean Water Act jurisdiction. And among other things, the Farm Bureau suggests that the application of pesticides and fertilizers to fields containing low spots or drainage paths may require a Clean Water Act permit.

Like many producers across the state, I both pivot and gravity irrigate crops in a riparian floodplain of what is arguably a tributary to a navigable waterway. The proposed rule specifically excludes from the "waters of the United States" designation those "[a]rtificially irrigated areas that would revert to upland" should irrigation cease. By implication, my low-lying irrigated fields, which presumably wouldn't "revert to upland," would become subject to blanket EPA and Corps jurisdiction.

And although the proposal exempts from permitting requirements "return flow" from irrigation, as my irrigation water ponds or pools on the surface, or even gravity flows through the field, the proposed regulations suggest that such water becomes "Waters of the U.S." and subject to EPA and Corps control.

The EPA and Corps suggest their proposal would "enhance protection" of water resources. But in this case, enhancement simply suggests expansion of federal jurisdiction. And in the case of Nebraska agriculture, that expansion is both burdensome and unnecessary.

In Nebraska, common sense prevails. And the same should be true of federal agencies. Instead of a blanket assertion of jurisdiction over non-navigable waters, a common-sense, case-specific determination would be preferable.

We must not allow the EPA to impair the agriculture's ability to drive Nebraska's economy by burdening producers with onerous and unnecessary regulations. The proposed "Waters of the U.S." rule should be withdrawn.