

Agenda Item 7:

Memorandum

To: Programs, Projects and Operations Subcommittee
From: Brian L. Henkel, Groundwater Management Engineer
Date: January 08, 2013
Re: Missouri River Levee System Certification Project – Nebraska Environmental Trust (NET) Grant Application:

In August 2012, the Board approved a grant application to the Nebraska Environmental Trust (NET) for assistance on a setback of the existing R-613 Missouri River Levee (R-613). A setback of the R-613 levee at the confluence of the Platte and Missouri Rivers was proposed as part of the Missouri River Levee System R-613 and R-616 certification project. The setback would have moved a portion of the levee back away from the river to allow an area currently protected by the levee to be reconnected to the river floodplains. The NET grant application was a request for \$2 million to cover the extra cost associated with setting back the R-613 Levee.

The District had been in discussions with the US Army Corps of Engineers (Corps) Missouri River Recovery Program (MRRP) to purchase 399 acres of land riverward of the existing levee alignment from PCS Nitrogen, Incorporated. A meeting with the Corps and numerous stakeholders was held at the District offices on December 6, 2012 concerning this matter (meeting minutes attached). The Corps has completed their environmental review of the land purchase and a preliminary technical assessment of the potential setback alternative and has decided not to proceed with an appraisal or purchase of the property. The Corps concluded that the purchase area did not provide significant environmental benefit from the standpoint of the MRRP and that the nearby nitrogen contamination created a potential liability to the Corps. The Corps also concluded that the proposed setback alternative could potentially exacerbate sedimentation problems within the Missouri River navigation channel. While the MRRP has decided not to pursue a purchase, several of the groups at the recent meeting expressed an interest in pursuing a purchase independent of the MRRP.

Given the Corps concerns and decision, setback of the R-613 Levee does not appear to be feasible at this time. As such, it is recommended that a setback of the R-613 levee, as part of the Missouri River Levee Certification Project, not be pursued and the District's grant application to the Nebraska Environmental Trust be modified.

Management recommends that the Programs, Projects and Operations Subcommittee recommend to the Board of Directors that a setback of the Missouri River R-613 Levee not be pursued further and that the application for a Nebraska Environmental Trust grant be modified to provide for the acquisition of fee title or conservation easements in the area, rather than construction of a levee setback.

Agenda Item 7:

Memorandum

To: Programs, Projects and Operations Subcommittee
From: Brian L. Henkel, Groundwater Management Engineer
Date: January 03, 2013
Re: Missouri River Levee System Certification Project— Withdrawal of the Nebraska Environmental Trust (NET) Grant Application for Levee Setback:

In August 2012, the Board approved a grant application to the Nebraska Environmental Trust (NET) for assistance on a setback of the existing R-613 Missouri River Levee (R-613). A setback of the R-613 levee at the confluence of the Platte and Missouri Rivers was proposed as part of the Missouri River Levee System R-613 and R-616 certification project. The setback would have moved a portion of the levee back away from the river to allow an area currently protected by the levee to be reconnected to the river floodplains. The NET grant application was a request for \$2 million to cover the extra cost associated with setting back the R-613 Levee.

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Given the Corps concerns and decision, setback of the R-613 Levee does not appear to be feasible at this time. As such, it is recommended that a setback of the R-613 levee, as part of the Missouri River Levee Certification Project, not be pursued and the District's grant application to the Nebraska Environmental Trust be withdrawn.

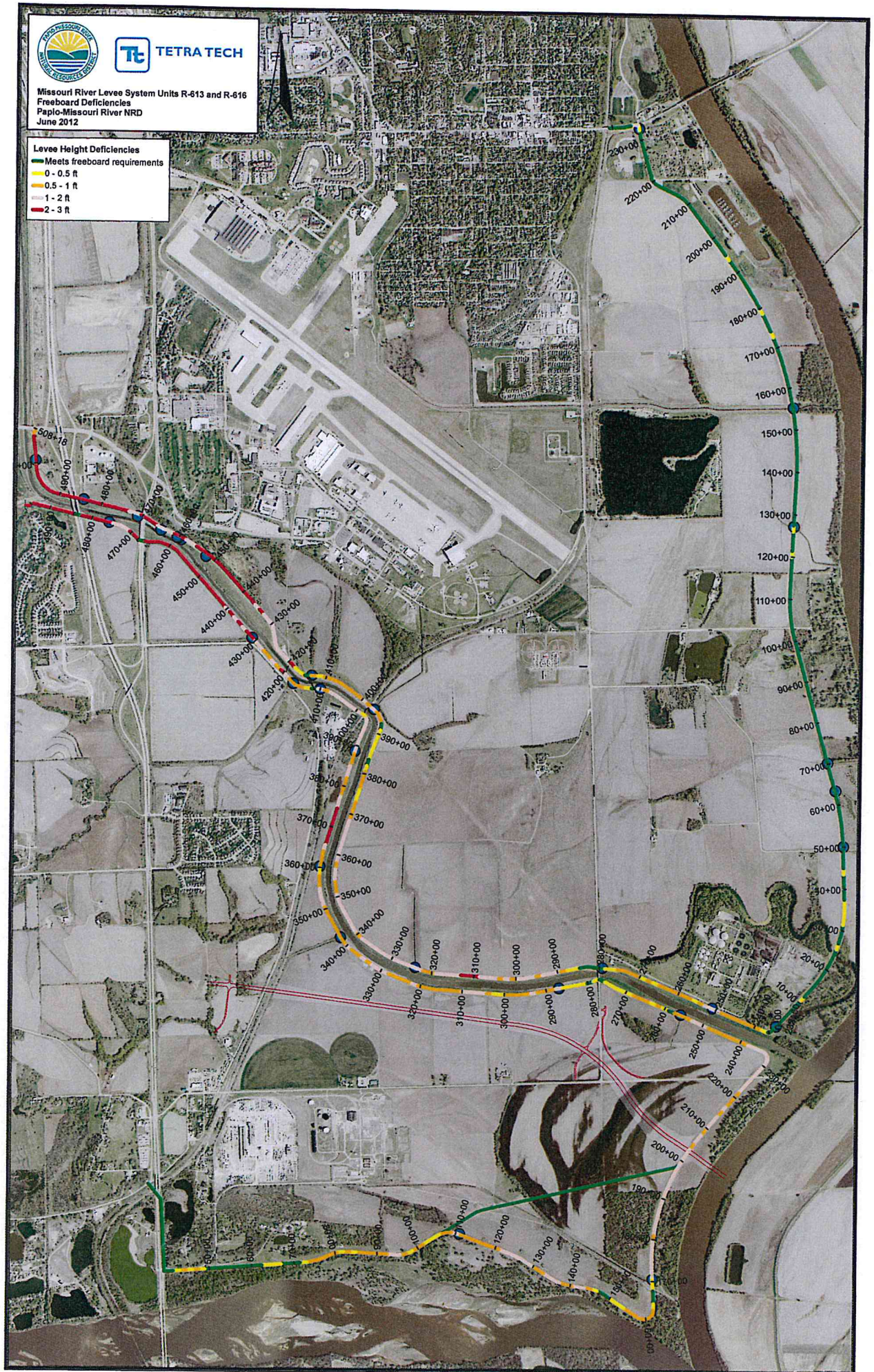
Management recommends that the Programs, Projects and Operations Subcommittee recommend to the Board of Directors that a setback of the Missouri River R-613 Levee not be pursued further and that the application for a Nebraska Environmental Trust grant for such setback be withdrawn.



TETRA TECH

Missouri River Levee System Units R-613 and R-616
Freeboard Deficiencies
Papio-Missouri River NRD
June 2012

Levee Height Deficiencies
Meets freeboard requirements
0 - 0.5 ft
0.5 - 1 ft
1 - 2 ft
2 - 3 ft

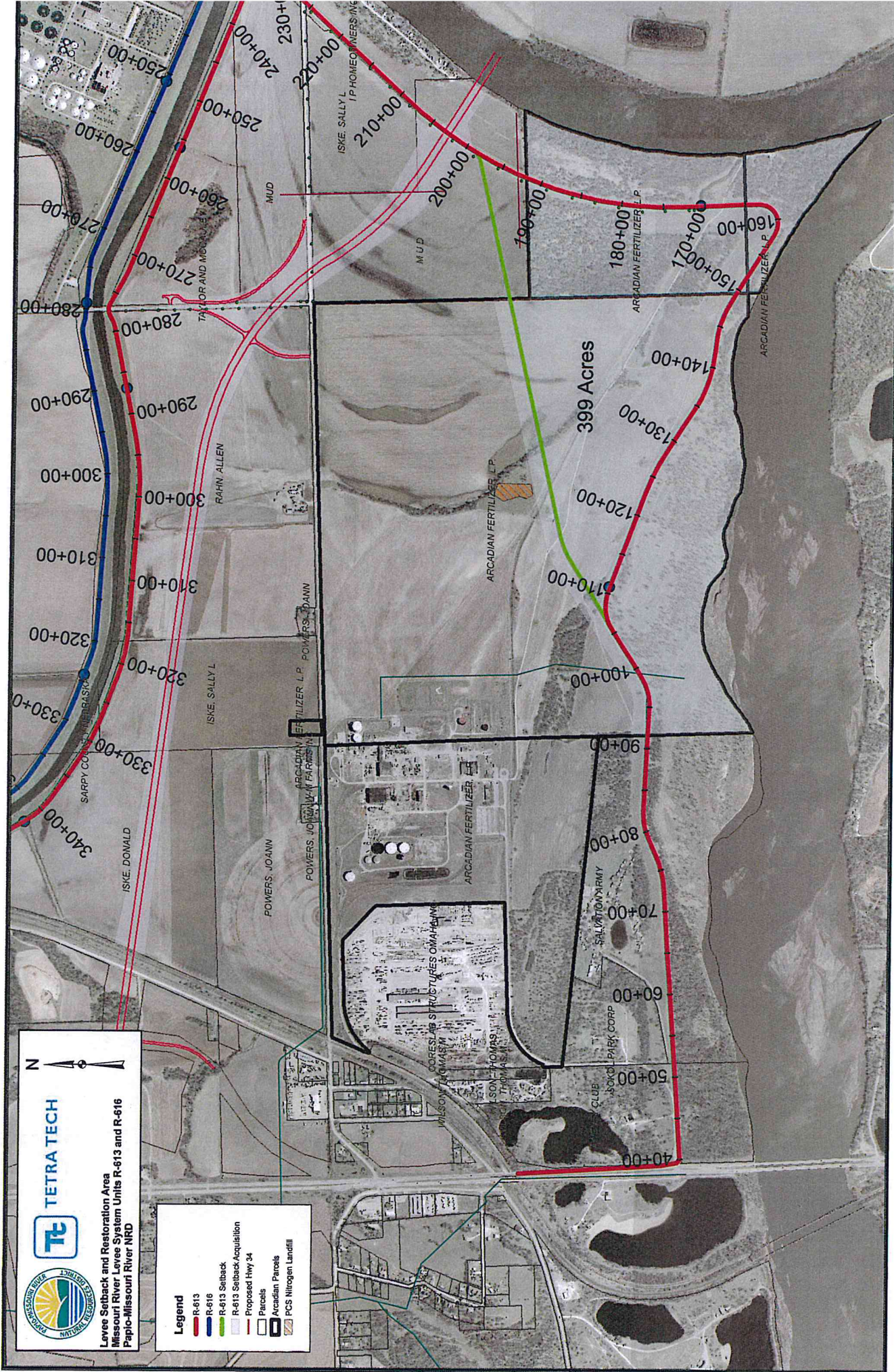





Levee Setback and Restoration Area
Missouri River Levee System Units R-613 and R-616
Papio-Missouri River NRD

Legend

- R-613
- R-616
- R-613 Setback
- R-613 Setback Acquisition
- Proposed Hwy 34
- Parcels
- Arcadian Parcels
- PCS Nitrogen Landfill





Meeting Minutes

MRRP PCS-N Acquisition/R-613 Levee Setback Meeting

6 December 2012

1:30 p.m. – 4:30 p.m.

Location: Papio-Missouri River Natural Resources District (P-MRNRD) Board Room

Attendees (Sign-in sheet is attached):

Marlin Petermann-P-MRNRD

Brian Henkel-P-MRNRD

Jim Becic-P-MRNRD

W. Don Nelson

Patrick Leahy-US Senator Ben Nelson

Bruce Fountain-Sarpy County

Toby Churchill-SCEDC

Mike Bruening-Omaha Chamber of Commerce

Chris Shewchuk-City of Bellevue

Liz Culhane-Fraser Stryker

Mike Myer-NDEQ

Mike Felix-NDEQ

Tom Buell-NDEQ

Verlon Barnes-NRCS

Cheryl Groenjes-USACE

John Remus-USACE

Mark Harberg-USACE

Kelly Crane-USACE

Bryan Flere-USACE

Robert Harms-USACE

Sean Keating-USACE

Kayla Eckert Uptmor-USACE

Mike Sotak-FYRA Engineering

Lindy Rogers-FYRA Engineering

Scott Luedtke-NGPC

Frank Albrecht-NGPC

Gene Zuerlein-NGPC

Jim Ducey

Larry Foster-Back to the River (BTTR)

Gayle Malmquist-BTTR

John Royster-Big Muddy Workshop

Karen O'Connor-Olsson Associates

Mark Brohman-Nebraska Environmental Trust

1. Introductions
2. Environmental Restoration Opportunity
 - a. This particular site has been looked at for many years as an "important" historical and environmental site.
 - b. Jim Becic has a position within the P-MRNRD which was developed to focus solely on Missouri River Restoration.
 - c. The P-MRNRD is an 1135 Partner with the USACE
3. Missouri River Recovery Program (MRRP) Acquisition/USACE Concerns
 - a. The USACE presented a slide show covering the USACE Environmental Review of the purchase area and a preliminary technical analysis regarding the setback. The handouts from this slideshow are attached.
 - o The site did not rank high in a list of priority areas for the Missouri River Recovery Program (MRRP) because of limited floodplain connectivity benefits and no potential for shallow water habitat benefits.



- o The potential of exposing the USACE to liability from the nearby nitrate and metals contamination, absent a letter of "no further action" by the NDEQ, was too great of a risk.
 - o A setback, as proposed, could potentially impact sedimentation problems in the Missouri River navigation channel.
 - o A setback, as proposed, could potentially change the groundwater flow characteristics of the area and increase the potential for liability to the USACE regarding the groundwater contamination.
- b. With the limited environmental benefits and absent a letter of "no further action" and without significant additional technical analysis, the recommendation from USACE-NWO reviewers to the MRRP executive steering committee is to not purchase this site.
- c.
- d. The NDEQ spoke in regards to the USACE's points on the Contamination Issues slide:
 - o The completed Phase II did not definitively show the presence of metals. While the levels were above drinking water MCLs, they were not above the levels which would require voluntary clean up. The NDEQ believes that the metals found in the sampling may be due to turbidity in the samples.
 - o The nitrate and ammonia monitoring within the PCS site will continue until sampling indicates that the nitrogen contamination is below the drinking water standards. While the nitrogen levels are decreasing, they are not below acceptable levels. There is no time frame set forth for PCS to meet the acceptable levels. This is being addressed under Title 118 by PCS.
 - o The Brownfield project on this site did show some levels of contamination, but they were not considered to be significant.
 - o The site must be registered into and complete the provisions set forth in the Nebraska Voluntary Cleanup Program (VCP) in order to be eligible for a letter of no further action. At this time, the site is not registered into this program.
 - o VCP projects will be required to meet residential standards.
 - o A conditional letter of no further action has been issued on one site in Nebraska where the mediation was ongoing. The conditions of the letter of no further action were met when the ongoing monitoring showed acceptable levels had been reached.
- e. Olsson stated that discussions were held during the Brownfields project on whether to seek a letter of no further action. At that time the client did not see a benefit to pursuing this letter. Olsson also stated that all studies completed under the Brownfields project were completed to the required EPA standards.
- f. The City of Bellevue and Sarpy County EDC is interested in a letter of no further action from an economic development standpoint.
- g. NGPC supports the setback and the development of the area in a similar manner to Schilling Wildlife area in Cass County.
- h. Bob Harms from USFWS offered to work with the USACE on credits for shallow wetland habitat, but even with that, John Remus said that it would not change the USACE's recommendation.



4. Moving Forward

- a. A levee setback will not be pursued by the P-MRNRD.
- b. Many of the attendees are interested in pursuing a purchase of this property through other means and would like to continue discussions on this site.
- c. Back to the River (BTTR) has hired Big Muddy Workshop to complete a master planning document for this area which includes interviewing interested parties and compiling information for this area. Big Muddy will present this information at the BTTR board meeting in January.
- d. The interested parties will reconvene after BTTR has received a report/plan for the site from Big Muddy Workshop.

PCS Nitrogen Environmental Review/Purchase

6 December 2012 at P-MRNRD Board Room

1:30 - 3:30 p.m.

Sign In Sheet

Name	Organization	Email
W. Don Nelson	none	donnael@windstream.net
Bruce Fontain	Sarpy County	bfontain@sarpy.com
TOBY CHURCHILL	SCEDC	tchurch.11@omaha.chamber.org
KELLY CRANE	USACE	kelly.a.crane@usace.army.mil
Liz Culhane	Attorney FRASER STRYKER	
Mike Myers	NDEC	Michael.myers@nebraska.gov
Larry Foster	Back to the River	lfoster@councilbluffs-ia.gov
Mike Felix	NDEC	mike.felix@nebraska.gov
Chris Shewchuk	Ctr. of Bellevue	chris.shewchuk@bellvue.net
TOM Buell	NDEC	thomas.buell@nebraska.gov
Brian Henkel	P-MRNRD	bhenkel@papiard.org
Cheryl Groenjes	USACE	cheryl.a.groenjes@army.mil
John P. Pinnus	USACE	john.p.pinnus@usace.army.mil
Mark Harberg	USACE	mark.harberg@ " " " "
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Frank Albrecht	NGPC	Frank.albrecht@nebraska.gov
Gary Zuellein	NGPC	gary.zuellein@nebraska.gov
Karen O'Connor	Olsson Associates	koconnor@olssonassociates.com
John Rapster	Big Muddy Workshop	john@bigmuddyworkshop.com
Mark Brohman	NE Env. Trust	mark.brohman@nebraska.gov
Mike Bruening	Smith Clark & Partners	mbruening@selectjazz.com

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Verlon Barnes Verlon.Barnes@ne.usda.gov NRC.S
Jim Becic jbecic@papiornrd.org Papio-Missouri River NRI
Patrick LEAHY leahypatrick@yahoo.com U.S. Senator Ben Nelson
Kayla Eckert Upton Kayla.a.eckert@usace.army.mil USACE
Marlin Petermann mpetermann@papiornrd.org D-MRNRD

PCS Nitrogen Property

U.S. Army Corps of Engineers
Omaha District

December 6, 2012



US Army Corps of Engineers
BUILDING STRONG®



BACKGROUND

- Papio NRD requested Missouri River Recovery Program (MRRP) evaluate acquisition of 399 acre parcel:
 - ▶ Facilitate R613 levee setback/floodplain connectivity
 - ▶ Conserve natural area adjacent to Platte River confluence
 - ▶ Potential for shallow water habitat development
 - ▶ Credit acreage to BSNP mitigation goals



BUILDING STRONG®

POSSIBLE BENEFITS TO THE MRRP

- Floodplain Connectivity – Relatively Minor
- Shallow Water Habitat
 - ▶ Backwater – None (Bird Strikes)
 - ▶ Chutes/Side Channels – None (Navigation/Channel Stability)
- Isolated Wetlands - None (Bird Strikes)
- Native grass/riparian vegetation- could be credited to BSNP mitigation acres

ISSUES TO BE ADDRESSED PRIOR TO LEVEE SETBACK

- Channel Stability/Capacity
 - ▶ Navigation
 - ▶ Flooding
- Platte River Accessibility
- Impacts to Plattsmouth Bend Project
- Constructability
 - ▶ Construction Footprint proximity to Landfill and Drainage Ditch
 - ▶ Some Construction Areas are Not Well Characterized
 - ▶ Seepage/Interior Drainage
 - ▶ Viability of the Altered Project

SECTION 408 PROCESS

- Sponsor prepares submittal package w/ required technical analyses to assess effects to system performance
- District Review and Approval
 - ▶ Must Approve ALL Technical Analyses.
 - ▶ Cannot Diminish LOP
 - ▶ Must Mitigate All Impacts
- Division Review and Approval
 - ▶ Ensures Consistency Across Region
- HQ USACE Review and Approval
 - ▶ National Perspective
 - ▶ Reluctant to Approve Major Changes
 - ▶ May Require Type II IEPR (Safety and Assurance Review)
- Time Frame
 - ▶ Approximately 2 years for review only
 - ▶ Approval ?????



Contamination Issues

- Nitrate and ammonia groundwater levels exceed drinking water MCLs
- Metals (As, Cd, Cr, Pb, Se, Ba) concentrations in groundwater exceed drinking water MCLs in areas directly down gradient of landfill
- NDEQ has not issued “no further action” letter for the site.



Prospective Purchaser Exemption to CERCLA Liability

- To be Eligible for Liability Protection
 - ▶ Conduct All Appropriate Inquiries (per 40CFR312)
 - ▶ Comply with Continuing Obligations
 - Continued Contamination Monitoring
 - Future land use restrictions/institutional controls associated with any response activities
 - ▶ Not be Affiliated with any Liable Party



MRRP Acquisition not Recommended

- Uncertainty of levee setback and floodplain connectivity benefits
- No potential for shallow water habitat benefits
- Risk and uncertainty of land use restrictions and institutional controls associated with contamination

