

# MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: March 5, 2010

FROM: John Winkler, General Manager

- A. **INFORMATION/EDUCATION REPORT:** A copy of the I&E Report detailing Information and Education activities for the month of February, 2010, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:**
1. **Randy Hummel**, Water Supply Superintendent for the Dakota County Rural Water System, retired on February 26, 2010. Randy was with the District for 20 years. He intends to be around for a long time and has a long list of things to learn and accomplish because he considers himself "chronologically gifted" not "OLD." We will all miss Randy and wish him well in his retirement.
  2. **Lance Olerich** has been promoted to Water Supply Superintendent for the Dakota County Rural Water System. He started his new duties on March 1<sup>st</sup>. Lance has been with the District for 7 years as the Water Supply Operator for the DCRW system. The District is in the process of filling the Water Supply Operator position.
  3. **Martin Cleveland**, Construction Engineer, attended the Kansas Dam Safety Conference February 9-10, 2010 at Hutchinson, KS. A memo detailing the highlights of the conference is attached.
- C. **REPORT ON PURCHASES – CONSTRUCTION SERVICES, PROFESSIONAL SERVICES, PERSONAL PROPERTY:** Pursuant to Board direction, attached is a report indicating construction services, professional services and personal property purchases for the month of February, 2010. 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, Paul Peters, as of February 16, 2010. 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 February, 2010 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on March 18, 2010, at 10:00 a.m. at the NRC

**F. NARD Legislative Updates:**

1. February 12, 2010
2. February 19, 2010
3. February 26, 2010
4. March 5, 2010

**G. LETTER FROM PAUL WOODWARD, OLSSON ASSOCIATES, REGARDING SILVER CREEK BILLING:** Attached is a copy of a letter from Paul Woodward, Olsson Associates, following up on questions regarding the Olsson's billing for the Silver Creek Project. Please review and feel free to contact me with any questions.

**\*H. PURCHASE OF PROPERTY FROM GINGER COVE FOR THE EXPANSION OF PLATTE RIVER LANDING RECREATION AREA** *Confidential, Executive Session if Needed.* GM Winkler will provide information at the Board meeting.

**I. NEWS CLIPS:**

- ✓ February 10, 2010, Bellevue Leader article – Whitted Creek project all done but the planting
- ✓ February 10, 2010, Omaha World Herald article – Crops: Dams may need repairs
- ✓ February 10, 2010, Omaha World Herald article – Midlands Voices by Alan Kolok – Shack to aid river research
- ✓ February 10, 2010, Wahoo Newspaper article – Flooding threat speeds up levee work near Ashland
- ✓ February 11, 2010, Omaha World Herald article – Papio-Missouri NRD to vote on share of work near creek
- ✓ February 12, 2010, Washington County Enterprise article – County upset with NRD's bonding plan
- ✓ February 13, 2010, Omaha World Herald article – NRD board OKs bond issue on second try
- ✓ February 16, 2010, Blair Pilot Tribune article – NRD board OK's bonding proposal
- ✓ February 17, 2010, Omaha World Herald article – Coal ash will fight flooding
- ✓ February 17, 2010, Lincoln Journal Star article – Cass County, NRD agree to work together on MoPac Trail
- ✓ February 19, 2010, Omaha World Herald article – Huge snow 'lakes' watched warily. Are the preparations enough? Now we mostly wait, hoping the thaw doesn't unleash torrents.
- ✓ February 21, 2010, Bellevue Leader article – Fontenelle Hills watershed study continues
- ✓ February 22, 2010, Omaha World Herald article – Flood risk outweighs coal ash concerns. Contaminants are well within the strictest standards, state and federal officials say.
- ✓ February 23, 2010, Douglas County Post-Gazette article – Papio-Missouri River NRD to use bonding authority to bolster flood control efforts
- ✓ February 24, 2010, Omaha World Herald article – Route to connect trails takes shape
- ✓ March 3, 2010, Douglas County Post-Gazette article – Valley hosts information meeting on living in the floodplain

February 2010  
Information and Education Report

**Information:**

- Prepared and staffed a booth at the Omaha Boat Sports and Travel Show
- Updated Papio NRD and Missouri River Basin Fact Sheets
- Updated Tax Levy Comparison fact sheet for current fiscal year
- Began work on Interpretive signs for Elkhorn Crossing and Graske Rec Areas
- Worked on standards for NRD grant program recognition signs
- Completed and launched Facebook page for NRD
- Completed editing of new Public Service Announcement "Fun Comes Naturally"
- Requested proposals on updating NRDs in Nebraska exhibit in Visitors Center

**Education:**

- Outdoor classroom teacher training at Kellom Elementary for 60 teachers/staff
- Ralston Nature Club program – Animal Adaptations
  - Locations: Meadows, Wildewood, Karen Western, Seymour, Mockingbird, and Blumfield Elementaries
  - 225 K-6<sup>th</sup> grade students
- MORE Nature meeting attendance
- St. Stephens programs – 75 3<sup>rd</sup> grade students
  - Owl pellets/owls
  - Garden bugs
  - Animal adaptations
- Envirothon Team Training – organization and program activities
- Holy Name Nature Club programs – 15 4<sup>th</sup>-6<sup>th</sup> grade students
  - Tracks/Scat/Pelts
  - Owl pellets/owls
- Earth Day Omaha meeting and preparation
- Meeting with Salvation Army and Grace Methodist Church discussing programming opportunities
- World Environment Day meeting attendance
- Boat show set-up and staffing
- Continued taking education tree/seed orders
- PLT/WET/WILD/LEP curriculum workshop – planning, set up, and program activities for 13 teachers/naturalists
- Envirothon planning
- Water Works 2010 Planning—Registration, Selection of Schools, Volunteer Recruitment, T-shirt design
- Continued planning for National LEP Meeting to be held in Omaha—March 12 – 14, 2010
- Set-up and Attended NACEE Environmental Literacy Input meeting
- Presented MORE Nature Program to UNO's Environmental Club
- Met with J. Greg Smith on MORE Nature PSA's
- Met with KCRO Radio to renew contract, and sponsorship of March/May radio proram

- Continued planning 2010 Nature Nights at Metro Schools
- Continued Planning Earth Partnership Workshop for July 2010
- Started taking registrations for NRD Summer Day Camp
- Wrote 60 second commercial for KCRO radio

# MEMORANDUM

TO: The File

FROM: Martin P. Cleveland

SUBJECT: Kansas Dam Safety Conference

DATE: February 11, 2010

---

On February 9-10, 2010, the writer attended the referenced conference held in Hutchinson, Kansas. Approximately 150 representatives of dam owners, state agencies, NRCS and consultants were in attendance.

The writer attended the following sessions:

1. General Session

- a. Kansas Water and Budget Issues by David Barfield, Kansas Department of Agriculture.
- b. Levee Safety: A Brief History by Karin Jacoby, MO-ARK Association.
- c. Georgia Floods of 2009 by Gregg Hudock, Golder Associates.
- d. Mission Lake Hydraulic Dredging Project by Dan McDougal, Dredge America.
- e. Hutchinson Sinkholes – A Mining Legacy by Kirk Hoefner, Kansas Department of Health and Environment.

2. Case Studies

- a. Plants as an Alternative to Riprap by Kim Austin, Terracon.
- b. Protection of Earth Levees Using Floating Wave Barriers by Daniel Wren, USDA-ARS.
- c. Abandonment of Levee Pipeline by Jeff Humerik, EMR.
- d. Rebuilding an Empire (Dam) by Matt Young, Applegate.
- e. Sea Ranch Dam Repairs by Tom MacDougall, RJH
- f. Disaster Recovery (Greensberg Tornado) by Chuck Banks, CBA

3. Emergency Action Plans (EAP) for Dam Safety

All day session on February 10, led by Larry Caldwell, retired NRCS-Oklahoma engineer and Beth Cooper, Kansas Department of Agriculture.

- A. Introduction
- B. Dam Failures
- C. Failure Modes
- D. EAP Elements
- E. Using the EAP
- F. How to use a Breach Map
- G. EAP Table Top Exercise

CC: John Winkler, Marlin J. Petermann and Pat Teer

## February, 2010

[illegible]

Updated: February 16, 2010

**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 = PFP's Portion Completed

- **Little Papio:** (Cleveland)
- **Big Papio:** (Cleveland)
- **West Branch:** (Cleveland)
  - Land Exchange with Sarpy Co. (96<sup>th</sup> St.) (W)
  - Interlocal Agreement w/Papillion, Sarpy County, etc on W. Papio levee/bridge Improvements (P)
- **Western Sarpy Dike:** (Cleveland)
  - ★ Levee Segment 3 Right of Way Certification (temp easement) for Corps (W)
- **Floodway Purchase Program:** (Grint)
  - ★ Review Floodway Purchase title work & prepare PAs for King Lake properties (W)
  - Floodway Property purchase agreements as needed (F)
  - Prepare Amendment #2 to Waterloo Levee Design Interlocal Agreement (N)
  - Thompson Creek Interlocal Agreement w/LaVista (N)
- **Trail Projects:** (Bowen)
  - Western Douglas County Trail – purchase agreements, deeds, easements, etc. (F)
- **Missouri River Corridor Project:** (Becic)
  - Agreement for Omaha to maintain Missouri River Trail at N.P. Dodge North (W)

- **USDA PL 566 Projects, Silver Creek and Pigeon/Jones Watershed:** (Puls/Cleveland)
  - Pigeon/Jones Creek Site Easements – as needed (F)
  - ★ Papio W-3 Eminent Domain (Camden) (W)
  - ★ W-3 Right of Way Certification for NRCS (W)
  - Silver Creek Site #11 Easements (F)
  
- **Papio Watershed Dam Sites:** (Grint/Petermann)
  - ★ Interlocal Agreement with City of Omaha for DS 15 A (F)
  - ★ Purchase Agreements and closing documents for WP5 for DDF properties (W)
  - ★ Interlocal Agreement w/City of Omaha for ZB#1 (W)
  - ★ Interlocal Agreement – West Papio Flood Control with Sarpy County and Papillion (W)
  
- **Papio Creek Watershed Partnership (Stormwater):** (Grint)
  
- **Rural Water Projects:** (Sklenar)
  - ★ Call resolution for revenue bonds on DCRW and WCRW #1 (N)
  
- **Elkhorn River Public Access Sites:** (Sklenar)
  
- **Other:**
  - Kennard Wastewater Closing (Grint) (W)
  - Radio system service agreement (Cleveland) (W)
  - Review of Agreement for Burt County NRCS/NRD shared position (Puls) (W)
  - ★ Review of Remodeling Contract for Dakota County Office (Puls) (W)
  - Urban Drainageway - Interlocal Agreement with City of Valley (N)



# MONTHLY UPDATE

February 2010



A Partnership meeting was held on February 25<sup>th</sup>. Meeting minutes and other materials are updated regularly on the Partnership's website: [www.papiopartnership.org](http://www.papiopartnership.org).

## Ordinance Updates

Partnership members are in the process of updating their community's floodplain and stormwater ordinances. All communities affected by the new West Papillion Creek flood maps must update their floodplain ordinance by May 3, 2010 which is the effective date of the new maps. To date, Boys Town and Papillion have adopted the revised floodplain ordinances. All other communities have started the process with their planning commissions. Boys Town, Gretna, La Vista, Omaha, and Papillion have all adopted the new Post Construction Stormwater ordinances. Bellevue and Ralston are in the process of presenting to planning commission and city council. Sarpy County has been enforcing the changes. They will present administrative changes to zoning regulations to the planning commission on March 17, 2010.

## CBI Systems Software

The City of Omaha has been working with CBI Systems, Inc. to obtain pricing for their MS4 software. This software would allow for all PCWP members to access one shared database for tracking their NPDES stormwater permit requirements such as stormwater monitoring and public outreach. This software not only helps with reporting but also keeps all data in a central location if needed for an EPA audit. The Executive Committee voted to request that the NRD Board disburse funds for the purchase of the software. This will be presented at the NRD's March board meeting.

## Douglas County Monitoring Data

Kent Holm from Douglas County Environmental Services had requested that the Partnership consider an agreement to be reimbursed for sharing monitoring data that is done collectively

by the City of Omaha for the Partnership. Holm took the draft agreement to the Douglas County Board where they voted against the agreement.

## EPA Wetland Program Grants and NRI

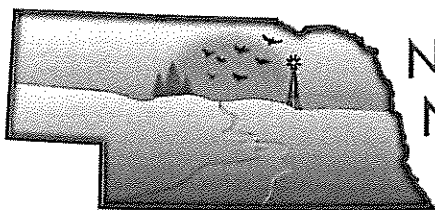
Mandy Whitsett, Eliodora Chamberlain, and Pete Davis from EPA Region 7 gave a short presentation on EPA grant programs. The Wetland Program Development Grants (WPDG) can be used for research, investigations, experiments, training, demonstrations, surveys or studies to reduce, prevent, or eliminate water pollution. Region 7 receives approximately \$1.1 million annually to award within the region. Typical project awards are between \$100,000 and \$500,000 and a 25% non-federal match is required.

## Natural Resources Inventory

Ted Hartsig and Paul Woodward from Olsson Associates presented a project completed in Kansas City utilizing EPA grant funds. The Kansas City project is a Natural Resources Inventory (NRI). An NRI takes existing data from different agencies and organizations and compiles the data into one database that can then be used by entities to determine how best to layout new development in order to protect natural resources. Data collected would include land use, soil type, topography, vegetation, and water resources. The NRI would also help to identify areas that would be sensitive to new development. The NRI would also identify areas that are in need of stabilization, therefore creating priority projects throughout the watershed. Planning departments would be able to incorporate the results from the NRI into master plans.

**Next Meeting:** The next full Partnership meeting is scheduled for March 18<sup>th</sup> at 10:00 AM at the NRD office.





## Nebraska's Natural Resources Districts

[www.nrdnet.org](http://www.nrdnet.org)

Protecting Lives • Protecting Property • Protecting the Future

601 S. 12<sup>th</sup> St. Suite 201  
Lincoln, NE 68508

[nard@nrdnet.org](mailto:nard@nrdnet.org)  
(402) 471-7670

February 12, 2010

TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: February 12 NARD Update

**Recreational Trails** -- The Natural Resources Committee accepted testimony on three bills this week dealing with the use of eminent domain for recreational trails.

Most of the testimony was geared toward **LB 1010**, introduced by Senator Dave Pankonin. The bill would establish some additional criteria for NRDs if eminent domain had to be used to acquire land for a recreational trail. If negotiations failed to acquire property willingly and the district would pursue acquisition through eminent domain, the NRD would be required to hold public hearings and be required to operate as a court or tribunal, in that the board would receive evidence, hear testimony and create a record.

Senator Pankonin mentioned that several discussions have taken place on the bill between the NRDs, several senators, landowners and other interested parties, which has resulted in several suggested changes that the parties could agree to. These include reducing the supermajority vote to two-thirds of the Board of Directors, would clarify the eight components to be considered by the Board before making their decision to implement a trail project, would address the standard of "good faith" in the process of obtaining negotiated right-of-way agreements, would set objective criteria for which the Board would have to find clear and convincing evidence before voting to proceed in their decision to exercise eminent domain, and would add liability protection language for property owners adjoining a recreation trail.

Senator Pankonin also noted that an amendment was not available prior to the hearing, but would be developed early next week.

Glenn Johnson, Lower Platte South NRD Manager, presented testimony in support of the bill on behalf of his district and the NARD, with changes suggested by Senator Pankonin. Also testifying in support of the bill was John Winkler, Papio-Missouri River NRD; Stan Staab, Lower Elkhorn NRD; Nebraska Farm Bureau Federation, Nebraska Trails Council and several individuals from Cass County. The Nebraska Sierra Club testified in a neutral capacity.

The committee also accepted testimony on **LB 1019**, introduced by Senator Ken Haar. This bill also sets up a procedure for mediation if a dispute occurs on developing a trail when eminent domain may be used. Senator Haar mentioned that he had been working with Senator Pankonin to address the concerns with LB 1010 and mentioned that he would keep working toward an agreement on LB 1010.

The third bill, **LB 1011** introduced by Senator Pankonin would eliminate the ability of NRDs to use eminent domain for recreational trails. Senator Pankonin mentioned that this bill was only a back-up if nothing could be worked out on the procedures offered under either LB 1010 or 1019.

The committee took no action on the bills after the hearing.

**NRD Recreational Facilities --** The Judiciary Committee accepted testimony on **LB 795** this week which would allow a NRD encompassing or including any portion of a city of the metropolitan class to employ or otherwise secure the services of certified law enforcement personnel or security services to patrol and protect district-owned recreation areas and to assist law enforcement officers in enforcing district recreation areas.

Senator Brenda Council, the sponsor of the bill, offered an amendment at the hearing to expand the authority to all NRDs. John Winkler, Papio-Missouri River NRD Manager, testified in support of the bill and the amendment on behalf of PMRNRD and the NARD. The PMRNRD would like to contract with county sheriff offices and/or local city police to patrol recreational facilities for a set number of hours per month to provide protection for individuals using the facilities and also address vandalism problems.

The bill was also supported by Mike Onnen, Little Blue NRD Manager, and Bob Hilske Nemaha NRD Manager. There were no opponents to the bill. The Judiciary Committee took no action on the bill after the hearing. However, a couple of committee members want to assure the language only allows NRDs to contract with qualified law enforcement personnel. The NARD is willing to work with the committee to provide those assurances.

**Water Resources Cash Fund --** The Natural Resources Committee accepted testimony on **LB 993** which would add "enhancing stream flows or groundwater recharge" to the uses of the Water Resources Cash Fund. The bill was brought to the committee by the bill sponsor, Senator Tom Carlson, when it was discovered that a proposed water lease by Tri-Basin NRD to increase stream flow in the Platte River would not qualify under the program.

John Thorburn, Manager of the Tri-Basin NRD, presented testimony on behalf of his district and the NARD in support of the bill. The committee took no action on the bill.

**State Control of Groundwater --** The Natural Resources Committee accepted testimony on two bills this week to extend more control to the state on groundwater use. The first bill, **LB 1054** would apply a revised version of the correlative rights doctrine for groundwater use. It would only allow the co-equal right of each landowner over a common aquifer to extract his, her, or its share of water from the aquifer without (a) unreasonably harming other landowners over the common aquifer through lowering of the water table, (b) directly and substantially affecting a watercourse, or (c) reducing artesian pressure. If the Department of Natural Resources determined that the standard should apply to a basin for compact or agreements, the allocations for use would be reduced. The bill was supported by the Lower Republican NRD and Frenchman Cambridge Irrigation District. Senator Carlson, the sponsor of both bills, asked that the committee not advance the bills.

Lyndon Vogt, Manager for the Upper Niobrara-White NRD, presented testimony in opposition to the bill on behalf of his district and the NARD noting that the correlative rights already apply and that local NRDs should maintain the authority to make the management decisions to regulate groundwater. The bill

was also opposed by the Upper Republican NRD, North Platte NRD, Nebraska Farm Bureau Federation, Nebraska Rural Electric Association, Nebraska Cattlemen, and many individuals from across the state.

The second bill, **LB 1056**, proposes required metering and allocations when depletions of groundwater occur. The Department of Natural Resources would be required to measure aquifer and groundwater changes across each river basin each year and report such measurement to the Legislature on December 31, 2010, and on December 31 of each year thereafter. Change would be determined based upon a comparison to saturation thickness of the aquifer in the base year of 1963. The bill would mandate metering and allocations determined by the department. If depletions go to 30 percent, the department would require that groundwater use be shut off in the area.

The bill was supported by the Lower Republican NRD and Frenchman Cambridge Irrigation District.

Lyndon Vogt, Manager for the Upper Niobrara-White NRD, presented testimony in opposition to the bill on behalf of his district and the NARD. Vogt pointed out that each NRD has in place an approved Ground Water Management Plan reviewed and approved by the state which is continually maintained and updated. Groundwater decline trigger-levels are set by the districts to initiate regulation.

Other opponents that presented oral testimony against the bill included Upper Big Blue NRD, Upper Republican NRD, Lower Elkhorn NRD, several individual NRD board members, and individual irrigators from all across the state. Letters in opposition came from several organizations and individuals, including but not limited to, the Nebraska Cattlemen, Nebraska Farm Bureau Federation, and the North Platte NRD.

Several other organizations and individuals had planned on testifying against both bills, but decided not to after Senator Carlson announced at the hearing that he requested the committee not advance the bills.

**Priority Bills** – State senators have until next Friday, February 19<sup>th</sup> to declare a priority bill from the session. Further, each Committee gets to select two priority bills for the session. Finally, the Speaker also gets to select 25 priority bills for the session. If a bill does not receive priority status, it is very unlikely that it will be debated further this year. Related to natural resources, Senator Dubas has selected **LB 689** as her priority bill. The bill eliminates the funding mechanism for the water resources cash fund. For a list of priority bills, go to the Nebraska Unicameral website at: [www.nebraskalegislature.gov/session/priority.php](http://www.nebraskalegislature.gov/session/priority.php).

**Papio NRD Board Approves Bonds to Protect Property** -- Much needed flood control measures for the Papio Creek Watershed and elsewhere, to protect the lives and property of district residents, will be pursued through the NRD's first-ever use of bonding. The option to fund projects through bonding was granted to the NRD by the Nebraska Legislature in 2009. The NRD Board voted on February 11<sup>th</sup> to issue \$13.3 million in Flood Protection and Water Quality Enhancement Bonds to fund several proposed flood control projects and programs within the six-county Papio-Missouri River NRD area.

"This was a historic vote. These funds will allow the district to accelerate its efforts to protect lives and property from potentially devastating flood events", said NRD Manager John Winkler. "Time may be running out to get these projects built before our metro area encounters heavy rainfall and runoff that has recently caused considerable damage to other nearby urban areas," he said.

Several projects identified to receive bond funding include levee improvements, flood control reservoirs and structures, floodway purchase program, and water quality protection project. "We plan to pay for

these bonds without raising our tax levy. In fact, our levy decreased this year," said Winkler. The NRD has been working for years with area cities, villages and counties to develop flood control and water quality measures to protect residents. Engineering studies of the Papillion Creek Watershed have shown that our floodplains are growing due to decades of urbanization.

**Papio-Missouri River NRD Residential Cost-share** -- Twenty-four homes on Thompson Creek may be purchased by the City of LaVista through a Federal Emergency Management Agency grant and local cost-share funding by the PMRNRD. By purchasing homes and property the district will protect the lives and property of residents in the area from flooding and severe creek bank erosion that has threatened homes, road crossings and other public infrastructure along this creek since the early 1970s. The NRD's cost-share amount of \$340,155 was approved by the board at their meeting February 11<sup>th</sup>. The funds will match the amount by the City of LaVista, which then fulfills the match requirement on Hazard Mitigation Grant Program funding. The total cost of the project is \$2,721,240.

All land purchases by the City will be voluntary. Once the properties are purchased, the City of La Vista will demolish the structures and maintain the lots as open space to allow for ease of maintenance of Thompson Creek.

The Papio-Missouri NRD Board also approved cost-sharing with the City of Valley for assistance on improving the North Spruce Street Drainage-way. The project will help protect the lives and property of Valley residents. The Papio-Missouri NRD will cost share \$186,480 with the City to complete the \$310,800 project.

#### **Hearings Next Week**

##### **February 18<sup>th</sup>**

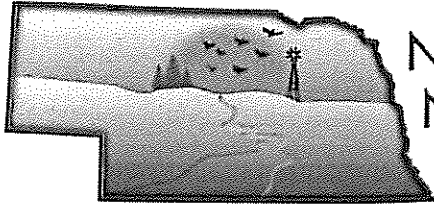
- **LB 785** – Provide an exception to required approval for certain water transfers; Carlson; Natural Resources Committee.
- **LB 1016** – Adopts the Nebraska Statewide Water Planning Commission Act; Christensen; Natural Resources Committee.
- **LB 1025** – Allows for an instream flow right in fully appropriated areas; Avery; Natural Resources Committee.
- **LB 1031** – Eliminate the sunset date on NRD levy; Dierks; Revenue Committee
- **LB 1032** – Change the fully appropriated levy; Dierks; Revenue Committee

##### **February 19<sup>th</sup>**

- **LB 1052** – Adopt the Agricultural Production and Economic Stability and Assistance Act; Christensen; Revenue Committee

	NARD Bill Summary Tracking Sheet		Last Updated: 02/12/2010				
LB 764	Allows NRDs to develop IMFs in areas that are not fully or over-appropriated.	Fischer	Support	Natural Resources	2/3/2010	General File	Page 2 of 2
LB 762	Change provisions relating to the issuance of distinctive license plates for governmental units.	Fischer	Monitor	Transportation & Telecommunications	1/19/2010	Committee	AM 1751
LB 765	Provide an exception to required approval for certain water transfers.	Carlson	Support with Modifications	Natural Resources	2/18/2010	Committee	
LB 793	Prohibit cash fund transfers without authorization.	Dubas	Support	Appropriations	1/25/2010	Committee	
LB 795	Authorize employment of law enforcement officers by natural resources districts.	Council	Support with amendment to open up to all NRDs	Judiciary	2/10/2010	Committee	
LB 798	Extend the termination date for the Nebraska Litter Reduction and Recycling Act.	Langemeier	Support	Natural Resources	1/20/2010	Final Reading	
LB 806	Change provisions relating to agricultural land valuation.	Campbell	Monitor	Revenue	1/27/2010	Final Reading	
LB 815	Change requirements for Taxpayer Transparency Act.	Haar	Monitor	Government, Military and Veterans Affairs	1/28/2010	Committee	
LB 826	Adopt the County Consolidation Act.	Pahls	Oppose	Government, Military and Veterans Affairs	1/22/2010	Committee	Indefinitely Postponed
LB 832	Eliminate a private insurance requirement relating to petroleum release remedial action.	Fischer	Monitor	Natural Resources	1/22/2010	Final Reading	
LB 852	Provide for write-in space on official ballots for certain offices.	Avery	Oppose	Government, Military and Veterans Affairs	2/24/2010	Committee	
LB 862	Change provisions relating to issuance and repayment of river-flow enhancement bonds.	Christensen	Support	Natural Resources	2/3/2010	Committee	
LB 884	Require employers to provide employees with wage and deduction information.	McGill	Monitor	Business & Labor	1/25/2010	Committee	
LB 893	Provide refund procedures for unconstitutional taxes and assessments.	Christensen	Support	Revenue	1/28/2010	Committee	Indefinitely Postponed
LB 895	Change procedures for filling vacancies on a natural resources district board.	Jarssen	Oppose	Natural Resources	1/28/2010	Committee	
LB 911	Change a date relating to development of a statewide biotechnology strategic plan.	Langemeier	Monitor	Natural Resources	1/20/2010	Final Reading	
LB 917	Exempt municipal water from sales and use taxes.	Rogert	Monitor	Natural Resources Revenue	2/25/2010	Committee	
LB 932	Change provisions relating to repayment of financial assistance by natural resources districts.	Christensen	Support	Natural Resources	2/3/2010	Committee	
LB 935	Provide for deficit appropriations and change certain appropriations.	Flood, on behalf of the Governor	Monitor	Appropriations	1/26/2010	Committee	
LB 953	Change use of the Water Resources Cash Fund.	Carlson	Support	Natural Resources	2/10/2010	Committee	
LB 1010	Provide procedures and limitations on the use of eminent domain by natural resources district for recreational trails.	Pankotin	Support with Changes	Natural Resources	2/11/2010	Committee	
LB 1011	Limit the eminent domain power of natural resources districts to exclude certain recreational trails.	Pankotin	Oppose	Natural Resources	2/11/2010	Committee	
LB 1016	Adopts the Nebraska Statewide Water Planning Commission Act.	Christensen	Oppose Bill - Recommend an Interim Study	Natural Resources	2/18/2010	Committee	
LB 1019	Creates the trails dispute boards to decide disputes concerning recreational trails between county boards and NRD boards.	Haar	Support with Changes	Natural Resources	2/11/2010	Committee	
LB 1025	Allows for an instream flow right in fully appropriated areas.	Avery	Oppose	Natural Resources	2/18/2010	Committee	
LB 1031	Eliminate the sunset date on NRD levy.	Dierks	Support	Revenue	2/18/2010	Committee	
LB 1032	Change the fully appropriated levy.	Dierks	Support	Revenue	2/18/2010	Committee	
LB 1052	Adopt the Agricultural Production and Economic Stability and Assistance Act.	Christensen	Monitor	Revenue	2/19/2010	Committee	
LB 1054	Adopt the correlative rights doctrine relating to the use of groundwater.	Carlson	Oppose	Natural Resources	2/10/2010	Committee	
LB 1056	Provide for measurement of aquifer depletion and limitations on irrigation.	Carlson	Oppose	Natural Resources	2/10/2010	Committee	
LB 1057	Creates the Republican River Basin Water Sustainability Task Force.	Carlson	Oppose	Natural Resources	2/5/2010	Committee	
LB 1076	Change provisions relating to evaluation of river basins, sub-basins, and reaches.	Schilz	Oppose	Natural Resources	2/5/2010	Committee	
LR276CA	Constitutional amendment to permit exemption from taxation of real property which is donated to the state or governmental subdivision.	Pirsch	Monitor	Revenue	1/29/2010	Committee	Indefinitely Postponed

NARD Bill Summary Tracking Sheet							Last Updated: 02/12/2010		Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments		
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee	Carryover Bill		
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	Bill Passed	Passed on Final Reading with Emergency Clause 44-0-5		
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	Bill Passed	Passed on Final Reading with Emergency Clause 45-0-4		
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	Carryover Bill - Amended into LB 311 by AM 886		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	Failed to Advance to Enrollment and Review		
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	Carryover Bill		
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Natural Resources	2/5/2009	Committee	Carryover Bill		
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources	1/29/2009	Committee	Carryover Bill		
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	Carryover Bill		
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources	2/27/2009	Committee	Carryover Bill		
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue	2/6/2009	Committee	Carryover Bill		
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDCs	Sutthman		Oppose	Natural Resources	2/20/2009	Committee	Carryover Bill		
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture	2/10/2009	Committee	Carryover Bill		
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources	3/4/2009	Committee	Carryover Bill		
LB 624	Provide for energy efficiency loans for public buildings	Haar		Monitor	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 643	Change and provide notice requirements of road construction near electric lines	Schliz		Monitor	Natural Resources	2/20/2009	Select File	Carryover Bill - AM 1620		
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	3/11/2009	Committee	Carryover Bill		
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	2/25/2009	Committee	Carryover Bill		
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services	2/11/2009	Committee	Carryover Bill		
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources	2/25/2009	Committee	Carryover Bill		
LB 678	Change provisions relating to minutes of public meetings	Haar		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill		
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill, Amended into LB 361 by AM 552		
LB 689	Change Water Resources Cash Fund, Ethanol Production Incentive Cash Fund, and ethanol excise tax provisions	Langemeier		Oppose (Unless Replacement Funds are Provided)	Natural Resources	1/29/2010	General File			
LB 731	Changes provisions relating to noxious weed funds.	Utter		Monitor	Agriculture	1/19/2010	Final Reading			
LB 740	Eliminates transfer provisions from certain agriculture funds.	Agriculture Committee		Support	Appropriations	1/25/2010	Committee			
LB 742	Provide requirements for settlement agreements involving public entities and provide that such agreements are public records.	McCoy		Monitor	Government, Military and Veterans Affairs	1/21/2010	Committee			



## Nebraska's Natural Resources Districts

[www.nrdnet.org](http://www.nrdnet.org)

Protecting Lives • Protecting Property • Protecting the Future

601 S. 12<sup>th</sup> St. Suite 201  
Lincoln, NE 68508

[nard@nrdnet.org](mailto:nard@nrdnet.org)  
(402) 471-7670

February 19, 2010

TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: February 19 NARD Update

**Priority Bills** -- State senators had until noon Friday, February 19<sup>th</sup> to declare a priority bill from the session. Further, each Committee gets to select two priority bills for the session. Finally, the Speaker also gets to select 25 priority bills for the session. If a bill does not receive priority status, it is very unlikely that it will be debated further this year.

The following bills related to Natural Resources were declared priorities for the session:

- **LB 689 -- Change Water Resources Cash Fund, Ethanol Production Incentive Cash Fund, and ethanol excise tax provisions. Langemeier.** The bill eliminates the 3/5ths cent/bushel check-off on corn and 3/5ths cent/hundredweight check-off on grain sorghum that was to go to the Water Resources Cash Fund starting in October 1, 2012. The bill also redirects the funds remaining in the Ethanol Production Incentive Cash Fund when the program ends December 31, 2012, splitting it equally with the commodity boards and the general fund. The funds were to go into the Water Resources Cash fund. **Senator Dubas Priority Bill.**
- **LB 764 -- Allows NRDs to develop IMPs in areas that are not Fully or Over-Appropriated. Fischer. (NARD Bill)** The bill allows a natural resources district encompassing a river basin, sub-basin, or reach that has not been designated as fully or over-appropriated to, jointly with the department, develop an integrated management plan for such river basin, sub-basin, or reach located within the district. The district would be required to notify the department on or before October 1 of its intention to develop an integrated management plan which shall be developed and adopted according to sections 46-715 to 46-717 and subsections (1) and (2) of section 46-718. **Senator Fischer Priority Bill.**
- **LB 862 -- Change provisions relating to issuance and repayment of river-flow enhancement bonds. Christensen.** The bill changes the definition of which NRDs can use the occupation tax on irrigated acres to pay for water programs. The bill also allows the proceeds to pay for the cost of a project with or without issuing bonds. The bill allows a district to confine such occupation tax to irrigation activity in any of the river basins in such district. Finally, the bill allows for a reduction of the tax on irrigated lands if there is no surface or ground water available to irrigate such lands, either on a temporary or permanent basis. **Natural Resources Committee Priority Bill.**
- **LB1010 - Provide procedures and limitations on the use of eminent domain by natural resources districts for recreational trails. Pankonin.** The bill outlines procedures for the use of



eminent domain by a natural resources district to take private real property for a recreational trail or a connecting trail. **Senator Pankonin Priority Bill.**

- o **LB 1057 -- Creates the Republican River Basin Water Sustainability Task Force. Carlson.**  
The bill creates the Republican River Basin Water Sustainability Task Force to ensure sustainable water use within the basin, maintain compliance with the interstate compacts to which the basin is subject, and avoid water-short years. The task force would be required to present a preliminary report to the Governor and the Legislature on or before May 15, 2011, and a final report before May 15, 2012. **Senator Carlson Priority Bill.**

For a list of priority bills, go to the Nebraska Unicameral website at:  
[www.nebraskalegislature.gov/session/priority.php](http://www.nebraskalegislature.gov/session/priority.php).

**Cass County, NRD agree to work together on MoPac Trail --** Cass County and Lower Platte South Natural Resources District signed a memorandum of understanding to work together evaluating potential corridors for the segment officially known as the MoPac East/Lied Platte River Bridge connection. Under the agreement, the NRD will take care of the technical aspects of the trail segment project and Cass County will lead public involvement, including holding public meetings for concerned residents. The goal of the agreement is to find an acceptable corridor for making the connection to finish a recreational trail between Lincoln and Omaha.

#### **Hearings this Week**

**Bank lien exemption --** The Natural Resources Committee accepted testimony on **LB 785**, which would provide an exemption from the lien search for transfers of four certified irrigated acres or less. The bill is sponsored by Senator Tom Carlson of Holdrege. The title search requirement was added to state law last year as a way to protect lien-holders from having property devalued as a result of a certified irrigated land transfer. Those involved in drafting the legislation recognized at the time that there was some minimum threshold that should be exempt from the lien search requirements. However, the parties were not able to come to an agreement at the time as to what that threshold would be, so the original legislation was silent on that point.

John Thorburn, Manager of the Tri-Basin NRD, provided testimony in support of the bill on behalf of the NRD and his district. John relayed to the committee that there are a couple of other issues that will need to be addressed either this year or in future years, which include how to protect lien-holders from having property devalued when surface water rights are transferred, and whether people who buy and sell irrigation rights should report the price of those transactions.

Milt Moravek, Assistant Manager of the Central Platte NRD, also testified in support of the bill and the suggested exemption for irrigated efficiency. Moravek suggested that the exemption be expanded to include transfers involving one landowner on a single tract of land where there is no reduction in certified irrigated acres and the transfer involves an improvement to irrigation efficiency.

The bill was also supported by the Nebraska Bankers Association, who cited in their testimony that there should be some small number of acres that should not have a lien search.

The committee took no action on the bill after the hearing.

**Instream flow rights** – A bill introduced by Senator Bill Avery of Lincoln was heard by the Natural Resources Committee this week. The bill, **LB 1025**, would allow the Nebraska Department of Natural Resources to approve an instream flow water right in areas that have been declared fully appropriated as long as there is no increased consumptive use.

Don Blankenau, Blankneau and Wilmoth, LLC, testified on behalf of the NARD in opposition to the bill and also submitted letters from two NRDs that could not attend the hearing (Middle Niobrara and Tri-Basin). Blankenau pointed out that although it is appealing to seek an instream flow right on the Niobrara River, the Nebraska Constitution expressly limits appropriations to “un-appropriated” water. That is, water that has not already been claimed by another user. The declaration of Fully Appropriated for the Niobrara River outlines in law that there is no un-appropriated water available. Thus, LB 1025 thereby acts in direct opposition to the Constitution and would probably not be enforceable.

Blankenau also pointed out that in a fully appropriated system, granting an instream flow appropriation when no other uses can be developed provides no protection to species or recreational purposes. The reason is that an instream flow appropriation simply allows the holder to call for shutting down diversions by those who acquire rights later in time. Because no other water rights can be granted in a fully appropriated system, a junior instream flow right would have no ability to seek the shut down of junior users because none would exist. Simply stated, the instream flow right would have no meaning or value.

Blankenau also pointed out that if a fully appropriated designation was lifted by NDNR, NDNR and NRDs would still need to abide by the provisions of LB 483. That bill, passed last year, restricts the amount of water that can be obtained for a water right to avoid a fully appropriated designation.

These points were also echoed by the Nebraska Farm Bureau Federation also in opposition to the bill. The bill was supported by Sierra Club and several other wildlife organizations.

The committee took no action on the bill after the hearing.

**Statewide Water Planning** – The Natural Resources Committee accepted testimony on **LB 1016** which adopts the Nebraska Statewide Water Planning Commission Act. The bill establishes a commission which consists of seven members appointed by the Governor. The commission shall exercise the powers and perform the duties carried out by the Division of Planning and Assistance of the Department of Natural Resources.

The duties of the commission include, but are not limited to: (1) Developing a statewide plan for the future use of water in the state; (2) maintaining and maximizing the use of water in this state; (3) creating a plan to manage the state’s water resources to encourage economic health and prosperity; and (4) make recommendations to the Governor and the Legislature for achieving the goals set forth in the plan developed pursuant to subdivision (1) of this section.

The concept of the bill was supported by the Nebraska State Irrigation Association and Nebraska Water Resources Association.

The bill was opposed by the Nebraska Department of Natural Resources citing that data and models used by the department are for both planning and regulation and noted that separating the agencies would create duplication.

Senator Langemeier also noted that he held hearings this summer on a state water plan and heard repeatedly that there is a state water plan with LB 962, but it lacks funding.

The committee took no action on the bill after the hearing.

**NRD property tax levy authority** – The Revenue Committee combined two bills dealing with NRD levy authorities into one hearing this week. The bills, LBs 1031 and 1032, are both sponsored by Senator Cap Dierks of Ewing.

**LB 1031** eliminates the 2012 sunset date for the NRD three-cent levy in fully and over-appropriated areas and **LB 1032** allows NRDs that have been preliminarily determined to be fully appropriated, but later reversed, to have access to the three cent levy to administer and implement ground water management activities and integrated management activities under the Nebraska Groundwater Management and Protection Act.

Kent Miller, Manager of the Twin Platte NRD, testified on behalf of the NARD and his district in support of LB 1031. Miller also provided the committee with a summary of the long-term statutory obligations and needs for the Platte River Recovery Program. These include retiring irrigated acres, river augmentation programs, and providing off-set water for municipal and industrial uses. These programs need to be funded at a proper level to maintain the economic viability of the region.

The bill was also supported by Milt Moravek, Assistant Manager of the Central Platte NRD, and Dennis Schueth, Upper Elkhorn NRD Manager. Letters of support and outlining funding needs came from the North Platte NRD and Tri-Basin NRD.

Dennis Schueth also presented testimony on behalf of the Upper Elkhorn NRD and the NARD in support of **LB 1032**, which allows NRDs that have been preliminarily determined to be fully appropriated, but later reversed, to have access to the three cent levy to administer and implement ground water management activities, and integrated management activities under the Nebraska Groundwater Management and Protection Act.

Schueth reported that even though the determination has been reversed in his district, the district still has to move forward with studies on groundwater/surface water interaction. This is the same as what happens when the basin is declared fully appropriated. The three cent levy is still needed to do the modeling and studies to help with water management. The Loup, Elkhorn and Lower Platte NRDs are working with DNR and other parties on the Elkhorn Loup Model (ELM). Funding is needed for this study and the districts would like to provide the local funding necessary.

The bill was also supported by Nebraska Farmers Union. There were no opponents to the bill.

The committee took no action after the hearing.

**Convention center style funding for water** – The Revenue Committee accepted testimony this week on a bill from Senator Mark Christensen to adopt the Agricultural Production and Economic Stability and Assistance Act. The bill, **LB 1052**, was modeled after the convention center financing in Omaha which allows for a portion of the sales tax generated at the convention center to be retained if certain criteria are met.

The act would assist NRDs with financing the management of water resources and the augmentation of water supplies for the economic stabilization of agricultural production in river basins where state responsibility for interstate compacts, agreements and/or decrees exist. An oversight board would be created to review and approve projects sponsored by a district, joint entity, or joint public agency. If approved by the board, the district, joint entity, or joint public agency would receive state assistance.

The state funding would be used to assist the district, joint entity, or joint agency in financing the project, including repayment of locally issued bonds (LB 701). The state source of funds would come from a refund of a portion of the sales tax collected by retailers doing business within the rapid response area of two and one-half miles on either side of the river, stream or tributary within the eligible district.

There were no testifiers in support, opposition or in a neutral capacity on the bill and Senator Christensen waived closing on the bill. The committee did not take action on the bill after the hearing.

### February 19<sup>th</sup>

#### **Hearings next week**

- o **LB852 - Provide for write-in space on official ballots for certain offices. Avery.** The bill eliminates the prohibition of write-in candidates in the primary for directors of NRDs and public power districts. The bill also eliminates the prohibition of write-in candidates in the general election for directors of NRDs, public power districts, county weed districts, reclamation districts, and ESUs.

#### **Other Legislative Action**

**Electric line notice** - Senators advanced **LB 643** this week to Final Reading after amendments were adopted on General File to change the notice requirement. Originally the bill would have required NRDs to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, poles, or anchors. If the line, poles, or anchors to be moved are within an area that will require Federal Aviation Administration approval, notice shall be given at least one year prior to the start of any work.

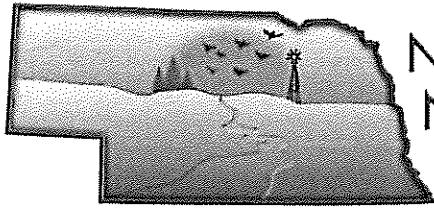
The Natural Resources Committee amendment, **AM1620**, adopted on General File would change the 180 day requirement to 90 days, and removes the language requiring a one-year notice if the equipment to be moved requires Federal Aviation Administration approval.

**City noxious weed fund** -- A bill to allow funds received by cities and counties for noxious weed programs to be deposited in their respective general fund if they do not have a noxious weed fund has reached Final Reading. The bill, **LB 731**, is sponsored by Senator Utter.

**Property tax refund bill indefinitely postponed** -- The Revenue Committee killed **LB 893**, a bill that would have provided a refund mechanism for property taxes, occupation taxes, assessments, and penalties for such taxes declared unconstitutional by any court of competent jurisdiction entered on or after January 1, 2009. The refund could be made without the necessity of filing a claim and would be repaid or refunded to the person paying such tax or assessment. For purposes of this law, a judgment or final order shall mean a judgment or final order of the Supreme Court. The bill was sponsored by Senator Christensen.

NARD Bill Summary Tracking Sheet							Last Updated: 02/19/2010		Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments		
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee	Carryover Bill		
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	Bill Passed	Passed on Final Reading with Emergency Clause 44-0-5, Approved by Governor on February 11, 2010		
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	Bill Passed	Passed on Final Reading with Emergency Clause 45-0-4, Approved by Governor on February 11, 2010		
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	Carryover Bill - Amended into LB 311 by AM 886		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	Failed to Advance to Enrollment and Review		
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	Carryover Bill		
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Natural Resources	2/5/2009	Committee	Carryover Bill		
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources	1/29/2009	Committee	Carryover Bill		
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	Carryover Bill		
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources	2/27/2009	Committee	Carryover Bill		
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue	2/6/2009	Committee	Carryover Bill		
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDS.	Stufman		Oppose	Natural Resources	2/20/2009	Committee	Carryover Bill		
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture	2/10/2009	Committee	Carryover Bill		
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources	3/4/2009	Committee	Carryover Bill		
LB 624	Provide for energy efficiency bans for public building	Haar		Monitor	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 643	Change and provide notice requirements of road construction near electric lines	Scholz		Monitor	Natural Resources	2/20/2009	Final Reading	Carryover Bill - AM 1620		
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	3/11/2009	Committee	Carryover Bill		
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	2/26/2009	Committee	Carryover Bill		
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services	2/11/2009	Committee	Carryover Bill		
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources	2/25/2009	Committee	Carryover Bill		
LB 678	Change provisions relating to minutes of public meeting	Haar		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill		
LB 639	Change provisions to telephone conferencing for public meeting	Karpisek		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill, Amended into LB 361 by AM 552		
LB 689	Change Water Resources Cash Fund, Ethanol Production Incentive Cash Fund, and ethanol excise tax provision	Langemeier	Dubas	Oppose (Unless Replacement Funds are Provided)	Natural Resources					
LB 731	Changes provisions relating to noxious weed funds.	Utter		Monitor	Agriculture	1/29/2010	General File			
LB 740	Eliminates transfer provisions from certain agriculture funds.	Agriculture Committee		Support	Appropriations	1/25/2010	Committee			
LB 742	Provide requirements for settlement agreements involving public entities and provide that such agreements are public records.	McCoy	McCoy	Monitor	Government, Military and Veterans Affairs	1/21/2010	Committee			

NARD Bill Summary Tracking Sheet					Last Updated: 02/19/2010		Page 2 of 2	
LB 764	Allows NRDs to develop IMPs in areas that are not fully or over-appropriated.	Fischer	Fischer	Support	Natural Resources	2/3/2010	General File	AM 1751
LB 782	Change provisions relating to the issuance of distinctive license plates for governmental units.	Fischer	Fischer	Monitor	Transportation & Telecommunications	1/19/2010	Committee	
LB 785	Provide an exception to required approval for certain water transfers.	Carlson	Dubas	Support with Modifications	Natural Resources	2/18/2010	Committee	
LB 793	Prohibit cash fund transfers without authorization	Council	Langemeier	Support	Appropriations	1/25/2010	Committee	
LB 795	Authorize employment of law enforcement officers by natural resources districts.	Council	Langemeier	Support with amendment to open up to all NRDs	Judiciary	2/10/2010	Committee	
LB 798	Extend the termination date for the Nebraska Litter Reduction and Recycling Act.	Council	Campbell	Support	Natural Resources	1/20/2010	Final Reading	
LB 806	Change provisions relating to agricultural land valuation.	Council	Campbell	Monitor	Revenue	1/27/2010	Final Reading	
LB 815	Change requirements for Taxpayer Transparency Act	Haar	Haar	Monitor	Government, Military and Veterans Affairs	1/28/2010	Committee	
LB 826	Adopt the County Consolidation Act.	Pahls	Pahls	Oppose	Government, Military and Veterans Affairs	1/22/2010	IPP	Indefinitely Postponed
LB 832	Eliminate a private insurance requirement relating to petroleum release remedial action.	Fischer	Fischer	Monitor	Natural Resources	1/22/2010	Final Reading	
LB 852	Provide for write-in space on official ballots for certain offices	Avery	Avery	Oppose	Government, Military and Veterans Affairs	2/24/2010	Committee	
LB 862	Change provisions relating to issuance and repayment of river-flow enhancement bonds.	Christensen	Christensen	Support	Natural Resources	2/3/2010	Committee	
LB 884	Require employers to provide employees with wage and deduction information.	McGill	McGill	Monitor	Business & Labor	1/25/2010	Committee	
LB 893	Provide refund procedures for unconstitutional taxes and assessments.	Christensen	Christensen	Support	Revenue	1/28/2010	IPP	Indefinitely Postponed
LB 895	Change procedures for filling vacancies on a natural resources district board.	Janssen	Janssen	Oppose	Natural Resources	1/28/2010	Committee	
LB 911	Change a date relating to development of a statewide biotechnology strategic plan.	Langemeier	Langemeier	Monitor	Natural Resources	1/20/2010	Final Reading	
LB 917	Exempt municipal water from sales and use taxes.	Rogert	Rogert	Monitor	Revenue	2/25/2010	Committee	
LB 932	Change provisions relating to repayment of financial assistance by natural resources districts.	Christensen	Christensen	Support	Natural Resources	2/3/2010	Committee	
LB 935	Provide for deficit appropriations and change certain appropriations.	Flood, on behalf of the Governor	Flood, on behalf of the Governor	Monitor	Appropriations	1/26/2010	Committee	
LB 993	Change use of the Water Resources Cash Fund	Carlson	Carlson	Support	Natural Resources	2/10/2010	Committee	
LB 1010	Provide procedures and limitations on the use of eminent domain by natural resources district for recreational trails.	Pankonin	Pankonin	Support with Changes	Natural Resources	2/11/2010	Committee	
LB 1011	Limit the eminent domain power of natural resources districts to exclude certain recreational trails.	Pankonin	Pankonin	Oppose	Natural Resources	2/11/2010	Committee	
LB 1016	Adopts the Nebraska Statewide Water Planning Commission Act	Christensen	Christensen	Oppose Bill - Recommend an Interim Study	Natural Resources	2/18/2010	Committee	
LB 1019	Creates the trails dispute boards to decide disputes concerning recreational trails between county boards and NRD boards	Haar	Haar	Support with Changes	Natural Resources	2/11/2010	Committee	
LB 1025	Allows for an instream flow right in fully appropriated areas	Avery	Avery	Oppose	Natural Resources	2/18/2010	Committee	
LB 1031	Eliminate the sunset date on NRD levy	Dierks	Dierks	Support	Revenue	2/18/2010	Committee	
LB 1032	Change the fully appropriated levy	Dierks	Dierks	Support	Revenue	2/18/2010	Committee	
LB 1052	Adopt the Agricultural Production and Economic Stability and Assistance Act.	Christensen	Christensen	Monitor	Revenue	2/19/2010	Committee	
LB 1054	Adopt the correlative rights doctrine relating to the use of groundwater.	Carlson	Carlson	Oppose	Natural Resources	2/10/2010	Committee	
LB 1056	Provide for measurement of aquifer depletion and limitations on irrigation.	Carlson	Carlson	Oppose	Natural Resources	2/10/2010	Committee	
LB 1057	Creates the Republican River Basin Water Sustainability Task Force.	Carlson	Carlson	Oppose	Natural Resources	2/5/2010	Committee	
LB 1076	Change provisions relating to evaluation of river basins, sub-basins, and reaches.	Schilz	Schilz	Oppose	Natural Resources	2/5/2010	Committee	
LB 1076A	Constitutional amendment to permit exemption from taxation of real property which is donated to the state or governmental subdivision.	Pirsch	Pirsch	Monitor	Revenue	1/28/2010	IPP	Indefinitely Postponed



## Nebraska's Natural Resources Districts

[www.nrdnet.org](http://www.nrdnet.org)

Protecting Lives • Protecting Property • Protecting the Future

601 S. 12<sup>th</sup> St. Suite 201  
Lincoln, NE 68508

[nard@nrdnet.org](mailto:nard@nrdnet.org)  
(402) 471-7670

February 26, 2010

TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: February 26 NARD Update

**NRD write-in candidates** -- The Government Committee accepted testimony on **LB 852** this week which allows for write-in space on official ballots for certain offices. The bill eliminates the prohibition of write-in candidates in the primary for directors of NRDs and public power districts. The bill also eliminates the prohibition of write-in candidates in the general election for directors of NRDs, public power districts, county weed districts, reclamation districts, and ESUs.

Under current law, if there are two or less candidates for NRD or public power district directors, the ballot does not have to be printed in the primary election as the candidates would automatically advance to the General Election. It was unclear with the bill under this scenario whether the primary ballot would have to be printed and include a write-in line.

The Nebraska Secretary of State's office testified at the hearing and pointed out that races with two or less candidates for NRD or public power district directors would not have to be on the primary ballot and thus the districts would not have to pay for ballots for additional write-in candidates. Their testimony also pointed out that the ballots could get rather lengthy with the write in spaces for all the lower tier offices.

Bob Hilske, Manager of the Nemaha NRD, testified in a neutral capacity for the Nebraska Association of Resources Districts urging the committee to make sure that the exemption for two or less candidates would apply.

The bill was supported by the Nebraska Association of County Officials and the Papio Valley Preservation Association. The committee advanced the bill to General File without amendments.

**Hearings end** -- This week marked the end of regularly scheduled committee hearings as all bills have now had public hearings. The Legislature will begin all-day debate starting Monday, March 1, which is the 34<sup>th</sup> day of the 60-day legislative session.

### General File Action

**Eliminate dedicated water fund source** -- After almost two days of debate, the legislature advanced **LB 689** this week which eliminates dedicated funding sources for the Water Resources Cash Fund.

The bill eliminates the 3/5ths cent/bushel check-off on corn and 3/5ths cent/hundredweight check-off on grain sorghum that was to go to the Water Resources Cash Fund starting on October 1, 2012. The bill also redirects the funds remaining in the Ethanol Production Incentive Cash Fund when the program ends December 31, 2012, splitting it equally with the commodity boards and the general fund. The funds were to go into the Water Resources Cash Fund.

Several state senators argued that the bill should not advance without some back-up plan for funding. Senator Heideman, Chairman of the Appropriations Committee urged caution that large general fund budget deficits are projected in the next few years and that General Fund dollars will be extremely hard to come by. Several urban senators echoed that they do not want general funds used for water programs. Some rural senators also urged caution that the alternative could be worse than the check-off funds.

Senator Dubas' Priority Bill advanced 44-1-4. However, before Select File debate, a meeting including the interested State Senators, ag groups and the NARD will occur to look at alternate funding sources.

**Voluntary NRD IMPs** -- After brief debate, senators advanced **LB 764** which allows a natural resources district encompassing a river basin, sub-basin, or reach that has not been designated as fully or over-appropriated to, jointly with the department, develop an integrated management plan for such river basin, sub-basin, or reach located within the district.

The original version of the bill would have required a district to notify the department on or before October 1 of its intention to develop an integrated management plan. The committee amendment strikes the October 1 requirement and leaves it open that a district could notify the department at any time of the year.

There was some discussion about making sure environmental groups were included as stakeholders for local NRD IMP workgroups, but no amendments were offered as the discussion became how do we list every group, individual or organization in statute without inadvertently omitting someone.

Senator Fischer's Priority Bill advanced 40-0-9.

**Contracts with law enforcement** -- Senator Brad Ashford, Chairman of the Judiciary Committee, has filed an amendment (**AM 1976**) to **LB 817** to allow a natural resources district to contract with law enforcement agencies to patrol district property. The amendment would allow the NRDs to enter into interlocal agreements for the services of certified law enforcement personnel or to contract for the services of private security firms to patrol and protect district-owned recreation areas and to assist law enforcement officers in enforcing sections 2-3292 to 2-32,100 and any rules and regulations adopted and promulgated pursuant to such sections.

The intent of **LB 817** would exempt valid permit holders under the Concealed Handgun Permit Act from also having to obtain a certificate to purchase, lease, rent, or receive transfer of a handgun. The bill is Senator Fulton's Priority Bill for the session.

### **Final Reading Action**

**Electric line notice** - Senators gave final approval to **LB 643** this week on a 47-0-2 vote. On General File, amendments were adopted to change the notice requirement. Originally the bill would have required NRDs to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, pole, or anchor. If the line, pole, or anchor to be moved is within an area that will require Federal Aviation Administration approval, notice shall be given at least one year prior to the start of any work.

The Natural Resources Committee amendment, **AM 1620**, adopted on General File would change the 180-day requirement to 90 days, and removes the language requiring a one-year notice if the equipment to be moved requires Federal Aviation Administration approval.



**City noxious weed fund** -- A bill to allow funds received by cities and counties for noxious weed programs to be deposited in their respective general fund if they do not have a noxious weed fund was given final approval on a 46-0-3 vote. The bill, **LB 731**, is sponsored by Senator Utter.

**Nebraska litter reduction and recycling** -- Senator gave final approval on a 46-0-3 vote to **LB 798** which extends the termination date for the Nebraska Litter Reduction and Recycling Act from October 30, 2010 to October 10, 2015. Senator Chris Langemeier sponsored the legislation.

**Ag land valuation** -- Senators gave final approval on a 46-0-3 vote to **LB 806** which eliminates two references to conditions under which cancellation of special valuation treatment of agricultural land can take place. These conditions are sale to an exempt owner, or sale to a governmental subdivision. These provisions are viewed as obsolete since the repeal of tax recapture provisions. The bill was sponsored by Senator Campbell.

**Private insurance for remedial action** -- A bill to eliminate the private insurance requirement for newly-sited underground petroleum tank owners to cover any remedial action relating to the tank was given final approval on a 45-0-4 vote. The owners of such tanks are currently required to pay for coverage under the Leaking Underground Storage Tank (LUST) Fund. Senator Fischer was the sponsor of **LB 832**.

#### **Other Committee Action**

**Republican River Task Force** -- The Natural Resources Committee advanced **LB 1057** to General File with amendments, which proposes to create the Republican River Basin Water Sustainability Task Force. The adopted committee amendment, **AM 1895**, replaces much of the bill and maintains the emergency clause. The bill with the committee amendments creates a task force as follows:

1. Governor appointments:
  - o Eight from NRDs in the Republican River Basin (Two from each NRD)
  - o Four from irrigation districts in the basin
  - o One from each of the following: UNL, Nebraska Game and Parks, Nebraska Department of Agriculture, Nebraska Department of Natural Resources
  - o Two from agriculture-related businesses in the basin
  - o One representative each from a school district, city, county, and public power district in the basin.
2. The Legislature's Executive Board chairperson is also to appoint three ex-officio, non-voting senators, including two who reside in the basin, and the chairperson of the Natural Resources Committee.
3. The task force is to be housed within the Department of Natural Resources for administrative and budgetary purposes, advisory support may be requested from federal and state agencies, and non-state employees are to be reimbursed for expenses.
4. The task force is to meet quarterly, may hire a facilitator, and is to convene within 30 days after appointments are completed. The task force is to provide a report to the Governor and Legislature, and is to terminate on June 30, 2012. Also, the intention is stated that expenses are to be paid from funds appropriated from the Water Resources Cash Fund and not exceed \$25,000 per fiscal year.

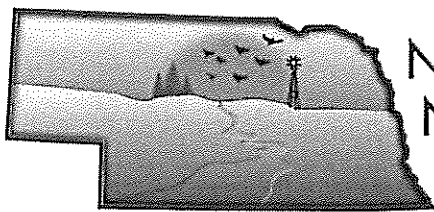
The bill is Senator Carlson's Priority Bill for the session.

NARD Bill Summary Tracking Sheet						Last Updated: 02/26/2010		Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments	
LB 12	Increase Natural Resource Development Fund	Langemeier		Support	Appropriations	3/9/2009	Committee	Carryover Bill	
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill	
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill	
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	Bill Passed	Passed on Final Reading with Emergency Clause 44-0-5, Approved by Governor on February 11, 2010	
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy, and carbon sequestration	Adams		Monitor	Education	3/9/2009	Bill Passed	Passed on Final Reading with Emergency Clause 45-0-4, Approved by Governor on February 11, 2010	
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	Carryover Bill - Amended into LB 311 by AM 886	
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	Failed to Advance to Enrollment and Review	
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	Carryover Bill	
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Natural Resources	2/5/2009	Committee	Carryover Bill	
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources	1/29/2009	Committee	Carryover Bill	
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	Carryover Bill	
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources	2/27/2009	Committee	Carryover Bill	
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue	2/6/2009	Committee	Carryover Bill	
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stuthman		Oppose	Natural Resources	2/20/2009	Committee	Carryover Bill	
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/4/2009	Committee	Carryover Bill	
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture	2/10/2009	Committee	Carryover Bill	
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources	3/4/2009	Committee	Carryover Bill	
LB 624	Provide for energy efficiency loans for public building	Haar		Monitor	Natural Resources	2/4/2009	Committee	Carryover Bill	
LB 643	Change and provide notice requirements of road construction near electric lines	Scholz		Monitor	Natural Resources	2/20/2009	Bill Passed	Carryover Bill - AM 1620 - Passed on Final Reading 47-0-2	
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	3/11/2009	Committee	Carryover Bill	
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	2/26/2009	Committee	Carryover Bill	
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services	2/11/2009	Committee	Carryover Bill	
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources	2/25/2009	Committee	Carryover Bill	
LB 678	Change provisions relating to minutes of public meeting	Haar		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill	
LB 639	Change provisions to telephone conferencing for public meeting	Karpisek		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill, Amended into LB 361 by AM 552	
LB 689	Change Water Resources Cash Fund, Ethanol Production Incentive Cash Fund, and ethanol excise tax provision	Langemeier	Dubas	Oppose (Unless Replacement Funds are Provided)	Natural Resources	1/29/2010	Select File		
LB 731	Changes provisions relating to noxious weed funds.	Utter		Monitor	Agriculture	1/19/2010	Bill Passed	Passed on Final Reading 46-Q-3	
LB 740	Eliminates transfer provisions from certain agriculture funds.	Agriculture Committee		Support	Appropriations	1/25/2010	Committee		
LB 742	Provide requirements for settlement agreements involving public entities and provide that such agreements are public records	McCoy	McCoy	Monitor	Government, Military and Veterans Affairs	1/21/2010	General File	AM 1967	

	NARD Bill Summary Tracking Sheet	Last Updated: 02/26/2010				Page 2 of 2
LB 764	Allows NRDs to develop IMPs in areas that are not fully or over-appropriated.	Fischer	Fischer	Support	Natural Resources	Select File AM 1751 Adopted
LB 782	Change provisions relating to the issuance of distinctive license plates for governmental units.	Fischer		Monitor	Transportation & Telecommunications	Committee
LB 785	Provide an exception to required approval for certain water transfers.	Carlson		Support with Modifications	Natural Resources	Committee
LB 793	Prohibit cash fund transfers without authorization	Dubas		Support	Appropriations	Committee
LB 795	Authorize employment of law enforcement officers by natural resources districts.	Council		Support with amendment to open up to all NRDs	Judiciary	Committee
LB 798	Extend the termination date for the Nebraska Litter Reduction and Recycling Act	Langemeier		Support	Natural Resources	Bill Passed Passed on Final Reading 46-03
LB 806	Change provisions relating to agricultural land valuation.	Campbell		Monitor	Revenue	Bill Passed Passed on Final Reading 46-03
LB 815	Change requirements for Taxpayer Transparency Act	Haar		Monitor	Government, Military and Veterans Affairs	Committee
LB 826	Adopt the County Consolidation Act.	Pallis		Oppose	Government, Military and Veterans Affairs	IPP Indefinitely Postponed
LB 832	Eliminate a private insurance requirement relating to petroleum release remedial action.	Fischer		Monitor	Natural Resources	Bill Passed Passed on Final Reading 45-04
LB 852	Provide for write-in space on official ballots for certain offices	Avery	Natural Resources Committee	Oppose	Government, Military and Veterans Affairs	Committee
LB 862	Change provisions relating to issuance and repayment of river-flow enhancement bonds.	Christensen		Support	Natural Resources	Committee
LB 884	Require employers to provide employees with wage and deduction information.	McGill		Monitor	Business & Labor	Committee
LB 893	Provide refund procedures for unconstitutional taxes and assessments.	Christensen		Support	Revenue	IPP Indefinitely Postponed
LB 895	Change procedures for filling vacancies on a natural resources district board.	Janssen		Oppose	Natural Resources	Committee
LB 911	Change a title relating to development of a statewide biotechnology strategic plan.	Langemeier		Monitor	Natural Resources	Bill Passed Passed on Final Reading with Emergency Clause 46-03
LB 917	Exempt municipal water from sales and use taxes.	Rogert		Monitor	Revenue	Committee
LB 932	Change provisions relating to repayment of financial assistance by natural resources districts.	Christensen		Support	Natural Resources	Committee
LB 935	Provide for deficit appropriations and change certain appropriations.	Flood, on behalf of the Governor		Monitor	Appropriations	Committee
LB 993	Change use of the Water Resources Cash Fund	Carlson		Support	Natural Resources	Committee
LB 1010	Provide procedures and limitations on the use of eminent domain by natural resources district for recreational trails.	Pankonin	Pankonin	Support with Changes	Natural Resources	Committee
LB 1011	Limit the eminent domain power of natural resources districts to exclude certain recreational trails.	Pankonin		Oppose	Natural Resources	Committee
LB 1016	Adopts the Nebraska Statewide Water Planning Commission Act	Christensen		Oppose Bill – Recommend an Interim Study	Natural Resources	Committee
LB 1019	Creates the trails dispute boards to decide disputes concerning recreational trails between county boards and NRD boards	Haar		Support with Changes	Natural Resources	Committee
LB 1025	Allows for an instream flow right in fully appropriated areas	Avery		Oppose	Natural Resources	Committee
LB 1031	Eliminate the sunset date on NRD levy	Dierks		Support	Revenue	Committee
LB 1032	Change the fully appropriated levy	Dierks		Support	Revenue	Committee
LB 1052	Adopt the Agricultural Production and Economic Stability and Assistance Act.	Christensen		Monitor	Revenue	Committee
LB 1054	Adopt the correlative rights doctrine relating to the use of groundwater.	Carlson		Oppose	Natural Resources	Committee
LB 1056	Provide for measurement of aquifer depletion and limitations on irrigation.	Carlson		Oppose	Natural Resources	Committee
LB 1057	Creates the Republican River Basin Water Sustainability Task Force.	Carlson	Carlson	Oppose	Natural Resources	General File AM 1895
LB 1076	Change provisions relating to evaluation of river basins, sub-basins, and reaches.	Schitz		Oppose	Natural Resources	Committee
LB 1076CA	Constitutional amendment to permit exemption from taxation of real property which is donated to the state or governmental subdivision.	Pirsch		Monitor	Revenue	IPP Indefinitely Postponed

NARD Bill Summary Tracking Sheet							Last Updated: 02/26/2010		Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments		
LB 12	Increase Natural Resource Development Fund	Langemeier		Support	Appropriations	3/9/2009	Committee	Carryover Bill		
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	Bill Passed	Passed on Final Reading with Emergency Clause 44-Q-5, Approved by Governor on February 11, 2010		
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	Bill Passed	Passed on Final Reading with Emergency Clause 45-Q-4, Approved by Governor on February 11, 2010		
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	Carryover Bill - Amended into LB 311 by AM 886		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	Failed to Advance to Enrollment and Review		
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	Carryover Bill		
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Natural Resources	2/5/2009	Committee	Carryover Bill		
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources	1/29/2009	Committee	Carryover Bill		
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	Carryover Bill		
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources	2/27/2009	Committee	Carryover Bill		
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue	2/6/2009	Committee	Carryover Bill		
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stuhman		Oppose	Natural Resources	2/20/2009	Committee	Carryover Bill		
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture	2/10/2009	Committee	Carryover Bill		
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources	3/4/2009	Committee	Carryover Bill		
LB 624	Provide for energy efficiency loans for public building:	Haar		Monitor	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 643	Change and provide notice requirements of road construction near electric lines	Schilz		Monitor	Natural Resources	2/20/2009	Bill Passed	Carryover Bill - AM 1620 - Passed on Final Reading 47-Q-2		
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	3/11/2009	Committee	Carryover Bill		
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	2/26/2009	Committee	Carryover Bill		
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services	2/11/2009	Committee	Carryover Bill		
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources	2/25/2009	Committee	Carryover Bill		
LB 678	Change provisions relating to minutes of public meeting:	Haar		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill		
LB 639	Change provisions to telephone conferencing for public meeting:	Karpisek		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill, Amended into LB 351 by AM 552		
LB 689	Change Water Resources Cash Fund, Ethanol Production Incentive Cash Fund, and ethanol excise tax provision:	Langemeier	Dubas	Oppose (Unless Replacement Funds are Provided)	Natural Resources	1/29/2010	Select File			
LB 731	Changes provisions relating to noxious weed funds.	Utter		Monitor	Agriculture	1/19/2010	Bill Passed	Passed on Final Reading 46-Q-3		
LB 740	Eliminates transfer provisions from certain agriculture funds.	Agriculture Committee		Support	Appropriations	1/25/2010	Committee			
LB 742	Provide requirements for settlement agreements involving public entities and provide that such agreements are public records	McCoy	McCoy	Monitor	Government, Military and Veterans Affairs	1/21/2010	General File	AM 1967		

	NARD Bill Summary Tracking Sheet		Last Updated: 02/26/2010					Page 2 of 2
LB 764	Allows NRDs to develop IMPs in areas that are not fully or over-appropriated.	Fischer	Fischer	Support	Natural Resources	2/3/2010	Select File	AM 1751 Adopted
LB 782	Change provisions relating to the issuance of distinctive license plates for governmental units.	Fischer	Fischer	Monitor	Transportation & Telecommunications	1/19/2010	Committee	
LB 785	Provide an exception to required approval for certain water transfers.	Carlson		Support with Modifications	Natural Resources	2/18/2010	Committee	
LB 793	Prohibit cash fund transfers without authorization	Dubas		Support	Appropriations	1/25/2010	Committee	
LB 795	Authorize employment of law enforcement officers by natural resources districts.			Support with amendment to open up to all NRDs	Judiciary	2/10/2010	Committee	
LB 798	Extend the termination date for the Nebraska Litter Reduction and Recycling Act.			Support	Natural Resources	1/20/2010	Bill Passed	Passed on Final Reading 46-0-3
LB 806	Change provisions relating to agricultural land valuation.	Campbell		Monitor	Revenue	1/27/2010	Bill Passed	Passed on Final Reading 46-0-3
LB 815	Change requirements for Taxpayer Transparency Act	Haar		Monitor	Government, Military and Veterans Affairs	1/28/2010	Committee	
LB 826	Adopt the County Consolidation Act.	Pahls		Oppose	Government, Military and Veterans Affairs	1/22/2010	IPP	Indefinitely Postponed
LB 832	Eliminate a private insurance requirement relating to petroleum release remedial action.	Fischer		Monitor	Natural Resources	1/22/2010	Bill Passed	Passed on Final Reading 45-0-4
LB 852	Provide for write-in space on official ballots for certain offices	Avery		Oppose	Government, Military and Veterans Affairs	2/24/2010	Committee	
LB 862	Change provisions relating to issuance and repayment of river-flow enhancement bonds.	Christensen	Natural Resources Committee	Support	Natural Resources	2/3/2010	Committee	
LB 884	Require employers to provide employees with wage and deduction information.	McGill		Monitor	Business & Labor	1/25/2010	Committee	
LB 893	Provide refund procedures for unconstitutional taxes and assessments.	Christensen		Support	Revenue	1/28/2010	IPP	Indefinitely Postponed
LB 895	Change procedures for filling vacancies on a natural resources district board.	Janssen		Oppose	Natural Resources	1/28/2010	Committee	
LB 911	Change a date relating to development of a statewide biotechnology strategic plan.	Langemeier		Monitor	Natural Resources	1/20/2010	Bill Passed	Passed on Final Reading with Emergency Clause 46-0-3
LB 917	Exempt municipal water from sales and use taxes.	Rogert		Monitor	Revenue	2/25/2010	Committee	
LB 932	Change provisions relating to repayment of financial assistance by natural resources districts.	Christensen		Support	Natural Resources	2/3/2010	Committee	
LB 935	Provide for deficit appropriations and change certain appropriations.	Flood, on behalf of the Governor		Support	Natural Resources	2/3/2010	Committee	
LB 993	Change use of the Water Resources Cash Fund	Carlson		Monitor	Appropriations	1/26/2010	Committee	
LB 1010	Provide procedures and limitations on the use of eminent domain by natural resources district for recreational trails.	Pankonin	Pankonin	Support with Changes	Natural Resources	2/10/2010	Committee	
LB 1011	Limit the eminent domain power of natural resources districts to exclude certain recreational trails.	Pankonin		Oppose	Natural Resources	2/11/2010	Committee	
LB 1016	Adopts the Nebraska Statewide Water Planning Commission Act	Christensen		Oppose Bill – Recommend an Interim Study	Natural Resources	2/18/2010	Committee	
LB 1019	Creates the trails dispute boards to decide disputes concerning recreational trails between county boards and NRD boards	Haar		Support with Changes	Natural Resources	2/11/2010	Committee	
LB 1025	Allows for an instream flow right in fully appropriated areas	Avey		Oppose	Natural Resources	2/18/2010	Committee	
LB 1031	Eliminate the sunset date on NRD levy	Dierks		Support	Revenue	2/18/2010	Committee	
LB 1032	Change the fully appropriated levy	Dierks		Support	Revenue	2/18/2010	Committee	
LB 1052	Adopt the Agricultural Production and Economic Stability and Assistance Act.	Christensen		Monitor	Revenue	2/19/2010	Committee	
LB 1054	Adopt the correlative rights doctrine relating to the use of groundwater.	Carlson		Oppose	Natural Resources	2/10/2010	Committee	
LB 1056	Provide for measurement of aquifer depletion and limitations on irrigation.	Carlson		Oppose	Natural Resources	2/10/2010	Committee	
LB 1057	Creates the Republican River Basin Water Sustainability Task Force.	Carlson	Carlson	Oppose	Natural Resources	2/5/2010	General File	AM 1895
LB 1076	Change provisions relating to evaluation of river basins, sub-basins, and reaches.	Schiltz		Oppose	Natural Resources	2/5/2010	Committee	
LB 1276CA	Constitutional amendment to permit exemption from taxation of real property which is donated to the state or governmental subdivision.	Pirsch		Monitor	Revenue	1/28/2010	IPP	Indefinitely Postponed



## Nebraska's Natural Resources Districts

[www.nrdnet.org](http://www.nrdnet.org)

601 S. 12<sup>th</sup> St. Suite 201  
Lincoln, NE 68508

[nard@nrdnet.org](mailto:nard@nrdnet.org)  
(402) 471-7670

Protecting Lives • Protecting Property • Protecting the Future

March 5, 2010

TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: March 5 NARD Update

**Anna Baum elected chair of the NRD Managers Committee** – Anna Baum, manager of the Upper Loup NRD, was elected chairperson of the NRD Managers Committee this week. Baum is the first female to chair the committee. Coincidentally, Mary Ann Wortmann is serving as President of the NARD and the first woman to hold that position. Mike Murphy, the Manager of the Middle Niobrara NRD, was elected vice-chair of the NRD Managers Committee.

### Committee Action

**Occupation Tax** – The Natural Resources Committee advanced **LB 862** this week to General File with a committee amendment. The bill has not been officially reported out of committee, but will be early next week. The bill makes several changes to the occupation tax on irrigated acres. The bill is sponsored by Senator Mark Christensen and is one of the Natural Resources Committee Priority Bills.

Current law allows districts that contain a river subject to an interstate compact among at least three states and at least one irrigation district within the compact to be able to issue river-flow enhancement bonds. The committee amendment deletes the original bill and replaces that language with the following criteria:

- It has jurisdiction that is part of a river basin for which the district has adopted an integrated management plan (IMP);
- The IMP is in accordance with 46-715;
- The IMP refers to 2-3226.04; and
- The IMP explicitly states the district's intent to utilize qualified projects described in 2-3226.04.

Nebraska Revised Statute **2-3226.04** outlines that the funds shall only be used to pay or refinance the costs of (1) acquisition by purchase or lease of ground water or surface water rights; (2) purchase or lease or the administration and management, pursuant to mutual agreement, of canals and other works, including reservoirs, constructed for irrigation from a river or any of its tributaries; (3) vegetation management, including, but not limited to, the removal of invasive species in or near a river or any of its tributaries; and (4) the augmentation of river flows consistent with the authority granted under Chapter 2, Article 32.

The committee amendment also allows the funds to be used to pay all of or any part of the costs and expenses of one or more qualified projects rather than issuing bonds.

Finally the amendment addresses that for districts that have more than one river basin within its jurisdiction, the occupation tax is to be confined to the geographic area affected by an IMP.

**Recreational Trails** -- the Natural Resources Committee advanced **LB 1010** this week on an 8-0 vote, with Committee Amendment **AM 2029** to the floor for debate by the full legislature. The bill establishes a procedure for natural resources districts to use when eminent domain is involved for developing a recreational trail. Several changes to the original bill were made.

Originally the bill called for a 75% board vote in favor of the trail, which is reduced to 67% (2/3rds) by the committee amendment. The amendment also clarifies that private lands included in the bill do not include property under management of the Board of Educational Lands and Funds. The amendment also requires the district to have clear and convincing evidence that the procedures were followed and all of the criteria are met.

The bill is Senator Pankonin's Priority Bill for the session. The bill has not formally been reported out of committee, but will be next week.

**Bank lien exemption** -- The Natural Resources Committee advanced **LB 785** this week, which would provide an exemption from the lien search for transfers of four certified irrigated acres or less. The bill is sponsored by Senator Tom Carlson of Holdrege. The title search requirement was added to state law last year as a way to protect lien-holders from having property devalued as a result of a certified irrigated land transfer. Those involved in drafting the legislation recognized at the time that there was some minimum threshold that should be exempt from the lien search requirements. However, the parties were not able to come to an agreement at the time as to what that threshold would be, so the original legislation was silent on that point.

The committee advanced the bill on a 8-0 vote with an amendment, **AM 2090**, which adds an exception for a landowner on a single tract of land where there is no reduction or increase in certified acres and the transfer is for irrigation efficiency improvements.

**NRD property tax levy authority** – The Revenue Committee advanced two bills dealing with NRD levy authorities this week. The bills, **LBs 1031 and 1032**, are both sponsored by Senator Cap Dierks of Ewing.

The original version of **LB 1031** eliminates the 2012 sunset date for the NRD three-cent levy in fully and over-appropriated areas. The other bill, **LB 1032**, allows NRDs that have been preliminarily determined to be fully appropriated, but later reversed, to have access to the three-cent levy to administer and implement ground water management activities, and integrated management activities under the Nebraska Groundwater Management and Protection Act.

The funds are to be used for water management planning, hydrological studies, retiring water uses, river augmentation programs, and providing off-set water for municipal and industrial uses. These programs need to be funded at a proper level to maintain the economic viability of the local regions.

Even though the determination has been reversed in the Lower Platte Basin, the districts still have to move forward with studies on groundwater/surface water interaction. This is the same as what happens when the basin is declared fully appropriated. The three-cent levy is still needed to do the modeling and studies to help with water management. The Loup, Elkhorn and Lower Platte NRDs are working with DNR and other parties on the Elkhorn Loup Model (ELM). Funding is needed for this study and the districts would like to provide the local funding necessary.

The committee amendments (**AM 2040 to LB 1031 and AM 2039 to LB 1032**) allow for the authorities in both bills to extend until 2016-17.

**NRD director elections** – The Natural Resources Committee advanced **LB 895** this week on a 8-0 vote without amendments. The bill requires directors appointed to fill vacancies to run for re-election if the appointment occurred before September 1 of the second year of the term. The bill is sponsored by Senator Charlie Janssen.

The Papio Valley Preservation Association (PVPA) requested the bill be introduced so they would have more input on any vacancy that may occur. In their testimony they cited an example of a

vacancy appointment in 2004 by the Papio-Missouri River NRD where not all candidates were considered. The bill does not address the situation described by PVPA of how vacancies are filled.

After the hearing it was discovered that there was not a vacancy appointment in 2004 as claimed by the PVPA. However, there was a vacancy appointment in 2006 that involved six candidates. The PMRNRD allows for all the candidates to come in and make a 20-minute presentation. Prior to the presentation, two of the candidates withdrew from nomination. The remaining four candidates were given consideration before the board voted to select one as the current law outlines. It is assumed the two candidates that withdrew are the ones PVPA claimed were not considered.

**NRD write-in candidates** -- The Government Committee advanced **LB 852** this week which allows for write-in space on official ballots for certain offices. The bill eliminates the prohibition of write-in candidates in the primary for directors of NRDs and public power districts. The bill also eliminates the prohibition of write-in candidates in the general election for directors of NRDs, public power districts, county weed districts, reclamation districts, and ESUs.

Under current law, if there are two or less candidates for NRD or public power district directors, the ballot does not have to be printed in the primary election as the candidates would automatically advance to the General Election. This does not change under the bill.

The Nebraska Secretary of State's office testified at the hearing and pointed out that races with two or less candidates for NRD or public power district directors would not have to be on the primary ballot and thus the districts would not have to pay for ballots for additional write-in candidates. Their testimony also pointed out that the ballots could get rather lengthy with the write in spaces for all the lower tier offices.

The bill was supported by the Nebraska Association of County Officials and the Papio Valley Preservation Association. The committee advanced Senator Avery's bill to General File without amendments.

### **General File Action**

**Contracts with law enforcement** – On General File this week Senator Brad Ashford, Chairman of the Judiciary Committee, filed an amendment (**AM 1976**) to **LB 817** to allow a natural resources district to contract with law enforcement agencies to patrol district property. The amendment was withdrawn after realizing the amendment included an incorrect reference. The amendment is the language from **LB 795**.

Senators advanced the bill to Select File and a subsequent amendment, **AM2096**, has been filed which corrects the error and would allow the NRDs to enter into interlocal agreements for the services of certified law enforcement personnel or to contract for the services of private security firms. Senators will debate the amendment when the bill comes up on Select File.

The intent of **LB 817** would exempt valid permit holders under the Concealed Handgun Permit Act from also having to obtain a certificate to purchase, lease, rent, or receive transfer of a handgun. The bill is Senator Fulton's Priority Bill for the session.

### **Select File Action**

**Eliminate dedicated water fund source** – The legislature advanced **LB 689** to Final Reading this week which eliminates dedicated funding sources for the Water Resources Cash Fund.

The bill eliminates the 3/5ths cent/bushel check-off on corn and 3/5ths cent/hundredweight check-off on grain sorghum that was to go to the Water Resources Cash Fund starting on October 1, 2012. The bill also redirects the funds remaining in the Ethanol Production Incentive Cash Fund when the program ends December 31, 2012, splitting it equally with the commodity boards and the general fund. The funds were to



go into the Water Resources Cash Fund. Several state senators argued that the bill should not advance without some back-up plan for funding.

Three other bills were advanced this week dealing with local funding. The Revenue Committee advanced **LBs 1031 & 1032** to allow for local NRDs to continue to raise funds locally through 2017 and the Natural Resources Committee advanced **LB 862** to make modifications to the occupation tax on irrigated lands.

Senator Heideman, Chairman of the Appropriations Committee urged caution that large general fund budget deficits are projected in the next few years and that General Fund dollars will be extremely hard to come by. Several urban senators echoed that they do not want general funds used for water programs. Some rural senators also urged caution that the alternative could be worse than the check-off funds.

**Voluntary NRD IMPs** -- After brief debate, senators advanced **LB 764** to Final Reading which allows a natural resources district encompassing a river basin, sub-basin, or reach that has not been designated as fully or over-appropriated to, jointly with the department, develop an integrated management plan for such river basin, sub-basin, or reach located within the district.

The original version of the bill would have required a district to notify the department on or before October 1 of its intention to develop an integrated management plan. The committee amendment strikes the October 1 requirement and leaves it open that a district could notify the department at any time of the year.

There was some discussion about making sure surface water groups were included as stakeholders for local NRD IMP workgroups, but no amendments were offered as the discussion became how the Legislature lists every group, individual or organization in statute without inadvertently omitting someone. On General File similar debate occurred concerning environmental groups, but no amendments were offered.

#### **Other Issues**

**Water quality improvements and off-sets** -- Recently, the Nebraska Game and Parks Commission had commented on the NDEQ draft National Pollutant Discharge permits and requested/suggested municipalities and NRDs find off-sets for water quality improvement projects that may result in a depletion of stream flow volume with the emphasis on the Lower Platte River. This portion is not fully appropriated and no requirements for offsets are in state law for these areas. The NGPC is making this request over concerns with stream flows for endangered species including the pallid sturgeon.

Communities targeted on the issue are ones that have to install new sewage treatment facilities rather than discharging. It is the lack of discharge that NGPC is stating causes the negative impact to stream flows.

The Department has been working through these by demonstrating the loss of flow would be negligible and the impact to the river would be de minimus. These comments and evaluations are expected to increase as more small communities work to meet more stringent permit limits.

**NRD Groundwater Technician Training and Water Programs Conference** -- This week the NRD groundwater technician training and NRD Water Programs Conference was held in Kearney, Nebraska. The training was attended by 14 NRD staff and provided initial certification training and continuing education units. The conference was attended by approximately 100 NRD staff and conservation partners. The program included talks on the Platte River, Republican River, Niobrara River, agency updates, Hastings Wellhead Protection Program, Nebraska Rural Water and the well grout study. Application will be made for six CEUs for all classes of water well licenses.

**NARD Washington DC Conference** -- Representatives of Nebraska's NRDs will be participating in the annual NARD Washington DC Conference next week to discuss natural resources management issues with federal agencies and the Nebraska Delegation. The conference also includes a tour of the water quality concerns of the Chesapeake Bay.

NARD Bill Summary Tracking Sheet							Last Updated: 03/05/2010		Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments		
LB 12	Increase Natural Resource Development Fund	Langemeier		Support	Appropriations	3/9/2009	Committee	Carryover Bill		
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	Carryover Bill		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	Approved by Governor on February 11, 2010	Passed on Final Reading with Emergency Clause 44-D-5		
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	Approved by Governor on February 11, 2010	Passed on Final Reading with Emergency Clause 45-D-4		
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	Carryover Bill - Amended into LB 311 by AM 886		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	Failed to Advance to Enrollment and Review		
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	Carryover Bill		
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Natural Resources	2/5/2009	Committee	Carryover Bill		
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources	1/29/2009	Committee	Carryover Bill		
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	Carryover Bill		
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources	2/27/2009	Committee	Carryover Bill		
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue	2/6/2009	Committee	Carryover Bill		
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stutman		Oppose	Natural Resources	2/20/2009	Committee	Carryover Bill		
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture	2/10/2009	Committee	Carryover Bill		
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources	3/4/2009	Committee	Carryover Bill		
LB 624	Provide for energy efficiency loans for public buildings	Hear		Monitor	Natural Resources	2/4/2009	Committee	Carryover Bill		
LB 643	Change and provide notice requirements of road construction near electric lines	Schlitz		Monitor	Natural Resources	2/20/2009	Approved by Governor on March 3, 2010	Carryover Bill, AM 1620, Passed on Final Reading 47-D-2		
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	3/1/2009	Committee	Carryover Bill		
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	2/26/2009	Committee	Carryover Bill		
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services	2/11/2009	Committee	Carryover Bill		
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources	2/25/2009	Committee	Carryover Bill		
LB 678	Change provisions relating to minutes of public meetings	Haar		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill		
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Carryover Bill, Amended into LB 361 by AM 552		
LB 689	Change Water Resources Cash Fund, Ethanol Production Incentive Cash Fund, and ethanol excise tax provisions	Langemeier	Dubas	Oppose (Unless Replacement Funds are Provided)	Natural Resources	1/29/2010	Final Reading			
LB 731	Changes provisions relating to noxious weed funds.	Utter		Monitor	Agriculture	1/19/2010	Approved by Governor on March 3, 2010	Passed on Final Reading 46-D-3		
LB 740	Eliminates transfer provisions from certain agriculture funds.	Agriculture Committee		Support	Appropriations	1/25/2010	Committee			
LB 742	Provide requirements for settlement agreements involving public entities and provide that such agreements are public records.	McCoy	McCoy	Monitor	Government, Military and Veterans Affairs	1/21/2010	General File	AM 1967, AM 2105		
LB 764	Allows NRDs to develop IMPs in areas that are not fully or over-appropriated.	Fischer		Support	Natural Resources	2/3/2010	Final Reading	Page 2 of 2 AM 1751 Adopted		
LB 782	Change provisions relating to the issuance of distinctive license plates for governmental units.	Fischer	Fischer	Monitor	Natural Resources & Telecommunications	1/19/2010	Committee			

LB 785	Provide an exception to required approval for certain water transfers.	Carlson		Support with Modifications	Natural Resources	2/18/2010	General File	AM 2090
LB 793	Prohibit cash fund transfers without authorization.	Dubas		Support	Appropriations	1/25/2010	Committee	
LB 795	Authorize employment of law enforcement officers by natural resources districts.	Council		Support with amendment to open up to all NRDs	Judiciary	2/10/2010	General File	Refer to AM 1976 to LB 817
LB 798	Extend the termination date for the Nebraska Litter Reduction and Recycling Act.	Langemeier		Support	Natural Resources	1/20/2010	Approved by Governor on March 3, 2010	Passed on Final Reading 46-O-3
LB 806	Change provisions relating to agricultural land valuation.	Campbell		Monitor	Revenue	1/27/2010	Approved by Governor on March 3, 2010	Passed on Final Reading 46-O-3
LB 815	Change requirements for Taxpayer Transparency Act.	Haar		Monitor	Government, Military and Veterans Affairs	1/28/2010	Committee	
LB 826	Adopt the County Consolidation Act.	Pahls		Oppose	Government, Military and Veterans Affairs	1/22/2010	IPP	Indefinitely Postponed
LB 832	Eliminate a private insurance requirement relating to petroleum release remedial action.	Fischer		Monitor	Natural Resources	1/22/2010	Approved by Governor on March 3, 2010	Passed on Final Reading 45-O-4
LB 852	Provide for write-in space on official ballots for certain offices.	Avery		Oppose	Government, Military and Veterans Affairs	2/24/2010	General File	
LB 862	Change provisions relating to issuance and repayment of river-flow enhancement bonds.	Christensen	Natural Resources	Support	Natural Resources	2/3/2010	General File	Advancement and amendment to be announced next week
LB 884	Require employers to provide employees with wage and deduction information.	McGill		Monitor	Business & Labor	1/25/2010	General File	AM 1615
LB 893	Provide refund procedures for unconstitutional taxes and assessments.	Christensen		Support	Revenue	1/28/2010	IPP	Indefinitely Postponed
LB 895	Change procedures for filling vacancies on a natural resources district board.	Janssen		Oppose	Natural Resources	1/28/2010	General File	
LB 911	Change a date relating to development of a statewide biotechnology strategic plan.	Langemeier		Monitor	Natural Resources	1/20/2010	Approved by Governor on March 3, 2010	Passed on Final Reading with Emergency Clause 46-O-3
LB 917	Exempt municipal water from sales and use taxes.	Rogert		Monitor	Revenue	2/25/2010	Committee	
LB 932	Change provisions relating to repayment of financial assistance by natural resources districts.	Christensen		Support	Natural Resources	2/3/2010	Committee	
LB 935	Provide for deficit appropriations and change certain appropriations.	Flood on behalf of the Governor		Monitor	Natural Resources	1/26/2010	Committee	
LB 993	Change use of the Water Resources Cash Fund.	Carlson		Support	Appropriations	2/10/2010	General File	
LB 1010	Provide procedures and limitations on the use of eminent domain by natural resources district for recreational trails.	Pankonin	Pankonin	Support with Changes	Natural Resources	2/11/2010	General File	Advancement and AM 2029 to be announced next week
LB 1011	Limit the eminent domain power of natural resources districts to exclude certain recreational trails.	Pankonin		Oppose	Natural Resources	2/11/2010	Committee	
LB 1016	Adopts the Nebraska Statewide Water Planning Commission Act.	Christensen		Oppose Bill – Recommend an Interim Study	Natural Resources	2/18/2010	Committee	
LB 1019	Creates the trails dispute boards to decide disputes concerning recreational trails between county boards and NRD boards.	Haar		Support with Changes	Natural Resources	2/11/2010	Committee	
LB 1025	Allows for an instream flow right in fully appropriated areas.	Avery		Oppose	Natural Resources	2/18/2010	Committee	Indefinitely Postponed
LB 1031	Eliminate the sunset date on NRD levy.	Dierks		Support	Revenue	2/18/2010	General File	AM 2040
LB 1032	Change the fully appropriated levy.	Dierks		Support	Revenue	2/18/2010	General File	AM 2039
LB 1052	Adopt the Agricultural Production and Economic Stability and Assistance Act.	Christensen		Monitor	Revenue	2/19/2010	Committee	
LB 1054	Adopt the correlative rights doctrine relating to the use of groundwater.	Carlson		Oppose	Natural Resources	2/10/2010	Committee	
LB 1056	Provide for measurement of aquifer depletion and limitations on irrigation.	Carlson		Oppose	Natural Resources	2/10/2010	Committee	
LB 1057	Creates the Republican River Basin Water Sustainability Task Force.	Carlson	Carlson	Oppose	Natural Resources	2/10/2010	Committee	
LB 1076	Change provisions relating to evaluation of river basins, sub-basins, and reaches.	Schilz		Oppose	Natural Resources	2/5/2010	General File	AM 1895
LB 276CA	Constitutional amendment to permit exemption from taxation of real property which is donated to the state or governmental subdivision.	Pirsch		Oppose	Natural Resources	2/5/2010	Committee	
LB 276CA				Monitor	Revenue	1/28/2010	IPP	Indefinitely Postponed



February 25, 2010

MAR - 1 2010

Mr. Ralph Puls  
Papio-Missouri River NRD  
8901 S. 154<sup>th</sup> Street  
Omaha, NE 68138

Re: Silver Creek Site 11 – Construction Observation  
Olsson Project No. 004-1269

Dear Mr. Puls:

As a follow up to Olsson's Associates request for additional services for the 404 permitting of the Silver Creek Watershed Project, I am providing this letter as a clarification for prior expenditures made under the existing construction observation budget and our use of these funds in the future. Previous contract amendments are summarized and then discussed in more detail below.

Work Currently Under Contract

Original Contract:	\$416,742.00
October 2006 Add Services:	\$78,492.00
December 2007 Add Services:	\$81,850.00
February 2010 Add Services	\$42,180.00
<b>Total Contract Cost:</b>	<b>\$619,264.00</b>

The original contract, approved in December 2004, included a budget for construction observation in the amount of \$125,738. Due to some additional construction work provided by Taylor's Excavation as a sub to Olsson's, the total of this budget was expended during the construction of eight of the Silver Creek structures. Therefore, as part of the October 2006 amendment, \$53,500 in additional services was added for the construction observation of Silver Creek Sites 11 and 35. It was assumed in this estimate that Sites 11 and 35 would undergo construction at the same time and both over a 20-week period at an average of \$2,675 a week.

After additional preparation of construction documents, it was realized that this may not be enough for the nuclear density testing necessary during the projected 20 week construction period. In addition, there were necessary repairs on existing Silver Creek sites which required professional construction inspection. These additional considerations were included as part of the December 2007 contract amendment and added \$11,350 to the \$53,500 budget. This made the total construction observation budget \$64,850 for the remaining Silver Creek sites.

Currently, Olsson has invoiced for \$13,605.75 of this construction observation budget, leaving \$51,244.25 remaining. The majority of these charges (~\$8,700) have occurred in the form of project management and administration prior to construction from the period of December 2007 through today. This is primarily due to the fact that the duration of the project has extended well

beyond what was envisioned at the end of 2007 and several revisions have occurred during that period. These changes have required additional survey and modifications to plans that must be made prior to letting a bid for construction. Olsson staff has charged for several revisions over this period to the land rights map required to determine the extent of easements necessary before construction can begin. A breakdown of the cost and some examples of the work completed is attached for your review.

Additionally, almost \$4,900 of the \$13,605.75 was paid to Norm Koester and Lee Applebee as sub-consultants who provided additional construction observation necessary for the repairs needed to some of the existing Silver Creek sites. As the responsible engineer for these structures, Norm Koester was able to direct the repairs without having to prepare expensive plan modifications.

Despite the expenses that have already occurred prior to construction actually starting on Site 11, **Olsson Associates is committed to completing the construction observation scope of services already under contract within the budget remaining and without any more amendments for additional fees.** To do this, we will reinstate enough dollars (from what was remaining before the last amendment) to bring the remaining \$51,244.25 back up to at least \$55,000. This \$55,000 will only be used to cover time and expenses related to construction administration (including bidding) and construction observation. This is documented in the attached invoice for February.

You will also notice in the attached invoice that we have credited the District \$511.17 for airfare previously billed. This airfare was an expense for 2 trips made by Scott Dicke, an environmental scientist in Olsson's Denver office, for 404 permit meetings with the U.S. Army Corp of Engineers. Prior to some changes in staff, this service could have been provided from our local Omaha or Lincoln office and wouldn't have required travel expenses. For this reason, we have removed these charges.

In summary, we apologize for any inconvenience or confusion caused by our billings. It is my pledge that we will complete this project without any additional fees needed for construction administration or observation.

As always, I am available for any questions you might have at 402.938.2470 or [pwoodward@oaconsulting.com](mailto:pwoodward@oaconsulting.com).

Sincerely,

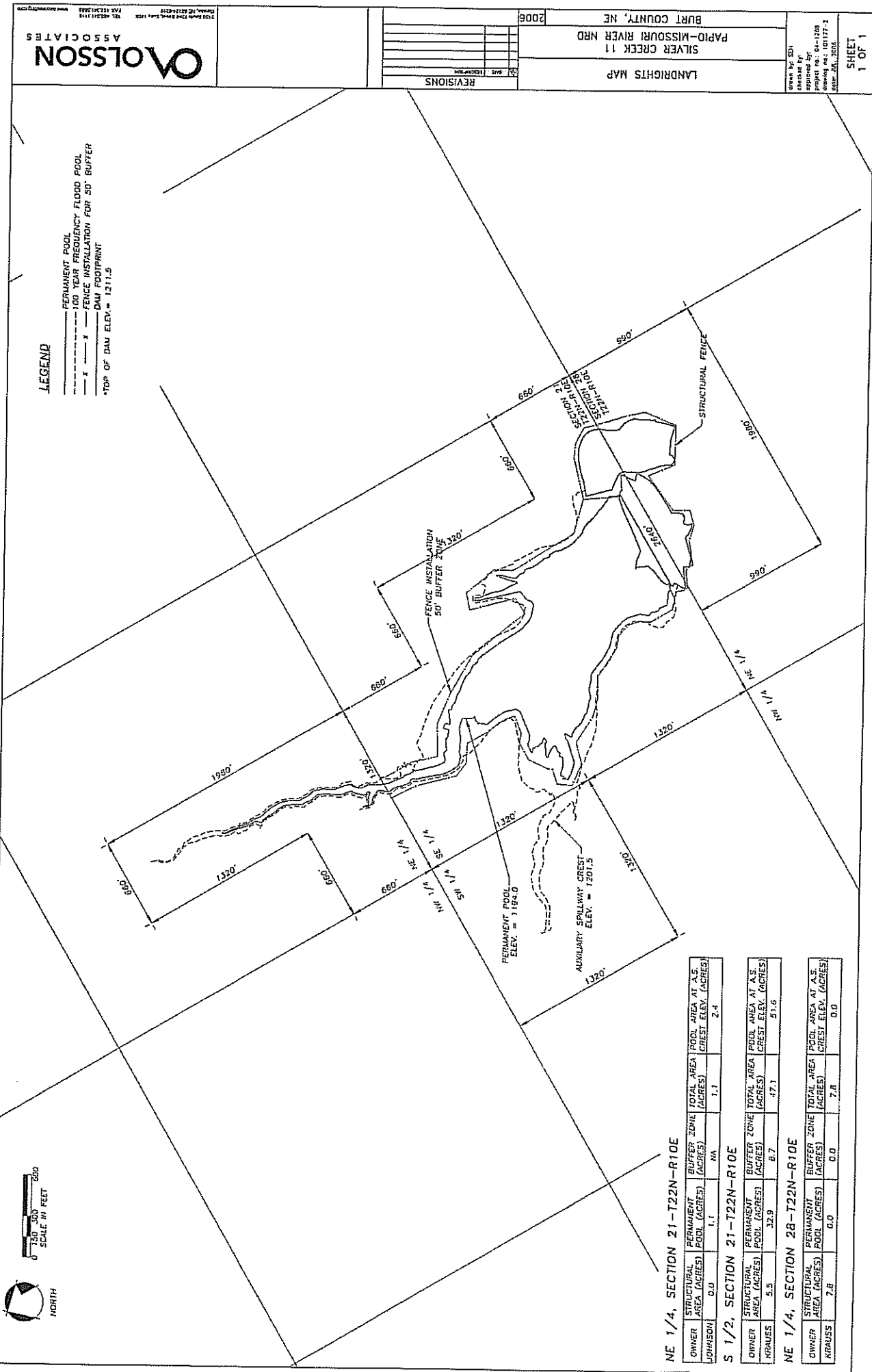


Paul W. Woodward, P.E., CFM  
Project Engineer

Enclosures

Billed Cost Breakdown

Expenses For	Description	Billed Cost
Project Management	Time billed for project management during meetings with NRD staff, phone and email communication, and organizing meetings (404 permit communication).	\$5,816.94
Technical Permit Assistance	Some time was billed under this item for providing technical information or plans and figures in support of the 404 Permit Application.	\$1,057.79
Land Rights Map	Several revisions were made to the land rights map at the request of NRD staff and the necessity to keep plans up to speed with environmental requirements.	\$1,204.77
Financial and Clerical	Assistance was provided through fiscal and admin staff to prepare invoice summaries, handle files, and check written communication.	\$611.56
SUB-TOTAL		\$8,698.27
Norm Koester Engineering	Norm provided engineering oversight for construction repairs	\$3,608.00
Lee Appleby	Lee provided construction observation at the site during construction repairs.	\$1,306.69
SUB-TOTAL		\$4,914.69
TOTAL		\$13,605.75



# NE 1/4, SECTION 21-T22N-R10E

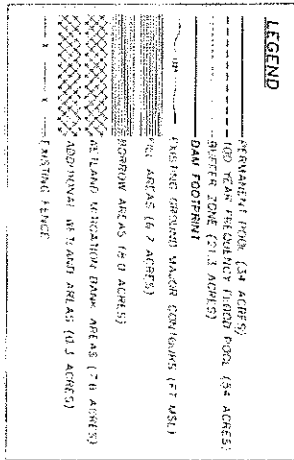
OWNER	STRUCTURAL AREA (ACRES)	PERMANENT POOL (ACRES)	BUFFER ZONE (ACRES)	TOTAL AREA (ACRES)	POOL AREA AT A.E. CREST ELEV. (ACRES)
LOHMECH	0.0	1.1	NA	1.1	2.4

# S 1/2, SECTION 21-T22N-R10E

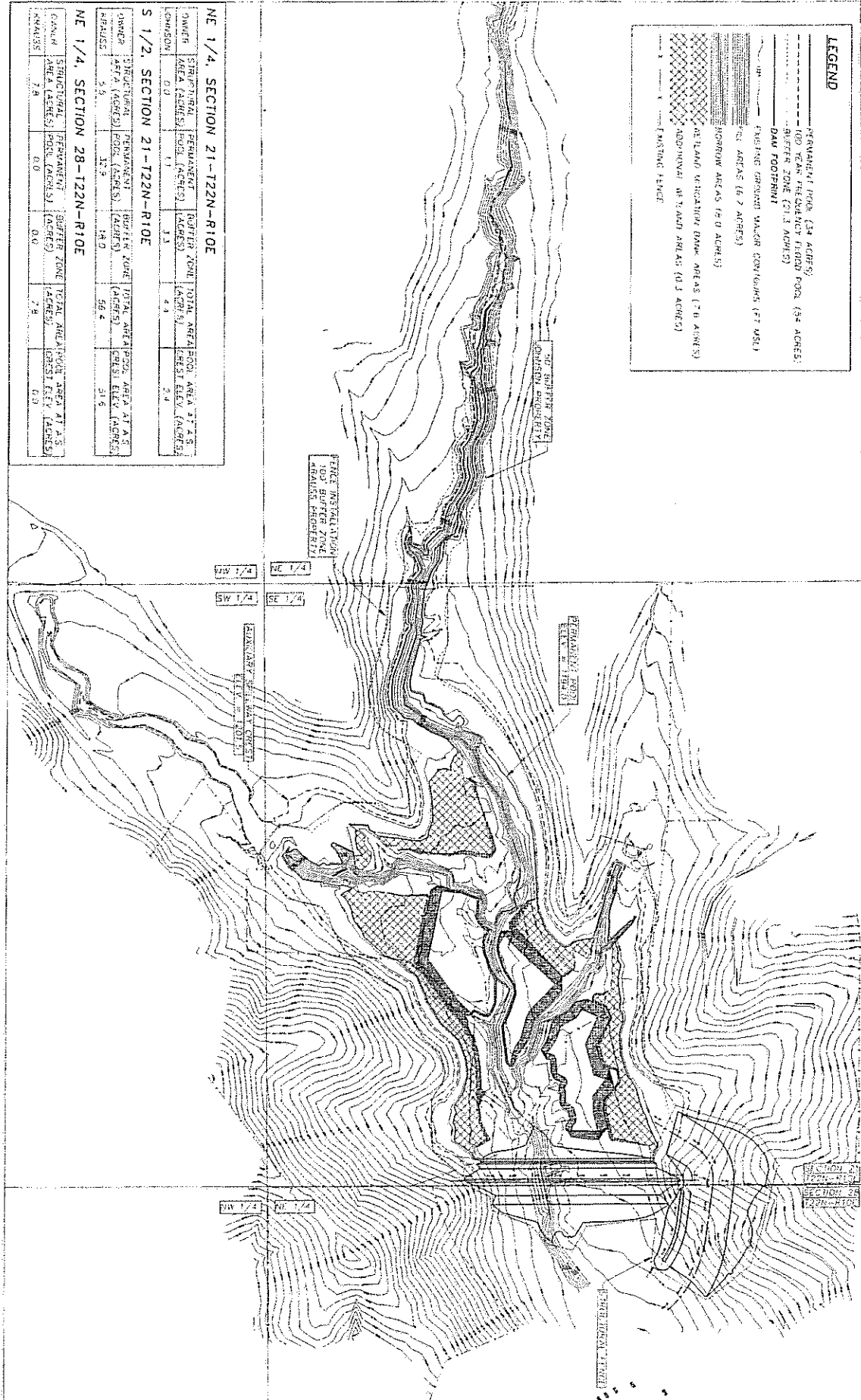
OWNER	STRUCTURAL AREA (ACRES)	PERMANENT POOL (ACRES)	BUFFER ZONE (ACRES)	TOTAL AREA (ACRES)	POOL AREA AT A.E. CREST ELEV. (ACRES)
KRAUS	5.5	32.9	8.7	47.1	51.6

# NE 1/4, SECTION 28-T22N-R10E

OWNER	STRUCTURAL AREA (ACRES)	PERMANENT POOL (ACRES)	BUFFER ZONE (ACRES)	TOTAL AREA (ACRES)	POOL AREA AT A.E. CREST ELEV. (ACRES)
KRAUS	7.8	0.0	0.0	7.8	0.0



NE 1/4, SECTION 21--T22N--R10E					
WATER	IMPROVEMENT	PERMANENT	BUILDING	TOTAL	AREA AT A.S.
AREA (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)
0.0	11	13	4	24	
CRASHING					
S 1/2, SECTION 21--T22N--R10E					
WATER	IMPROVEMENT	PERMANENT	BUILDING	TOTAL	AREA AT A.S.
AREA (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)
0.0	12.9	14.0	96.4	316	
CRASHING					
NE 1/4, SECTION 28--T22N--R10E					
WATER	IMPROVEMENT	PERMANENT	BUILDING	TOTAL	AREA AT A.S.
AREA (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)	FEET (ACRES)
7.8	0.0	0.0	7.8	6.9	
CRASHING					



<div style="text-align: right;"> SHEET 1 OF 1 </div>	<div style="text-align: center;"> LANDRIGHTS MAP   SILVER CREEK 11  PAPIO-MISSOURI RIVER NRD   BURT COUNTY, NE 2006 </div>	<div style="text-align: center;"> REVISIONS </div> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">NO.</th> <th style="width: 95%;">DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	NO.	DESCRIPTION											 <b>OLSSON</b> ASSOCIATES  <small> 2125 South 72nd Street, Suite 100  Omaha, NE 68124-2125  Tel: 402.341.9700  Fax: 402.341.9705  <a href="http://www.olssonassociates.com">www.olssonassociates.com</a> </small>
NO.	DESCRIPTION														



**Invoice**

1111 Lincoln Mall  
PO Box 84608  
Lincoln, NE 68501-4608  
Tel 402.474.6311, Fax 402.474.5160

February 18, 2010  
Invoice No: 138688

Ralph Puls  
Land & Water Programs Coordinator  
Papio-Missouri River NRD  
8901 S 154th St  
Omaha, NE 68138-3621

OA Project No. 004-1269 PMRNRD Silver Creek Watershed  
404 Permitting services rendered through February 6, 2010.

Contract Amount (including Amendments): \$619,264.00  
Prior Billed: \$521,767.85  
Current Billed: \$3,655.52  
Amount Remaining: \$93,840.63

---

Phase 100 Site 11 404 Permit

**Professional Personnel**

	Hours	Amount	
Team Leader	6.00	914.77	
Project Engineer	4.75	535.42	
Associate Scientist	3.00	311.46	
Secretarial	.75	40.73	
Totals	14.50	1,802.38	
<b>Total Labor</b>			<b>1,802.38</b>

**Reimbursable Expenses**

Airfare	-511.17	
<b>Total Reimbursables</b>	<b>-511.17</b>	<b>-511.17</b>

**Billing Limits**

	Current	Prior	To-Date	
Total Billings	1,291.21	45,258.83	46,550.04	
Limit			49,330.00	
Balance Remaining			2,779.96	
		<b>Total this Phase</b>		<b>\$1,291.21</b>

**Billings to Date**

	Current	Prior	Total
Labor	1,802.38	44,534.40	46,336.78
Expense	-511.17	681.56	170.39
Internal Unit	0.00	42.87	42.87
<b>Totals</b>	<b>1,291.21</b>	<b>45,258.83</b>	<b>46,550.04</b>

---

OA Project No. 004-1269

PMRNRD Silver Creek Watershed

Invoice 138688

Phase 101 Site 11 404 Permit (Amendment #3)

Amendment #3 this Section = \$38,313.25

**Professional Personnel**

	Hours	Amount	
Project Engineer	20.50	2,310.76	
Secretarial	.50	27.15	
Totals	21.00	2,337.91	
<b>Total Labor</b>			<b>2,337.91</b>

**Internal Unit Billing**

Automobile	48.0 Miles @ 0.55	26.40	
<b>Total Internal Units</b>		<b>26.40</b>	<b>26.40</b>

Billing Limits	Current	Prior	To-Date	
Total Billings	2,364.31	0.00	2,364.31	
Limit			38,313.25	
Balance Remaining			35,948.94	
		<b>Total this Phase</b>		<b>\$2,364.31</b>

**Billings to Date**

	Current	Prior	Total
Labor	2,337.91	0.00	2,337.91
Internal Unit	26.40	0.00	26.40
<b>Totals</b>	<b>2,364.31</b>	<b>0.00</b>	<b>2,364.31</b>

Phase 200 Site 11 Construction Observation (Including Amendment #3)

Original Contract this Section = \$64,850.00

Amendment #3 this Section = \$3,866.75

Billing Limits	Current	Prior	To-Date	
Total Billings	0.00	13,605.75	13,605.75	
Limit			68,716.75	
Balance Remaining			55,111.00	
		<b>Total this Phase</b>		<b>\$0.00</b>

**Billings to Date**

	Current	Prior	Total
Labor	0.00	8,601.88	8,601.88
Consultant	0.00	4,914.69	4,914.69
Expense	0.00	69.48	69.48
Internal Unit	0.00	19.70	19.70
<b>Totals</b>	<b>0.00</b>	<b>13,605.75</b>	<b>13,605.75</b>

OA Project No. 004-1269

PMRNRD Silver Creek Watershed

Invoice 138688

**AMOUNT DUE THIS INVOICE**

**\$3,655.52**

**Billings to Date**

	<b>Current</b>	<b>Prior</b>	<b>Total</b>
Labor	4,140.29	384,957.33	389,097.62
Consultant	0.00	123,100.22	123,100.22
Expense	-511.17	13,595.37	13,084.20
Internal Unit	26.40	114.93	141.33
<b>Totals</b>	<b>3,655.52</b>	<b>521,767.85</b>	<b>525,423.37</b>

Authorized By: Paul Woodward

**Application and Certificate for Payment**

**TO OWNER:** Papio-Missouri River NRD  
8901 S 154th Street  
Omaha NE 68138-3621

**INVOICE NO.** 138688  
**Invoice Date** 02.18.2010  
**OA Project #** 004-1269

**FROM:** Olsson Associates

**CONSULTANTS APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract.

**PMRNRD Silver Creek Watershed**

<b>1. ORIGINAL CONTRACT SUM</b>	\$416,742.00
<b>2. NET CHANGE BY CHANGE ORDERS/CONTRACT ADDENDUMS</b>	\$202,522.00
<b>3. CONTRACT SUM TO DATE (Line 1 plus or minus Line 2)</b>	\$619,264.00
<b>4. PREVIOUS INVOICES FOR PAYMENT</b>	\$521,767.85
<b>5. CURRENT PAYMENT DUE</b>	\$3,655.52
<b>6. TOTAL EARNED (Line 4 plus Line 5 Total)</b>	\$525,423.37
<b>7. BALANCE TO FINISH (Line 3 minus Line 6)</b>	\$93,840.63
<b>8. PERCENTAGE OF WORK COMPLETED</b>	84.85%
<b>PHASE 100: Site 11 404 Permit</b>	\$49,330.00
1) Total Phase 100 this Invoice	\$1,291.21
2) Total Phase 100 Previously	\$45,258.83
3) Total Phase 100 Remaining (1 + 2 - 3)	\$2,779.96
<b>PERCENT PHASE 100 COMPLETED</b>	94.36%
<b>PHASE 101: Site 11 404 Permit (Amendment #3)</b>	\$38,313.25
1) Total Phase 101 this Invoice	\$2,364.31
2) Total Phase 101 Previously	\$0.00
3) Total Phase 101 Remaining (1 + 2 - 3)	\$35,948.94
<b>PERCENT PHASE 101 COMPLETED</b>	6.17%
<b>PHASE 200: Site 11 Construction Observation</b>	\$68,716.75
1) Total Phase 200 this Invoice	\$0.00
2) Total Phase 200 Previously	\$13,605.75
3) Total Phase 200 Remaining (1 + 2 - 3)	\$55,111.00
<b>PERCENT PHASE 200 COMPLETED</b>	19.80%

# Whitted Creek project all done but the planting

By Jason Glenn

Leader Staff Writer

An innovative project to rehabilitate a badly eroded creek near 25th Street and Capehart Road is almost complete. The Papio-Missouri River Natural Resources District's Whitted Creek Stream Rehabilitation Project was started late last summer and uses a biological engineering hybrid method that stabilized the channel bed and stream banks to prevent additional erosion with well-vegetated bank slopes and a series of control structures. "What we have left is the plantings," said Marlin Petermann, PMRNRD assistant general manager. "It got a little bit late and we thought it would be best to do that in the spring."

Petermann said all the main construction on the project, which included reshaping the creek bed and installing large rocks in configurations called cross vanes that divert water flow away from the banks, was finished in November. The project's contractor, Heimes Corporation, has also laid down biodegradable fabric to help stabilize the banks, Petermann said. What remains is the planting of native grasses, shrubs and trees along the banks of the stream to help filter runoff and provide a buffer zone between the water and adjacent land use. The state-of-the-art methods being used on the 3,000- ft section of Whitted Creek are PMRNRD's first foray into a more environmentally friendly approach to creek rehabilitation. "Using this kind of natural channel design, that area was a move toward a more sustainable design in our erosion and flood control projects," Petermann said. Whitted Creek was relocated and straightened in the early 1900s to free up farmland. Though flood control levees were installed in the 1960s and improved in the 1980s, increased urbanization in the area and upstream had led to severe erosion that endangered nearby homes. The project, which cost about \$1.5 million, is being funded by the NRD and by grants from the Nebraska Environmental Trust and Nebraska Department of Environmental Quality. Some of those funds are from the U.S. Environmental Protection Agency.

## **Corps: Dams may need repairs**

The Associated Press

Omaha World Herald

2/10/10

Repairs may be required on five Lincoln and Omaha-area lake dams the U.S. Army Corps of Engineers has determined may have potential seepage problems.

The corps announced on Tuesday the potential problems exist along the outlet conduits at five Lincoln-area dams. They are located at Branched Oak, Holmes, Olive Creek, Wagon Train, and Stagecoach lakes.

The corps is also reviewing whether the embankment of the dam at Glenn Cunningham Lake in Omaha is damaged.

The potential problems were identified using a new dam-classification system used to screen dams.

There is no evidence to suggest an emergency situation exists, or is about to occur, at any of the dams.

W-H 2-10-10

## Shack to aid river research

B Y ALAN S. KOLOK

*The writer is a professor in the Department of Biology at the University of Nebraska at Omaha. He also holds appointments with the University of Nebraska Medical Center and University of Nebraska-Lincoln.*

Collaboration is good. And when the collaboration is between University of Nebraska faculty and employees from other state agencies, the result can be very good.

On the banks of the Elkhorn River, on the western edge of Douglas County, such a collaborative effort is taking shape.

Individuals from the University of Nebraska at Omaha, the University of Nebraska Medical Center and the Papio-Missouri River Natural Resources District are working together to construct the Davis Prairie Data Shack. The Shack, as it is informally called, will be located on a piece of land owned by the University of Nebraska Foundation and leased to UNO.

The Shack will ultimately become a field station from which information on the Elkhorn River will stream back to UNO. The information will not only include data but also video clips produced by professors, university students and local high school students from Omaha and beyond.

The video clips will be developed on a variety of topics ranging from water quality to environmental health to social issues. These video clips will be uploaded to a Web site developed by UNO and available for free to the public as a community service.

Our students and in-state collaborators have worked on the Elkhorn River for the past decade. During those 10 years, we have witnessed some disturbing trends in water quality.

Our team cages local fish throughout the watershed. Within seven days, the females become verifiably less feminine. This observation has been seen repeatedly and has been replicated in laboratory experiments where field waters and sediment from the Elkhorn River have been returned to UNO.

Our collaborative team is confident that the sexual alteration of these female fish is due to chemical contaminants; however, the specific contaminant or chemical mixture has been elusive. Research to date, while compelling, has been thwarted by several confounding factors, including seasonality, drought, flash floods, water temperature and vandalism.

This is where the Shack will come in handy. The Shack will provide our team with a secure location from which to monitor water-quality issues within the Elkhorn River, three seasons per year, for many years to come.

The defeminization of fish has occurred far upstream from Douglas County, and there is no indication that the water at this site is polluted. Nevertheless, the Shack will allow for longterm monitoring of a watershed that may be under stress from both urban and rural activity.

Because information from the Shack will be available online, it is likely to enhance the overall visibility of this collaborative program.

Collaboration is, indeed, a good thing. And the collaborative efforts at work in the lower Elkhorn River will allow Nebraskans to ensure that the good life that all residents share is sustained well into the future.

---

## Flooding threat speeds up levee work near Ashland

By Suzi Nelson

Wahoo Newspaper

Published: Wednesday, February 10, 2010

ASHLAND – Crews are working around the clock to build levees along the Platte River near Ashland as weather conditions increase the potential for flooding.

Officials with the U.S. Army Corps of Engineers, Lower Platte North and Papio-Missouri River natural resources districts, Saunders County Public Works Department and the Nebraska Military Department met Jan. 29 to discuss preparations for the threat of flooding from ice jams and thawing snow.

One day later, crews were moving dirt and building levees at four areas – two around Camp Ashland and at Thomas Lakes in Saunders County and one at Beacon View in Sarpy County, said Marlin Petermann, assistant general manager with the Papio-Missouri River Natural Resources District.

Petermann said they are filling in gaps in the Western Sarpy/Clear Creek Levee Project that has been underway since 2005 and runs along both sides of the Platte River from Thomas Lakes south to Highway 6.

These gaps were already scheduled for completion, Petermann said, but the work has been expedited in light of the flooding threat.

“We took the contractor off winter shut down to do work,” Petermann said.

TCW Construction Inc. of Lincoln is doing the work, employing crews around the clock to meet a quick deadline. Petermann said the project should be completed by Feb. 15.

“It’s a very aggressive schedule,” Petermann said.

Of the four areas of the levee that will be completed, the levee being built near the south entrance of Camp Ashland will be installed on a temporary basis, said Capt. Nicholas Breen, who manages operations at Camp Ashland.

“They are taking temporary measures to seal it off,” he said.

Breen said the levee will not be permanent because the final studies have not been completed yet on this particular site. When the permanent levee is built, the materials used in the temporary levee will be reused elsewhere in the project, he added.

Breen also said the temporary levee is in place to prevent flooding from the Platte River, but would need to be taken down if flooding from nearby Salt Creek threatens from the other direction.

Funding for the final phase of this \$30 million project will remain as it has since the beginning of the Western Sarpy/Clear Creek project – with the Corps of Engineers footing 65 percent of the bill and the remaining 35 percent spread between the State of Nebraska and the Lower Platte North, Lower Platte South and Papio NRD’s.



Petermann said the levee work was sped up because of two weather factors that could bring flooding to the area.

First, the ice is thick on the Platte, between 15 and 18 inches thick, he said.

“It’s enough to create potential problems,” he added.

That, combined with large snowfall in the north central and northeastern parts of Nebraska that will eventually melt and runoff into the Platte and Elkhorn rivers, are cause for alarm.

“Those two factors indicated a relatively high probability for ice jam flooding this spring,” Petermann said.

With the amount of snow that has fallen this winter, Saunders County Public Works Director Steve Mika said it did not surprise him that Corps officials were worried about the amount of water that would be forced into the Platte should the area see a rapid warm-up.

“It sounds like it was an emergency situation,” added Mika.

Along with the levee construction, other measures are being taken to prevent flooding.

Last Friday, Gov. Dave Heineman declared a state of emergency due to the potential for ice jam-related flooding along the lower Platte and its tributaries.

The Corps of Engineers is recommending ice dusting along the Platte from Sarpy County to North Bend, with particular attention being paid to the area where the Platte and Elkhorn rivers meet, also the site of the levee project.

Ice dusting will begin Feb. 15, after the sun has reached a better angle in the sky, Petermann said.

“The sun angle is a little bit higher in the sky and will do a better job of melting the dark material that is placed on the ice to get better penetration,” he said.

The dust is made up of coal slag and ash from power plants, Petermann said. It is applied with a crop dusting plane.

W-H 2-11-10

## Papio-Missouri NRD to vote on share of work near creek

BY JOHN FERAK

WORLD-HERALD STAFF WRITER

La Vista and the Papio-Missouri River Natural Resources District hope to split the local costs of securing a \$2.1 million federal grant to buy and bulldoze 24 homes along erosion-troubled Thompson Creek.

The grant would pay for 75 percent of the erosion-control project's \$2.7 million costs. The City of La Vista and the NRD would cover the remaining 25 percent, with each providing \$340,155.

The NRD plans to vote on its share of the cost at its 7 p.m. meeting today at the Chalco Hills Recreation Area. La Vista approved its share last week.

Thompson Creek from 72nd Street to the La Vista Falls Golf Course has long been a problem for La Vista and the NRD.

Over the years, the banks along the creek east of 84th Street have collapsed, claiming fences, utility poles and outbuildings.

"I think the district and our communities will see issues with our creeks and streams becoming more prevalent," said John Winkler, general manager of the NRD. "People are paying more attention to that ditch in their backyard ... when their swing set or fence falls into it."

Under the project, no La Vista property owners would be forced to sell or vacate their homes through condemnation, a city official said Wednesday.

"That cannot happen," said Mitch Beaumont, La Vista's community relations coordinator. "The city is committed to working with every one of the residents and homeowners to make sure the process moves forward in a fair and accessible manner." La Vista targeted 24 homes for demolition, which Winkler said is vital for engineers to make longterm fixes to the creek.

The lots on that side of the creek would be maintained as open space for easier maintenance of the creek. The project will repair the existing erosion damage, relocate power lines and allow for future construction to protect the homes that remain.

The entire project should take a little more than two years to complete, officials said.

The city plans to meet with affected property owners this spring, then appraise the homes of those interested in selling.

Officials want to sign purchase agreements by the fall, with demolition to begin in 2011.

Contact the writer:

444-1056, [john.ferak@owh.com](mailto:john.ferak@owh.com)

# County upset with NRD's bonding plan

By Stephanie Ludwig  
Reporter

The Papio-Missouri River Natural Resources District is hoping to issue \$13.3 million in bonds for projects in its district.

The NRD, which was granted bonding authority through Legislative Bill 160 last year, exercised the right at its Jan. 14 meeting, asking its board to grant a motion to issue the bonds. According to memorandums from the NRD, the bonds will be used for projects in Waterloo, Papillion, Omaha and the greater Douglas and Sarpy county areas.

But controversy has been swirling around the bond request.

When the NRD asked its board to approve the bonds on Jan. 14, it did not have a complete list of what projects the bonds were going to be used for, which is what caused the motion to fail in a 5-5 split vote.

"There was so much confusion on what they were voting on and what projects it would be used for," said

Kevin Propst, chairman of government affairs for the Papio Valley Preservation Association. Propst was present at the meeting and was instrumental in getting protections installed on the bill granting the NRD bonding.

Washington County resident and NRD board member Scott Japp voted against the bond.

The Washington County board reacted swiftly to the NRD's request.

In a letter to the NRD board, Washington County Board chairman Harlo Wilcox wrote that the county felt the NRD was circumventing the intent of LB 160 by not informing the public and the boards involved what the bonds would be used for.

LB 160 states that a county has the ability to pass a resolution disapproving of a bonded project within 90 days after the NRD gives notice to issue the bonds.

"By not specifying whether the bonds are used for proj-

SEE BONDING PAGE 3A

Continued

**W-H 2-13-10**

## **NRD board OKs bond issue on second try**

B Y DAVID HENDEE

WORLD-HERALD STAFF WRITER

Four weeks after coming up dry, the Papio-Missouri River Natural Resources District approved a bond issue for dams and levees in eastern Nebraska.

The NRD board voted 9-2 to issue \$13.3 million in bonds to bolster flood-control efforts in its six-county area.

"This was a historic vote," said John Winkler, district manager.

He said the funds would allow the NRD to accelerate its efforts to protect lives and property from potentially devastating floods, without raising the district's tax levy.

The money would fund a dam in Sarpy County to protect Papillion from West Branch Papillion Creek flooding; a Clear Creek flood-reduction levee; a dam near Hubbard in Dakota County; and the rehabilitation of the Waterloo levee on the Elkhorn River.

Other projects funded in the Thursday vote include creating a water-quality basin to protect Omaha's Zorinsky Lake from further degradation and a program to remove floodway obstructions.

Issuing bonds is a new funding method that the Legislature approved for natural resources districts last year.

The Papio NRD board's first attempt to issue water-enhancement bonds failed in a 5-5 vote in January.

That came after three members of the public said the process for spending the money wasn't transparent. Passage required a two-thirds majority.

The Papio NRD has been working with area cities, villages and counties to develop flood-control and water-quality measures for years, Winkler said.

Growing urbanization has created larger floodplains in the Papillion Creek watershed, threatening more homes and businesses than ever before.

Contact the writer:

444-1127, [david.hendee@owh.com](mailto:david.hendee@owh.com)

TUESDAY, FEBRUARY 16, 2010

Pilot-Tribune

# Local

## NRD board OK's bonding proposal

By Stephanie Ludwig  
Reporter

The Papio-Missouri River Natural Resources District Board of Directors voted Thursday evening to issue \$13.3 million in bonds for flood control in the Papio Creek Watershed and other areas in its district.

In a 9-2 vote, the bonds were approved for projects including an Elkhorn River levee improvement in Waterloo, a flood control reservoir in Sarpy County to protect Papillion, a flood control structure in Dakota County and a water quality basin at Omaha's Lake Zorinsky.

The Papio NRD covers part of six counties, including Sarpy, Douglas, Wash-

ington, Burt, Thurston and Dakota counties.

NRD board members Scott Japp and Dorothy Lanphier voted against the bonds. Japp represents Washington, Burt, Thurston and Dakota counties, and Lanphier represents one of the eight Omaha subdistricts.

The bonding proposal was voted down in a 5-5 split vote when first brought to the board in January. At the time of the first vote, the NRD did not have an exact list of projects for which the bonds would be used.

Several county boards and citizens protested and demanded a list of projects, which the NRD produced in early February.

Jim Thompson, chairman of the NRD board, ceased discussion on the bonds Thursday, which dis-appointed Japp. Japp said he planned to introduce an amendment to the motion, granting bonding authority through a vote of the people.

"I'm greatly disappointed in this action and the ramifications will have a long-term effect," Japp said.

NRD general manager John Winkler was more excited over the vote.

"This is a historic vote. These funds will allow the district to accelerate its efforts to protect lives and property from potentially devastating flood events," he said. "Time may be run-

ning out to get these projects built before our metro area encounters heavy rainfall and runoff has recently caused considerable damage to other nearby areas."

Winkler said the NRD plans to pay for the bonds without raising the district's tax levy, which went down slightly this year.

Winkler said the bonds had already been added into the levy when the district approved its budget last August, before the bonds were approved.

According to engineering studies of the Papillion Creek Watershed, the floodplains in Douglas and Sarpy counties are growing due to decades of urbanization. While Washington County

is not threatened by the major flooding worrying these areas, it sits at the top of the watershed. Many of its creeks feed into the floodplain.

Winkler said the NRD has been working with the cities, villages and counties in this area to develop flood control and water quality measures to prevent a major flood event from occurring.

"It's time to put these plans in motion and get these effective controls in place," he said.

The Papio-Missouri River NRD was granted bonding authority during the 2009 session of the Nebraska Legislature with the passage of LB 160.

# BONDING: *County board sends letter*

FROM PAGE 1

ects in Washington County, the NRD has deprived Washington County of its ability to disapprove of the projects within its exclusive zoning jurisdiction. Because the NRD refuses to specify its need for the \$13.3 million in bonds, Washington County is 'left in the dark' as to its true intent," Wilcox wrote.

The board's letter further stated its disfavor of the bond request and to ask the NRD to specifically state the bonds' purpose.

The Douglas County Board wrote a similar letter to the NRD board.

In reaction to the letters, NRD general manager John Winkler fired back. In a letter dated Feb. 5 sent to all Washington County board members, Winkler said that only the county board of an affected county may pass a resolution stating that it does not approve of the construction of a project greater than 20 surface areas within its exclusive zoning jurisdiction.

He went on to state that affected projects do not reside within Washington County's zoning jurisdiction. A memorandum outlining which projects the \$13.3 million in bonds would be used for was issued Feb. 3.

"Therefore, the Washington County Board is in no way statutorily obligated to be notified or approve or disapprove of the bond issuance by the Papio-Missouri NRD. If and when a project or projects to be funded with bond proceeds does reside within Washington County's exclusive zoning jurisdiction the Washington County Board will be notified as an affected county and the county board and its constituents will be given the statutory opportunity to approve or disapprove of

a reservoir project greater than 20 surface areas," Winkler wrote.

All highlighting of words was included in Winkler's original letter to board members.

Winkler said he appreciates Washington County's concern on the issue and welcomes its comments any time.

Propst, of the PVPA, said the "exclusive" jurisdiction clause is worrisome, especially to Douglas County. In many areas, many projects won't fall exclusively under one board's jurisdiction, because jurisdiction is often shared by multiple parties.

"We tried to get the exclusive jurisdiction out," he said, recalling the PVPA's efforts last year when working with the legislature. "It was a concern to us and we spoke with the senators about it but it fell on deaf ears."

Propst said the only thing the PVPA can do now is to try to get an amendment added to the original bill to tighten it up.

Sen. Beau McCoy, who represents the Arlington and Washington areas, was on the Natural Resources Committee that helped pass LB 160 through last year. McCoy said the controversy had not been brought to his attention yet and he could not comment on the issue.

Sen. Scott Lautenbaugh, who represents Blair and part of Washington County,

voted against the bill last year, even after adding several amendments suggested by the PVPA. Lautenbaugh did not comment on the issue at present.

For now, the county board looks on its letter as a little bit of a victory.

"I think the letter woke them up a bit," Wilcox said.

Board member Jeff Quist said the bonding authority might become the "open-ended" checkbook the county was afraid of.

County planning and zoning administrator Doug Cook planned to read the county's letter into the NRD's official record at its Thursday meeting. The NRD will take another vote on the bonds that night.

Board member Japp said he plans to vote against it, and will try to add an amendment that makes bonding pass by a vote of the people.

Whatever the outcome of Thursday's vote, controversy over bonding isn't likely to end soon. Japp said he learned through a presentation given by NRD employee Amanda Grant that the NRD plans to use about \$99 million over the next three years on various projects. Much of the money will have to come from bonding.

Winkler told *The Enterprise* the \$99 million figure is just an estimate and that it is difficult to predict whether the NRD will need that much

in the long-range plan.

"Any figure thrown out there is really just thrown out there," he said.

He also said that the bonds will not raise taxes, contrary to popular opinion. According to Winkler, the bonds were already calculated into the NRD's current levy when the budget was put together. The current levy is \$0.032410 per \$100 of valued property.

"When we did the budget, we already calculated that these projects will be done with bond funds," Winkler said. "We strategically did that so we wouldn't have to raise taxes."

"It's a very scary thing," Propst said regarding a \$99 million bond. "Every entity is cutting and they're spending. Hopefully the taxpayer will wake up and see what's going on and say we need to take a look at these guys."

---

## Coal ash will fight flooding

By Nancy Gaarder  
Omaha World Herald

2/17/10

For only the fourth time in about three decades, the state will scatter coal ash over the Platte River with hopes of reducing the threat of ice jams and flooding.

Al Berndt, assistant director of the Nebraska Emergency Management Agency, said Tuesday that officials are worried by the unusually deep and widespread snowpack in northeast Nebraska and stubbornly thick ice on the river.

A crop duster will drop about 86 tons of ash over about 10 spots along the river on Thursday, Berndt said.

The ash comes from the Nebraska Public Power District coal plant near Hallam.

The hope is that the dark ash will absorb the sun's energy and help "rot" the ice so it breaks up into smaller chunks and washes downstream, Berndt said.

Larger ice chunks can jam together like a dam and send floodwaters washing over levees.

Success is not guaranteed. But there are no other preventive steps officials can take.

An alternative, something not espoused by state or federal officials, would be to dynamite the ice. A last resort undertaken only after an ice jam occurs, dynamiting is a decision left to local authorities.

Among the sites that are a priority for dusting, Berndt said, are locations downstream of the confluence of the Platte and Elkhorn rivers.

Berndt said officials want to help make sure the Platte is open and able to accommodate water flowing into it from the Elkhorn and its tributaries. Those rivers are not being dusted because the airplane cannot safely maneuver above their sinuous channels.

The Platte is one among many rivers at risk for flooding. Officials across the Plains and Midwest are monitoring rivers and snowpack.

For now, the Platte is the only river in Nebraska and Iowa targeted for dusting, said Paul Johnston, spokesman for the U.S. Army Corps of Engineers. Federal approval is required to dust a river.

Marlin Petermann, assistant general manager of the Papio-Missouri River Natural Resources District, said ice on the Platte is averaging about 16.7 inches thick. That's in the range that can pose problems, he said.

The cost of the dusting is expected to be less than \$100,000, Berndt said. Petermann, who has spent much of his 35-year career watching the river, said it's money well spent.

"Boy, anything we can do to help prevent flooding and save millions of dollars and potentially lives, it's a small investment."

---

## Cass County, NRD agree to work together on MoPac Trail

By ALGIS J. LAUKAITIS

Lincoln Journal Star

Wednesday, February 17, 2010

Cass County and Lower Platte South Natural Resources District officials took a big step to resolve an impasse over a key segment that would help finish a recreational trail between Lincoln and Omaha.

Both agreed this week to sign a memorandum of understanding to work together evaluating potential corridors for the segment officially known as the MoPac East/Lied Platte River Bridge connection.

The goal is to "find an acceptable corridor for making the connection" by July, said NRD general manager Glenn Johnson.

Until now, the NRD has been discussing the segment project with individual members of the Cass County Board. Johnson said the agreement represents a commitment by the entire government body.

The NRD Board approved the agreement Wednesday, a day after the Cass County Board approved it. Several NRD officials were present for the county board's unanimous vote.

"I thought the meeting went very well," said NRD chairman David Potter. "I think they are willing to work with us."

Under the agreement, the NRD will take care of the technical aspects of the trail segment project and Cass County will lead public involvement, including holding public meetings for concerned residents.

In choosing a final route, both have agreed to consider trail user safety, right-of-way requirements, opportunities for economic development, impacts on adjoining properties and trail functionality.

Twenty to 30 landowners opposed a route the NRD chose about a year ago. They especially did not like the use of eminent domain to obtain right-of-way.

Last May, the NRD imposed a moratorium on the project because of growing opposition -- which included proposed legislation to limit the eminent domain powers of the state's 23 natural resources districts.

Now, the next step is to meet with the state Department of Roads to review the findings of a cursory review of a corridor that appears to be agreeable to Cass County and the NRD.

Basically, the corridor would start in Elmwood and continue north on Nebraska 1 to Murdock. The trail would follow 310th Street to Nebraska 66 and into South Bend, where it would connect with the Lied Platte River Bridge.

Johnson said the segment would have to use right-of-ways owned by the roads department, so they would need that agency's approval.

Johnson said the roads department has indicated a "willingness" to consider the route, but a meeting has not yet been scheduled.

Reach Algis J. Laukaitis at 473-7243 or [alaukaitis@journalstar.com](mailto:alaukaitis@journalstar.com).



## Huge snow 'lakes' watched warily

**Are the preparations enough? Now we mostly wait, hoping the thaw doesn't unleash torrents**

BY NANCY GAARDER AND ELIZABETH AHLIN

Omaha World Herald

2/19/10

About 2,000 sandbags are stockpiled in Spencer, Iowa, in case the Little Sioux River spills over its banks.

Farther south, the town of Red Oak has three flood pumps, purchased in 2008, ready to divert water if the East Nishnabotna River breaks loose.

Near Ashland, Neb., crews have been working day and night to strengthen Platte River levees.

And from the skies over the Platte, a crop-duster Thursday began dropping coal ash on stretches that are prone to ice jams and flooding. The hope is that the dark ash absorbs enough of the sun's energy to create fissures in the ice, allowing it to break apart more easily.

As spring approaches, astonishing amounts of water are locked in the snow covering northeastern Nebraska, northern Iowa, the Dakotas and portions of Minnesota.

"It's been a long, brutal winter, and people need to be prepared for widespread flooding if they live near a major river," said Doug Clemetson, chief of hydrology for the U.S. Army Corps of Engineers in Omaha.

Clemetson said there is a high probability of moderate to major flooding in eastern Nebraska and western Iowa, and northward into Minnesota and the Dakotas. Parts of the Dakotas could see record flooding, he said.

However, Clemetson and others point out that no one really knows yet just what might happen.

A slow snow melt would help immeasurably. A rapid melt, accompanied by early rainstorms, could be disastrous.

To understand the problem, picture a vast shallow lake covering northeastern Nebraska and northwestern Iowa — a basin that's ready to drain at a moment's notice.

The amount of water in the snow varies, but according to readings from last week that were provided by Clemetson, the depth of that lake would average:

- 2.6 inches over about 9,500 square miles of the lower Platte River basin in eastern Nebraska, roughly from Columbus to Louisville.

- 4.7 inches over 3,500 square miles of the Little Sioux River basin upstream from Turin in northwestern Iowa.
- 6 inches over 1,000 square miles of the Little Sioux basin upstream of Spencer.

The possibility of flooding weighs heavily on officials in western Iowa cities and counties, but many say there's not much they can do except wait and hope that the protections already in place will be enough.

"We just have to wait and see what Mother Nature has in store for us," said Brad Wright, city administrator for Red Oak, the Montgomery County community that purchased the flood pumps.

In Spencer, where the sandbags are ready, Public Works Director Mark White said the city will be checking its

*Continued*

storm gates and flood pumps.

"I'm pretty confident we'll be OK," White said.

Flood insurance is one of the few protections available to individual property owners.

Experts advise that property owners not take false comfort from the existence of a levee or from being told they're not in a flood plain. Levees only reduce the risk of flooding, and flood plain maps can be inaccurate.

Asked about flood insurance, a Corps of Engineers spokesman offered some blunt advice: "Better hurry," Paul Johnston said. "I'm not trying to be flip, but there is a 30day waiting period" before a new policy takes effect.

Little can be done at this point, outside of coal-ash dusting, to prevent the actual flooding.

The Platte River ice dusting isn't a sure thing. But with an expected cost of less than \$100,000, it's worth a try given the potential for flooding, state officials said.

"There's a high probability of flooding," said Al Berndt, assistant director of the Nebraska Emergency Management Agency, which ordered this week's dusting.

This is the fourth time since 1979 that the Platte has been dusted. The last time was in 2001, and the river didn't flood.

This year's flooding risk is due not only to the snow cover but also to the thickness of the river's ice.

In the past week, the ice on the Platte thickened slightly, according to Rich Tesar, a board member of the Papio-Missouri River Natural Resources District.

The average thickness at Union Dike, north of Valley, was 17.1 inches, he said Thursday. A week ago, it averaged 16.7 inches.

The thicker the ice, the larger the ice chunks will be when the river starts to break up. Big chunks are more likely to jam and block the river's flow.

Officials hope the dusting will weaken the ice and cause it to break into smaller pieces.

Tesar, who has lived along the Platte for about 50 years, doesn't think the river will flood significantly. He said he has toured the river and is confident that all the major levees, dikes and dams will hold.

Signs point to a potential for "some lowland flooding. But we won't, I would bet, have a disaster," he said.

Still, he said, this week's slight thickening of the ice gives him pause.

Cindy Newsham, spokeswoman for the state's Emergency Management Agency, said the Platte River ice thickness varies from 13 inches to 22 inches. That pales in comparison with 1978, when the ice near the Union Dike was 36 to 40 inches deep.

The Union Dike broke in the spring of 1978, putting Valley under water and causing an estimated \$240 million in damage. A 1989 project strengthened the dike.

"The Union Dike has been strengthened many times over, but there are other points along the Platte and

*Continued*

Elkhorn we watch very closely,” Tesar said.

Ice dusting can’t be done on most rivers.

Parts of both the Elkhorn and Loup are believed to be at as much risk of flooding as the Platte. Neither is being dusted because each is too narrow and winding for a pilot to maneuver safely, according to a Corps of Engineers analysis.

The crop-duster pilot flies about 100 mph at treetop level to better guarantee that the coal ash hits the target. While the material is called ash, it has the texture of grit.

Ten sites are being dusted in what is expected to be a two-day effort. Seventyseven tons of ash will be dropped, Berndt said.

The sites start at the Interstate 80 bridge near Mahoney State Park and end upstream, near North Bend. The 10 sites were selected because they are traditional trouble spots, Newsham said.

Near Camp Ashland, the Corps of Engineers and the Emergency Management Agency determined that there was a high probability of flooding at gaps in the levees along the Platte.

The strengthening work being done there runs along both sides of the river, from Thomas Lakes south to U.S. Highway 6.

Today, the National Weather Service will update its flood forecast for the region.

Jeff Reese, hydrologist with the weather service office in Valley, said he’s also concerned by the snow cover numbers he’s seeing.

But there have been many years when nature takes care of the problem with no serious consequences to humans, he said.

“You certainly have to be aware of the fact that we have a lot more snow than we are used to. But a lot of the time we’ve sweated this in the past, then the ice fractures and it flushes itself out,” Reese said.

World-Herald staff writer Kevin Cole contributed to this report.

Contact the writer:

444-1102, [nancy.gaarder@owh.com](mailto:nancy.gaarder@owh.com)

---

## Fontenelle Hills watershed study continues

By Jason Glenn  
Bellevue Leader

Published: Sunday, February 21, 2010

A U.S. Army Corps of Engineers study to develop a plan for storm water control in the Fontenelle Hills area should be completed sometime this fall.

Jeff Greenwald, project manager of the watershed stabilization study, said he had met with the sponsors of the project, the City of Bellevue, the Papio-Missouri River Natural Resources Department and Fontenelle Forest, in December.

Greenwald said they discussed how the study would proceed and what some of the approaches could be for mitigating erosive damage from heavy rainfall runoff in the area.

The study focuses on three watersheds in the area – Coffin Springs Hollow, Childs Hollow and Mill Hollow. Greenwald said during the discussion the sponsors suggested any work, such as building detention ponds, might start at Coffin Springs Hollow first. However, the Corps study will have to be completed before any work begins.

Costs for the \$160,000 study are split evenly between the federal government and non-federal entities. The non-federal portion is being funded by a \$50,000 grant from the Nebraska Environmental Trust, and \$10,000 each from the Fontenelle Nature Association, City of Bellevue and the Papio Missouri NRD.

---

## Flood risk outweighs coal ash concerns

■ Contaminants are well within the strictest standards, state and federal officials say.

B Y NANCY GAARDER

Omaha World Herald

2/22/10

Environmental regulators go to great pains to keep coal ash out of rivers.

After all, it often contains lead, selenium, mercury and other pollutants that can harm aquatic life.

So why would Nebraska environmental regulators allow state emergency officials to dust the Platte River with 77 tons of the ash as they did on Thursday?

The Platte is home to endangered species, and its aquifer supplies drinking water to the state's largest cities.

Turns out, according to Nebraska and federal environmental officials, the contaminants in the ash occur at levels far below even the strictest water quality standards.

"The material is pretty benign, so if you weigh what we could be saving in terms of ... damage from a flood, it outweighs environmental concerns — based on the science," said Mike Linder, director of the Nebraska Department of Environmental Quality.

The ash comes from the Nebraska Public Power District coal plant near Hallam, Neb. Samples from the plant were tested four times in the 1990s — 1990, 1993 and twice in 1994 — and OK'd as part of the regulatory process that permits the use of only Hallam ash on the Platte, according to state environmental regulators.

"These are extremely low levels," said Donna Garden, who oversees the section of the department that regulates the discharge of pollutants into waterways.

Six contaminants were found at detectable levels in all four tests, according to Brian Mc-Manus, a department spokesman. But even though 77 tons of ash was used, the total amount of those six contaminants (barium, cadmium, chloride, selenium, nickel and zinc) is probably a couple of ounces, according to the test results.

Garden said the strictest standards were used, including the threshold for what's permissible in a glass of drinking water. That standard was used in screening for cadmium, a carcinogen.

Federal drinking water standards permit 2.3 milligrams of cadmium per kilogram of drinking water. The highest concentration of cadmium in this ash, according to the four tests in 1990, was .01 milligram per kilogram.

For contaminants without specific drinking water standards, Garden said, the department evaluated the contaminants based on the potential effects they might have on aquatic life and people who get in the water.

*Continued*

That did little to allay the concerns of someone like Don Murh, an Omahan who contacted The World-Herald after learning of the river dusting.

"There's been quite a discussion among people who aren't very happy about this," said Murh, an auditor at a local insurance company. "I'm not a scientist. I just have a pretty regular job, but this doesn't sound like something we should be doing, because we already have issues that need to be taken care of."

Murh is dissatisfied with the quality of Omaha's drinking water and concerned about the health risk posed by lead contamination in soil in eastern Omaha. From his point of view, the ash simply adds to Omahans' environmental burden.

A federal environmental regulator who read through Nebraska's test results said the state has "done its homework."

Glenn Curtis heads the water quality permitting process for the federal Environmental Protection Agency regional office that oversees Nebraska.

Curtis said Friday the state's data indicates that the contaminants in the type of ash being used, called bottom ash, are bound tightly to it and do not dissolve easily in water. Essentially, he said, the contaminants would not be detectable in water.

Furthermore, he said, the data indicate that the ash did not harm the aquatic organisms it was tested on, including protozoa, minnows and water fleas.

"(Nebraska) has run the tests, and this looks fairly benign," he said.

Coal ash is of serious concern to some environmentalists. Among those who have offered testimony to federal regulators is Dennis Lemly, a research professor of biology at Wake Forest University.

Lemly said this use of bottom ash "should be OK."

Bottom ash contains about 10 percent of the toxic materials that fly ash does, he said. Bottom ash is the heavy material that drops to the bottom of a coal furnace while fly ash is the light, fluffy ash that floats upward and can be trapped by pollution equipment.

The state's use of bottom ash, combined with the size of the river and the fact that the ash will enter the Platte gradually as the ice melts "should pose little risk to aquatic life," Lemly said.

The dusting was done at the behest of the Nebraska Emergency Management Agency under an emergency order issued by Gov. Dave Heineman. That means that even if the ash violated state standards, Heineman's order trumps them.

Al Berndt, assistant director of the emergency response agency, said the state is trying to protect, among other areas, well fields for Lincoln and Omaha water, a BNSF railroad bridge, a Nebraska National Guard camp and numerous homes.

In addition to the dusting, government agencies have been working to repair four holes in the levees protecting the area.

*Continued*

The U.S. Army Corps of Engineers has concluded that there is a high probability of moderate to major flooding in northeastern Nebraska.

However, on Friday, an updated flooding forecast issued by the National Weather Service in Valley indicated that the threat may end up no greater than minor to moderate.

This is the fourth time in 30 years that Nebraska has dusted the Platte. Officials hope the dark ash will absorb energy from the sun and promote fissures in the ice. The fissures should make it easier for the ice to break apart in smaller chunks.

Large ice chunks more easily jam together, cause dams that back up river water and send it washing over the banks.

In Iowa, the threat of flooding is more widespread and severe, but that state doesn't dust its rivers, said Kevin Baskins, spokesman for the Iowa Department of Natural Resources.

"Most of our efforts are aimed at keeping coal ash away from water," Baskins said.

That, too, concerns Murh.

"People look at Iowa and say, 'They aren't doing it, why is Nebraska?'" Linder, the head of Nebraska's environmental agency, said he understands the skepticism.

"The perception would be that this doesn't seem right," he said. "But having had the opportunity to look at science and the actual impact, then you have a little more objective approach."

Contact the writer:

444-1102, [nancy.gaarder@owh.com](mailto:nancy.gaarder@owh.com)

Douglas City  
Post-Gazette  
2-23-10

## Papio-Missouri River NRD to use bonding authority to bolster flood control efforts

The Papio Missouri River Natural Resources District (NRD) Board voted on February 11th to issue \$13.3 million in Flood Protection and Water Quality Enhancement Bonds to fund several proposed flood control projects and programs within the six-county NRD area.

It will be the NRD's first-ever use of bonding. The option to fund projects through bonding was granted to the NRD by the Nebraska Legislature in 2009.

"This was a historic vote. These funds will allow the district to accelerate its efforts to protect lives and property from potentially devastating flood events," said NRD Manager John Winkler. "Time may be running out to get these projects built before our metro area encounters heavy rainfall and runoff that has recently caused considerable damage to other nearby urban areas," he said.

Projects identified to receive bond funding include:

- A levee improvement to protect the Village of Waterloo from Elkhorn River floods;
- A levee improvement along the Platte River in western Sarpy County;
- A flood control reservoir (WP-5) in Sarpy County to protect the City of Papillion and other downstream areas from West Branch Papillion Creek flooding;

- A flood control structure in Dakota County that will also offer water-based recreation;

- A floodway purchase program to remove floodway obstructions; and

- A water quality basin to protect Omaha's Zorinsky Lake from further degradation.

"We plan to pay for these bonds without raising our tax levy. In fact, our levy decreased this year," said Winkler.

The NRD has been working for years with area cities, villages and counties to develop flood control and water quality measures to meet current needs.

"It's time to put these plans in motion and get these effective controls in place," he said. Engineering studies of the Papillion Creek Watershed have shown that our floodplains are growing due to decades of urbanization."

### Valley drainageway work

The NRD Board also approved cost sharing with the City of Valley for assistance on improving the North Spruce Street drainageway. The NRD's cost share will be \$186,480 as the City of Valley completes the \$310,800 project.

### NRD and LaVista to share costs of floodplain buyouts

Twenty-four homes on Thompson Creek may be purchased by the City of LaVista through a Federal Emergency Management Agency grant and local cost share funding by the Papio-Missouri River Natural Resources District. The NRD's cost share amount of \$340,155 was approved by the board at their meeting February 11th. The total cost of the project is \$2,721,240.

The City of La Vista proposes to acquire the homes along Thompson Creek, east of 84th Street, so that there will be continuous access to at least one side of Thompson Creek over public property to allow for repair of flood damage and bank erosion.



# Route to connect trails takes shape

By KEVIN COLE

WORLD-HERALD STAFF WRITER

Bikers and hikers are getting closer to their dream of an unbroken 50-mile trail between Nebraska's two largest cities.

Last week, officials from Cass County and the Lower Platte South Natural Resources District decided to work together to complete a recreational trail between Omaha and Lincoln.

The question before them: What is the best route to link the MoPac East Trail out of Lincoln with a trail out of Omaha that ends at the Lied Platte River Bridge near South Bend?

The two entities' efforts may already be bearing fruit.

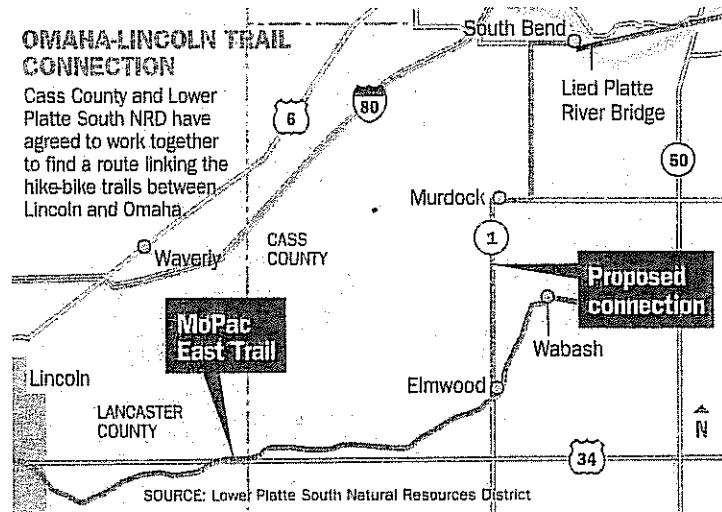
Cass County Board member Jim Peterson said board members have proposed that the connecting route start in Elmwood and continue north on Nebraska Highway 1 to Murdock. The trail would follow 310th Street to Nebraska Highway 66 and into South Bend, where it would connect with the Lied Platte River Bridge.

"We think it will be the safest environment for the trail users," Peterson said. "It would also benefit the lifestyle opportunities of the people who live in the towns along the way."

Glenn Johnson, general manager of the NRD, said a meeting

## OMAHA-LINCOLN TRAIL CONNECTION

Cass County and Lower Platte South NRD have agreed to work together to find a route linking the hike-bike trails between Lincoln and Omaha.



THE WORLD-HERALD

will be scheduled with the Nebraska Department of Roads to review the route before further steps are taken.

"The advantage to this route would be that we would not have to acquire the right of way," Johnson said.

The disadvantage, he said, would be in not being able to change the grade of the road or its route.

MoPac stands for the abandoned Missouri Pacific railroad line that much of the trail follows. The trail has been in the works since the mid-1980s.

A significant step forward in

the project came last week when the Cass County Board and the NRD both unanimously agreed to sign a memorandum to jointly identify potential routes that could connect the two bike-hike trails.

The Cass County Board agreed to lead the public presentation of the route, and the NRD will oversee technical aspects of the trail.

A goal is to find the best route by July. Even then, completion of the connecting route could take five or six more years, Johnson said.

The NRD began working more closely with the Cass County

Board after encountering serious opposition to its own proposed route last year.

The NRD had proposed using eminent domain to secure a route along 334th Street, a county road. Eminent domain is the power of a government body to seize private property, then compensate the property owner.

Nearly 30 landowners opposed the route. The landowners then succeeded in having a bill introduced in the Legislature to vastly restrict the powers of eminent domain for the state's 23 natural resource districts. The trail route proposal was withdrawn and so was the legislation.

"We have been working since then on an alternative (route) that is more doable," Johnson said. "The County Board thinks it can include additional economic development between the trail and communities along the way that would help gain acceptance."

Peterson said many of the landowners were upset by the threat of eminent domain.

"The talk of eminent domain made for a lot of friction between the NRD and the citizens," Johnson said. "I believe this route proposal is a win-win situation for everyone in eastern Nebraska."

Contact the writer:  
444-1272, kevin.cole@owh.com

# Valley hosts information meeting on living in the floodplain



Residents of Valley talk with Amanda Grint from the Papio-Missouri River NRD at the information meeting the city hosted on February 18 on living in the floodplain. Valley city employees and special guests provided information and answered questions. Photo: Mary Lou Rodgers

by Mary Lou Rodgers

"Living in a Floodplain" was the topic of a public meeting recently hosted by the City of Valley.

Mayor Mary Caffey conducted the February 18 meeting, which provided information and an opportunity for residents to ask questions about floodplain issues.

Two city employees, Michael Burns and Shawn Smith, are both certified floodplain managers. They were on hand to answer questions, along with Richard Tesar from the Board of Directors of the Papio-Missouri River Natural Resources District, Amanda Grint from the NRD, and Eric Plautz from Douglas County Emergency Management. Chris Ott from First Nebraska Bank and insurance agent Linda McDermitt from Fricke and Associates also fielded questions.

A small number of residents attended, who had several questions about possible flooding this year, due to the heavy snow and ice, and about flood insurance and other issues.

Tesar talked about the status of the Platte River, which was recently dusted with coal slag by the Corps of Engineers and NEMA to help

open the channel and prevent ice jams as the thick ice melts. He noted that the river from Blondo to Pacific Street has jammed three times in the last few years.

"It was a very critical area, we felt," Tesar said, adding that the Platte and Lower Platte NRDs shared in the cost.

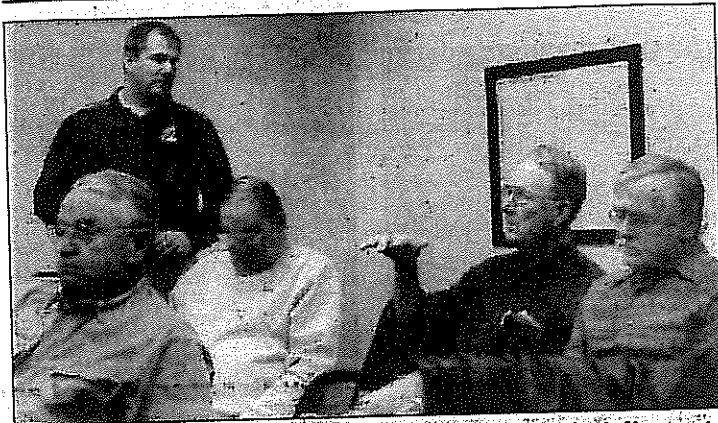
Since many people remember a significant flood in Valley in 1978, Tesar explained that the ice on the river in 1978 was 36-44 inches deep. The ice this winter was averaging 17 inches deep in February. He also pointed out that the 1964 dike was rehabilitated in the late 1980s.

"The dike has been broadened and in place is six feet higher," Tesar said. "We have maintained it; people patrol it every week. Nothing gets by them."

The NRD director also noted that they are prepared for dynamiting ice jams if necessary, but it can only be done by companies licensed to do that, ever since 9/11. No local companies are licensed for that, but Tesar said they have a contractor in Arkansas on alert and a helicopter in Cedar Rapids that can be on the scene in six hours.

• continued on page 3

Post-Gazette  
3-2-10



Valley building inspector Michael Burns (standing) listens to questions from a resident. Richard Tesar (NRD) is at front left.

## City of Valley hosts information meeting on floodplain concerns

- continued from p. 1

Amanda Grint, a water resources engineer with the NRD, brought reports for the public to view and encouraged people to seek more information on several websites.

Smith and Burns provided a list of websites for flood preparedness and safety, insurance and local conditions. (See below)

To reach building inspector Michael Burns or deputy clerk Shawn Smith, call 359-2251. Burns is at extension 306 or can be e-mailed at [mburns@valley.omhcoxmail.com](mailto:mburns@valley.omhcoxmail.com). Smith is at extension 304 or at [ssmith@valley.omhcoxmail.com](mailto:ssmith@valley.omhcoxmail.com).

"The City of Valley is responsible for making sure everyone in our jurisdiction has information on the flooding," Mayor Caffey said. "Those of you who have been here for a while know we're watching the situation."

The mayor also noted she is proud that Valley worked on its requirements for the Community Rating System and was able to achieve a 10-percent discount on flood insurance because of its high rating.

She encouraged any residents to contact the city with their questions and concerns.

### Flood information websites

The websites for general information are:  
[www.fema.gov](http://www.fema.gov), [www.floodsmart.gov](http://www.floodsmart.gov), [www.papionrd.org](http://www.papionrd.org),  
[www.dnr.state.ne.us](http://www.dnr.state.ne.us) and [www.crh.noaa.gov](http://www.crh.noaa.gov).

The FEMA Map Assistance Center phone number is 1-877-336-2627

**Preparedness/safety websites include:**

[www.floodsafety.noaa.gov](http://www.floodsafety.noaa.gov), [www.nema.ne.gov](http://www.nema.ne.gov), [www.redcross.org](http://www.redcross.org)  
and [www.ready.gov](http://www.ready.gov).

**Insurance information is available at:** [www.nfipservices.com](http://www.nfipservices.com)  
or [www.floodsmart.com](http://www.floodsmart.com). The NFIP (National Flood Insurance Program)  
help desk number is 1-800-427-4661.