

April 2008

Information & Education Report

Information

- ◊ Prepared draft I&E budget
- ◊ Continued work on Media Campaign – PSAs produced.
- ◊ Continued work on web enhancement
- ◊ Continued work on rec area signs
- ◊ Updated web pages
- ◊ Published Spring 08 SPECTRUM
- ◊ E-mailed first e-Spectrum
- ◊ Coordinated NRD involvement in Global Youth Service Day.
- ◊ Helped prepare board recommendation for Grant acknowledgement
- ◊ Made initial contact with producer of potential Invasive Species video
- ◊ Gave speakers bureau presentation to Bellevue Kiwanis

Education

- ☐ Continued planning and held Earth Day Omaha 2008 (~7000 people attended)
- ☐ Continued planning for NRD Summer Day Camps
- ☐ Continued planning for Water Works 2008
- ☐ Continued working on GPS curriculum
- ☐ Worked with Sharon Bargas at Omaha Family Magazine on a story to be published in April on the importance of getting outside
- ☐ Presented Ladybugs and Butterflies program to all Benson West 3rd Graders (80 students)
- ☐ Trained 11 Creighton University Pre-Service teachers in WILD/LEP/PLT/WET
- ☐ Staff booth and handed out trees at Henry Doorly Zoo's Party for the Planet (~1000 people attended)
- ☐ Met with Boy Scouts of America about mentoring program
- ☐ Attended day training on CPR/1st Aid
- ☐ Presented Bird/Nest program to all students at St. Matthew's School in Bellevue
- ☐ Presented at Omaha North Career Day (300 students)
- ☐ Staff booth and handed out trees at Fontenelle Forest Earth Day Celebration (~3000 attended)
- ☐ Coordinated Millard South Park Clean Up
- ☐ Held 2008 Tree Give Away—8000 tree's given out to teachers and youth groups, 2000 to Earth Day
- ☐ Staff booth and handed out trees at Union Pacific Earth Day event (3000 people attended)
- ☐ Held Omaha Outside meeting with 24 environment organizations in attendance
- ☐ Led nature hikes for all 6th graders at Walnut Creek Elementary (120 students)
- ☐ Presented enviroscape/surface water demo to all 5th graders at Neihardt (50 students)
- ☐ Presented tree care program and planted trees with all preschoolers at Hearts and Hands preschool (60 students)
- ☐ Presented groundwater model to all 6th graders at Benson West (60 students)

Updated: April 14, 2008

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)
 - ⊛ Land transfer agreement w/Douglas County (P)
 - ⊛ Piccolo Point easement forms (W)
- **Big Papio :** (Cleveland)
- **West Branch** (Cleveland):
 - Land Exchange with Sarpy Co. (96th St.) (P)
- **Western Sarpy Dike** (Cleveland):
 - ⊛ Bundy and others ROW preparation (potentially modify ROW/offer) (W)
 - Amended drainage ditch easements on Hickey (First National Property) (P)
 - ⊛ Horn, Glasshoff ROW certification letter to USACE (W)
- **Floodway Purchase Program** (Woodward):
 - Floodway Property purchase agreements as needed (F)
- **Trail Projects** (Bowen):
 - Mopac Trail (Hwy 50 to Lied Bridge) –Educational Land & Funds condemnation; closings (P)
- **Missouri River Corridor Project** (Becic):
 - ⊛ Agreement for Omaha to maintain Missouri River Trail at N.P. Dodge North (W)

- **USDA P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - Silver Creek Site Easements– as needed (Site #11 and #9 ROW) (W)
 - Release of Site S-7 Easement (W)
 - S-31 – Handle Moore condemnation (P)
 - ✪ Turtle Creek #2 rehab project contract documents (N)
- **Papio Watershed Dam Sites** (Woodward/Petermann):
 - ✪ Close w/Pink Family Investments for WP-RB5 (W)
- **Papio Creek Watershed Partnership (Stormwater)** (Woodward):
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites** (Sklenar):
- **Other:**
 - Kennard Wastewater Closing (Woodward) (F)
 - ✪ Rumsey Station wetlands expansion purchase agreement closing (Cleveland) (F)
 - Blair NRCS/NRD office; prepare closing documents for property (Sklenar) (F)

APRIL 2008



Stage IV Watershed Evaluation

Stormwater Management Policies

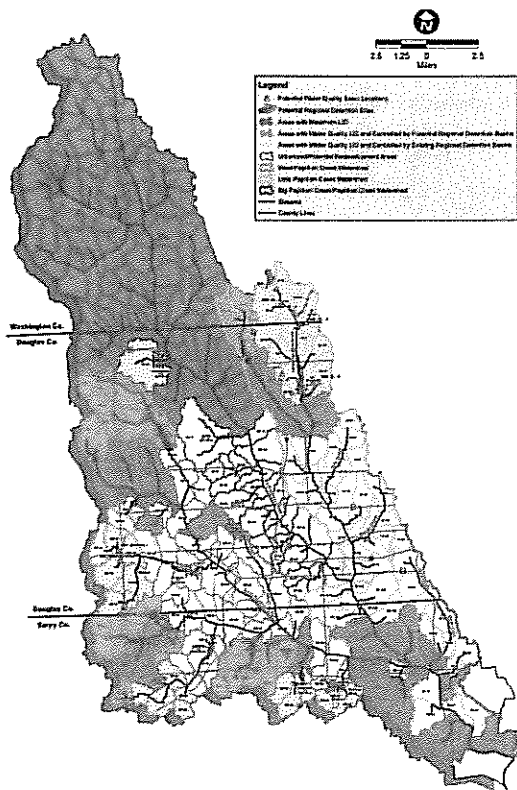
Public Outreach and Involvement

Stormwater Legislation

The City of Omaha is moving forward with an Ordinance revision stating that LID shall be required on all new developments to provide water quality control of the first ½ inch of stormwater runoff. All Partnership members are encouraged to adopt this ordinance change. The City of Omaha expects to take this to Council in May.

The City of Papillion has also adopted a regulation change that would require City Council approval of any proposed development in the new floodway or floodplain. All Partnership members are encouraged to adopt this or a similar change to use the best available data when dealing with development in the floodplains.

Next Meeting: The next Partnership meeting is scheduled for May 15th at 10:00 AM at the Papio-Missouri River NRD.





Public Outreach and Involvement Report

March 2008

Submitted By:



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Papillion Creek Watershed Partnership Public Outreach and Involvement Report

Goals and Objectives:

The goals set out for this public process were to establish a credible public information and involvement process to foster collaboration and cooperation among the Partnership and individual governmental jurisdictions within the watershed leading to decisions based on informed public consent.

Objectives:

- The Partnership must address misperceptions about the Partnership and its plans and ensure that concerns about the level of public outreach and understanding for this complex planning process are fully addressed.
- The Partnership, as the sum of its individual members, must become the focal point of this regional planning effort and speak with one voice to all involved parties and the general public. The efforts of the Partnership cannot be construed as the unilateral actions of any one jurisdiction.

Public Outreach Process

Risk communication science informs us that the best management practice in sharing complex technical information and/or information that may be controversial is best conveyed through one-on-one or small group interactions. This public outreach process was designed to do just that and create opportunities for the Partnership to provide information in non-controversial and non-adversarial forums with little to no distortion being introduced into the information outreach opportunity.

Outreach activities included preparing new and revised Partnership informational materials, providing one-on-one briefings, holding small group presentations, and providing updates to the news media. Details on these activities are provided below.

1. New and revised Partnership information materials were prepared and are included in Appendix A as follows:
 - a. Fact Sheets – 10 new fact sheets were prepared.
 - b. A PowerPoint Presentation for Partnership Briefing Teams and Presenters.
 - c. 5 display boards were prepared for the open houses.
 - d. Public Service Announcements were prepared to announce preliminary Stage IV study results and upcoming public forums.
 - e. The website was updated and enhanced to organize and included all new informational materials and announcements. Visit www.papiopartnership.org for more information.
2. One-on-One Briefings
 - a. A voluntary communication team made up of Partnership members and headed by spokesperson, Mark Wayne, presented information from the PowerPoint and fact sheets to elected officials throughout the watershed.

- b. Over 65% of the elected officials in the watershed participated in one-on-one or small group briefings with Partnership members.
3. Small Group and Organization Presentations (Speakers Bureau)
 - a. The Partnership prepared a flyer announcing the availability of speakers to provide a presentation about the Partnership to service clubs (such as Rotary, Kiwanis, etc.), professional organizations, neighborhood associations, and other stakeholders such as agriculture, developers, chambers of commerce, Metro Area Builders Association (MOBA, etc.).
 - b. The flyer was sent out to all known service clubs and neighborhood associations in the Omaha Metropolitan Area.
 - c. Several presentations have been and will continue to be provided to service clubs.
 - d. A presentation about recent Partnership activities was also provided to nearly 300 professionals at the 2008 Erosion and Sediment Control Workshop.
4. Media Contacts and Updates
 - a. Throughout the course of the public outreach and involvement process, local news media was kept informed through press releases and available informational materials.
 - b. Local TV news and newspaper staffs were also directly contacted to gauge their interest in covering the issue.

Public Involvement Process

Following public outreach, the Partnership scheduled and organized seven public outreach open houses from February 19 through March 6, 2008 to build awareness, increase understanding, and provide opportunities for feedback on the Stage IV study results on flood prevention and water quality options for the watershed. The locations, as listed and shown on the map below, of these open houses were distributed throughout the watershed and were scheduled from 4:30 to 7:30 PM so that they were convenient for all to attend.

Public Open Houses during the month of February are listed below:

February 19, 2008 – UNO WH Thompson Alumni Center

February 21, 2008 – Northwest High School

February 25, 2008 – Millard West High School

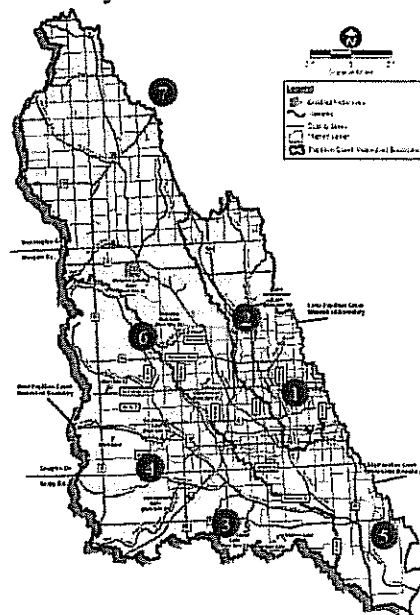
February 27, 2008 – Papillion LaVista South High School

February 28, 2008 – Bellevue Support Center

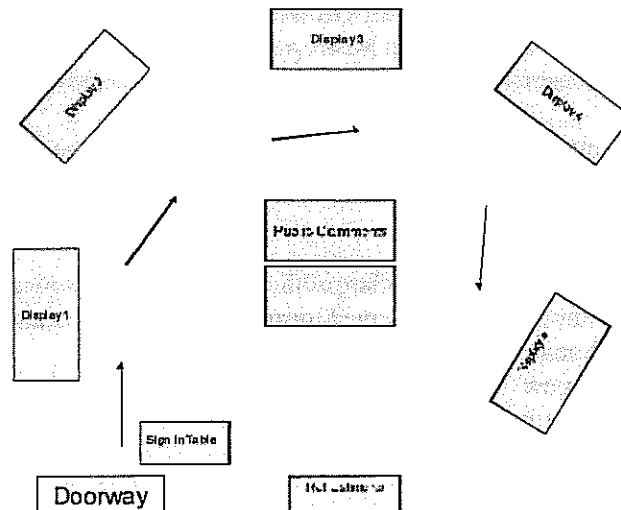
Two more meetings were scheduled for March:

March 4, 2008 – Concordia High School

March 6, 2008 – Dana College



The format of the meeting was planned as a completely open house with the 5 display boards arranged in order as shown in Appendix A. Fact sheets were available at each display board. Public comments were solicited at a central table either through written comments or via database entries on laptop computers. Several publications and informational materials concerning individual rain gardens and rain barrels were made available along with cookies and refreshments. The diagram below shows a typical layout.



Notification and announcement of the open houses was numerous and varied. The following is a list of outlets and distribution levels.

- Elected officials
 - Outreach to each participating jurisdiction and Washington County prior to formal public notification process for Stage IV results.
- Website (www.papiopartnership.org)
 - From January through March 6, about 570 visitors made about 900 visits to the web site
 - Of the top 25 pages visited on the web site, four of the top eight pages were 'meeting notices,' 'events,' 'fact sheets,' and 'forum.'
- Omaha World-Herald
 - Initial contact with editor for briefing on PCWP study
 - Two articles about PCWP work contained the meeting schedule
 - Three Public Notices on the forums ran on Mondays prior to the meetings
 - Press Release on PCWP effort and the public meeting schedule was sent out before the meetings
 - Schedule posted on OWH web site "Community Connection" page
- Area's Weekly Newspapers
 - 5 articles containing the schedule
- TV/Radio Stations

- Initial contact with news directors for briefings on PCWP study
- Press release sent at beginning of meetings
- Schedule posted on 'community event' pages on web sites
 - KFAB radio, KETV, KMTV, WOWT, KPTM, OmahaNewsstand.com (Bellevue, Gretna, Papillion, La Vista papers)
- Flyers Distributed to Partnership Representatives
 - Public notification forum schedules were distributed to 10 partnership jurisdictions for distribution to libraries and other public buildings
- Flyers Distributed Through Mailing Lists
 - About 125 flyers to civic groups and neighborhood associations
 - Attendees of West Papio Flood Map open house (5)
 - Attendees of past Partnership meetings (about 50)
- Flyers Distributed through Seminar
 - About 300 attendees of the Sediment and Erosion Control Seminar

Each open house was staffed by 7 to 9 Partnership members, HDR or IMS staff. The meetings drew a total of 162 citizens and government leaders at the following locations:

University of Nebraska at Omaha -----	28
Omaha Northwest High School -----	29
Papillion-La Vista South High School -----	18
Millard West High School -----	29
Bellevue -----	10
Omaha Concordia High School -----	27
Blair, Nebraska -----	21
 Total -----	 162

Public comments received at the open houses are summarized below, followed by a complete listing of the comments received.

- 7 percent of the attendees (11) submitted comments
- Comments primarily focused on three categories
 - Development plan
 - Taxes
 - Regulations

The following comments pertain to the **development plan** itself:

- Jim Kee stated to me at the Feb 19 meeting at 67 and Dodge that this meeting today was only a study for the implication of dams on the Papio watershed. I was at a meeting the Mr. Thompson of the NRD state the water quality study was for the entire NRD area. Apparently the proposed information provided today is only for the construction of dams on the Papio watershed.

- I'm disappointed! "Public awareness" is a failure so far. The mayors and elected officials of the counties and cities (Fahey mainly) used to get behind the LID program in particular. Your LID effort is shallow and suspect in its cost and effect. It is less costly and more effective AND the mayors need to be public in supporting NO NET RUNOFF – Fahey brags about being like the progressing city Portland, Oregon. Portland is a huge LID implementer. The PMNRD is in the dark ages. You and the developers are in bed together – make it in bed for LID and the profit potential is immense. Young folks are demanding green environments – streams and buffer strips are green areas if there is access to clean water. Kids used to play in streams. You are not even thinking about how to clean the water. Please try. Cisterns ought to be in the building codes and NO NET RUNOFF should be the goal of every new subdivision. You can make that happen. Omaha is behind – and you are not helping much. Retrofitting is another area to emphasize. Words are easy; however deeds – action is more telling.
- Re: detention ponds. These seem a viable supplement to a small number of additional dam sites. Importantly, detention ponds offer some supplemental benefits that might not be well known:
 - 1. Numerous, neighborhood-scale detention ponds that are normally dry (between rain events) offer small bits of "nearby nature" where children can play. Research has shown that frequent, unstructured childhood play in natural settings is the most common influence on the development of lasting conservation values. This type of play was once a common part of childhood, but has now become rare. Restoring it will require children to have nearby access to small natural areas that are not excessively constrained by rules. I have personally seen neighborhood detention ponds serve this role perfectly in Minnesota neighborhoods, while still providing their core water quality benefits.
 - 2. Numerous small detention basins would build homeowner "ownership" of the problem and process by making the functioning of the basins highly visible on an ongoing basis. Larger dams are less effective at this task, since most people visit them only infrequently.
 - 3. Numerous small detention basins can also serve as miniature wildlife sanctuaries for their host neighborhoods, providing food, nest sites, and cover for a wider variety of birds, small mammals, and herps than is the case with typical quarter-acre lots.
- Is this not a water quality problem? If so, why are not more, many much more, low impact developments projects being incorporated into the watershed partnership? Cheaper, more green space better quality of water, better wild life habitat.
- I would like to see development slowed and regulated so that these good ideas you have can be implemented and enforced. Elkhorn area needs a watershed dam site on the Meeks farm area instead of hundreds of homes built in a flood plain. Please educate developers!! Concrete and commercial buildings in Elkhorn are vacant but our natural resources are disappearing at an alarming rate. Slow development. Enforce repair(?) zones.

- The increased emphasis and proposed use of “low impact development” methods is a welcome change from when the discussion seemed to focus only on dams – or – “regional detention facilities,” if you will. The more facets of such ideas that can be put into practice – the better. The #1 priority should be water “quality” with “quantity” being secondary. Yes, they both impact each other, but the issue of “quality” is with us every day, while the “quantity” issue is looking at a once every 100 years occurrence. While not an easy route, it seems necessary and vital that some “retro fitting” needs to occur in the urban core. The restoration of our creeks and streams could have an amazing impact on the quality of life for the residents of Omaha. Such action would no doubt be much more difficult and expensive than taking farm land in Washington, Co., however, in the long run the benefits are many. Since areas of urban development are one of the greatest contributors to runoff – simply restoring some riparian corridors to a more natural state would provide an immediate impact – while reducing the amount of property in danger of flooding because said buildings and parking lots would no longer be there. The impact on quality, quantity and water health would be felt the most by cleaning up those areas that are the most degraded. Such an approach could open up greater recreational opportunities, enhanced views and a greater chance to interact with nature for many neighborhoods. Increased property values would follow as well as a better quality of life. Omahans in 25-50-100 years will thank you for your vision. The city sewer-separation project – the concepts of Omaha by Design – and this Partnership needs to be willing to dream and think outside the box. Impacting businesses can’t be popular or easy – but it would be interesting to see what kind of public support there would be. Clean up the water and provide access to it. Require new development to have zero net runoff and give future Omahans a city worth living in.
- We own property near the large proposed dam. We want this dam to go through! I have a lot of family in the area who own land that would be impacted and most would also like to see this go through but won’t publically say this. We need recreation(?) and more development – and higher tax bases.
- I truly believe that the northern dam in Washington County should be built first along with your proposed small local SID projects.

The following comments concerned **taxes**:

- The use of low impact development can cause less burden on tax payers in the district. This will transfer costs to those who benefit channelization of the creeks/rebuilding the banks. Why is the NRD seeking bonding availability before they know what plan to implement or how much it will cost. Educate the people on who will pay for LIDs. Educate the people on why detention ponds are more effective/how far from the structure the pond will protect against flooding.
- Why not have the developers pay for the cost of the needed structures as the ag land is developed into projects. This way the tax payers do not have to pay the projected \$500 million cost of these projects. If the developers know in advance of these needed structures they will reduce that cost of the land they purchase. The ultimate person paying for these structures will be the person selling the ag land to the developers. If HDR is doing a water quality study for the entire Papio-

Missouri Natural Resource District where is the information regarding the Platte, Elkhorn and Missouri Rivers? What about all of the streams in the entire district? How come the NRD allowed Boyer and Young to fill the floodway on the Elkhorn River at the Hampton Development on West Q Street?

This comment focused on **regulations**:

- There should be an ordinance in Omaha that existing paved parking lots be required to reduce runoff when asphalt is replaced with new paving. There should be a regulation in the building code that all new developments pay \$2,000 per lot to pay for treatment plant upgrades. Dams will not solve flooding problems in Omaha.

Conclusions and Recommendations

The results of the public outreach and involvement process are not always immediately apparent. However, during the course of this process, both the Partnership's understanding of public communication and the public's understanding of watershed issues has and will continue to grow. The Partnership and its members now have an improved public outreach and involvement process along with new informational materials with which to engage the public and stakeholders throughout the watershed. Because of this, the public has and will continue to gain a greater understanding of the Partnership's purpose and watershed needs. The following recommendations are intended to help foster this ongoing public outreach and involvement process.

- Continue outreach and education on the Stage IV study and results highlighting all of the water quality and flood control options, the benefits of those options, any legislation affecting the watershed plans, and the cost to taxpayers and developers.
 - Use every opportunity to speak to all types of professional associations, service clubs, church groups, government bodies, and public forums.
 - Distribute fact sheets to as many people as possible.
- Maintain the PCWP web site with updates on all of the areas noted above, even after a plan has been completed and adopted.
- Continue efforts for one-on-one briefings with news directors, editors, and other media outlets.
- The Partnership spokesman should take the lead for all related news media relations with the full support of the communications team.



A Study of Sites 1 and 3c

www.papioreservoirs1and3c.org

Preliminary Study of **Papillion Creek Watershed Reservoirs 1 and 3C**

April 2008

HDR

in association with:

EXECUTIVE SUMMARY

The Papillion Creek Watershed (Watershed), located in Washington, Douglas, and Sarpy counties in eastern Nebraska and illustrated in Figure ES-1, consists of 250,000 acres (402 square miles) and has a history of substantial flooding. In response to flooding in the 1950s and early 1960s, the Omaha District of the U.S. Army Corps of Engineers (USACE) proposed a system of 21 dams for the purposes of flood control, recreation, and water quality. Eight of the 21 dams have been constructed and are primarily located in the middle portion of the Watershed near the present urban development zone. These dams have proven to provide effective downstream flood control as well as recreation and water quality benefits.

Over the past 20 years, rapid changes in land use have occurred in the Watershed, primarily within Douglas and Sarpy Counties, which have added to the potential flooding hazard. These rapid changes are primarily due to accelerated urbanization which significantly increases hydrologic impacts on the Watershed, resulting in larger and more frequent flood events.

Based on the need to address flooding, a 2004 study reevaluated earlier USACE reports and proposed a system of 10 dams, including Reservoir Sites 1 and 3C in a report entitled "Multi-Reservoir Analysis, Papillion Creek Watershed" (2004 Report). Proposed Reservoir Site 1 is located on Big Papillion Creek in Washington County northeast of Kennard with a contributing drainage area of approximately 23.3 mi². Proposed Reservoir Site 3C is located on Big Papillion Creek in Douglas County northwest of Bennington. The contributing drainage area at Site 3C is approximately 97.5 mi² (including the drainage area of Site 1), and the majority of the reservoir pool would reside in Washington County.

The purpose of this Study is to evaluate flood control alternatives, including Reservoir Sites 1 and 3C, in the upper portion of the Watershed. This evaluation involves the following objectives, which are further discussed in this report:

- Define the flood control need.
- Define flood control alternatives and their associated project costs.
- Determine flood damage reduction benefits of flood control alternatives studied in detail.
- Evaluate supplementary benefits and costs of flood control alternatives studied in detail.
- Investigate potential infrastructure, environmental, land use, socioeconomic, and cultural impacts of flood control alternatives studied in detail.
- Identify funding sources.
- Increase public awareness, encourage public participation, and solicit public input throughout the study process.

FLOOD CONTROL NEED

A flood control needs assessment was conducted for the upper portion of the Watershed. Hydrologic, hydraulic, and economic analyses was conducted for identification of flooding limits, depths and damages for various flood events using existing (2006) and projected full build-out land use conditions. The modeled reach of Big Papillion Creek is approximately 16 miles long, beginning at Nebraska Highway 36 near Bennington and ending at its confluence with Little Papillion Creek.

There is a distinct difference in the number of structures located within the current FEMA regulatory, existing (2006) conditions and projected full build-out condition floodplains within the modeled reach. As illustrated in Table ES-1, continued development within the Watershed may produce additional increases in floodplain area and number of structures flooded. It is also noted that more detailed and updated topographic data accounts for some of the differences in floodplain area and number of structures flooded between the FEMA regulatory and predicted existing (2006) conditions.

TABLE ES-1 | AREA AND STRUCTURES FLOODED UNDER THE CURRENT FEMA REGULATORY FLOODPLAIN, PREDICTED EXISTING (2006) FLOODPLAIN, AND PROJECTED FULL BUILD-OUT FLOODPLAIN¹

Flood Damage	FEMA Regulatory Floodplain	Predicted Existing (2006) Floodplain	Projected Full Build-out Floodplain
Area Flooded (acres)	2,929	3,403	3,572
Structures Flooded	344	758	851

Note:

¹ Based on 100-year storm event.

Based on the analysis, approximately 344 structures currently exist within the FEMA floodplain. However, were a 100-year storm event to occur in the Watershed today, an additional 414 structures could be affected by flooding. When full build-out conditions occur, an additional 507 structures would be affected compared to the FEMA regulatory floodplain.

Flood damages were estimated for the existing (2006) conditions and projected full build-out condition.

- Under existing (2006) conditions, annual equivalent flood damages were estimated at approximately \$7.4 million. The majority of the damages come from commercial structures, including their contents.
- Under projected full build-out conditions, annual equivalent flood damages are approximately \$12.7 million per year. The increase in damage from the existing conditions to the projected full build-out is the result of the widening of the floodplain and increased depths of flooding due to increased runoff from additional conventional development (full build-out). The majority of the damages come from commercial structures, including their contents.

RANGE OF ALTERNATIVES CONSIDERED

Six flood control alternatives, described in Table ES-2, were evaluated. Based on flood control performance and project costs, an initial screening evaluation was performed for identification of the more feasible flood control alternatives. The more feasible flood control alternatives were evaluated in additional detail for refinement of flood control performance and project costs.

TABLE ES-2 | FLOOD CONTROL ALTERNATIVES EVALUATED FOR INITIAL SCREENING

Alternative	Description
Non-Structural Measures/ Floodplain Acquisition and Zoning	<ul style="list-style-type: none"> Acquire developed properties along Big Papillion Creek within the projected full build-out 100-yr floodplain from NE Highway 36 to Little Papillion Creek Zoning regulations would prevent flooding of new development
Conservation Measures	<ul style="list-style-type: none"> Full implementation of conservation measures on agricultural lands upstream of NE Highway 36 including conservation or no-till practices, buffer strips and grassed waterways, terraces, contour farming, and strip-cropping
Conveyance Improvements	<ul style="list-style-type: none"> Channel modifications and levee construction for containment of the 100-yr future full build-out flood event within the urbanized reach from approximately 132nd Street to the confluence of Big Papillion Creek with Little Papillion Creek
Regional Dry Dam Detention	<ul style="list-style-type: none"> Regional dry dam detention structures with no permanent pool for controlling runoff from sub-watershed areas upstream of NE Highway 36 typically 6 to 12 mi² each
Small Dry Dam Detention	<ul style="list-style-type: none"> Small dry dam detention structures with no permanent pool for controlling runoff from sub-watershed areas upstream of NE Highway 36 typically about 1 mi² each
Sites 1 and 3C	<ul style="list-style-type: none"> Two larger detention structures for controlling runoff upstream of NE Highway 36 with the following 3 scenarios: <ol style="list-style-type: none"> Sites 1 and 3C Wet Dam Site 3C Wet Dam Site 3C Dry Dam

Through an initial screening evaluation of flood control performance and project costs, a total of 5 alternatives/scenarios, described in Table ES-3, were identified for evaluation in further detail. The regional detention structures were assumed to have a level of flood protection equivalent to having a detention structure immediately upstream of NE Highway 36, i.e. Site 3C. Therefore, the potential flood damage reduction for all 5 alternatives/scenarios studied in detail was equivalent.

TABLE ES-3 | PROJECT COSTS OF ALTERNATIVES STUDIED IN DETAIL

Alternative/ Scenario	ROW Acquisition	Infrastructure Modification	Project Construction	Total Capital Cost	Annual O&M	Total Annual Cost
Regional Wet Dam Detention	\$41.6	\$7.9	\$61.3	\$110.8	\$2.3	\$8.3
Regional Dry Dam Detention	\$35.4	\$5.0	\$51.8	\$92.2	\$2.2	\$7.2
Sites 1 and 3C Wet Dam	\$62.4	\$24.5	\$22.0	\$108.9	\$1.6	\$7.7
Site 3C Wet Dam	\$57.5	\$18.8	\$17.5	\$93.8	\$1.5	\$6.9
Site 3C Dry Dam	\$32.7	\$18.4	\$7.2	\$58.3	\$1.5	\$4.6

Additional information regarding the ROW acquisition costs was developed for the alternatives/scenarios studied in detail. A summary of the required land (in acres) and structure acquisitions for flood control purposes only is shown in Table ES-4 for each alternative/scenario.

TABLE ES-4 | LAND AND STRUCTURE ACQUISITIONS FOR FLOOD CONTROL

Alternative/Scenario	Land Acquisition (acres)	Properties with Structures	Properties with Houses
Regional Wet Dam Detention	4,650	10	2
Regional Dry Dam Detention	3,820	10	2
Sites 1 & 3C Wet Dam	4,415	70	35
Site 3C Wet Dam	3,680	66	35
Site 3C Dry Dam	1,825	35	19

FLOOD DAMAGE REDUCTION BENEFITS

Estimated flood damages, residual flood damages, and flood damage reduction benefits for the 5 alternatives/scenarios studied in detail were determined. Flood damages estimates were based on:

- The probability of a given flood event; and
- Statistical relationships between the depth of flooding and the percent of damages occurring to structures and contents.

Residual flood damages are the maximum potential damages occurring downstream of a potential structure after construction (with project conditions). Damage reduction benefits are the difference between residual flood damages (with project conditions) and flood damages (without project conditions).

It was assumed that all of the detention alternatives/scenarios analyzed in detail would be designed such that they provide an equivalent level of flood protection. Therefore, estimated flood damages, residual flood damages, and flood damage reduction benefits for the alternatives studied in detail were the same.

- \$10.9 million in annual equivalent flood damages
- \$1.42 million in annual equivalent residual flood damages
- \$9.43 million in annual equivalent flood damage reduction benefits

In addition, changes in the area and structures affected by flooding under predicted existing (2006) and projected full build-out conditions as well as under the projected full build-out with project condition (with detention) are shown in Table ES-5.

TABLE ES-5 | AREA AND STRUCTURES AFFECTED BY FLOODING UNDER EXISTING AND FULL BUILD-OUT CONDITIONS, WITHOUT AND WITH DETENTION

Flood Damage	Predicted Existing (2006) without Detention	Projected Full Build-out without Detention	Projected Full Build-out with Detention
10-year Storm Event			
Area Flooded (acres)	1,943	2,285	647
Structures Flooded	49	128	1
100-year Storm Event			
Area Flooded (acres)	3,403	3,572	1,809
Structures Flooded	758	851	153

SUPPLEMENTARY BENEFITS AND COSTS OF ALTERNATIVES STUDIED IN DETAIL

Supplementary recreation, property value, and water quality benefits that could be provided by the alternatives studied in detail was evaluated. Recreation benefits are based on facility plans for the three Sites 1 and 3C scenarios. The detailed analysis of recreation benefits included a determination of the monetary benefits associated with providing recreational facilities and the annual equivalent costs of implementing the facility plans.

Due to the smaller structure sizes associated with the regional detention alternatives, specific recreation plans were not developed for each regional detention site, and no recreation benefits were analyzed for the regional wet and dry dam detention scenarios. However, it is noted that small scale recreation features could likely be implemented with these regional detention alternatives.

Several public meetings, participatory task workgroup workshops, and a comparable sites survey were conducted for development of recreational facility concepts. Annual recreation equivalent costs, as described in Table ES-6, are summarized for each alternative. In Table ES-7, annual recreation benefits were calculated for each alternative.

TABLE ES-6 | RECREATIONAL FACILITY PLAN COSTS BY ALTERNATIVE

Alternative	Property Acquisition	Facilities Construction	Total	OMR&R ¹	Annual Equivalent
Sites 1 & 3C	\$18,390,000	\$29,010,000	\$47,400,000	\$290,000	\$2,530,000
Site 3C Wet Dam	\$17,170,000	\$22,600,000	\$39,770,000	\$230,000	\$2,130,000
Site 3C Dry Dam	\$6,970,000	\$4,560,000	\$11,530,000	\$60,000	\$650,000

Note:

¹ Operations, maintenance, and repair/replacement (OMR&R)

TABLE ES-7 | RECREATION BENEFITS BY ALTERNATIVE

Alternative	Annual Visitation ¹	Visitor-Day Value	Annual Equivalent Benefit
Sites 1 & 3C	570,000	\$25.00	\$14,910,000
Site 3C Wet Dam	450,000	\$25.00	\$11,860,000
Site 3C Dry Dam	60,000	\$8.00	\$500,000

Note:

¹ Visitation estimates for Sites 1 & 3C and Site 3C as a wet dam were obtained from using Regional demand model. Visitation estimates for Site 3C as a dry dam were obtained from using capacity method.

IMPACT ANALYSIS

An impact analysis was performed to determine the potential project impacts for the five alternatives/scenarios studied in detail. The types of impacts evaluated include: environmental, land use, socioeconomic, cultural, and transportation. Table ES-8 summarizes the environmental, socioeconomic, cultural, and transportation impacts.

PROJECT FUNDING

A number of funding sources, both public and private, have been investigated for financing portions or all of a particular flood control alternative. Public funding not only includes conventional municipal financing such as tax levies, bond financing, and subsidized loans, but also includes fees, congressional appropriations (earmarks), and grant funding. Private funding involves private entities such as individuals, corporations, or limited liability companies (LLCs) as sole financiers.

Though the sources of funding are numerous, the probability of financing such a complex, large-scale project presents challenges. Limitations on funding sources as well as political and social factors influence the practicality of obtaining funds.

Various co-funding options available to P-MRNRD include funding solely from the public sector and the usage of public-private partnerships. Public-private partnerships are an attractive source of funding because private financing can reduce the burden on public debt capacity. Of the numerous types of public-private partnerships that are formed, developer financing appears to be the most relevant for this type of infrastructure.

PUBLIC INVOLVEMENT AND AGENCY CONSULTATION

Public involvement and agency consultation took place during the development of this study. Public input included both support and opposition of the potential flood control alternatives/scenarios. Specific public involvement activities included:

- Public information meetings
- Steering Committee meetings
- Stakeholder interviews
- Task workgroups meetings: transportation, land use/economic development, and recreation
- Press releases
- Website (www.papioreservoirs1and3c.org)
- Newsletters and mailings
- P-MRNRD Board meetings

Early coordination for the Sites 1 and 3C study was conducted with federal, state, and local resource agencies. An agency meeting was conducted where an open discussion of agency concerns were heard.

SUMMARY

This Study considers and evaluates numerous potential flood control alternatives in the upper portion of the Papillion Creek Watershed, including Reservoir Sites 1 and 3C. This feasibility evaluation provides the P-MRNRD with valuable technical information for assistance in determining a preferred flood control alternative.

If a 100-year storm event were to occur in the Big Papillion Creek study reach today (existing 2006 conditions), an estimated 3,403 acres and 758 structures would be affected. An additional 169 acres and 93 structures could be affected by the 100-year storm event flooding when full build-out conditions occur.

Similarly, under existing (2006) conditions, annual equivalent flood damages were estimated at approximately \$7.4 million per year. As the result of the widening of the floodplain and increased depth of flooding under projected full build-out conditions, the annual equivalent flood damages are anticipated to increase to approximately \$12.7 million per year.

Several structural and non-structural flood control alternatives were evaluated as potential components of a multi-faceted, comprehensive approach to address the flood control need along Big Papillion Creek. A total of 5 alternatives/scenarios, described in Table ES-8 and ES-9, were identified as the most feasible flood control options. Each of these 5 alternatives/scenarios was estimated to provide an average annual equivalent flood damage reduction of \$9.4 million.

Supplementary benefits and costs and potential impacts were also evaluated for the 5 most feasible alternatives/scenarios, as documented in Tables ES-8 and ES-9.

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TABLE ES-8 | PROJECT IMPACTS OF ALTERNATIVES STUDIED IN DETAIL

Alternative Description	Transportation	Environmental ^{2, 3, 4}		Socio-Economic			
	Transportation System Impacts	Wetlands ¹	Stream Impacts	Structure/Property Impacts	County Property Tax Revenue Impacts	School District Property Tax Revenue Impacts	Cultural Resources
Regional Wet Dam Detention <ul style="list-style-type: none"> 15 sites 14 permanent pools 16 large water quality basins 	<ul style="list-style-type: none"> No road closures, some roads raised 	<ul style="list-style-type: none"> 21.0 acres Permanent Wetland Inundation 0.9 acres Permanent Wetland Fill 	<ul style="list-style-type: none"> 9,400 ft Permanent Stream Fill 23.5 miles Permanent Stream Inundation 	<ul style="list-style-type: none"> 10 properties with structures including 2 houses 4,650 acres of project land Recreation land not evaluated 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$695,000 (2.3% of total) to Washington County \$8,000 (0.0% of total) to Douglas County 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$154,000 (2.6%) to Bennington \$169,000 (1.4%) to Blair \$93,000 (3.1%) to Arlington 	<ul style="list-style-type: none"> 11 potentially eligible architectural sites 4 potentially eligible archeological sites
Regional Dry Dam Detention <ul style="list-style-type: none"> 15 sites No permanent pools No water quality basins 	<ul style="list-style-type: none"> No road closures, some roads raised 	<ul style="list-style-type: none"> No Permanent Wetland Inundation 0.4 acres Permanent Wetland Fill 	<ul style="list-style-type: none"> 3,700 ft Permanent Stream Fill No Permanent Stream Inundation 	<ul style="list-style-type: none"> 10 properties with structures including 2 houses 3,820 acres of project land Recreation land not evaluated 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$600,000 (2.0% of total) to Washington County \$8,000 (0.0% of total) to Douglas County 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$150,000 (2.6%) to Bennington \$144,000 (1.2%) to Blair \$80,000 (2.7%) to Arlington 	<ul style="list-style-type: none"> 11 potentially eligible architectural sites 4 potentially eligible archeological sites
Site 1 & 3C Wet Dam <ul style="list-style-type: none"> 2 pool system 2 permanent pools 6 large water quality basins 	<ul style="list-style-type: none"> CR 26, 34, and 40 open based on task work group recommendations 	<ul style="list-style-type: none"> 45.4 acres Permanent Wetland Inundation 1.2 acres Permanent Wetland Fill 	<ul style="list-style-type: none"> 3,800 ft Permanent Stream Fill 25.5 miles Permanent Stream Inundation 	<ul style="list-style-type: none"> 70 properties with structures including 35 houses 4,415 acres of project land 1,450 acres of recreation land 5,865 acres of total land (project and recreation) 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$771,000 (2.6% of total) to Washington County \$13,000 (0.0% of total) to Douglas County <u>Impacts from Recreation:</u> <ul style="list-style-type: none"> \$38,000 (0.1% of total) to Washington County \$16,000 (0.0% of total) to Douglas County 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$282,000 (4.9%) to Bennington \$132,000 (1.1%) to Blair \$94,000 (3.1%) to Arlington <u>Impacts from Recreation:</u> <ul style="list-style-type: none"> \$32,000 (0.5%) to Bennington \$55,000 (0.5%) to Blair \$18,000 (0.6%) to Arlington 	<ul style="list-style-type: none"> 5 potentially eligible architectural sites 4 potentially eligible archeological sites
Site 3C Wet Dam <ul style="list-style-type: none"> Site 3C only 1 permanent pool Site 1 as one of the 6 large water quality basins 	<ul style="list-style-type: none"> CR 26, 34, and 40 open based on task work group recommendations 	<ul style="list-style-type: none"> 44.0 acres Permanent Wetland Inundation 1.4 acres Permanent Wetland Fill 	<ul style="list-style-type: none"> 2,700 ft Permanent Stream Fill 19.7 miles Permanent Stream Inundation 	<ul style="list-style-type: none"> 66 properties with structures including 35 houses 3,680 acres of project land 1,160 acres of recreation land 4,840 acres of total land (project and recreation) 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$704,000 (2.4% of total) to Washington County \$13,000 (0.0% of total) to Douglas County <u>Impacts from Recreation:</u> <ul style="list-style-type: none"> \$25,000 (0.1% of total) to Washington County \$16,000 (0.0% of total) to Douglas County 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$282,000 (4.9%) to Bennington \$39,000 (0.3%) to Blair \$90,000 (3.0%) to Arlington <u>Impacts from Recreation:</u> <ul style="list-style-type: none"> \$32,000 (0.5%) to Bennington \$33,000 (0.3%) to Blair \$7,000 (0.2%) to Arlington 	<ul style="list-style-type: none"> 4 potentially eligible architectural sites 4 potentially eligible archeological sites
Site 3C Dry Dam <ul style="list-style-type: none"> Site 3C only No permanent pool No water quality basins 	<ul style="list-style-type: none"> No road closures, some roads raised 	<ul style="list-style-type: none"> No Permanent Wetland Inundation 0.3 acres Permanent Wetland Fill 	<ul style="list-style-type: none"> 500 ft Permanent Stream Fill No Permanent Stream Inundation 	<ul style="list-style-type: none"> 35 properties with structures including 19 houses 1,825 acres of project land 320 acres of recreation land 2,145 acres of total land (project and recreation) 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$338,000 (1.1% of total) to Washington County \$10,000 (0.0% of total) to Douglas County <u>Impacts from Recreation:</u> <ul style="list-style-type: none"> \$8,000 (0.0% of total) to Douglas County 	<u>Impacts from Flood Control:</u> <ul style="list-style-type: none"> \$195,000 (3.4%) to Bennington \$15,000 (0.1%) to Blair \$22,000 (0.7%) to Arlington <u>Impacts from Recreation:</u> <ul style="list-style-type: none"> \$4,000 (0.1%) to Bennington 	<ul style="list-style-type: none"> 4 potentially eligible architectural sites 4 potentially eligible archeological sites

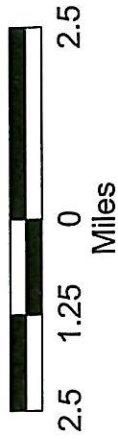
Notes:

- ¹ For each of the alternatives, some temporary inundation of stream and wetlands would occur when pools are storing flood flows.
- ² Each of the alternatives is determined to have "no effect" on federal and state threatened or endangered species.
- ³ For regional wet and dry detention alternatives, 10 regulated material sites would be impacted: 8 sites with low risk and 2 sites with high risk.
- ⁴ For Site 1 and 3C alternatives, 8 regulated material sites would be impacted: 6 sites with low risk and 2 sites with high risk.

TABLE ES-9 | COST AND BENEFIT SUMMARY OF ALTERNATIVES STUDIED IN DETAIL

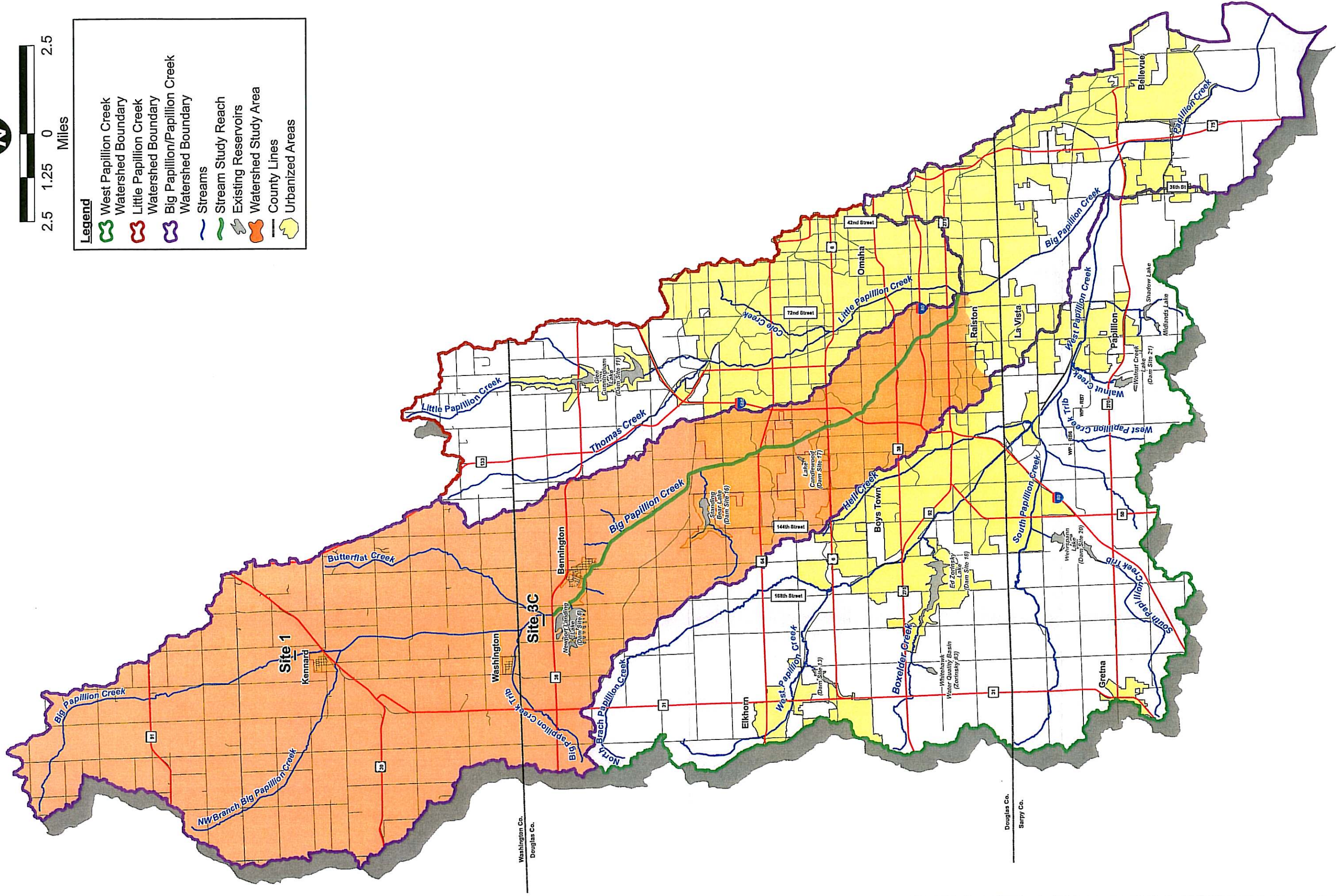
Alternative Description	Flood Control							Recreation					
	Estimated Project Costs (\$ millions)						Estimated Annual Equivalent Flood Damage Reduction	Estimated Recreation Facility Costs (\$ millions)					Estimated Annual Equivalent Recreation Benefits
	Land Acquisition	Infrastructure	Construction	Total	Annual O&M	Annual Equivalent		Land Acquisition	Facility	Total	Annual O&M	Annual Equivalent	
Regional Wet Dam Detention <ul style="list-style-type: none"> 15 sites 14 permanent pools 16 large water quality basins 	\$41.6	\$7.9	\$61.3	\$110.8	\$2.3	\$8.3	\$9.4	NA	NA	NA	NA	NA	NA
Regional Dry Dam Detention <ul style="list-style-type: none"> 15 sites No permanent pools No water quality basins 	\$35.4	\$5.0	\$51.8	\$92.2	\$2.2	\$7.2	\$9.4	NA	NA	NA	NA	NA	NA
Site 1 & 3C Wet Dam <ul style="list-style-type: none"> 2 pool system 2 permanent pools 6 large water quality basins 	\$62.4	\$24.5	\$22.0	\$108.9	\$1.6	\$7.7	\$9.4	\$18.4	\$29.0	\$47.4	\$0.3	\$2.5	\$14.9
Site 3C Wet Dam <ul style="list-style-type: none"> Site 3C only 1 permanent pool Site 1 as one of the 6 large water quality basins 	\$57.5	\$18.8	\$17.5	\$93.8	\$1.5	\$6.9	\$9.4	\$17.2	\$22.6	\$39.8	\$0.23	\$2.1	\$11.9
Site 3C Dry Dam <ul style="list-style-type: none"> Site 3C only No permanent pool No water quality basins 	\$32.7	\$18.4	\$7.2	\$58.3	\$1.5	\$4.6	\$9.4	\$7.0	\$4.5	\$11.5	\$0.06	\$0.7	\$0.5

Note:
NA = Not evaluated



Legend

- West Papillion Creek
- Watershed Boundary
- Little Papillion Creek
- Watershed Boundary
- Big Papillion/Papillion Creek
- Watershed Boundary
- Streams
- Stream Study Reach
- Existing Reservoirs
- Watershed Study Area
- County Lines
- Urbanized Areas



April 28, 2008

Mr. John Winkler, General Manager
Papio-Missouri River Natural Resources District
8901 South 154th Street
Omaha, NE 68138-3621

RE: Development of Investigation and Evaluation Strategy for Certification Analysis of
Missouri River Levees
Agreement, Scope of Services, and Fee

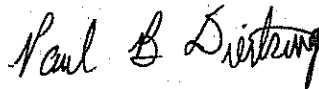
Dear John:

Please find attached the scope of services to provide the P-MRNRD an investigation and evaluation strategy for certification analysis of the Missouri River levees owned by the P-MRNRD and the City of Omaha in Douglas and Sarpy Counties.

We have prepared a cost estimate for these services totaling \$19,960.00. Please sign and date both copies of the Agreement and then return a signed copy to me. Our receipt of your signed acceptance will constitute our Notice to Proceed.

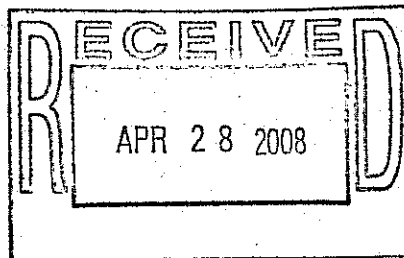
We appreciate the opportunity to work with the District on this project. If you have any questions do not hesitate to contact me at (402) 926-7055.

Very truly yours,
HDR ENGINEERING, INC.



Paul Dierking, P.E.
Project Manager

Enclosures



**SHORT FORM AGREEMENT BETWEEN OWNER AND HDR ENGINEERING,
INC. FOR PROFESSIONAL SERVICES**

²⁰⁰⁸ THIS AGREEMENT is made as of this 29 day of April, 2005, between the Papio-Missouri River Natural Resources District ("OWNER") a governmental organization with principal offices at 8901 South 154th Street, Omaha, NE 68138-3621, and HDR Engineering, Inc., ("ENGINEER") a Nebraska corporation, with principal offices at 8404 Indian Hills Drive, Omaha, Nebraska, 68114 for services in connection with the project known as Development of Investigation and Evaluation Strategy for Certification Analysis of Missouri River Levees ("Project");

WHEREAS, OWNER desires to engage ENGINEER to provide professional engineering, consulting and related services ("Services") in connection with the Project; and

WHEREAS, ENGINEER desires to render these Services as described in SECTION I, Scope of Services.

NOW, THEREFORE, OWNER and ENGINEER in consideration of the mutual covenants contained herein, agree as follows:

SECTION I. SCOPE OF SERVICES

ENGINEER will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A.

SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES

The "HDR Engineering, Inc. Terms and Conditions for Professional Services," which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

SECTION III. RESPONSIBILITIES OF OWNER

The OWNER shall provide the information set forth in paragraph 6 of the attached "HDR Engineering, Inc. Terms and Conditions for Professional Services."

SECTION IV. COMPENSATION

Compensation for ENGINEER'S services under this Agreement shall be on the basis of per diem with a not to exceed \$ 19,960 as shown in Attachment A.

The amount of any sales tax, excise tax, value added tax (VAT), or gross receipts tax that may be imposed on this Agreement shall be added to the ENGINEER'S compensation as Reimbursable Expenses.

Compensation terms are defined as follows:

Per Diem shall mean an hourly rate equal to Direct Labor Cost times a multiplier of three and fifteen hundredths (3.15) to be paid as total compensation for each hour an employee works on the project, plus Reimbursable Expense.

Reimbursable Expense shall mean the actual expenses incurred directly or indirectly in connection with the Project for transportation travel, subconsultants, subcontractors, computer usage (technology fee), telephone, telex, shipping and express, and other incurred expense. ENGINEER will add ten percent (10%) to invoices received by ENGINEER from subconsultants and subcontractors to cover supervision, administrative, and insurance expenses and on all reimbursable expenses, except the technology fee.

SECTION V. PERIOD OF SERVICE

Upon receipt of written authorization to proceed, ENGINEER shall perform the services within the time period described in Exhibit A.

Unless otherwise stated in this Agreement, the rates of compensation for ENGINEER'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of ENGINEER'S services are exceeded through no fault of the ENGINEER, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of ENGINEER'S compensation shall be equitably adjusted.

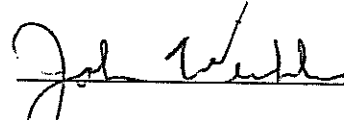
SECTION VI. SPECIAL PROVISIONS

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT.

"OWNER"

BY:



NAME:

John Winkler

TITLE:

General Manager

ADDRESS:

8901 S. 154th Street
Omaha, NE 68138-3621

HDR ENGINEERING, INC.

"ENGINEER"

BY:



NAME:

Matthew Tondl, P.E.

TITLE:

Senior Vice President

ADDRESS:

8404 Indian Hills Drive
Omaha, NE 68114

EXHIBIT A

SCOPE OF SERVICES

**For Papio-Missouri River Natural Resources District
Development of Investigation and Evaluation Strategy for Certification
Analysis of Missouri River Levees
Douglas/Sarpy County, NE**



BACKGROUND AND BASIS OF PROPOSAL

Recent studies and efforts by the U.S. Army Corps of Engineers, Omaha District (USACE) and the P-MRNRD involving updates to Federal Emergency Management Agency (FEMA) floodplain maps require review of levees currently shown on Flood Insurance Rate Maps (FIRMs) as providing protection from the 1-percent annual chance exceedance (100-yr) flood event. To continue illustrating levees as providing 100-yr protection, FEMA requires them to meet certification requirements. If a levee or portion of a levee does not meet certification requirements, the levee owner must take the appropriate action for FEMA to recognize these levees as providing 100-yr protection.

The purpose of this effort is development of an investigation and evaluation strategy for performing certification analysis of the Missouri River levees in Douglas and Sarpy Counties. These levees include the City of Omaha earthen levee and/or floodwall from the north Omaha OPPD power plant to approximately Q Street and the P-MRNRD R-613 and R-616 levees.

SCOPE OF SERVICES

The development of an investigation and evaluation strategy will specifically include:

- Collect pertinent data
- Review available certification documentation
- Define preliminary levee classification category based on initial screening
- Develop investigation and evaluation strategy for levee certification analysis
- Prepare preliminary schedule and cost estimate for performing levee certification analysis

The HDR Team proposes to provide the following professional services over an anticipated four (4) – month project period.

TASK SERIES 100 – PROJECT MANAGEMENT

Task Objective: Confirm that Project elements are being completed.

HDR Activities: **Task 110 Project Management.** Conduct general project management tasks. Includes development of project initiation forms including the development of a project guide, monthly invoicing, monthly progress report, project close out activities and other administrative project activities.

Task 120 Coordination Meetings. Coordination meetings will be conducted with the P-MRNRD, City of Omaha, USACE, and other invited representatives to discuss project elements, review existing data, and present study results. A total of 2 meetings are planned.

Task 130 Technical QC Review. Conduct a technical review to ensure the most appropriate data and process is being utilized on all project components.

Task Deliverables:

- Monthly invoices and progress reports

Key Understandings:

- The duration of the project is 4 months.
- Two (2) meetings will be held and attended by 2 HDR professionals.

TASK SERIES 200 – DATA COLLECTION

Task Objective: Collect and evaluate existing data.

HDR Activities: **Task 210 Collect Existing Data.** Available pertinent data will be collected, including, but not limited to:

- operations and maintenance manuals
- performance reports
- engineering and design documents (including an assessment of the flood hazard, structural components, interior drainage components, geotechnical configuration and placement, etc)
- construction records and as-built drawings
- surveys of top of protection
- Flood Insurance Study text and maps
- current hydrologic and hydraulic modeling results
- base maps showing cross-section locations, construction techniques and inspection report
- flood-fighting, maintenance, repair, modification, and rehabilitation records
- annual and after-event inspection documentation
- permits for utility crossings (including encroachments)

Existing data would also include the current project condition as determined by field review. Cursory field review of the Missouri River Levee system maintained by the P-MRNRD and the City of Omaha will be conducted as part of the concurrent City of Omaha PL 84-99 work plan development project.

Prepare data collection/field review memo.

Task Deliverables:

- Data collection/field review memo.

Key Understandings:

- P-MRNRD, City of Omaha, and USACE to provide all pertinent documents, records, manuals, and maps.
- No new data will be developed as part of this project.
- Field survey data will be provided by the P-MRNRD and/or City of Omaha; additional survey and geotechnical data gathering will not be conducted as part of this project.
- Field review will be conducted as part of the separate concurrent City of Omaha PL 84-99 work plan development project, will be cursory in nature, and will focus on levee segments identified in the most recent P-MRNRD inspection and the USACE 2006 Continuing Eligibility Inspection (CEI) Report.
- Field review does not constitute a detailed field inspection of all levee features, structures, and elements.

TASK SERIES 300 – PRELIMINARY LEVEE EVALUATION

Task Objective: Review available FEMA and USACE documentation pertaining to levee certification analysis and define preliminary levee certification categories.

HDR Activities: **Task 310 Review Available Certification Documentation.** Examine available and applicable FEMA and USACE documentation regarding levee certification

analysis. Determine applicable criteria for achieving levee certification and identify general procedures for levee certification analysis.

Task 320 Preliminary Levee Evaluation. Perform preliminary review of applicable levee data collected in Task 200 as it pertains to the levee certification criteria/requirements identified in Task 310. This evaluation will focus on levee segments identified in the most recent P-MRNRD inspection and the USACE 2006 CEI Report and may include cursory review of hydraulic, geotechnical, structural, and operations and maintenance (O&M) data. No new data will be developed or evaluated.

Task 330 Preliminary Categorization of Levee Certification Issues. Use evaluations from Task 310 and Task 320 to develop preliminary levee evaluation matrix of the levee systems/segments under study. Levee evaluation matrix will categorize potential levee certification analysis issues including, but not limited to, the following categories:

- Geotechnical
- Structural
- Hydraulic
- Interior Drainage
- O&M

The levee systems under study may be segmented into smaller portions for categorization purposes.

Prepare preliminary levee evaluation memo.

Task Deliverables:

- Preliminary levee evaluation memo.

Key Understandings:

- Preliminary levee evaluation will be coordinated with the concurrent City of Omaha PL 84-99 work plan development project to minimize duplication.
- Preliminary levee evaluation will be cursory in nature, and will focus on levee segments identified in the most recent P-MRNRD inspection and the USACE 2006 CEI Report.
- Preliminary risk and uncertainty analysis will be limited to still-water-level-frequency (no wave condition analysis).
- O&M and repair activities will be assumed with input from City and P-MRNRD.
- No new hydraulic, geotechnical, structural, or O&M data will be developed or analyzed.

TASK SERIES 400 – INVESTIGATION AND EVALUATION STRATEGY

Task Objective: Develop investigation and evaluation strategy and preliminary schedule and cost estimate for performing levee certification analysis.

HDR Activities: **Task 410 Investigation and Evaluation Strategy.** Based on preliminary levee evaluation performed in Task 300, prepare a scope of work detailing the proposed investigation and evaluation strategy required for support of levee certification analysis. Potential evaluation elements will be developed with input from the P-MRNRD and the City of Omaha.

Task 420 Preliminary Schedule and Cost Estimate. Develop a preliminary schedule and cost estimate for performing levee certification analysis according to the investigation and evaluation strategy defined in Task 410. Sequencing of potential evaluation activities will be developed with P-MRNRD and City of Omaha input and coordinated with the PL 84-99 work plan for the Missouri River Levee system in Douglas County being developed concurrently for the City of Omaha.

Task Deliverables:

- Draft and Final Investigation and evaluation strategy memo, including preliminary schedule and cost estimates.

Key Understandings:

- A strategy for investigating and evaluating levee conditions will be developed for levee certification analysis. Actual levee certification analysis may be performed as additional services.
- Cost and schedule estimates will be developed for analysis of levee certification only; cost and schedule estimates for design and/or construction of activities to address identified levee deficiencies will not be developed.
- Schedule of potential evaluation activities will be coordinated with the City of Omaha PL 84-99 work plan development project to minimize duplication.
- Duration of evaluation activities will be based on past experience on similar projects and assumed methods of analysis.
- Cost estimates will be developed based on recent project data for similar work activities.
- Cost estimates will be developed in 2008 dollars.

PROPOSED SCHEDULE

The following schedule is proposed:

Notice to Proceed	May 15, 2008
Preliminary Levee Evaluation Memo	July 15, 2008
Draft Investigation and Evaluation Strategy Memo	July 15, 2008
Meeting with P-MRNRD/City of Omaha	July 25, 2008
Final Investigation and Evaluation Strategy Memo	August 15, 2008
Final Meeting	August 29, 2008

Key Understandings:

- Initial start date of schedule is defined as the date on which HDR receives the official Notice to Proceed from the P-MRNRD.

ESTIMATED FEE

The following estimate fee includes labor and reimbursable expenses are as noted in Attachment A.

<p align="center">ATTACHMENT "A" PAPILLION MISSOURI RIVER NATURAL RESOURCES DISTRICT INVESTIGATION AND EVALUATION STRATEGY FOR CERTIFICATION ANALYSIS OF MISSOURI RIVER LEVEES</p>													
FEE ESTIMATE													
TASKS	HDR Engineering, Inc. Estimated Hours/Costs										Expenses		
	Project Principal	Project Manager	Senior Engineer/QC	Engr/ Technical	Tech Support	Clerical	Total Hours	Total Labor Cost	Tech. Fee	Printing	Travel	Misc.	Total Expenses [1]
TASK SERIES 100 - PROJECT MANAGEMENT													
Task 110 Project Management		10				2	12	\$1,330	\$44				\$44
Task 120 Coordination Meetings		8		8		2	18	\$2,020	\$67		\$33	\$10	\$710
Task 130 Technical QC Review			4			4	4	\$728	\$15				\$15
Estimated Task Hours Subtotal	0	18	4	8	0	4	34						
Estimated Task Cost Subtotal	\$0	\$2,070	\$728	\$920	\$0	\$360		\$4,078	\$126	\$0	\$33	\$10	\$4,347
TASK SERIES 200 - DATA COLLECTION													
Task 210 Collect Existing Data				12	8	0	20	\$1,892	\$74	\$22		\$55	\$184
Estimated Task Hours Subtotal	0	0	0	12	8	0	20						
Estimated Task Cost Subtotal	\$0	\$0	\$0	\$1,800	\$512	\$0		\$1,892	\$74	\$22		\$55	\$2,078
TASK SERIES 300 - PRELIMINARY LEVEE EVALUATION													
Task 310 Review Available Certification Documentation			4	12	4	4	20	\$2,364	\$74				\$74
Task 320 Preliminary Levee Evaluation			4	16	8	0	28	\$3,080	\$104				\$104
Task 330 Preliminary Categorization of Levee Certification Issues			2	8	4	0	14	\$1,540	\$52				\$52
Estimated Task Hours Subtotal	0	0	10	36	16	0	82						
Estimated Task Cost Subtotal	\$0	\$0	\$1,820	\$4,140	\$1,024	\$0		\$6,984	\$229	\$0	\$0	\$0	\$7,213
TASK SERIES 400 - INVESTIGATION AND EVALUATION STRATEGY													
Task 410 Investigation and Evaluation Strategy			8	12	8	2	30	\$3,328	\$111	\$55			\$166
Task 420 Preliminary Schedule and Cost Estimate			4	12	4	2	22	\$2,544	\$81				\$81
Estimated Task Hours Subtotal	0	0	12	24	12	4	52						
Estimated Task Cost Subtotal	\$0	\$0	\$2,184	\$2,760	\$768	\$80		\$5,892	\$192	\$55	\$0	\$0	\$6,139
TOTAL HOURS	0	18	28	80	36	8	188						
TOTAL COST (ROUNDED)	\$	\$	\$2,070	\$	\$	\$		\$14,020	\$	\$820	\$	\$70	\$
													\$19,900

[1] Includes administrative fee for expenses @ 10%

EXHIBIT B

TERMS AND CONDITIONS

HDR Engineering, Inc.
Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

2. INSURANCE

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. Upon request, OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for the claims covered by ENGINEER's insurance.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS AND ASSIGNS

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees, arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make prompt payments in response to ENGINEER's invoices.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within forty-five (45) days from the date of the invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity, and other employment, statutes and regulations.

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is

acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

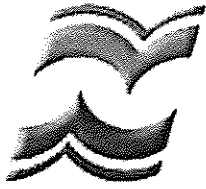
This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. LIMITATION OF LIABILITY

ENGINEER's and its employees' total liability to OWNER for any loss or damage, including but not limited to special and consequential damages arising out of or in connection with the performance of services or any other cause, including ENGINEER's and its employees' professional negligent acts, errors, or omissions, shall not exceed the greater of \$50,000 or the total compensation received by ENGINEER hereunder, except as otherwise provided under this Agreement, and OWNER hereby releases and holds harmless ENGINEER and its employees from any liability above such amount.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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April 11, 2008

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: April 11 NARD Update

Game and Parks Commission bill passes – A bill to change the terms of the Nebraska Game and Parks Commission passed final reading on a 40-2-7 vote this week. The final version of the bill makes the following changes: 1) Adds an at-large member, bringing the total number of commission members to nine; 2) Eliminates the requirement that two of the members reside on a farm or ranch, but leaves the requirement that three of the members shall be actually engaged in agricultural pursuits; 3) Increases the limit from four to five of the members can be of the same political party and clarifies that the party affiliation would be determined as of the statewide general election prior to his or her appointment; and 4) The bill establishes that person can serve no more than two terms as a member of the commission.

LPNNRD changes rules on well locations in the former Mead Ordinance area -- The Lower Platte North NRD changed their rules and regulations on well permits to address water quality concerns around the Former Mead Ordinance Plant. The ordinance manufacturing site was used by the federal government during WWII and the Korean Conflict. In the 1980's, groundwater contamination was discovered and a massive cleanup effort was subsequently undertaken by federal, state and local authorities. Included in the remediation plan is an effort to contain the contamination, pump out and treat the water. The Lower Platte North NRD is one of the partner agencies involved with the cleanup effort.

The rule change was prompted from 2007 permit application where a landowner who had a choice on location of a new irrigation well adjacent to the cleanup plumes. The landowner selected a well location which will pump contaminated water. Further, the drawdown effect of his pumping may adversely affect the currently contained contamination plume. There is a very good alternative location in the same field, however it would not be as convenient for the landowner. The previous Rules and Regulations gave the district no alternative but to issue the well permit as it did not address the remediation concerns.

The rule change will not permit new wells in the area if it is determined that the location or operation of a proposed water well or other work would adversely impact current or proposed clean up operations of hazardous materials being conducted by NDEQ and/or overseen by NDEQ, including the clean up operations of the Former Mead Ordinance Plant. This new requirement was added to the other list of requirements for well permits that includes health and welfare concerns, consideration of impacts to other water users, public interest considerations, and compliance with other existing rules and regulations. The new rule becomes effective May 10, 2008.

Natural Resources Committee Legal Counsel -- Effective May 1, 2008 Mark Ludwig will replace Jody Gittins as legal counsel to the Legislature's Natural Resources Committee. Ludwig currently serves as legal counsel to the Nebraska Lottery, and prior to that served as general counsel to the Nebraska Accountability and Disclosure Commission. Ludwig is a 1989 graduate of the University of Nebraska College of Law and grew up on a farm west of Deshler, Nebraska. Following graduation from law school

Ludwig worked as an associate in the law firm of Germer, Murray & Johnson in Hebron, and also worked as legal counsel to the Nebraska Public Service Commission and as regulatory counsel for the Nebraska Rural Electric Association. His prior experience with the Nebraska Legislature includes working as a legislative aide to former State Senators Howard Lamb of District 43 and Ed Schrock of District 38.

Republican Basin irrigator payment approved – The Nebraska Department of Natural Resources has approved the transfer of funds to the Republican River Basin NRDs to pay surface water irrigators for waiving water rights in 2007. Under the authorizing legislation, **LB1094**, the State of Nebraska will loan \$9 million from its cash reserve for the program. Funds should be distributed to the irrigators next week.

Because of a pending lawsuit, the Republican Basin NRDs could not issue the bonds allowed under LB 701 to pay the irrigators who leased water to the NRDs. The lawsuit alleges a new state law (LB 701) that allows property taxes to be collected for the purchase of water is unconstitutional. The case is still pending in Lancaster County District Court.

If the state loses the lawsuit and the property taxes are ruled unconstitutional, the \$9 million could be paid back to the state through a current tax on irrigated acres or through some other mechanism approved by the Legislature.

The State of Nebraska should be 29-44,000 acre feet in the black for 2007 primarily due to the efforts of the NRDs through groundwater regulation and surface water leases.

Electronic recycling advances -- Senators advanced **LB 986** to Final Reading this week, which proposes the Electronic Recycling Act. Electronic device is defined in the bill to mean a computer, video display device, or television. The bill establishes fees on the manufacturer of these devices based upon the volume sold in Nebraska to generate funds for recycling.

The bill also requires manufactures to develop a plan for recycling and file it with the Department of Environmental Quality. The fund from the fees would be earmarked to award grants for infrastructure development, collection, transportation and recycling of electronic devices. The bill was introduced by Senator Preister, and is his personal priority bill.

When the bill came up for Select File debate, three of the four pending amendments were withdrawn. Senator Loudon did take **AM 2522** to a vote, but it was defeated. The amendment would have imposed an additional fee of \$2.00 per electronic device sold by retailers. The amendments withdrawn included **AM 2555, AM 2535 and AM 2536**.

Senator Loudon offered **AM 2555** which would have stricken the manufacturers fee refund. Senator Kopplin filed two amendments to the bill including: 1) **AM 2535** which would have terminated the program 3 months after adoption of a federal program; and 2) **AM 2536** which would have redirected funds remaining at the end of the fiscal year to the General Fund rather than allowing them to be carried over for the next fiscal year grant cycle. Concepts of these amendments were included in amendments adopted on Select File offered by Senators Preister and Kopplin.

Senator Preister offered **AM 2730**, which was a made several minor changes, including; 1) to clarify fees only apply to electronic devises used in a home or residential environment and marketed to the general public; 2) Changes the fees under the act to the following -- \$1,000 for 500 to 1,000 electronic devices; \$7,000 for over 1,000 to 5,000 electronic devices; \$20,000 for over 5,000 electronic devices; 3) Beginning in FY 2010-11, authorizes the Department of Environmental Quality to adjust the fees on an annual basis to collect a minimum of \$1 million and a maximum of \$1.5 million; 4) Authorizes the

director of the Department of Environmental Quality the ability to end the program, if a federal recycling program is established.

Senator Kopplin offered **AM 2763**, which changed the refund provision of the fee. In the version adopted and advanced on General File, up to 50 percent of the fee would be refunded if an approved plan is filed with the department. Under Senator Kopplin's amendment, a refund to the manufacturers would be tied to the percentage of products recycled as compared to the number sold. The amendment lays out: 1) If 10 to less than 20 percent were recycled, the refund would be 10 percent; 2) 20 to less than 30 percent were recycled, the refund would be 20 percent; and 3) if more than 30 percent were recycled, the refund would be 50 percent.

The accompanying appropriations bill, **LB 986A**, authorizes \$1,720,000 to be transferred to the fund from the cash fund created under the act in FY 2009-10.

Chemigation Permit reminder – Farmers planning to chemigate in 2008 must obtain permits by June 1, 2008, which is the state deadline. Renewal permits are \$10 and must be submitted to the local NRD. An irrigation system that fails to renew by the deadline can not chemigate until a new permit is obtained. New permits cost \$30 and the system must pass inspection. A certified applicator must be included on all new and renewal permits. Contact your local NRD office for more information on permits, certifications and inspections.

2008 Surface Water Report sent to EPA for approval -- The Nebraska Department of Environmental Quality has submitted the 2008 Surface Water Integrated Report to the U.S. EPA for final approval, and has posted the report on the agency's web page: www.deq.state.ne.us. Go to "Maps and Data", then select "Surface Water/Impaired Waters and TMDLs."

The Integrated Report is a combination of these two federal Clean Water Act-required bi-annual reports: the Section 303(d) List of Impaired Waters and the Section 305(b) Water Quality report. The List of Impaired Waters portion includes those rivers and lakes that do not support their assigned beneficial uses. From this list, states prepare Total Maximum Daily Loads (TMDLs) that include pollution controls and strategies to improve the quality of these waters. The Section 305(b) Water Quality Report portion of the Integrated Report describes the status and trends of existing water quality for all waters of the state.

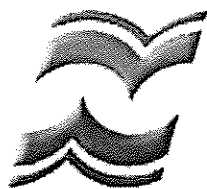
Once approved by EPA, the Integrated Report will be incorporated as part of the state's water quality management plan. For more information, contact Pat O'Brien at NDEQ at (402) 471-3382 or patrick.o'brien@ndeq.state.ne.us.

Senate approves Platte River legislation – On April 10th, the US Senate passed legislation to implement the federal share of the Platte River recovery implementation plan as part of the Consolidated Natural Resources Act of 2008 (S. 2739). The sponsors of the legislation included Senators Ben Nelson and Chuck Hagel.

The measure will authorize the Secretary of Interior to proceed with the program and includes \$157 million to carry it out. The cost will be shared 50/50 by the states and federal government. Through the program the states will provide benefits for the endangered and threatened species as well as land, water, and scientific monitoring and research to evaluate benefits of the program.

In late 2006 the Governors of Nebraska, Colorado, and Wyoming and the Department of Interior signed the final program agreement to develop a recovery plan that benefits certain species, yet allows continued water use and development along the Platte.

NARD Bill Summary Tracking Sheet						Last Updated: 04/11/08	Page 1	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government		Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government		IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary		General File	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations		Held in Committee	
76	Recoverable amounts	Nantkes		Oppose	Judiciary		Held in Committee	
105	Nebraska Forest Service funding	Louden		Support	Appropriations		Held in Committee	Amend to LB 321 in 2007
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government		Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary		Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources		Approved by the Governor	AM13 - Lost AM1540 - Adopted ER8139 - Adopted
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		Select File	AM 156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits			Oppose (Support amended version)	Natural Resources			
387	Require water meters on new construction	Nat. Res. Comm. Langemeier	Committee	Oppose	Urban Affairs		Select File IPP	(Incorp. into AM 938 to LB 701)
391	Copies of records and speaking at public meetings	Mines		Oppose	Government		General File	AM678- Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations		General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary		IPP	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue		IPP Motion Pending	AM 825 - Adopted AM884 to AM825 - Lost AM824 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources		IPP	
534	Funding storm water programs	Schimek		Support	Natural Resources		IPP	AM 1579 - Pending
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		IPP	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary		IPP	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government		Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources		IPP	
724	Change fees under the Remedial Action Plan Monitoring Act.	Nat. Res. Comm.		Monitor	Natural Resources	1/23/2008	Final Reading	
725	Provide Grant under the Waste Reduction and Recycling Incentive Act.	Nat. Res. Comm.		Monitor	Natural Resources	1/23/2008	General File	AM1710 - Pending
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.		Support	Natural Resources	2/22/2008	Final Reading	
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen		Support	Agriculture	2/5/2008	Committee	
790	Change buffer strip reimbursement provisions	Erdman		Support	Agriculture	1/22/2008	Signed into Law	



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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April 17, 2008

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: April 17 NARD Sine Die Update

Session Ends -- The Nebraska Unicameral adjourned sine die on April 17th, ending the 60-day work session for 2008. All bills that did not receive final approval were indefinitely postponed. The Unicameral is scheduled to begin the 90-day work session on January 7, 2009. Please take time to thank your state senator for their work this session.

Term Limited Senators -- This session will be the last for 15 state senators due to term limits. These include: *Senator Ray Aguilar*, Grand Island, 9 years; *Senator Carroll Burling*, Kenesaw, 8 years; *Senator Ernie Chambers*, Omaha, 38 years; *Senator Pat Engel*, South Sioux City, 15 years; *Senator Phil Erdman*, Bayard, 8 years; *Senator Carol Hudkins*, Malcolm, 16 years; *Senator Ray Janssen*, Nickerson, 16 years; *Senator Joel Johnson*, Kearney, 6 years; *Senator Lowen Kruse*, Omaha, 8 years; *Senator Vickie McDonald*, St. Paul, 7 years; *Senator Dwite Pedersen*, Omaha, 16 years; *Senator Don Preister*, Omaha, 16 years; *Senator Ron Raikes*, Lincoln, 11 years; *Senator DiAnna Schimek*, Lincoln, 20 years; and *Senator John Synowiecki*, Omaha, 7 years. These senators will remain in office until newly elected senators are sworn in next January.

The following provides a list of bills passed (pages 1-4), those indefinitely postponed (pages 5-12), and a list of interim studies of interest (page 12-13). *Unless otherwise noted, the bills passed and signed by the governor become law 3 months after the legislature adjourned the session.*

Bills Passed

LB 202 - Joint entities and liens. Senator Louden. The bill requires that any joint entity or joint public agency's governing board consist of elected officials, if that entity has the ability to place a lien on property for nonpayment of debt. It also requires that prior to a joint entity or joint public agency created under the Interlocal Cooperative Act or Integrated Solid Waste Management Act exercises its authority to place a lien on real property, its governing board must consist of elected officials. The Legislature gave final approval on a 44-0-5 vote in February and the bill was signed into law by Governor Heineman.

LB 724 - Change fees under the Remedial Action Plan Monitoring Act. Natural Resources Committee. The Legislature gave final approval on a 41-0-8 vote and the bill was signed into law by Governor Heineman. The bill lowers the application fee from \$5,000 to \$2,000 for entities that want to apply to the Department of Environmental Quality to monitor remedial action plans. The bill also lowers the additional deposit, which covers the department cost for the application, from \$5,000 to \$3,000.

LB 727 - Change provisions relating to hearings conducted by the Department of Natural Resources. Natural Resources Committee. The Legislature approved LB 727 on a 43-0-6 vote and the bill was signed into law by Governor Heineman. The bill changes the time from 15 days to 30 days for a party to request the Department of Natural Resources to hold a hearing on a final decision made by the department that did not have an original hearing.

NARD Bill Summary Tracking Sheet							Last Updated: 04/11/08	Page 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments	
798	Change provisions relating to irrigation water reuse pits.	Louden		Support	Natural Resources	2/6/2008	Final Reading	AM1894 - Adopted	
799	Change provision relating to applications to permit transfer of water appropriations	Louden		Support	Natural Resources	2/6/2008	IPP	ER8200 - Adopted	
800	Change intentional underground water storage permit provisions	Louden		Support, but Clarify language	Natural Resources	2/6/2008	IPP	Incorp. into AM 1894 to LB 798	
801	Add a requirement for integrated management plans	Louden		Support, but Oppose AM 1629	Natural Resources	2/6/2008	Held in Committee	Incorp. into AM 1894 to LB 798	
802	Provide for water diversion during times of flooding	Louden		Monitor	Natural Resources	2/20/2008	IPP	AM1629 - Pending	
862	Change noxious weeds funding provisions	Agriculture Committee		Support	Agriculture	2/5/2008	General File	Incorporated into mainline budget bill	
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008	General File - Bracketed until April 17, 2008	12 Amendments Pending	
881	Impose an excise tax on production of ethanol	Stuthman		Monitor	Revenue	1/30/2008	IPP		
922	Adopt the Cellulosic Biomass Renewable Energy Initiative and Impose and change taxes	Dubas		Monitor	Revenue	2/27/2008	IPP		
924	Provide for stream flow depletion offsets	Fischer	Natural Resources	Support	Natural Resources	2/7/2008	Held in Committee		
945	Change authority of natural resources districts	Pedersen		Oppose	Natural Resources	1/25/2008	IPP		
946	Impose an excise tax on production of ethanol	Burling		Monitor	Revenue	1/30/2008	IPP		
962	Change public body meeting provisions of the Open Meetings Act	Preisler	Speaker	Monitor	Government	2/13/2008	Signed into Law		
975	Change provisions relating to river-flow enhancement bonds	Wightman		Support	Natural Resources	2/7/2008	IPP		
998	Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund	Gay		Support	Appropriations	1/31/2008	Held in Committee		
1017	Change provisions relating to tax levies members of risk management pools	Raikes		Monitor	Revenue	2/22/2008	General File	Incorp. into AM 2585 to LB 988	
1040	Impose an excise tax on production of ethanol	Louden		Monitor	Revenue	1/30/2008	IPP		
1041	Protect certain water purchased or leased for river flow enhancement.	Christensen		Support	Natural Resources	2/7/2008	Held in Committee		
1049	Change terms for members of the Nebraska Game and Parks Commission	Erdman	Erdman	Monitor	Natural Resources	2/20/2008	Final Reading	Defeated: AM2109, AM2035. Adopted: AM2047, AM2296.	
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman		Monitor	Natural Resources	2/20/2008	Held in Committee		
1061	Provide for fees, rebates, and grants relating to electronic equipment recycling.	Louden		Monitor	Natural Resources	1/31/2008	IPP		
1084	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson	Christensen	Oppose, but Support AM 1808	Natural Resources	2/13/2008	Signed Into Law	Defeated: AM1808, AM2036. Adopted: AM2234, AM2234, AM2047, AM2318, AM2325, AM2365	
1127	Change permitted uses of the Water Resources Cash Fund	Christensen		Support	Natural Resources	2/13/2008	Held in Committee		
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen		Support	Natural Resources	2/13/2008	General File	Amended into LB1094	
1132	Change provision relating to river-flow enhancement bonds.	Christensen		Support	Natural Resources	2/13/2008	IPP	Amended into LB1094	
1150	Appropriate funds to the Department of Natural Resources	Langemeier		Support	Appropriations	2/6/2008	Held in Committee		
1161	Appropriate funds to the Department of Natural Resources	Karpisek		Monitor	Appropriations	2/6/2008	Held in Committee		
1164	Adopt the Wildlife Damage Act.	Lautenbaugh		Monitor	Resources	2/21/2008	IPP		

LB790 - Increase buffer strip payments. Senator Erdman. The bill increases the maximum payment through the Nebraska Buffer Strip Programs from \$150 to \$250 per acre. The Legislature approved **LB 790** on a 47-0-2 vote and the bill was signed into law by Governor Heineman.

LB 798 - Natural Resources Committee packaged bill (includes LB's 798, 799 & 800). Natural Resources Committee. The Legislature approved **LB 798** on a 44-0-5 vote and the bill was signed into law by Governor Heineman. The final version of the bill includes provisions of two other bills, **LB 799 and 800**. The original bill, **LB 798**, changes the definition of a headwater segment of a natural stream to an ephemeral natural stream, which would be exempt from state storage and use permits. The definition is further refined as that portion of a natural stream in which water flows only after a precipitation event or when augmented by surface water runoff caused by the pumping of ground water for irrigation. That portion of a natural stream that is shown as an intermittent stream on the most recent United States Geological Survey topographic quadrangle map published prior to the effective date of this act shall be considered an ephemeral natural stream, unless the Department of Natural Resources has investigated the stream and determined that the stream or a reach of the stream is perennial or intermittent and subject to Chapter 46, article 2. The department's determination for the purposes of this section shall be adopted and promulgated in rule or regulation.

Included in the bill is **LB 799**, which allows for a transfer of surface water for irrigation when there is a change in the point of diversion which meets the following requirements: (i) The new point of diversion is on the same named stream, the same tributary, or the same river or creek as the approved point of diversion; (ii) the proposed point of diversion will not move above or below an existing diversion point owned by another appropriator; and (iii) the proposed point of diversion is not above or below a tributary stream or a constructed river return or a constructed drain.

Also in the final version is **LB 800** which allows for all intentional underground water storage projects to charge a fee for withdrawal of water. Existing law prohibits projects existing on August 26, 1983 from charging a fee. The committee earlier rejected an amendment to involve the NRDs in the approval process for a fee on groundwater, which was rejected by Chairman Loudon as he wanted no oversight on the fee.

LB 961 - Biennium Budget. Speaker Flood on behalf of the Governor -- State senators gave final approval to the budget bills (**LBs 960& 961**) the last week of March. On Select File, **Senator Erdman** was successful in adopting **AM 2427 to LB 961** which incorporates part of **LB 862** to the budget. The portion added was the transfer of \$250,000 from the Commercial Feed Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund.

The only significant change in funding for natural resources programs is new language to allow the Nebraska Game and Parks Commission to receive a federal grant of \$1,547,126 for Pallid Sturgeon Studies. There were no changes in NRD state aid or other NRD programs from the appropriations provided in last years biennium budget.

The rules of the legislature require the budget to be finalized by Day 50 of the session which was March 31st. The following chart shows funding levels for natural resources programs.

Funding for Natural Resources Programs (Approved in 2007 – No changes made in 2008)

Funding Levels Approved in the 2007 Session (no changes made in 2008)		
Program	FY 07-08	FY 08-09
State Aid to NRDs	\$1,545,502	\$1,545,502
Small Watersheds	\$500,000	\$500,000
Soil and Water Conservation Fund	\$3,193,454	\$3,193,454
Water Well Decommissioning	\$240,840	\$240,840
Resources Development Fund	\$3,373,066	\$3,373,066
Soil Survey Fund	\$75,000	0
Natural Resources Water Quality Fund	\$1,250,000	\$1,250,000
Interrelated Water Mgt Plan Program	\$2,412,854	\$2,412,854
DNR Agency Operations Fund	\$8,789,160	\$9,054,149

LB 962 - Change public body meeting provisions of the Open Meetings Act. Senator Preister. The bill prohibits public bodies from requiring that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The Legislature approved **LB 962** on a 46-0-3 vote and the bill was signed into law by Governor Heineman.

LB 986 - Electronic Recycling Act. Senator Preister. Senators passed **LB 986**, which creates the Electronic Recycling Act, on a 42-4-1 vote on the last day of the session. The Legislature adjourned before any action was reported on the bill from Governor Heineman. The governor has 5 days, not including Sundays, to sign or veto a bill. If no action is taken within the 5 days, the bill becomes law without his signature. Electronic device is defined in the bill to mean a computer, video display device, or television. The bill establishes fees on the manufacturer of these devices based upon the volume sold in Nebraska to generate funds for recycling.

The bill also requires manufactures to develop a plan for recycling and file it with the Department of Environmental Quality. The fund from the fees would be earmarked to award grants for infrastructure development, collection, transportation and recycling of electronic devices. The bill was introduced by Senator Preister, and is his personal priority bill.

When the bill came up for Select File debate, three of the four pending amendments were withdrawn. Senator Loudon did take **AM 2522** to a vote, but it was defeated. The amendment would have imposed an additional fee of \$2.00 per electronic device sold by retailers. The amendments withdrawn included **AM 2555**, **AM 2535** and **AM 2536**.

Senator Loudon offered **AM 2555** which would have stricken the manufacturers fee refund. Senator Kopplin filed two amendments to the bill including: 1) **AM 2535** which would have terminated the program 3 months after adoption of a federal program; and 2) **AM 2536** which would have redirected funds remaining at the end of the fiscal year to the General Fund rather than allowing them to be carried over for the next fiscal year grant cycle. Concepts of these amendments were included in amendments adopted on Select File offered by Senators Preister (**AM 2730**) and Kopplin (**AM 2763**).

Senator Preister offered **AM 2730**, which was a made several minor changes, including; 1) to clarify fees only apply to electronic devises used in a home or residential environment and marketed to the general public; 2) Changes the fees under the act to the following -- \$1,000 for 500 to 1,000 electronic devices; \$7,000 for over 1,000 to 5,000 electronic devices; \$20,000 for over 5,000 electronic devices; 3) Beginning in FY 2010-11, authorizes the Department of Environmental Quality to adjust the fees on an annual basis to collect a minimum of \$1 million and a maximum of \$1.5 million; 4) Authorizes the director of the Department of Environmental Quality the ability to end the program, if a federal recycling program is established.

Senator Kopplin offered **AM 2763**, which changed the refund provision of the fee. In the version adopted and advanced on General File, up to 50 percent of the fee would be refunded if an approved plan is filed with the department. Under Senator Kopplin's amendment, a refund to the manufacturers would be tied to the percentage of products recycled as compared to the number sold. The amendment lays out: 1) If 10 to less than 20 percent were recycled, the refund would be 10 percent; 2) 20 to less than 30 percent were recycled, the refund would be 20 percent; and 3) if more than 30 percent were recycled, the refund would be 50 percent.

The accompanying appropriations bill, **LB 986A**, authorizes \$1,720,000 to be transferred to the fund from the cash fund created under the act in FY 2009-10.

LB 988 – School finance changes includes Insurance Risk Pool levy issue. Senator Raikes. Senator Raikes was successful in adopting **AM 2585** to **LB 988**, the school finance bill. There are many unrelated natural resource issues in the bill, but **AM 2585** was worked out to resolve some concerns about insurance payments by political subdivisions. The amendment incorporates **AM 2134** to **LB 1017**, which would make taxes levied by Educational Service Units and schools for insurance payments subject to the levy limit. The original bill would apply to all political subdivisions. The final version limits the levy restrictions on insurance payments and bonds to school

districts and Educational Service Units. Pooling arrangements by other political subdivisions would be unaffected by the bill. Governor Heineman signed the bill into law after the Legislature approved **LB 988** on a 33-14-2 vote.

LB 1049 - Game and Parks Commission member terms. Senator Erdman. A bill to change the terms of the Nebraska Game and Parks Commission passed final reading on a 40-2-7 vote and was signed into law by Governor Heineman. The final version of the bill makes the following changes: 1) Adds an at-large member, bringing the total number of commission members to nine; 2) Eliminates the requirement that two of the members reside on a farm or ranch, but leaves the requirement that three of the members shall be actually engaged in agricultural pursuits; 3) Increases the limit from four to five of the members can be of the same political party and clarifies that the party affiliation would be determined as of the statewide general election prior to his or her appointment; and 4) The bill establishes that person can serve no more than two terms as a member of the commission.

LB 1094e - Republican Basin irrigator payment approved. Senator Carlson. -- The Legislature gave final approval to the bill on a 46-0-3 vote on April 7th and Gov. Dave Heineman signed the bill into law. The bill, **LB1094**, will loan \$9 million from its cash reserve to the Republican Basin NRDs to pay irrigators for water leased in 2007. The emergency clause was added to the bill so it became law upon signing.

Because of a pending lawsuit, the Republican Basin NRDs could not issue the bonds allowed under LB 701 to pay the irrigators who leased water to the NRDs. The lawsuit alleges a new state law (LB 701) that allows property taxes to be collected for the purchase of water is unconstitutional. The case is still pending in Lancaster County District Court.

If the state loses the lawsuit and the property taxes are ruled unconstitutional, the \$9 million could be paid back to the state through a current tax on irrigated acres or through some other mechanism approved by the Legislature.

The State of Nebraska should be 29-44,000 acre feet in the black for 2007 primarily due to the efforts of the NRDs through groundwater regulation and surface water leases.

Other bills included in LB 1094 -- State senators included a couple of other bills in **LB1094** in initial stages of debate, which now become law.

- On Select File, a revised version of **LB 975** was incorporated, which changes the criteria on groundwater use on acres that have leased surface water. The amendment changes the criteria on groundwater use on acres that have leased surface water. The amendment would eliminate the existing language and replace it with a requirement in that the agreement for the lease or purchase identify a) the method of payment, b) the distribution of funds by the party or parties receiving payment, c) the water use or rights subject to the agreement, and d) the water use or rights allowed by the agreement. Additional language was added to require that if any irrigation district is party to the agreement, the irrigation district shall allocate funds received under such agreement among its users or members in a reasonable manner, giving consideration to the benefits received and the value of the rights surrendered. Senator Christensen was successful in adopting **Floor Amendment 198** which clarified that the conditions placed on the landowners for the water leases would only apply to the specific contract period of the lease.
- A second amendment, **AM 2325**, offered by Senator Christensen, incorporates provisions of the committee amendment (**AM 1895**) to **LB 1131**. This amendment clarifies that occupation taxes imposed under LB 701 for the water leases shall be collected and delinquent in the same manner as property taxes. This committee amendment also allows the county treasurer shall publish and post a list of delinquent occupation taxes with the list of real property subject to sale for delinquent property taxes. The list would also be provided to the natural resources districts which levied the taxes. Finally, this amendment clarifies that the county treasurer shall receive the one percent fee provided for collection of general natural resources district money.

Bills indefinitely postponed

(Note – LB's 13 through 652 were carry over bills from the 2007 Legislative Session.)

LB 13 - Interlocal Cooperation Act. Senator Mines. The bill proposed new procedures and oversight for entering into interlocal agreements. Any existing joint entities would have been required to complete this application and certification process.

LB 17 - Prohibit NRD Dual Office Holding. Senator Mines –As proposed the bill would have added the NRD office holders to the list of high elective offices that would be prohibited from filing as a candidate for another high elective office. Current law defines higher elective office as a member of the Legislature, county, city, or school district. Senator Ernie Chambers filed a motion to indefinitely postpone LB 17 on the second day of General File debate on the bill in 2007. Senator Mick Mines quickly asked to pass over the bill to avoid taking up the IPP motion. This bill was laid over until this year's session, but never taken up. Senator Mines resigned from office prior to the 2008 session and was replaced by Senator Lautenbaugh.

LB 20 – NRD Projects and Public Access. Senator Mines. The bill proposed to require public recreation access to NRD water project properties and private lands under NRD easements if NRD contributions are 5 percent of the cost of the project. Current law, adopted in 2006, requires public access if the NRD cost is 20 percent of the total cost

LB42 – Change Distribution of Cigarette Tax. Senator Hudkins. This bill proposed that, commencing October 1, 2007, and continuing until October 1, 2012, the State Treasurer shall place the equivalent of forty-nine cents of cigarette tax in the Highway Allocation Fund, to be distributed in the same manner as all other funds accruing to the Highway Allocation Fund.

LB 78 – Recoverable Amounts. Senator Nantkes. The bill proposed to increase the amounts recoverable against any employee for claims filed pursuant to section 13-920 or under the Political Subdivision Tort Claims Act from \$1 million per occurrence and \$5 million aggregate to \$3 million per occurrence and \$12 million aggregate.

LB 105 - Nebraska Forest Service. Senator Louden. The bill proposed to appropriate \$425,000 from the General Fund for FY2007-08 and \$425,000 from the General Fund for FY2008-09 to the Nebraska Forest Service for forest fuels management. It is intended that funds appropriated be used in conjunction with federal and private resources to reduce forest fuel loads. Some increased funding occurred in the 2007 session for the Nebraska Forest Service.

LB 187 – Interlocal Agreements. Senator Mines. The bill would have prohibited agreements pursuant to the Interlocal Cooperation Act between: (a) A school district and a public power district for the purpose of contracting for utilities for use by the school district; or (b) A school district and an educational service unit for the purpose of contracting for the services of full-time or part-time employees for use by the school district.

LB 197 – Political Subdivisions Tort Claims Act. Senator Schimek. The bill proposed that if a political subdivision is transacting business under a name other than the true name of the political subdivision and has not registered a trade name as required, the time period for beginning suit under the Act shall commence upon the registration of the trade name.

LB 291 – Change membership on the Nebraska Environmental Trust Board. Senator Hansen. – Senators decided to pass over a bill that would change the membership on the Nebraska Environmental Trust Board. The measure would eliminate the representation by congressional district and set districts similar to the boundaries of the Nebraska Game and Parks Commission. Two pending amendments resulted in the action by the bills sponsor, Senator Tom Hansen from North Platte, to pass over the bill rather than drag out debate. One amendment offered would make the agency directors that sit on the trust board ex officio, nonvoting members. The second amendment would strike the enacting clause. The bill was on Select File from the 2007 session and was not debated in 2008.

LB 295 – Irrigation and Water Wells. Natural Resources Committee. This bill proposed to make a number of changes at the request of the Nebraska Department of Natural Resources, including:

- Adds U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse.
- Clarifies that no person shall use a water well for purposes other than its registered purpose until the water well registration has been changed to the intended new use.
- Provides an exception so that a person may use a water well registered for purposes other than its intended purpose for a de minimis use for livestock, monitoring, observation, or any other nonconsumptive use approved by the applicable natural resources district.

Provisions of the bill were incorporated into LB701 and approved in the 2007 session.

LB 387 – Require Water Meters on new Construction. Senator Langemeier. The bill proposed that beginning January 1, 2008, all new residential construction equipped with plumbing shall have water meters and plumbing installed in such a way as to separate potable water used outside the residence from potable water used inside the residence. Beginning January 1, 2015, all new construction equipped with plumbing and all new water service changes shall have water meters and plumbing installed in such a way as to separate potable water used outside the building or residence from potable water used inside the building or residence. The costs of implementing this section shall be borne by the property owner, except that water meters shall be supplied and maintained by the water service provider.

LB 391 - Copies of records and speaking at public meetings. Senator Mines. This bill was placed on General File in 2007 by the Government Committee with **AM 678**. The amendment would take place of the original bill, and proposes the following changes to open meetings laws. First, the amendment proposes requests for public records made during specific time must contain a specific subject matter. Second, the bill sets up a process for citizens to request an item be placed on the agenda for future meetings. Third, the amendment would not require members of the public to be on the agenda to speak on agenda items. **The third portion of the amendment was included in LB 962 and signed into law.**

LB420 – Change Cigarette Tax Distribution and Create Funds. Senator Erdman. This bill proposed to create the Agricultural Research Fund and the Water Resources Cash Fund. Both funds would be supported by cigarette taxes, and beginning July 1, 2008, \$1.5 million and \$1 million annually would be placed in the Agricultural Research Fund and the Water Resources Cash Fund, respectively.

LB 448 – Extend the time-frame to file lawsuit against political subdivisions. Senator Ashford. The bill proposed to extend the time frame for claims to be filed against a political subdivision or a employee of a political subdivision permitted under the Political Subdivisions Tort Claims Act from 1 year to 2 years. The bill maintains the limitations of two years to begin a lawsuit against a political subdivision.

LB488 - Income Tax Credit for Perpetual Conservation Easement Donations. Senator Wallman. – Senator's debated a bill to allow for conservation easement tax credits on General File in 2007. Senator Wallman's priority bill, LB 488, originally would have provided a 50% income tax credit to all donated conservation easements so long as that credit did not exceed \$250,000. The Revenue Committee amendment to the bill would place a cap of \$5 million in credit. After some debate and failed amendments to the bill, Senator Langmeier filed a motion to indefinitely postpone. The bill was laid over at the request of Senator Wallman rather than taking up the IPP motion and was never debated again.

LB 493 – Change requirements of the Water Policy Task Force. Senator Langemeier. The bill proposed to reduce the minimum number of meeting times the Water Policy Task Force from 2 to 1 time annually. The bill also requires the task force to review of the research done at the University of Nebraska relating to implementation of Laws 2004, LB 962, and a recommendation with respect to necessary research for continued implementation of LB 962.

LB 534 – Funding Storm Water Programs and Sewage. Senator Schimek. The bill proposed to allow cities, villages and counties in urbanized areas to issue revenue bonds to pay for development of storm water programs, including any storm sewer systems. An urbanized area means a statistical geographic area defined by the United States Department of Commerce, Bureau of the Census, consisting of a central place or places and adjacent densely settled territory that together contain at least fifty thousand inhabitants and have an overall population density of at least one thousand inhabitants per square mile.

The programs would be paid for by development of charges for the use of a storm sewer system which would be proportionate to the storm water contribution of the premises served and based upon sound engineering principles, as determined by the city or village, and may include allowances or adjustments for impervious land surfaces and land uses and credits for storm water quantity and quality best management practices.

Finally, the bill requires a city or village that is implementing a program to establish a system of exemption from storm water charges for the property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose.

LB 566 – Recreational Liability Act. Senator Loudon. The bill proposed to adopt the Public Recreation Liability Act which extends some recreational liability protection the land owners (defined as the state, a state agency, including the University of Nebraska and any state college or community college, or a political subdivision that is the title holder, tenant, lessee, occupant, or otherwise in control of the land). The liability protection would apply to the owner who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes. If there is no charge, the owner does not thereby (1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

The liability protection would not extend for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or for injury suffered in any case where the owner of land charges the person or persons who enter or go on the land. Recreational liability issues were incorporated into **LB564 in 2007 and passed into law**. That bill was introduced in response to a 2006 Nebraska Supreme Court decision, *Bronsen v. Dawes County*. In that case, the court overruled more than 25 years of precedent declaring that state law does not provide governmental entities with the same limited immunity. That law (**LB 564**) created three exemptions to the liability of state or local government for claims relating to recreational activities for which no fee is charged:

- 1) Claims resulting from the inherent risk of the activity;
- 2) Claims arising out of a spot or localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or constructive notice of the defect; and
- 3) Claims arising out of the design of a skate park or bicycle motocross park that was constructed using generally recognized standards in existence at the time the facility was constructed.

LB 567 – Extend Recreational Liability Protection to private landowners that charge access. Senator Loudon. The bill proposed to extend recreational liability protection to private landowner and private entities that charge for access. Current law provides this protection, if they do not charge for access.

LB 622 - Open Meetings Act Training Sessions. Senator Pirsch. Senator's failed to advance this bill on General File in 2007 that would have required training courses for members of a public body, public officers, and public employees on the issue of public records and open meetings no later than one year after taking the oath of office or assuming his or her duties as a member of the public body or agency. The bill was not debated in 2008.

LB 652 – Mandatory Energy Audits, White. The bill proposed to require every agency, department, commission and every political subdivision of the State of Nebraska to conduct an audit of its energy usage. Such audit shall examine the following: (1) Methods of reducing energy usage by such agency, subdivision; (2) The costs of implementing such energy efficiency measures. (3) The projected benefits, including long-term cost reductions, from such energy efficiencies; and (4) Whether there are alternative energy resources that may be used in combination with energy efficiencies to provide further benefits.

A report of each audit conducted by this act shall be provided to the Clerk of the Legislature on or before December 31, 2007. Entities required to conduct such an audit are authorized to seek technical assistance from public utilities, the Nebraska Energy Office, the University of Nebraska, and other available resources.

(Note: LB's 725 through 1164 were introduced in the 2008 Session.)

LB 725 - Provide for grants under the Waste Reduction and Recycling Incentive Act. Natural Resources Committee. The bill provides grants from the Waste Reduction and Recycling Incentive program for reimbursement of costs to cities of the second class, villages, and counties with a population of five thousand or fewer for the deconstruction of abandoned buildings. In order to be eligible for grant funding, the recyclable content and structure of such building shall be processed for recycling or reuse.

LB 751 - Change noxious weed funding provisions relating to stream vegetation removal. Senator Christensen.

The bill expands the area qualified for riparian vegetation management in fully and overappropriated streams from 100 feet to 1,320 feet of the banks of a channel of any natural stream.

LB 801 - Add a requirement for integrated management plans. Senator Louden. The bill would have required integrated management plan developed for fully and/or overappropriated basins to prevent or offset any increased depletion to the stream resulting from the removal of a surface water appropriation from a tract of land by an adjudication, voluntary relinquishment, or transfer when the land continues to be served by a ground water well.

LB 802 - Provide for water diversion during times of flooding. Senator Louden. The bill would have allowed water to be diverted from a stream for the purpose of alleviating harm to downstream landowners and appropriators during times of flooding upon approval by the department and with the consent of downstream appropriators who may be affected.

LB 862 - Change noxious weeds funding provisions. Senator Erdman. The bill proposed to increase funding to the Noxious Weed and Invasive Plant Assistance Fund, which is used to assist county weed programs. On or before October 1, 2008, \$200,000 from the Commercial Feed Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund. Beginning January 1, 2009, 2 cents of the existing 10 cent/ton commercial feed inspection fee would be transferred to the Noxious Weed and Invasive Plant Fund. Finally, 25 percent of the sale price of each Weeds of the Great Plains book sold by the Department of Agriculture would have been credited to the Noxious Weed and Invasive Plant Species Assistance Fund. However, **Senator Erdman** was successful in adopting **AM 2427 to LB 961** which incorporates part of **LB 862** to the budget. The portion added was the transfer of \$250,000 from the Commercial Feed Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund.

LB 880 - Flood Control Funding. Senator Kopplin. The Legislature debated **LB 880** for about two hours this session before a bracket motion was adopted on a 25-8-16 vote. The bracket motion, offered by Senator Chambers, ended any further debate on the issue this year. The bracket motion ended the filibuster on behalf of Washington County residents which included a dozen amendments to the bill. The legislation proposed a way to finance design, rights-of-way acquisition, and construction of multipurpose projects, flood control structures and practices for storm water management.

The rejection of the bill leaves the Omaha metropolitan area without an important tool to address flood control and storm water runoff. The Omaha area is under a federal mandate to deal with its storm water. The issue is pressing as more land is developed in Washington, Douglas and Sarpy Counties. The bill would have allowed the Papio-Missouri River NRD to issue bonds to be paid back within the existing levy authority to finance the projects.

The Papio-Missouri River NRD is a member of the Papillion Creek Watershed Partnership, which was formed to address the watershed's critical water quality and flood prevention needs. The watershed connects and joins communities in the area, encompassing 402 square miles and more than one-third of Nebraska's population.

The Partnership is comprised of 11 local governments that are wholly or partially in the Papillion Creek Watershed. Bellevue, Girls and Boys Town, Gretna, La Vista, Omaha, Papillion, Ralston, Douglas County, Sarpy County and the Papio-Missouri River Natural Resources District have an inter-local cooperative agreement to work together to resolve the water quality and flood prevention needs. The northern part of the watershed is in Washington County, a jurisdiction that chose not to participate in the Partnership.

The guiding principles of the Partnership are cooperation, community participation and comprehensive watershed planning. The Partnership works through an open process of looking at the communities' needs and building consensus for solutions. Open meetings have and will continue to be held to gather public input. The 11 government bodies each decide independently to adopt common policies.

The Natural Resources Committee added an amendment (AM 1787) that makes three additional changes to address the concerns raised by the Washington County residents, known as the Papio Valley Preservation Association (PVPA), as follows: 1) Bond proceeds could not be used for structures holding more than 500 acres of a permanent pool of water which would eliminate the establishment of large dams in Washington County; 2) Specific language prohibiting the use of eminent domain for the purposes of enhancing private developers; and 3) Public access would be required on any structure created under this program that is greater than 20 acre pool.

After adding the language to address the concerns they raised, the PVPA changed their minds and decided to still oppose Senator Kopplin's Priority Bill. The group has asked several senators to file amendments to filibuster the bill. **Senator Hudkins filed AM 2476**, which would require that any dam would not have a permanent pool. **Senator Dubas filed AM 2471**, which would prohibit cooperation and agreements between the NRD and anyone who is directly or indirectly involved in analyzing the feasibility of a water project. This amendment does not specify whether the party is opposed to or supportive of the project, rather it just prohibits cooperation.

Some of the language in other amendments include: 1) Prohibiting all NRDs from entering into agreements with consultants to work on any water projects, 2) eliminate the NRD eminent domain authorities; 3) prohibit private land ownership next to water structures, 4) mandate all cities and other zoning authorities prohibit residential or commercial development in a 100-year flood plain, and 5) mandate that all landowners contain the first ½ inch of rain on their property.

LB 881 - Impose an excise tax on production of ethanol. Senator Stutman. The bill proposes a 3 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Highway Trust Fund as follows: 1) Fifty percent to the Highway Cash Fund for the Department of Roads; 2) Twenty-five percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and 3) Twenty-five percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

LB 922 - Adopt the Cellulosic Biomass Renewable Energy Initiative and impose and change taxes. Senator Dubas. The bill proposed to create the Cellulosic Biomass Renewable Energy Board consisting of three members appointed by the Governor. One member shall be appointed from the Nebraska Ethanol Board, one member shall be appointed from the Department of Economic Development, and one member shall be appointed from the Department of Agriculture. Members shall serve at the pleasure of the Governor. The board shall review and approve applications for incentives under the Cellulosic Biomass Renewable Energy Initiative and award incentives within four categories: (1) Cost-share grants; (2) Loans; (3) Production incentives; and (4) General grants.

The program would have been funded by an excise tax of one cent per one million BTU units would be imposed on natural gas imported to Nebraska for industrial use. The tax shall be imposed until the fund reaches \$10 million and resumed when the fund falls below \$5 million.

LB 924 - Provide for streamflow depletion offsets. Senator Fisher. The bill proposed to modify several statutes relating to water management.

First, it proposed to establish a clear procedure for natural resources districts to follow to quantify gains to stream flows by integrated management plans or programs, and acquisition of existing groundwater or surface water uses on a permanent or temporary basis. The NRDs would certify the amounts to DNR.

Second, it proposed to modify the state endangered species act to more closely resemble the federal act in two respects: (1) Allows the Nebraska Game and Parks Commission to develop a reasonable and prudent alternative to a project that has been judged to jeopardize the continued existence of a protected species or adversely impacts designated critical habitat. Existing state law does not so provide although the Game and Parks Commission Rules and Regulations allow it. (2) Creates a committee to grant exceptions for projects that may harm a species. However, the project must have great value and there is no reasonable and prudent alternative. Although authorized to the US Fish and Wildlife Service under the federal Endangered Species Act, existing state law does not provide this exemption. It should be noted that under the state law, all federally listed species are also protected by the state law. The state law, however, allows for the listing of species as threatened or endangered that may not meet the federal criteria.

Third, when applying for an instream flow right, the proposed change would have required the Nebraska Game and Parks Commission and the natural resources to agree on an application prior to filing the application with the Department of Natural Resources. The parties would have to work together, no matter which entity initially is seeking the flow right.

Fourth, proposed to change the annual river basin determination procedure by requiring the Department of Natural Resources to review existing surface water rights nonuse prior to the department making a preliminary conclusion that a river basin, subbasin, or reach presently is fully appropriated. If the right as been forfeited or abandon, the rights would be adjudicated under section 46-229.02.

Finally, the bill proposed to eliminate the reference all other applicable state or federal laws for the department to consider for determining whether a basin, sub-basin or reach is fully appropriated. This change eliminates uncertainty and/or interpretation of which other laws to consider.

LB 945 - Change authority of natural resources districts. Senator Peterson. The bill would have prohibited natural resources districts to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid relates to real property taken by the district through the use of eminent domain.

LB 946 - Impose an excise tax on production of ethanol. Senator Burling. The bill proposed a 2 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Water Resources Cash Fund starting in 2009 and eliminate the additional corn and sorghum checkoff that was scheduled to be implemented in 2013.

LB975 - Change provisions relating to river-flow enhancement bonds. Senator Wightman. The bill proposed to clarify limitation of groundwater pumping on acres where surface water has been leased that was passed last year in LB 701. The bill clarifies that the limitation is on the specific acre that was served by the leased or purchased water. It also outlines limitation when groundwater is purchased or leased. The bill outlines four situations and incorporates the changes needed to address the concerns of the existing language as follows:

- a) Single year NRD groundwater or surface water leases.
- b) Multiyear NRD groundwater or surface water leases.
- c) Single year State of Nebraska groundwater or surface water leases.
- d) Multiyear State of Nebraska groundwater or surface water leases.

Finally, a variance procedure was offered to allow for a landowner to rotate irrigated acres while maintaining the reduction in use. **A compromise version of LB 975 was incorporated into LB 1094 and passed into law.**

LB998 - Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund. Senator Gay. Appropriates \$150,000 from the General Fund for FY 2008-09 to the Nebraska Innovation Zone Commission for the purpose of conducting phase two of a study to identify a plan of development for the six-county region within the Innovation Zone (I-80 Corridor between Lincoln and Omaha).

Those counties include and are limited to Lancaster, Cass, Sarpy, Douglas, Saunders, and Washington. The commission or member organizations of the commission shall contribute not less than fifty thousand dollars to the study.

LB 1017 – Change provisions relating to tax levies of members of risk management pools. Senator Raikes. Proposed that all costs and expenses associated with membership in a risk management pool, including, but not limited to, standard insurance coverage's, group self-insurance coverage's, assessments levied by the pool, retirement of debt incurred by the pool, and operating expenses of the pool be subject to levy limitations. Although the bill was indefinitely postponed, Senator Raikes was successful in adopting **AM 2585 to LB 988**, the school finance bill. The amendment incorporates **AM 2134 to LB 1017**, which would make taxes levied by Educational Service Units and schools for insurance payments subject to the levy limit.

LB 1040 - Impose an excise tax on production of ethanol. Senator Louden. The bill proposed a 1 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Water Resources Cash Fund starting in 2013 and eliminate the additional corn and sorghum checkoff that was scheduled to be implemented in 2013.

LB 1041 - Protect certain water purchased or leased for river flow enhancement. Senator Christensen. The bill would have required surface water or ground water purchased or leased by the state, or purchased or leased for river-flow enhancement purposes by a natural resources district described in section 2-3226.01, to be fully protected and accounted for by the Department of Natural Resources from the point of diversion to the intended destination or use of such purchased or leased water, except for normal carriage loss.

LB 1050 – Changes the Nebraska Game and Parks to a Code Agency. Senator Erdman. The bill proposed to make the Nebraska Game and Parks Commission a code agency under the governor's office. The commission members would be changed to advisory members and the director of the agency would be appointed by the governor rather than hired by the commission members.

LB 1061 - Provide for fees, rebates, and grants relating to electronic equipment recycling. Senator Louden. The bill proposed a \$3 fee on televisions, computers and computer monitors. Of the fee, \$2.50 would go to the Waste Reduction and Recycling Fund and \$.50 would be retained by the electronic equipment retailer. Beginning in 2009, an electronic equipment retailer who accepts electronic equipment for recycling could receive an annual rebate of one dollar per item of electronic equipment recycled, subject to the following conditions: (a) The total amount of rebates received b) The retailer shall certify the total amount of fees remitted the previous year pursuant to such section; (c) The retailer shall certify the amount of electronic equipment accepted for recycling; and (d) The retailer shall certify that the electronic equipment accepted for recycling was recycled. **Concepts of this bill were incorporated into LB 986 and passed into law.**

LB 1127 - Change permitted uses of the Water Resources Cash Fund. Senator Christensen. The bill proposed to allow the Water Resources Cash Fund to be used to provide aid to natural resources districts for drought relief assistance and river flow augmentation.

LB 1131 - Authorize a collection fee for collection of a natural resources district occupation tax. Senator Christensen. The bill proposed to clarify that the county treasurer can collect a fee of one percent of the occupation taxes collected for NRD river flow enhancement bonds. The concept was included into **AM 2325 to LB 1094** and signed into law.

LB 1132 - Change provisions relating to river-flow enhancement bonds. Senator Christensen. The bill proposed to clarify that occupation taxes shall be collected in the same time and manner and shall also become delinquent at the same time and manner as general real estate taxes. The concept was included into **AM 2325 to LB 1094** and signed into law.

LB 1150 - Appropriate funds to the Department of Natural Resources. Senator Langemeier. The bill proposed to increase the funding for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000.

LB 1161 - Appropriate funds to the Department of Natural Resources. Senator Karpisek. The bill proposed to appropriate \$100,000 from the General Fund for FY2007-08 to the Department of Natural Resources, to contract for an environmental study to consider the impact of placement of a flood control dam on the Blue River near Crete.

LB 1164 - Adopt the Wildlife Damage Act. Senator Lautenbaugh. The bill proposed to create a wildlife damage claim program in the Nebraska Game and Parks Commission to provide a cost-share program to counties for abatement and damage claims. Wildlife damage from deer, geese, turkey and elk would be eligible for the program. The counties would be required to have a wildlife damage program for landowners to be eligible for the program. Damages would be paid out up to a maximum of \$15,000.

Interim Studies

Interim Study Resolutions Introduced – Before the end of the session, senators will introduce subject matters to be researched before the next session. Hearings may be held on these matters, but are not required.

Senator LeRoy Loudon, Chairman of the Natural Resources Committee, introduced the following interim study resolutions:

- **LR 286.** To study return flow issues as they affect surface water irrigation in the State of Nebraska.
- **LR 287.** To examine Nebraska state forests as potential renewable energy resources.
- **LR 288.** To study the effects of water depletion across the State of Nebraska as well as the causes of such depletion.
- **LR 289.** To examine public power issues relating to the generation of power in the State of Nebraska.
- **LR 290.** To study the possibility of recycling construction waste and deconstruction materials.
- **LR 291.** To examine the application process for obtaining an instream flow right by either a natural resources district or the Game and Parks Commission.
- **LB 364.** To investigate and review matters and issues arising during the interim which are within the jurisdiction of the Natural Resources Committee of the Legislature.

LR 330 – Study water transfers. Senator Christensen. The purpose of the study is to examine and identify points of diversion for transferring excess water, flood water, and storm water between river basins to increase water management capabilities in Nebraska. The study shall include, but not be limited to, the identification of specific canals, creeks, and streams or other possible means of transferring water.

LR 331 – Study basin water transfers. Senator Christensen. The purpose of the study is to examine how to simplify and grant authority to a single entity to divert excess water in the Platte River to Johnson and Elwood Reservoirs after stream flows in the Platte River reach a specific level of cubic feet per second above the flows necessary to meet all other obligations. The study shall include, but not be limited to, identifying who would be the single entity to initiate diversion, how the specific cubic-feet-per-second level would be calculated, and identifying the specific cubic feet-per-second level for initiating diversions.

LR 332 – Study stormwater water transfers. Senator Christensen. The purpose of the study is to examine the concept of transferring storm water runoff from cities to the Republican River Basin to help with interstate water compact compliance. The study should include, but not be limited to, identifying potential cities as sources of storm water runoff, identifying potential methods to deliver water to the Republican River, and identifying potential methods of cooperation between political subdivisions to fund such transfer projects.

LR 350 - Renewable fuels. Senator Dubas. The purpose of this resolution is to examine opportunities in the growth and development of renewable energy, including cellulosic ethanol, biodiesel, and other systems for capturing energy values from agricultural products and waste streams. This study should identify policies,

programs, and strategies to optimize economic value realized by production agriculture and related economic sectors in renewable energy development.

LR 352 – Wind and Solar Rights. Senator Dubas. The purpose of the study is to examine a model for wind and solar rights in the State of Nebraska and to make recommendations for an appropriate model for future legislation.

LR 353 – Wind Energy Development. Senators' Preister and Dierks. The purpose of this study is to examine the rural economic development potential of wind energy development in Nebraska and legislation which may advance this goal.

LR 356 – Flood control funding. Senator Preister. To examine whether there is a need to adopt additional financing mechanisms relating to taxation and revenue potential for a natural resource district encompassing a city of the metropolitan class in order to implement necessary flood control and water quality projects.

LR 366 – Irrigation efficiency. Senators' Christensen, Avery, Carlson, and White. The purpose of the study is to look at other ways to save water by promoting more efficient irrigation methods. Examples to look at include, but are not limited to center pivot irrigation which uses forty to sixty percent less water than surface irrigation and low-pressure irrigation systems that lose approximately fifty percent less water to evaporation than high-pressure systems.

LR 377 - Review of the Department of Natural Resources. Natural Resources Committee. – The Natural Resources Committee introduced LR 377 to examine issues relating to the Department of Natural Resources. The study shall include a review of the structure and responsibilities of the department. The study shall also consider the authorities and qualifications of the Director of Natural Resources and other staff and explore the processes by which decisions that affect the state's water and other natural resources are made. The study shall identify funding and resource needs consistent with the responsibilities and mission of the department.

NARD Bill Summary Tracking Sheet							Last Updated: 04/17/08	Page 1	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments	
13	New procedures and oversight for Interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government		IPP		
17	Prohibit NRD dual office holding	Mines		Oppose	Government		IPP	AM71 - Adopted M00003 - Failed M00009 - Pending	
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary		IPP		
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations		IPP		
78	Recoverable amounts	Nanlikes		Oppose	Judiciary		IPP		
105	Nebraska Forest Service funding	Louden		Support	Appropriations		IPP	Amended to LB 321 in 2007	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government		IPP		
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary		IPP		
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources		Signed into Law	AM13 - Lost AM1540 - Adopted ER8139 - Adopted	
251	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		IPP	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending	
295	Irrigation well spacing and permits	Nat. Res. Comm.		Oppose (Support amended version)	Natural Resources		IPP		
387	Require water meters on new construction	Langemeier	Committee	Oppose	Urban Affairs		IPP	Incub. into AM 938 to LB 701	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government		IPP	AM678-Pending	
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations		IPP	AM890 - Pending	
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary		IPP		
488	Income tax credit for perpetual conservation easement donations	Wellman	Wallman	Support	Revenue		IPP	AM 825 - Adopted AM864 to AM825 - Lost AM824 to AM825 - Lost	
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources		IPP		
534	Funding storm water programs	Schimek		Support	Natural Resources		IPP	AM 1579 - Pending	
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		IPP		
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary		IPP		
622	Open Meetings Act training sessions	Pirsch		Monitor	Government		IPP	AM259 - Adopted	
652	Mandatory energy audits	White		Oppose	Natural Resources		IPP		
724	Change fees under the Remedial Action Plan Monitoring Act.	Nat. Res. Comm.		Monitor	Natural Resources	1/23/2008	Signed into Law		
725	Provide Grant under the Waste Reduction and Recycling Incentive Act.	Nat. Res. Comm.		Monitor	Natural Resources	1/23/2008	IPP	AM1710 - Pending	
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.		Support	Natural Resources	2/22/2008	Signed into Law		
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen		Support	Agriculture	2/5/2008	IPP		
780	Change buffer strip reimbursement provisions	Erdman		Support	Agriculture	1/22/2008	Signed into Law		

NARD Bill Summary Tracking Sheet							Last Updated: 04/17/08	Page 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments	
798	Change provisions relating to irrigation water reuse pits	Louden		Support	Natural Resources	2/6/2008	Signed into Law	AM1894 - Adopted	ER8200 - Adopted
799	Change provision relating to applications to permit transfer of water appropriations	Louden		Support	Natural Resources	2/6/2008	IPP	Inc. into AM 1894 to LB 798	
800	Change intentional underground water storage permit provisions	Louden		Support, Clarify language	Natural Resources	2/6/2008	IPP	Inc. into AM 1894 to LB 798	
801	Add a requirement for integrated management plans	Louden		Support, but Oppose AM 1629	Natural Resources	2/6/2008	IPP	AM1629 - Pending	
802	Provide for water diversion during times of flooding	Louden		Monitor	Natural Resources	2/20/2008	IPP		
862	Change noxious weeds funding provisions	Agriculture Committee		Support	Agriculture	2/5/2008	IPP	Incorporated into mainline budget bill	12 Amendments Pending
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008	IPP		
881	Impose an excise tax on production of ethanol	Stuhlman		Monitor	Revenue	1/30/2008	IPP		
922	Adopt the Cellulosic Biomass Renewable Energy Initiative and Impose and change taxes	Dubas		Monitor	Revenue	2/27/2008	IPP		
924	Provide for stream flow depletion offsets	Fischer	Natural Resources	Support	Natural Resources	2/7/2008	IPP		
945	Change authority of natural resources districts	Pedersen		Oppose	Natural Resources	1/25/2008	IPP		
946	Impose an excise tax on production of ethanol	Burfig		Monitor	Revenue	1/30/2008	IPP		
962	Change public body meeting provisions of the Open Meetings Act	Preister	Speaker	Monitor	Government	2/13/2008	Signed into Law		
975	Change provisions relating to river-flow enhancement bonds	Wightman		Support	Natural Resources	2/7/2008	IPP		
998	Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund	Gay		Support	Appropriations	1/31/2008	IPP		
1017	Change provisions relating to tax levies	Ralkes		Monitor	Revenue	2/22/2008	IPP	Inc. into AM 2585 to LB 988	
1040	Impose an excise tax on production of ethanol	Louden		Monitor	Revenue	1/30/2008	IPP		
1041	Protect certain water purchased or leased for river flow enhancement	Christensen		Support	Natural Resources	2/7/2008	IPP		
1049	Change terms for members of the Nebraska Game and Parks Commission	Erdman	Erdman	Monitor	Natural Resources	2/20/2008	Signed into Law	Defeated: AM2109, AM2035, Adopted: AM2047, AM2296.	
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman		Monitor	Natural Resources	2/20/2008	IPP		
1061	Provide for fees, rebates, and grants relating to electronic equipment recycling.	Louden		Monitor	Natural Resources	1/31/2008	IPP		
1094	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson	Christensen	Support amended version	Natural Resources	2/13/2008	Signed into Law	Defeated: AM1808, AM2035, Adopted: AM2234, AM2318, AM2325, AM2365	
1127	Change permitted uses of the Water Resources Cash Fund	Christensen		Support	Natural Resources	2/13/2008	IPP		
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen		Support	Natural Resources	2/13/2008	IPP	Amended into LB1094	
1132	Change provision relating to river-flow enhancement bonds.	Christensen		Support	Natural Resources	2/13/2008	IPP	Amended into LB1094	
1150	Appropriate funds to the Department of Natural Resources	Langemeier		Support	Appropriations	2/6/2008	IPP		
1161	Appropriate funds to the Department of Natural Resources	Karpisek		Monitor	Appropriations	2/6/2008	IPP		
1164	Adopt the Wildlife Damage Act.	Lautenbaugh		Monitor	Natural Resources	2/21/2008	IPP		

Pflug Road exit added to vision for I-80

4-4-08

By JOE DEJKA

WORLD-HERALD STAFF WRITER

A consultant's vision to develop Interstate 80 between Omaha and Lincoln as a "green corridor" won approval from a state commission Thursday.

But there is much work ahead to translate that vision into detailed plans that communities along I-80 will support. The Nebraska Innovation Zone Commission voted to accept the report after consultants added a conceptual design for a new Pflug Road interchange in Sarpy County.

That proposal, advocated by Sarpy County officials and the Seldin Co., was left out of an earlier version. The proposed interchange has touched off controversy over its funding through congressional earmarks and because development spurred by it could affect sensitive environmental areas along the Platte River.

Sarpy County officials say an interchange there could serve as

A state panel endorses a consultant's concept for preserving scenic views in the corridor between Omaha and Lincoln.

the western terminus of an I-80 bypass running across Sarpy County, between the Kennedy Freeway and I-80.

About 80 people packed a meeting room at Mahoney State Park as the commission took public comment on the report.

Jarel Vinduska, president of the environmental group Schramm Association for a Viable Environment, urged the commission to drop the interchange.

"This interchange at this location should never have seen the light of day," Vinduska said. His group includes landowners who want to preserve the environmental beauty of the Platte River bluffs and wetlands of southwest Sarpy County.

Pat Sullivan, a lawyer representing the Seldin Co., Barry Gottsch and other landowners from the area, urged the commission to include the interchange.

"People and the environment

can coexist with proper planning and proper restraints," Sullivan said. He said his clients own more than 2,000 acres near the interchange.

Sullivan said \$4 million in earmarks secured for the interchange would be lost if not used. Several commission members sought to include language in the report stating that the Pflug Road interchange was tentative.

The proposed Pflug Road interchange has not received federal approval. A federal environmental review was under way.

Chairwoman Brenda Gunn of La Vista said she was concerned that some people might perceive that the commission was endorsing the interchange.

But Gretna Mayor Tim Gilligan said the interchange deserved to be included, even if it was still in the conceptual stage.

The design for the interchange shows commercial, business and

office development concentrated on the west side of Interstate 80. The bluffs immediately to the east would be preserved, with residential development farther east.

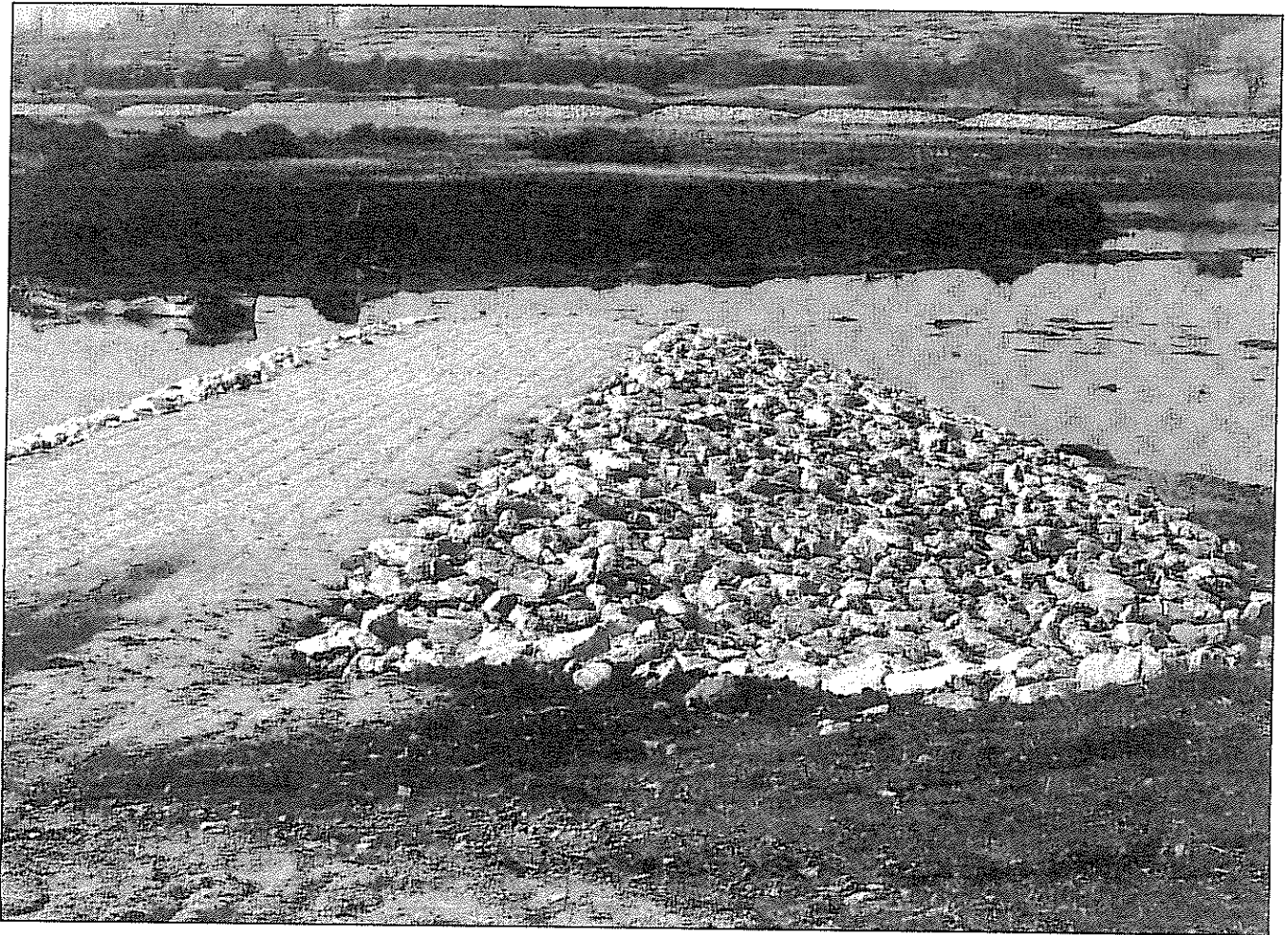
The report represents the first phase of a comprehensive plan for six eastern Nebraska counties: Douglas, Sarpy, Lancaster, Cass, Washington and Saunders. A second phase would add detail to the concepts.

In the report, consultants advocate developing the corridor in a way that would preserve scenic views, protect sensitive environmental areas and require that buildings blend with the natural elements.

The green concept, in part, stems from focus groups and an Internet survey that indicated strong public interest in preserving the open-space feel of Nebraska's primary highway as it runs between the state's two largest cities.

Consultants were inspired by the tree-lined parkways built in the 1930s in the New York metropolitan area.

Cunningham to be refilled in 4 months



Cunningham Lake is expected to be ready for boaters by late summer. Renovation work has been completed on 99 percent of the 350-acre northwest Omaha lake.

HUDYSMITH/THE WORLD-HERALD

4-7-08

Lake rehab in final stage

By CHELSEA KEENEY
WORLD-HERALD STAFF WRITER

Attention, boaters: Cunningham Lake should be ready for recreational use by late summer.

"About 99 percent of the reservoir is done," said Randy Winter, aquatic habitat program manager for the Nebraska Game and Parks Commission.

He said the last part of the lake portion of the project was seeding and planting disturbed areas and refilling the lake, which should take about four months.

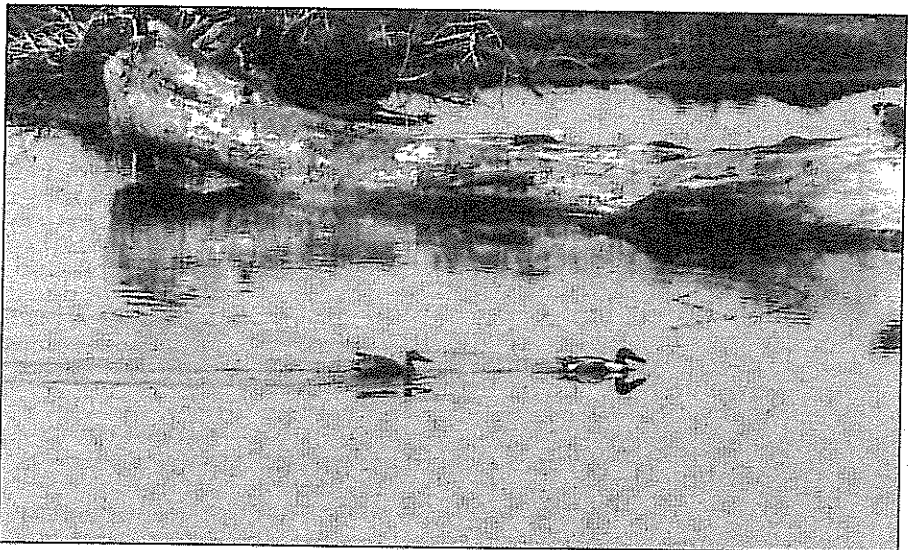
It will take a few years to develop the lake's fish population, he said.

The total cost of rehabilitating Cunningham Lake, including design and engineering costs, excavation costs and the building of a sediment weir, will be between \$6.5 million and \$7 million, Winter said.

That cost includes the \$1.5 million Pawnee Wetlands, to be completed by early 2009.

Winter said the Pawnee Wetlands will be about 100 acres of standing water that will filter sediment out of the

See Cunningham, Page 2



Waterfowl and semiaquatic vegetation are expected to flourish in the Pawnee Wetlands at the north end of the lake. The wetlands should be finished in early 2009.

Who does what at Cunningham Lake?

The lake and the dam are owned by the U.S. Army Corps of Engineers.

The Nebraska Game and Parks Commission manages

The area around the lake is maintained by the City of

Cunningham: Lake rehabilitation took 8 years

Continued from Page 1

watershed before it reaches the lake.

The wetlands will be located on the northern end of the lake and be home to waterfowl and semi-aquatic vegetation.

The Cunningham Lake and Pawnee Wetlands projects have been funded by a mix of local, state and federal funds, Winter said.

Rehabilitation of the 350-acre northwest Omaha lake has taken more than eight years to complete. Draining of the lake began in April 2006, and the park has been closed to visitors since April 2007.

One of the biggest changes to the lake was the removal of about 440,000 cubic yards of silt from the lake bed, Winter said.

The removal of the silt increased the lake's average depth between 4 and 6 inches, he said.

"The (change in) average depth isn't going to be that signif-

icant," he said. "Where we've done it has made a world of difference, though."

Increasing the depth in the shallower areas makes it harder for waves to dredge up silt from the lakebed and cloud the water. Winter said the northern end of the lake was the most affected by wave erosion.

Jeff Jackson, district fisheries manager for the Game and Parks Commission, said a sediment weir — a low dam — will be built to slow the water enough to dump the sediment before it gets into the lake.

"A considerable amount of work on the main lake has been done, so we want to preserve that work" by keeping sediment levels low, Jackson said.

The sediment weir won't be completed until spring of 2009, he said.

Fishermen can expect the lake to be stocked with walleye, largemouth bass, bluegill, channel catfish and crappie, Jackson said.

Because crappie and bluegill dwell near irregular shorelines, Winter said, the additional shoreline will help the fish population in the lake.

Winter said he expected the water clarity to double or triple because of the removal of silt from the lakebed, the sediment weir, the stabilization of shorelines — with four offshore breakwaters — and the addition of the wetlands to filter out some of the silt entering Cunningham Lake from the Little Papillion Creek.

The Little Papillion Creek is the lake's main source of water.

Winter said Cunningham Lake now boasts 43,635 feet of shoreline, an increase of about 16,000 feet, due to the addition of the offshore breakwaters.

With all of the improvements, Winter said he expects the lake to have another 50 or 60 years of usage and maybe up to 100 years if properly regulated.

None of the camping, bathroom or playground equipment

has been replaced yet, said Steve Scarpello, city parks director.

He said \$350,000 in upgrades would be done over the summer, including new signs at entrances, upgraded portable toilets and new grills and picnic tables.

Scarpello said the renovation of the marina should be complete in the summer of 2009. He said there are no funds available to improve the trails around the lake, and planners have chosen not to allow swimming.

Joan Martig, who lives on the east end of the lake near 84th Street, said Cunningham Lake was largely ignored for many years.

"The city didn't take care of it," she said. "It was really abused."

Martig, 78, said the area around the lake was muddy and overrun with weeds. She said she is looking forward to watching the lake refill with water, people and sailboats.

"I think they are correcting so many problems," she said.

Teer, Pat

From: Egr, Emmett
Sent: Monday, April 07, 2008 1:52 PM
To: Becic, Jim; Bowen, Gerry; Cleveland, Martin; Guthridge, Heather; Herbster, Jerry; Jacobsen, Christine; Petermann, Marlin; Puls, Ralph; Teer, Pat; Winkler, John
Subject: Lone Werthman Heron Haven wins award

Werthman to receive Wiegers award

BY JOE DUGGAN / Lincoln Journal Star

Sunday, Apr 06, 2008 - 12:46:30 am CDT

For those who care about nature, leaving a child indoors equals leaving a child behind.

So when kids come to the Heron Haven wetland and nature center in north-central Omaha, lone Werthman gets them outside and works hard to spark a lasting interest in nature.

It's easy to see why they would relate to Werthman. In her white hair and powder-blue cardigan, she looks more great-grandmother than environmental firebrand.



But when it comes to speaking out for nature, few citizen advocates in Nebraska can match her record.

The 81-year-old Omaha woman, who is indeed a great-grandmother, has spent 35 years advocating for Nebraska birds, rivers and endangered species. The stories behind her list of activities and honors could fill a newspaper.

But a little urban wetland will likely stand as her greatest achievement. That's because Werthman led the effort to save the wetland from an apartment development. And she also has helped transform the property into an nature center where children and adults can experience nature in the middle of the state's largest city.

"I've had experts says it's too small, it's too crowded, it's too metropolitan," she said. "But we've had 125 different species of birds visit this place.

"I just don't feel we humans have the right to destroy all the nature."

Heron Haven, along with her lifetime of achievements, is why Werthman has won the 2008 Howard L. Wiegers Nebraska Outstanding Wildlife Conservation Award.

The award bears the name of the former University of Nebraska-Lincoln professor who founded the fisheries and wildlife major in the late 1960s. The award is co-sponsored by the UNL Wildlife Club and the Lincoln Journal Star and has been given annually since 1966. Werthman will be honored at Saturday's annual banquet of the Wildlife Club.

She grew up as lone Dirks on a dairy farm near Laurel where, when she wasn't milking cows, she kept her nose in a book.

She was shy until she attended Wayne State College and was put in charge of the school's placement bureau. The job flipped a switch, forcing her to interact with a broad range of people and manage a position that had formerly been the responsibility of a faculty member.

"After that, I felt like I could do anything," she said.

After graduating, she got a teaching job in Hartington, where she met her husband, Al Werthman. The couple ran a photography business together, which they moved to Omaha in 1963.

They raised their five children on Douglas Street, where traffic was constant. In the early 1970s, Al joined the Omaha Audubon Society as a way to go on field trips and get a break from the noise and bustle. Lone soon joined the club and quickly developed a passion for birds.

That passion gradually awakened the activist inside her. Through her involvement with the Nebraska Audubon Council in the early 1990s, she attended public hearings and testified against the Two Forks Dam project in Colorado, which would have cut off most flows in the South Platte River. The project represented a major threat to birds, fish and wildlife that used the river.

And she twice flew to Washington, D.C., to lobby members of Congress in favor of making a stretch of the Niobrara River a National Wild and Scenic River. The designation protects the river from development, preserving its wilderness character.

And she's also testified at assorted hearings in favor of environmentally sensitive management of the Missouri River. Sometimes what she had to say elicited boos from those who wanted to exploit the river, but she said it anyway.

In the 35 years since she became environmentally aware, Werthman said challenges to birds, wildlife and wild places have only increased.

"I feel that if we don't stand up for nature and we sit back and let it roll, it will only get worse," she said.

And she is respected by representatives from government agencies that manage natural resources, said Chad Smith of Lincoln. In his former job as Nebraska director of American Rivers, Smith often called upon Werthman.

She always had facts and data to back up her positions, Smith said. She didn't just stand up and talk.

Over the years, she has been president and treasurer of the Omaha Audubon Society. She also served on the National Audubon Society's board of directors from 2003 to 2007.

In 1992, she brought all of her determination and skills to bear on the effort to save a 25-acre wetland near 120th Street and West Maple Road in Omaha.

A developer planned to drain the wetland to make room for a 168-unit apartment complex. After she contacted the developer, he agreed to sell, but he set a deadline of three months for Werthman to come up with \$175,000.

She convinced the **Papio-Missouri Natural Resources District** to contribute half of the money, and although she had never led a major fund-raiser in her life, she raised money to go along with an Audubon Society bequest to cover the other half by the deadline.

Over the years, she led the effort to acquire other parcels of land around the wetland. She obtained a grant from the Nebraska Environmental Trust to buy a former bar near the wetland and turn it into a nature center.

The center opened in 1998. As the center's volunteer director, Werthman has provided hundreds of nature education programs to children and adults, bringing her full-circle to her start as a teacher.

Along the way, she's had lots of help from lots of people and governmental agencies. But it takes a leader to focus all of the partners in a conservation project, said Steve Oltmans, former manager of the Papio-Missouri NRD.

"Without Lone and all of the work she's done, there wouldn't be a Heron Haven."

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2 states still can't bridge water gap (OWH, 4-12-08)

Nebraska, Kansas at odds over river

Well idea is flashpoint

By David Hendee

WORLD-HERALD STAFF WRITER

KANSAS CITY, Mo. — Nebraska asked Kansas again Friday to compile an inventory of the economic damages that state believes were caused by Nebraska's overuse of Republican River water.

Kansas wants money from Nebraska as a penalty for consuming significantly more than its share of the river's water from 2003 through 2006.

That state's water czar, David Barfield, said he would start compiling the damages inventory next week. Last year, he said the total could run into the tens of millions of dollars.

Friday was the second time Nebraska asked Kansas to reveal exactly how much money it's seeking.

A month ago, Ann Bleed, then director of the Nebraska Department of Natural Resources, asked Barfield for a total during a meeting of the three-state Republican River Compact Administration. Barfield gave no answer at that time.

Blead resigned two weeks ago. Brian Dunnigan, acting Nebraska Natural Resources director, revived the question with a letter given to Barfield during Friday's meeting of compact administrators from Nebraska, Kansas and Colorado.

The six-page letter included a no-apologies defense of Nebraska's progress in reducing its overuse of Republican River water.

Barfield said he remains skeptical of Nebraska's strategy for making certain Kansas gets its legal share.

That strategy includes limited reductions in farmers' pumping of underground water, buying water from irrigation districts, retiring irrigated land and pumping water into the river from special wells.

"You're already in significant violation (of the river compact), and the future will be worse," the Kansas official said. "We don't see where it adds up to get you into compliance, or close."

Dunnigan said Nebraska's multifaceted plan worked last year, when it helped put the state's water account with Kansas into the black.

Dunnigan said Kansas' demand for Nebraska to shut down thousands of irrigation wells was "extremely troubling."

He said Nebraska's plan would, on average, provide more water to Kansas than is required. Nebraska has no obligation to develop its plan to Kansas' liking, he said. Nebraska farmers use the vast majority of water that's pumped out of the river basin to irrigate crops. Excessive usage violates the 1943 agreement that allocated Republican water among Nebraska, Kansas and Colorado.

Kansas wants Nebraska to stop pumping from all irrigation wells located within 2.5 miles of the Republican and its tributaries, and from wells that were added after 2000. Kansas also demands that Nebraska pay monetary compensation.

Nebraska water officials oppose Barfield's remedy. They contend that shutting down wells won't add enough water to the river quickly and that doing so likely would have a devastating economic impact on Nebraska farmers and communities. Kansas took Nebraska and Colorado to the U.S. Supreme Court in 1998 over a similar dispute. That case was settled out of court in 2002.

Kansas also is questioning Colorado's plan to build a 10-mile pipeline near the Nebraska border that would pump groundwater into the Republican's north fork to balance Colorado's water ledger with Nebraska and Kansas.

Barfield said Colorado also must provide more water in the Republican's south fork. "You have to meet all your obligations," he said. Ken Knox, chief deputy engineer for Colorado's Water Resources Division, stuck by the one-pipeline plan. "I hear you," he told Barfield, "and it looks like we have a difference of opinion."

At water's edge

Stormwater runoff management key to flood, pollution control

By JON BURLESON
RECORDER EDITOR

As Ralston continues to see greater development, especially along the 72nd Street corridor, the need for a comprehensive stormwater management becomes ever more necessary.

Based on information from the Papillion Creek Watershed Partnership, the U.S. Environmental Protection Agency and the Federal Emergency Management Agency, Ralston could be a flood threat if measures are not taken. Even if adequate flood control is implemented, the watershed is threatened by increasing amounts of pollutants from rapid runoff.

"Stormwater is of concern for two reasons," said Dr. Marian Maas of Bellevue. "One is the volume and timing of runoff water which could cause flooding. The other is potential contaminants that the water is carrying."

Dr. Maas said she became involved with Papillion Creek water quality while employed with the City of Omaha Public Works Department at the Missouri River Wastewater Treatment Plant. In the late '90s, with the help of an EPA grant, she undertook an extensive water quality monitoring program for the Papillion Creek system.

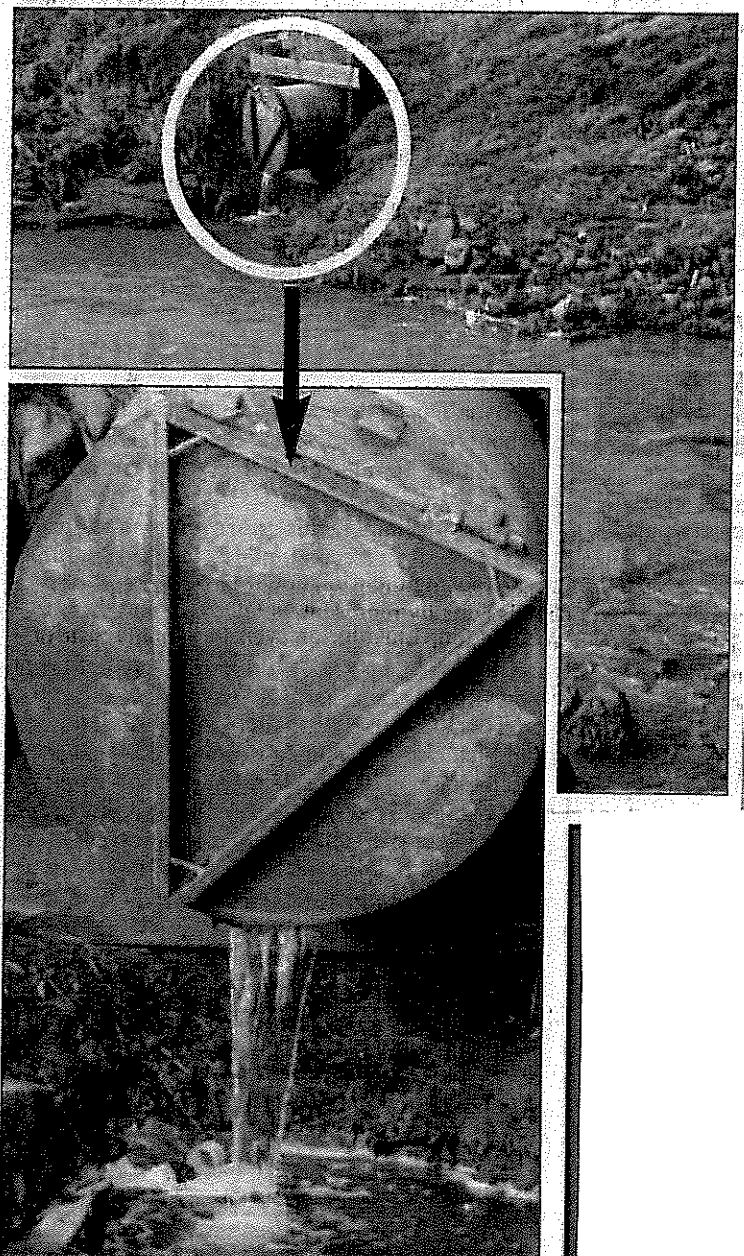
This was the first water quality survey to be conducted on the Papio that included a thorough collection of data in both dry weather and during storm events to determine the impact of stormwater runoff.

Stormwater is precipitation. It also applies to water that enters the stormwater system. Stormwater that does not soak into the ground becomes runoff, which flows into surface waterways.

"In developed areas, the natural depressions are filled in," said Ralston resident Jarel Vinduska, a long-time proponent of stormwater management. "The surface of the ground is leveled or paved and water is directed into storm drains. Streams that are fed by storm drains, such as Ralston Creek, are subjected to sudden surges of water each time it rains, which contributes to erosion and flooding."

FEMA maps show a flood hazard region in the Ralston area ranging from Big Papillion Creek south to Ralston Creek and from 72nd Street west to 7400 Q St. — including all of the former Lakeview Golf Course — and northwest to L Street. The FEMA maps designate this region as a high-risk, special flood hazard zone.

With the development of the Lakeview Golf Course immi-



Photos by Jon Burleson

Stormwater drains pour hundreds of gallons of runoff into Papillion Creek, much of it contaminated with petroleum products.

Continued

nent, some form of stormwater control becomes an even more pressing matter, said Maas. As the green space is covered bio-filtration ceases. Asphalt and concrete are impervious barriers to stormwater. The runoff will increase dramatically. She suggests the use of porous asphalt or bioretention areas around parking lots.

"Porous asphalt or concrete provides the water with a place to go," she said. "As the water drains through the porous lot, it slowly infiltrates into the soil."

The speed at which water drains from surfaces is key. Slow runoff allows water the time to filter naturally through the environment. Rapid runoff carries with it contaminants from roadways and the ground.

"People don't realize just how much stuff is carried into storm drains and into the creeks," Maas said. "Break pad grindings, petroleum products, lawn chemicals and soil all make it into the creeks."

Porous asphalt and bioretention areas can effectively treat stormwater in parking lots. Stormwater is directed into a shallow, landscape area and temporarily detained. The runoff then filters down through the bed of the facility and is infiltrated into the subsurface or collected into an under-drain pipe for discharge into a stream or another stormwater facility.

Both of these methods fall under the PCWP's suggestion of low-impact development as a means to manage stormwater runoff. LID has the potential to improve runoff quality and reduce the risk and impact of flooding, the PCWP reports. The partnership report states that LID offers several techniques, including stormwater harvest (to reduce the amount of water that can cause flooding), infiltration (to restore the natural recharge of groundwater), biofiltration or bioretention (e.g. rain gardens) to store and treat runoff.

"Individuals can make changes," Maas said. We should not rely on government to make a difference."

Rain barrels and rain gardens are two ways she suggests people get involved in protect-

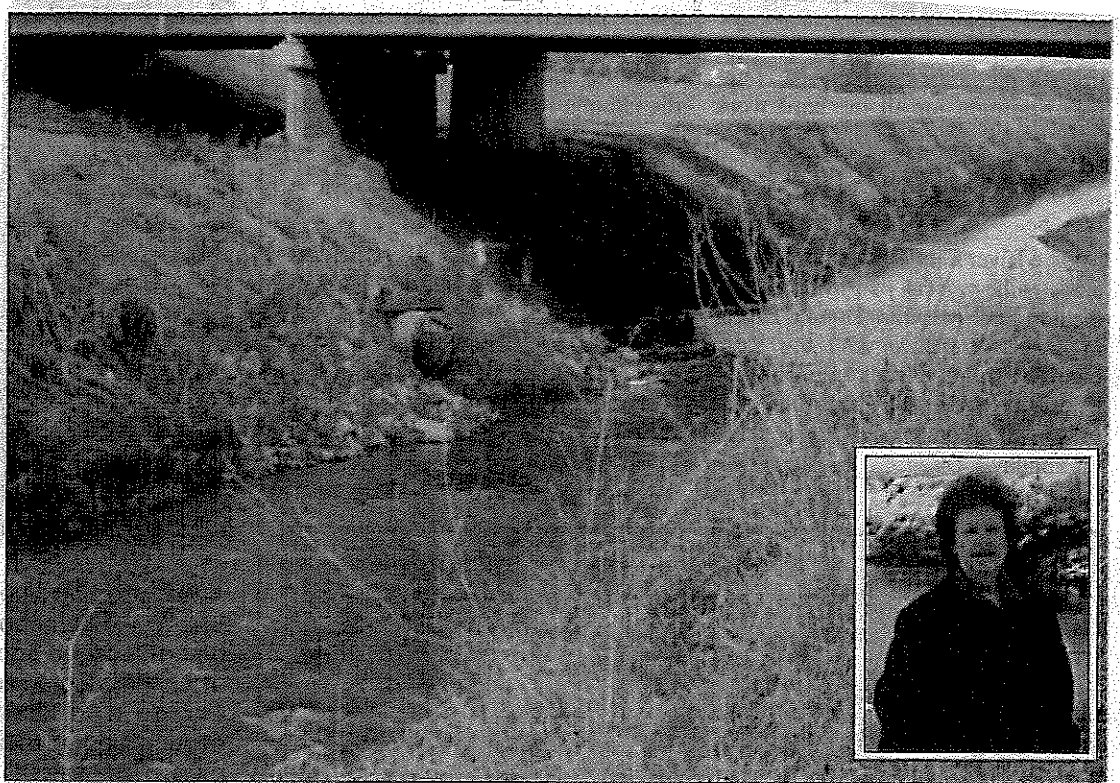


Photo by Jon Burleson

Papillion Creek flows through most of Douglas and Sarpy counties. Inset, Dr. Marian Maas performed the first in-depth water quality study on the Papillion watershed.

ing the watershed. Rain barrels collect stormwater and store it for later use.

Rain gardens are biofiltration systems. Biofiltration is a pollution control technique using living material to capture pollutants.

A rain garden is a planted depression that is designed to absorb rainwater runoff from impervious urban areas like roofs, driveways, walkways, and compacted lawn areas. This reduces rain runoff by allowing stormwater to soak into the ground. Native plants are recommended for rain gardens because they are more tolerant of the local climate, soil and water conditions, Maas said.

Water quality is a vital issue to Maas, who still does public education and awareness speaking engagements on water conservation. As metropolitan areas grow and population density increases, water supplies

will continue to be strained. That makes the existing water, such as in the Papio watershed, an increasingly valuable natural resource that needs to be pro-

tected.

"Everything that goes in must be taken out by someone else," Maas said. "You always live downstream of someone."

Niobrara put on endangered list

4-17-08

By DAVID HENDEE

WORLD-HERALD STAFF WRITER

The Niobrara River is one of America's most endangered rivers because of the potential to tap the popular paddling stream for more irrigation, a national river advocacy group says.

A healthy Niobrara requires Nebraskans to continue balancing needs of communities, wildlife, recreation and agriculture, says Rebecca Wodder, president of American Rivers.

Pending applications from farmers to pump more water from the river to irrigate cropland across northern Nebraska could endanger flows that also support fish, wildlife and recreation, Wodder said in a report released today.

A water manager in north-central Nebraska voiced skepticism about the group's report.

Mike Murphy, general manager of the Middle Niobrara Natural Resources District at Valentine, said the river is resilient and has a steady source of water oozing out of the Sand Hills.

"It's never a bad thing to step back and take a look at what's going on, but to start labeling areas of the country with problems before all the facts are known and analyzed kind of

throws kinks into the process. We need to take care of the Niobrara and maintain it, but that doesn't mean it's endangered," Murphy said.

The Niobrara is part of the nation's Wild and Scenic Rivers system. Congress designated a 76-mile stretch downstream from Valentine as a unit of the National Park Service in 1991.

The Niobrara begins in eastern Wyoming and crosses Nebraska before emptying into the Missouri River. It's known as one of the best canoeing streams in America, but paddlers have noticed more exposed sandbars and rocks in the already naturally shallow river.

The Nebraska Department of Natural Resources this year said the Niobrara couldn't sustain more withdrawals by irrigators without harming existing uses, including irrigation and recreation. That "fully appropriated" designation includes a temporary ban on drilling more irrigation wells, pumping water from the river or expanding irrigated cropland in the area.

The state agency and three Niobrara natural resources districts are in the early stages of crafting a plan that would outline joint management of the river for irrigators, fish,

wildlife and recreational interests.

"If we do not strike a balance between water taken out and water left in, we could very well lose the river," said Bruce Kennedy of Malcolm, president of the Nebraska Wildlife Federation.

Mel Thornton, president of Friends of the Niobrara, said the management plan is important to guard water rights held by farmers and ranchers.

"It'll protect the needs of present-day irrigators, the recreation industry, and the animals and fish around here," he said.

W-H
H-18-08

Voters could have choice

The Papio-Missouri River Natural Resources District has faced severe challenges in recent years. In its only contested primary next month, voters in Subdistrict 1 could set up a clear choice on one of those issues — dams versus no dams — by advancing Jim Jepsen of Hubbard, Neb., and Scott Japp of Arlington, Neb., to the fall election.

The NRD and the 23-government partnership to which it belongs have been embroiled in dispute over a flood-control project that involves up to 29 smaller dams and possibly two larger structures in the Papio Creek watershed. After lengthy debate, a compromise is on the table.

Jensen's approach to the dam issue is restrained and thoughtful. He has served on the Dakota County planning and zoning board for more than five years and has strongly emphasized research — including personal, on-site inspections — as the key to being an effective board member. He would take that same

**In NRD
primary race,
Jim Jepsen's,
Scott Japp's
ideas differ.**

determination to the NRD board.

The former Dakota County farmer says dams can benefit the area, but he wants to continue to study the particulars. He talks knowledgeably about flood control and erosion and would offer the board practical expertise.

Japp, in contrast, is a foe of the dam project, suggesting that the NRD board as it is now constituted poorly represents its constituents. The proposed dams wouldn't affect him directly, he said, but the opposition to it is strong.

Japp said he developed residential resorts around the world for nearly 15 years. But over the past 12 years, he has operated a soil conservation firm that builds erosion control structures. His experience in both endeavors could add to the board's knowledgebase.

The question of dams versus no dams should be decided by facts, hydrology and science. Subdistrict 1 voters could sharpen the debate by nominating **Jim Jensen** and **Scott Japp** for the NRD board.

MoPac Trail users will get trailhead in Eagle

By ALGIS J. LAUKAITIS / Lincoln Journal Star

Monday, Apr 21, 2008 - 12:04:03 am CDT

A new trailhead in Eagle is being developed by the village and the Lower Platte South Natural Resources District.

Both governmental entities are sharing the cost of building restrooms in a park parking lot, just off the MoPac East Trail that runs through the village.

"We know there's been a need for a trailhead there," said NRD general manager Glenn Johnson. "This looks like probably a really good win-win for the village and the district."

The district's board of directors recently agreed to pay up to \$35,201 for the project. Johnson said the village has agreed to cover half of the cost.

Currently, the only public restroom facilities in the area are located at the park's swimming pool, which is only open during the summer.

"This would create a pair of restrooms that would be available to people using the park and the trail," Johnson said.

The village has hired JEO Consulting Group, Inc., to design the trailhead, which could be completed later this year. Johnson said the village plans to build a shelter at the trailhead in the future.

In related news, the NRD plans to interview consultants on April 28 to design an extension of the MoPac East Trail from Wabash to the Lied Platte River Bridge near South Bend. The extension is a key segment of trail that would connect Lincoln and Omaha, the state's largest cities.

Johnson said the NRD board has identified 334th Street as a "general corridor" for the trail extension. He said a consultant will identify two or three possible routes in the corridor, which includes a quarter mile on either side of 334th Street.

Johnson said the trail extension could be built in two years, but he said the project is "complicated" because the district may have to acquire right-of-way — something it has not had to do on other trail projects.

Reach Algis J. Laukaitis at 473-7243 or alaukaitis@journalstar.com.

Babbitt says Nebraska on right water path
BY ART HOVEY / Lincoln Journal Star
Tuesday, Apr 22, 2008 - 07:51:21 pm CDT

Nebraska was confronted by a \$72 million demand for compensation from Kansas on Tuesday in a dispute over Republican River water.

State government is also scrambling to adjust to the sudden resignation of Ann Bleed, the director of Department of Natural Resources, in March.

Despite these whitecaps in the world of water, Bruce Babbitt thinks Nebraska is on its way to a more enlightened future.

"If you've got the deficit down to \$70 million, that's a sign you're making progress," said Babbitt, former Arizona governor and secretary of the Department of the Interior in the Clinton administration.

"What you've got to work to do is to get the deficit down to zero," he said in an interview in Lincoln on Tuesday.

Babbitt, now retired from a law career and serving as chairman of the board of the World Wildlife Fund, was in Lincoln to speak Tuesday night at the University of Nebraska-Lincoln's fifth annual Water Law, Policy and Science Conference.

Although his speech was titled "Nebraska's Water Future: Feast or Famine," he said he would not use his time to suggest that the state is sliding into the same water turmoil so familiar in his home state and more recently in a clash involving Georgia and its southern neighbors.

The massive Ogallala Aquifer remains a substantial cushion against water adversity in Nebraska, he said.

"There's no question that is a reserve that can be used in a managed way and even depleted in a managed way, as long as it's not done excessively."

At age 69, Babbitt retains fond memories of previous visits to Nebraska to take in the annual migration of Sandhill cranes. He called it "the most extraordinary wildlife spectacle I've ever seen in my career."

Part of his podium purpose was to advocate for the wildlife gains that he's sure would go with Nebraska abandoning its long alignment with downstream states on the Missouri River that has been based mostly on straightening the river channel and maintaining steady flows for barge traffic.

"I could sit out there for a whole day," he said of the river's Nebraska route, "and never see a barge."

Nebraska should switch its allegiance to upstream states trying to hold back as much water as possible in giant reservoirs. The Missouri should be allowed to go back to the meandering path it followed prior to years of channelization work by the U.S. Army Corps of Engineers.

"Let the river run naturally," he said.

In sounding a generally optimistic tone about what has already happened in the state, Babbitt pointed to passage of sweeping water policy reform in the Legislature in 2004 as supportive evidence. LB962 gave state officials the authority to declare river basins in the state overappropriated and to ban new irrigation wells as a step toward sustainability in water supply.

Babbitt has also been impressed by a Nebraska Supreme Court stance allowing a lawsuit alleging that excessive ground-water pumping has depleted surface flows in Pumpkin Creek.

And he sees a 1997 cooperative agreement with Colorado and Wyoming on Platte River flows as yet another positive step.

"I think it's another success," he said, although "it took a long time and we're not there" in terms of full follow-through.

"The big issue," he said, "is that the tools are in place, and all you need to do is use them."

Levee re-certification criteria presented to Waterloo trustees

by Sandra Stenglein

JEO representatives presented a written summary of findings report to the Waterloo Board of Trustees outlining the criteria needed for levee re-certification on Monday April 14, during a special meeting held at 6 p.m. prior to the Board's regularly scheduled meeting.

Lalit Jha, vice president of Water Resources Engineering for JEO Consulting Group, and John Callen, also of JEO Consulting, gave an overview of the summary document JEO has prepared. The summary outlines what is necessary for the Village to comply with current FEMA regulations regarding re-certification of the Waterloo levee. Re-certification of the levee is necessary to meet the current freeboard height standard set by the Federal Emergency Management Agency (FEMA) to keep the Village of Waterloo out of the Elkhorn River flood plain.

The freeboard is the difference between the height of the 100-year flood level and the height of the

levee. The required difference can vary between 3 feet and 4 feet. The levee surrounding Waterloo does not consistently meet the current FEMA standard.

When the levee was first built, the standards were different and some of the road development did not exist. FEMA has considered the levee to be meeting the floodplain mapping requirements since that time. The residents of Waterloo have hence not been required to purchase flood insurance.

The current FEMA standards were put in place in 1986, but were not uniformly enforced. However, since the Katrina disaster, an effort at more strict enforcement of the current standard has become the rule.

In 2007, residents in the Village of Waterloo received a letter from FEMA advising them that the levee did not meet the current standard that they (the residents of the Village) had a two-year deadline for bringing the Waterloo levee up to the current FEMA standards, or they

would be subject to buying flood insurance.

Jha told the board that the number one priority, before proceeding into design and construction of an updated levee, is to verify the height of the levee freeboard at locations along the south, west and north portions of the levee.

Jha advised the Board that before investing money on improvements it would be wise to know the extent of the deficiencies. A risk analysis, which is a statistical evaluation of levee assessment data, would provide an exact figure telling all parties involved where the height adjustments need to be made. However, the USACE requires that an updated floodplain study be completed before a risk analysis may be attempted, Jha said.

In the summary report, John Callen noted that the information currently available on maps and in document form does not reflect all the roadway improvements that impact the levee freeboard. To provide the best background

information for levee design decisions, it is beneficial to use the most current data.

Jha and Callen asked the Board on Monday to give approval for JEO to begin immediately with a floodplain study and the levee improvement design.

Callen told the Board that he and Jha had met earlier that day with the officials at the Papio-Missouri Natural Resources District (NRD).

Jha told the Board that the NRD has asked JEO for a comprehensive outline of the project's scope and sequence. They want specific numbers as to the cost and time factors impacting the project, beginning with the floodplain study phase, to the design phase, the bidding phase and the finally the construction phase.

"NRD may consider a minimum of 50 percent shared cost of the design phase," Jha said. "NRD wants to help Waterloo. They want to keep the process moving, they are ready to help," Jha said.

Trustee Troy Peterson asked

about other financial assistance that might be available beyond what the Papio-Missouri NRD may provide. Callen told Peterson that looking for additional or alternative funding might delay progress for a long period of time.

The Village has a two-year deadline imposed by FEMA, which began on January 15, 2008, to show progress toward improving the levee and making it eligible for certification.

"The bottom line is we as a Board are committed to keeping the Village of Waterloo out of the flood plain," said Trustee Peterson.

The Board authorized JEO to prepare a comprehensive scope and sequence of the project for presentation to the Board and NRD. A meeting with JEO staff, NRD representatives and the Waterloo Board of Trustees will be scheduled early in May. At that time the cost of the floodplain study and the design phase will be discussed. The cost of the construction phase of the project will be determined after the bidding.

Post - Enquirer 4-22-08

Kansas: Water bill is up to \$72 million

4-23-08
By DAVID HENDEE
WORLD-HERALD BUREAU

LINCOLN — Kansas said Tuesday that Nebraska owes it more than \$72 million for over-use of Republican River water.

And that could be just the initial installment, said Kansas water czar David Barfield.

Kansas' demand came in a letter from Barfield to his Nebraska counterpart, Brian Dunnigan, acting director of the Nebraska Department of Natural Resources.

Barfield said he expects to seek additional remedies or penalties in future years if Nebraska continues to use too much Republican River water.

Nebraska Attorney General Jon Bruning said the state remains committed to working with Kansas to resolve the issue, but he rejected Barfield's cost estimate.

"We're disappointed to receive a damage claim that has no basis in reality," Bruning said.

He said a U.S. Supreme Court special master previously rejected Kansas' method of calculating damages in an Arkansas River case between Kansas and Colorado.

The total, as Kansas computes it, is \$72,365,133.

Dunnigan and his predecessor, Ann Bleed, had asked Barfield for the total at recent meetings of the Republican River Compact Administration.

Kansas says Nebraska consumed 27 billion more gallons of Republican River water than it was entitled to in 2005 and 2006.

Barfield's bill is one piece of Kansas' strategy to force Nebraska to stop using more than its legal share of the river. Kansas also is proposing that Nebraska shut down irrigation wells within 2½ miles of the river and its tributaries, and to idle wells where irrigation began after 2000.

Nebraska has made "enormous progress" since Kansas sued over the issue in 1998, said

Bruce Babbitt, former U.S. interior secretary.

Babbitt, who was in Lincoln to address an annual University of Nebraska water conference Tuesday night, said Nebraska today has a water law that gives administrators the tools they need to do the job.

Babbitt acknowledged that it's hard for the natural resources districts in the Republican basin to reduce pumping of underground water to keep water in the river.

Nebraska's troubles are partially driven by drought, he said, but the core challenge is meeting rising demand for water by cities, industry and agriculture.

So far, Nebraska not countering Kansas river demand

BY ART HOVEY / Lincoln Journal Star
Thursday, Apr 24, 2008 - 11:10:42 pm CDT

If you're getting ready to buy your first house, you might make an initial offer of \$72,000, based on the absence of a third bedroom and garage.

Then you'd sit back and wait for the counteroffer.

The rules of the game are a little harder to follow in the world of water, where Kansas demanded Tuesday that Nebraska pay \$72 million in compensation for violating the terms of the Republican River Compact.

On Thursday, there was no indication of when — or if — the Nebraska Department of Natural Resources would make a counteroffer to resolve a situation in which Kansas claims Nebraska used more than its share of water in 2005 and 2006.

"I would just refer you to the attorney general's office at this particular time," said Brian Dunnigan, acting Nebraska Natural Resources director.

Late Tuesday, Nebraska Attorney General Jon Bruning didn't sound especially impressed with the Kansas number.

"While we remain committed to working with Kansas to resolve the compact issues," he said in a prepared statement, "we're disappointed to receive a damage claim that has no basis in reality."

Speaking for Bruning Thursday, Leah Bucco-White had nothing to add about bargaining possibilities or about the potential last-ditch significance of a May 16 meeting of the Republican River Compact Commission in Lincoln.

"On both of those, we have no additional information to share at this time," Bucco-White said.

David Barfield, chief engineer for Kansas' Division of Water Resources, was slightly more forthcoming.

He said Kansas was "pretty well committed not to go to non-binding arbitration" before the Lincoln session.

Barfield also said a counteroffer from Nebraska "isn't our expectation, necessarily."

A tight-lipped, close-to-the-vest posture from negotiators on the Nebraska side of the border is nothing new under circumstances in which the river dispute could easily end up in court.

But that isn't stopping others with a vested interest in how the state will react to the damages claim from trying to get a grip on what happens next.

Dan Smith, general manager of the Middle Republican Natural Resources District at Curtis, doubts Nebraska would offer any figure of its own at least until after the commission meeting in Lincoln and perhaps not until matters go to the next step of non-binding arbitration.

“Somewhere through the process,” said Smith, “I’m sure Nebraska will make a counteroffer of some sort.”

He said he would be surprised if “everybody goes home happy.”

It’s much more likely the wrangling between the two states will go on beyond that.

“I expect Kansas to go forward to arbitration,” he said.

Meanwhile, Dave Aiken, a water law specialist at the University of Nebraska-Lincoln, and Ray Supalla, an agricultural economist at UNL, saw significance in the way Kansas calculated its \$72 million impact assessment.

Aiken said the figure was based on what he described as “enrichment theory.” In other words, Kansas isn’t saying what damage its farmers may have incurred from reduced ability to irrigate from the river. Their approach is to estimate the economic gain from comparatively more irrigation in Nebraska.

He interprets the Kansas claim to mean “we want water. We don’t want money, we want water.”

Supalla said Kansas may have chosen the enrichment tactic to forestall a situation in which Nebraska might decide the benefits of using water are more than Kansas damage estimates.

If you’re Kansas, he said, “You don’t want an incentive to keep violating it. So certainly the enrichment approach is an approach that makes sense.”

But that way of resolving a river claim has never been fully tested in court in other river disputes, he said, and that “lends some uncertainty to it.”

Kansas water official Barfield said the general idea was “if you steal a dollar and make \$4,” there’s no incentive to stop what you’re doing from a damages approach.

“We want this to quit happening, basically,” he said.

But Nebraska NRD Manager Smith called it an odd way of doing things.” Instead of identifying damages, “what they quantify with \$72 million is what they say Nebraska gained in production by not allowing X amount of water to go down the river.”

Beyond that, he said, “I can’t really believe the damages are that high.”

Reach Art Hovey at 473-7223 or ahovey@journalstar.com.

Local news tips? Call the City Desk, 473-7306
Page Design: Karen Ann Gaglio

State of the drought

Committee bears good news:
Most of Nebraska has enough
moisture in ground for crops.

BY ALGIS J. LAUKAITIS
Lincoln Journal Star

In past years, the state's drought committee met in the spring to discuss dry conditions and water availability for farmers and ranchers.

And it usually wasn't good news. Some parts of Nebraska had been in the grips of a drought since 1999.

This year was different.

"It's good to be here for a change," said Neil Moser, chairman of the Climate Assessment Response Committee, which met Tuesday in Lincoln.

The news from climatologists and ag experts: Nebraska is in pretty good shape in terms of having enough moisture in the ground for crops, except in the west and southwest, where drought conditions persist.

"Since 1999, these folks haven't had a lot of relief," said Mark Svoboda with the National Drought Mitigation Center at the University of Nebraska-Lincoln.

Worse, if the Panhandle region doesn't get good rains soon, farmers and ranchers there face the possibility of grassland and timber fires, State Climatologist Al Dutcher said.

And drought conditions could return to some parts of Nebraska in July and August, depending on whether the La Nina weather pattern continues, Dutcher said.

"If it does, we'll see dry conditions across the Corn Belt," he added.

The committee, which meets periodically during the year, also heard the following reports:

■ Snowpack conditions in the Rocky Mountains have improved. Colorado snowpack is 125 percent to 135 percent of normal.

■ Drought

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Wyoming's is about normal.

■ For the first time in eight or nine years, spring runoff is forecast to be about normal compared with the 30-year average, or 900,000 acre-feet of water. Melting snow from Colorado and Wyoming flow into the North Platte River basin, which feeds a series of irrigation reservoirs, including Lake McConaughy.

■ Lake McConaughy, the state's largest reservoir, is about 43 percent of its capacity and 5 feet higher in elevation than a year ago, climatologist Brian Fuchs said.

■ Despite good rains through the winter, flows into the Republican River basin remain below normal. The good news: Harlan County Reservoir, south of Holdrege, is 91 percent full. Fuchs said irrigators can expect their full allotment of water from Harlan County but not from other reservoirs in the basin.

■ Because of an unusually wet August and good rains in September and December, soil moisture in most of east and central Nebraska is very good at 6.5 inches to 8 inches. The ground in the south-

east corner is saturated, Dutcher said. That has created problems for farmers who can't get into muddy fields. More rain could cause further planting delays and lower yields.

■ Recent temperatures have been 4 to 8 degrees below normal, which has hindered field activity. In some parts of the state, there's frost 2 feet below the surface, Dutcher said, but soil temperatures have risen dramatically in the past couple of days.

■ The saturated ground has increased the flood risk in eastern Nebraska because the soil cannot absorb much more water. In the Panhandle, though, there are only 2 inches of soil moisture in some places.

■ Hay storage is good this spring compared with previous years. The state Department of Roads will allow roadside haying July 15 to Sept. 15 and is adopting new rules. A public hearing is set for May 12 at department headquarters in Lincoln.

■ Unlike previous years, no municipalities are reporting well or water shortage problems, said Jack Daniel with Health and Human Services.

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Dispelling doubts on Pflug plan is the goal

4/30/08

By JOE DEJKA

WORLD-HERALD STAFF WRITER

Rich Jansen wants to nip doubters in the bud.

Jansen today will ask his colleagues on the Sarpy County Board to reaffirm their support for a proposed interchange at Pflug Road and Interstate 80.

He wants to erase any doubts that federal officials may have after plans for an interchange were left out of a draft state report outlining the future of the Interstate 80 corridor between Omaha and Lincoln.

"It kind of sent a negative message," he said.

The Nebraska Innovation Zone Commission later inserted a conceptual design for the interchange in its report.

The state commission meets to finalize its report Thursday.

Jansen wants his board to send a letter to the Federal Highway Administration expressing its "full support" for the interchange.

The interchange is controversial because of its potential environmental impact and because it received \$4 million in federal earmarks. State road engineers concluded that the interchange was a "want," not a need, and declined to fund it.

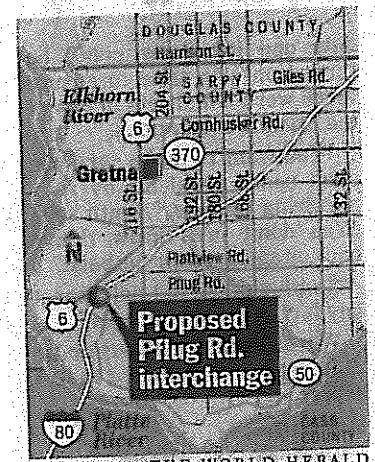
Earlier this month, officials of the Seldin Co. unveiled their vision for a 438-acre business park at the interchange, although the plans were only conceptual.

Drawings of the Seven Hills Business Park show an upscale development, dotted with ponds and trees, designed to attract a corporate campus similar to Con-Agra or Gallup in downtown Omaha. No tenants were announced.

Jansen said Sarpy County needs to add to its tax base.

"If he does what he says he's going to do there," Jansen said of the Seldin plan, "it should

See Pflug: Page 2



Pflug: Review of project is under way

Continued from Page 1

generate a lot of revenue for the county and the state and the school districts."

Sarpy County Board member Joni Jones wants to hear from Jansen before committing to sign the letter.

"It's just a letter of intent, it's not saying that we agree financially to anything," Jones said.

She said the Seldin Co. will have to "step up and contribute" to the project. The draft letter indicates that the board would pursue funding from government and private sources.

So far, company officials have said that they shouldn't have to pay for a regional road project.

A federal environmental review of the project is under way, which will determine whether the interchange is needed.

It will also determine what, if any, environmental mitigation is necessary to protect Platte River species.

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Nelson, Terry asked to push Pflug plan

By JOE DEJKA

WORLD-HERALD STAFF WRITER

Members of the Sarpy County Board want congressional help to speed up an environmental review of the proposed Pflug Road interchange.

The board voted 4-1 Tuesday to ask for help from Sen. Ben Nelson and Rep. Lee Terry.

In a letter, board members complain of the "lengthy" amount of time taken by federal highway officials to review the proposed \$10 million project.

"We're not getting anywhere," Sarpy County Surveyor Tom Lynam, the county's roads director, told the board. Discussions between county officials and the Federal Highway Administration, under way since December, bogged down when the agency questioned traffic data presented to justify the interchange.

Commissioner Paul Cook voted against sending the letter, saying the board was trying to lean on the agency.

"What we're asking is, 'Please put some pressure on these guys to get things moving,'" he said.

Cook said he wasn't convinced that the agency was being uncooperative.

In a memo sent last week, Sarpy County Administrator

Mark Wayne warned commissioners to guard against giving the appearance of rushing the project.

The agency ordered Sarpy County to prepare an environmental impact statement on the interchange after finding the county's initial justification unconvincing. Such reports can take two to five years.

The interchange has stirred up controversy because the Seldin Co., which owns 935 acres at the interchange site, and the Sarpy County Board sought federal earmarks for its construction. Congress awarded \$4 million, after lobbying by the Seldin Co., though state engineers said the interchange was not needed to improve traffic flow or safety.

Environmental agencies have expressed concern about the

proximity of the proposed interchange to the Platte River, which is home to several threatened and endangered species.

County officials see the interchange as a way to open southern Sarpy County to development. They say an interchange at Pflug Road could serve as the western terminus of an I-80 bypass.

The vote to seek congressional help departed from what the board published for its agenda.

The agenda indicated that the board would consider approving "a letter of support for the Pflug Road/I-80 Interchange." A draft

of that letter made no mention of appealing to congressmen.

Voting in favor of the substitute letter were Inez Boyd, Rich Jansen, Aldona Doyle and Joni Jones.

Sending the substitute letter riled interchange opponents.

"To go and do a bait-and-switch like this is an embarrassment," Connie Anderson said.

Jarel Vinduska, leader of Schramm Association for a Viable Environment, said the public had no chance to review it.

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Platte bill is on its way to president

5-1-08

■ The federal legislation will provide \$157 million to protect endangered species' habitat in the river's central stretch.

By DAVID HENDEE
WORLD-HERALD STAFF WRITER

Legislation is on its way to the White House to provide \$157 million for the federal share of a program to protect and improve habitat for threatened and endangered species in Nebraska's central Platte River.

"Nebraskans should be happy and people in western Nebraska should be elated, because this program is a great benefit to the Panhandle. Now Nebraska has to perform," said Tim Anderson, spokesman for Central Nebraska Public Power and Irrigation District.

The governors of Nebraska, Colorado and Wyoming and the U.S. Department of the Interior agreed in 2006 to develop a plan to help species such as whooping cranes, piping plovers and least terns.

However, during most of the time since state and federal talks on the plan started in 1997, Nebraska farmers along the Platte were allowed to continue developing irrigation. They added

508,000 acres of irrigated land during that time.

Now Nebraska must offset the impact of irrigation development that removes water from the Platte.

The state this year must develop a plan for offsetting that irrigation growth. State officials have estimated that costs will total \$54 million to \$102 million by 2020.

The Platte River funding was part of the Consolidated Natural Resources Act of 2008 approved Tuesday by the U.S. House. The Senate passed it earlier.

Sen. Ben Nelson, D-Neb., said the legislation would ensure that the region's water is used responsibly and effectively.

"Access to water is very important in the Platte River region, but we must also be mindful of threatened and endangered species in the area. . . This legislation will ensure that the water in this region is used responsibly and effectively," he said.

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