

# MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: April 4, 2008

FROM: John Winkler, General Manager

- A. **INFORMATION/EDUCATION REPORT:** A copy of the I&E Report detailing Information and Education activities for the month of April, 2008, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:** None.
- C. **REPORT ON PURCHASES – CONSTRUCTION SERVICES, PROFESSIONAL SERVICES, PERSONAL PROPERTY:** Pursuant to Board direction, attached is a report indicating construction services, professional services and personal property purchases for the month of March, 2008. Please review this report and contact me if you have any questions.
- D. **CURRENT AND ON-GOING PROJECTS – P-MRNRD LEGAL COUNSEL:** Attached is a copy of the current and on-going projects for District Legal Counsel, Paul Peters, as of March 17, 2008. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** Attached is the Papillion Creek Watershed Partnership Monthly Update for March, 2008. Please review and if you have any questions, contact me. The next Partnership meeting will be held on April 10, 2008 at 9:00 a.m. at the NRC.
- F. **LEGISLATIVE ISSUES:** The following NARD Legislative Updates are attached for your information:
  - 1. March 7, 2008
  - 2. March 14, 2008
  - 3. March 20, 2008
  - 4. March 28, 2008
  - 5. April 4, 2008
- G. **NEWS CLIPS:**
  - ✓ March, 2008 – Dakota County Star NRD Page – Students attend Water Festival
  - ✓ March 7, 2008, Omaha World Herald article – Last-day filing flurry leaves some out in cold
  - ✓ March 8, 2008, The Kearney Hub article – Work will clear part of Republican River

- ✓ March 9, 2008, Omaha World Herald editorial – Focus on water. Kansas meeting will hash out differences, arguments on sharing river.
- ✓ March 9, 2008, Omaha World Herald article – Public to hear proposal for Carter Lake water
- ✓ March 10, 2008, Omaha World Herald article – Colorado presses Nebraska on Republican River dispute
- ✓ March 10, 2008, Lincoln Journal Star article – NRD OKs new rules for wells. Lower Platte South explains standards should help protect quality, quantity of groundwater
- ✓ March 11, 2008, Omaha World Herald editorial – Caution on this water bill
- ✓ March 12, 2008, Omaha World Herald article – Name your price, state tells Kansas. Nebraska's water czar asks her counterpart to propose a penalty for overusing Republican River water.
- ✓ March 12, 2008, Omaha World Herald editorial – A common future. Connections are increasing among Omaha-area communities.
- ✓ March 12, 2008, Omaha World Herald article – Public called key part of Carter Lake plan
- ✓ March 12, 2008, Omaha World Herald article – Lake views raise property values. A new study comes as Papillion Creek partners look at flood-control options.
- ✓ March 13, 2008, Omaha World Herald article – Two-decade mystery is hoped to be solved by adding surveillance capabilities
- ✓ March 13, 2008, Omaha World Herald article – Water use talks to continue. The Republican River dispute could be resolved by mid-May, says a Nebraska official
- ✓ March 13, 2008, Omaha World Herald article – Bill advances to pay irrigators
- ✓ March 14, 2008, Washington County Enterprise article – Locals seeking spot on NRD Board.
- ✓ March 18, 2008, Douglas County Post Gazette column written by State Senator Dwite Pedersen – Opinions differ greatly on LB 880
- ✓ March 19, 2008, Omaha World Herald article – Thompson Creek, LaVista erosion plan will target 22 homes
- ✓ March 21, 2008, Omaha World Herald article – Papio trail closed at 84<sup>th</sup>, Grover
- ✓ March 21, 2008, Omaha World Herald Midlands Voices written by Dean Edson, NARD Director – LB 924 would reveal users of saved water
- ✓ March 25, 2008 – Omaha World Herald article – Conflicts lead water czar to retire. Differences with governor cited.
- ✓ March 26, 2008, Omaha World Herald article – Bleed says she left of her own accord. The departed water czar says she is proud of her tenure but could no longer lead effectively because of her differences with Heineman
- ✓ March 27, 2008, Omaha World Herald article – New version of I-300 vital for farm health. Government has conferred special advantages on corporations. It must ensure their use for the common good.
- ✓ March 27, 2008, Omaha World Herald editorial – Bleed departure a blow. Time crucial on water issues; instability, uncertainty are not helpful.
- ✓ March 28, 2008, Omaha World Herald article – Pace picks up on pedestrian bridge

- ✓ March 30, 2008, Omaha World Herald Midlands Voices written by Thomas Knutson, President of the Nebraska State Irrigation Association – State has to ensure ‘new’ water is new
- ✓ March 31, 2008, Omaha World Herald column written by Robert Nelson – Irrigators behind Bleed’s departure
- ✓ March 31, 2008, Omaha World Herald article – ‘Green corridor’ touted. But a Sarpy official says he’s shocked that a draft vision for I-80 lacks a Pflug Road exist.
- ✓ April 1, 2008, Washington County Pilot-Tribune article – NRD bonding bill is dead. ‘Bracket’ motion ensures it won’t pass this year.
- ✓ April 1, 2008, Omaha World Herald article – Plan to OK bonds for dams dries up
- ✓ April 1, 2008, Omaha World Herald article – Loan for water sales cleared
- ✓ April 1, 2008, Omaha World Herald article – Lake Regency needs patch. Application of a special clay will keep water from seeping from the lake into the Papio Creek.

/pt/Winkler/GM Reports/2008/April

## **March 2008**

### **Information & Education Report**

#### **Information**

- ◇ Prepared and staffed Omaha Boat Sports and Travel booth
- ◇ Began work on Water Quality Media Campaign
- ◇ Continued work with PCWP PR activities
- ◇ Began work on Spring SPECTRUM
- ◇ Arranged for media coverage of Omaha Area flood hazard
- ◇ Continued work on Rec Area brochure and signs
- ◇ Began work on PCWP Elected Officials meeting
- ◇ Ordered NRD pencils for use in offices

#### **Education**

- ☐ Continued planning Earth Day Omaha 2008
- ☐ Continued planning for NRD Summer Day Camps
  - Paid for Advertising
  - Registration Flyer Completed
- ☐ Continued planning for Water Works 2008
- ☐ Continued working on GPS curriculum
- ☐ Continued working on Outdoor Classroom Grants, and PF grants
- ☐ Staffed a booth at Girl Scout World Thinking Day—200 scouts stopped by booth
- ☐ Started planning Last Child in the Woods Meeting for the Omaha Metro
- ☐ Held Regional Envirothon, Three teams from the Metro will be attending State at Halsey in May
- ☐ Presented Wildlife Encounters program at Benson West—75 students
- ☐ Presented Wildlife Encounters program to Millard South
- ☐ Presented Bird/Nest program to all Benson West Kindergarteners—100 students reached
- ☐ Presented Owl Pellets program to all Benson West 4<sup>th</sup> graders—120 students reached
- ☐ Planned combined programming with Carter Lake Council/Iowa DNR
- ☐ Presented at Earth Wellness Festival—190 students reached
- ☐ Received training in CS2—InDesign
- ☐ Worked with Millard West on Outdoor Classroom plans
- ☐ Presented Wetlands program at Westwood Elementary—50 students
- ☐ Held LEP training at the Henry Doorly Zoo (13 educators trained)
- ☐ Presented Wetlands program to Millard South
- ☐ Continued working with Nared's PeeWee Palace on their Nature Explore Classroom
- ☐ Worked with Sharon Bargas at Omaha Family Magazine on a story to be published in April on the importance of getting outside
- ☐ Presented at 2-day Aquafest on watersheds –354 students reached

**March, 2008**

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Updated: March 17, 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. (96<sup>th</sup> 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 (N)

- **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 (W)

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

- ✱ Missouri River Trail – Qwest Relocation Payment (P)
- 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 ROW documents (F)
- **Papio Watershed Dam Sites** (Woodward/Petermann):
  - ★ Close w/Pink Family Investments for WP-RB5 (N)
- **Papio Creek Watershed Partnership (Stormwater)** (Woodward):
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites** (Sklenar):
- **Other:**
  - Kennard Wastewater Closing (Woodward) (F)
  - ★ NGP&C Interlocal Agreement on D-4 dredging (Bowen) (W)
  - ★ Rumsey Station wetlands expansion purchase agreement (Cleveland) (W)
  - ★ Blair NRCS/NRD office; prepare closing documents for property (Sklenar) (F)

## MONTHLY UPDATE

MARCH 2008



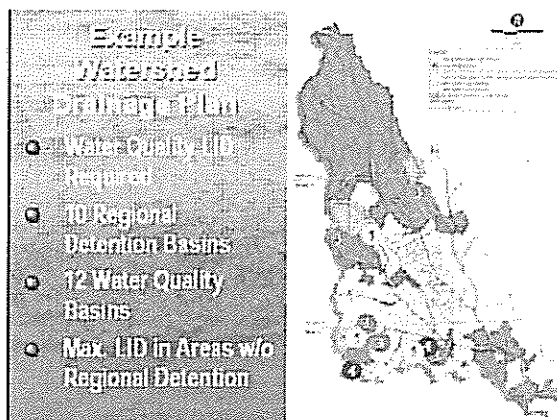
The Partnership met on March 20th. Meeting minutes and other materials are updated regularly on the Partnership's website: [www.papiopartnership.org](http://www.papiopartnership.org).

### Stage IV Watershed Evaluation

The last two public meetings to discuss the results of the Stage IV evaluation were held in early March at Concordia High School and Dana College. A total of 162 people attended the public open houses and of those 11 submitted comments. The comments received focused on the overall watershed plan, taxes and regulations.

After all the meetings were completed, the Partnership was able to analyze the comments received from the public and to review the overall public outreach effort. These inputs, along with the preliminary technical results, helped the Partnership formulate a combination for a potential watershed plan that could be modeled to provide the best water quality and flood reduction in the watershed.

The potential plan recommends water quality LID be implemented everywhere in the watershed along with 10 regional detention basins and 12 water quality basins. All other areas not upstream of an existing or proposed regional detention site were shown as using maximum LID.



HDR quickly modeled this potential plan and presented it at the March 20<sup>th</sup> meeting. Results demonstrated that the combination plan provides slightly more reduction in peak flows over Maximum LID or Regional Detention alone and offers water quality benefits for all areas of the watershed.

One major issue that the Partnership discussed is that FEMA may not acknowledge the flood reduction benefits of LID practices when remapping floodplains. In addition, the need to update or amend the existing Stormwater Management Policies was discussed. These policies will be reviewed in detail at a subcommittee meeting on April 3<sup>rd</sup> and discussed at the next Partnership meeting on April 10<sup>th</sup>.

Tom Price, CDF, a subconsultant to HDR, will be at the April 10<sup>th</sup> Partnership meeting to discuss the LID cost breakdown. He will also present some information to the P-MRNRD Board that evening.

### Public Outreach and Involvement

IMS completed a Public Outreach and Involvement report that compiles the outreach activities of the Partnership to date and summarizes the results of the seven public open houses. A final version of the report should be available in early April.

An Elected Officials meeting is tentatively being planned to update everyone on the potential watershed management plan and to begin discussions on updated Stormwater Management Policies and funding.

### Stormwater Legislation

LB 880 was discussed in the Legislature during the week of March 24<sup>th</sup>. Ultimately, it was bracketed until the last day of the legislative session.

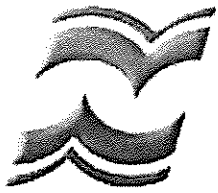
The City of Omaha is proposing an Ordinance revision stating that LID shall be required on all new developments to provide water quality control of the first ½ inch of stormwater runoff. All Partnership members are encouraged to adopt this ordinance change.

The City of 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 subcommittee meeting will be April 3<sup>rd</sup> at 9:00 AM at the Papio-Missouri River NRD office. The next Partnership meeting is scheduled for April 10<sup>th</sup> at 9:00 AM also at the Papio-Missouri River NRD.







## NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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March 7, 2008

**TO: NARD Board, NRD Managers and Conservation Partners**  
**FROM: Dean E. Edson, NARD Executive Director**  
**RE: March 7 NARD UPDATE**

**NARD Officers Elected** – At the Nebraska Association of Resources Districts Board meeting this week, Dan Steinkruger, Lower Platte South NRD, was elected as President of the Nebraska Association of Resources Districts. Mr. Steinkruger served the past two years as NARD Vice-President, and two years as Secretary-Treasurer. Dan is works for the Farm Service Agency in Lincoln. In other officer elections, Mary Ann Wortmann, Lewis and Clark NRD, was elected Vice-President and Joe Anderjaska, Middle Republican NRD, was elected Secretary-Treasurer.

Mr. Steinkruger also appointed Jim Meisner, Twin Platte NRD, to serve as Chairman of the Legislative Committee. Jim has served as chairman for the past 6 years. Mr. Steinkruger also filled the following appointments: Jim Johnson, South Platte NRD, was appointed Chairman of the Information and Education Committee and Judy Ridenour, Lower Loup NRD, was appointed as Chair of the Native Vegetation and Forestry Subcommittee.

At the NRD Managers meeting this week, Dave Clabaugh, Lower Big Blue NRD Manager, was elected to Chair the Managers Committee and Jasper Fanning, Upper Republican NRD Manager, was elected Vice-Chair.

### Nebraska Unicameral Floor Action

**Change terms for members of the Nebraska Game and Parks Commission** – Senator Erdman's Priority bill, **LB 1049**, advanced first round debate this week after lengthy debate. The bill proposes to change the terms for members appointed after January 1, 2009 to a four year term rather than five. The bill also prohibits any person who has served two full terms after January 1, 2009, to be reappointed as a member of the commission. The only amendment adopted was **AM 2047**, filed by Senator Erdman, which outlines that when a member ceases to meet the qualifications for his or her initial appointment, the office shall be immediately vacated and clarifies that an appointment made for the remainder of the term shall not be considered a full term. The other pending motions were withdrawn.

**Payments to Republican River Basin surface water irrigators** – Senator Christensen's priority bill, **LB 1094** (Introduced by Senator Carlson), did not come up for debate this week but is scheduled for debate next week. The committee amendment to the bill, **AM 2036**, strikes all the existing language in **LB 1094** and all references to the Nebraska Resources Development Fund and creates the Water Contingency Cash Fund. However, the committee has worked out another amendment to the bill to address concerns raised about repayment.

Under the new amendment (**AM 2234**), the \$9 million Water Contingency Cash Fund would be established by a transfer from the Cash Reserve Fund and would be administered by the Department of Natural Resources. The natural resources districts that owe for leased water would be required to submit a written request to the department outlining the amount of financial assistance to meet the obligations. The committee amendment also includes an emergency clause, so it would become effective upon final approval of the legislature. The amendment clarifies that the loan could be paid back from the additional taxing authorities granted last year in **LB 701**.

The amendment also includes compromise language worked out on **LB 975**, which 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.

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.

**Watershed enhancement bonding** — Senators may debate **LB 880** next week which authorizes watershed enhancement bonds in the Papio-Missouri River NRD to issue watershed enhancement bonds to pay costs of design, rights-of-way acquisition, construction of multipurpose projects and practices for storm water management. The bonds would be payable from an annual special watershed enhancement bond levy upon the taxable value of all taxable property in the district. The bond levy is includable in the computation of other limitations upon the district's tax levy.

The committee added an amendment (**AM 1787**) that makes three additional changes to address the concerns raised by the Washington County residents 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, and for reasons unknown at this time, the Washington County group changed their minds and decided to still oppose Senator Kopplin's Priority Bill.

**Noxious Weed Program Funding** -- The Agriculture Committee advanced **LB 862** this week with an amendment. The Committee Amendment (**AM1859**) strikes the original provisions and would make the following changes: 1) Provide for a one-time transfer of \$250,000 from the Commercial Feed Act Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund. The original version proposed a \$200,000 transfer. 2) Reduces the commercial feed inspection fee to from 10 cents to 9 cents/ton beginning with fees paid after July 1, 2008. The Committee amendment adds the emergency clause to allow the new rate to be effective before fees scheduled for collection in July of this year take place. The original proposal included a transfer of 2 cents/ton of the tax to the noxious weed programs. 3) Includes provisions of the original bill extending for 2 years the annual transfers from the Weed Book Cash Fund but retains current law that these funds and 25% of weed book sales price are deposited in the Noxious Weed Cash Fund.

**Insurance levy limit bill advanced** – The Revenue Committee advanced **LB 1017** this week to which would make taxes levied for insurance payments subject to the levy limit. The original bill would apply to all political subdivisions. The Committee amendments would limit 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 **LB 1017** under **AM 2134**.

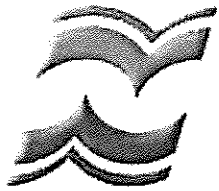
**Natural Resources Committee Priority Bill** – The Natural Resources Committee has not finished work on **LB 924**, the committee priority bill. Late this week, interested parties were trying to work with the senators to develop language dealing only with procedures to account for groundwater offsets. Several versions of the language were offered, but a consensus could not be reached. The most recent unfounded concern raised was that the NRDs might circumvent an Integrated Management Plan (IMP) by accounting for a retired use. There is no possible way for an NRD to circumvent an IMP by retiring a water use. The natural resources districts are required by law to develop programs to manage water resources, assist with compact and interstate agreement compliance, while also maintaining the local economy. The language to account for increases to stream flows through surface leases has been dropped from formal discussion.

**Use of water on co-mingled acres** – The NRDs, DNR and surface water irrigators were able to develop a compromise for language on **LB 975**, a bill introduced by Senator John Wightman of Lexington. The Natural Resources Committee indefinitely postponed the original bill but incorporated the compromise language into **AM 2234** to **LB 1094**.

**Allow for new water diversions during times of flooding.** The Natural Resources Committee indefinitely postponed **LB 802** this week. Senator Loudon's 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.

NARD Bill Summary Tracking Sheet							Last Updated: 03/07/08	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	Huckins		Monitor	Appropriations		Held in Committee		
78	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	Lien 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	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending	
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources		Select File	Incorp. into AM 938 to LB 701	
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs		Held in Committee		
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		
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		IPP	AM 1579 - Pending	
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	General File		
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	General File		
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		

NARD Bill Summary Tracking Sheet							Last Updated: 03/07/08	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	General File	AM1894 - Pending	
799	Change provision relating to applications to permit transfer of water appropriations	Louden		Support	Natural Resources	2/6/2008	IPP		
800	Change intentional underground water storage permit provisions	Louden		Support, Clarify language	Natural Resources	2/6/2008	IPP		
801	Add a requirement for integrated management plans	Louden		Support, but Oppose AM 1629	Natural Resources	2/6/2008	Committee	AM1629 - Pending	
802	Provide for water diversion during times of flooding	Louden		Monitor	Natural Resources	2/20/2008	IPP		
882	Change noxious weeds funding provisions	Agriculture Committee		Support	Agriculture	2/5/2008	General File	AM 1859-Pending	
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008	General File	AM1787 - Pending	
881	Impose an excise tax on production of ethanol	Sluthman		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	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		
982	Change public body meeting provisions of the Open Meetings Act	Preister	Speaker	Monitor	Government	2/13/2008	Select File	Advanced to E & R engrossment	
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	Committee		
1017	Change provisions relating to tax levies members of risk management pools	Raites		Monitor	Revenue	2/22/2008	General File	AM2134-Pending	
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	Committee		
1048	Change terms for members of the Nebraska Game and Parks Commission	Erdman	Erdman	Monitor	Natural Resources	2/20/2008	Select File	AM2109-Withdrawn AM2047 Adopted	
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman		Monitor	Natural Resources	2/20/2008	Committee	AM2035 Withdrawn	
1051	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	Oppose, but Support AM 1808	Natural Resources	2/13/2008	General File	AM1808 - Pending AM2036- Pending	
1127	Change permitted uses of the Water Resources Cash Fund	Christensen		Support	Natural Resources	2/13/2008	Committee		
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen		Support	Natural Resources	2/13/2008	General File	AM1895- Pending	
1132	Change provision relating to river-flow enhancement bonds.	Christensen		Support	Natural Resources	2/13/2008	IPP		
1150	Appropriate funds to the Department of Natural Resources	Langemeier		Support	Appropriations	2/6/2008	Committee		
1161	Appropriate funds to the Department of Natural Resources	Karpisek		Monitor	Appropriations	2/6/2008	Committee		
1164	Adopt the Wildlife Damage Act.	Lautenbaugh		Monitor	Natural Resources	2/21/2008	IPP		



# NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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March 14, 2008

**TO: NARD Board, NRD Managers and Conservation Partners**  
**FROM: Dean E. Edson, NARD Executive Director**  
**RE: March 14 NARD UPDATE**

**Republican Basin Meeting** – Republican River Compact representatives from Nebraska, Kansas and Colorado met in Kansas City this week to discuss compliance issues. Kansas representatives had been claiming that Nebraska had used more than its share of the water in 2005 and 2006 and asked for a response from Nebraska. With the assistance of the Nebraska Attorney Generals Office, NRDs and independent consultants, the Department of Natural Resources was able to provide answers to many of the questions raised. Also, due to the action of the Nebraska Attorney General's office and outside counsel, Don Blankenau, the states will not be going into the next phase of the dispute (arbitration) right away as Kansas officials have not identified their incurred damages or placed a value on such. The states will continue discussions in the near future.

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.

## Nebraska Unicameral Floor Action

**Payments to Republican River Basin surface water irrigators** – Senator Christensen's priority bill, **LB 1094** (Introduced by Senator Carlson), advanced to Select File 36-0 this week. The first committee amendment to the bill, **AM 2036**, was defeated in favor of the revised amendment (**AM 2234**) offered by **Senator Carlson** which was adopted 35-0. This revised amendment also strikes all the existing language in **LB 1094** and all references to the Nebraska Resources Development Fund and creates the Water Contingency Cash Fund.

Under the revised amendment (**AM 2234**), the \$9 million Water Contingency Cash Fund would be established by a transfer from the Cash Reserve Fund and would be administered by the Department of Natural Resources. The natural resources districts that owe for leased water would be required to submit a written request to the department outlining the amount of financial assistance to meet the obligations. The committee amendment also includes an emergency clause, so it would become effective upon final approval of the legislature. The amendment clarifies that the loan could be paid back from the additional taxing authorities granted last year in **LB 701**.

The revised amendment also includes compromise language worked out on **LB 975**, which 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.

The bill is scheduled for Select File debate on Monday. There are two pending amendments to the bill which includes **AM 2318** from **Senator Loudon**. This amendment directs the Revisor of Statutes to

place sections of the bill within Chapter 2, article 32, the groundwater management statutes. 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 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.

**Public meeting change approved** – On a 46-0 vote, senators gave final approval this week to **LB962** which modifies the Open Meetings Act. The bill, sponsored by Sen. Don Preister of Bellevue, would prohibit a public body from requiring that members of the public be placed on a meeting's agenda prior to being allowed to speak on agenda items. The bill has been sent to Governor Heinemann for his consideration.

**Natural Resources Committee packaged bill advance** – The Legislature advanced **LB 798** to Select File this week after adopting the committee amendment (**AM 1894**) which included 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. Included in the amendment 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 amendment 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, but it was rejected by Chairman Loudon as he wanted no oversight by the NRDs on the fee.

**Watershed enhancement bonding** — Senators may debate **LB 880** next week which authorizes watershed enhancement bonds in the Papio-Missouri River NRD to issue watershed enhancement bonds to pay costs of design, rights-of-way acquisition, construction of multipurpose projects and practices for storm water management. The bonds would be payable from an annual special watershed enhancement bond levy upon the taxable value of all taxable property in the district. The bond levy is includable in the computation of other limitations upon the district's tax levy.

The committee added an amendment (**AM 1787**) that makes three additional changes to address the concerns raised by the Washington County residents 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 Washington County group changed their minds and decided to still oppose Senator Kopplin's Priority Bill. Senator Dwite Peterson of Elkhorn has introduced an amendment on their behalf (**AM 2101**) to require public access to a pool suitable for recreation purposes that has more than 5 percent cost-share from the NRD. Current laws sets the limit at 20 percent, which still allows the NRDs to cost-share in rural areas and leave the land in control of the existing landowner. The amendment filed on behalf of the Washington County would require most of these lands to be now open to the public.

## 2008 NARD Washington DC Trip Report

Forty-seven NARD members, representing 13 NRDs, were in Washington DC this week attending the annual NARD Washington DC Trip. After participating in the two-day sessions to learn more about the issues of concern at the national level, the NARD members spent a day on the hill visiting the Nebraska Representatives and Senators. Following is a brief summary of the sessions:

- **Secretary Mike Johanns** – Even though he is no longer the Ag Secretary, Mike Johanns was in Washington D.C. and was able to find time in his schedule to visit with fellow Nebraskans. The former Secretary talked at length about the evolution of the proposed farm bill. After holding forums in 48 of the 50 states the Department of Agriculture delivered a Farm Bill to Congress. However, there is much disagreement on the cost of the program.

The Administration had proposed a \$5 billion increase from the base line spending. The House includes \$10 billion increase and the Senate proposed \$15 billion increase. Johanns reported other sticking points have been payment limits, and the pressure to increase the funding for nutrition programs in the bill.

Conservation will be a huge piece of the new farm bill, with more money for renewable energy and specialty crops. Unless an extension of the existing farm bill is passed, producers will fall back to a 1949 Farm Bill, which does not fit well with the current ag economy and practices. The former Secretary thought Congress would continue to work out the new bill and at least adopt an extension.

- **NRCS Updates** –Tom Christensen from USDA/NRCS reported on technical assistance needs within USDA-NRCS. Since 1985, program funding has increased 500%, but the funding for staff has decreased by 15%. At the same time, the natural resource program requirements have become more technical in nature, compounding the work load requirements. Christensen reported that because of the staffing and technical assistance shortage, another challenge is getting the contracts implemented once the money has been allocated.

**Steve Chick** provided a status report on Nebraska's conservation programs (EQIP, WHIP, WREP, CSP) and state technical committee recommendations.

- **Updates from National Organizations** – **Kris Polly** from the Bureau of Reclamation discussed the need for all the different groups to work together to work out water allocation and shortage problems. He also stressed that States need to make the decision on water management locally, and then bring it to the federal government for assistance in implementing those local plans.

**Tom Donnelly**, National Water Resources Association, reported on the aging infrastructure problem for dams and water delivery systems. However, he stressed that federal money is going to be difficult to obtain in light of the political climate in Washington. Donnelly provided a report on the Clean Water Restoration Act

(HR2421/S1662). This legislation will remove the navigation nexuses, and basically federalizing all the water in the county. He reported this is the biggest threat to states water laws and industries reliant on water throughout the nation.

**Krysta Hayden**, National Association of Conservation Districts Executive Director mentioned that the farm bill will include an increase in conservation spending. She highlighted the need for CTA-technical assistance. She also stated that water and urban encroachment will be two key issues the nation will have to deal with as water is not just a western problem anymore because of the droughts.

**Mark Limbaugh**, from the Ferguson Group, reported that local, state and federal governments will have to deal with water issues. He pointed out problems of aging facilities, population growth, environmental demands, recreation, and climate change, are all increasing the demands on water. To address these demands, new funding sources and solutions will have to be found.

**Alan Freemyer**, Jim Hensen and Associates, provided an update on the funding for the Platte River Cooperative Agreement. His firm has been retained by two of the states involved in the compact (Colorado and Wyoming) to pursue funding for the program. He reported that funding has passed the House but hit a snag in the Senate.

**Mary-Ann Fowler**, Rails-to-Trails Conservancy, provided an update on the conversion of old railways into trails, including legal challenges.

**Brent Mecham** from the Irrigation Association provided an update of the irrigation technology, promoting efficient irrigation, and conserving water. New groundwater irrigation systems have improved tremendously over the last 15 years and new technologies are always evolving. He reported that 23 states are anticipating water shortages by 2013, which will push demand for greater water efficiency in both rural and urban areas.

**US Army CORP of Engineers** -- Larry Prather, US ARMY CORP of Engineers, went over some budget updates and a summary of Water Resources Development Act. He really stressed the need for the states to take the lead on projects and the CORP to provide the assistance.

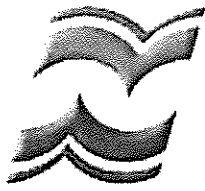
**Bob Weaver**, Attorney, Kelly and Weaver PC, reviewed some new legislation that will come up next year. The National Clean Water Trust Fund, proposed Congressman Earl Blumenauer of Oregon, would set up a revolving fund for state water management programs including integrated water management programs, water conservation and water quality assessments. The measure would have dedicated funding sources including container fees on bottled beverages, taxes on flushable products, taxes on agriculture chemicals, higher penalties on industrial discharges.

**Nebraska Delegation** -- After attending the traditional Nebraska Breakfast at the Dirksen Building, the conference attendees finished the conference by meeting with all Nebraska House and Senate leaders and/or their staff that work on natural resources issues. All reported on the difficulties in passing the Farm Bill and other important funding needs under the current election climate. All members mentioned that authorization to extend the current Farm Bill would likely be passed.



NARD Bill Summary Tracking Sheet							Last Updated: 03/14/08		Committee	Hearing Date	Status	Amendments
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Committee						
13	New procedures and oversight for interlocal agreements under interlocal Cooperation Act	Mines		Oppose	Government				Government		IPP pending, Laid Over	AM71 - Adopted MO0003 - Failed MO0009 - Pending
17	Prohibit NRD dual office holding	Mines		Oppose	Government				Government		IPP pending, Laid Over	
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary				Judiciary		General File	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations				Appropriations		General File	
78	Recoverable amounts	Nantkes		Oppose	Judiciary				Judiciary		Committee	
105	Nebraska Forest Service funding	Louden		Support	Appropriations				Appropriations		Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government				Government		Committee	Amend to LB 321 in 2007
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary				Judiciary		Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources				Natural Resources		Approved by the Governor	AM13 - Lost AM1540 - Adopted ER8139 - Adopted AM123 - Adopted AM 156 - Withdrawn AM398 - Pending
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources				Natural Resources		Select File	
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources				Natural Resources		Select File	Inscrip. into AM 598 to LB 701
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs				Urban Affairs		Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government				Government		General File	AM576-Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations				Appropriations		General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary				Judiciary		IPP	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue				Revenue		IPP Motion Pending	AM 825 - Adopted AM684 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				Natural Resources		IPP	
534	Funding storm water programs	Schimek		Support	Natural Resources				Natural Resources		IPP	AM 1579 - Pending
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary				Judiciary		IPP	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary				Judiciary		IPP	
625	Open Meetings Act training sessions	Firsch		Monitor	Government				Government		Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources				Natural Resources		IPP	
724	Change fees under the Remedial Action Plan Monitoring Act	Nat. Res. Comm.		Monitor	Natural Resources				Natural Resources	1/23/2008	Select File	
725	Provide Grant under the Waste Reduction and Recycling Incentive Act	Nat. Res. Comm.		Monitor	Natural Resources				Natural Resources	1/23/2008	General File	AM1710 - Pending
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.		Support	Natural Resources				Natural Resources	2/22/2008	Select File	
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen		Support	Agriculture				Agriculture	2/5/2008	Committee	
790	Change buffer strip reimbursement provisions	Erdman		Support	Agriculture				Agriculture	1/22/2008	Signed into law	

Bill or CA	NARD Bill Summary Tracking Sheet	Sponsor(s)	Priority	POSITION	Committee	Hearing Date	Status	Amendments
								Page 2
798	Change provisions relating to irrigation water reuse pits	Louden		Support	Natural Resources	2/6/2008	Select File	AM1894 - Adopted
799	Change provision relating to applications to permit transfer of water appropriations	Louden		Support	Natural Resources	2/6/2008	IPP	
800	Change intentional underground water storage permit provisions	Louden		Support, but language clarify	Natural Resources	2/6/2008	IPP	
801	Add a requirement for integrated management plans	Louden		Support, but Oppose AM 1629	Natural Resources	2/6/2008	Committee	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	General File	AM 1859-Pending
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008	General File	Pending: AM1787, AM2288, AM2101.
881	Impose an excise tax on production of ethanol	Stuthman		Monitor	Revenue	1/30/2008	IPP	
922	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	Committee	
945	Change authority of natural resources districts	Poderson		Oppose	Natural Resources	1/25/2008	IPP	
946	Impose an excise tax on production of ethanol	Burling		Monitor	Revenue	1/30/2008	IPP	
962	Open Meetings Act	Preister	Speaker	Monitor	Government	2/13/2008	Presented to Governor	
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	Committee	
1017	Change provisions relating to tax levies	Ralkes		Monitor	Revenue	2/22/2008	General File	AM2134-Pending
1040	members of risk management pools	Louden		Monitor	Revenue	1/30/2008	IPP	
1040	Impose an excise tax on production of ethanol			Support	Natural Resources	2/7/2008	Committee	
1041	Protect certain water purchased or leased for river flow enhancement	Christensen						Defeated: AM2109, AM2035. Adopted: AM2047. Pending: AM2295.
1049	Change terms for members of the Nebraska Game and Parks Commission	Erdman	Erdman	Monitor	Natural Resources	2/20/2008	Select File	
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman		Monitor	Natural Resources	2/20/2008	Committee	
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	Oppose, but Support AM 1808	Natural Resources	2/13/2008	General File	Pending AM2234, AM2325, AM2318. Defeated: AM1808, AM2036. Adopted: AM2234, AM2047.
1127	Change permitted uses of the Water Resources Cash Fund	Christensen		Support	Natural Resources	2/13/2008	Committee	
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen		Support	Natural Resources	2/13/2008	General File	AM1895-Pending
1132	Change provision relating to river-flow enhancement bonds.	Christensen		Support	Natural Resources	2/13/2008	IPP	
1150	Appropriate funds to the Department of Natural Resources	Langemeier		Support	Appropriations	2/6/2008	Committee	
1161	Appropriate funds to the Department of Natural Resources	Karpisek		Monitor	Appropriations	2/6/2008	Committee	
1164	Adopt the Wildlife Damage Act.	Lautenbaugh		Monitor	Natural Resources	2/21/2008	IPP	



## NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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March 20, 2008

**TO: NARD Board, NRD Managers and Conservation Partners**  
**FROM: Dean E. Edson, NARD Executive Director**  
**RE: March 20 NARD Update**

**National Flood Safety Awareness Week** -- March 17-21 is National Flood Safety Awareness Week. Flooding is a coast-to-coast threat within the United States. National Flood Safety Awareness Week is intended to highlight some of the many ways floods can occur, the hazards associated with floods, and what people can do to save life and property. According to the National Weather service, flooding causes more damage in the United States than any other severe weather related event, an average of \$4.6 billion a year in the past 20 years (1984-2003). Here are a couple of Nebraska stories.

- Recent flash flooding in Cape Girardeau, Missouri, points to a need in the Omaha metro area for additional measures to prevent the potential loss of life and millions of dollars in property damage. Over 10 inches of rain fell Tuesday and Wednesday in Cape Girardeau within a 36 - hour time period. "If an intense rainfall of that amount hits the Omaha metro area it will be devastating," said Marlin Petermann, NRD Asst. General Manager. "Like Cape Girardeau, the Papillion Creek Watershed area in Douglas and Sarpy Counties is susceptible to flash flooding because of geography and increasing urbanization. Our current reservoirs and levee system would not be sufficient to hold back that amount of water."
- In the spring of 1964, a severe thunderstorm stalled over eastern Nebraska and dumped more than eight inches of rain in Omaha, Bennington, Millard, Ralston and Papillion. That storm caused the greatest flood on record in the Papillion Creek Watershed. The flash flooding caused the loss of seven lives. The growth of the Omaha Metro Area since 1964 has worsened the threat of flooding. The Papio-Missouri River NRD is attempting to address the flooding threats in that river basin through LB 880.
- Last year, a report released by the Army Corps of Engineers estimated that the Central Platte NRD Wood River flood control project in southern Grand Island saved the community \$23.7 million in potential flood damage from the 2005 flood. On May 11 and 12, 2005, Grand Island received 7.21 inches of rain, according to the National Weather Service in Hastings. The heavy rain caused extensive

flooding throughout Grand Island, but damages were minimal because the control structure was in place. The Wood River project came about because of the millions of dollars in property damage from flooding in Grand Island in 1967.

On average, according to the National Weather Service, more people are killed by flooding than by any other single severe weather hazard, including tornadoes, lightning and hurricanes. Most of those deaths occur at night, when it is more difficult to recognize flood dangers, as well as when people are trapped in vehicles. It is a statutory responsibility of the NRDs to address flood control issues in Nebraska.

**Flood Control Funding** — The legislative agenda still includes **LB 880** which authorizes watershed enhancement bonds in the Papio-Missouri River NRD to issue watershed enhancement bonds to pay costs of design, rights-of-way acquisition, construction of multipurpose projects, flood control structures and practices for storm water management. However, a group from Washington County is attempting to prevent flood control structures that save lives and property.

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. Senator Dwite Peterson of Elkhorn has introduced an amendment on their behalf (AM 2101) to require public access to a pool suitable for recreation purposes that has more than 5 percent cost-share from the NRD. Current laws sets the limit at 20 percent, which still allows the NRDs to cost-share in rural areas and leave the land in control of the existing landowner. The amendment filed on behalf of PVPA would require most of these lands to be now open to the public.

The Papio-Missouri River NRD has met several times with the PVPA in another attempt to address concerns, but the group continues to filibuster the bill by offering other amendments to consider. Some of the demands made by the PVPA 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 landownership next to water structures, 4) mandate all cities and other zoning authorities prohibit residential or commercial development in a 100-year flood plain. PVPA representatives have even claimed that the NRDs allowed the Nebraska Department of Roads to use the NRD eminent domain authorities to take land for a road. Needless to say, a resolution to the concerns raised by PVPA could not be reached.

**Water accounting bill stalls** – The Natural Resources Committee priority bill, **LB924**, will remain in committee and not be debated on the floor this year. The bill proposed a transparent, open to the public, accounting system for water saved by NRDs through regulations, purchases and leases. The NRDs in the Platte River Basin need to reduce consumptive use and increase stream flows in the basin to meet the terms of the Platte River Cooperative Agreement. As the law stands now, any water placed in the river to meet those requirements can be diverted by surface water users and consumed rather than going toward program needs.

In the Republican River Basin, the NRDs have reduced consumptive use and leased water to assist the State of Nebraska with compact compliance. However, there is no transparent, open process allowed in current law to account for the water savings. Last year under provision of LB 701, the NRDs in the basin leased over 40,000 acre-feet of water to assist with compact compliance. However, only about one-half of that water was delivered to Kansas by the Nebraska Department of Natural Resources. The department directed a large portion of the leased water to existing Nebraska surface water users.

**LB 924** proposed to create an open, transparent accounting system for water savings, but it was opposed by surface water irrigators and environmental groups.

Even with the lack of full credit for the NRD water leases, 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. Full credit for the water leases could have erased more of the deficit from previous years.

**Legislature on Easter Recess** -- Nebraska state senators are off for Easter Recess March 21-24. The Legislature will resume business on Tuesday, March 25th, which will mark the 46th Day of the 60-day session. When the Legislature returns next Tuesday, debate on the death penalty will begin. The session is scheduled to adjourn on April 17th.

**Biennium Budget** -- State senators advanced the budgets bills this week to Final Reading. The recent economic forecast reduced potential spending on numerous programs. The committee eliminated the Governor's proposed increase of \$75 million for property tax relief.

In addition, the Appropriations Committee reduced the certified school aid by \$62.1 million. While a reduction in the original certified amount, it still reflects a 9.1% increase over the FY07-08 level, with an additional \$53 million over 2007. Although these "base" savings are continued into the next biennium, the growth in the following biennium is still high as noted above with the three year average at 10.8%.

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 Committee 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 is March 31st. The following chart shows funding levels for natural resources programs.

**Funding for Natural Resources Programs (Approved in 2007)**

Program	Levels Approved in the 2007 Session (no changes in 2008)	
	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

**CSP Signup Announced --** Agriculture Secretary Ed Schafer announced a sign-up for the Conservation Security Program (CSP) that will be available starting on April 18 to approximately 64,000 potentially eligible farms and ranches in 51 watersheds covering more than 23.7 million acres. CSP is a voluntary conservation program that supports ongoing stewardship of private, agricultural working lands and rewards those producers who are meeting the highest standards of conservation and environmental management on their operations.

In Nebraska the CSP sign up will occur in the Middle Republican watershed, which includes portions of Franklin, Harlan, Kearney, Nuckolls, Phelps, Thayer and Webster counties in Nebraska. The sign up area will also include portions of Jewell, Phillips, Smith and Republic counties in north central Kansas. The entire watershed covers nearly 1.4 million acres and will be available to an estimated 1,152 eligible producers in Nebraska. For more details about the sign up area visit the Nebraska NRCS web site at <http://www.ne.nrcs.usda.gov/CSP.html>.

**Future NRD Employee Arrives --** Jacob Merle Fanning was born on Saint Patrick's Day 2008. The healthy young lad was 9 lbs, 6 oz and 21.5" long. Congratulations to Jasper and Tara Fanning. Jasper is the Manager of the Upper Republican NRD.

NARD Bill Summary Tracking Sheet						Last Updated: 03/20/08	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	
78	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 ERB139 - Adopted
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		Select File	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources		Select File	Incorp. into AM 936 to LB 701
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs		Held in Committee	
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 AM864 to AM825 - Lost AM924 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	Select File	
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	Select File	
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	

NARD Bill Summary Tracking Sheet							Last Updated: 03/20/08		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	Select File	AM1894 - Adopted ER8200- Filed		
799	Change provision relating to applications to permit transfer of water appropriations	Louden		Support	Natural Resources	2/6/2008	IPP	Incorp. into AM 1894 to LB 798		
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	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	General File	AM 1859-Pending Pending: AM1787,		
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008	General File	AM2288, AM2101.		
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	Raikles		Monitor	Revenue	2/22/2008	General File	AM2134-Pending		
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	Select File	Defeated: AM2109, AM2035, Adopted: AM2047, Pending: 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			
1094	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson	Christensen	Oppose, but Support AM 1808	Natural Resources	2/13/2008	Final Reading with LB 1094 A	Pending AM2234. Defeated: AM1808, AM2036, Adopted: 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	Natural Resources	2/21/2008	IPP			





## NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

601 S. 12<sup>th</sup> St. Suite  
201  
Lincoln, NE 68508  
Web:  
[www.nrdnet.org](http://www.nrdnet.org)

March 28, 2008

**TO: NARD Board, NRD Managers and Conservation Partners**  
**FROM: Dean E. Edson, NARD Executive Director**  
**RE: March 28 NARD Update**

**Dunnigan New DNR Acting Director** – Gov. Heineman has named DNR Deputy Director Brian Dunnigan as Acting Director of the Department of Natural Resources, replacing the retired director Ann Salomon Bleed. Dunnigan has been the Deputy Director since 2007. Previously, he had been Acting Deputy, supervising DNR's Dam Safety, Flood Plain Management and Photogrammetry divisions. Dunnigan has spent more than 20 years with DNR. The appointment follows Ann Salomon Bleed's voluntary immediate retirement on Monday, March 24th.

**Flood Control Funding** — The Legislature debated **LB 880** for about an hour this week before the agenda required them to move on to other subject matter. No action was taken on any of the amendments pending on the bill. As of this morning, twelve amendments have been filed to the bill. The legislation proposes a way to finance design, rights-of-way acquisition, and construction of multipurpose projects, flood control structures and practices for storm water management.

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 have not 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 landownership next to water structures, 4) mandate all cities and other zoning authorities prohibit residential or commercial development in a 100-year flood plain.

**Game and Parks Commission bill advances** – An amendment offered by **Senator Erdman, AM 2296, to LB 1049** was adopted this week and the bill was then advanced to Final Reading. The amendment strikes all existing language and inserts the following new language. 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.

**Electronic recycling advances** -- Senators advanced **LB 986** to Select File this week, which proposes the Electronic Recycling Act. Electronic device is defined in the bill to means a computer, video display device, or television. The bill establishes fees on the manufacturer of these devices based upon the volume sold in Nebraska. The fee range is as

follows: \$1,000 for 500 to 1,000 electronic devices; \$5,000 for over 1,000 to 2,500 electronic devices; \$7,500 for over 2,500 electronic devices.

The bill also requires manufactures to develop a plan for recycling and file it with the Department of Environmental Quality. Up to 50 percent of the fee would be refunded if an approved plan is filed with the department. 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 comes up for Select File debate, four amendments have already been filed for debate. **Senator Loudon** has filed two amendments including 1) **AM 2522** which would impose an additional fee of \$2.00 per electronic device sold by retailers; and 2) **AM 2555**, would strike the manufacturers fee refund, if they have an approved recycling plan. **Senator Kopplin** filed two amendments to the bill including: 1) **AM 2535** which would terminate the program 3 months after adoption of a federal program; and 2) **AM 2536** which would redirect 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.

**Biennium Budget** -- State senators gave final approval to the budgets bills this week. 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 is 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)**

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

**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** 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.

NARD Bill Summary Tracking Sheet							Last Updated: 03/28/08	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	Huckins		Monitor	Appropriations		Held in Committee		
78	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	Schinek		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	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending	
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources		Select File	Incorp. into AM 938 to LB 701	
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs		Held in Committee		
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 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	Schinek		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	Pfirsch		Monitor	Government		Failed to Advance From GF	AM258 - 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	Select File		
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	Select File		
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen		Support	Agriculture	2/5/2008	Committee		
760	Change buffer strip reimbursement provisions	Erdman		Support	Agriculture	1/22/2008	Signed into law		

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799	Change provision relating to applications to permit transfer of water appropriations	Louden		Support	Natural Resources	2/6/2008	IPP	Incorp. into AM 1894 to LB 798		
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	AM1629 - Pending		
802	Provide for water diversion during times of flooding	Louden		Monitor	Natural Resources	2/20/2008	IPP			
882	Change noxious weeds funding provisions	Agriculture Committee		Support	Agriculture	2/5/2008	General File	AM 1859-Pending		
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008	General File	12 Amendments Pending		
881	Impose an excise tax on production of ethanol	Stultman		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			
952	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	Held in Committee			
1017	Change provisions relating to tax levies	Raikes		Monitor	Revenue	2/22/2008	General File	Incorp. into AM 2565 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	Select File	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			
1094	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson	Christensen	Oppose, but Support AM 1808	Natural Resources	2/13/2008	Final Reading with LB 1094 A	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	Natural Resources	2/21/2008	IPP			

Draft: April 3, 2008

**Papio-Missouri River  
Natural Resources District  
Board of Directors Meeting  
April 10, 2008  
8:00 p.m.**

**AGENDA**

\* = Board action required

\*\* = Items to be approved with adoption of Consent Agenda

**PLEDGE OF ALLEGIANCE**

1. **Meeting Called to Order** -- Chairperson Thompson
2. **Notification of Open Meetings Act Posting and Meeting Procedure**—  
Chairperson Thompson
3. **Quorum Call**  
  
\*\* A. Excused Absences
- \*4. **Adoption of Agenda**
- \* 5. **Adoption of Consent Agenda** (All agenda items indicated by a double asterisk will comprise the consent agenda and will be acted on in a single motion. Items may be deleted from the consent agenda by request of any Board member.)
6. **Proofs of Publication of Meeting Notice**
- \*\*7. **Approval of Minutes:**  
  
A. Approval of March 13, 2008 Board Meeting Minutes  
B. Approval of March 12, 2008 Dakota County Rural Water Meeting Minutes
8. **Agency/Association Reports and Presentations:**  
  
A. Presentation on Cole Creek Restoration Project – Dave Lampe, Lamp, Ryneanson & Associates, and Nina Cudahay, City of Omaha

- B. Natural Resources Conservation Service Report – Verlon Barnes, NRCS District Conservationist
- C. Nebraska Association of Resources Districts – Director Tesar
- D. Lower Platte River Corridor Alliance Report – Rodney Verhoeff
- E. Legislative Report – Rich Lombardi
- F. Nebraska Natural Resources Commission Report – Vince Kramper
- G. Nebraska Environment Trust Fund Report – Vince Kramper

**9. Subcommittee Reports:**

- \*A. Finance, Expenditures and Legal Subcommittee (April 8, 2008) – Director John Conley
  - 1. P-MRNRD 2007 Audit
  - 2. Review and Recommendation on Rumsey Station Wetland Project – Eagle Ridge Development Company Property – Martin Cleveland
  - 3. Review and Recommendation of Policy regarding Requests for Information – John Winkler and Paul Peters
- \*B. Programs, Projects & Operations Subcommittee (April 8,, 2008) – Director John Conley
  - 1. Proposal to House UNL Extension in Dakota County
  - 2. Update on ENWRA Helicopter Electromagnetic (HEM) Survey
  - 3. Fontenelle Nature Association Request to Cost Share on Watershed Erosion Study
  - 4. FY 09 Urban Cost Share Program Applications
    - 1. Recreation Area Development
    - 2. Trails Assistance Program
    - 3. Urban Drainageway Program
    - 4. Urban Conservation Assistance Program
  - 5. Papillion Creek Bank Stabilization Project Bids

\*C. Personnel, Legislative and Public Affairs Subcommittee (April 8, 2008) – Director Schwope

1. P-MRNRD Wage and Salary Administration Program for 2008

- a. Wage and Salary Pay Ranges (Midpoints)
- b. Wage and Salary Administration Guide (“n” Factor – 4.8%)

2. GM Evaluation *[Executive Session, if needed]*

3. Establish GM Goals *[Executive Session, if needed]*

**\*10. Treasurer's Report --** Director John Conley

- A. District
- B. Dakota County Rural Water Supply
- C. Washington County Rural Water Supply #1
- D. Washington County Rural Water Supply #2
- E. Thurston County Rural Water Supply
- F. Elkhorn River Improvement Project Area
- G. Elkhorn River Breakout Project
- H. Elk/Pigeon Creek Drainage Project
- I. Western Sarpy Drainage Improvement Project Area

**11. Chairperson's Report –** Chairperson Thompson

- A. Appointment of Legislative Representative Ad Hoc Consultant Selection Subcommittee

**12. General Manager's Report –** John Winkler

- A. I&E Report
- B. Personnel/Miscellaneous Items
- C. Report on Purchases – Construction Services, Professional Services, Personal Property
- D. Current and On-Going Programs – P-MRNRD Legal Counsel
- E. Papillion Creek Watershed Partnership Report

F. Legislative Issues:

1. NARD Legislative Updates

G. News Clips

**13. Informational Items:**

A. Future Meetings:

April 8, 2008	P-MRNRD Subcommittee Meetings
April 10, 2008	P-MRNRD Board Meeting
<b>April 19, 2008</b>	<b>Earth Day Omaha, Elmwood Park</b>
April 29, 2008	Lower Platte River Corridor Alliance Quarterly Meeting, 9:30 p.m., Nebraska Game and Parks Commission, Lincoln, NE
May 2-3, 2008	Nebraska Trails Conference, Grand Island, NE
May 6-7, 2008	Water Works, Schramm Aquarium
May 6, 2008	P-MRNRD Subcommittee Meetings
May 8, 2008	P-MRNRD Board Meeting
May 26, 2008	Memorial Day Holiday – P-MRNRD Offices Closed

B. Next Meeting – April 10, 2008

**14. Adjournment**

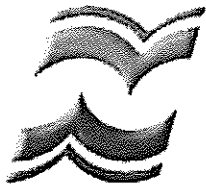


**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT  
BOARD MEETINGS  
RIGHT TO SPEAK**

The following rules and regulations shall govern the conduct and privilege to speak of persons attending open meetings of the District:

- A. Prior to the convening of the meeting, the General Manager shall post an agenda at the door of the meeting room.
- B. A Request to Address the Board sheet shall be posted with the agenda and citizens wishing to speak at the meeting shall so indicate on this sheet and specify the agenda item or items on which they desire to be heard.
- C. During the consideration of each agenda item the Chairperson shall call upon citizens who have indicated a desire to be heard on such item, in the order in which the Chairperson shall determine. The Chairperson, in his or her discretion, may also allow other citizens to be heard after all those who have given prior indication of a desire to speak have been heard on such item.
- D. Every citizen speaking at the meeting shall begin his or her remarks by stating his or her name and postal address.
- E. All citizens' remarks shall be directed to the Chairperson who shall determine by whom any appropriate response shall be made.
- F. The Chairperson may limit or allot the time allowed for the remarks of citizens called upon to be heard, and may rule any such citizen out of order for exceeding such limitation, or for remarks which are repetitious or irrelevant.

Papio-Missouri River Natural Resources District Directors' Policy Handbook  
Operations Policy 4.8 Board Meetings - Right to Speak  
[December 5, 1986]



## NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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April 4, 2008

**TO: NARD Board, NRD Managers and Conservation Partners**  
**FROM: Dean E. Edson, NARD Executive Director**  
**RE: April 4 NARD Update**

**Federal Court rules against mandatory ESA consultation** – Last week the Federal District Court in Arizona ruled that federal agencies that provide cost share are not required to consult under Section 7 of the Endangered Species Act. The federal agencies involved in the case (HUD, Veterans Affairs, and the Small Business Administration) provide financial assistance in the form of loan repayment guarantees to individuals and small businesses. The Center for Biological Diversity (CBD) - one of the most litigious environmental groups in the country - commenced a law suit against the federal agencies for failing to consult under Section 7 on impacts to endangered species resulting from the financial assistance. CBD argued the financial assistance allows more residential and commercial development and thus more domestic ground water pumping to occur in the Sierra Vista, Arizona area, affecting certain listed species.

The Federal District Court of Arizona rejected CBD's arguments on two grounds. First, the federal agencies lack discretion to take actions to benefit the listed species. Each agency is required to provide the assistance, if the applicant meets certain threshold criteria, leaving the agency without authority to deny the financial assistance to protect the listed species. Second, the court found no causal link between the financial assistance and the development affecting the listed species.

Both of these holdings are consistent with prior federal case law, and reinforce the arguments made to the Nebraska Department of Natural Resources by NRDs and others regarding the annual fully appropriation determination for the Lower Platte River Basin. In that situation, the Nebraska Game and Parks Commission attempted to use a biological opinion that any action that allows more development would lead to jeopardy to endangered species on the Lower Platte River, thus by default the basin fully appropriated. At the urging of several NRDs and other parties, DNR decided against the recommendation of the NGPC.

In addition, these holdings provide further support against the theory that farm program payments are subject to Section 7 consultation (i.e., similar to HUD's authority, if the applicant to USDA for farm payments meets the criteria, USDA lacks the authority to withhold the farm payments to protect listed species). The requisite causal link discussion between the agency activity and ground water pumping may be helpful in future discussions. (Jaron Bromm contributed to this summary).

**Upper Big Blue NRD Preliminary Water Use Reports** – The Upper Big Blue NRD has preliminary results from their 2007 ground water use reports from all irrigators in this NRD. Those reports are for estimated and metered water use on 1,074,415 irrigated acres. The average is 4.95 inches. 40% of the acres used less than 4 inches. 89% of the acres used less than 8 inches. 97% of the acres used less than 12 inches. One small tract used 39.1 inches, which is just above the 36-inch diversion amount permitted by Nebraska Statutes for a surface water irrigator. The educational efforts of the NRD and other entities have lead to the producers using less water to grow crops. Incorporating irrigation technology and use of pivots has also lead to reduced water use.

**Review of the Department of Natural Resources** – 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.

**Republican Basin irrigator payment approved** --- Gov. Dave Heineman signed **LB1094** on Tuesday that will loan \$9 million from its cash reserve to the Republican Basin NRDs to pay irrigators for water leased in 2007. On Monday, the Legislature gave final approval to the bill on a 46-0 vote.

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.

- o 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.
- o 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.

**Flood Control Funding** — The Legislature debated **LB 880** for about two hours this week before a bracket motion was adopted on a 25-8-16 vote. The bracket motion, offered by Senator Chambers, postpones any further debate on the bill until April 17, 2008, the last day of the session, effectively ending discussion on the issue until next 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.

**Insurance Risk Pool Levy** – 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. The original bill would apply to all political subdivisions. The Committee amendments would limit 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 amendment. The Legislature approved **LB 988** this week and Governor Heineman signed the bill into law.

**Natural Resources Committee packaged bill advances** – The Legislature advanced **LB 798** to Final Reading this week. 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. Included in the amendment 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 amendment 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, but it was rejected by Chairman Loudon as he wanted no oversight on the fee.

NARD Bill Summary Tracking Sheet						Last Updated: 04/04/08	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	
78	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 ERB139 - Adopted AM123 - Adopted AM 156 - Withdrawn AM398 - Pending
251	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		Select File	
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						
420	Change cigarette tax distribution and create funds	Erdman		Oppose	Government		General File	AM678-Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Monitor	Appropriations		General File	AM890 - Pending
488	Income tax credit for perpetual conservation easement donations	Wellman	Wallman	Support	Revenue		IPP	
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources		IPP Motion Pending	AM 825 - Adopted AM884 to AM625 - Lost AM624 to AM625 - Lost
534	Funding storm water programs	Schimek		Support	Natural Resources		IPP	
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		IPP	AM 1579 - Pending
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	

NARD Bill Summary Tracking Sheet						Last Updated: 04/04/08	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 Incorp. into AM 1894 to LB 798
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	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	General File - Bracketed until April 17, 2008	AM 1859 - Pending
880	Provide for watershed enhancement bonds	Kopplin	Kopplin	Support	Natural Resources	1/25/2008		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	Revenue	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	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	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	
1094	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, AM2318, 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	Natural Resources	2/21/2008	IPP	



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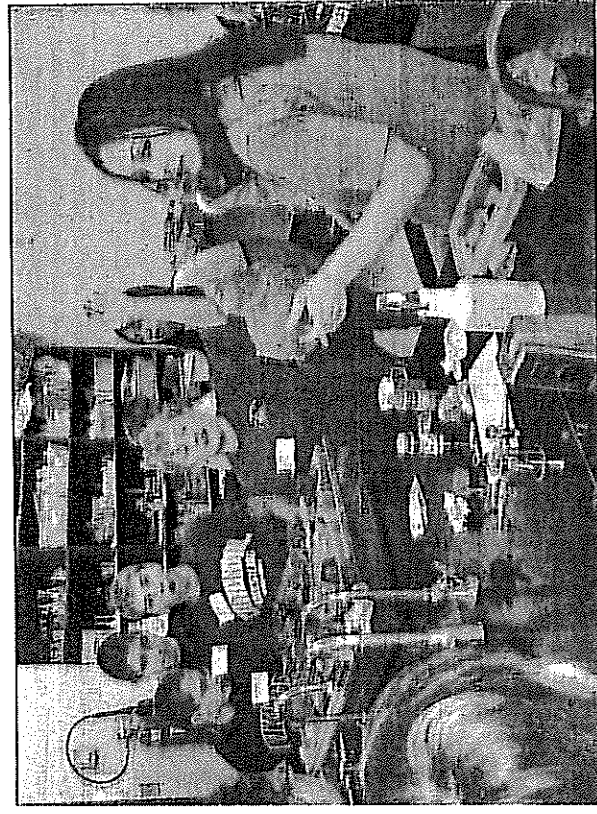
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# RESOURCES DISTRICT March 2008

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Papio-Missouri River Natural Resources District Board of Directors

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bridge (right), Education intern for the Papio-Missouri River Natural Resources District in Omaha, engages a group of fifth grade students in discussion and hands-on using the "Enviroscape" - a model which shows watersheds and how soil and best-management practices can be used to maintain a clean water supply. 50 fifth graders from Dakota, Dixon, Thurston, Cedar, and Wayne Counties participated in the 2-day educational water festival at Wayne State College. The event was held in conjunction with the Wayne State College Math/Science Extension in Cedar County and Co-ordinator of the event.

## Students attend Water Festival

Over 350 fifth grade students from Dakota, Dixon, Thurston, Cedar and Wayne Counties attended the fifteenth annual AquaFest held March 4 and 5 at Wayne State College.

AquaFest is a hands-on educational program sponsored by the University of Nebraska-Lincoln (UN-L) Extension in conjunction with Wayne State College Math/Science Division and the Papio-Missouri River, Lewis & Clark and Lower Elkhorn Natural Resources Districts (NRDs).

Students participated in twelve educational workshops taught by members of the Jr. Academy of Science, Natural Resources Districts, Wayne State College Faculty, and area professionals.

Workshops were Bubbleology, Water Wheel of Fortune, Chemicals Are Us, Ground Water, Water Wheels and Turbines, Water Rockets, Surface Water Pollution, and other water related topics. "The program is designed to help students realize the importance of a clean, ample water supply," according to Jane Armstrong, Extension Educator in Cedar County and Co-ordinator of the event.

Water festivals bring students together with professionals in water protection and conservation careers with activities designed to illustrate water concepts and to stimulate students to consider the many competing solutions to complex problems while having fun doing it.

Published Friday | March 7, 2008

## Last-day filing flurry leaves some out in cold

BY JUDITH NYGREN  
WORLD-HERALD STAFF WRITER

After a day of agonizing about entering another political race, Don Hudgens walked into the Douglas County Election Commission office about 4 p.m. Monday and submitted his paperwork for the District 31 legislative seat.

Hudgens knew he had cut it close — the filing deadline was less than an hour away. But when an election worker took his paperwork, Hudgens presumed his filing was being faxed to the Secretary of State's Office.

He was wrong. At least five potential candidates — three for the Legislature and two for the Papio-Missouri River Natural Resources District board — won't be on ballots this year because their filings weren't faxed to the state by the Douglas County Election Commission. Some were faxed late, some never made it, according to the Secretary of State's Office.

Dave Phipps, election commissioner for Douglas County, said he and his staff feel bad. "We fully expected to get (the filings) done, and we didn't. . . . We bear part of the blame."

But all involved say the ultimate responsibility for filing on time lies with the candidates. Those seeking a federal, state or multicounty post must file their paperwork with the Secretary of State's Office, not a county election office. The forms could be mailed, faxed or hand delivered, but they had to arrive by 5 p.m. Monday.

None of the candidates needed to go through the county election commissioner. In fact, Phipps said his office accepts state-level filings only as a courtesy. He gives prospective candidates written material that specifies whether they need to file with his office or the secretary of state. Candidates who must file with the state also are given an envelope with a pre-printed label addressed to the Secretary of State's Office.

Hudgens said he "was at fault for being so late in filing. I should have decided earlier (to run) or forgotten the whole thing."

Still, he said, voters ultimately lose. In the District 31 race, Millard-area voters now have only one choice, Incumbent Rich Pahls — a scenario that Hudgens considered undemocratic enough to overcome his reluctance to run a second time for the Legislature. He lost in the primary in 2004, an event that he called "heartbreaking."

The names of the others affected by Monday's missed deadline were not released by the state. Hudgens notified The World-Herald after being told by the Secretary of State's Office that he wasn't a candidate.

Over the years, other candidates have been tripped up by missed deadlines, either because of their own oversight or by entrusting paperwork to a local or county official who then failed to forward paperwork on time, according to the state.

Phipps said he can't recall candidates in past years missing a deadline because of an oversight in his office. Typically, his staff gets filings submitted on time and with the right office, he said.

But Monday wasn't typical. An unusual number of people came in during the final hours to submit filings for local, county and state offices. A large number of people also came in with county convention filings, Phipps said. Those whose filings failed to make it to the state arrived in the final hour of the business day.

Four people — a third of his staff — were assigned to handle filings. But even so, Phipps said, "it was very crazy."

The state filings continued to be accepted and were handled as part of the general mix rather than given special treatment, he said. In hindsight, his staff should have told prospective candidates to send their own faxes to the state, he said. His office will be discussing ways to avoid similar problems in the future, including the possibility of not faxing any paperwork on behalf of candidates.

"It was one of those perfect storms," Phipps said.

Contact the Omaha World-Herald newsroom

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## Work will clear part of Republican River

BY GINGER JENSEN  
THE KEARNEY HUB

FRANKLIN, Neb. — Fallen trees and islands that have built up along a 57-mile stretch of the Republican River downstream of Harlan County Lake are being removed.

Less than 10 years ago, the river could carry water at a rate of 2,000 cubic feet per second. Clogged channels meant that two years ago, there was flooding when just 400 cubic feet per second could be released from the lake.

The first part of a two-phase project, removing the trees, started this week. It's funded through a grant program authorized in a water bill passed by the Legislature in 2007.

The measure authorized \$2 million in 2007 and again this year to address channel problems and invasive, non-native plants in the Republican and Platte River Basins.

The Republican River project is sponsored by the Twin Valley Weed Management Area, a coalition of public and private agencies in south-central Nebraska. The grant funds are administered by the Nebraska Department of Agriculture.

The contractor for both the tree and island work is A&L Leveling of Minden, which is owned and operated by the father-son team of Leonard and Todd Rehtus.

Leonard Rehtus said they've been doing similar work on the Platte River for about seven years and have worked for several agencies, including the U.S. Fish and Wildlife Service and the Nature Conservatory.

Dead timber and overhanging trees have been marked for removal along the Republican River.

Merle Illian of Red Cloud, coordinator of the Eastern Republican River Riparian Project for Twin Valley Weed Management Area, said the removed timber is being placed on the banks.

The worst tree-related clogs are in a stretch from Naponee to Bloomington, Illian said.

After the trees are removed, A&L Leveling will start an experimental project of deep disking the islands on about 24 acres in the river channel, he said. Both projects have a completion deadline of June 10.

Last fall, a helicopter sprayed invasive vegetation with the chemical Habitat. Illian said \$772,500 in grant funds have been used to date for the Republican River projects.

The goal is to return the river to its historic ability to carry water in an effort to comply with a 1943 water compact with Kansas.

Although agreements have been obtained with landowners along the river, Illian said the work now is being done only from bank to bank within the river channel. Depending on the availability of funds, river channel maintenance may also include assisting landowners with fencing and bank stabilization.

OMAHA DAILY HERALD FOUNDED 1865  
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# Sunday World-Herald

TERRY KROEGER, *Publisher*

MIKE REILLY, *Executive Editor* GEITNER SIMMONS, *Editorial Page Editor*

## Focus on water

**N**ebraskans need to be aware of the impact that a meeting this week between Kansas and Nebraska officials could have on them and their state. Water, the lifeblood of agriculture, will be the focus.

The issue is the Republican River. Nebraska irrigators and other water users for many years have consumed more of its water than the state was entitled to under a 1943 compact with Kansas and Colorado. Kansas sued, and Nebraska settled by agreeing to abide by the compact's division of water in the future.

Easier agreed to than done. Since 2002, the year of the settlement, Nebraska users have continued to overuse. Kansas leaders are angry at the delay and what they consider Nebraska's inadequate response.

The suit may be reopened; Kansas could demand — and potentially receive — a financial settlement in the multimillions of dollars and/or court-ordered restrictions on water use in the Republican basin.

It did, indeed, take Nebraska officials a long time to come to grips with water realities. Barely a decade ago, state law didn't recognize the fundamental interconnections between groundwater and surface water. Groundwater used for irrigation was essentially unregulated.

But attitudes and laws have changed in Nebraska. State Department of Natural Resources Director Ann Bleed and other officials will try to convince Kansas' skeptics this week that the changes are meaningful and ongoing.

Gov. Dave Heineman, Bleed and others have emphasized their commitment to fairly distribute the state's water resource. State lawmakers have passed legislation in recent years to give the DNR and the state's natural resources districts the ability and power to manage water. Many irrigators on the Republican and other Nebraska watercourses have come to realize that the free-wheeling days of the past are over and that they must accept rea-

**Kansas meeting will hash out differences, arguments on sharing river.**

sonable controls and restrictions.

David Barfield, the Kansas water czar, has made demands that don't stand up under scrutiny. For instance,

he has said he wants thousands of groundwater wells in the Republican valley in Nebraska shut off.

That is a far more complex proposition than it might seem. Some of the wells he talks about do extract water that might actually flow into the river over the course of a year. But some don't. A wholesale, indiscriminate shut-off, as Barfield proposes, would harm irrigators without necessarily helping the Republican River or Kansas.

Barfield has pooh-poohed Nebraska's water management efforts as "insufficient," but they actually have been substantial. Natural resources districts on the Republican have accepted integrated management plans to ensure they comply with compact rules. If any fails, the state is poised to step in and do the job.

The most recent law, Legislative Bill 701, provided for water purchases to supplement the Republican's flow, vegetation removal and a state fund to pay for water management. The Republican NRDs were given the power to tax irrigators and district property owners for projects that increase the river's flow, though this provision of the law is being challenged in court.

State water experts have disagreed with Kansas' take on how much water is owed, among other hydrological uncertainties.

In addition, Bleed said recently that several relatively small changes to state water regulations should help convince Kansas that Nebraska is serious and on course.

More litigation over this issue would be expensive and time-consuming for both sides. It could drag on for years, possibly decades. Surely people of goodwill and scientific expertise can work out acceptable middle ground, a place where Kansas will get its due and Nebraskans will get a fair deal.

# Public to hear proposal for Carter Lake water

3-9-08

By JASON KUIPER  
WORLD-HERALD STAFF WRITER

A controversial plan to rehabilitate Carter Lake will be presented to the public Tuesday night.

Early versions of the plan have proposed restricting boating speeds in some areas, replacing fish species and limiting the use of some fertilizers by nearby property owners. Additionally, the plan could increase pressure on area pet owners to pick up pet waste.

The recommendations are the result of 18 months of work and aimed at improving water quality in the 350-acre lake. The plan seeks to reduce pollutants flowing into the lake from its

## Learn more

An open house to present recommendations for Carter Lake will be from 7 p.m. to 8:30 p.m. Tuesday at Shoreline Golf Course Clubhouse, 210 Locust St.

2,200-acre watershed.

The lake was a significant bend in the Missouri River until the river changed course during 1877 flooding. The lake has been damaged by pollutants, low water levels and harmful algae.

The Carter Lake Environmental Assessment and Rehabilitation Water Council developed the recommendations to meet the Environmental Protection

Agency's water quality requirements.

Peter Parkert, council chairman, said the alternatives will be displayed at 13 stations at the open house.

Among the recommendations is to maintain the lake at full pool, its maximum level. To do that, a well would be needed near the Missouri River to feed water into Carter Lake.

Other recommendations involve targeted dredging to give a more consistent lake depth, shoreline stabilization and restocking the fish population.

Parkert said a combination of alternatives will be needed to meet the EPA standards.

Jeanne Eibes, president of the

Carter Lake Preservation Society, said she sees a restored lake again being a recreational destination for the metropolitan area.

"When this plan is implemented, our efforts will be recognized nationwide because two cities, two counties and two states are working together to heal the lake," she said.

Parkert said public comment is critical, and he hopes everyone from property owners to recreational users will attend the open house.

The plan must be accepted by the cities of Carter Lake and Omaha before funding can be sought. Eibes said the estimated cost of the plan is more than \$10 million.

Published Monday | March 10, 2008

## Colorado presses Nebraska on Republican River dispute

BY DAVID HENDEE

WORLD-HERALD STAFF WRITER

As Nebraska and Kansas water czars wade closer to nonbinding arbitration to settle troubles over sharing Republican River water, Colorado is moving ahead with plans to divert itself out of the fray.

"Frankly, when you're in a hole, you need to stop digging deeper," said Ken Knox, deputy state engineer for the Colorado Division of Water Resources.

This week, Knox and his boss, Dick Wolfe, the state engineer, hope to convince their Nebraska and Kansas counterparts that Colorado's pipeline plan is a viable solution to that state's share of basin water problems.

"I can't make it rain," Knox said, explaining the necessity of building a \$71 million pipeline to the Nebraska border and pumping underground water into the Republican River.

The bulk of the cost went to buying water rights on about 9,600 acres of farmland on Colorado's eastern plains. Colorado paid more than \$50 million, or \$5,300 an acre.

A 13-mile pipeline and infrastructure is budgeted at \$21 million. Construction is expected to begin later this year.

The project is financed by a \$14.50 tax per irrigated acre on landowners in the Republican River Water Conservation District around the streams that create the river's headwaters.

Colorado shares water rights on the Republican, a 550-mile river that flows from the eastern Plains across part of southern Nebraska and into part of northern Kansas. The river provides water for irrigation, drinking, recreation and other uses in those three states. Its use is governed by a 1943 compact among the three states that allocates 49 percent to Nebraska, 40 percent to Kansas and 11 percent to Colorado.

Kansas says Nebraska and Colorado continue to use more than their share of the river basin water in violation of water use rules spelled out by the U.S. Supreme Court in a 2002 settlement of a Kansas-instigated lawsuit.

The states could be headed back to the high court.

Colorado's Wolfe, Nebraska's Ann Bleed and Kansas' David Barfield plan to meet Tuesday and Wednesday in Kansas City, Mo., in a special meeting of the Republican River Compact Administration.

The meeting was forced when Barfield submitted Kansas's dispute with Nebraska to the compact administration as a fast-track issue in February.

Kansas formally declared in December that Nebraska significantly consumed more than its share of Republican River water from 2003 through 2006. Farmers use the vast majority of water pumped out of the basin to irrigate crops. Excessive usage violates the compact that allocates Republican water among the three basin states.

Barfield proposed that Nebraska cease pumping from all irrigation wells within 2.5 miles of the Republican and its tributaries and from wells added after 2000. He also demands that Nebraska pay unspecified monetary damages.

Nebraska state and local water officials oppose Barfield's remedy as inefficient and likely to have a devastating economic impact on farmers and communities.

Bleed, Barfield and Wolfe are the compact administration's only members. If they don't resolve the dispute with a unanimous vote during this week's meetings, Kansas is expected to invoke nonbinding arbitration.

"We're all to agree. If not, I assume we'll be in arbitration," Bleed said.

If arbitration fails, Barfield has said Kansas would sue Nebraska in the U.S. Supreme Court.

Bleed is expected to defend Nebraska's attempts to remedy its overuse of the river water. These include reducing groundwater pumping by farmers and buying river water from irrigators who hold rights to the flows and release it downstream to Kansas.

Nebraska's state and local water managers have informally discussed following Colorado's pipeline example and pumping water into the Republican near Guide Rock, where the river flows into Kansas.

But such river augmentation projects aren't yet part of Nebraska's working list of remedies for its troubles with Kansas.

Knox said Colorado, like Nebraska, wrestles with how to meet its water obligations to its downstream neighbors without damaging the rural economy.

"It's simplistic, but what Nebraska and Kansas choose to do or not do is their business," he said. "We're trying to get our house in order."

The pipeline project is one tool Colorado can use to comply with the compact.

"We're looking at this issue with binoculars," Knox said. "The pipeline helps us immediately — during the next 10 to 20 years — but I'm mindful that we need to prepare for the period 20 to 100 years from now."

# NRD OKs new rules for wells

Lower Platte South explains standards should help protect quality, quantity of groundwater.

3-10-08  
BY ALGIS J. LAUKAITIS  
Lincoln Journal Star

Irrigators, industries and others who drill large-capacity wells in the Lower Platte South Natural Resources District will have some new groundwater rules to follow beginning March 31.

The new rules, passed by the NRD board in late February, are designed to increase the agency's ability to protect the quality and quantity of groundwater, especially in areas with marginal aquifers.

Assistant General Manager Paul Zillig said the rules were aimed at large wells — those that pump more than 50 gallons per minute — and would not affect domestic wells found on acreages and in some urban areas. Typically, such wells pump less than 20 gallons per minute.

"Basically, if you have a domestic well and if you're not using a lot of water, it's not going to be a big thing," Zillig said.

But if landowners decide to use water from domestic wells to start a tree farm or orchard, they will have to comply with the new rules, he said.

The Lower Platte South NRD includes most of Lancaster and Cass and parts of Otoe, Seward, Butler and Saunders counties.

The Lincoln-based district has 466 irrigation wells, 316 public water supply wells, 75 com-

mercial wells and lots of domestic and monitoring wells that are registered with the state Department of Natural Resources.

Depending on the size and location of a proposed well, a landowner may need to supply hydrogeologic and water quality information as part of a well permit application. Such information usually is obtained through a study and could involve:

- Well log information to determine geologic formation.

- Static water level measurement to determine the thickness of the aquifer.

- Aquifer test with at least one observation well to determine the effect the well would have on other wells.

- Water quality samples and professional analysis of the well data collected.

Zillig said such studies were routine for any entity, such as an ethanol plant, that was considering drilling a large-capacity well. The studies help determine whether there is enough water to meet demand and not affect neighboring wells.

"The new requirements stem from the NRD having a better sense of the unique groundwater issues and potential problems in the district since the original rules and regulations were adopted in the early 1900s," said Jesse Korus, the NRD's water resources specialist, in a news release.

Korus said the new regulations gave the NRD the management tools it needed to remain proactive in protecting the quality and quantity of both ground and surface water. He said some changes in the new regulations

## ■ Wells

Continued from Page 1B

stemmed from recently adopted state water laws.

The new regulations also require that all new and replacement wells be metered. Existing wells that pump more than 50 gallons per minute must be metered by Jan. 31, 2011.

In addition, certain information on usage of all metered wells must be supplied to the NRD annually. District officials will develop a cost-share program for installing and main-

taining meters.

Zillig noted that the new rules also would help resolve and possibly prevent salt water intrusion disputes between landowners. He said there had been cases where heavy pumping of groundwater had contaminated nearby wells with brackish water.

If you have any questions about the new rules, contact the NRD office at (402)-476-2729. They also can be viewed on the district Web site at: [www.lpsnrd.org](http://www.lpsnrd.org). Click on "Ground Water."

Reach Algis J. Laukaitis at (402) 473-7243 or [alaukaitis@journalstar.com](mailto:alaukaitis@journalstar.com).

See WELLS, Page 2B

W-H  
3-11-08

## Caution on this water bill

**A** water policy proposal again has pitted against each other Nebraska's irrigators, water users and the local and state agencies that oversee the resource.

The focus of disagreement, Legislative Bill 924, appears to force a retreat on the progress Nebraska has made on this important issue. Thankfully, several amendments likely will be considered by the Natural Resources Committee before the committee's priority bill is moved to the legislative floor.

Several of the state's irrigation districts, including Bostwick, Pathfinder and Gering-Fort Laramie, objected to the legislation because it would duplicate and weaken a 2004 water management law. That legislation set out rules under which the state manages integrated groundwater and surface-water systems.

The districts' conclusions were seconded by a representative from Friends of the Niobrara, among other conservation-oriented organizations.

Several natural resources districts, on the other hand, spoke in favor of LB 924 at the committee's public hearing. The legislation would increase their power signifi-

cantly. For instance, the Nebraska Game and Parks Commission would have to get NRD approval before it even applied to the state Department of Natural Resources for an in-stream flow right. And, given past attitudes of many NRDs, that approval could be long in coming.

Several others who testified at the hearing suggested that LB 924 would, in effect, overturn the way the state handles surface-water rights: First in time, first in right. The legislation seems to jumble together groundwater and surface-water rights until it's difficult to sort out who has what right when and where.

Another problem raised by LB 924 opponents: The legislation appears to supersede the rule that discontinued, abandoned or relinquished surface water is available for the next senior appropriator. Instead, the water could in some way be used to offset depletions in the streamflow, whether caused by groundwater or surface-water diversion.

These are serious shortcomings, and LB 924 needs fixing. Many eyes will be watching closely as the Natural Resources Committee acts.

# Name your price, state tells Kansas

3.12.08

■ Nebraska's water czar asks her counterpart to propose a penalty for overusing Republican River water.

BY DAVID HENDEE  
WORLD-HERALD STAFF WRITER

KANSAS CITY, Mo. — Nebraska hasn't ruled out paying a financial penalty to Kansas for using too much Republican River water, Nebraska's water czar said Tuesday.

"We have not rejected out of principle the idea of paying damages," Ann Bleed told a special meeting of the Republican River Compact Administration. "But we need to know how much."

Blead, director of the Nebraska Department of Natural Resources, asked if Kansas wanted billions of dollars — or hundreds of dollars — in compensation.

"What is your thinking?" she asked her Kansas counterpart, David Barfield.

Barfield gave no answer.

John Draper, a Santa Fe, N.M., attorney who represented Kansas in earlier water disputes with Nebraska, didn't name an amount, either.

But he said Kansas would seek enough monetary compensation to deter Nebraska from using too much Republican River water in the future.

The two-day meeting that opened Tuesday was forced when Barfield submitted Kansas' dispute with Nebraska to the three-state compact administration last month.

Blead, Barfield and Dick Wolfe, chief engineer of the Colorado Division of Water Resources, are the compact administration's commissioners.

Kansas in December formally declared that Nebraska used significantly more than its share of Republican River water from 2003 through 2006.

Farmers use the vast majority of water pumped out of the river basin to irrigate crops. Excessive usage violates the agreement that allocates Republican water among the states.

Barfield proposed that Nebraska stop pumping from all irrigation wells within 2.5 miles

of the Republican and its tributaries, and from wells that were added after 2000. He also demanded that Nebraska pay unspecified monetary compensation.

Nebraska water officials oppose Barfield's proposed remedy. They say shutting down wells won't add enough water to the river quickly and 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 in a similar dispute. That case was settled out of court in 2002.

If the three states don't resolve the Kansas-Nebraska water issue today, Kansas could demand nonbinding arbitration. If arbitration fails to resolve the issue, Barfield has said Kansas is ready to take Nebraska back to the Supreme Court.

The polite sparring between Nebraska's Bleed and Kansas' Barfield dominated three hours of public sessions Tuesday.

Barfield spelled out Kansas' grievances.

"We have been injured," he said of Kansas farmers who haven't received the irrigation water they expected.

Blead defended Nebraska's attempts to remedy its overuse of the river water.

"Irrigators in the basin have been working very hard to reduce their groundwater pumping," she said.

Blead said Nebraska is committed to making sure Kansas receives the water to which it's entitled.

Responding, Barfield said, "We're here today because you haven't got there yet."

Blead touted new pumping restrictions that limit Nebraska farmers in the Republican basin to 80 percent of the underground water they pumped in the past.

"We believe we can get within spitting distance of where we need to be with this 20 percent reduction," she said.



OMAHA DAILY HERALD FOUNDED 1865  
 OMAHA DAILY WORLD FOUNDED BY GILBERT M. HITCHCOCK 1885  
 OMAHA WORLD-HERALD FIRST PUBLISHED JULY 15, 1889

# Omaha World-Herald

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## A common future

**R**eporting by The World-Herald about population shifts in the Omaha area indicates how the connections between Omaha and surrounding communities are continuing to intensify.

World-Herald reporting last Sunday noted that between 2004 and 2006, Douglas County saw a net out-migration of more than 5,500 people to four Nebraska counties (Sarpy, Cass, Washington and Saunders) and three counties in western Iowa (Pottawattamie, Mills and Harrison).

The shift to Sarpy County of nearly 4,200 people was by far the greatest and illustrated the growing importance that the county will have in shaping dynamics within the overall Omaha metropolitan area.

Of particular importance will be the choices Sarpy leaders and residents make in regard to economic development strategy, residential development, relations among municipalities and overall political culture.

These growing connections show that parochialism is a luxury that Omaha-area communities can no longer afford. As a region, Omaha and its neighbors are unquestionably linked. We share a common destiny. And over time, the connections will only intensify and become more complex.

Omaha has made impressive progress over the past decade or so in improving its urban amenities (Qwest Center Omaha, riverfront development, expanded retail choices) and bolstering its image as a forward-looking regional city. Yet The World-Herald's demographic findings showed that Omaha is still losing residents to larger metropoli-

**Connections are increasing among Omaha-area communities.**

tan areas, such as Kansas City, Dallas and Phoenix.

That trend is not unusual. Larger regional cities, with their greater amenities and op-

portunities, generally attract residents from smaller ones in the same fashion that Omaha continues to attract residents from smaller communities in the Midlands.

To strengthen its ability to retain and attract residents, Omaha needs to keep moving forward in bolstering its amenities and ambitions. In today's world, the more a medium-sized regional city appears chained to the status quo, the more it will undermine its ability to seize economic opportunities. But the more it reaches for excellence, the greater respect it will gain and the more opportunities it will create for itself on the national stage.

A related point is that Omaha over time will have a growing interest in promoting eastern Nebraska as a whole — meaning that the Omaha area's future will be linked in some regards to developments in Lincoln.

Hence the need for civic and business leaders in Lincoln to push their city toward a forward-looking, more business-friendly strategy. The administration of Mayor Chris Beutler, to its credit, has made a degree of progress on this score.

Needed, too, will be strategic thinking about the Interstate 80 corridor between Omaha and Lincoln, a topic that also is receiving welcome attention by leaders in the two cities.

More than ever, Omaha and neighboring communities should recognize their growing connections. The more they cooperate on a stronger, common future, the greater the long-term opportunities.

# Public called key part of Carter Lake plan

3-12-08

By NANCY GAARDER  
AND KEVIN COLE  
WORLD-HERALD STAFF WRITERS

The success of the \$10 million plan to rehabilitate Carter Lake will rest to a significant extent on the willingness of everyday people to change their habits.

Think of things like picking up pet waste more often, altering the use of fertilizers in the 2,200 acre watershed and slower boating in some areas of the lake.

"The problems start in everybody's backyards," said Paul Brakehage, an employee with the Nebraska Department of Environmental Quality. "If we want to be successful in meeting our goals, the public will have to get involved."

Officials presented an updated plan to improve the lake during an open house Tuesday night at Shoreline Golf Course.

"Based on what I heard here tonight, a lot of people were just very happy that something has been initiated," Brakehage said.

Swimming in the lake can be unhealthy because of blue green algae and occasionally high bacteria levels. Phosphorus from fertilizer feeds algae, and pet waste contributes to high bacteria levels. The algae can also pose a threat to pets.

To reduce some of that phosphorous, the plan proposes to designate about 100 acres of the 350-acre lake as a no-wake zone. The specific area of the lake that would be restricted hasn't been designated.

The goal, Brakehage said, is to reduce the amount of sediment that is stirred up by boat motors, because phosphorous attaches to the silt particles. The murkier

water also makes the lake less hospitable to desirable fish species, Brakehage said.

The big ticket items in the rehabilitation plan are dredging, shoreline stabilization, treating the lake with alum and restocking the fish species, Brakehage said. Alum helps reduce phosphorous.

Dredging will be targeted at those areas where storm sewers dump into the lake. By removing sediment from those areas, the dredging also will pick up urban pollutants.

**"Based on what I heard here tonight, a lot of people were just very happy that something has been initiated."**

*Paul Brakehage, with the Nebraska Department of Environmental Quality*

This should help alleviate some of the PCB contamination in the lake, Brakehage said. Officials have advised that people limit the consumption of fish from the lake because PCBs are present in fish flesh.

The lake will not be drained during dredging,

which makes the work more expensive, he said. Additionally, there are plans to pump water from the Missouri River aquifer into the lake.

Jeanne Eibes, president of the Carter Lake Preservation Society, estimated that more than 250 people looked over the plan during the 90-minute meeting at the golf course clubhouse.

"There were a lot of very positive comments tonight," Eibes said.

Brakehage said the water quality plan will be finalized by early May before being presented to city officials in both Carter Lake and Omaha.

The plan must be accepted by the cities before funding can be sought.

"The ball will be in their court," Brakehage said.

# Lake views raise property values

■ A new study comes as Papillion Creek partners look at flood-control options.

By JUDITH NYGREN  
WORLD-HERALD STAFF WRITER

Douglas County homeowners are willing to pay as much as 27 percent more for land with a view of a man-made lake or dam.

Homeowners also will pay more to live in subdivisions with open spaces, particularly if the spaces are privately managed and feature trees and trails.

A new study takes a first look at how local property values are affected by dams and low-impact development, two flood-control techniques being considered in the Papillion Creek watershed.

Researchers with the University of Nebraska at Omaha presented a draft of their findings Tuesday to the Douglas County Board. A discussion of the study is to come in the next few weeks.

The \$40,000 study, funded by the county and NU Water Center, comes as partners in the Papillion Creek watershed debate how best to control flooding and improve water quality. An initial flood-control plan called solely for dams, as many as 29 built in Washington, Sarpy and Douglas Counties. A more recent plan calls for fewer dams paired with low-impact development that retains stormwater to keep it from flowing into streams and rivers.

The researchers concluded that both dams and low-impact development add to property values. But by how much — and to whose gain — differs depending on how techniques are applied, researchers concluded.

The more private the home setting — whether it's on a lake or

## On Omaha.com

Find a link to the draft report.

surrounded by open space — the higher the premium, concluded Steve Shultz and Nick Schmitz.

An examination of home and lot sales at five Omaha-area lakes found that buyers will pay between 6 percent and 27 percent more to have a view of the water. Access to the water also shaped asking prices, the study found.

Homeowners with a lakefront view at Standing Bear and Zorinsky saw the lowest gain, between 6 and 8 percent.

Dam Site 13 near 192nd Street and West Dodge Road appears to be garnering much bigger returns for lakefront property. The researchers found that the developer is able to get as much as 27 percent more for lakefront land than for comparable property with no direct view of the lake.

The site is the first area lake built with both public and private money. Preliminary numbers indicate that the developer could see a return of nearly \$7 million on a \$1.6 million investment, the researchers concluded.

The researchers couldn't find any true low-impact development to study in Omaha. Instead they studied roughly 350 subdivisions that had open spaces.

Local home buyers pay as much as 2.74 percent more for wide open greenways. Subdivisions with clusters of smaller open space also carry a higher price — but only 1.1 percent more when compared with areas with no open spaces.

Homeowners also prefer forest-like settings or mowed spaces to native grasses that aren't mowed. Trails and privately managed open spaces trump publicly maintained land, the study found.

Published Thursday | March 13, 2008

## Two-decade mystery is hoped to be solved by adding surveillance capabilities

BY PAUL HAMMEL  
WORLD-HERALD STAFF WRITER

NEWMAN GROVE, Neb. — For 20 years, there's been a distressing mystery connected to a meandering creek that flows from west of this farm town to the Platte River near Schuyler.



Newman Grove High School science students take samples from Shell Creek each summer to provide data on the stream's condition. Seining for fish are, from left, Brett Roberg and Sean Farrier.

Someone, probably a hog farmer, has been dumping large quantities of manure from a tanklike "honey wagon" or an underground pipe into Shell Creek, killing fish and adding to other contaminants already in the narrow waterway.

It's a sinister deed, occurring almost annually, that disgusts most farmers. It usually happens in the middle of growing season, when a big rain is predicted, and on a weekend, when regulators typically are not at work.

"Who in their right mind would do that?" asks Newman Grove farmer Ralph Pieke, who heads a landowners' group that's trying to clean up Shell Creek.

It's an environmental "whodunit" that has eluded investigations by several government agencies, a probe by the State Patrol, monitoring by school students and a cash reward.

Now there's a plan to turn up the heat some more.

Today, the Lower Platte North Natural Resources District is expected to approve a three-year study of Shell Creek, in conjunction with the U.S. Geological Survey, that will spend nearly \$250,000 in federal and local money.

The study would include installing three monitoring stations on the creek over the next two summers. Linked to satellites, they would give officials immediate notice if a plume of contamination hits the creek.

The monitoring devices will allow investigators to trace back to the location of a manure release, said John Miyoshi, the resources district's general manager.

"It's extremely frustrating because it's a very intentional act," Miyoshi said.

The Nebraska Department of Environmental Quality is stepping up its efforts, too. The department's Environmental Quality Council, after hearing testimony in December from Newman Grove students who discovered a fish kill in a stretch of brown-stained water west of Platte Center last July, has asked for an update on the Shell Creek situation.

A new coordinator, Brian Gorman, has been named to lead the department's investigation into the suspicious Shell Creek releases.

There have been about 30 complaints or reports of fish kills in the creek since 1988, department officials said. Most were related to orangish-brown discharges that smelled like manure.

But the source of the fish kills is difficult to find, Gorman said, because the discharges often are reported too late to track down.

If the polluter is caught, he could face fines of up to \$10,000 a day, plus damages for any dead fish or minnows discovered.

Officials think the discharges are coming in a stretch of creek from north of Columbus to Lindsay.

Pieke, co-chairman of the Shell Creek Watershed Improvement Group and a member of the NRD board, said he's had people suggest they know who is doing the dumping, but they won't disclose a name.

Shell Creek is fairly typical of small streams that run through farming areas, although its level of contaminants — including nitrates and dissolved manure — is among the highest in the state.

The long-running contamination problems make it difficult to detect fish kills, Gorman said, because there aren't a lot of fish left to kill.

Farmsteads rise from fields of corn and beans along the creek. Hog confinement barns and cattle feedlots are not

uncommon in the 300,000-acre watershed, which extends from Boone and Madison Counties south to Platte and Colfax Counties.

The creek pours into the Platte River, which downstream is tapped for drinking water by Omaha, Lincoln and Fremont.

In 1999, a group of farmers formed the Shell Creek improvement district to address problems of soil erosion, general water quality and flooding.

Six years ago, Newman Grove High School science teacher Mark Seier and his students were enlisted to help. They sample the stream each summer, documenting levels of contaminants, life-sustaining levels of oxygen in the water sediment load and populations of minnows and larger fish.

The goal is education for students as well as local residents about the health of the stream, Seier said.

In December, sparked by their discovery of a fish kill last summer, students Brett Roberg, Sean Farrier and Jessica Boschen took it upon themselves to testify to the Environmental Quality Council.

Mike Linder, director of the Department of Environmental Quality, told the students his agency has been working harder with the U.S. Environmental Protection Agency to address Shell Creek's problems.

Seier said that while "finger-pointing" is not the intent of his school program, the manure discharges can instantly wipe out any progress made from planting filter strips of grass and using no-till farming to control runoff of soil and chemicals.

So far, he said, tests done by his students have not shown progress in cleaning up the stream, but people need to be patient. It could take 20 years or more.

"The stream didn't get in the condition it did in a few years, and it's going to take more than a few years to change that," Seier said.

He said that the years of trying to catch the polluter have increased public awareness and helped correct discharge problems with local irrigators, hog sites and a truck wash.

"I see this process as improvement happening on a number of fronts," Gorman said. "Hopefully one of the improvements will be catching someone."

Contact the Omaha World-Herald newsroom

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# Water use talks to continue

■ The Republican River dispute could be resolved by mid-May, says a Nebraska official.

By DAVID HENDEE  
WORLD-HERALD STAFF WRITER

KANSAS CITY, Mo. — After two days of meetings, Kansas and Nebraska water officials agreed Wednesday to keep talking in an attempt to resolve their dispute over Republican River water.

The decision extends a Kansas timetable to force Nebraska to end its overuse of the river water under threat of nonbinding arbitration and possible U.S. Supreme Court litigation.

Ann Bleed, director of the Nebraska Department of Natural Resources, said the delay gives

the states a genuine chance to resolve the dispute by mid-May.

Bleed and her Kansas and Colorado counterparts met in a special meeting of the Republican River Compact Administration to hear the Kansas-Nebraska dispute.

Nebraska consumed significantly more than its share of Republican River water from 2003 through 2006. Farmers pumped most of it to irrigate crops. The excessive usage violates a compact allocating Republican River water among the three basin states.

At the meeting, Bleed provided Kansas and Colorado with details of Nebraska's plan to stop the overuse of water.

It includes cutting groundwater pumping by 20 percent in the basin, buying water from irrigation districts and, possibly, pumping water into the river from special wells.

David Barfield, chief engineer of the Kansas Division of Water

Resources, said he's concerned that parts of the Nebraska plan aren't binding on the state.

He compared Nebraska's plan to a new Colorado program, presented to the commission Wednesday, to build a pipeline to pump water into the river in an attempt to balance its water ledger with Kansas.

"That we understand," Barfield said. "Nebraska saying it might take some additional action, we're not fully satisfied with that. We still want a remedy that provides us our water."

Barfield said he still believes that Kansas should receive economic damages from Nebraska.

Bleed, Barfield and Dick Wolfe, chief engineer of the Colorado Division of Water Resources, agreed to work on technical details of the proposed Kansas and Nebraska solutions to the dispute.

They set an April 11 deadline. The commission plans to gather then and May 15 and 16 in meetings on the water question.

## Bill advances to pay irrigators

By MARTHA STODDARD  
WORLD-HERALD BUREAU  
3-13-08

LINCOLN — Some 300 irrigators in the Republican River basin would finally get paid for selling their water last year under a bill given first-round approval Wednesday by the Nebraska Legislature.

Legislative Bill 1094 advanced on a 36-0 vote.

The bill, introduced by State Sen. Tom Carlson of Holdrege, would borrow \$9 million from the state's cash reserve fund to pay the irrigators.

The loan would be repaid by the three natural resources districts in the Republican River basin, once a lawsuit against the three districts is resolved, Carlson said.

The suit, filed by nine landowners and homeowners in the basin, is pending in Lancaster County District Court.

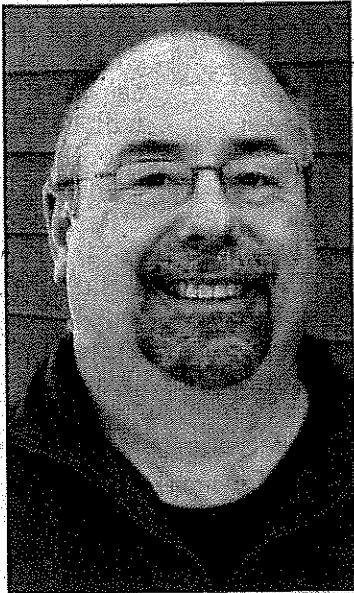
It challenges the constitutionality of a state law aimed at helping Nebraska resolve its dispute with Kansas over use of Republican River water.

The 2007 law allowed the Republican River NRDs to buy wa-

ter from irrigators last year and release it to Kansas. Carlson said the purchase brought Nebraska into compliance with the compact for that year.

The districts had planned to pay for the water by levying a special property tax and by charging occupation taxes on irrigated acres.

But the irrigators were left in the lurch when the lawsuit blocked payments. LB 1094 would allow the irrigators to get paid without waiting for the lawsuit to make its way through the courts.



Kevin Propst

## Locals seeking spot on NRD bd.

By Stephanie Ludwig  
Reporter

*Enterprise 3-14-08*

The Papio-Missouri River Natural Resources District has already been challenged on some of its practices by Washington County citizens. Soon, those challenges may come from within.

Arlington resident Scott Jaap and Kevin Propst of Washington have each filed to run for the District 1 seat on the NRD Board of Directors. District 1 covers all of Washington County and parts of Burt, Dakota and Thurston counties. Districts are based on population.

Jim Jepson of Hubbard has also filed for the seat. Incumbent Richard Connealy of Decatur is not on the ballot.

Japp, a Washington County native who grew up working with his family's soil conservation business building terraces, dams and recreational projects, currently works as an engineering consultant. He said his background includes working for a civil engineering firm and working with natural resource districts on residential and commercial developments.

"The reason I'm running is that I see a lot of fiscal waste in the NRD," Japp said. "I see in management practices what the NRD is not doing to save the taxpayer money."

He sees the waste in the non-competitive bidding that went on for engineering services done by HDR, Inc. to conduct a study on the Papio Creek watershed area. In addition, he feels that the present NRD board is "not open and honest," commenting that the NRD is "pawning off" its responsibilities by having the HDR study overseen by the Papio Creek Watershed Partnership.

"The NRD should be responsible to handle that job," he said.

Dams are the "hidden agenda" of the NRD, Japp said, as evidenced by the fact that HDR was not told in its original contract to study alternative options to prevent flooding in the area. Only after the dams were questioned by the public were alternative options, such as Low Impact Development, studied by the engineering firm at the request of the

SEE NRD PAGE 3A

*Continued*

# NRD: *Two seek seats*

FROM PAGE 1

Partnership.

"It's an example that they're not open and honest," Japp said.

Two bills currently being considered by the Nebraska Unicameral would give the NRD bonding authority and prevent the group from seizing land through eminent domain. Japp opposes LB 880, which gives bonding authority, and thinks the NRD does not need to exercise eminent domain.

"In my personal opinion, the NRD does not need bonding authority. They can raise money through taxes and can stay within their own budget," he said.

Kevin Propst, Washington trustee, has become all-too familiar with the bills, namely because he testified before the Natural Resources committee for the Legislature against LB 880. As a Washington trustee, he was appointed to the Papio Valley Preservation Board in 2006 and 2007, and heads up a committee that keeps an eye on legislative bills concerning the NRD.

It was at his and others'

urging that Sen. Dwite Pedersen introduced LB 945, a bill preventing the NRD from seizing private land through eminent domain.

One reason he wants to be on the NRD board is because of the "wasted tax dollars" and the NRD's concentration on recreational facilities associated with dams instead of soil conservation and flood control.

"I think that I can serve this district well. I have a lot of experience, working with the county board and the Douglas County board," Propst said. "I would like to see the NRD get reigned in on their tax dollars a little bit. That's one thing everybody's worried about, it throws around a lot of money."

Propst was also on a committee that studied 1 and 3C, the two dams that were proposed by the HDR study in Washington County. He feels that the Papio Creek Watershed Partnership, which sponsored the study, was a good idea at first but now it has too much authority over the elected NRD board.

The Papio Creek Watershed Partnership is made up of appointed officials from 11 governmental bodies on the 402-square foot watershed. Washington County is not a member of the Partnership.

"Basically the Watershed Partnership oversees the NRD," he said. "The NRD is elected officials. It's backwards. The Partnership should work as an advisory board, not overseeing the NRD."

Members of the NRD board are elected for four-year terms. Japp, Propst and Jim Jepsen will all appear on the primary ballot on May 13, where one will be eliminated. The remaining two will appear on the ballot in the general election in November.



# Opinions differ greatly on LB 880

Post Gazette 3-18-08

## District 39 Newsletter

by Senator Dwite Pedersen



Things have been moving so fast here in Lincoln that I forgot to write a newsletter last week! We have begun full day debate on senator and committee priority bills and will be taking up several controversial issues in the next few days.

One of the hot topics this session in District 39 has been water issues and bills relating to Natural Resource Districts. I introduced LB 945, which basically prohibits Natural Resource Districts from selling land to real estate developers that they have taken by way of utilizing their powers of eminent domain. Nothing keeps private property owners from selling their land directly to developers or the Natural Resource District from purchasing land and selling it to developers as long as the land was not obtained as a result of the Natural Resource District exercising their eminent domain powers.

I have also taken over LB 20, which was introduced last year by former Senator Mick Mines. This bill simply states that if at least five percent of a water project's total cost is paid for by the taxpayers in a Natural Resource District, there must be public access to the water project. Current law triggers public access at 20 percent of the cost, but that threshold may be too high as it has been shown that even five percent of the cost of such major projects represents a significant expenditure of public funds in many reservoir projects. Public access means that the general public, not just the private landowners living around the lake and their guests, should be able to enter the project area and have access to the water and at least some shore land if taxpayer money paid for at least five percent of the project.

### LB 880

The bill that will be the vehicle for any changes made this year is LB 880. This bill was introduced by Senator Gail Kopplin of Gretna and was chosen as his priority bill for this legislative session. According to the Statement of Intent on the bill, LB 880 would authorize a natural resources district which encompasses a city of the metropolitan class to issue watershed enhancement bonds to be used to pay the costs of design,

rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management, flood control, and water quality. The bill provides that the levy necessary for the financing of these bonds shall be included in the district's current tax levy limitations.

My constituents in Washington County are strongly opposed to LB 880 in its current form. My constituents in Douglas County have questions about it, and Sarpy County is weighing in favor of the bill. As a senator who represents portions of all three counties, I am caught somewhere in the middle. I do feel strongly that changes need to occur in the bill before I can support it, and I am working hard on this legislation behind the scenes with the help of Senator Don Preister who is serving as sort of a facilitator/mediator between the interest groups.

I attended a meeting last week that was very well attended and showed what great interest there is in this issue. Eleven senators were present as well as representatives from all three affected counties. Each person in attendance was offered an opportunity to speak on his or her concerns about the bill. I was very proud of the people that I represented as they gave articulate, reasonable testimony regarding their opinions on the issues being discussed in LB 880.

There are many issues involved, and it seems to me a great difference in opinion as to the "right" solution to our water problems. Many ideas have been presented including eliminating bonding authority; mandating low impact development for all new development and making renovations to existing developments; the possibility of appointing a task force to study the issue and report back to the Natural

Resources and Revenue Committees before the next legislative session; including the provisions of both LB 945 and LB 20 in the bill; prohibiting a Natural Resources District from carrying over more than a two-month reserve; lowering the tax levy lid; prohibiting firms that study the feasibility of a water project from profiting by building the same water project; requiring sharing studies and data paid for by tax dollars; mandating that counties and cities prohibit all commercial and residential development in the 100-year flood plain; and other proposals addressing the general issues of public access, low impact development, water quality, local control and eminent domain.

Another meeting has been scheduled for early this week, and it is my hope that we will be able to reach a compromise that will allow for additional discussion among the affected governmental entities and property owners before any legislation is passed.

If you have an opinion on any of the bills listed above, or if there are other issues of concern that you would like to discuss with me, don't hesitate to call or write me at my home, 21440 Shamrock Road, Elkhorn, NE 68022 (289-4866) or my office, 1018 State Capitol, Lincoln, NE 68509 (471-2885) or by E-mail at [dpedersen@leg.ne.gov](mailto:dpedersen@leg.ne.gov). Your input is always welcome and appreciated.

Published Friday | March 21, 2008

## Papio trail closed at 84th, Grover

BY MAGGIE O'BRIEN  
WORLD-HERALD STAFF WRITER

A 100-foot section of the Big Papio Creek hiking-biking trail was shut down Thursday after a large chunk of concrete fell off the bridge above it.

The closure is at 84th and Grover Streets. The trail section will not reopen until a previously scheduled rehabilitation of the bridge is completed, which could take eight months.

A trail detour probably will be posted today, said Omaha Parks Director Steve Scarpello.

Omaha Public Works Director Bob Stubbe said someone using the trail reported that the concrete had fallen from the underside of the bridge. Stubbe said he wasn't sure what caused the concrete to break off.

There were no injuries.

Officials had planned to close the trail under the bridge in a few weeks so that construction crews could begin a \$2 million rehabilitation of the bridge.

After learning of the fallen concrete, officials decided to close the trail segment early and keep it closed until the bridge has been rebuilt.

"You can't have people going underneath the bridge when you're working on it," Stubbe said.

He said the bridge is more than 30 years old, and although it needs new beams and a new deck, it's safe to drive on.

Certain lanes will remain open while construction is under way.

Stubbe said 39,000 northbound drivers and 41,000 southbound drivers pass over the bridge daily.

Contact the Omaha World-Herald newsroom

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## Midlands Voices

### **LB 924 would reveal users of saved water (OWH, 3-21-08)**

BY DEAN EDSON

*The writer, of Lincoln, is executive director of the Nebraska Association of Resources Districts.*

A March 11 editorial expressed concern over Legislative Bill 924, introduced by State Sen. Deb Fischer, that addresses several shortcomings in Nebraska's integrated water management laws.

Though it appears the bill will not be advanced this session, some of the misunderstandings need to be addressed. The bill's purpose is to establish a transparent, open-to-the-public accounting system for water saved by local Natural Resources District groundwater regulations, water purchases and leases. Currently, there is no process in law to account for such savings in a manner available to the public. There are several reasons why this is needed.

In the Platte and Republican River basins, the NRDs are aggressively pursuing voluntary retirement of irrigated acres to aid compact and cooperative agreement requirements.

The Central Platte NRD has a program — using local tax dollars — to enter into agreements with producers to permanently retire irrigated acres, starting the state down the path toward compliance with the Platte River Cooperative Agreement.

No state tax dollars are available for this program — only local funding. However, no state-approved, public and transparent accounting system exists in state law to track the water reductions. LB 924 would fix this situation.

In the Republican River basin, NRD allocations are in place to follow the state's approved plan to meet compact compliance in regard to Kansas' share of Republican water and to increase streamflows.

The locally funded NRD plans include retirement of groundwater-irrigated acres through conservation programs and water leasing programs. The State of Nebraska should be 29,000 to 44,000 acre-feet of water in the black for 2007 in regard to the compact, primarily due to the efforts of the NRDs.

But there is no transparent system in current law to account for the NRDs' water savings indicated by the range of surplus. LB 924 would fix that.

The 19th-century laws that govern surface water — first in time, first in right — unfortunately have only added to the confusion and uncertainty in Nebraska's current water regulation dilemma.

The laws, which have their origin in the late 1800s and are managed by the Nebraska Department of Natural Resources, allow the oldest water-right holder to get all his water first. If there is not enough, the second in line gets nothing.

These water rights have been granted and managed throughout the state by the DNR and its predecessors, not the NRDs. These water-right holders were provided these rights in full knowledge that the older water-right holders could get all the water in times of shortage and the junior holders could get nothing.

No one knows how much water it would take to make every surface-water right holder whole all the time. Water law experts can only say it cannot be done, because it was never designed to operate that way.

LB 924 lets the public know who is using the new water placed in the stream by NRDs, which is one of the reasons the bill is opposed by surface-water users.

Groundwater development, however, came along in the 1950s and operates under a different system managed by the NRDs. In times of shortage, all groundwater users are reduced an equal amount.

One has to wonder: If we are not going to account for the reductions in use, why have the programs? Is it solely to meet existing surface-water uses in Nebraska and thus consume water before it goes toward Lincoln, Omaha or Kansas?

Continued

If it can only go to existing Nebraska surface-water irrigation, how does the state reduce consumption and account for the demands of compacts and agreements?

LB 924's instream-flow provisions would require local NRDs and the Nebraska Game and Parks Commission to work together on instream-flow rights. If an instream-flow right is granted, the NRDs must assist in management of the flow right, which would be paid for with local property taxes.

Thus it seems appropriate for locally elected NRDs to have some input in these decisions. LB 924 permits that.

The World-Herald is right: The law needs fixing. Absent of transparent accounting for the water, the public will never know what happens to the water placed in rivers by local NRD programs. That is why LB 924 was introduced.

Sen. Fischer should be praised for identifying a problem and trying to modify a law that is currently not open to the public, minimizes local involvement and does not provide a transparent accounting system for water use.

This legislation has encouraged positive and ongoing discussions by the entities involved to address the needed clarifications to water law.

## THOMPSON CREEK

# La Vista erosion plan will target 22 homes

By LEIA BAEZ

WORLD-HERALD

STAFF WRITER

3-19-08

The City of La Vista has preliminarily selected a plan that calls for demolishing 22 homes along Thompson Creek as a basis for seeking outside funding to fix erosion problems.

The choice is not set in stone but increasingly signals which homeowners along the creek might have to move. Other options ranged from not razing any homes to demolishing as many as 65.

Banks along the creek have collapsed, taking fences, utility poles and outbuildings.

The plan is expected to cost about \$4.3 million.

City Engineer John Kottman said the decision is an attempt to get the ball rolling so

that the city can meet a June deadline for a federal grant.

Kottman presented four possible solutions to the City Council in June based on a 2006 study of Thompson Creek from 72nd Street to the La Vista Falls Golf Course that borders 84th Street. Three of the four plans call for displacing homeowners.

Doing nothing would cost about \$178,560, while demolishing 65 homes would cost about \$10.4 million.

Any plan will have to be approved by the City Council.

Mayor Doug Kindig has said the city plans to search for dollars from agencies such as the Nebraska Emergency Management Agency, the Federal Emergency Management Agency and the Papio-Missouri River Natural Resources District.

BY MARTHA STODDARD  
AND DAVID HENDEE  
WORLD-HERALD BUREAU

LINCOLN — Nebraska's water czar, Ann Bleed, abruptly announced her retirement Monday, saying disagreements with the governor prevent her from serving effectively.

Gov. Dave Heineman's office said Deputy Director Brian Dunningan would be acting director of the State Department of Natural Resources.

In her resignation letter, Bleed said she decided to retire after it became clear that she and Heineman "disagree on a number of significant issues."

She did not describe those issues in the letter and did not return several calls seeking comment. The Governor's Office offered little more information.

Heineman's spokeswoman, Jen Rae Hein, said Bleed and the governor talked Friday about the importance of communicating and coordinating with the Attorney General's Office on water issues that are under litigation.

The state faces legal battles over Kansas' contention that Nebraska has used more than its share of Republican River water. Nebraska also is defending a new law that allows use of property taxes to buy water to help meet those obligations to Kansas.

Heineman, in a written statement, praised Bleed's work.

"Her expertise in water management has been critical in helping our state face our many water challenges," he said.

Blead, 66, had an annual salary of \$105,060 and oversaw an

*See Bleed: Page 2*



Blead

# Conflicts lead water czar to to retire

*Differences with  
governor cited*

*'Timing is terrible'*

3-25-08

## Blead: Departure hits at critical time

*Continued from Page 1*

agency with more than 100 employees. She was deputy director of the department from 2000 through 2007, including two years as acting director. She replaced Roger Patterson, who retired.

Her departure comes at a critical time. Nebraska is wrestling with water controversies from border to border.

"The timing is terrible," said Tim Anderson, spokesman for Central Nebraska Public Power and Irrigation District, the state's largest.

Blead was chairwoman of the Republican River Compact Administration, the group of water officials from Nebraska, Kansas and Colorado that is trying to resolve the question of Nebraska's overuse of Republican River water.

In the Platte River basin, Nebraska faces a year-end deadline to complete a plan to roll back

groundwater use to 1997 levels to avoid violating a separate agreement with Colorado, Wyoming and the federal government.

In the Niobrara River basin, the Natural Resources Department faces opposition from some landowners, irrigators and others after the agency declared a temporary ban on new irrigation wells until water supply and demand are balanced.

Anderson said Bleed didn't get the cooperation she sought and deserved from some areas of the state as she attempted to coordinate water management, both underground and flowing in streams and rivers.

"Ann had good and creative ideas. She treated everybody fairly," he said. "We didn't always agree with her. But she tried to be fair."

But State Sen. Mark Christensen of Imperial said he encountered roadblocks trying to get information from Bleed, in his

roles as a senator and as a member of WaterClaim, a water users' group in the Republican basin.

Christensen said Bleed's departure could help restore trust among irrigators who were unhappy with some of the water restrictions proposed by the agency.

Sen. Chris Langemeier of Schuyler said changing water czars in the midst of the negotiations with Kansas is worrisome. He said he doesn't know why Bleed would leave so abruptly, although he noted that the job draws controversy.

Jay Rempe, a lobbyist for the Nebraska Farm Bureau Federation, said no one had been more dedicated and hardworking in trying to solve the state's water problems than Bleed. But he said it may be useful to have someone who can bring a fresh perspective to Nebraska water problems.

# Bleed says she left of her own accord

3-26-08

By MARTHA STODDARD  
WORLD-HERALD BUREAU

LINCOLN — Differences with Gov. Dave Heineman over how to move forward on water policy lay behind Ann Bleed's decision to step down as Nebraska's water czar, she said Tuesday.

In an interview the day after her surprise announcement that she was leaving, Bleed offered few other clues to the disagreements she mentioned in her resignation letter.

"I'm not going to go into details," she said. "That's between me and the governor."

In her letter, Bleed said she decided to resign after it became clear that she and Heineman "disagree on a number of significant issues."

She said she no longer could serve effectively as director of the Department of Natural Resources. Deputy Director Brian Dunnigan took over as acting director.

Speaking from her Lincoln home, Bleed said she reached the decision to step down over the weekend. She submitted her resignation Monday morning. It took effect at the end of the day.

She said the decision was her choice and that Heineman had not requested it. She said their disagreements did not involve litigation over water issues.

Heineman's spokeswoman, Jen Rae Hein, said Bleed and the governor talked Friday about the importance of communicating and coordinating with the Attorney General's Office on water issues under litigation.

Kansas has taken Nebraska to court, saying Nebraska has used more than its share of Republican River water.

Looking back, Bleed said she felt good about her tenure at the

Department of Natural Resources. She began there in 1988. She was acting director from 2005 to January 2007, when she was named permanent director.

"We've achieved a lot," she said.

Most notably, Bleed said, Nebraska is moving forward with its integrated water management law, known as Legislative Bill 962.

Bleed hailed efforts by the Central Platte Natural Resources District to create a water bank, by the

South Platte NRD to develop a management plan for both groundwater and surface water, and by NRDs in the Republican River basin for making progress on reducing water use.

Nebraska has water issues from border to border, but they are concentrated in three areas:

■ In the Republican River basin, Kansas is trying to force Nebraska to end its overuse of the river's water under the threat of nonbinding arbitration and possible litigation before the U.S. Supreme Court.

■ In the Platte River basin, Nebraska faces a year-end deadline to complete a plan to roll back groundwater use to 1997 levels to avoid violating a separate agreement with Colorado, Wyoming and the federal government.

■ In the Niobrara River basin, the Natural Resources Department faces opposition from some landowners, irrigators and others after the agency declared a temporary ban on new irrigation wells until water supply and demand are balanced.

Bleed, 66, said she has no immediate plans except to visit her children and grandchildren in Australia.

"I don't know what will come next," she said. "I suspect I won't really retire."

**The departed water czar says she is proud of her tenure but could no longer lead effectively because of her differences with Heineman.**

owt 3/27/08

# New version of I-300 vital for farm health

BY CHUCK HASSEBROOK

*The writer, of Lyons, Neb., is executive director of the Center for Rural Affairs.*

Unbridled expansion of corporate farming is not good for Nebraska communities or our land and water. And it violates the principle of providing a level economic playing field for people who work the land.

But thanks to State Sen. Cap Dierks and seven of eight members of the Agriculture Committee, the Nebraska Legislature has the opportunity to impose reasonable limits on corporate farming.

Legislative Bill 1174 would reinstate the basic principles of Nebraska's long-standing anti-corporate farming amendment — Initiative 300 — while addressing the objection of the federal court that overturned it.

This new legislation embodies two essential principles:

■ Owner-operated family farms and ranches should have the opportunity to compete in agriculture on a level playing field. Industrial-style farms — owned as investments and operated by employees — should not be granted unfair advantages.

majority of poor laborers at virtually no middle class."

LB 1174 would help protect our land and water. Research demonstrates that owner-operators of family farms and ranches have historically been more responsible stewards of natural resources than uninformed investors. Those not actively engaged in farming, an ranching should not be allowed to use limited liability to evade legal responsibility for their negative environmental impacts.

Initiative 300 demonstrates that we can have a strong agricultural economy and the benefit of placing reasonable regulations on corporate farming.

When Initiative 300 was overturned after 25 years on

the books, Nebraska was the No. 1 state in the nation for commercial red meat production, No. 2 in production of cattle and calves, No. 3 in corn, grain sorghum and dry edible bean production, No. 5 in soybean production and No. 6 in hog production.

■ Investors should be legally responsible for the impacts and liabilities of the farming operations they control and from which they profit.

LB 1174 would advance those principles by requiring investors who do not operate their farms to compete on the same basis as most owner-operated family farms and ranches — as sole proprietors and general partnerships. Government has conferred special tax advantages and liability limits on those who use the corporate vehicle to invest in agriculture. This legislation would prevent their abuse.

Responsibility is the key issue. Without LB 1174, corporate farm investors are not personally responsible for the liabilities of their business. Instead, they are allowed to shift responsibility for the debts and liabilities of their farm to those with whom they do business and the neighbors who must absorb their environmental impacts. LB 1174 would prevent that.

This legislation also would be good for Nebraska communities. A large body of research demonstrates that owner-operated farms support stronger, middle-class communities, while large, investor-owned farms lead to weak communities with "a few wealthy elites, a

LB 1174 would allow Nebraska agriculture to continue to flourish. It would restrain abuse of the corporate vehicle without overregulating agriculture. Family farms and ranches that choose to incorporate could do so, though most don't. And unlike Initiative 300, the new legislation would allow unrelated farmers to form a corporation for a combined farming operation.

LB 1174 also would clarify that family farm corporations based in other states may farm in Nebraska. That is to satisfy the federal courts that ruled that Initiative 300 unduly restricts interstate commerce.

Government has conferred special advantages on the corporate form of business. Thus government has the responsibility to ensure that those advantages are used in a manner that serves the common good.

In agriculture, we can provide that assurance by granting those advantages only to the type of agriculture that best supports our communities and protects our land and water resources: owner-operated family operations.

LB 1174 offers the framework for an economically viable but responsible agriculture that serves all Nebraskans.



## Bleed departure a blow

**T**he departure of Ann Bleed, who just resigned as head of Nebraska's Department of Natural Resources, is a blow to the ongoing

effort to rationalize water management and preserve the state's water resources.

Bleed had impeccable credentials for the jobs she did for eight years, including a year as permanent director of the agency. Her expertise as an engineer and water management professional helped guide the state well in times of turmoil.

Nebraska faces many difficult water challenges. For instance, Kansas officials have threatened to sue the state for using more water than allowed under a water compact involving the Republican River.

Nebraska also is looking at a fast-approaching deadline for a plan that would reduce Platte River water use to 1997 levels to comply with a multi-state agreement.

Then, too, in the Niobrara River system, Bleed and the DNR declared an unpopular temporary ban on new irrigation wells until the balance between supply and demand is determined.

Bleed has been the focal point of argument, protest and, yes, hatred from irrigators and others for her

**Time crucial  
on water issues;  
instability,  
uncertainty  
are not helpful.**

steadfast determination to follow the scientific findings of her department's experts rather than choose the politically expedient path. She re-

signed, she said, because of differences with Gov. Dave Heineman over how to proceed on water policy.

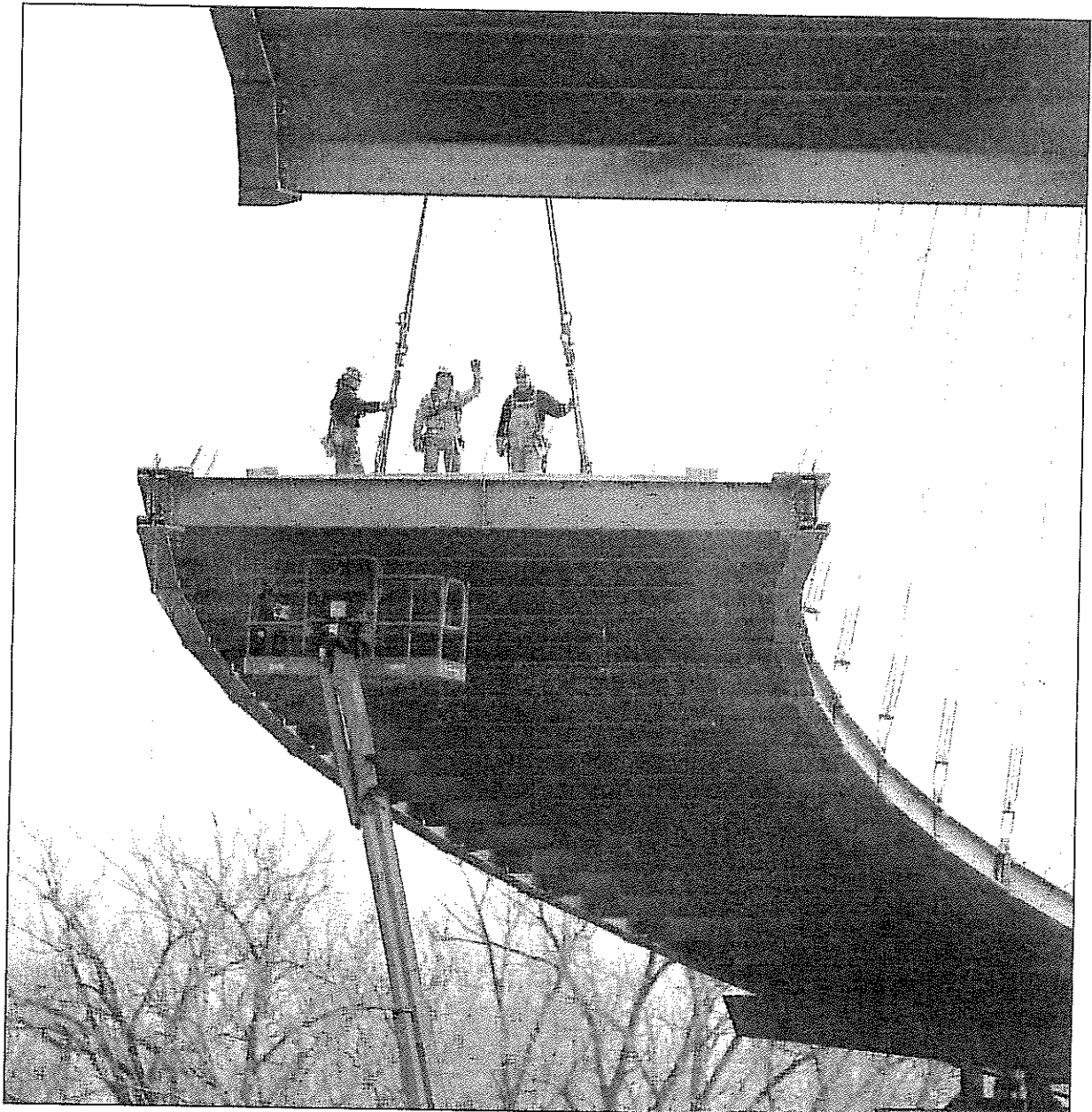
That in itself is disturbing because of Bleed's competence and strong professional history. State senators, water experts and those interested in Nebraska's economic future will need to monitor the department.

In addition, the person chosen by Heineman to succeed her should be an engineer as well-versed in hydrology and water management, as expert in the department's complex responsibilities and as straightforward with the public on the issues.

Nebraska is in a critical time in the development of reasonable and effective water management and in its efforts to comply with multistate agreements. Instability in the top natural resources job increases uncertainty about prospects for success.

Water is crucial to Nebraska's continued prosperity. And managing it properly and justly is vital. Bleed did a fine job of that while she was with the department. May her successor do as well.

# COMING TOGETHER



JAMES R. BURNETT/THE WORLD-HERALD

The span of the pedestrian bridge between Omaha and Council Bluffs is nearly connected. Work then will shift to paving and other work.

## Pace picks up on pedestrian bridge

By C. DAVID KOTOK  
WORLD-HERALD STAFF WRITER

Omaha and Council Bluffs could be linked within the next couple of weeks by the new pedestrian bridge over the Missouri River.

The landmark event will shift the emphasis from major construction on the deck to completing numerous details before the bridge can open, said Omaha Parks Administrator Larry Foster.

Construction on the \$22 million bridge remains on pace for a formal public opening in November, Foster said. A harsh winter caused ice to form in the river and slowed construction, which had been ahead of schedule,

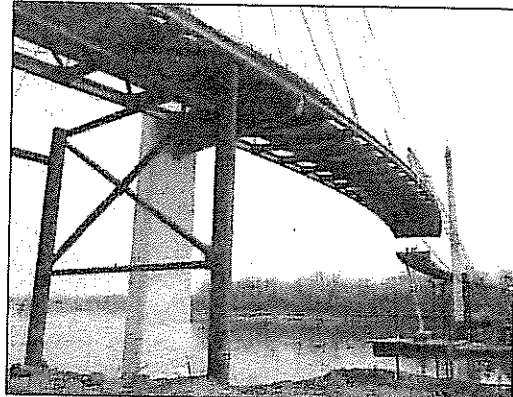
Foster said.

After the two sides are linked in the first or second week of April, Foster said, an enormous amount of work will remain. Electrical wiring will be installed to allow the bridge to be lit. The bridge also must be paved.

Bids also are going out for construction of a plaza at the bridge's base on the Nebraska side.

The plaza, which includes a play area, water spouts and special lighting, is being funded with \$2 million in private contributions.

While the bridge's landing is a centerpiece of Omaha's riverfront development, the Council Bluffs landing is on the levee near the largely vacant Playland Park area.



The bridge should be connected in the next few weeks and is on schedule to open in November. Electrical wiring will soon be installed, so the bridge can be lit.

3/28/08

## Midlands Voices

### State has to ensure 'new' water is new (OWH Op-ed, 3-30-08)

BY THOMAS KNUTSON

*The writer, of Farwell, Neb., is president of the Nebraska State Irrigation Association.*

*This essay represents the opinion of the association and its members.*

A March 21 Midlands Voices column by Dean Edson characterized Legislative Bill 924 as a simple attempt to establish a "transparent, open-to-the-public accounting system for water saved by local Natural Resources District" conservation measures. Opposition to the bill, Edson stated, was simply a matter of "misunderstandings."

Our view is that opposition to LB 924 stems from the bill's duplicative nature and its farreaching consequences.

Nebraska Revised Statute 46-252 (1) already provides protection for new water in streams as necessary to meet instream uses or downstream interstate obligations, to offset for new depletions or to provide water for new uses downstream, all while protecting existing water users. In addition, state law provides for public notice, public hearings and public access to water rights proceedings.

It is probably true that LB 924 will not be considered further by this year's Legislature. But the issues related to surface- water and groundwater procedures exist because of the separate management systems for administering water.

All water interests should continue to work closely to develop integrated management tools. The Governor's Water Policy Task Force already has devoted untold hours to developing the recent laws to address Nebraska's water policies.

The issues raised in the discussions about LB 924 have challenged the task force to continue its deliberations and develop recommendations for additional steps toward integrating water management procedures.

Suggestions that current laws governing surface water are antiquated and out of touch with current needs fail to recognize that those laws are the foundation of all water rights administration in the arid western United States.

The problem is not Nebraska's doctrine of prior appropriation, which clearly identifies who has rights to Nebraska's surface-water supplies. Instead, the confusion results from Nebraska's failure to incorporate hydrologically connected groundwater into that system, as has already occurred in other Western states.

It is well understood that many wells are hydrologically connected to streams in Nebraska and that pumping these wells reduces stream flow. Edson suggests that efforts to regulate or otherwise reduce groundwater use result in "new water placed in the stream by NRDs."

But reduced groundwater pumping does not put "new water" in the stream; it simply restores water that pumping has taken from the stream. When water is returned through the NRDs' regulatory efforts, shouldn't it be available for its prior rightful use?

As the number of wells in Nebraska has escalated over the years, the availability of surface water for traditional appropriations — irrigation, industry, municipal well field recharge, instream flows for fish, wildlife and recreation, reservoir storage, compliance with interstate agreements or compacts — has been reduced. Any water supply accounting system must recognize those commitments.

An integrated management system that recognizes prior water commitments would result in the identification of "new" water deserving of further protection. Any lament that

respecting appropriations would be an obstacle to meeting the demands of interstate compacts and agreements incorrectly assumes the two are mutually exclusive.

Future water administration must recognize the obligation to respect current appropriations and future obligations. The Legislature did this in 2004 when it provided mechanisms to achieve a sustainable level of water supplies and uses.

No one is suggesting that surface- water users must receive a full supply all of the time. The goal is to meet the Legislature's directives to achieve sustainability of our water supplies and resolve conflicts between uses.

Nature already provides ample obstacles to obtaining sufficient water to meet the many competing demands. Nebraskans must work together to see that water resources, both surface and underground, are available to meet the needs of all who depend upon and are rightfully entitled to them.

If effectively managed in an integrated, equitable manner, the resource should be sustainable for all users and no one should be left holding an "empty pail."

Surface-water interests have already worked hard as partners in the discussions within the Governor's Water Policy Task Force and with the Legislature. Issues raised by LB 924 must be a part of that continued process.

We remain committed to that process and are hopeful that discussion between all interested parties can lead to agreements that address the shortcomings in Nebraska's integrated management laws.

*Irrigators behind Bleed's departure*, OWH 3-31-08 Robert Nelson

The sudden resignation last week of Ann Bleed, the director of the Nebraska Department of Natural Resources, had a fishy smell to it.

Bleed said only that she was resigning because she had "differences" with Gov. Dave Heineman over the future direction of the state's water policy.

"I'm not going to go into details," she said to reporters. "That's between me and the governor."

Doesn't that comment scare anyone else?

If it doesn't, it should.

Because Bleed has been a strong leader in efforts to cap runaway use of the state's groundwater by irrigators in the Niobrara, Platte and Republican Valleys.

The largely unbridled use of groundwater by irrigators, particularly in the western regions of the state, not only has dropped water tables across the west, it has dried up streams, rivers and lakes that depend on healthy groundwater levels to maintain their own levels.

The overuse also has sucked the state into water litigation with neighboring states.

Groundwater and surface water are interconnected. They live or die together.

This is a message that Bleed has fought hard to get out to Nebraska's water users and water policy directors.

With this message, she has fought — with science behind her — to bring irrigators' water usage in line with sustainable levels in the state's basins.

Her biggest opponent in her efforts: The state's politically powerful irrigators — who make the argument that their continued overuse of the state's water resources is critical to the health of the state's economy. And Heineman, for better or worse, is all about the economy.

So I did the math. Good money would bet that Bleed resigned because the governor asked her to promote water policies that favored the big irrigators over surface-water interests, which include the future health of our natural resources and environment.

"I'm not going to say that," Bleed told me in a phone interview.

She doesn't have to. People close to the situation already did that for me.

And Bleed suggested that her conscience drove her from Heineman's side by saying this: "I will say, for the record, that we must have a legally fair allocation of water between surface and well interests in the state. That's simply critical for the future."

Consider this sobering thought: The 20th century was the wettest of at least the last five centuries.

The 1980s was the wettest decade in the wettest century.

Many of the state's irrigators are pulling water out of the ground at rates that were only viable during that decade.

"There is just no way we can continue to do what we're doing and expect it to be sustainable," Bleed said. "It's going to be scary if we don't continue to try to fully address this issue."

Bleed gave a vote of confidence to Brian Dunnigan, her deputy director who has stepped in as acting director.

What she worries about — what all Nebraskans who care about the future of this state should worry about — is who becomes the next full-time director.

"I would hope for a person of integrity, a person who understands water and the challenges facing this state and who is fair in enforcing the laws of the state," she said.

My guess: The powerful irrigator lobby is already chewing on Heineman's ear for a permanent director who does not fit that description.

This is a critical juncture in the long, complicated history of the state's water resource debate.

What's desperately needed is a director — and a governor — willing to make the tough decisions, based on the best science possible, necessary to ensure that the state maintains its water resources for generations to come.

Anything less and our children will surely be, as they say, up the creek without a paddle.

# 'Green corridor' touted

3-31-08

■ But a Sarpy official says he's shocked that a draft vision for I-80 lacks a Pflug Road exit.

By JOE DEJKA  
WORLD-HERALD STAFF WRITER

New York City inspired many an artist.

As unlikely as it may seem, the Big Apple may provide a blueprint for painting Nebraska's primary highway green.

The historic tree-lined parkways built in the 1930s in the New York metropolitan area are inspiring a team of consultants drawing up a future vision for the Interstate 80 corridor between Omaha and Lincoln.

In a draft report, the consul-

ants advocate a "green corridor" concept that would preserve scenic views, protect sensitive environmental areas and require that new buildings blend in with the scenery.

Development along I-80 would be clustered at interchanges, each with a distinctive character "providing a subtly out-of-the-ordinary traveling experience."

The concept, in part, stems from focus groups and an In-

ternet 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.

"Almost universally," the consultants say, "the preservation of the environment is perceived as a priority for the area."

That assessment, however, drew skepticism from Sarpy  
See I-80: Page 2

## I-80: Development would be around interchanges

Continued from Page 1  
County Board member Rich Jansen, who questioned the survey's accuracy.

The draft report does not include a controversial proposed interchange at Pflug Road, although that interchange could be added to the final report.

Jansen said he was "shocked" that an interchange that the Sarpy County Board wants at Pflug Road was not included.

The draft report includes a new interchange proposed at 180th Street, which is closer to the Omaha metropolitan area than the Pflug Road site.

Jansen said his phone "rang off the wall" after interchange supporters saw the omission. "I don't know why they left it out."

He said he will be pushing to include the interchange in the final report.

Doug Bisson, project manager on the corridor study, said Tuesday that the consulting team initially chose to "go with the sure things, what's on the ground," when drawing up concepts for interchanges.

The prospect of an interchange at 180th Street is stirring interest from developers, he said. Both Omaha and Sarpy County have eyed 180th Street as a north-south corridor, he said.

The proposed Pflug Road interchange has not received federal approval. A federal environmental review is under way, expected to be done next year.

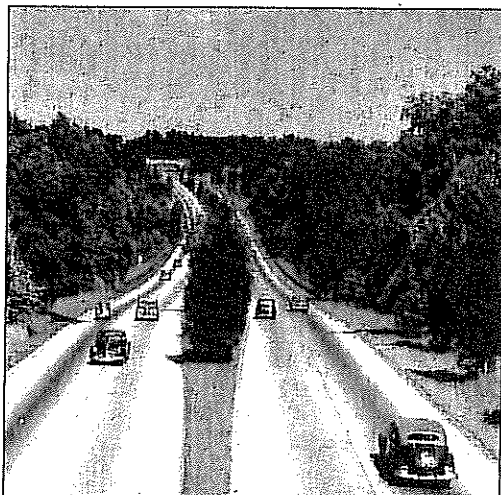
Sarpy County and the Seldin Co., which owns land at the proposed Pflug Road interchange, have successfully lobbied Congress to gain a \$4 million earmark to build the exit and entrance ramps.

Bisson said he expects the consulting team to draw up a general concept for a Pflug Road interchange and include it in the final report. The team also will add a proposed interchange for Lincoln's east beltway, between Waverly and U.S. Highway 6, he said.

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

"Sarpy County's put quite a bit of money into that thing already," Jansen said.



GETTY IMAGES

The Merritt Parkway, a 37-mile National Scenic Byway that runs from the New York-Connecticut border to just west of New Haven, Conn., served as inspiration for Marty Shukert, a consultant on the I-80 corridor report.

### Opportunities for comment

The public is invited to the 7 p.m. Thursday meeting of the Nebraska Innovation Zone Commission in the Red Oak Room of the main lodge at Mahoney State Park. Consultants will discuss their draft of a regional comprehensive plan for the Interstate 80 corridor between Omaha and Lincoln, and comments from the public will be heard.

Comments also will be taken through April 10 by the commission's executive director, Kathy McKillip. She can be reached by phone at 800-426-6505; by e-mail at Kathy.mckillip@ded.ne.gov; or by mail at NIZC, c/o Nebraska Department of Economic Development, Kathy McKillip, P.O. Box 94666, Lincoln NE 68509-4666.

The \$184,000 report by the Nebraska Innovation Zone Commission represents the first step toward producing a regional comprehensive plan for six eastern Nebraska counties: Douglas, Sarpy, Saunders, Washington, Lancaster and Cass.

Bisson said 12 focus groups with more than 100 participants met last October at Mahoney State Park and weighed in on the corridor's future.

The views expressed by the focus groups reflected the survey results, he said.

The Internet survey, posted on two Web sites during December and January, received 1,152 responses.

Sixty-two percent of respondents indicated that their top priority for the six-county region was to preserve environmentally important areas, such as the Platte River Valley, hills, streams and woodlands.

When asked to pick from four

possible visions for the corridor, 32 percent, the largest share, indicated that they would like land along the Interstate preserved as a "green corridor" with development focused on areas around existing towns.

The next-biggest group, 23.8 percent, favored development along the length of the corridor but wanted it governed by architectural standards and buffered from the roadway by extensive landscaping.

Brenda Gunn, chairwoman of the Innovation Zone Commission and the La Vista city administrator, said she didn't expect respondents' emphasis on the corridor's appearance.

"I'm glad," she said, "but was a little surprised at that."

The challenge ahead will be to come up with a regional plan that all the local cities and towns can buy into and implement, Gunn said. "I think that's going to be the tough part of whatever ends

up happening out of this."

W. Cecil Steward, an advocate for environmentally sensitive development along the corridor, said he's "very encouraged."

"I think the document looks like a framework for some positive decisions to be made," said Steward, founder of the Jostyn Castle Institute for Sustainable Communities.

He advocated a similar concept several years ago.

The consultants say parkways developed in the New York metropolitan area in the 1930s provide a useful precedent.

The parkways show how development and environmental appeal can go hand in hand, Bisson said. "You can have larger-scale development close to the parkways, and driving down them you don't even realize it."

Marty Shukert of RDG Planning and Design, a consultant on the I-80 corridor project, said he drew inspiration from the Merritt Parkway, a 37-mile National Scenic Byway that runs from the New York-Connecticut border to just west of New Haven, Conn.

The Federal Highway Administration Web site describes the road with reverence: "Built in the 1930s to cope with America's new fascination with the automobile, this byway is enshrined in the hearts of many as an icon of the automobile age and a model of highway planning."

The I-80 corridor report, however, goes beyond aesthetics.

The consultants cite the success stories of coordinated planning efforts in other U.S. cities, for example, the K-10 association, which was formed to promote the primary transportation corridor between Johnson County in the Kansas City metro area and Lawrence, Kan., home of the University of Kansas.

They suggest that I-80 could attract software publishers, Internet service providers and manufacturers of computer equipment and medical equipment and supplies.

The Legislature created the zone commission in 2005 on the premise that cooperation among governments holds the best promise for creating economic development and jobs. Its 19 directors represent cities, counties, the University of Nebraska, community colleges and natural resources districts.

The Omaha-to-Lincoln corridor, for now, is being loosely defined as the strip of land two miles south of I-80 and one mile north of Highway 6, which parallels the Interstate.

# NRD bonding bill is dead

'Bracket' motion ensures it won't pass this year

By Stephanie Ludwig  
Reporter

With the Nebraska Legislature set to close in just over two weeks, opponents of a bill that would grant bonding authority to the Papio-Missouri Natural Resources District can breathe easier.

Thanks to a motion to bracket, or delay consideration of the bill, by Omaha Sen. Ernie Chambers, District 11, LB 880 will not be heard again until April 17, the last day of the current Legislative session. The motion passed 25-8, after a spirited discussion between several senators on Monday morning.

LB 880 was introduced by Greta Sen. Gail Kopplin, District 3, last January and is designated as the senator's priority bill. The bill essentially gives bonding authority to the Papio-Missouri NRD, meaning that, in addition to the 4.5 cent levy the NRD currently has, the NRD could levy bonds without a vote of the people.

Officials from the Papio-Missouri NRD testified before the Natural Resources Committee of the Legislature earlier this year, claiming that bonding authority would allow the district to build large projects, such as dams. Without bonding, the NRD feared that it wouldn't be able to raise enough community support across the district to build such things.

Sen. Dwite Pedersen, of District 39, which includes parts of Washington, Douglas and Sarpy counties, has been against the bill since its introduction.

"I've been trying very hard and I will continue to work hard to kill this bill, for the simple reason that the NRD have not been good stewards of money they already have," Pedersen said.

The senator said the NRD currently has \$13 million in

the bank that they are "just sitting on." Since he has no idea what any bonding money would be used for, "there's no way in the world I can support it."

Other senators have expressed their concerns on LB 880 as well. The bill was discussed on the floor of the Legislature last Wednesday, in addition to Monday.

Sen. Mike Friend, representing District 10 in Omaha, told senators LB 880 was trying to solve too many issues, such as federal mandates for clean water within the next year.

"Giving an NRD bonding authority is overextending what the government is asking for," Friend said during the floor debate.

Sen. Tim Gay of Papillion co-sponsored LB 880 with Kopplin. He told the Legislature on Wednesday the NRD needed bonding authority in order to correct many of the water quality and quantity issues in the flood plain in Washington, Douglas and Sarpy counties. Without it, it was unfair to "ask people to do things and not give them the means to do them."

Pedersen, Sen. Don Preister of Bellevue, Sen. Carol Hudkins of Malcolm and Sen. Scott Lautenbaugh of Omaha, District 39, all spoke in favor of the bracket at Monday's session.

Kopplin, in a last-ditch effort to keep his bill alive, told the Legislature LB 880 gave the community a chance to work together and solve the problems of water quantity and quality.

"If you kill this bill, there is still no way to deal with anything," Kopplin said.

On Friday, Pedersen was confident LB 880 would not pass, even without the motion from Chambers on Monday. Pedersen had doubted senators would vote for the bill, given the large number of questions still attached to it.

"I don't think the votes are here for it to pass anyway. I would be surprised if he could get 18 and he needs 25," Pedersen said, referring to Kopplin.

# Plan to OK bonds for dams dries up

By MARTHA STODDARD  
WORLD-HERALD BUREAU

LINCOLN — State lawmakers in effect killed a bill Monday to allow the Papio-Missouri River Natural Resources District to issue bonds to pay for dams and other water projects.

Senators voted 25-8 to table Legislative Bill 880 until the last day of the session. That would not leave enough time for the bill to be passed this year.

The vote ends the NRD's third attempt to gain bonding authority.

State Sen. Gail Kopplin of Gretna, who introduced the measure, said rejection of the bill leaves the Omaha metropolitan area without an important tool to address the quality and quantity of storm water runoff. He predicted the issue would return next year.

"Somebody will carry a bill like this again because it has to be done," Kopplin said. "We

haven't found a solution yet, and we won't have a whole lot of time."

The Omaha area is under a federal mandate to deal with its storm water. The issue is pressing as more land gets developed in Washington, Douglas and Sarpy Counties.

The Papio NRD has proposed a series of dams to deal with the problem. Douglas County and Washington County officials testified in opposition to LB 880.

Opponents of the bill said low-impact development and other options could address the problem with less disruption to upstream residents.

While the NRD has not settled on the number of dams it plans to build, it has mapped out about 30 dams at a cost of about \$400 million.

"What we're asked to do in LB 880 is say whatever you want to do, here's the money," said Sen. Dwite Pedersen of Omaha.

## Loan for water sales cleared

WORLD-HERALD BUREAU

LINCOLN — Lawmakers approved a bill Monday that, if signed by the governor, would pay farmers in the Republican River basin for water they sold last year.

Legislative Bill 1094 passed on a 46-0 vote.

The legislation calls for borrowing \$9 million from the state's cash reserve fund to pay

about 300 irrigators who sold their water to help Nebraska fulfill obligations to Kansas under a multistate water compact.

The loan would be repaid by the three natural resources districts in the Republican River basin, once a lawsuit against the three districts is resolved.

The suit, filed by nine landowners and homeowners in the basin, is pending in Lancaster County District Court.



# Lake Regency needs patch 4-1-08

■ Application of a special clay will keep water from seeping from the lake into the Papio Creek.

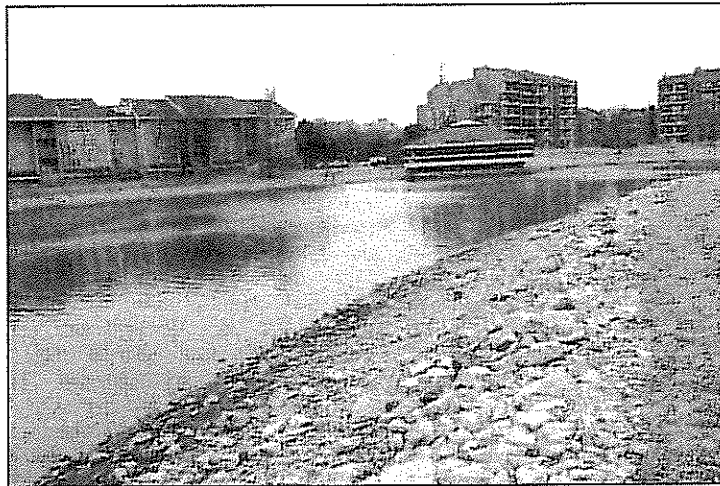
By CHIP OLSEN  
WORLD-HERALD STAFF WRITER

A privately owned lake in one of Omaha's most widely known upscale neighborhoods is losing water.

The level of Lake Regency is noticeably lower than its average depth of 8 feet, a member of the Regency Homeowners Association board said.

"I would say right now that it's probably down two feet from normal," Steve Olson said.

The slow drain of an estimated 75 gallons of water per minute was first noticed at the end of 2007, according to Morgan Properties of King of Prussia, Pa.,



RUDY SMITH/THE WORLD-HERALD

Repairs are planned at Lake Regency after an engineering firm determined that it's losing about 75 gallons of water a minute.

which owns the lake. The company also owns Regency Lakeside Apartments. The apartments and the lake are just north of Pacific Street and west of Regency Parkway.

The problem is expected to be repaired this week, now that an

engineer has figured out the source of the leak.

Omaha-based engineering firm HDR determined that the lake was losing 75 gallons of water a minute, said Jerry Sherman, *See Lake: Page 2*

## Lake: Rise in MUD bill calls attention to water loss

*Continued from Page 1*  
president of the Regency homeowners association.

Kevin Jackson, a construction engineer and homeowners association board member, said he thinks the water is seeping into the soil, then draining into a storm sewer on the west side of the lake. The storm sewer empties into the Big Papillion Creek, which runs along the west side of the lake.

Sherman said a local contractor will be hired to make the repairs.

Dirt and a kind of clay called bentonite will be added on the west side of the lake to address

the problem, he said. The clay will expand as it absorbs water.

Michael Duncan, regional manager of Morgan Properties, said this is the first time the lake has had this type of problem. When needed, apartment officials add water to the lake from the Metropolitan Utilities District.

Sherman said the water level normally drops 6 to 8 inches a year. He became aware of the problem in January when an MUD bill was much higher than normal. Sherman said the water bill is normally \$5,000 a year. He declined to say how much the latest bill was.

The homeowners association and Morgan Properties share responsibility for maintaining the lake.

The T.H. Maenner Co. developed the sprawling Regency area in the late 1960s and early '70s on more than 450 acres of farmland.

Construction of the crescent-shaped body of water began in 1968 in what was a cornfield. Eighty-five million gallons of water was used to fill the lake.

An official of the Papio-Missouri River Natural Resources District said 75 gallons of water a minute is a relatively small amount of water flowing out of the lake and into the creek.

Assistant General Manager Marlin Petermann said that losing water at that rate would cause a lake of the size of Lake Regency to drop about 3 feet every 100 days.

"That's pretty slow," he said.

That amount of water wouldn't be noticeable coming into the creek, either, he said. At any given time, 100 cubic feet of water per second is flowing into the Papio Creek, which is roughly equal to 48,000 gallons per minute.

World-Herald researcher Jeanne Hauser contributed to this report.