

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: April 6, 2009

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 March, 2009, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:**
1. The P-MRNRD Environmental Committee met on March 27, 2009. Items discussed were rain garden development, LEED certification for new building at Blair, wind generators and several other topics. A copy of the minutes is attached for your information.
 2. On February 25, 2009, the District offered First Aid/CPR training to employees. The following attended: **Keith Butcher, Amanda Grint, JoLene Kohout, Lori Laster, Ron Lehman, Mike McNaney, Marty Nissen, Jason Schnell and Terry Schumacher.** I would like to thank **Jean Tait** for coordinating the training.
 3. The District has been notified that it will be honored as a "2009 Greater Omaha Safest Company." The District will receive the Award of Honor Bronze at the Safety and Health Summit at the Qwest Center on May 13, 2009. This award reflects the efforts of the P-MRNRD Safety Committee and a commitment to keep the workplace safe by our employees.
 4. A field trip to Grand Island to review invasive species issues on the Platte River is being planned for sometime in July. We anticipate inviting County Officials, State Senators and NRD Directors to participate. More details to follow.
- 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, 2009. 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 16, 2009. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.

E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** The March, 2009 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on April 30, 2009, at 10:00 a.m. at the NRC

F. **LEGISLATIVE UPDATE:** The following information is attached for your information:

1. March 13, 2009 NARD Update
2. March 20, 2009 NARD Update
3. March 27, 2009 NARD Update
4. April 3, 2009 NARD Update

G. **NEWS CLIPS:**

- ✓ March 9, 2009, Omaha World Herald article – Last chance for Republican River talks. Starting today, three states will try to resolve a water dispute before Kansas takes its case back to court.
- ✓ March 9, 2009, Omaha World Herald – Midlands Voices written by David Naby – New DNR laws to hurt Nebraska
- ✓ March 11, 2009, Douglas County Post Gazette article – Waterloo residents to vote on bond issue for levee upgrade
- ✓ March 12, 2009, Omaha World Herald article – Parks not immune to budget woes. The Game and Parks Commission may reduce services at 28 state recreation areas and limit them at six state historic parks.
- ✓ March 13, 2009, Omaha World Herald article – NRDs say study shows water limits not needed on Platte
- ✓ March 14, 2009, Omaha World Herald article – Study calls for restraint with irrigation
- ✓ March 16, 2009, Kearney Hub article – Sen. Carlson: Weed removal funds have rivers running fuller
- ✓ March 17, 2009, Douglas County Post Gazette – Legislative Word in the Twenty-Third written by Senator Chris Langemeier – Comments on safe haven, NRD fund bills
- ✓ March 18, 2009, Omaha World Herald editorial – LB 160 is needed. Flood plan vital for area.
- ✓ March 20, 2009, Friday Message from Steve Chick – Turtle 2 dam rehabilitation is well under way.
- ✓ March 25, 2009, Omaha World Herald – Midland Voices written by Chuck Folsom, former LPNRD Director – A democracy void in DNR
- ✓ March 26, 2009, Omaha World Herald article – Sen. Nelson: Look to stimulus funds before earmarks
- ✓ March 28, 2009, Omaha World Herald editorial – “Rain Harvesting” feud. This is a crime?
- ✓ March 29, 2009, Omaha World Herald article – About one-fifth of wells contaminated
- ✓ March 30, 2009, Lincoln Journal Star article – Dunnigan reverses course on Lower Platte Basin
- ✓ March 30, 2009, Omaha World Herald editorial – Flood Control Alternatives. Anticipating the deluge.

- ✓ March 31, 2009, Omaha World Herald – Midland Voices, written by Sen. Kent Rogert – Beware of costly flood-control measures in Papio NRD proposal.
- ✓ March 31, 2009, Omaha World Herald article – Lower Platte water use limits delayed
- ✓ March 31, 2009, Douglas County Post Gazette article – Elkhorn Crossing Park renovation to begin this spring
- ✓ April 1, 2009, Omaha World Herald editorial – Lower Platte Basin – Water woes to continue

/pt/Winkler/GM Reports/2009/April

March 2009
Information and Education Report

Information

Continued work on Public Service Campaigns. Met with potential co-sponsors. Began scripting on Fall 2009 campaign.
Continued work on Recreation Area signs.
Continued work on Web site re design and update
Attended PCWP meetings
Began work on Spring Spectrum
Worked on reorganization of digital photo file
Gave presentation to Dundee Kiwanis Club

Education:

- EDO meeting
- Water Works Planning (Selected Schools, Secured Presenters, Correspondence with Schools)
- Millard South interview project
- Held Metro Regional Envirothon (13 teams)
- Millard South – water quality – 9 high school students
- Girl Scouts – “Use Resources Wisely” badge – 6 girl scouts
- Benson West – bird nests programs – 120 kindergarten and 1st grade students
- MORE Nature meeting
- LEP educator training workshop – 10 teachers/informal educators
- Earth Wellness Festival – Game Scene Investigation – 175 5th grade students
- Whole Foods 5% day for Earth Day Omaha fund raiser
- Continued planning for Earth Day Omaha children’s tent
- Planning Community Forum for MORE Nature—Invitations sent out
- Started designing kid’s fact sheets
- Continued planning family nature nights at 6 schools
- Met with NRD staff to discuss Millard West Wetland Restoration
- Met with MPS Administration to outline Millard West Wetland Restoration
- Met with Jenny Hendricksen and WLE to secure Raptors for NRD programming
- Staffed booth at Literacy Center’s Read and Romp
- Attended NRD Environmental Committee Meeting
- Started planning for World O! Water Festival September 2009

Environmental Committee Minutes

March 27, 2009

In attendance: Christine Jacobsen, Dick Sklenar, Ralph Puls, Amanda Grint, Jerry Herbster, Tom Pleiss, John Winkler

1. Since the GM joined us we took some time to discuss our direction and responsibilities. We are going to try to get our own line item budget for the next year of approx. \$ 40,000 for several projects, which includes the rain garden development, new appliances for the break room & ceramic cups that will replace the paper and styrofoam cups.
2. **Rain Garden Report**- Amanda reported that the survey of the rain garden area has been completed. The information is now with the engineers and we are waiting to hear back from them.
3. **Blair Building Report**: There was some discussion on the new building at Blair. It centered on LEED Certification. We are going to review the plans when they are available.
4. **Wind Generators** : Jerry Herbster talked about his experiences with wind generators and the need for Net Metering so we can effectively use wind generators. John said he had a few contacts at OPPD and would try to discuss this issue with them.
5. **Things still being worked on**
 - There are a few fixtures in the NRC office building that still need to be replaced. Dick is going to get some fixtures and we will have them installed.
 - Richard Louv/Susan Linn Event will be held at Countryside Community Church on April 2 & 3, 2009
 - We are holding 6 nature nights at schools throughout the District—These are school wide events with 20 agencies being represented, and over 500 in attendance projected for each event (Junior League has partnered with the District's MORE Nature to do these events).
 - We will be holding a Community Forum on April 28, 2009 at the Zoo to engage local representatives in the movement to get families outside. Director Kolowski and Connie Spellman are co-signing on the event. There are over 300 invites going out.
 - Christine has ordered 8 rain barrels which she is going to have painted by children at various event and then they will be put around the building.
6. **Items for next budget cycle**
 - Window replacement in_NRCS Building
 - Appliance replacement in NRCS break room



March 20, 2009

Jean Tait
Safety Director
Papio Missouri River Natural Resources District
8901 S 154 Street
Omaha NE 68138

Dear Jean

Congratulations! Your company is a **2009 Greater Omaha Safest Company!** Your award category is Award of Honor Bronze. This is based on your application in the National Safety Council, Greater Omaha Chapter's awards program and the comprehensive review completed by our "Safest Companies Awards Committee."

Your company will be recognized at "Awards and Sustenance", May 13, 2009, during the Safety and Health Summit at the Qwest Center Omaha.

We invite your representative to be our guest at this exciting event to be seated with the other award winners. Frequently friends and safety teams who have shared in the success also want to attend. The attached invitation provides a great opportunity for reservations. Thirty dollars (\$30) of each ticket is tax deductible as we are a 501(c)(3) non-profit organization.

Award winners will be recognized in a video presentation during the luncheon. Bruce S. Wilkinson, CSP, President & Chief Leadership Officer, Workplace Consultants, Inc. will share with attendees the real key to personal and organizational success... "One Voice Leadership." He will also discuss ways to motivate employees to meet the challenges of the corporate mission, vision and core values of your organization.

Almost a thousand people usually attend this event and have a fun and enjoyable experience.

Please make a calendar note for your representative to arrive no later than 11:30 a.m. Members of the awards committee will help your representative find their place and award.

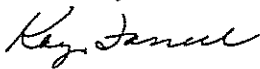
It is especially urgent that you complete the enclosed form and return it with requested information and attachments by April 10. Note the request for a new special type of logo which will allow us to present your organization in the best way possible.

In addition to your award and luncheon recognition, you will be recognized in the *Midlands Business Journal*, *Safety Pro* and at www.SafeNebraska.org. By e-mail you will receive a media template that you can use for an announcement in your community and/or your house publication. An awards logo will also be available for use on your letterhead/printed materials and your website and decals will be available for your doors.

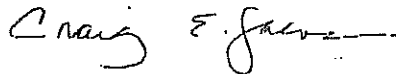
More information about Safety and Health Summit can be found at www.safetyandhealthsummit.com .

Thank you for responding to your nomination and for your dedication and commitment to safety within your organization. We are enthusiastically looking forward to your participation on May 13, 2009. Please contact Donna Crouse at the Council (896-0454, ext. 407) if you have any questions.

Sincerely,



Kay Farrell
President/CEO



Craig Jacobs, Chairman
Occupational Safety and Health
Awards Committee

P.S. The enclosed coaster is to remind you that you can be an Ambassador of Safety. If you recruit a first-time Summit full conference attendee you will receive a complimentary flash drive. There's no limit to the number of flash drives ... so take advantage of this special offer.

Enc. Awards form, Summit brochure, coaster

cc: John Winkler

Report On Purchases Construction Services, Professional Services, Personal Property

March, 2009

Date	Project Name	Item / Task	Company	Cost
3/2/09	Chalco Hills Rec Area	New metal roofing – Picnic Area D	Lockman Enterprises	\$ 3,100.00
3/10/09	Misc. Services	Papio Creek Watershed – Misc. Services	HRD	\$19,9994.00
3/16/09	Little Papio Channel	Trim trees between Pratt and L Streets	Professional Tree Service	\$4,500.00
3/16/09	Papio Creek Levee System	Design services for repairs at 2 trail/channel/bridge locations	Kirkham Michael	\$18,200.00
3/22/09	Dakota County Rural Water	Purchase of meter pits	Municipal Supply, Inc.	\$2,910.99
3/30/09	MoPac Trail	Box culvert stabilization	Schemmer Associates	\$18,957.00
3/1-31/09	Project Maintenance	Screened rock	Cemex	\$6,225.00

MONTHLY UPDATE

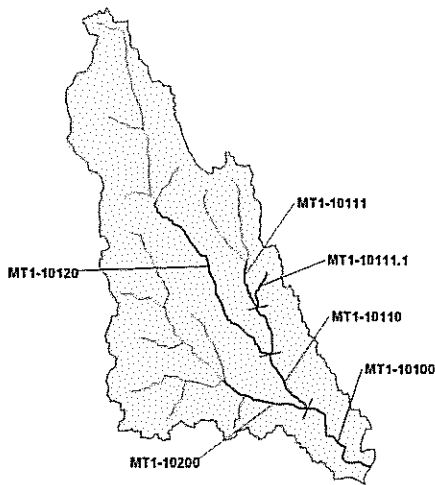
MARCH 2009



A Partnership meeting was held on March 26th. Meeting minutes and other materials are updated regularly on the Partnership's website: www.papiopartnership.org.

Papillion Creek Watershed Total Maximum Daily Load (TMDL) Report

At the March 26th PCWP meeting, Pat O'Brien with the Nebraska Department of Environmental Quality (NDEQ) gave an update on the Total Maximum Daily Load (TMDL) report for Papillion Creek Watershed. Background on TMDLs, results, possible sources of contamination and potential future regulations were discussed. The public comment period is complete for the report and it has been submitted to EPA for review. The streams segments studied are shown below and also listed is the percent reduction in E Coli bacteria to meet the recommended TMDL. For more information on the report you can view the entire presentation on the Partnerships website.



Segment	Reduction Needed
MT1-10100	94%
MT1-10110	94%
MT1-10111	96%
MT1-10111.1	93%
MT1-10120	93%
MT1-10200	87%

Watershed Management Plan Update

At the Public Official's meeting held on February 14th, a letter was read from the Washington County Board of Supervisors. This letter requested that any reference to Washington County be removed from the financial framework. On March 31st, the Partnership met with Washington County officials to discuss a response to the letter and incorporation of Washington County's comments in to the Stage IV report. Also discussed at this meeting, was the possibility of Washington County joining the Partnership. The Washington County Supervisors present will discuss the proposed response to the letter and the possibility of joining the Partnership with their full board.

Final edits to the Stage IV report will be completed in April.

NPDES Compliance

The annual reporting required for the NPDES Phase II communities is due on April 1st. Douglas County has provided a template to all the communities to facilitate the reporting.

The Partnership is in the process of reviewing its interlocal agreement and will be working toward a draft with a goal of presenting it to communities for approval beginning in May 2009. The current interlocal agreement expires on July 31, 2009.

Upcoming Events

Kathy Homer, Tetra Tech, is planning to speak to the Partnership on April 30th on the Kansas City Sustainable Cities Program.

Next Meeting: The next full Partnership meeting is scheduled for April 30th at 10:00AM at the NRD office.



Updated: March 16, 2009

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)
 - ☼ Whitted Creek easement form (N)
- **Big Papio:** (Cleveland)
 - Land Exchange with Sarpy Co. (96th St.) (W)
- **West Branch:** (Cleveland)
 - ☼ Mel Bundy ROW easement preparation (W)
- **Western Sarpy Dike:** (Cleveland)
 - Prepare Interlocal w/Waterloo for levee improvements (N)
 - Floodway Property purchase agreements as needed (F)
 - Review Amendment to Cole Creek Agreement w/Omaha (N)
 - Review PBS&J Professional Services Amendment (N)
- **Trail Projects:** (Bowen)
 - ☼ Western Douglas County Trail – purchase agreements, deeds, easements, etc. (W)
- **Missouri River Corridor Project:** (Becic)
 - Agreement for Omaha to maintain Missouri River Trail at N.P. Dodge North (P)

- **USDA PL 566 Projects, Silver Creek and Pigeon/Jones Watershed:** (Puls/Cleveland)
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - Release of Site S-7 Easement (W)
 - ☛ Review Papio W-2 Professional Services Contract w/HDR (N)

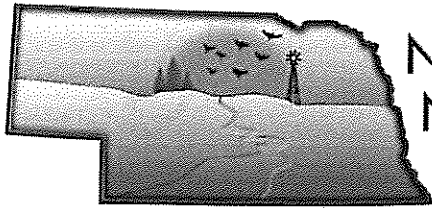
- **Papio Watershed Dam Sites:** (Grint/Petermann)
 - ☛ Review appraisals and prepare purchase agreements for WPRB-5 Properties (W)
 - ☛ WPRB-5 City of Papillion Interlocal Agreement (W)

- **Papio Creek Watershed Partnership (Stormwater):** (Grint)
 - ☛ Draft new 5-year Partnership Interlocal Agreement (N)

- **Rural Water Projects:** (Sklenar)

- **Elkhorn River Public Access Sites:** (Sklenar)

- **Other:**
 - Kennard Wastewater Closing (Grint) (F)
 - ☛ Glacier Creek Heritage appraisals/purchase agreement (Becic) (W)
 - ☛ Cinnamon Acres easement documents (Cleveland) (P)
 - ☛ Radio system service agreement (Cleveland) (W)
 - ☛ Response to County Assessor – Real Estate tax on leased NRD lands (Cleveland) (N)



Nebraska's Natural Resources Districts

www.nrdnet.org

601 S. 12th St. Suite 201
Lincoln, NE 68508

nard@nrdnet.org
(402) 471-7670

Protecting Lives • Protecting Property • Protecting the Future

March 13, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: March 13 NARD Update

Findings for Lower Platte do not support fully appropriated status -- Following a scientific and legal review, the preliminary determination that the Lower Platte River Basin is fully appropriated is not supported by the science and is in conflict with the State's regulations.

On December, 16, 2008, the State of Nebraska Department of Natural Resources (DNR) issued a preliminary determination that the Lower Platte River Basin, including tributaries, is fully appropriated. Nine Natural Resources Districts (NRDs) – including all eight in the lower Platte – recently concluded their review of this determination. As provided by statute, the 90 days following the preliminary determination are to be used by DNR for hearings and receiving evidence and for the NRDs and DNR to consult water users and stakeholders regarding the preliminary findings. The NRDs worked closely with DNR during this period of time, engaging in an open dialogue, exchanging information, and working together to ensure the final determination is based on the best science and is consistent with the regulations. Although the NRDs previously shared this information with DNR, they presented their findings at the final hearing in Fremont, Nebraska on March 12.

These findings include the following:

1. The methodology used in the 2009 Annual Evaluation is inconsistent with DNR's regulations because it:
 - (a) Includes impacts for wells outside the hydrologically connected area; and
 - (b) Assesses the 65/85 rule against a junior appropriator, rather than the most junior appropriator.
2. The 2009 Annual Evaluation substantially over-estimates the current levels of groundwater pumping in the basin.
3. The 2009 Annual Evaluation utilizes an out-dated methodology – known as the Jenkins method – to calculate stream depletions outside the ELM area. This methodology is not the best available science.
4. The 2009 Annual Evaluation includes stream flow depletions from over 100 wells below the Louisville gauge as though the depletions are occurring at the Louisville gauge.
5. The preliminary determination that the Lower Platte River Basin is fully appropriated is not supported by the best science and is not consistent with the regulations.

Reflecting on these findings, John Miyoshi, General Manager of the Lower Platte North NRD, commented: "It was extremely beneficial, with DNR's cooperation, to do a transparent review of the work that led to the preliminary determination of fully appropriated. It is our hope that we can continue working together to assure we are using the best science and are consistent with the regulations in the future. At this time, it would appear that a final determination of fully appropriated is not supported by the best science with adherence to the state regulations governing this process".

Republican River Compact arbitration - Nebraska and Kansas officials pitched their case to the Arbitrator in the Republican River Compact arbitration this week over damages for the disputed overuse of water under the settlement agreement. Nebraska officials submitted an estimate of \$615,000 to \$1.23 million for the disputed overuse of water while Kansas claimed just over \$9 million in damages to crop yield and revenues for Kansas farmers.

Last year, Kansas asked for \$72 million from Nebraska for damages which was based upon their estimate of Nebraska's gain from the extra water. However, the arbitrator in the case outlined that Kansas can only seek actual damages, not what the estimated gain was to Nebraska. The revised \$9 million estimated loss of crop yield and revenues for Kansas farmers totaled \$4.2 million in 2005 and \$4.85 million in 2006, according to documents Kansas submitted to the arbitrator.

The arbitrator will have a decision early this summer. The states would have to agree to the decision or go back to the Supreme Court.

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

Mr. Steinkruger also appointed Jim Meismer, Twin Platte NRD, to serve as Chairman of the Legislative Committee. Jim has served as chairman for the past 7 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 Jasper Fanning, Upper Republican NRD Manager, was elected to Chair the Managers Committee and Anna Baum, Upper Loup NRD Manager, was elected Vice-Chair.

Bonding bill advances – The bill to allow the Papio-Missouri River NRD to issue bonds for stormwater and flood control, LB 160, was advanced by the Natural Resources Committee to General File this week. The committee amendments to the bill make several modifications, including:

- Allow county board to disapprove of any reservoir exceeding 20 surface acres, if done within 90 days of notification of project by the NRD Board of Directors;
- Allow for bonding authority with a vote of the electorate for bonds exceeding one cent of the levy;
- Provide for a 2/3 vote of the NRD board to submit a bond issuance;
- Provide that bond proceeds not be used for metropolitan class city's combined sewer separation projects; and
- Provide that the bonding authority sunsets on December 31, 2019.

The bill is sponsored by Senator Tim Gay and was declared a Priority Bill by Senator John Nelson of Omaha.

Prohibiting NRD use of eminent domain advances – The Natural Resources Committee advanced LB 134 this week which prohibits NRD use of eminent domain for recreational trails. The committee amendment is proposed to replace the bill. This amendment would require a district to obtain consent of the Legislature before using the power of eminent domain for the development or management of recreational trails or corridors unless associated with a flood control structure. The bill's sponsor, Senator Dave Pankonin, also declared LB 134 his Priority Bill for the session.

Priority Bills – March 12th was the deadline for senators and committees to declare Priority Bills for the session. Each senator can declare one priority bill and each committee can declare two priority bills for the session. The Speaker can also designate 25 bills as Speaker Priorities, which will be announced next week. Priority status increases the chances of the bill to be debated. **For a complete list of Senator Priority Bills, go to: <http://www.nebraskalegislature.gov/session/priority.php>.** The following bills related to natural resources were declared priorities:

- LB 54 -- Integrated water management procedures (Fischer Priority Bill)
- LB 98 -- Extend riparian vegetation management (Carlson Priority Bill)
- LB 134 – Limit NRD eminent domain authorities (Pankonin Priority Bill)
- LB 160 – Bond Authority for Papio-Missouri River NRD (Nelson Priority Bill)
- LB 286 – Change the distribution of lottery funds (General Affairs Committee Priority Bill)
- LB 361 -- Change roll call provisions under the Open Meetings Act (Government Committee Priority Bill)
- LB 477 -- Change provisions relating to water transfer permits (Utter Priority Bill)
- LB 483 – Change water management provisions (Langemeier Priority Bill)
- LB 646 -- Adopt Livestock Growth Act and Revolving Loan Fund (Schilz Priority Bill)
- LB 681 – Provide for refund of unconstitutional taxes, assessments, and penalties (Christensen Priority Bill)

Committee Hearings this Week

LB 12 - Increase Nebraska Resources Development Fund, Langemeier (NARD Bill). Ron Bishop, Central Platte NRD Manager, testified on behalf of NARD in support of increasing the annual general fund appropriation for the Nebraska Resources Development Fund. The bill would increase funding for the program from \$3,373,066 to \$7,000,000 annually for FY 2009-10 and 2010-11. The Appropriations Committee took no action on the bill after the hearing.

LB 210 -- Change provisions relating to aid to natural resources districts, Langemeier (NARD Bill). Dan Smith, Middle Republican NRD Manager, testified before the Revenue Committee on behalf of NARD in support of changing the state aid formula for natural resources districts. The bill, LB 210, changes the formula so that the amount of property tax levied by the district does not include the property tax levied for principal or interest on bonds. State aid to NRDs is calculated on the ratio of property taxes levied by a district compared to the total property taxes levied by all districts. The Revenue Committee took no action on the bill after the hearing.

LB681, Tax refunds – Senator Mike Flood, Speaker of the Legislature, introduced LB 681 on behalf of Governor Heineman to the Revenue Committee this week which would provide refunds for taxes declared unconstitutional. Although the bill is in response to a recent Nebraska Supreme Court ruling that property taxes levied under LB 701 were a state purpose and thus unconstitutional, the bill would apply refund provisions to all cases after January 1, 2009. Existing law allows for refunds if a taxpayer had filed a protest of the taxes within specific timeframes when the tax was imposed. The bill would provide refunds to all taxpayers, whether they filed the protest or not and apply to all future tax cases.

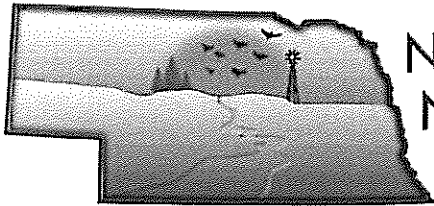
Dan Smith, Middle Republican NRD Manager, and Mike Clements, Lower Republican NRD Manager, testified on the bill offering support for returning LB 701 property taxes. The Nebraska Association of County Officials suggested at the hearing that a tax credit system be considered as an option to tax payers rather than refund checks as some refunds under the LB 701 will be less than a dollar. The committee took no action on the bill.

All hearings on bills that are being tracked by NARD are concluded for the session.

NARD Bill Summary Tracking Sheet

Bill or CA	Description	Sponsor(s)	Priority	Last Updated: 03/06/09	NARD POSITION	Committee	Hearing Date	Status	Amendments
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee		
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn		Christensen MO4-passed
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File		
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File		
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	General File		AM348-Pending
LB 56	Modify Livestock Waste Management	Fischer		Monitor	Natural Resources	1/28/2009	General File		AM310-Pending
LB 98	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	General File		AG AM641-Pending
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin	Opposed	Natural Resources	1/23/2009	General File		AM626-Pending
LB 160	Bond Authority for PMNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File		Committee AMD-Pending
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett		Monitor	Revenue	2/6/2009	General File		Cornett name added, Carlson name withdrew, AM357-Pending
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09		Passed with Emergency Clause
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09		FA2-Lost, FA3-Lost, AM60-Lost
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Select File		AM 453-Pending, MO18 - Pending, AM 543-Pending
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	General File		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	Committee		
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett		Monitor	Revenue	1/28/2009	Committee		
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	Committee		
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas		Monitor	Natural Resources	1/30/2009	Committee		
LB 253	Provide that state law preempt local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert		Opposed	Agriculture	2/10/2009	Committee		
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/2/2009	General File		
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	Committee		
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee		
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee		

NARD Bill Summary Tracking Sheet		Last Updated: 03/05/09		Page 2 of 2	
Bill Number	Description	Friend	Priority	Monitor	Committee
LB 336	Exempt municipal water from sales tax			Monitor	Committee
LB 361	Change roll call provisions under the Open Meetings Act	Avery	Government Committee	Monitor	General File
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Committee
LB 379e	Extend the scrap tire grant program	Haar		Support	Presented to Governor
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson		Monitor	General File
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	AM 355-Pending
LB 466	Eliminate excise tax on corn and grain sorghum	Wallman		Monitor	Committee
LB 477	Change provisions relating to water transfer permits	Carlson	Utter	Support w/ clarification	Committee
LB 480	Change budget limit and tax levy limitation provisions	Dierks		Support	General File
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Support	Committee
LB 483	Change well moratoriums	Langemeier	Langemeier	Monitor	Committee
LB 486	Require certain governmental entities to identify themselves as such in their official name	Langemeier		Support	Select File
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Karpisek		Monitor	Committee
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Langemeier		Support	Committee
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Hadley		Support	Committee
LB 565	Adopt the Woody Biomass Energy Act	Stuthman		Oppose	Committee
LB 577	Change provisions relating to improvement projects areas of NRDs.	Leuden		Support	Committee
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Rogert		Oppose	IPP
LB 582	Create the NE Invasive Species Council	Carlson		Monitor	Committee
LB 624	Provide for energy efficiency loans for public buildings	Dierks		Support w/ modifications	Committee
LB 626	Change prohibited activities for public officials and public employee's use of public resources	Haar		Monitor	Committee
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Karpisek		Support	Committee
LB 639	Change provisions to telephone conferencing for public meetings	Mello		Monitor	Committee
LB 643	Change and provide notice requirements of road construction near electric lines	Karpisek		Monitor	Committee
LB 644	Adopt the Electronics Recycling Act	Schitz		Monitor	Committee
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Mello		Monitor	Committee
LB 656	Adopt the Health Care Accessibility and Affordability Act	Christensen		Support	Committee
LB 665	Changes to the Niobrara Scenic River Council	Harms		Monitor	Committee
LB 678	Change provisions relating to minutes of public meetings	Langemeier		Support	Committee
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties	Haar Speaker Flood on behalf of the Governor	Christensen	Monitor	Committee



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March 20, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: March 20 NARD Update

LB 701 property tax refunds – The issue of refunding property taxes collected under LB 701 could become very confusing and convoluted over the next few weeks as different interested parties line up to try to get a share of the \$2.5 million in property taxes. Last month, the Nebraska Supreme Court ruled the property taxes collected under the law in 2007-08 were unconstitutional because they were for a state purpose. Here are the issues that have surfaced since.

- After the decision came down, Governor Heineman introduced LB 681 to have any taxes declared unconstitutional refunded to the taxpayers. If the bill became law, it would apply to all court decisions rendered after January 1, 2009. The bill has been declared a Priority Bill by Senator Christensen so the chances of passage increase significantly.
- While the case was pending in court over the last 18 months, the local NRDs that collected the funds could not use them to pay for the water leases because of the pending litigation. Rather those funds were held in trust accounts until the litigation issues were resolved. This included the property tax and the occupation taxes that were collected. Because the funds could not be used, the State of Nebraska loaned about \$9 million to the NRDs so the citizens that leased the water to the NRDs could be paid. Under this loan agreement, the repayment does not have to begin until the pending litigation regarding the “**tax proceeds**” is resolved.
- The term “**tax proceeds**” in the agreement is specifically referred to as the “proceeds of the property taxes authorized pursuant to subdivision (1)(d) of 2-3225 *and* the proceeds of the occupation taxes authorized pursuant to section 2-3226.05”. (*emphasis added*)
- There is pending litigation in Lancaster County District Court on the occupation taxes so those funds are held in a trust account until the litigation is resolved. This could take another 15-18 months before a final opinion is rendered.
- Even though there is still pending litigation on the occupation taxes, the Department of Natural Resources has interpreted the agreement to mean that when litigation has ended in *either* of the cases – not both, the loan for that portion needs to be repaid to the State of Nebraska through the Department of Natural Resources. If this is done, the refunds to the taxpayers as proposed by Governor Heineman can not be done because the refund owed to the taxpayer would have been intercepted by the state.
- Some suggestions have been made by state officials to authorize the NRDs to levy a property tax to pay back the property taxes that were ruled unconstitutional and repay the state for the loan rather than waiting for all the litigation to come to an end on the occupation tax.

How this controversial issue unfolds and is resolved will be very interesting. The tax lawyers are watching this one with keen interest.

Water accounting bill advances – A bill to assist NRDs in tracking depletions and gains resulting from new, expired or modified water uses in fully or over appropriated areas advanced to **Select File** this week. The bill, **LB 54**, is prioritized by Sen. Deb Fischer of Valentine.

The bill allows procedures to be established that include:

- use generally accepted methodologies based on the best available information;
- provide a methodology to estimate streamflow depletions and gains and provide information on gains as offsets to new uses;
- requires the identification of means to be utilized so new uses will not have more than a de minimis effect on existing surface water or groundwater users.;
- provide a procedure for sharing information between the Department of Natural Resources and the NRDs;
- identify water that could mitigate new uses; and
- provide a plan, after consulting with and an opportunity for public input from interested parties, for making water available for offset for economic development purposes.

The committee amendment (**AM348**) clarified some of the definitions and was adopted 36-0. The bill advanced to select file on a 40-0 vote.

Riparian water right administration advances – The Legislature advanced **LB 184** to **Final Reading** this week after adopting an amendment offered by Senator LeRoy Loudon, the bill's sponsor.

The amendment (**AM543**) replaces the bill and would authorize the Department of Natural Resources to administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. As amended, the bill does not mandate the department to do such. Further, the only surface water appropriations that may be closed for a riparian water right are appropriations held by persons who were parties to the lawsuit validating the riparian water right or appropriations with a priority date subsequent to the date of the court order.

The bill had stalled last week when constitutional issues arose, and Senator Langemeier filed a motion to send the bill back to committee. The amendment offered by Senator Loudon addressed those concerns.

Loudon's amendment was adopted 26-5, and the bill advanced to final reading on a voice vote.

Appropriations Committee may make more cuts – A month ago, the Appropriations Committee members created a balanced preliminary budget. However, a couple of things happened which are not helping the budget picture. First, the state's forecasting board came out with lower revenue projections in late February. Second, fiscal office staff had time to analyze the federal stimulus package and pension fund requirements. These potential ramifications include:

- Loss of \$510 million because of three issues: 1) lower revenue forecast; 2) \$39 million required to keep pension funds sound; and 2) \$106 million loss of state income tax because of stimulus package changes in the federal income tax system. Nebraska's state income tax system piggybacks the federal system, so federal changes directly affect the state.
- Additional \$227 million in federal funds for Medicaid, part of stimulus package.
- Additional \$52 million in federal funds for general spending, part of stimulus package.

The committee looked at the new numbers earlier this week that may force some further cuts or look at other options. Senators have some control over how to spend about \$234 million in federal stimulus money going to schools through state aid, and/or could rely more heavily on the cash reserve fund. The committee has until the 70th legislative day during a long session (April 29th) to place budget bills on General File for debate by the full legislature.

The following bills were voted out of committee to General File.

- **LB 210 -- Change provisions relating to aid to natural resources districts, Langemeier.** The Revenue Committee advances LB 210 this week. This bill changes the state aid formula for natural resources districts so that the amount of property tax levied by the district shall not include the property tax levied to principal or interest on bonds.
- **LB 218 -- Change, eliminate, and provide state aid to various political subdivisions, Cornett.** The Revenue Committee advances LB 210 with AM 712 this week. The bill primarily makes changes to aid for counties by incorporating changes relating to jail standards and reimbursements for incarceration of prisoners. The bill also strikes language in statute relating to the outdated specific amount to be appropriated to counties and NRDs.

The Revenue Committee filed AM 712, and it moves the date in which this Act becomes operational from 2009 to 2011. The amendment also strikes the emergency clause.

- **LB 235 -- Provide the Board of Educational Lands and Funds with the power to issue leases relating to solar and wind energy and enter into contracts relating to carbon sequestration rights, Adams.** The Education Committee advances LB 235 with AM 681 this week. This bill authorizes the board to issue leases solar or wind energy for such durations and under such terms and conditions as the board shall deem appropriate. In making such determinations, the board shall consider comparable arrangements involving other lands similarly situated and any other relevant factors bearing upon such leases.

The Education Committee filed AM 681, and it just says that solar and wind leases and sale of carbon offset credits involving school lands shall be governed by the sections in the bill. It is just language to help clarify the bill.

- **LB 246 -- Reestablish the Biopower Steering Committee; to provide for a study, Dubas.** The Natural Resources Committee advances LB 246 with AM 749 this week. The bill re-establishes the Biopower Steering Committee terminated on December 31, 2008 and extends the term of the committee until December 31, 2012. The new study included in the bill is a study on the current and potential impact of bioindustry in the State of Nebraska and to prepare a strategic plan for developing biotechnology in the Nebraska.

The Natural Resources Committee filed AM 749, and it would put the steering committee under the Natural Resources Committee's jurisdiction. The committee would be responsible for developing a state-wide strategic plan for biotechnology in Nebraska. The committee, with consultation with the Legislature's executive committee, will also establish a non-profit corporation to provide research, analysis, and recommendations to the Natural Resources Committee for the development of the strategic plan. The amendment would also establish the Biotechnology Development Cash Fund.

Senator Mike Flood added LB 246 to the Speaker Priority list for the session.

- **LB 263 -- Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act, Rogert.** The Agricultural Committee advances **LB 263** with **AM 354** this week. The bill proposes that the Nebraska Seed Law and any rules and regulations adopted under the act shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of seeds.

The Agriculture Committee filed **AM 354**, and this amendment adds Natural Resources Districts to the list of political subdivisions that can be exempt of this law to enforce the Nebraska Ground Water Management and Protection Act. Senator Mike Flood added **LB 263** to the Speaker Priority list for the session.

Other Legislative Action taken this week.

- **LB 361 -- Change roll call provisions under the Open Meetings Act, Avery.** The Legislature advanced **LB 361** to Select File, and **AM 552** was adopted. The bill proposes to add a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to the list that can utilize electronic voting devices.
- **LB 379e -- Extend the scrap tire grant program, Haar.** The bill was signed into law by Governor Heinemann this week. The bill included the emergency clause so the bill would go into effect as soon as it is signed by the governor. This bill extends the grant program for scrap tires from June 30, 2009 to June 30, 2014.

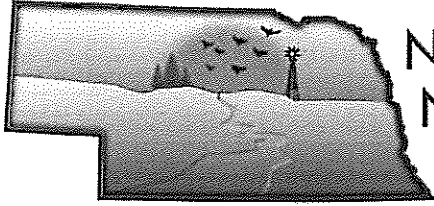
Speaker Priority Bills –Speaker Flood has announced his 25 bills that he has designated as Speaker Priorities. Priority status increases the chances of the bill to be debated. **For a complete list of Senator, Committee, and Speaker Priority Bills, go to:**
<http://www.nebraskalegislature.gov/session/priority.php>.

The following bills related to natural resources were declared as Speaker priorities:

- LB 56 --** Modify Livestock Waste Management.
- LB 162 --** Change provisions relating to contractor registration and income tax withholding.
- LB 218 --** Change, eliminate, and provide state aid to various political subdivisions.
- LB 246 --** Reestablish the Biopower Steering Committee; to provide for a study.
- LB 263 --** Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act.
- LB 626 --** Change prohibited activities for public officials and public employee's use of public resources.

NARD Bill Summary Tracking Sheet										Page 1 of 2
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments		
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee			
LB 1B	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed		
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File			
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File			
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	Select File	AM348-Adopted		
LB 56	Modify Livestock Waste Management	Fischer	Speaker	Monitor	Natural Resources	1/28/2009	General File	AM310-Pending		
LB 98	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	General File	AG AM641-Pending		
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin	Opposed	Natural Resources	1/23/2009	General File	AM636-Pending		
LB 160	Bond Authority for PMNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File	AM735-Pending, MO23-Pending		
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker	Monitor	Revenue	2/6/2009	General File	Cornett name added, Carlson name withdrew, AM357-Pending		
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed with Emergency Clause		
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	FA2-Lost, FA3-Lost, AM60-Lost		
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Final Reading	AM453-Withdrawn, MO18-Withdrawn, AM543-Adopted		
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	General File			
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	General File			
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker	Monitor	Revenue	1/29/2009	General File	AM712-Pending		
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	General File	AM681-Pending		
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker	Monitor	Natural Resources	1/30/2009	General File	AM749-Pending		
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker	Opposed	Agriculture	2/10/2009	General File	Am354-Pending		
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/2/2009	General File			
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee			
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	Committee			
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee			
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee			

NARD Bill Summary Tracking Sheet		Last Updated: 03/20/09		Page 2 of 2	
Bill Number	Description	Friend	Priority	Monitor	Committee
LB 336	Exempt municipal water from sales tax		Government Committee	Monitor	Committee
LB 361	Change roll call provisions under the Open Meetings Act	Avery		Monitor	Select File
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Committee
LB 379e	Extend the scrap tire grant program	Haar		Support	Approved to Governor
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson		Monitor	General File
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Committee
LB 466	Eliminate excise tax on corn and grain sorghum	Wallman		Monitor	Committee
LB 477	Change provisions relating to water transfer permits	Carlson	Utter	Support w/ clarification	Committee
LB 480	Change budget limit and tax levy limitation provisions	Dierks		Support	General File
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Support	Committee
LB 483	Change well moratoriums	Langemeier	Langemeier	Monitor	Committee
LB 486	Require certain governmental entities to identify themselves as such in their official name	Langemeier		Support	Select File
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Karpisek		Monitor	Committee
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Langemeier		Support	Committee
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Hadley		Support	Committee
LB 565	Adopt the Woody Biomass Energy Act	Stuthman		Oppose	Committee
LB 577	Change provisions relating to improvement projects areas of NRDs.	Louden		Support	Committee
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Rogart		Oppose	IPP
LB 582	Create the NE Invasive Species Council	Carlson		Monitor	Committee
LB 624	Provide for energy efficiency loans for public buildings	Dierks		Support w/ modifications	Committee
LB 626	Change prohibited activities for public officials and public employee's use of public resources	Haar		Monitor	Committee
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Karpisek	Speaker	Support	Committee
LB 639	Change provisions to telephone conferencing for public meetings	Mello		Monitor	Committee
LB 643	Change and provide notice requirements of road construction near electric lines	Karpisek		Monitor	Committee
LB 644	Adopt the Electronics Recycling Act	Schliz		Monitor	Committee
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Mello		Monitor	Committee
LB 656	Adopt the Health Care Accessibility and Affordability Act	Christensen		Support	Committee
LB 666	Changes to the Niobrara Scenic River Council	Harms		Monitor	Committee
LB 678	Change provisions relating to minutes of public meetings	Langemeier		Support	Committee
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties	Haar Speaker Flood on behalf of the Governor	Christensen	Monitor	Committee



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March 27, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: March 27 NARD Update

Lien holder bill advances -- Senators advanced **LB 477** to **Select File** this week which changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill clarifies in law that districts can certify irrigated acres and other beneficial uses of water. The bill then requires that participation in any financial incentive program and/or any transfer of certified acres or uses include similar evidence of the lien holder's agreement to allow the transfer. The Legislature adopted the Natural Resources Committee amendment, **AM 481**, prior to advancement. The committee amendment does the following: 1) clarifies the definition of "certified irrigated land"; 2) clarifies that the application of the lien holder identification and consent requirements apply only to ground water transfers; and 3) provides revised language to the provisions for recording an instrument of transfer of the right to use ground water. The bill is sponsored by **Senator Carlson** and also a Priority Bill for **Senator Utter**.

Water legislation advances – Senators advanced **LB 483** to **Final Reading** this week after adopting **AM 839** offered by **Senator Langemeier**. The adopted amendment comes from a negotiated session between NRDs, DNR, surface water irrigators, ag groups and other interested parties. The bill changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

The bill, as amended, would:

- Change to the date for a request of re-evaluation of a basin from March 1 to July 1.
- Require natural resources districts that are in a situation where a status change has occurred from fully appropriated or preliminarily fully appropriated to not fully appropriated, to create and implement a policy for the prioritization and granting of water well permits for the four-year period following the change.
- Require moratoriums to stay in place until the districts developed rules and regulations to allow limited growth that would not reach a point to cause a fully appropriated determination.
- Require DNR to approve the NRD rules and regulations within 60 days of NRD adoption. If DNR fails to approve the regulations, NRDs would have to adopt rules and regulations to allow up to 2,500 irrigated acres growth or not more than 20 percent increase in historic irrigated acres within a hydrologically connected area.
- The bill would prohibit DNR from issuing any new appropriation for the four-year period following a status change that would result in a fully appropriated status based on the most recent evaluation.
- Prohibit DNR from granting more than 834 acres of new surface water appropriations for irrigation within the basin affected by the status change.

Legislative Bill 483 is Senator Langemeier's Priority Bill for the 2009 session.

Bills Indefinitely Postponed - The following bills were killed by the Revenue Committee this week.

- **LB 336 -- Exempt municipal water from sales tax, Friend.** The bill proposed to exempt water supplied by a municipal water supplier from sales tax.
- **LB 466 -- Eliminate an excise tax on corn and grain sorghum, Wallman.** The bill proposed to eliminate the corn and grain sorghum check-off that is scheduled to go into the Water Resources Cash Fund for FYs 2012-13 through 2018-2019 and replaced it with a \$10 million annual General Fund appropriation.

2009 NARD Washington DC Trip – Forty-two NARD members, representing 14 NRDs, were in Washington DC this week attending the annual NARD Washington DC Trip. After participating in the two-day session to learn more about issues of concern at the national level, the NARD members spent a day on the hill visiting the Nebraska Representatives and Senators. The NRD delegation met personally with Nebraska Senators Ben Nelson and Mike Johanns, followed by meetings with Nebraska Congressmen Lee Terry, Jeff Fortenberry and Adrian Smith. Following is a brief summary of the sessions:

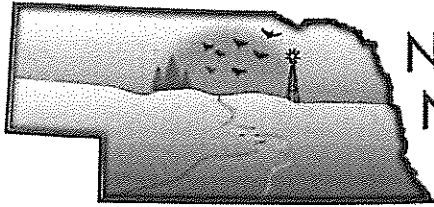
- **NRCS updates** – The group heard reports from Dr. Carolyn Olson USDA-NRCS, National Leader for Climate Change, Quantifying Carbon Sequestration and Green House Gas and Mark Parson, Resource Conservationist, USDA-NRCS, on Environmental Quality Incentives Program (EQIP) and Agricultural Water Enhancement Program (AWEP). The Cap and Trade programs will be a center-piece for the Obama administration to address climate and budget issues. Regarding EQIP, more conservation activity plans will be available. The AWEP replaces ground and surface water conservation programs and will involve contracts with, and making payments to producers for agriculture water enhancement programs or projects.
- Marvin Brown, National Watershed Program Leader, USDA-NRCS, provided a summary of water resources funding under the stimulus package. Highlights include \$50 million for watershed rehabilitation and \$145 million for watershed operations. The financial assistance to states, local government and tribes under the programs are to implement authorized watershed project plans, including: flood mitigation; water quality improvements; soil erosion reduction; rural, municipal and industrial water supply; irrigation water management; sediment control; fish and wildlife enhancement; wetlands and wetlands enhancement.
- Steve Chick, NRCS-Nebraska State Conservationist, provided an update of Nebraska projects eligible for stimulus funding under watershed rehabilitation and watershed operations.
- John Berge, White House Liaison to USDA, stressed that people need to understand the relevancy of the farm payments and how they translate into job creation. Natural resources leaders also need work on public perceptions about conservation programs and stress how important they are. Berge is a native of Gering, Nebraska and works as the policy advisor for the Sec. of Ag and provides input back to President Obama.
- **Updates from national organizations and public relations firms** –Kris Polly, Water Strategies, LLC, informed the group about changes in agencies that follow a new administration and stressed the importance of maintaining positive working relationships with all agencies. Polly, a native of Imperial, Nebraska formed a governmental relations group after working for the Bureau of Reclamation and the National Water Resources Association.

- Krysta Harden, NACD CEO, reported that NACD wants to make sure that Technical Service Provider and Technical Assistance programs are financed and workable for producers. Another area of concern is to make sure climate change and carbon trade programs are realistic and workable.
- Mark Maslyn, Governmental Relations Chief for American Farm Bureau Federation, outlined AFBF's priority issues for the 111th Congress. These include: climate change; cap-and-trade programs; Clean Water Act changes; budget deficits; Farm Bill changes and limits; trade; and animal welfare issues.
- Anna Pavlova, 25x'25--America's Energy Future, provided an update on alternative fuels and energy. The stimulus package and future legislation have and will involve incentives for wind energy, biofuels development, loans and grants for renewable energy for ag producers and rural small business.
- Bob Weaver, Kelly and Weaver Law Firm, reviewed the budget and stimulus programs. Weaver provided an overview of the National Clean Water Trust Fund. The NCWTF is a potential program to assist states with wastewater facilities, Section 319 sediment control, source water protection, water quality management, and technology. The General Accounting Office has been requested to provide a report on dedicated revenue options in May 2009. Once dedicated funding is identified, legislation will be introduced that could provide a new revolving fund for states to address needed water programs. Weaver is a native of Omaha, Nebraska and provides public relations work in Washington for several NRDs.
- **EPA updates** -- Mike Muse, Team Leader in Prevention Branch for Climate Change for EPA, provided updates on carbon sequestration programs and groundwater quality. Muse mentioned that the nation needs a Clean Water Act that applied to groundwater so states will address quality and quantity concerns. Muse was not aware that NRDs handle groundwater management in Nebraska and already have management plans in place for both quality and quantity.
- Louis Eby, Lead Attorney for EPA Water Permits Division, reviewed two major issues relating to water. First, EPA does not require a permit for aquatic pesticides that are discharged into water. Second, water transfers do not need NPDES permits. Court cases are involved in both of these issues and a final position from EPA has not been finalized.
- **Corps of Engineers updates** -- Steven L. Stockton, Director of Civil Works, US Army Corps of Engineers, informed the group about changes in the administration. He also stressed the 404 permitting process is important but may need some changes. Stockton also reported that Missouri River issues will be a challenge and requested involvement by the affected local natural resources districts to assist with solutions for the issues at hand.
- Larry Prather, Army Corps of Engineers, provided a summary of the Corp budget and funding under the stimulus package. Prather noted the stimulus package proved additional \$4.6 billion for 2009 -- \$2 billion for construction, \$2.075 billion for O&M. To put this in perspective, the Corps annual budget is \$5.1 billion. Finally, Prather also noted that if the rest of the country would adopt Nebraska's NRD structure, the country would be a lot better off as local people managing resources on a basin level, while also providing local funding that can be leveraged for state and federal financial assistance.

Bill or CA		NARD Bill Summary Tracking Sheet		Last Updated: 03/27/09		Page 1 of 2		
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee	
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	Select File	AM34B-Adopted
LB 56	Modify Livestock Waste Management	Fischer	Speaker	Monitor	Natural Resources	1/28/2009	General File	AM310-Pending
LB 98	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	General File	AG AM641-Pending
LB 134	Limit NRD Eminent Domain Authorities	Pankotin	Pankotin	Opposed	Natural Resources	1/23/2009	General File	AM636-Pending
LB 160	Bond Authority for PMRNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File	AM735-Pending, MO23-Pending
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker	Monitor	Revenue	2/6/2009	General File	Cornett name added, Carlson name withdrew, AM357-Pending
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed with Emergency Clause
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	FA2-Lost, FA3-Lost, AM60-Lost
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Final Reading	AM453-Withdrawn, MO18-Withdrawn, AM545-Adopted
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	General File	
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	General File	
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker	Monitor	Revenue	1/28/2009	General File	AM712-Pending
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	General File	AM681-Pending
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker	Monitor	Natural Resources	1/30/2009	General File	AM749-Pending
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker	Opposed	Agriculture	2/10/2009	General File	Am354-Pending
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/2/2009	General File	
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	Committee	
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee	
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee	

NARD Bill Summary Tracking Sheet

NARD Bill Summary Tracking Sheet		Last Updated: 03/27/09		Page 2 of 2			
Bill Number	Description	Friend	Priority	Monitor	Committee	Date	Notes
LB 336	Exempt municipal water from sales tax	Avery	Government Committee	Monitor	Revenue	3/12/2009	Revenue, Military and Veterans Affairs
LB 361	Change roll call provisions under the Open Meetings Act	Avery		Monitor	Government, Military and Veterans Affairs	2/19/2009	Select File AM 552-Adopted
LB 362	Change requirements for candidate filing forms	Haar		Monitor	Natural Resources	2/25/2009	Committee Approved to Governor
LB 379e	Extend the scrap tire grant program	Carlson		Support	Agriculture	1/29/2009	General File Am 355-Pending
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Fischer		Monitor	Natural Resources	2/5/2009	Committee
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Wallman		Support	Revenue	3/12/2009	IPP
LB 466	Eliminate excise tax on corn and grain sorghum	Carlson	Utter	Support w/ clarification	Natural Resources	2/5/2009	Select File AM 481-Adopted
LB 477	Change provisions relating to water transfer permits	Dierks		Support	Revenue	2/19/2009	Committee
LB 480	Change budget limit and tax levy limitation provisions	Langemeier		Monitor	Natural Resources	1/29/2009	Committee
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Support	Natural Resources	1/29/2009	Final Reading AM502-Adopted, FA22-Withdrawn, AM839-Adopted
LB 483	Change well moratoriums	Langemeier		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Natural Resources	2/27/2009	Committee
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Revenue	2/6/2009	Committee
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Natural Resources	2/27/2009	Committee
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stuthman		Oppose	Revenue	2/6/2009	Committee
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/20/2009	Committee
LB 577	Change provisions relating to improvement projects areas of NRDs.	Rogert		Oppose	Natural Resources	2/4/2009	Committee
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Natural Resources	2/6/2009	IPP
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Agriculture	2/10/2009	Committee
LB 624	Provide for energy efficiency loans for public buildings	Haar		Monitor	Natural Resources	3/4/2009	Committee
LB 626	Change prohibited activities for public officials and public employee's use of public resources	Karpisek	Speaker	Support	Natural Resources	2/4/2009	Committee
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Mello		Monitor	Government, Military and Veterans Affairs	3/4/2009	Committee
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek		Monitor	Revenue	3/5/2009	Committee
LB 643	Change and provide notice requirements of road construction near electric lines	Scholz		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	2/20/2009	Committee
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	3/11/2009	Committee
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Natural Resources	2/26/2009	Committee
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Health and Human Services	2/11/2009	Committee
LB 676	Change provisions relating to minutes of public meetings	Haar		Monitor	Natural Resources	2/25/2009	Committee
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties	Speaker Flood on behalf of the Governor	Christensen	Support	Government, Military and Veterans Affairs	2/19/2009	Committee



Nebraska's Natural Resources Districts

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Protecting Lives • Protecting Property • Protecting the Future

April 3, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: April 3 NARD Update

DNR Reverses Fully Appropriated Status – The Department of Natural Resources reversed its preliminary decision that the lower Platte River is fully appropriated. After reviewing the analysis of the data by the NRDs in the basin, it was determined that an error was made in the modeling that over-stated the impacts of groundwater pumping. In essence, the average groundwater pumping was tripled which overstated the actual impact to the stream.

These findings in the analysis by the NRDS included the following:

1. The methodology used in the 2009 Annual Evaluation is inconsistent with DNR's regulations because it:
 - (a) Includes impacts for wells outside the hydrologically-connected area; and
 - (b) Assesses the 65/85 rule against a junior appropriator, rather than the most junior appropriator.
2. The 2009 Annual Evaluation substantially over-estimates the current levels of groundwater pumping in the basin.
3. The 2009 Annual Evaluation utilizes an out-dated methodology – known as the Jenkins method – to calculate stream depletions outside the ELM area. This methodology is not the best available science.
4. The 2009 Annual Evaluation includes stream flow depletions from over 100 wells below the Louisville gauge as though the depletions are occurring at the Louisville gauge.
5. The preliminary determination that the Lower Platte River Basin is fully appropriated is not supported by the best science and is not consistent with the regulations.

The NRDs involved in the area were happy to work with the Department of Natural Resources during this process and help produce this final decision that is based on the best scientific information available. The goal of the Natural Resources Districts all along has been to make sure Nebraska is using the most accurate, reliable and sound science possible in making decisions on Nebraska water policies. The NRDs are taking steps now to be ready to implement LB 483 to better manage economic growth and related water use in the area to keep it from being fully appropriated in the near future. With the current actions taken by the NRDs, the basin can not become over-appropriated.

LB 483e passes final vote – Senators gave final approval to **LB 483e on a 46-0 vote** on Friday and sent the bill to the Governor for consideration. The bill changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

The final version of the bill would:

- Change the date for a request of re-evaluation of a basin from March 1 to July 1.
- Require natural resources districts that are in a situation where a status change has occurred from fully appropriated or preliminarily fully appropriated to not fully appropriated, to create and implement a policy for the prioritization and granting of water well permits for the four-year period following the change.
- Require moratoriums to stay in place until the districts developed rules and regulations to allow limited growth that would not reach a point to cause a fully appropriated determination.
- Require DNR to approve the NRD rules and regulations within 60 days of NRD adoption. If DNR fails to approve the regulations, NRDs would have to adopt rules and regulations to allow up to 2,500 irrigated

acres growth or not more than 20 percent increase in historic irrigated acres within a hydrologically-connected area.

- The bill would prohibit DNR from issuing any new appropriation for the four-year period following a status change that would result in a fully appropriated status based on the most recent evaluation.
- Prohibit DNR from granting more than 834 acres of new surface water appropriations for irrigation within each natural resources district affected by the status change.

Legislative Bill 483e is Senator Langemeier's Priority Bill for the 2009 session. It included the emergency clause so it becomes effective as soon as the Governor approves the bill.

Riparian water right administration passes – The Legislature gave final approval to **LB 184** on a 45-0 vote this week. The bill, sponsored by Senator Loudon, authorizes the Department of Natural Resources to administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. The bill does not mandate the department to do such. Further, the only surface water appropriations that may be closed for a riparian water right are appropriations held by persons who were parties to the lawsuit validating the riparian water right or appropriations with a priority date subsequent to the date of the court order.

LB 98 – Riparian Vegetation Management Task Force debated – A bill introduced by Senator Carlson to extend the termination date for the Riparian Vegetation Management Task Force was debated by the full Legislature on Friday. The Ag Committee amendment (**AM 641**) was adopted on a 40-2 vote, with Senators White and Wallman voting no. The legislature adjourned for the weekend prior to taking a vote to advance the bill. The committee amendment (**AM 641**) strikes the original provisions and becomes the bill. This amendment does the following:

- Extends the existence and duties of Riparian Management Task Force for four years, rather than just two years. Includes intent language to appropriate two million dollars annually for the vegetation management.
- Clarifies the priority for grants that are consistent with any plans and priorities for riparian vegetation management established by the Riparian Management Task Force.
- Includes a directive for the Director of Agriculture to apply for grants from the Environmental Trust Fund the Natural Resources Conservation Service of the USDA prior to July 31, 2009.
- Provides for a one-time transfer of \$500,000 from the Buffer Strip Incentive Cash Fund to the Noxious Weed and Invasive Species Assistance Fund.
- Retains the emergency clause.

Senators White and Wallman lead efforts to oppose the bill and introduced two amendments that will be debated when the bill comes up for further debate.

- Senator White introduced FA 25 which would provide that the cost of the program be divided according to the relative ownership of river frontage and the proportionate amount be charged to the owner of that land.
- Senator Wallman introduced AM 963 which instructs the Director of Agriculture to collect a fee from each such landowner on a pro rata basis to match state funds appropriated under the bill.

The legislature adjourned for the weekend before voting on the White and Wallman amendments.

Committee advances tort claim bill – The Legislature's Judiciary Committee advanced LB 304 this week which extends the time for a claimant to file a lawsuit against a political subdivision. Under the Political Subdivisions Tort Claims Act, all claims must first be made, in writing, to the governing body of the political subdivision before a claimant may file a lawsuit. The claimant must make the claim to the governing body within one year of the occurrence or discovery of the alleged tort, or the claim is forever barred.

The bill extends the time in which a claimant may file an initial claim from one year to two years. The bill is sponsored by Senator Brenda Council of Omaha.

In Washington DC this week

Man-Made drought that amounts to 35,000 jobs lost and 300,000 acres of farm land unused -The House Natural Resources Committee held a full committee hearing March 31st on the *"The California Drought: Actions by Federal and State agencies to address impacts on lands, fisheries and water users."* Witnesses, including several members of California's Congressional delegation, testified that this is a man-made drought, resulting from Endangered Species Act regulations that have diverted much-needed water from California families on the farm to three-inch Delta Smelt fish in the bay. The man-made actions have been devastating to California's San Joaquin Valley where it is estimated that this year alone up to 35,000 jobs will be lost and 300,000 acres of farm land won't be used because water has been diverted.

Ranking Member Doc Hastings (WA-04) explained, "Communities dependent on irrigated agriculture are now approaching 40% unemployment as they watched over 83 billion gallons of water -- which was water normally dedicated to the fields -- go out to the ocean in the last month alone. It's important to protect lands and endangered fish, but our government's environmental policies shouldn't make our communities endangered in the process."

Republicans have offered numerous solutions to provide necessary relief to families, farmers and businesses in California's San Joaquin Valley who are struggling to survive in the midst of a man-made drought. Solutions include passing legislation (specifically H.R. 996 and H.R. 856) to suspend the Endangered Species Act and the National Environmental Policy Act during times of drought emergency to ensure that the Delta pumps operate at historic capacity, encouraging the Administration to take steps to allow for water transfers and temporary barriers to keep smelt away from the pumps, and offering new water storage as a longer-term proposal to help the State in alternating times of drought and floods.

Additionally, 17 members of the California Congressional delegation today sent the attached letter to Committee Chairman Nick Rahall and Ranking Member Hastings, requesting field hearings on the California drought in order to get "the Committee to step outside the Washington beltway and hear firsthand accounts from citizens throughout California impacted by the drought."

The complete press release can be found at:

<http://republicans.resourcescommittee.house.gov/PRArticle.aspx?NewsID=1773>.

NACD Chief Executive Officer nominated for USDA post -- Krysta Harden, NACD Chief Executive Officer, has been nominated for Assistant Secretary for Congressional Relations, United States Department of Agriculture.

Krysta Harden joined the National Association of Conservation Districts as Chief Executive Officer in March 2004. Operating from NACD headquarters in Washington, D.C., she was responsible for the association's policy development and member services programs and coordinated strategic planning, budget formulation and related business operations. Harden previously served as the senior vice president of Gordley Associates, a Washington, D.C. consulting firm. In that capacity, she worked with a variety of commodity organizations, most notably the American Soybean Association. Her major areas of responsibility included conservation, environmental and energy issues.

Prior to working for Gordley, Harden served in various positions on Capitol Hill for 12 years. While on the Hill, Harden served as a professional staff member for the House Agriculture Committee and as chief of staff for former House member Charles Hatcher of Georgia. Harden holds a Bachelor of Arts degree in Journalism from the University of Georgia.

NARD Bill Summary Tracking Sheet										Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments			
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee				
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed			
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File				
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File				
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	Select File	AM348-Adopted			
LB 56	Modify Livestock Waste Management	Fischer	Speaker	Monitor	Natural Resources	1/28/2009	General File	AM310-Pending			
LB 98e	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	General File	AM641-Adopted, FA 25 - Pending, AM 963 - Pending			
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin	Opposed	Natural Resources	1/23/2009	General File	AM636-Pending			
LB 160	Bond Authority for PMNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File	AM735-Pending, MO23-Pending			
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker	Monitor	Revenue	2/6/2009	General File	Cornett name added, Carlson name withdrew, AM357-Pending			
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 46-0 with Emergency Clause			
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	FA2-Lost, FA3-Lost, AM60-Lost			
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Presented to Governor	Passed 45-0			
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	General File				
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	General File				
LB 21B	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker	Monitor	Revenue	1/28/2009	General File	AM 712-Pending, AM 802 - Pending			
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	General File	AM681-Pending			
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker	Monitor	Natural Resources	1/30/2009	General File	AM749-Pending			
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker	Opposed	Agriculture	2/10/2009	General File	Am354-Pending			
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/22/2009	General File				
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee				
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File				
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee				
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee				

NARD Bill Summary Tracking Sheet

Bill Number	Description	Friend	Last Updated: 04/03/09		Monitor	Revenue	Date	Committee	Status
			Priority	Government Committee					
LB 336	Exempt municipal water from sales tax				Monitor	Revenue	3/12/2009	IPP	
LB 351	Change roll call provisions under the Open Meetings Act	Avery		Government Committee	Monitor	Government, Military and Veterans Affairs	2/19/2009	Select File	AM 552-Adopted, ER 8036-Pending
LB 352	Change requirements for candidate filing forms	Avery			Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	Approved by Governor 3/18/09
LB 379e	Extend the scrap tire grant program	Haar			Support	Natural Resources	1/29/2009	Committee	Passed 46-0 with Emergency Clause
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson			Monitor	Agriculture	2/3/2009	General File	Am 355-Pending
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer			Support	Natural Resources	2/5/2009	Committee	
LB 466	Eliminate excise tax on corn and grain sorghum	Wallman			Monitor	Revenue	3/12/2009	IPP	
LB 477	Change provisions relating to water transfer permits	Carlson	Utter		Support w/ clarification	Natural Resources	2/5/2009	Select File	AM 481-Adopted, ER 8044-Pending
LB 480	Change budget limit and tax levy limitation provisions	Dierks			Support	Revenue	2/19/2009	Committee	
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier			Monitor	Natural Resources	1/29/2009	Committee	
LB 483e	Change well moratoriums	Langemeier	Langemeier		Support	Natural Resources	1/29/2009	Committee	
LB 486	Require certain governmental entities to identify themselves as such in their official name	Langemeier	Langemeier		Support	Natural Resources	1/29/2009	Committee	Passed 46-0 with Emergency Clause
LB 486	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Karpisek			Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	
LB 504	Provide for an income tax credit for perpetual conservation easement donations	Langemeier			Support	Natural Resources	2/27/2009	Committee	
LB 520	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Hadley			Support	Revenue	2/6/2009	Committee	
LB 535	Adopt the Woody Biomass Energy Act	Stuthman			Oppose	Natural Resources	2/20/2009	Committee	
LB 565	Change provisions relating to improvement projects areas of NRDs.	Louden			Support	Natural Resources	2/4/2009	Committee	
LB 577	Change disposition of funds from Pesticide Act fees and weed book sales	Rogert			Oppose	Natural Resources	2/6/2009	IPP	
LB 581	Create the NE Invasive Species Council	Carlson			Monitor	Agriculture	2/10/2009	Committee	
LB 582	Provide for energy efficiency loans for public buildings	Dierks			Support w/ modifications	Natural Resources	3/4/2009	Committee	
LB 624	Change prohibited activities for public officials and public employee's use of public resources	Haar			Monitor	Natural Resources	2/4/2009	Committee	
LB 626	Adopt the NE Green Building Advantage Act and authorize a sales refund	Karpisek	Speaker		Support	Government, Military and Veterans Affairs	3/4/2009	Committee	
LB 632	Change provisions to telephone conferencing for public meetings	Mello			Monitor	Revenue	3/5/2009	Committee	
LB 639	Change and provide notice requirements of road construction near electric lines	Karpisek			Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	
LB 643	Adopt the Electronics Recycling Act	Schitz			Monitor	Natural Resources	2/20/2009	Committee	
LB 644	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Mello			Monitor	Natural Resources	3/11/2009	Committee	
LB 651	Adopt the Health Care Accessibility and Affordability Act	Christensen			Support	Natural Resources	2/26/2009	Committee	
LB 656	Changes to the Niobrara Scenic River Council	Harms			Monitor	Health and Human Services	2/11/2009	Committee	
LB 666	Change provisions relating to minutes of public meetings	Langemeier			Support	Natural Resources	2/25/2009	Committee	
LB 678	Provide for refund of unconstitutional taxes, assessments, and penalties	Haar Speaker Flood on behalf of the Governor			Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	
LB 681		Christensen			Support	Revenue	3/11/2009	Committee	

Last chance for Republican River talks

60-6-3
■ Starting today, three states will try to resolve a water dispute before Kansas takes its case back to court.

By DAVID HENDEE
WORLD-HERALD STAFF WRITER

Attorneys for Nebraska, Kansas and Colorado are taking the final steps to stop the states' Republican River dispute before it returns to the U.S. Supreme Court.

For 10 days beginning today, the legal teams will be in Denver presenting evidence and expert testimony over Kansas' claim that Nebraska continued to overuse its share of Republican River water, despite agreeing in 2002 to comply with a World War II-era pact allocating water among the three states.

"The state (Nebraska) is on the hook," said Ann Bleed of

Lincoln, a water consultant and former director of the Nebraska Department of Natural Resources. "Kansas can't let Nebraska be out of compliance and let it go. They spent a lot of money to go to court and got a settlement that Nebraska's not living up to. It's very difficult for them to turn the other cheek and say it doesn't matter."

If a June decision by the arbitrator hearing the case fails to resolve the states' differences, Kansas has said it would take the case to the U.S. Supreme Court again.

Kansas sued Nebraska and Colorado in the high court in 1998, saying that the two upstream states used more than their share of water in the Republican River. The case was settled in 2002. The new conflict — now in required nonbinding arbitration — is over what has happened since 2002.

Since it's impractical for Nebraska to repay Kansas with water, the biggest issue in the new hearing is Kansas' claim for monetary damages as compensation for water it didn't receive.

Arbitrator Karl Dreher, who is hearing the Denver proceedings, concluded in December that Kansas could seek damages only for economic losses it actually sustained when Nebraska violated the Republican River agreement in 2005 and 2006. Kansas is not entitled to payment for Nebraska's economic gain, Dreher found.

Kansas had sought \$72.3 million in compensation.

Now Kansas is expected to submit evidence laying out the economic impact on its farmers and others because adequate water wasn't available.

"Kansas will have to prove its losses," said David Aiken, a water law authority at the University of Nebraska-Lincoln.

Bleed said discussion of how much money Kansas seeks hinges on other issues.

One question is Nebraska's attempt to tweak a computer model used to calculate how much river water each state uses. Nebraska has found instances where the computer model doesn't accurately reflect water flowing into the river.

Another question is how Nebraska plans to assure Kansas that it'll comply, going forward, with the 1943 compact that originally divided the river's water among the three states. Nebraska received 49 percent; Kansas, 40 percent; and Colorado, 11 percent.

Compliance has been expensive for Nebraska. The state has spent nearly \$18 million in recent years to buy water or water rights from landowners to meet its obligation.

Bleed, who was part of Nebraska's negotiating team when Kansas sued Nebraska 10 years ago, said the ink had barely dried on the states' 2002 settlement when historic drought settled into the western plains.

"It takes a long time to turn around a groundwater system when you're in the depths of a severe drought," she said. "It's a mitigating circumstance Nebraska could argue. We could argue that we have everything in place now to be in compliance."

■ Contact the writer:
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MIDLANDS VOICES

New DNR laws to hurt Nebraska

BY DAVID NABITY

The writer is an Omaha businessman.

The Nebraska Department of Natural Resources (DNR) is about to put into place new laws of the land that would seriously destroy our state's ability to grow economically.

The DNR has "preliminarily" declared that the Lower Platte River basin and all of its tributaries are "fully appropriated," which means there can be no future well development along these rivers unless someone who has a current right gives it up.

Therefore, any landowner who wishes to increase yields through groundwater irrigation would not be allowed to do so. Communities would not be able to bring new business and industry to their areas if it means a new well is needed.

This basically would shut down any new development along the Loup, Elkhorn and Platte River basins, an area with a huge foot-print and the most water-rich area of the state.

If the DNR prevails, it is the opinion of many that Nebraska's lawmakers and bureaucrats would be committing these areas to economic suicide. The reason for this declaration, says the DNR, is that its modeling system projects a serious water shortage over the next 25 years. However, I believe the DNR's system is critically flawed and has caused it to make an error in judgment, for the following reasons:

- Its sampling period is way too short (20 years), and most of the data reflect our recent drought. Climatology reports going back 2,000 years show that we encounter a serious drought condition almost every 40 years, with the drought lasting eight years. A 20-year sample that included our recent drought in eight of those years would terribly skew future projections, especially since the DNR didn't include the gains in 2008 in its model.

- Stream flows in these river basins are today the same or higher than they were before mankind began to develop along the rivers.

- Groundwater levels in most of the areas where the DNR claims there is a problem actually have increased, compared with predevelopment levels. Common sense does not seem to be prevailing here, and bureaucratic form would end up ruling over true substance if our leaders don't demand a halt to the DNR's action until an independent study can be secured by non- DNR employees.

In the past, our state leaders with great pride created incentives for new business and industry to come to metropolitan areas in an attempt to create new jobs. Yet, these same leaders appear to be turning a blind eye to the economic devastation that would be forced upon our state's agribusiness community if the DNR prevails in this issue.

Every study I have seen shows this action by the DNR would cost more than 2,000 jobs in the rural areas of the state—the very areas in which we need significant growth. This is especially troubling when there is another good solution to answer the DNR's concerns: We could simply build more dams and water-ways to open up and fill the void when summer conditions send water levels below stated goals. We should be spending our time, energy and resources on developing a 21st-century water management system for Nebraska that permanently solves these problems. That would be a wise infrastructure investment.

Continued

Here's another point: A tremendous amount of water is collected within Nebraska through rainfall and springs but then leaves for other states. Yes, we need to meet our legal obligations to Kansas. But aside from that amount, why are we not trying to figure out how to capture and store a sensible portion of Nebraska's remaining outgoing water and use it wisely?

The proposed DNR solution looks to be crisis management without a vision for the future. We may be witnessing a bureaucratic process that could result unnecessarily in shutting down our state's economic agribusiness engine. In my opinion, this would have dire economic consequences at a time when we need to do everything we can to guard our state's economy, given the nation's economic problems.

I urge our state leaders to reject the incomplete science of the Department of Natural Resources and embrace a new strategy to store and transfer our water. We need to protect agribusiness jobs through new innovative strategies that do a better job of managing Nebraska's natural resources.

That is the common-sense way of dealing with these issues.

This action by the DNR would cost more than 2,000 jobs in the rural areas of the state.

Waterloo residents to vote on bond issue for levee upgrade

by Sandra Stenglein

The Waterloo Board of Trustees, on February 26, passed a resolution to hold a special election on May 12, asking the registered voters of Waterloo to approve issuing bonds in the amount of \$2.2 million. The bonds will be for the construction phase of upgrading the current levee to meet the Federal Emergency Management Agency (FEMA) standards.

Members of the Board approved the resolution during a special meeting that followed a public informational meeting held on Thursday, February 26, at DC West Middle School.

The informational meeting was the second of three public meetings intended to inform the public of the status of the levee recertification study. Approximately 35 members of the community attended.

The informational meeting began with a presentation by John Callen and Mark Augustine of JEO Consulting Group, the engineering firm that is studying the current levee to determine what is needed to upgrade it to the new standards set by the Federal Emergency Management Agency (FEMA).

Callen began by explaining why the levee's certification is under review. Using a power point slide, he showed an outline of the events that led to the Board of Trustees asking for JEO's help to determine what was necessary to upgrade the levee. He explained that the levee was placed under a provisional certification in 2008 with the expectation that Waterloo would upgrade the levee to meet FEMA's standards within two years. If, by January 2010, it is not upgraded to meet FEMA's standards then FEMA will redraw maps placing Waterloo in the flood plain.

If FEMA does that, it would mean that anyone who owns a residence or a business within the Village's limits and has a federally insured mortgage would be required to buy flood insurance. Callen pointed out that resale of property would also be impacted, because anyone wanting to buy a home or business in Waterloo who needed to fund the purchase with a mortgage would have to factor in the cost of flood insurance.

In his presentation, Callen provided figures comparing the cost to residents and business owners of monthly, annual and overall bond repayment costs to that of the monthly, annual and overall cost of flood insurance.

Callen told the audience that Waterloo has approximately 400 homes valued between \$100,000 to \$415,000. Based on figures from a current insurance manual, residential flood insurance can cost from \$950 - \$1500 per home, per year. Using those rates, the cost of flood insurance for the 400 homes combined would be approximately \$8.3 million over 20 years. The cost to those same homeowners for repayment of the \$2.2 million in bonds over 20 years, with five percent interest, is approximately \$3.5 million.

Board of Trustees Chairman Stan Benke spoke to the townspeople and reported that the NRD Board had recently approved a 50/50 cost share of up to \$2 million to

help Waterloo with the construction phase of the levee recertification. NRD has also been sharing the cost of the JEO study.

Benke said that the Board continues to search for funding assistance. He said that the Board will be fiscally responsible and would use any funding they are able to acquire to reduce the bond debt.

Several members of the public had questions for the presenters. Keith A. Hansen of Viaduct Gardens asked about the approximate amount of dirt that would be needed. Mark Augustine from JEO said currently they are anticipating needing somewhere in the range of 160 cubic yards. Augustine told Hansen that a plan has been established to save the topsoil and replace it when construction is complete, saving costs.

Hansen also asked about how utilities will be affected, Augustine said that there would be costs involved if relocation of utility lines is necessary. Resident Becky Lopeman asked about the timeline constraints, expressing concern that it is a very short construction season if work doesn't begin until after May. Augustine said that bids will be opened immediately following the election if approved and construction will begin immediately after that. Lopeman also asked who would oversee the contractors. Augustine said that JEO will be responsible for construction administration and construction observation, periodically checking to see that the specifications of the construction plan are being followed.

Kelly Armstrong, a resident of Homes at River Road, asked about drainage provisions along Blondo Street. Augustine said that a pumping system will be needed and that JEO is continuing to study solutions for Blondo Street.

The need for more public communication was another comment. Board Chairman Stan Benke told the audience that they have tried to keep the issue in front of the public by announcing all meetings, by holding public informational meetings and by publishing information in the Douglas County Post-Gazette. He said that notifications of the election and the next informational meeting will be included with the residents' water bills.

The next public informational meeting will be held prior to the May 12 election. At that meeting, the final construction cost figures will be presented

Parks not immune to budget woes

3-12-09

■ The Game and Parks Commission may reduce services at 28 state recreation areas and limit them at six state historical parks.

By PAUL HAMMILL
WORLD-HERALD BUREAU

LINCOLN — If you're headed to a Nebraska state recreation area this year, you might want to pack a weed whacker.

And if history is your thing, call ahead to make sure a guide will be available for a tour of a state historical park.

Because of lagging state funding, the Game and Parks Commission is proposing to reduce services at 28 state recreation areas.

For almost all those areas, that means no trash pickup and no flush toilets. Mowing will be done only twice a year — once in the spring, once in the fall.

At six state historical parks,

including Fort Atkinson near Fort Calhoun and Buffalo Bill's Ranch near North Platte, services will be limited. Visitor hours will be cut, and tour groups will have to call ahead to arrange visits.

Nebraska has a total of 86 state parks and recreation areas.

Game and Parks also plans to lay off two sign shop workers and eliminate 21 other jobs that had been left unfilled because of a lack of money. The agency estimates that it faces \$20 million in deferred maintenance costs on park facilities.

The cutbacks, discussed Wednesday during a legislative hearing, prompted several lawmakers to voice concern about the prospect of unkept state parks at a time when the economy might prompt more Nebraskans to vacation in the state.

"We'd almost rather see some of (the parks) shut down," said State Sen. Lavon Heidemann of Elk Creek, chairman of the Legislature's budget-writing Appropriations Committee. "I'd think there would be some bad publicity for the state to have parks like that."

Parks officials responded that

they're doing the best they can in tough economic times. Earlier this session, the Legislature dumped a proposal that would have raised the state park entry permit fee from \$20 to \$25 a year.

Roger Kuhn, assistant director of the Game and Parks Commission, said the state park system is nearing the point where it must seek other funding sources, such as lottery or sales tax dollars, or look at more drastic cutbacks, such as abandoning or selling parkland.

Several budget trends have
See Parks: Page 2

Parks: Cuts to service aimed at balancing budget

Continued from Page 1
not been good for the state parks system in recent years.

Taxpayer funding was cut 17 percent in the 2002-03 budget crisis, Kuhn said. Despite leaving 30 job vacancies unfilled, utilizing more volunteers and cutting back on equipment purchases and maintenance, the commission has never caught up, he said.

"We're limping along, hoping for better times," Kuhn said.

Sales of park stickers, camping fees and cabin rentals generate 71 percent of the parks budget, but revenue from those three items declined between 8 percent and 10 percent last year.

Earlier this year, the Legislature gutted a bill that would have raised a variety of fees charged by Game and Parks, including

the park entry permit. Because of that, Heidemann said, the Appropriations Committee tried to help the state parks by recommending spending increases of 3.5 percent in the next fiscal year and 3.2 percent in 2010-11.

Those increases would be higher than the average 2.4 percent hikes proposed elsewhere in the preliminary state budget. But Game and Parks officials said Wednesday that negotiated salary hikes and inflationary costs eat up any funding increases.

Kuhn said maintenance cuts at state recreation areas will focus on sites that see fewer visitors, generate less revenue and are farther from more densely populated areas. He said planners broke the state into eight districts and kept at least three fully

maintained parks in each district.

At Fort Atkinson, for instance, reroofing the log barracks of the reconstructed frontier fort has been deferred for several years. Some wood shingles are 31 years old. Mowing has been curtailed to only when necessary and only in areas that absolutely need it.

Two jobs at Fort Atkinson will be eliminated through attrition, and an assistant superintendent will be reassigned to Fremont Visitor center hours at Fort Atkinson will be cut back and the summer season shortened, perhaps to mid-August instead of Labor Day.

Overall, Kuhn said, the idea is to provide "four-star" services at about 40 state parks and recreation areas, rather than "one- or two-star" services at all state

The Game and Parks Commission is seeking partnerships with communities, natural resources districts and other entities to take over maintenance and operations at some parks, including Summit Lake near Tekamah, Brownville Recreation Area and Buffalo Bill's Ranch. But Brownville and North Platte have already indicated that they have fiscal problems of their own and are unable to help, Kuhn said.

The commission also will again seek an increase in the price of a state park permit — the lowest in the nation among the 37 states that have them — but probably not until 2011.

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3-13-09

NRDs say study shows water limits not needed on Platte

By DAVID HENDEE
WORLD-HERALD STAFF WRITER

FREMONT, Neb. — Now it's on the desk of Nebraska's water czar.

Three months and four public hearings after Brian Dunnigan declared that demand for water in the lower Platte River basin was on the verge of outpacing supply, he now has 30 days to affirm his preliminary decision or change his mind.

If Dunnigan doesn't retreat, sweeping restrictions would be imposed on future water use across a third of Nebraska's landscape. The restrictions, proposed by the Nebraska Department of Natural Resources, would affect metropolitan Omaha and Lincoln in the east — where half of all Nebraskans live — and cattle feeders in the Sand Hills in the west.

A crowd of more than 300 farmers, irrigators, well-drillers and others sat in metal folding chairs on the hardwood basketball court at Fremont's City Auditorium for three hours at the fi-

nal hearing to oppose the potential restrictions.

They brought emotion, but the key testimony designed to sway Dunnigan, who is the department's director, came from a study of the basin's water supply that was financed by nine natural resources districts.

"Please keep in mind that eastern Nebraska is different than western Nebraska," said Stan Staab, general manager of the Lower Elkhorn Natural Resources District in Norfolk.

The state already has imposed irrigation restrictions in much of the drier western half of the state in an attempt to restore stream flows and stop the decline of underground water.

The districts' study concluded that Dunnigan erred in his original determination.

The study, conducted by an Arizona environmental consulting firm, challenged the department's findings on the impact of irrigation wells on the Platte and how it computed the water needs of corn growers.

Urban Nebraskans also voiced concern.

Art Beccard, city engineer in Papillion, said the fast-growing Omaha suburb adds water service to 300 to 500 new users a year. The city pumps water from a well field on the bank of the Platte River south of Papillion.

It would be a hardship for Papillion if the city was required to buy out another user's water to add service for new development, he said.

If Dunnigan's designation holds, any additional water pulled from the basin would have to be offset by cutting use of basin water elsewhere.

The lower Platte basin reaches upstream from the confluence with the Missouri River south of Omaha to the edge of the Panhandle. It covers the Loup and Elkhorn River basins and includes Lincoln, Fremont, Columbus and Norfolk.

Dunnigan was in Denver at an Republican River arbitration proceeding and did not attend the hearing.

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Study calls for restraint with irrigation

BY DAVID HENDEE

WORLD-HERALD STAFF WRITER

A new report says western Nebraska irrigation wells are drying up the North Platte River and Lake McConaughy far more than originally believed.

The annual impact of farmers pumping underground water to irrigate cropland in the Panhandle's North Platte valley robs Lake McConaughy of the equivalent of 5 feet of water depth each year.

That's the conclusion of an analysis unveiled Friday in Holdrege, Neb., by a Denver water consulting firm on behalf of the Central Nebraska Public Power and Irrigation District.

Central owns and operates Lake McConaughy, the state's largest reservoir. Central relies on the North Platte River to fill McConaughy.

"We realize that they (upstream irrigators) are not responsible for all the lost inflow into McConaughy. Drought is part of it, too, but it doesn't mean that it can be ignored and that we accept additional harm," said Mike Drain, Central's natural resources manager.

Kay Grote, a spokeswoman for the North Platte Natural Resources District in Scottsbluff, said district officials hadn't seen the analysis.

The NRD is responsible for managing underground water in the area. Grote said the district is working with the Nebraska Department of Natural Resources to roll back irrigation pumping to bring supply and demand into balance.

"We're doing everything required of us right now," Grote said. "That process is ongoing and will be completed."

Central has unsuccessfully encouraged the NRD to impose strict limits on the amount of water irrigators may pump from the ground in an attempt to boost river flows into McConaughy.

The NRD will limit irrigators near the river — where state water authorities say demand exceeds supply — to 18 inches of water per acre for the first time this year. The tributary Pumpkin Creek watershed has a limit of 12 inches per acre.

Groundwater irrigation by farmers with wells in the river valley upstream from McConaughy takes at least 120,000 acre feet of water out of the river that would have flowed into the reservoir annually — and it's growing, the analysis says.

"Even if they don't drill another well, as long as existing wells continue to pump they'll add to the total," Drain said.

Continued

The analysis estimates that McConaughy will lose 141,000 acre feet of water annually by 2054 if nothing changes. An acre foot is the amount of water that covers an acre of land 1 foot deep.

The analysis by Lytle Water Solutions of Highlands Ranch, Colo., says the NRD's pumping limits would provide very little stream flow recovery, but greater reductions would result in quick and substantial recovery of North Platte flows.

"There can be significant recovery to the river through regulations, but not through regulations now being considered," Drain said.

Central has held a state-granted right to water in the North Platte River since Kingsley Dam was built during the 1930s, creating Lake McConaughy.

There were no groundwater wells upstream from the dam in 1934. There were fewer than 700 as recently as 1970. Today, there are 2,684 wells up the North Platte and its tributaries from McConaughy. Nearly 700 were added since 1997.

"We're not asking them to stop pumping," Drain said. "We're looking for a meaningful reduction of their impact on the river."

The analysis was presented at a meeting of south-central Nebraska farmers who use water from McConaughy to irrigate cropland.

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Sen. Carlson: Weed removal funds have rivers running fuller

By GINGER JENSEN, Hub Regional Correspondent

03/16/2009

Updated 03/16/2009 12:30:09 PM CDT

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FRANKLIN — State Sen. Tom Carlson of Holdrege will tell anyone who will listen that it's critical to continue funding invasive plant removal projects in the Republican and Platte basins.

His cause is boosted by the rivers themselves, which are now starting to show the full effects of weed spraying and sandbar disking done in 2007 and 2008. That work was possible because of the \$2 million in state funds allocated for each year by LB701 and managed by the state Department of Agriculture.

Carlson's 2009 priority bill, LB98, aims to continue the state funding in 2009 and 2010 for the Riparian Vegetation Management Task Force.

At Friday's Twin Valley Weed Management Area meeting in Franklin, Carlson said he expects the full Nebraska Legislature to act on LB98 within two weeks.

In a recent Hub interview, Gov. Dave Heineman said funding the bill will be difficult, given current economic conditions and forecasts of state revenue shortfalls.

He agrees that the weed projects have been successful. "We would like to do it again," Heineman said. "... I want it funded. The question is where do we get the money?"

At a Central Water Users meeting in Holdrege earlier Friday, Carlson said the funding possibilities for 2009 include perhaps \$600,000 in ag department funds and contributions from the U.S. Department of Agriculture's Natural Resources Conservation Service of \$1 million or more.

Then, he said, the weed projects will compete for money in a new round of Nebraska Environmental Trust grants that will be awarded in February.

"The challenge, and it's a terrific challenge, is to get LB98 through the Legislature this year," Carlson said in Franklin. "It's a project that has been started, and we need to continue it."

He added that the success of the past two years has impressed potential funding partners.

As proof of improvements to the Republican River's water-carrying capacity, Carlson said there was flooding in 2007 with just a 300-cubic-feet-per-second release from Harlan County Lake. A year later, a 750-cfs release was carried with no floods, and it helped produce flows of 1,000 cfs at the Kansas state line.

Carlson also makes economics arguments.

Continued

The “slow kill” of invasives by herbicides meant that no water was saved in 2007. The state and Republican Basin natural resources districts paid about \$10 million for surface water from irrigation districts to enhance river flows to Kansas for Republican River compact compliance. About 30,000 acre-feet of water was made up for the compact.

That credit grew to about 80,000 a-f in 2008, with about 46,000 a-f credited to removing vegetation that previously consumed water, Carlson said.

Similar water supply and flow improvements have been documented where invasives were sprayed at Lake McConaughy and along the Platte River.

The Lake McConaughy work focused on saltcedars, which had spread to up to 2,600 plants per acre. Counts along the Platte between Lexington and Darr were as high as 1.1 million plants per acre. Carlson said nine mature trees can consume about 1 a-f of water per day.

In 2008, a year after the McConaughy project, water inflows and releases were about the same, but the lake was about 8 feet higher.

“The point is, we saved a lot of water,” Carlson said. “We don’t want to lose the tool of vegetation removal. It’s important that the work we’ve started continue and for LB98 to be passed.”

Mitch Coffin, Noxious Weed Program director for the Nebraska Department of Agriculture, said, “Sen. Carlson has done an outstanding job of getting the word out about the projects and talking with other senators. ... It would be a shame to stop the work now.”

“We need to finish the work on the Republican,” Carlson said. “The last thing we want to have to tell Kansas is that we’re stopping this project.”

Hub Staff Writer Lori Potter contributed to this story.

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Post Gazette 3-17-09
Comments on safe haven, NRD fund bills

This last week your Nebraska State Legislature provided an interesting lesson in procedure and consensus building within the body. Earlier we had advanced LB 346 to Select File, which was the initial bill brought forward dealing with issues highlighted during our safe haven special session this past fall.

I know most of you remember that situation which we found ourselves in due to the passage of LB 157 in the spring of 2008. That bill, while full of good intentions, allowed children to be dropped off by parents or legal guardians at hospitals in the state and brought out of dangerous or perceived hopeless situations in the homes. This resulted in over 30 young people being brought to various hospitals in the state. The reason for the large number was that there had been no age limit put on the children that could be left, just the word minor was used as a requirement.

As you know, children from infant to nineteen years of age and from several different states showed up at the various doorsteps of our medical institutions to take advantage of this protection. During all of this turmoil and the resulting legislation that was passed, there were also several promises made that when we got to this year's session, there would be changes made to the whole system. Well, the session has arrived and so have the bills.

LB 346 promised a 24-hour hotline for families in crisis, peer support programs, and greater post-adoption and guardianship services. The cost: \$7.8 million over two years. The debate on this went relatively smoothly. Then LB 356 was introduced that would cost \$30 million over the next two years and provide for behavioral mental health services for children. At this point, several senators got the idea that, while most programs would

Legislative Word in the Twenty-Third

by Senator Chris Langemeier



be admirable, we won't have the money to fund all of their proposals.

Waiting in the wings were measures that would make low-income kids eligible for Kids Connection, the state's children's health insurance program. The cost is \$13 million over two years. Another bill would require the state Department of Health and Human Services to apply for federal funding to allow Medicaid payments for various community-based services. This one would cost \$3 million. I think you get the idea. There isn't really a bad idea in the bunch; however, funds are limited and sustainability is a key. We cannot pass laws that promise help and can't be sustained.

Debate began to get heated enough to a point that the speaker called all interested senators together and warned them to agree or be scheduled after the budget debates which will occur in mid-May. At that point we will know how much money is left. Consensus and possibly a unified bill of some sort will allow for the bills to be debated in mid-April. As you know, timing is everything and so it is here. Early April debate on anything that carries a cost will be advantageous.

I also introduced LB 12 before the Appropriations Committee this past week. This bill would increase the funding from the General Fund to the Department of Natural Resources to be used to increase the

Natural Resources Development Fund from the current \$3.4 million per year to \$7 million annually. This fund was created in 1974 to assist with the development and use of Nebraska's water and land resources. The fund has been used to provide grants and/or loans to political subdivisions, cities, NRD's and counties for projects across the state with an emphasis on flood control, sediment and erosion control, recreation, fish and wildlife, irrigation water management and ground water recharge.

The Fund has been an integral part of the Lake Wanhoo project in Saunders County, providing over \$11.6 million toward the cost of that structure over three years. The Schuyler Levee Project is a pending project that stands to benefit by up to \$1.3 million from the Fund by 2011. I have been successful in the past to get increased funding for this Fund.

Currently \$18 million per year can be awarded from this fund. Between the approved and partially funded projects and those that are pending final approval, requests from the fund total over \$82 million. I could have requested several million more dollars from the General Fund but following much the same reasoning as above and realizing the requests at budget time will be many and the dollars probably fewer than we like, I will be happy for any increase as a result of LB 12.

LB 160 IS NEEDED

Flood plan vital for area

A flood is a creeping disaster, slow-motion devastation. Perhaps worse, though, is the Sisyphean task of convincing elected officials, landowners and taxpayers to invest in flood protection when the roof is dry.

Thus it is for the Papillion Creek Watershed Partnership, a group of local government officials required by the state and federal governments and urged on by common sense to devise a way to prevent flooding in Washington, Douglas and Sarpy Counties. Officials presented a reasonable plan recently, a plan that, if allowed to proceed, should keep property in the water-shed safe and the water clean.

Every spring, rains in the metropolitan Omaha area threaten to overtop the dikes and dams, bridges and roads, businesses and homes. But the worst hasn't happened often: The waters rise and threaten but somehow stop short of disaster.

Spring is here. The high-water vigil begins again.

Proactive safeguards can be vital. The citizens of Cedar Rapids, Iowa, assumed their city was protected by adequate dikes and structures, and officials didn't give flooding much thought. Then came the catastrophic floods of 2008.

The Omaha area doesn't even have the excuse of ignorance — its officials have acknowledged that structures would not likely all be adequate, even to a lesser challenge.

The partnership has proposed a \$134 million, three-year plan to begin in 2011. Seven dams would be built in Sarpy and Douglas Counties, two of them creating fishing and boating lakes.

Paying for such a major project won't be easy. The Papio-Missouri River Natural Resources District would fund much of the actual planning and work; it needs Nebraska lawmakers to give it the power to issue bonds for flood control and water quality.

Legislative Bill 160, sent to the floor of the Legislature last week on a 7-to-1 vote by the Natural Resources Committee, would not raise the NRD's property levy limit. The bonds would be paid from the district's existing taxing authority. In the past, the Papio NRD has shown a responsible attitude toward tax expenditures. It has, for instance, been building a reserve fund — now \$12.7 million — to pay for preliminary work on the flood-control projects.

But it can't build that reserve fast enough to do the protective work the Papio area needs. Borrowing is a practical necessity if the NRD is to do its job.

The amended bill addresses criticisms levied against the original. For instance, it requires county board approval if the NRD wants to build a reservoir 20 acres or larger within county jurisdiction.

The NRD board would decide when to issue the bonds, for instance waiting until municipal bond rates favored the district. Rates are good now, according to NRD Executive Director John Winkler. If lawmakers approve LB 160, the board might need to move fast.

Both the state and federal governments expect the Omaha metro area to anticipate and solve its flood-control problems. The Papio partnership has devised a workable plan that deserves the support of the local governments and Midlanders affected. And the support of lawmakers on LB 160, too.

From: Chick, Steve - Lincoln, NE [mailto:Steve.Chick@ne.usda.gov]
Sent: Friday, March 20, 2009 8:15 AM
Subject: Friday Message March 20, 2009

To: All Employees and Conservation Partners

Date: March 20, 2009

1. **Turtle 2 Dam Rehabilitation is Well Under Way**
2. **Leadership Completes Operation Reviews of Tri-Basin and South Platte NRD NRCS Operations**
3. **Societal Benefits of Nature**
4. **Karen Ott's Update**

1. Turtle 2 Dam Rehabilitation is Well Under Way – The area west of Springfield, NE was a wild place in the 1930's. Thousands of acres were being destroyed by gully erosion each year. One farm reported a gully one-half mile in length and in places as much as 20 feet deep and 100 feet wide. The watershed plan for the area included the installation of 62 miles of terraces, 55 acres of grassed waterways and 2 major flood control dams.

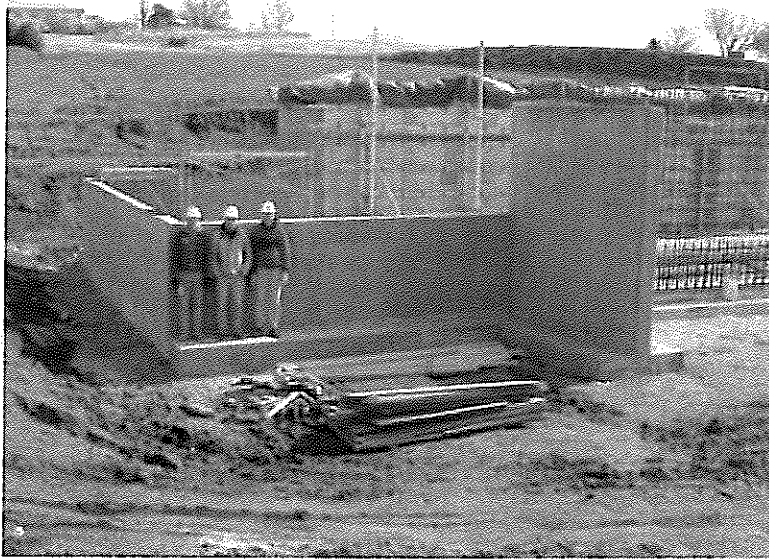
The installation of these practices resulted in establishing a harmony between man's agricultural operations and the land they farmed. For the most part that harmony is still maintained today except that the encroachment of urbanization has caused one dam, Turtle 2, to be reclassified as a high hazard structure. That opened the door for the Papio-Missouri River NRD to seek the USDA Watershed Rehabilitation Program to upgrade the dam to minimize the threat to homes downstream.

The original structure was a 30.5' high grade stabilization dam completed in 1961. It had a 60" diameter CMP riser and a 42" diameter CMP pipe. The drainage area is 1320 acres. Instead of rehabilitating the structure to high hazard criteria (like many of the other rehab projects we are doing), it was decided to rehabilitate it to a low hazard structure by removing the structures ability to retard flood waters (thus removing the hazard). This was done by removing the top eight feet of the existing structure and replacing the CMP pipe with a baffle chute spillway. The chute spillway is a full flow spillway meaning it can convey runoff downstream as fast as it is entering upstream. It is designed for the 100-yr runoff event and also has a design life of 100 years. It will be 30 feet wide and 12 feet tall. There will be minimal earthfill, but there will be 402 cubic yards of concrete, 81,874 pounds of reinforcing steel, and 891 cubic yards of rock riprap.

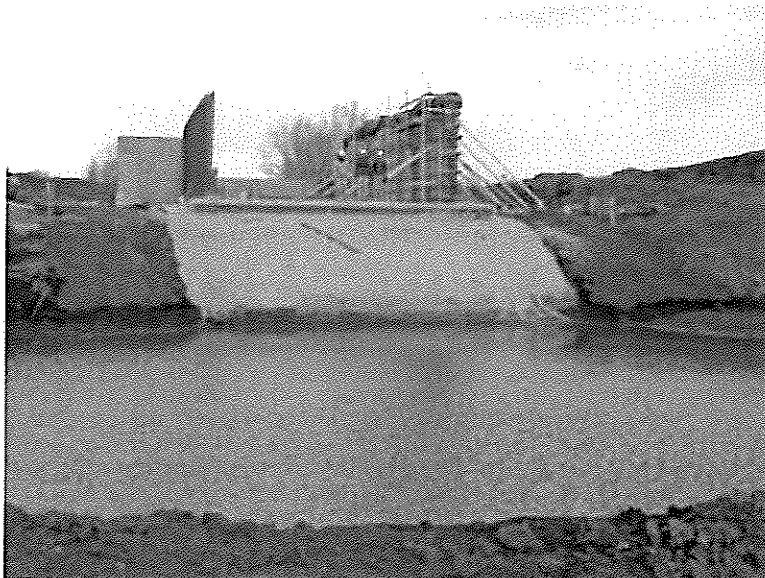
I visited the site on Wednesday to get a first hand look. Excellent progress is being made on the concrete chute as shown below. Once completed soil will be backfilled to the lip of the concrete box and almost to the height of the side walls. This dam was actually designed by our Missouri NRCS design staff. Jason Sall (Tecumseh) is our NRCS Project Engineer and Jerry Mall (Tecumseh) is our NRCS Construction Inspector. Martin Cleveland is the Papio-Missouri River NRD representative for the project.

For nearly 50 years the original PL566 dam has played a key role in taming this rolling country. It is heart warming to know that the Watershed Rehabilitation Program will continue protection for this area, while expanding benefits to the new urban environment and increasing protection for another 100 years.

Continued



NRCS CET Inspector Jerry Mall, NRCS Project Engineer Jason Sall and Papio-Missouri River NRD's Specialist Martin Cleveland are standing next to what will be the inlet to the concrete chute. The taller wall in the background (with the wood forms) was poured yesterday. The heating blankets on top maintain the concrete's temperature to ensure proper curing. The front slope of the dam will be level with the lip of inlet when done and the earth fill will come close to the height of taller walls. This is a full flow structure designed to pass a 100 year storm event without causing ponding behind dam.



Jason Sall, Martin Cleveland and Jerry Mall are standing within what will be the concrete chute for Turtle Watershed Dam rehabilitation. Concrete will be poured on the overfall in front of them leading to what will be a riprapped plunge pool where the water is currently ponded. The fill for the dam will be raised to just below the height of the two walls.

A democracy void in DNR (OWH, 3-25-09)

BY CHUCK FOLSOM

The writer, of Fremont, Neb., is a former director of the Lower Platte Natural Resources District. He is a former member of the Nebraska Natural Resources Commission.

A March 13 news story on the Nebraska Department of Natural Resources' preliminary report that the lower Platte River basin is "fully appropriated" was quite accurate. But readers may be interested in some additional information that came out of the Fremont meeting and potential solutions to the problems.

A coalition of natural resources districts (NRDs) hired the Fennemore Craig PC law firm in the hope of overturning the declaration. During the March 12 hearing, Jaron Bromm, a lawyer with the firm, said the DNR did not use the best science available in reaching the determination that the river basin is fully appropriated.

He pointed to a technical review of the DNR's study done by Brown and Caldwell of Phoenix, a consulting firm. Julie Wright with Brown and Caldwell said there were errors in calculations of groundwater levels and indicated the DNR used assumptions that irrigators are pumping more than they ever have, distorting the calculations.

Bromm said that there is obviously room for growth and development.

How could all this occur? It's quite simple but hard to believe in this democratic republic our Founding Fathers gave us while cautioning "if you can keep it."

The DNR is an autocracy of well over 100 state employees headed by its appointed director, a water czar, if you will. It is unlike the NRDs, where we voters elect the directors, and the State Natural Resources Commission, where 13 of the 16 commissioners are elected from the basins. The governor appoints the other three commissioners.

Of note is the fact that Jesse Bradley, a DNR water management analyst, did not speak at the meeting, although he made presentations in Ord, Lincoln and Norfolk.

Where do we go from here? First, it is quite probable, in view of the four democratic hearings, that the DNR will modify its preliminary determination. But that's only a temporary answer, and we can probably look forward to serious concern every year until something is changed.

Solution? Democratize the DNR! Do it by either **(1)** a leadership and a board of commissioners similar to the Natural Resources Commission, or **(2)** combine the DNR with the NRC, using the commission's wellqualified and highly motivated board.

The latter solution would not only solve our current and future problems but also would undoubtedly decrease duplications of effort, personnel and expense.

Sen. Nelson: Look to stimulus funds before earmarks

BY JOSEPH MORTON
WORLD-HERALD BUREAU

WASHINGTON - On a day when he traded verbal jabs with a home-state colleague, Sen. Ben Nelson said Nebraskans looking for earmarks this year should first hit up the state for a slice of its federal stimulus money.

Nelson, a Democrat, said Wednesday that he would request fewer earmarks in this year's congressional spending bills because of the economic stimulus legislation, which is sending \$1.1 billion to Nebraska.

About \$52 million of the stimulus money for Nebraska is available for one-time projects, Nelson said, and that should cut down on requests for earmarks this year.

Earlier, Nelson exchanged remarks about earmarking with Rep. Lee Terry, R-Neb., at the weekly Capitol Hill breakfast for visiting Nebraskans.

Acting as emcee, Terry introduced Nelson to the audience, which included representatives of Nebraska natural resources districts.

"Now whenever anyone needs money, you know, for a project with the NRD, you go to the guy that's senior in the Senate on Appropriations. So let's hear it for Ben Nelson," Terry said.

Nelson stepped up to the podium and said, "And then when I help you out, Lee will criticize the earmark."

Nelson has taken issue with lawmakers who, like Terry, include earmarks in spending bills, then criticize the legislation for having too many earmarks and vote against it.

Nelson summed up Terry's position on earmarks this way in an interview:

" 'Earmarks are OK, if Nelson goes on the line to get them, but don't ask me about them because I'm opposed to them.' Or, 'I'm not opposed to them, but once they get in the budget I'll still vote against the budget.'"

Nelson added, "To me, we have to have a certain amount of consistency, and I try to be consistent as best I can."

Terry said he was trying to convey that as a member of the Appropriations Committee, Nelson is a "go-to guy" who can help people in Nebraska. Terry said he seeks earmarks that conform to strict guidelines and are transparent.

"Ben could call me a hypocrite, but the reality is what I've called for is that there needs to be limitations and there needs to be transparency and that earmarks had gotten out of control," Terry said in an interview. "I'm sorry that Ben was offended by that."

Continued

The practice of lawmakers "earmarking" federal funds for specific projects has been at the heart of several high-profile scandals. It also has become a political football. Critics say earmarks lead to pork-barrel spending guided more by political considerations and campaign contributions than by sound judgment.

Nelson defends earmarking, while calling for transparency and accountability.

Without earmarks, he says, federal bureaucrats with no accountability would ignore projects in smaller states such as Nebraska. He said he supports earmarks for the state "that serve a clear public good and that won't be funded otherwise in a timely way."

Nelson said his announcement Wednesday does not mean that he's backing off that position.

"I'm being pragmatic, saying that when we don't have to seek earmarks, I'm not going to," he said.

The point of earmarks is to level the playing field for Nebraska. With the stimulus money, he said, the playing field already is level because it will be divided up by Nebraskans, he said.

Although they represented only about 1 percent of the \$410 billion omnibus spending bill approved by Congress earlier this year, earmarks were the focus of much of the debate over the legislation.

Nebraska's three House members, all Republicans, included earmarks in the bill for their home districts, but all voted against the legislation. Two of them, Terry and Adrian Smith, criticized the overall number of earmarks in the bill.

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'RAIN HARVESTING' FEUD (OWH, 3-28-09)

This is a crime?

Colorado officials sound as though they've gone off the deep end recently in interpreting state water laws. Residents, it appears, are not allowed to collect rainwater.

Rain barrels and cisterns are out. Rainwater harvesting, as the "crime" is called, is illegal because "that water really belongs to someone else."

That's according to Doug Kemper, executive director of the Colorado Water Congress. "We get into very detailed accounting on every little drop," he said recently.

The water law being used to turn off the collection of rain should be familiar to Nebraskans: It's the first-in-time, first-in-right rule that regulates irrigation from the state's surface streams. In theory, when a gardener catches a bucket of rainwater, he could be depriving someone downstream who has a senior water right.

Water is increasingly scarce for immediate use in Colorado, as it is in Nebraska. The two states have argued over the flow in the Platte River as it crosses the border. Colorado has more water claims than it has available water, thus the rainwater crackdown.

It's debatable whether the Colorado action will help.

One study indicated, for instance, that 97 percent of rainwater that falls onto the ground never gets to streams at all.

"Welcome to water politics in Colorado," said State Sen. Chris Romer. "You don't touch my gun, you don't touch my whiskey and you don't touch my water."

That sounds pretty serious.

Published Sunday March 29, 2009

About one-fifth of wells contaminated

BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

More than 20 percent of private wells nationally and about 18 percent in Nebraska have at least one contaminant at a level that is considered a potential health concern, according to a new federal study.

The U.S. Geological Survey sampled about 2,100 private wells in 48 states for the study.

Jill Frankforter, a hydrologist with the Geological Survey office in Nebraska, said the sampling found that arsenic and bacteria were the most common contaminants.

According to the study, of the 136 Nebraska wells sampled:

- Thirteen wells exceeded standards for arsenic.
- Nine wells exceeded standards for bacteria (seven exceeded total coliform and two exceeded E. coli standards).
- Six wells exceeded the standard for uranium.
- Five wells exceeded the standard for nitrate.

The health risks of the contaminants vary, from potential intestinal problems from bacteria to cancer risks from uranium. Nitrate also is known to cause blue baby syndrome.

If these were municipal wells, the cities most likely would have to do additional testing and might eventually have to do something to address the problem, Frankforter said.

About 20 percent of Nebraskans, or 340,000 people, use well water, said Jack Daniel of the Nebraska Department of Health and Human Services.

Daniel said state health officials currently advise people to test their water for those things that can cause immediate illness - bacteria and nitrate. Those tests, he said, cost about \$20 a year. More expensive testing for those things that can cause problems over a long period of exposure are advisable when there is a specific reason for concern, he said, such as a chemical spill.

The wells also were tested for radon, Frankforter said. Depending upon which health standard is used, 58 percent of the wells, or none, exceeded potential standards.

Of the Nebraska wells sampled, nine were in the Platte River Valley and the rest were in the Ogallala Aquifer.

Anticipating the deluge

3-30-09

As the Red River through Fargo, N.D., rises into what officials called "uncharted territory," residents of the Omaha metropolitan area remain dry. So far, so good.

The greatest flooding threat to life and property in Sarpy, Douglas and Washington Counties is the Papio Creek watershed. It hasn't overflowed system-wide in recent years, but the worst is inevitable. The first question is when.

The second question is whether the Papillion Creek Watershed Partnership, a coalition of local governments, can act ahead of the rising water to prevent disaster. The group proposes several small dams and other projects to quell the threat.

Residents in parts of Washington and Douglas Counties in particular are eager to minimize dam construction; they are pressing for alternative flood-control projects. But the range of alternatives is both wider and narrower than it might seem.

In the broadest sense, alternatives to dam construction can be wetlands and flood plains, both of which slow floodwater, spread it over a wider area and protect downstream development. It's not likely that partnership officials would buy into re-creating wetlands and floodplains. Nor would landowners whose fields would flood periodically.

Another expensive and land-hungry alternative is the floodway, an extensive green swath of undeveloped grasslands into which floodwater can be diverted. Winnipeg, Manitoba, is protected by a diversion riverbed for the now-flooding Red River.

When flooding alternatives are discussed in the Omaha area, they are more likely to involve smaller projects, such as permeable paving, green roofs and rain gardens. These have limited effects.

Consider what would be required for success:

- Every unit of government that controls planning, zoning and building would have to enforce requirements for every new building, parking lot or structure. Each would have to keep rainwater runoff on-site; every new bit of pavement laid would have to be mitigated.

- Porous or permeable pavement, which permits water to soak into the soil, can cost two or three times more than asphalt roads, and such pavement can be damaged by road salt and frost heave.

- Rain gardens, containment ponds or similar constructions would be mandatory for every home or development; for example, a typical home needs up to 400 square feet of rain garden.

Those restrictions would have to be applied to new construction. Runoff from existing structures, roads, parking lots and similar impermeable surfaces would continue to add to flooding.

A basic, if often misunderstood fact is that a flood plain is not a static thing. Every new or altered home or business, every new or repaved road or parking lot causes more water to rush into the stream system. Before development, much of that water soaked into the ground or was held by wetlands, forests or other natural vegetative or geologic features.

As a result, even the front-line defense against flooding isn't enough. Land-use planning, zoning and building codes can contribute substantially to flood prevention. But when the flood plain changes, it's nearly impossible for zoning and similar long-term programs to keep ahead of it.

Then, too, it tends to be politically difficult for county boards or city councils to enforce strict regulations, given the desirability of residential and commercial growth in metro communities.

If low-impact alternative methods are to contribute to flood control in the Papio Creek watershed, they must be widely accepted and implemented. And they must be considered supplementary to a judicious dam construction program. After all, what's being safeguarded is the future prosperity of the entire three-county area.

Dunnigan reverses course on Lower Platte Basin

By ART HOVEY / Lincoln Journal Star
Monday, Mar 30, 2009 - 06:14:48 pm CDT

It turns out the science behind the ban wasn't so sound.

Two weeks ahead of the deadline for his final decision, Brian Dunnigan announced Monday there's room for more water development in the Lower Platte River Basin after all.

As Gov. Dave Heineman listened in, the director of the Department of Natural Resources pointed to a flaw in research as the reason for reversing his earlier decision closing the basin to new demand from irrigators and other water users.

Related Link(s):

[Graphic: State surface water](#)
[1.28.09 NRDs to do own Lower Platte assessment](#)

That means the basin has not yet reached the point where the state's top water official sees water demand as threatening surface and ground supplies.

It also means the city of Lincoln, other municipalities and other users don't need to worry yet about a 2004 state law. It requires new uses to be offset with potentially expensive water conservation measures in restricted areas.

And it means Dunnigan can get beyond the heavy criticism, mostly from irrigators, aimed at his department since his preliminary decision in December.

Because of what he referred to as "an erroneous method" in calculating irrigation pumping and annual precipitation, "the results show that the Lower Platte River Basin will not be fully appropriated," he said.

Despite the pressure from irrigators, Heineman spoke up about as quickly as the words "caved in" were put in question form at a Monday press conference.

"That would not be an accurate reading of what occurred," he said.

"It's not good enough to stand up and say you don't like a decision," the governor added. "We need far more than that. And that's what's occurred."

At any rate, Dunnigan's about-face won praise from directors of affected natural resources districts and from Sen. Chris Langemeier of Schuyler, chairman of the Legislature's Natural Resources Committee.

"It's very good news for NRDs in the northeast part of Nebraska," said John Miyoshi of the Lower Platte North in Wahoo. "We're very glad to work jointly with Brian's staff on reviewing the report. And we believe the final report is based on the best science available."

Stan Staab of the Lower Elkhorn NRD in Norfolk said the partners in a \$1.5 million modeling study of water use along the Loup and Elkhorn rivers — used by Dunnigan in reaching his preliminary conclusion — must "try to figure out where the flaws are with the model" before developing it further.

Continued

Langemeier is the author of a related bill that could be given final passage as soon as Wednesday. LB483 is his way of heading off a potential surge in applications for new wells from farmers who see the latest update in the Lower Platte's status as anything but permanent.

The law requires Dunnigan to conduct another annual review of unrestricted river basins by Dec. 31.

Langemeier wants to limit new irrigated acres on an annual basis over the next four years.

Dunnigan said restricting lower reaches of the Platte is not inevitable. It depends on what happens with conservation at the local level.

Mike Jess, associate director of the Water Center at the University of Nebraska-Lincoln, sees it as a matter of time.

"I'm sure there will be some conservation strategies implemented," he said.

But as long as growth continues, "the balance will tilt. And there will be consumption that exceeds sustainable supplies."

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Beware costly flood-control measures in Papio NRD proposal

BY KENT ROBERT
The writer, of Tekamah, Neb., is a Nebraska state senator representing District 16.

A March 18 World-Herald editorial supported a legislative bill that I believe would lead to an increase in property taxes for the indefinite future.

Legislative Bill 160 would allow the Papio-Missouri River Natural Resources District unfettered bonding authority to construct dams that are supposedly needed for flood control in the Sarpy County area.

I support measures to control flooding in Sarpy County, but I oppose the NRD's plan to address it, either in the costly measures being proposed or in the financing means for which the NRD seeks legislative authority.

First of all, I think the NRD serves a great purpose and has completed many great projects that benefit its cities through water quality, flood control and recreation. I enjoy and use many of these systems and applaud the Papio NRD for that.

However, I completely disagree with the NRD on flood control and bonding authority.

The NRD's approach is a failed plan that has been rejected three times in five years by the Nebraska Legislature—and for good reason. The NRD has been so fixated on building dams and lakes for the benefit of private

developers (and on bonding power) that it has lost sight of the real goal: flood prevention.

Some small dams may be necessary. But low-impact development measures—such as green spaces, permeable concrete in parking lots and other prudent and cost-efficient development features—would go just as far toward reaching that goal.

All the while, the NRD and others cast a blind eye at the real problem: unrestricted development of rural areas and building in the flood plain.

I am a strong proponent of economic development through a private and voluntary purchase, but we must be thoughtful about how we proceed. We must be good stewards of our land, even

while we grow. And the NRD, with the authority granted it by law, should be the leader in this stewardship.

If the NRD over the years had been advising and partnering with cities and counties to ensure that development measures were taken to reduce runoff, we would not be in the predicament we're in today.

Unfettered pavement in all of Omaha is the reason for our runoff problem. And uncontrolled building in the flood plain makes that runoff dangerous. The NRD proposes nothing to prevent the same predicament we're in now from happening again.

Where are its proposals for reducing adequate runoff restrictions for future development? Where are its proposals for limiting flood-plan construction?

And what about the financing? Lower-impact measures cost less, and they could be borne by developers as development happens. This would not be a government-imposed impact fee but a cost of development, much like developers are required to build streets and sewers today.

Already, the NRD has bonding authority, if the NRD would undertake flood-control measures to protect Sarpy County as an improvement project area.

I introduced legislation to facilitate this process during this session. But the NRD, along with its counterparts across the state, launched a taxpayer-funded smoke-and-mirrors campaign to kill that bill, misrepresenting the fact that it would stifle the very

activity it sought to promote.

Setting up an improvement project area to protect Sarpy County from flooding would place the cost of the project on those who benefit from it, as opposed to landowners in Burt and Washington Counties, also part of the same NRD. They did not cause or contribute to the flood problem, and they certainly will see no benefit from the project.

I will fight to strictly limit or deny the power that is sought with LB 160. I am not opposed to prudent flood-control measures.

I do oppose an unlimited bonding authority that could be paid for only with a tax increase, especially when the NRD and developers failed to plan ahead and use the most cost-efficient ways to control flooding.

Lower Platte water use limits delayed

By DAVID HENDEE
WORLD-HERALD BUREAU

LINCOLN — Eastern Nebraska's water judgment day is coming; it just won't be this year.

Water regulators said Monday — after hearing the state granted a reprieve — that there is little wiggle room remaining for eastern Nebraskans to pump more underground water before triggering restrictions now imposed in drier western Nebraska.

"It depends on development," said Brian Dunnigan, director of the Nebraska Department of Water Resources.

Dunnigan's remark came after he said he planned to reverse an earlier decision that water demand in the lower Platte River basin was on the

verge of outpacing supply. A third of Nebraska's land from Omaha and Lincoln to the western Sand Hills faced tight restrictions on future water use if Dunnigan hadn't changed course.

It marks the first time state officials have backtracked on an initial decision required each year on the status of water across Nebraska, both in streams and underground. In the Natural Resources Department's technical jargon, the lower Platte River basin had been considered "fully appropriated." Now it isn't.

John Miyoshi, executive director of the Lower Platte South Natural Resources District in Wahoo, said water regulators hope to delay new restrictions for as many years as possible by

slowing irrigation development. "All of us realize that at some point the basin will be fully appropriated," Miyoshi said.

Dunnigan and Gov. Dave Heineman said pressure remains for farmers and all Nebraskans to use water more effectively and efficiently.

Heineman said the reversal was based on sound science, not emotional testimony at public hearings or dire reports of lost economic activity.

Dunnigan said new information from a study commissioned by nine local natural resources districts spotlighted errors in rainfall and other data used to calculate how much underground water farmers would pump to irrigate crops. The errors led to overestimating how much the pumping would hurt

flows in the lower Platte River, he said.

The margin, however, is slim.

Based on calculations used by Dummigan's agency, the lower Platte was within about 1.5 days of water availability of triggering restrictions in 2008. The latest calculations for 2009 narrowed the gap to a half day.

State Sen. Chris Langemeier of Schuyler introduced Legislative Bill 483 this session to prevent a rush of new permits for irrigation wells and limit expansion of irrigated cropland in basins where water supply is close to falling behind demand. It is up for final debate soon.

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Elkhorn Crossing Park renovation to begin this spring

Improvements to Elkhorn Crossing Recreation Area in western Douglas County will begin this spring. At the Papio-Missouri River NRD March 12 Board of Directors meeting, the Board selected Dostal Construction Company of Omaha, with a low bid of \$219,400, to complete significant improvements to the park located on the Elkhorn River just east of 252nd Street and Bennington Road.

Elkhorn Crossing Recreation Area was closed much of last year due to damage caused by river flooding.

When the site reopens in the fall of 2009, it will feature much improved camping facilities and a more spacious environment. The park currently has a boat ramp and toilet facilities. The revitalized park will provide a river-access camping location for local youth groups, families, river float trip enthusiasts and others. Camping is not available at many other river-access parks in this area.

"NRD crews will improve the entry road and complete additional land-raising construction prior to the recreation facility construction," said John Winkler, NRD general manager. "This renovation of Elkhorn Crossing will be a first-class improvement. The area will be more attractive to families desiring a safe and secure environment for camping and river access."

The 23-acre rustic site is managed by the Natural Resources District and was constructed as part of a major riverbank stabilization project by the NRD and the Nebraska Natural Resources Commission.

No entry fee is required at Elkhorn Crossing.

"This site will be used by many as a put-in location for float trips to the river access site at Maple Street or the NRD's Graska Crossing Park near W. Dodge Road," said NRD Park Superintendent Jerry Herbster.

The NRD built the site at Maple Road that is now operated by the Village of Waterloo. The District opened Graska Crossing last fall.

Thousands of immigrants, bound for the west, camped near this area

waiting to cross the river.

Major improvements include:

Day Use Area:

- concrete pad for two picnic tables,
- overlook area with two benches and interpretive exhibit, and
- accessible parking pad.

Central Camp Area:

- pre-engineered restroom facility similar to that at Graska Crossing,
- solar-powered lighting within restroom,
- swing set with three belt swings and one tot swing,
- bench seating area adjacent to swing set,
- accessible parking pad,
- accessible walk to water well (well to be provided by others), and
- trash dumpster pad.

Tent Camping:

- 14 total tent camping sites; each site will include a concrete pad with picnic table and fire ring,
- 7 barbecue grills will be provided within the tent camping area; each grill will be shared between two camping sites, and
- one accessible tent camping site and one accessible barbecue grill will be provided and will be connected by an accessible walk to the parking pad.

RV Camping:

- 8 total RV campsites will be provided, one of which will be accessible.
- each RV camp site will include a picnic table and fire ring on a concrete pad, and
- 4 barbecue grills will be provided adjacent to the RV campsites; each grill will be shared between two RV campsites.

Other Site Improvements:

- a single concrete pad with a fire ring and barbecue grill will be provided near the north end of the site to accommodate visitors who might wish to camp further away from others,
- a wood post-and-cable fence will be provided throughout the site to keep vehicles on roads and within parking areas, and
- a small self-registration station will be constructed to provide a location for campers to register.

Continued

Bennington Rd.

Open Meadow

Fire Ring & Grill

Cable Fence to Control Vehicle Access

Wall

Star

Vault Toilet

Parking Area For Canoe Launch

Day Use Area

- Picnic Area
- History Exhibit

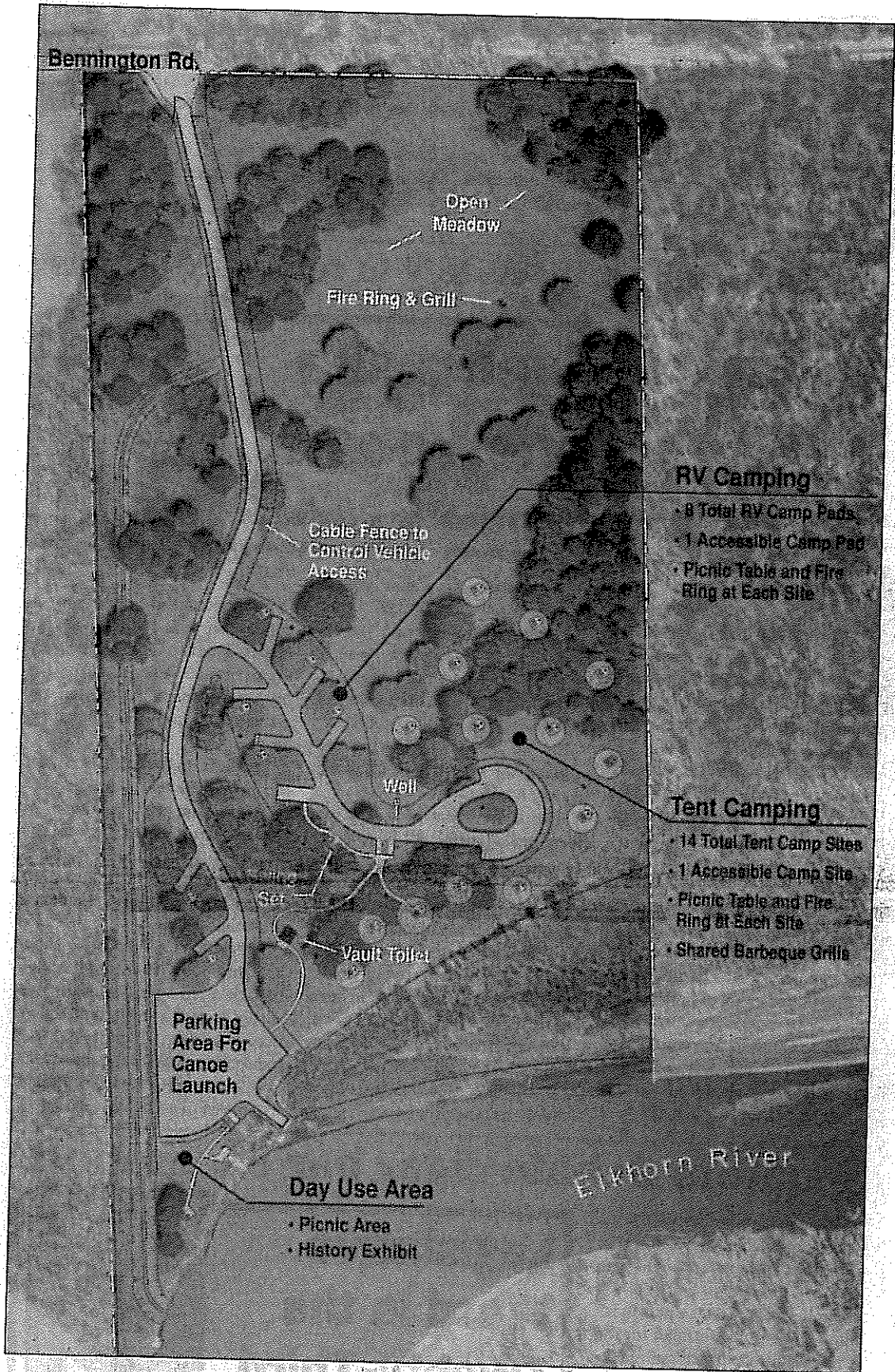
RV Camping

- 8 Total RV Camp Pads
- 1 Accessible Camp Pad
- Picnic Table and Fire Ring at Each Site

Tent Camping

- 14 Total Tent Camp Sites
- 1 Accessible Camp Site
- Picnic Table and Fire Ring at Each Site
- Shared Barbeque Grills

Elkhorn River



Water woes to continue

Eastern Nebraska irrigators, natural resources districts and water users may have dodged a poorly aimed bullet this week, but the state Department of Natural Resources can't stave off serious restrictions on new uses of Platte River water for long.

That much is obvious, even to opponents of the DNR's designation of the lower Platte River basin as "fully appropriated." That term means all of the water in the stream has been claimed by someone — cities and towns, irrigators, industries and others — and anyone who wants water must get it from a current user. The agency reversed itself and rescinded the temporary designation this week.

John Miyoshi, executive director of the Lower Platte South NRD in Wahoo, said he and other water officials want to stave off restrictions for as long as possible; they plan to slow irrigation development to help accomplish that. Farmers use about 95 percent of the groundwater pumped in the state.

The resources department issued the preliminary ruling last year. The water statistics on which the state based its ruling were challenged by eight natural resources districts in the basin. Those NRDs had figures that contradicted the DNR statistics. The agency backed down, an unprecedented step. The DNR agreed that, indeed, some of its numbers were incorrect.

The margin is as thin as a razor blade, however. Given the pressures on the lower Platte, it's clear that this same problem will rise again, and we won't have long to wait. There is no escaping the fact that Nebraska's water resources must be carefully husbanded and fairly shared among all the people of the state for all legitimate uses.

Communities and irrigators are worried that the lack of new water could shut down investment; irrigators wouldn't be able to expand the number of acres they water and communities would find it difficult to drill new wells without buying water rights from existing users. Omahans are not as exposed, however; officials have said that the Metropolitan Utilities District's new Platte West water filtration plant has plenty of capacity for growth in the foreseeable future.

But there is reason both for concern and for anticipatory action. Irrigators, businesses and towns that want to expand in the future should begin planning now for the inevitable time when the Platte will be fully appropriated.

It is coming, and it is coming fast.
