

# MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: December 2, 2005

FROM: Steve Oltmans, General Manager

- A. **INFORMATION/EDUCATION REPORT**: A copy of the I&E Report detailing Information and Education activities for the month of November, 2005, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS**: None
- C. **REPORT ON PURCHASES – CONSTRUCTION SERVICES, PROFESSIONAL SERVICES, PERSONAL PROPERTY**: Pursuant to Board direction, attached is a report indicating construction services, professional services and personal property purchases for the month of November, 2005. 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 November 16, 2005. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **2006 RECREATIONAL TRAILS PROGRAM GRANT RANKINGS**: Attached is the 2006 Recreational Trails Program (RTP) rankings. This program is administered by the Nebraska Game and Parks Commission. The District has two trail projects included on the non-motorized/diversified projects listing. The MoPac Equestrian Trail (\$56,000) is listed as No. 4 and the West Papio to Big Papio Trail Connector (\$110,000) is listed at No. 5.
- F. **DRAFT WATER CONTROL PLAN TECHNICAL CRITERIA FOR SPRING PULSES FROM GAVINS POINT DAM**: Attached is a brochure on the Draft Water Control Plan Technical Criteria for Spring Pulses from Gavins Point Dam prepared by the Missouri River Basin Water Management, Northwestern Division, U.S. Army Corps of Engineers. The brochure outlines background information regarding spring pulse from Gavins Point Dam; spring pulse facilitated process; draft water control plan technical criteria; water control plan technical criteria flexibility; next steps; and research, monitoring and evaluation of the plan.

NOTE: This is essentially the “Nebraska Plan” as proposed by Roger Patterson, Director, Nebraska Department of Natural Resources (DNR) in 2004 and approved by the Federal District Court to comply with the Federal Endangered Species Act.

G. **NEWS CLIPS:**

- November 3, 2005, Omaha World Herald article – Lake users bite bullet on 2-year restoration
- November 9, 2005, Omaha World Herald article – Trouble on the river. Nebraska may have to shut down some irrigators, pay Kansas
- November 13, 2005, Omaha World Herald editorial – Up a dry creek. Republican settlement was the easy part; compliance will be tough.
- November 15, 2005, Omaha World Herald article – Farmers protest plan for river. The Corps of Engineers appears set on “spring rises” on the Missouri to aid the pallid sturgeon.
- November 16, 2005, Omaha World Herald – Midlands Voices – River settlement was successful for state, written by Don Stenberg
- November 18, 2005, Omaha World Herald article – Brainstorming for ways to make up water deficit
- November 19, 2005, Omaha World Herald article – Water bill may top \$300 million. Nebraska taxpayers probably will help pay for troubles in the Platte and Republican River basins.
- November 20, 2005, Omaha World Herald editorial cartoon – Nebraska’s great mythical Navy vs. Nebraska’s other water-related myth.
- November 22, 2005, Omaha World Herald article – Plan deals with development (Sarpy County).
- November 23, 2005, Omaha World Herald article – Flexibility sought on water issue. Osborne asks Kansas and Colorado to consider the drought’s effect on river flows.
- November 24, 2005, Papillion Time picture – Coming right along – Walnut Creek Amphitheater.
- November 24, 2005, Omaha World Herald article – Pedestrian bridge gets new start. The city still prefers the twin-spire design, but it is no longer a certainty.
- November 25, 2005, Omaha World Herald article – New well moratorium aired at NRD talks.
- November 27, 2005, Omaha World Herald editorial – Must-solve problems. Nebraska has to fund water policy, fix Republican water shortage.
- November 29, 2005, Lincoln Journal Star Editorial – Water debt threatening a way of life.
- November 30, 2005, Douglas County Post Gazette article – Changes coming to Elkhorn’s eastern horizon.

## **November 2005**

### **Information & Education Report**

#### **Information**

- ◇ Continued work on Natural Resources Center Exhibit
- ◇ Submitted photos and copy for Bank of Bennington Magazine
- ◇ Attended News Conference on Cunningham Lake improvements
- ◇ Developed request for proposals – SWCS video
- ◇ Continued work on SPECTRUM
- ◇ Designed and received literature bags for use at trade show booths
- ◇ Received wildflower seed packs for 2006 distribution
- ◇

#### **Education**

- Managed 65 volunteer hours
- Continued to plan fall field trips and NRD programming
- Continued working with Nebraska Pheasants Forever on Leopold Education Project workshops for 2006
- Continued promotion of NRD outdoor classroom grants
- Continued working on the NRD Display in the Visitor's Center
- Attended Groundwater Foundation Annual Conference in Nebraska City
- Held 2-day Geocaching programs for Bellevue Middle School Students (35 Students from Mission Middle School and Logan Fontenelle Middle School)
- Attended NRD retirement meetings
- Presented Enviroscope program to all 4<sup>th</sup> graders at LaVista West Elementary
- Revised LRIP cover
- Presented Enviroscope at Parrish School Environmental Day (4 presentations-15 students each)
- Collated and mailed information on Natural Resources to LaVista Junior High
- Designed NRC Holiday Calendar
- Planned for LEP State Coordinators Meeting in Lansing Michigan in January
- Ordered Supplies for LEP workshops this winter
- Arranged for NRC to be a Toys For Tots drop off location
- Printed NRD service awards and updated Service Plaques
- Revised and printed Envirothon Mailing
- Started editing Water Works 2006 Application



Updated: November 16, 2005

## **Current and On-Going Projects P-MRNRD Legal Counsel**

★ = **Top Priority**

F = Future Work – No Assignment

N = New Assignment

O = Others Handling

W = Work in Progress

P = PFP's Portion Completed

- **Little Papio:** (Cleveland)
- **Big Papio :** (Cleveland)
- **West Branch** (Cleveland):
  - Land Exchange with Sarpy Co. (96<sup>th</sup> St.) (P)
  - ★ Purchase Agreements, deeds (90<sup>th</sup> to Giles) (Tr. 19 deed, Tr. 23 easement) (W)
  - ★ Trib Crossing Contract with EGA (W)
- **Western Sarpy Dike** (Cleveland):
  - Closing with Bundy's (potentially modify ROW/offer) (F)
  - Amended drainage ditch easements on Hickey (First National Property) (P)
  - Hansen ROW Condemnation (W)
- **Floodway Purchase Program** (Woodward):
  - Floodway Property Purchase Agreements as needed (F)
- **Trail Projects** (Bowen):
  - ★ Western Douglas County Trail – Ehrhart Griffin professional services contract (W)
- **Missouri River Corridor Project** (Becic):
  - California Bend – Appeal District Court ruling on Wright's tenant (Arp) (W)
  - ★ Lower Decatur Bend – Purchase Agreements for Tobin, Williams & Olson (W)

- **USDA P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
  - Pigeon/Jones Creek Site Easements – as needed (F)
  - Silver Creek Site Easements– as needed (F)
  - Release of Site S-7 Easement (W)
  
- **Papio Watershed Dam Sites** (Woodward/Petermann):
  - Dam Site 19 agreement (F)
  - DS 13 Closing with Lyman-Richey Corp (P)
  - ✦ DS 13 Agreement with Elkhorn and Omaha (W)
  - ✦ DS 13 Easement with Metro Community College (P)
  - ✦ DS 13 Lyman Richey PA Addendum and Closing (W)
  - ✦ Shadow Lakes Agreement with SIDs (W)
  - ✦ Shadow Lakes Oversight/Review Agreement with HDR (P)
  
- **Papio Creek Watershed Partnership (Stormwater)** (Woodward):
  
- **Rural Water Projects:** (Sklenar)
  
- **Elkhorn River Public Access Sites** (Sklenar):
  
- **Other:**

## 2006 RTP Grant Rankings

### Non-Motorized/Diversified Projects (\$495,000 total funding)

1. **Chappell- Chappell Lake Border Trail**
2. **Wolbach- Cottonwood Trail**
3. **Columbus- Pawnee Park West Trail**
4. **Papio Missouri River Natural Resources District- MoPac Equestrian Trail** \*56,000 (90%)
5. **Omaha- W. Papio to Big Papio Trail Connector** \*110,000 (65%)
6. Lower Platte South Natural Resources District-Loma Trailhead
7. Cortland- Cortland Trailhead
8. South Sioux City- Arbor Acres Trail
9. Bancroft- Mini Park Trail
10. Lower Elkhorn Natural Resources District- Maskenthine Lake Trail Phase I
11. Orleans- Orleans Trail
12. Lower Platte South Natural Resources District- State Fair Park Trail
13. Lower Platte South Natural Resources District- BNSF Undercrossing

### Motorized/Diversified Projects (\$405,000 total funding)

1. **NGPC- Lewis & Clark SRA Snowmobile Trail**
2. **Lower Platte South Natural Resources District/Lancaster County- Ethel Abbott Motocross/BMX Track**
3. **USFS- Dismal River Trail Renovation**

**\*\*\*Projects in bold indicate trails to be funded under the FY2006 RTP Program. Funding request may be altered or reduced to match amount of RTP funds received by Federal Highway Administration to the State of Nebraska.**

# Draft Water Control Plan

## Technical Criteria for Spring Pulses from Gavins Point Dam



### Spring Pulse from Gavins Point Dam

Background:

- Spring Pulse from Gavins Point Dam is One Element of the Reasonable and Prudent Alternative to Jeopardy for the Endangered Pallid Sturgeon as per the USFWS 2003 Amended Biological Opinion (BiOp)
- “The Corps shall ensure that within two years ... a (long-term) flow management plan will be implemented to provide a spring rise ... for the life history needs of the pallid sturgeon.” - BiOp
- Spring Pulse is Intended to Trigger Pallid Sturgeon Spawning
- BiOp Provided the Corps and Basin an Opportunity to Collaboratively Develop a Spring Pulse Plan
- 8<sup>th</sup> Circuit Court of Appeals Ruling of 22 August 2005 Reaffirmed the BiOp

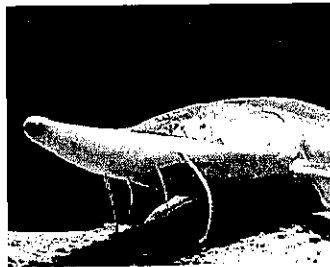


## Spring Pulse Facilitated Process

- Corps Sought Assistance from the US Institute for Environmental Conflict Resolution (Institute)
- Institute, Tribes, and Basin Stakeholders Selected CDR Associates to Conduct Facilitated Spring Pulse Process
- Plenary Group Established to Provide Recommendation to Corps
  - Plenary Group Comprised of ~ 50 individuals representing the Tribes and full range of basin interests
  - Plenary Group Task was to Formulate a Spring Pulse that Benefited the Pallid Sturgeon while Minimizing Risks to Basin Tribes and Stakeholders
- Technical Work Groups Established to Inform Plenary Group
  - Pallid Sturgeon / Fish and Wildlife
  - Socio-Economic
  - Hydrology
  - Cultural, Burial Sites, Tribal Issues
- Four Plenary Group Sessions were held Throughout the Basin



Interior Least Tern



Pallid Sturgeon



Piping Plover

## Draft Water Control Plan Technical Criteria

- March Pulse:
  - Preclude – Initially 36.5 MAF or below on 1 March until a March Pulse occurs. Thereafter, 40 MAF or below on 1 March.
  - Proration of Magnitude – None, 5 kcfs added to navigation releases, but no greater than 35 kcfs (powerplant capacity).
  - Initiation of Pulse – Coincides with increases for navigation season.
  - Rate of Rise before Peak – ~ 5 kcfs for 1 day.
  - Duration of Peak – 2 days
  - Rate of Fall after Peak – Drop over 5 days to navigation target release.
- Between Pulses – Existing Master Manual Criteria

**May Pulse:**

- Preclude – Initially 36.5 MAF or below on 1 May until a May Pulse occurs. Thereafter, 40 MAF or below on 1 May.
- Proration of Magnitude based on System Storage – Prorated from 16 kcfs based on 1 May System Storage check: 100% @ 54.5 MAF straight-line interpolation to 75% @ 40 MAF.
- Proration of Magnitude based on Projected Runoff – After proration for storage, magnitude would be further adjusted based on May CY runoff forecast: 100% for median straight line interpolation to 125% at upper quartile or above, 75% at lower quartile or below.
- Initiation of Pulse – 1 – 19 May depending on temp below Gavins Point Dam (second day of 16 degrees C). Consideration of protected birds a factor.
- Rate of Rise before Peak - ~ 6 kcfs per day
- Duration of Peak – 2 days
- Fall Rate after Peak – 30% drop over 2 days, drop to navigation service level over 8 days.
- Both Pulses measured downstream of James River.

**WCP Technical Criteria Flexibility**

- Downstream flow limits – both pulses:

| LOCATION      | CURRENT FLOW LIMITS (IN 2006) |            | MINIMALLY INCREASED FLOW LIMITS |            | FLOOD STAGE |
|---------------|-------------------------------|------------|---------------------------------|------------|-------------|
|               | flow kcfs                     | stage feet | flow kcfs                       | stage feet | feet        |
| Omaha         | 41                            | 18.3       | 49                              | 20.0       | 29          |
| Nebraska City | 47                            | 12.2       | 55                              | 13.7       | 18          |
| Kansas City   | 71                            | 15.4       | 75                              | 16.1       | 32          |

- March Pulse –
  - Duration of Peak could be increased to no more than 5 days.
- May Pulse –
  - Rate of Rise before Peak could be decreased to no less than 4 kcfs per day and increased to no more than 8 kcfs per day
  - Duration of Peak could be increased to no more than 5 days
  - Rate of Fall after Peak - drop to navigation service level could be increased to no more than 14 days.
- Both Pulses could be measured at Gavins Point Dam.

## Next Steps

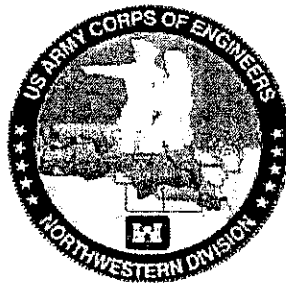
- Draft AOP and Water Control Plan Technical Criteria Comment  
Period ends – 16 Dec 2005
- Final 2006 AOP released – Mid Jan 2006
- Environmental Assessment Completed – Feb 2006
- Record of Decision Completed – Feb 2006
- Revision of Master Manual to include Technical Criteria finalized – Feb 2006
- Implementation of 2006 AOP – Mar 2006

## The Way Ahead

- Plenary and Technical Work Groups are Maintained to Continue  
Deliberations on Spring Pulse and Provide Bridge to Broader MRRIC
- Corps and USFWS Advise Institute to Move Forward with MRRIC

## Research, Monitoring, and Evaluation

- Baseline data collected in 2005
- USGS Comprehensive Research Program
- RM&E Plan for monitoring of spring pulses scheduled for completion  
in Dec 2005
- RM&E Plan will be presented to Plenary and Technical Groups when  
reconvened



### Missouri River Basin Water Management

Northwestern Division

U.S. Army Corps of Engineers

12565 W. Center Road

Omaha, Nebraska 68144

Phone: 402-697-2601

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[missouri.water.management@nwd02.usace.army.mil](mailto:missouri.water.management@nwd02.usace.army.mil)

# Lake: Two-year restoration will pay off in smooth sailing afterward

Continued from Page 1

In that case, the Eastern Nebraska Sailing Association, which holds races at Cunningham Lake, will relocate to Lake Manawa in Council Bluffs during the two-year restoration.

Hardt, who operates the marina from mid-May through mid-October, hopes that he will be able to rent out smaller boats during that time.

Omaha Parks Director Larry Foster said he did not know whether the boat dock and marina could be extended so that sailboats could continue to use the smaller, shallower lake.

Although the prospect of losing business concerns him, Hardt said, he understands the need for the improvements.

"Mother Nature never meant for these types of lakes to be there," he said. "Ultimately, it would have had to be done."

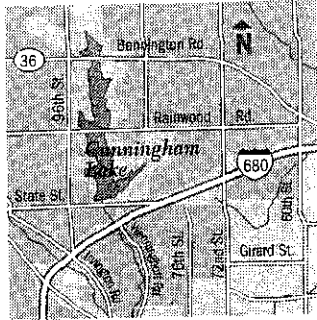
The slow degeneration of the lake near 96th and State Streets is most evident on the north end along Nebraska Highway 36. The lake no longer extends north of the Highway 36 bridge, as it did 10 years ago. Year by year, silt fills the lake. It is now listed as "impaired," meaning that it cannot fully support aquatic life or thrive aesthetically.

"We will make it a new lake again," said Don Gabelhouse of the Game and Parks Commission.

The state agency expects to spend millions of dollars on the improvements, although there is no specific estimate.

The lake will be dredged to remove the silt and to deepen it. The commission plans to construct jetties, piers and breaks to create better aquatic habitat and improved spots for anglers to cast their lines.

The lake will be restocked with bluegill, largemouth bass and channel catfish.



"They are doing the right thing," said Louis Liebentritt, who has lived in a nearby subdivision for 14 years. "There is no other way to do it."

Mayor Mike Fahey and Foster said improving the lake quality goes hand-in-hand with improvements that the city plans for the surrounding park.

"There is no use having a nice park around a lake if there is no lake," Foster said.

Neighbors have long complained that the condition of the park is decrepit, with pothole-filled roads, broken-up trails that dead end, and dilapidated restrooms and picnic areas.

Foster has estimated that it would cost \$8 million to have Cunningham Lake's amenities match those surrounding Zorinsky Lake in southwest Omaha.

Foster and Fahey said they are attempting to find funding to make the improvements.

The current plan calls for spending \$300,000 from city funds to repair the roads, parking lots and trails in 2009.

Some lake users don't mind its current rustic state, though.

"I've lived here nine years, and I don't think there's anything prettier than this area," said Tim Maes of Omaha, who was enjoying the nice weather at the lake Wednesday afternoon. "If it turns into Lake Zorinsky . . . I might find another place to go."

# Lake users bite bullet on 2-year restoration

11-3-05

By C. DAVID KOTOK  
AND MARION RHODES

WORLD-HERALD STAFF WRITERS

Rows of sailboats line the south shore of Cunningham Lake, their masts sticking boldly into the air.

Their sails have been taken down for the winter, but Larry Hardt is optimistic that they will catch the wind again next season.

The operator of the Cunningham Lake Marina said he hopes to keep his sailing instruction and rental business going during a two-year effort to restore the lake in northwest Omaha.

"Right now, everything is just kind of in limbo," Hardt said Wednesday after the Nebraska Game and Parks Commission announced plans to turn Cunningham Lake into one of the Omaha area's best fishing holes.

The lake will begin shrinking to half its size next summer. Its depth will be reduced by about 10 feet, lessening the size of the lake from its original 370 acres to about 160 acres.

The lake will be restored to its current size after the improvements are finished.

The lake, built by the Army Corps of Engineers, was completed in 1973. The surrounding park was turned over to the city. The Corps of Engineers still owns the lake as part of its flood control system along the Papio Creek.

Larger sailboats may not be able use the lake while its size is reduced.

See Lake: Page 2

# Trouble on the river

## Nebraska may have to shut down some irrigators, pay Kansas

11-9-05

BY DAVID HENDEE  
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OMAHA WORLD-HERALD

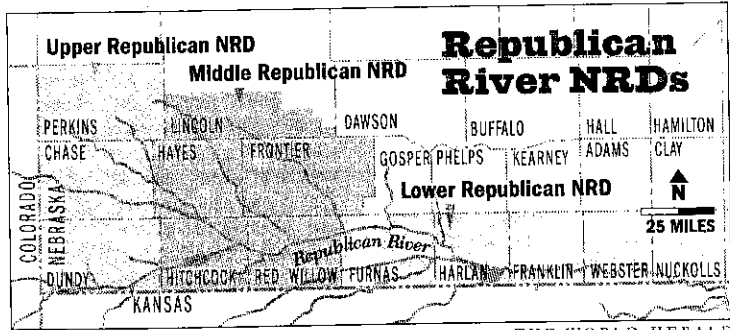
Bleed declined to reveal the department's latest estimate of the number of acre-feet of water that Nebraska appears to have shorted Kansas this year. Nebraska used about 62,000 acre-feet over its combined 2003 and 2004 allocation.

Nebraska is so far behind in providing Kansas with its share of Republican River water that farmers might have to shut down irrigation wells or the state might have to pay millions of dollars in damages.

Mike Clements, general manager of the Lower Republican Natural Resources District based at Alma, Neb., said the information is gut-wrenching.

"We've got a big problem," Ann Bleed, acting director of the Nebraska Department of Natural Resources, said Tuesday from Scottsbluff, Neb.

See River: Page 2



## River: Nebraska violates settlement

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Nebraska's only hope for eventual compliance is three to five years of normal rainfall and the permanent retirement of large expanses of irrigated cropland, Clements said.

"I do not think that we can regulate ourselves into compliance," he said.

Irrigation added \$4.5 billion to Nebraska's economy in 2003, according to a recent report by the Nebraska Policy Institute.

Clements expressed frustration: "We reduced pumping by 25 percent this last summer — when we had near normal rainfall — and then to tell us that we're still way out of compliance, I don't get it."

Bleed blamed six years of drought in the Plains of eastern Colorado and western Nebraska.

At issue is Nebraska's compliance with an out-of-court settlement reached in 2002 among Nebraska, Kansas and Colorado in a U.S. Supreme Court case. Kansas filed a complaint with the high court in 1998 alleging that Nebraska violated a 1943 compact allocating the average annual water supply of the Republican River among the three states.

Each state is allowed to consume its allocation, but drought conditions complicate the formula.

The settlement allows Nebraska to measure compliance

on a five-year running average, instead of annually. In dry years, however, compliance is measured on a two- or three-year running average.

State officials expected Nebraska, in normal years, to maintain most, if not all, of its existing uses of Republican River water. In water-short years, Nebraska is required to reduce its use of the river water. The compact requires Nebraska to restrict the use of groundwater in the basin.

The U.S. Bureau of Reclamation has made a preliminary declaration that 2006 will be an official water-short year in the basin. Under the rules, Nebraska must not only make up its water deficit to Kansas next year, but it also must stay out of the hole for 2006.

"That's going to be very tough to do," Bleed said.

She said she has begun holding brainstorming sessions with managers and board members of the three Republican River natural resources districts in southwestern and south-central Nebraska to try to determine what needs to be done.

Many members will hear the grim information for the first time Thursday, when the Lower Republican NRD board meets. Clements said the groundwater committee is not happy with the prospect of requiring local irrigators to further cut back their use of water.

District irrigators this year operated under water allocations for the first time. Farmers west of U.S. Highway 183 were allocated 36 inches over three years. Farmers east of the highway were allocated 33 inches as part of a three-year groundwater management plan to help restore flows to the Republican.

"The committee feels that we made a three-year deal," Clements said, "and that's what we plan to stick to."

He said he believes that it is impossible for irrigators and NRDs to comply with the conditions of the compact settlement in drought conditions.

Nebraska's bill owed to Kansas for damages and other costs could reach an estimated \$20 million to \$30 million, according to an August study by Steve Smith of Imperial, Neb., the founder of the irrigation advocacy group WaterClaim.

Bleed said options for NRDs in the basin may include everything from lowering water allocations to shutting down irrigation wells. NRDs have authority to regulate groundwater in Nebraska. The State Natural Resources Department regulates surface water.

"Somehow, we have to come up with using less water to get more water in the river," Bleed said. "We need more water in Harlan County Reservoir. I'd love to see a flood now."

# Sunday World-Herald

JOHN GOTSCHALK, *Publisher*  
LARRY KING, *Executive Editor* GEITNER SIMMONS, *Editorial Page Editor*  
DEANNA J. SANDS, *Managing Editor*

## Up a dry creek

**S**houlda, woulda, coulda. Now that Nebraska is up a dry creek on water overusage in the Republican River basin, the accusations, excuses and defenses are flying.

But the spot the state is in can hardly be a surprise.

State Sen. Ed Schrock, chairman of the Legislature's Natural Resources Committee, said it does no good to look for scapegoats. Rather, he suggested, Nebraskans should go forward from here to find a solution.

Certainly true. Nevertheless, the solution may involve large chunks of taxpayers' money, so some perspective on what happened isn't out of line. Who made some of the bad decisions and poor choices? Who should bear the burden of fixing things?

In a 2002 lawsuit settlement with Kansas, Nebraska promised to stay within its legal allocation when taking surface water or groundwater from the Republican River for irrigation, as figured over a three- or five-year period. Kansas had sued in 1998, claiming that by failing to include groundwater pumped from the Republican basin, Nebraska routinely exceeded its entitlement.

Consider: During the lawsuit, both the Middle and the Lower Republican Natural Resources Districts permitted hundreds of new wells to be drilled. In the Lower Republican alone, 537 new wells were registered between 1998, when Kansas filed the suit, and 2004. The district's peak — 239 new wells — was in 2002, the year the suit was settled.

More wells, more irrigated acres, more water sucked from the Republican system — less water for Kansas. There was tremendous potential for problems.

Roger Patterson, then director of the state Department of Natural Resources, wrote to the NRDs at the time, urging them to stop the development of new wells, acting director Ann Bleed said last week in an interview. If the two NRDs had called a moratorium in the mid- to late 1990s, Bleed said, the bind in which Nebraska now finds itself wouldn't be as bad.

While the NRDs reduced water pumping this year — the Lower Republican by 25 percent, according to general manager Mike Clements — Bleed says the depleted system simply hasn't had enough time to recover, in part because of the six-year drought in western Nebraska and eastern Colorado. When water is removed from the ground, Bleed said, it creates a deficit that must be refilled before any water can

**Republican settlement was the easy part; compliance will be tough.**

spill over into the stream.

And that takes time, she said. The effect she called "inertia" can be helped by decreased pumping of

irrigation water. But "quick recovery," she added, "isn't going to happen."

The immediate problem is that Nebraska must find some way to satisfy Kansas' water claim by the end of 2006. Otherwise, Nebraska may have to pay a multimillion-dollar damage claim.

Irrigators used about 64,000 acre-feet more than Nebraska was allotted in 2003 and 2004. Estimates suggest that in 2005, another 42,000 acre-feet will be added to the debt. Indications are that, because of inertia, even shutting off all wells in the basin in 2006 would not cancel the shortage.

A big part of the problem since Kansas first raised the water issue in the mid-1990s has been the blindly optimistic attitude of irrigators, some NRD staffers and board members and some state officials. Given that mind-set, it's no wonder many people were shocked when the DNR made the extent of the water deficit clearer recently.

Besides the NRDs, part of the fault lies with then-Attorney General Don Stenberg, who encouraged irrigators to cling to unrealistic expectations and repeatedly sold farmers his overconfident attitude about Nebraska's chances of winning in court.

Schrock also pointed a finger at the state natural resources agency for failing to warn irrigators soon enough (and, perhaps, insistently enough) about water consumption. The DNR itself may have been starry-eyed in estimating the impact of reduced pumping. And it may have underestimated the impact of drought.

One white hat in the game belongs to the Upper Republican Natural Resources District, which has acted responsibly and with concerned stewardship during the debate. Between 1998 and 2004, for instance, the district allowed only seven new wells.

State and local water management officials plan brainstorming sessions in the affected area to figure a way out. That way may be expensive. It may be painful for irrigators and the small towns that depend on irrigated agriculture. It may rest heavily on taxpayers' shoulders. At this point, there's no way to tell.

But Nebraska agreed to the settlement with Kansas. Compliance is the honorable course.

# Farmers protest plan for river

■ The Corps of Engineers appears set on "spring rises" on the Missouri to aid the pallid sturgeon. 11-13-05

By HENRY I. CORDES

WORLD-HERALD STAFF WRITER

To the biologists looking to save the endangered pallid sturgeon, it's "a spring rise."

Sarah Hansen, whose family farms along the Missouri River near Honey Creek, Iowa, prefers to call it "controlled flooding."

Hansen was among dozens of farmers who turned out at public hearings in Omaha and Nebraska City on Monday to oppose the Army Corps of Engineers' plan to raise river levels in March and May to help the endangered fish.

The farmers from both sides of the river said the higher water would only exacerbate flooding and drainage problems they already face along the river when there is significant rain.

"Flood control should rank above some fish that might benefit," Hansen said.

Corps officials, however, gave no indication that this week's hearings will cause them to back off their proposal.

The biggest reason, they said, is that the U.S. Fish and Wildlife Service has said the spring rise could be critical to the recovery of the ancient fish that long ago stopped reproducing in the wild.

Without returning the Missouri to a more natural state, the service has said, the sturgeon will disappear from the river that has been its home since the time of the dinosaurs.

The pallid sturgeon has been in significant decline since man

See River: Page 2

## River: Corps aims to balance competing interests

Continued from Page 1

dammed and channelized the river during the 20th century to provide flood control and turn the waterway into a canal for barges.

Thousands of acres of river-side habitat were lost, much of it converted to farmland, and the river's natural ebb and flow was lost.

It's thought that the spring rise, intended to in a small way mimic the natural impact of snowmelt, could provide an important spawning cue for the sturgeon. But because the fish's

specific problems remain a mystery, no one knows for sure. Corps officials plan to scientifically monitor the results of the flow changes to see how the fish responds.

Bill Beacom, a former barge tow captain from Sioux City long active on river issues, said he thought farmers were overreacting to the modest plan. "The sky is not falling," Beacom said.

In Omaha, the spring rise would raise the river about two feet over the normal 16-foot level. That is far below the river's flood stage of 29 feet.

But those who farm along the river said the river doesn't have to rise over the levees to take money out of their pockets.

Lyle McIntosh, who farms near Missouri Valley, Iowa, said that when the river hits 21 feet, his fields stop draining. When it's at 23 feet, river water starts backing up into his fields.

He said the spring rise will add to the May rains that commonly put water on his fields. "Even when it's well-managed, we fear it," he said of the river.

McIntosh was encouraged to learn that corps officials will monitor long-term weather fore-

casts and try to time the increased dam releases to avoid local rains.

Col. Jeff Bedey, commander of the corps office in Omaha that is headquarters to dam operations on the Missouri, also noted that the spring rise planned is far smaller and far shorter — days instead of weeks — than what the wildlife service had originally sought.

The compromise proposal came out of a group of river stakeholders the corps brought together over the summer.

"We are working very hard to strike a balance," Bedey said.

# Midlands Voices

## River settlement was successful for state

BY DON STENBERG

*The writer, of Gretna, Neb., is a Republican U.S. Senate candidate and a former Nebraska attorney general.*

This is in response to a Nov. 13 editorial that said I, as Nebraska's attorney general, encouraged Republican River basin irrigators "to cling to unrealistic expectations and repeatedly sold farmers (my) overconfident attitude about Nebraska's chances of winning in court."

With all due respect, we were every bit as successful in court as I had said we would be. Kansas sued the State of Nebraska for millions of dollars in monetary damages and sought an injunction to shut down some of the then-existing water use in Nebraska.

Under the settlement, Kansas did not get a single penny — let alone the millions of dollars that State Sen. Ed Schrock and others had predicted — and did not get an injunction to shut down any then-existing water users in Nebraska.

Not only that, but Kansas also agreed to five-year and two-year (in water-short years) averaging, which actually made future Nebraska compliance with the Republican River Compact easier than it had been in the past.

We did, of course, have to agree to abide by the compact in the future because that agreement had been entered into in 1943 and remained a legally enforceable obligation. Under the 1943 compact, Nebraska is allocated 49 percent of the virgin water supply of the Republican River basin. The compact and the current drought conditions, not the settlement, cause the problem we face today.

It is also important to understand what the settlement with Kansas *did not* require. It *did not* decrease by a single gallon the amount of water Nebraska is entitled to use. It *did not* require the passage of Legislative Bill 962, which now is being used by the State of Nebraska to limit irrigation all across the state. And the settlement *did not* specify that

compliance with the Republican River Compact had to be achieved by limiting pumping from existing groundwater wells. (See page 27 of the settlement.)

The job of the attorney general is to give the State of Nebraska the best possible legal defense based on the law and the facts. We did that, and we achieved everything that I said we would.

Even though it is the responsibility of the Legislature, not a former attorney general, to decide how to deal with the problems that have arisen since I left office, I will offer some advice.

Rather than severely restrict groundwater irrigation in the Republican River basin, the State of Nebraska should enter into a short-term lease or purchase surface-irrigation water rights from willing sellers and use that water to comply with the Republican River Compact. This alternative is specifically provided for on page 27 of the settlement.

According to the experts, 80 percent to 90 percent of Republican River flows are from snowmelt and rainfall runoff. Only 10 percent to 20 percent is from groundwater sources. And in order to put 1 acre-foot of water in the river by shutting off wells 10 or 20 miles from the river, it might be necessary to shut off 100 acre-feet, 1,000 acre-feet or more of groundwater irrigation.

Trying to deal with the Republican River problem by severely restricting groundwater pumping would have a devastating economic effect across all of south-central Nebraska. Income and sales-tax losses to the state that could result from this economic devastation could greatly exceed the cost of leasing or buying the necessary water from willing surface irrigators and using that water to comply with the Republican River Compact.



# Brainstorming for ways to make up water deficit

11-18-05  
BY DAVID HENDEE

WORLD-HERALD STAFF WRITER

HOLDREGE, Neb. — A proposal to expand a federal program that pays farmers to quit irrigating is emerging as a popular short-term option to give Kansas its legal share of water in the Republican River.

Water managers and irrigators rejected options Thursday that would require farmers to cut the water they now put on crops or to irrigate fewer acres.

Nebraska, by the end of 2006, must comply with terms of a compact to give Kansas its share of water or face penalties. Nebraska will be an estimated 42,000 acre-feet in arrears.

Analysis indicates that Nebraska could gain more than 60,000 acre-feet of water over three years by not irrigating

more than 100,000 acres of land in two areas around Harlan County Lake. It would cost more than \$7 million to compensate the farmers involved.

Another possibility floated was to pump water into the river from wells not near the stream. That option would still cause depleted flows because groundwater and river water are interrelated. But it would not show up for several years, creating time for the drought to break. WaterClaim, an advocacy group based in Imperial, Neb., estimates that Kansas could seek \$20 million to \$30 million in damages if Nebraska fails to comply.

Other top options approved by the group included removing trees and other vegetation from stream and river banks, and cloud-seeding to create rain.

# Water bill may top \$300 million

■ Nebraska taxpayers probably will help pay for troubles in the Platte and Republican River basins.

11-19-05

By DAVID HENDEE

WORLD-HERALD STAFF WRITER

NORTH PLATTE, Neb. — Nebraska taxpayers could be asked to dig \$375 million out of their pockets during the next 15 years to buy irrigation rights

from farmers to help roll back the state's use of water.

The multimillion-dollar price tag is one early estimate of costs under review by the Governor's Water Policy Task Force. The group is wrestling with options for the Legislature

to help finance solutions to Nebraska's water troubles in the drought-plagued Platte and Republican River basins.

"It will take a lot of millions — within a zero or two," said Claude Cappel of McCook, a task force member.

The 50-member group, which met here Friday, is charged with helping the Nebraska Department of Natural Resources find ways to fund the state's year-old water law and to address other issues, such as the

state's compliance in giving Kansas its legal share of Republican River water.

The \$375 million figure is based on preliminary estimates. That would be the cost if the state paid farmers \$25 million a year for 15 years to retire irrigated farmland, according to task force members familiar with the discussions. The low end of the estimate is a \$20 million annual cost, or \$300 million total during the period.

Eugene Glock of Rising City,

who is leading the task force committee developing payment options, did not mention the estimates during a presentation on funding issues.

A final figure will be ready for the task force's Dec. 22 meeting, Glock said. Ann Bleed, acting director of the Natural Resources Department, will consider submitting it to the Legislature when it convenes in January.

The Legislature appropriated See Water: Page 2

## Water: Task force scheduled to meet again Dec. 22

Continued from Page 1

\$7.5 million for similar water issues this year. Most of that was earmarked for incentive programs to reduce irrigated acres and for other water conservation programs.

The Legislature did not appropriate similar water funding for 2006. Instead, it asked the Department of Natural Resources to develop recommendations for fees the Legislature can consider to meet long-term needs.

Among ideas considered have been fees on wells, irrigated acres and property tax records, sales taxes, and a ballot initia-

tive to dedicate state tax dollars.

The Natural Resources Department already plans to seek \$3.5 million from the Legislature next year to deal with water issues. Research and administrative costs would use \$1.5 million. The remainder would be matching funds to help natural resources districts in the affected basins pay the costs of the water law and comply with the compact.

The Legislature also will be asked to approve an optional 3-cent tax rate increase for natural resources districts to pay for their shares of the increased

costs and land buyouts.

"There is not a lot of support (in the Legislature) for additional taxation... but there's no support if the local areas don't contribute what they can," Glock said.

Time is running out in the Republican and Platte basins, Glock said.

Nebraska does not think it can provide Kansas with its legal share of water in the Republican next year because of drought conditions and years of heavy groundwater pumping by farmers in southwestern and south-central Nebraska. If the

water is not available to Kansas, Nebraska would fall out of compliance with a three-state compact governing the river's use.

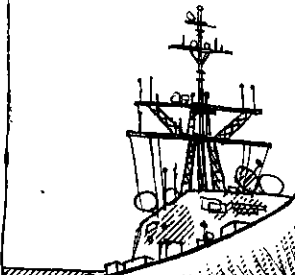
In the Platte basin in central and western Nebraska, irrigators eventually must roll back their water use to 1997 levels because the region's water is overappropriated.

Glock said it is fair that all Nebraskans share in resolving the state's water problems.

"While it may appear that some benefited more by pumping more water than they should have in the past... we've all benefited from it," he said.

**NEBRASKA'S GREAT MYTHICAL NAVY**

THE GOVERNOR COMMISSIONS  
DIGNITARIES AS 'ADMIRALS'  
IN THIS IMAGINARY OUTFIT.

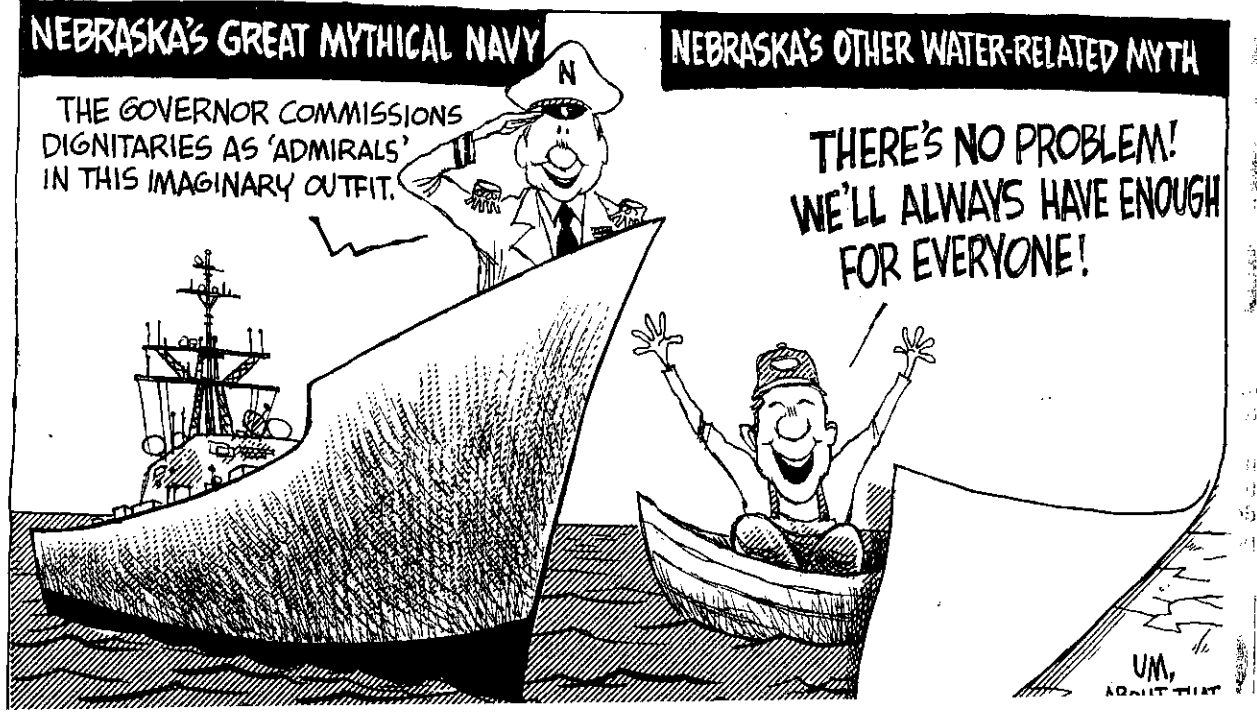


**NEBRASKA'S OTHER WATER-RELATED MYTH**

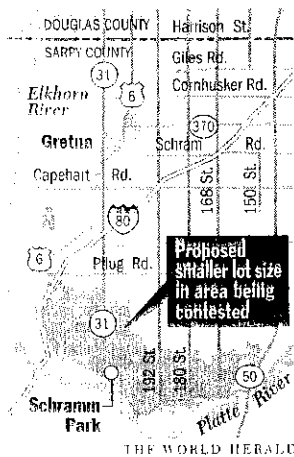
THERE'S NO PROBLEM!  
WE'LL ALWAYS HAVE ENOUGH  
FOR EVERYONE!



UM,  
ABOUT THAT



# Plan deals with development



11-22-05

By JOE DEJKA

WORLD-HERALD STAFF WRITER

## Development plan

The plan would designate 11,000 acres in southwest Sarpy County as a conservation district.

Property owners could divide their land conventionally into minimum 20-acre lots. Or the lots could be as small as three acres, if landowners committed to keep natural features such as woods, steep slopes and wetlands.

## Sarpy: Development plan considered

Continued from Page 1  
grandfather brought as a sapling from Jasper County, Ind., in 1863.

She can even show you, hidden in a thick stand of cedars, the holes drilled during the late 1800s by workers extracting limestone blocks for one of the early state capitols.

She and some of her neighbors fear that allowing developers to put more houses in the area will harm the historical sites, prairie remnants, centuries-old trees, and sandstone outcrops. Everything, in fact, that makes the area special.

Other landowners, however, want to cash in on the area's beauty, selling off their land to real estate developers. Many of them, too, have held land for generations.

Barry Gottsch, who owns more than 1,000 acres in the area, including the former Nebraska site and an island in the Platte River, said supply and demand should dictate use.

"You get between the two biggest cities in Nebraska and development is inevitable," he said.

If people want to preserve it, "you pretty much have to own it," Gottsch said.

Right now, housing lots in the area must be 20 acres or larger.

But a proposed change in Sarpy County's comprehensive plan would allow for, in some cases, lots as small as three acres if owners positioned their houses to preserve natural features.

Marty Shukert of RDG Planning and Design in Omaha, who is revising the plan, said the proposal finds a "middle ground" between putting no restrictions on development and restricting it so severely as to render land unusable.

"I think this has, over the long run, a significant chance of preserving the environmental features," he said.

The full beauty of the area is visible from Merrilee Hansen's place.

Climbing the steel steps to the top of a 30-foot wooden lookout tower on her 20-acre hilltop property, Hansen, 62, gets a bird's-eye view for miles in every direction.

From this vantage point, the Platte River glistens. Across the river to the west, on a 175-foot-tall pole, a giant American flag waves over Mahoney State Park.

Dave Sands, director of the Nebraska Land Trust, considers the area around Schramm Park an economic asset between Lincoln and Omaha if it stays in a natural state.

"For my money, that area may be the prettiest spot on the entire length of I-80 in the state of Nebraska," he said.

The area is geologically unusual because of the limestone bluffs overlooking the river, he said. It also is home to an oak-hickory hardwood forest and contains areas of virgin tallgrass prairie, he said.

In October, Audubon Nebraska put Schramm Park, which lies within the proposed development district, on its list of 26 Important Bird Areas.

Sen. Nelson bought his piece of the area in 1999 from California poet Rod McKuen, who had owned it for 23 years.

At the time, Nelson paid \$200,000 for the land, which reportedly had never been farmed or logged.

Nelson, through a spokesman, declined to comment.

"He feels that he's just a property owner and that his opinion doesn't mean more than anyone else's and that he'd prefer to just live by whatever decisions are made as opposed to trying to influence the process," said spokesman David DiMartino. Nelson maintains a cabin on the property.

Rex Amack, director of the Nebraska Game and Parks Commission, feels the change in regulation "would totally change the dynamics of that area."

He noted the potential for increasing deer-vehicle collisions if the area is developed.

Evelyn Carter loves the area, and she wants it preserved for city folks to enjoy. But, as one who enjoys her freedom, she has mixed feelings about the idea of government telling people what they can do with their property. Even if it means some of her special places would be lost, she said.

"I don't know how you'd ever write a law to say they can't do it," she said.

# Flexibility sought on water issue

■ Osborne asks Kansas and Colorado to consider the drought's effect on river flows.

11-23-05  
By DAVID HENDEE

WORLD-HERALD STAFF WRITER

Rep. Tom Osborne, who is running for Nebraska governor, waded into one hot state issue Tuesday — water in the west — and dipped his toe in on another — Omaha's public school expansion controversy.

Osborne, a Republican challenging Republican Gov. Dave Heineman, sent letters Tuesday to the attorneys general in Colorado and Kansas encouraging them to reconsider the Republican River litigation settlement because of the impact of a historic drought.

"I just think the playing field has changed (and) . . . we'd like to see if these people would be willing to at least tweak the agreement," Osborne said. "We've had five or six years of drought, and I don't think the agreement was designed in such a way that a five- or six-year drought was factored in."

Whitney Watson, spokesman for Kansas Attorney General Phill Kline, said Kline will look into the matter.

"We appreciate Congressman Osborne's desire to do what he believes to be in the best interests of Nebraskans," Watson

## Water discussions

Rep. Tom Osborne will host public forums Saturday in York, Holdrege, McCook and Imperial on water issues. The schedule (all times are local):

**York**, Upper Big Blue Natural Resources District office, 105 Lincoln Ave., 8:30 to 9:30 a.m.

**Holdrege**, Central Nebraska Public Power and Irrigation District office, 415 Lincoln St., 11 a.m. to noon.

**McCook**, Community Meeting Room at the fairgrounds, West Fifth and O Streets, 1:30 to 2:30 p.m.

**Imperial**, Chase County High School Auditorium, 520 E. Ninth St., 3 to 4 p.m. MST

said. "We entered into the settlement agreement in 2003 because we believed it was in the best interests of Kansans."

Osborne spoke by phone Tuesday with Omaha Public Schools Superintendent John Mackiel but declined to comment about the discussion. "I talk with people from time to time," Osborne said.

See Osborne: Page 2

## Osborne: Candidate addresses water, school issues

Continued from Page 1

Several weeks ago, the two met in person. Osborne met separately with the superintendents of the four suburban districts in the boundary dispute.

Neither Osborne nor the school officials would give details about the talks. Suburban school officials said no more meetings are planned.

Osborne said it would be best for the districts to settle their dispute.

"Certainly the Legislature can get involved, but the optimal solution is to work it out among themselves," he said. "Probably the worst (solution) is going to court. I don't think anybody is anxious to do that."

Nebraska water officials said earlier this month that Ne-

braska probably won't be able to give Kansas its legal share of water from the drought-plagued river next year, despite pumping cutbacks by farmers and a basinwide moratorium on new irrigation wells.

Osborne said he was concerned about the effect of the 2003 negotiated settlement on the livelihoods of farmers and others in southwestern and south-central Nebraska.

The future is grim if Nebraska must clamp down tighter on irrigation pumps and pay a possible noncompliance fine to Kansas, Osborne said.

"I don't know how we'd ever get out of the hole," he said.

Kansas sued Nebraska in 1998 in the U.S. Supreme Court, claiming that Nebraska was using more than its share of Re-

publican River water. A compact signed in 1943 allocated 49 percent of the average annual water supply of the river to Nebraska. Kansas gets 40 percent and Colorado gets 11 percent.

Under an out-of-court settlement, the amount of water each state may use varies annually, depending on stream flows. Compliance is measured on five-year running averages. In dry years, compliance is measured on a two- or three-year running average.

Osborne said it is his understanding that the settlement agreement did not take into account the effect of a multiyear drought on the river or its users.

He observed that the agreement calls for determining the impact of conservation practices on limiting rain and snow-

melt that makes its way to the river.

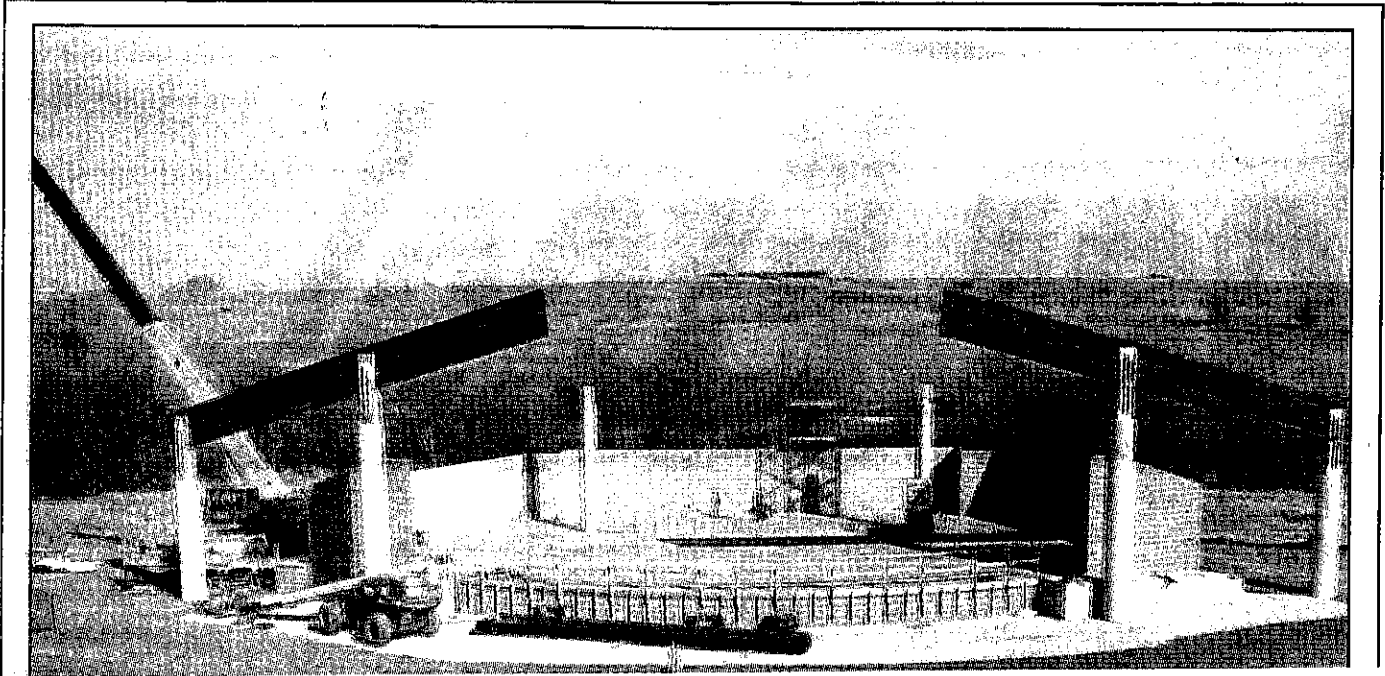
Osborne also noted that some Nebraska farmers have recently enrolled their irrigated cropland in a new voluntary federal program that pays them to turn off their pumps and restore the fields to grassland.

"Unfortunately, the program is in its infancy, and its benefits will better be able to be calculated in the future," he wrote.

Regan Anson, a spokeswoman for Nebraska Attorney General Jon Bruning, said the problem is one of the most important issues facing the state. "The attorney general is glad that the congressman has engaged in the discussion," she said.

World-Herald staff writer Michaela Saunders contributed to this report.

11-24



# Pedestrian bridge gets new start

■ The city still prefers the twin-spire design, but it is no longer a certainty.

By C. DAVID KOTOK  
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OMAHA WORLD-HERALD  
11-24-05

Construction should start next summer on the long-delayed and financially troubled pedestrian bridge between Omaha and Council Bluffs, but its architectural significance remains in jeopardy.

The original twin-spire design is still preferred by city officials. But other options will be considered in weighing new proposals from teams offering to design and build the bridge at a set price of no more than \$23 million.

The Fahey administration has terminated its agreement with FIGG Engineering Co. of Tallahassee, Fla., to design the bridge across the Missouri River south of the Gallup University campus. FIGG already has been paid \$3 million for its work.

An entirely new procedure won approval this week, giving the project a new start.

"This is good news," said City Parks Director Larry Foster. "I'm more hopeful now than I've been in a while — more hopeful than any time since we got those bids in."

City, state and federal officials had thought that by now construction would be well under way on the bridge with its long sweeping curves and majestic twin sails. Then they opened the bids in March 2004 and found that the lowest was \$22 million over budget — double the expected cost.

Over the past 18 months, city officials and FIGG tried to find a way to guarantee a scaled-back design that could go back out to bid. But, fearing that the bids for construction once again would come back well over the expected costs, Foster said, city officials decided to terminate the design contract with FIGG.

Omaha officials received final approval Wednesday from  
*See Bridge: Page 2*

*Continued*