

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: December 5, 2008

FROM: John Winkler, General Manager

- A. **INFORMATION/EDUCATION REPORT:** A copy of the I&E Report detailing Information and Education activities for the month of November, 2008, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:**
1. Groundwater Management Engineering Hired – **Brian Henkel** has been selected as the District's Groundwater Management Engineer. He will start on Monday, December 8, 2008. Brian brings a strong technical background in surface and groundwater to the P-MRNRD staff. We look forward to welcoming Brian to the P-MRNRD team.
 2. Part-Time District Accountant – We are in the process of taking applications for the Part-Time District Accountant. The close out date for applications is December 19, 2008. I anticipate filling the position in January, 2009.
 3. Gerry Bowen Attends 2008 American Trails Symposium – **Gerry Bowen**, Natural Resources Planner, attended the 2008 American Trail Symposium in Little Rock, AK November 15-18, 2008. A memo detailing the highlights of the conference is attached.
 4. Thank You Letter from Cindy Smilley – Attached is a letter from Cindy Smilley, Executive Director of Keep Omaha Beautiful, Inc., thanking the District for its efforts in the beautification of the I-680 and Center Street interchange. An Omaha World Herald article published November 8, 2008 about the project is also attached.
 5. P-MRNRD United Way Campaign: A total of \$5,148.00 was raised by District employees in the P-MRNRD 2008 United Way of the Midlands Campaign. I have attached a memo from **Marty Nissen**, P-MRNRD United Way Campaign Coordinator, thanking District employees for their continued support of the United Way. I would also like to thank **Marty** for his efforts.
- 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, 2008. Please review this report and contact me if you have any questions.

- D. **CURRENT AND ON-GOING PROJECTS – P-MRNRD LEGAL COUNSEL:** Attached is a copy of the current and on-going projects for District Legal Counsel, Paul Peters, as of November 17, 2008. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** The December, 2008 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on January 14, 2009, at 10:00 a.m. at the NRC.
- F. **HV/AC SYSTEM DEMO:** Jerry Herbster, Park Superintendent, will give a short demo of the new HV/AC system installed in the Natural Resources Center in our continuing effort to “go green.”
- G. **NEWS CLIPS:**
- ✓ November 2, 2008, Omaha World Herald article – Garden gives students new directions
 - ✓ November 6, 2008, Omaha World Herald article – Omaha leaders will formulate environmental vision for city
 - ✓ November 12, 2008, Omaha World Herald article – Support for dams not lessening much. A new board member’s opposition isn’t enough to alter plans in the Papio-Missouri River Natural Resources District
 - ✓ November 14, 2008, Omaha World Herald article – Nebraska says no to tougher clean water standards
 - ✓ November 19, 2008, Norfolk Daily News article – Permit gives Leigh Dam green light
 - ✓ November 20, 2008, Kearney Hub article – Republican River Compact arbitration begins between Kansas, Nebraska
 - ✓ November 20, 2008, Omaha World Herald article – It’s grim: Projections hint at spending cuts or tax hikes. The state’s “rainy day fund” probably won’t be large enough to cover an expected shortfall.
 - ✓ November 21, 2008, Kearney Hub article – State funding falling short for NRD projects
 - ✓ December 2, 2008, Omaha World Herald article – Waterlogged state may not get chance to dry out
 - ✓ December 3, 2008, Omaha World Herald article – Supreme Court hears water tax arguments
 - ✓ December 4, 2008, Omaha World Herald article – NRDs make case for tax on water use
- *H. **CONSIDERATION OF ADDITIONAL HOLIDAY(S) FOR P-MRNRD EMPLOYEES:**
In past years, an Executive Order has been issued declaring the day after Christmas, (Friday, December 26, 2008) a holiday for federal employees. Although not anticipated, an Executive Order declaring the day after New Years (Friday, January 2, 2009) a holiday for federal employees could also be issued. I am recommending that the Board allow the GM to designate December 26th and January 2nd as holidays for the District employees if the Federal government designates them as holidays for their employees.

November 2008

Information & Education Report

Information:

- Secured promotional sponsorship agreement with Omahatrails.com
- Continued working on Public Service Announcements
- Finalized Papio NRD Fact Sheet and Missouri Tribes Basin Fact Sheet. Continued work on Lower Platte Basin Fact Sheet
- Continued work on Web Site redesign
- Continued work on Spectrum Newsletter
- Redesigned wildflower seed packets. Ordered 35,000 for promotional give away.

Education:

- Millard South Nature Walk (8 high school students)
- Benson West Wildlife Learning Encounters (80 4th grade students)
- Attended National Association of Interpreters Conference Nov. 10-15
- Temple Israel Nature Walk (15 8th graders)
- Lothrop Water Quality game (80 4th grade students)
- MORE Nature meeting
- Community Garden meeting – MORE Nature presentation
- Set up Family Nature Nights at Lothrop Elementary , Boys and Girls Club, Sandoz Elementary
- Acquired funding and staffing from Junior League to assist with 3 of the Family Nature Nights(\$3000 + staffing)
- Met with teachers at St. Peter Claver about geocaching programs
- Presented Frog/Turtle program at Sandoz for all Kindergarteners (60 students)
- Presented tracking program at Sandoz Elementary (50 students)
- Scheduled Holiday activities for the NRC, and printed Holiday Calendar
- Continued coordination of Omaha Family Magazine ads (Monthly Ads November – April)
- Finalized GPS curriculum and sent to National PF for formatting and printing

Memo to the File:

Subject: 2008 American Trails Symposium – Little Rock, Arkansas

Date: November 20, 2008

By: Gerry Bowen

The writer attended the 2008 American Trails Symposium in Little Rock, Arkansas November 15-18, 2008. There were approximately 400 attendees from all across the country. Some highlights follow.

1. The central theme of the conference was the 40th Anniversary of the National Trails System established by Congress in 1968. These include the historic trails (Oregon, Mormon, etc) and regional trails through the “wilderness” (Pacific Crest, Appalachian Trails, etc). An NPS booklet is available in the Library for more information.
2. Numerous presentations, or case studies, described how local, state, and federal folks, in cooperation with volunteer organizations, solved and constructed trails through all types of terrain.
3. The City of San Antonio, Texas passed a 1/8 cent sales tax for surface water quality. The program purchased land along streams which then provided corridors for trails. An interesting combination. In the first 8 years of the program approximately \$45 million have been spent.
4. The City of Little Rock, in cooperation with health care agencies constructed the “Medical Mile” trail through downtown Little Rock emphasizing the health benefits of trails. Blue Cross Blue Shield was a major sponsor.
5. The Cities of Little Rock and North Little Rock have built the Arkansas River Trail along the riverfront. The trail is approximately a 20 mile loop utilizing an abandoned railroad bridge on the east end, and the “Big Dam Bridge” at the west end. A field trip (by bicycle) demonstrated how they used the local terrain, parks, history, etc, plus how the trail promoted economic development along its length.
6. Richard Louv (Last Child in the Woods) gave the keynote address encouraging getting people outside and the many benefits associated with it.



KEEP OMAHA BEAUTIFUL inc

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Cindy Smilley

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James Veiga

Emeritas Board Member
David Stern

November 18th, 2008

John Winkler
Papio Missouri River Natural Resource District
8901 South 154th Street
Omaha, NE 68138

Dear John:

Thank you, again, for helping Keep Omaha Beautiful, Inc. finalize the beautification of the I-680 and Center Street interchange.

It is complete and we wanted you to see the article that appeared in the Omaha World-Herald telling the community of your kind gift.

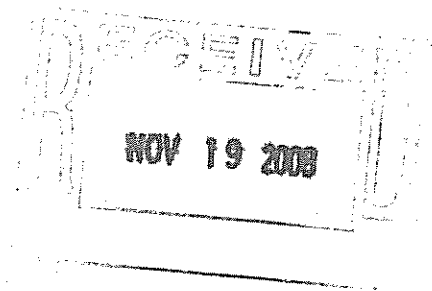
I can tell you that we have had so many calls and letters telling us how much people appreciate it. We will also have the above information in our November/December newsletter.

We are very happy with the project and couldn't have done it without your help. Know that we are looking at other areas, so if you wish to be involved again please feel free to give me a call at 444-7774.

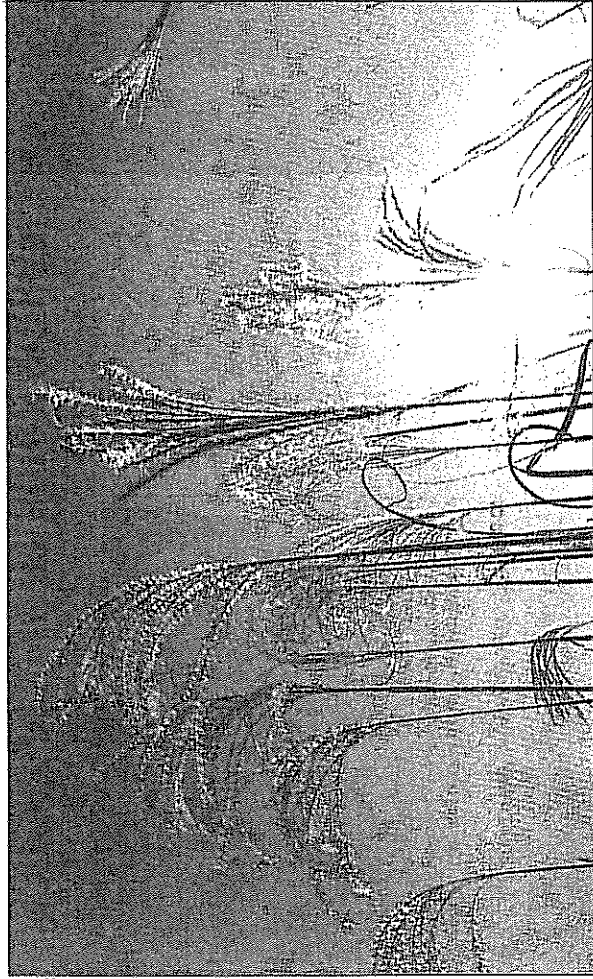
We are very thankful for your help and wish you the happiest of holidays.

Sincerely,

Cindy Smilley
Executive Director
Keep Omaha Beautiful, Inc.



'A BETTER IMAGE FOR OUR COMMUNITY'



KILEY CRUSE/THE WORLD-HERALD
Native grasses add to the beauty of a project at the Interstate 680 and West Center Road interchange in Omaha. The project cost more than \$60,000.

Where roads, beauty intersect

■ Native grasses and flowers replace litter and weeds near Rockbrook Village.

BY JAIME POTTENST
WORLD-HERALD
STAFF WRITER

When Cindy Smiley noticed mud, litter, weeds and erosion at the Interstate 680 and West Center Road interchange, she wanted to make it better.

"I just said to myself, 'This looks bad. What can we do?'"

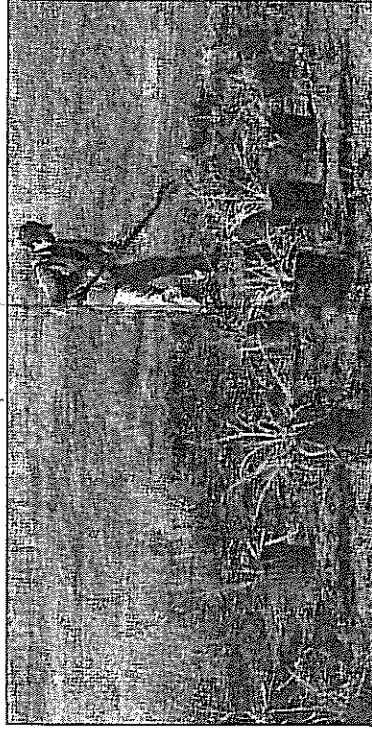
Smiley, the director of Keep Omaha Beautiful, came up with a project to make the area look better. Keep Omaha Beautiful is a nonprofit organization dedicated to litter reduction, beautification and education on environmental issues.

The beautification project, which began about halfway through the summer, includes native grasses planted in concentric circles. Daylilies and purple coneflowers also were added. Most of the work was completed in September, though some additional circles have yet to be planted.

While it may have been Smiley's idea, it was area businesses — especially those in the nearby Rockbrook Village shopping center — that fronted the cost. The project cost more than \$60,000; any future donations will help pay for maintaining the area.

Lanoha Nurseries was contracted to handle the project.

It made sense to put in the native grasses and flowers, Smiley said, because they will last a long time and are easy to maintain.



Lanoha Nurseries was chosen to put in the plants. In addition to the native grasses, planted in concentric circles, daylilies and purple coneflowers were used. Most of the work was completed in September, and future donations will help pay for maintaining the area.



Keep Omaha Beautiful completed a similar project with native grasses a couple of years ago near 72nd Street and West Center Road.

With roughly 175,000 cars driving by the I-680 and West Center Road interchange every day, Smiley said, improvements were needed there, too.

"We just need to give a better image for our community," she said.

So far, Smiley said, the businesses have given positive feedback.

"It just improves the way people feel about their areas," she said. "They want their

community to look good. They don't want it to be filled with litter or weeds."

Merrilee Miller, marketing manager of Rockbrook Village, agreed.

"Rockbrook has been in this neighborhood since it was built in 1965," she said. "We still like to be a good neighbor."

Miller said Rockbrook has worked with Keep Omaha Beautiful on other projects and has appreciated the partnership.

When Smiley approached Rockbrook with the idea, shopping center officials were excited to help, Miller said.

"It's not just a luxury," she said. "It really improves the quality of the neighborhood." As funding comes in, Miller hopes the area is expanded to include more rings of grasses and flowers.

"This is an ongoing thing," she said. "It's very exciting."

Smiley wants to do similar projects in other locations in Omaha.

"What we're really looking for is for other contributions to be able to do more areas throughout our community," she said. "The image of a community is very important."

■ Contact the writer:
444-1357, jaime.pottenst@world.com

Teer, Pat

From: Nissen, Marty
Sent: Monday, December 08, 2008 9:28 AM
To: Everyone @ NRD
Subject: United Way 2008
Attachments: 2008 chart pdf - Adobe Acrobat Standard.pdf



Memorandum

To: PAPIO-MR NRD Staff
From: Marty Nissen – NRD/ United Way Campaign Manager
Date: December 8th, 2008
Re: United Way of the Midlands Campaign for NRD

The 2008 United Way Campaign for the NRD was once again successful. Our donations go directly to the United Way of the Midlands and its 55 health and human services agencies.

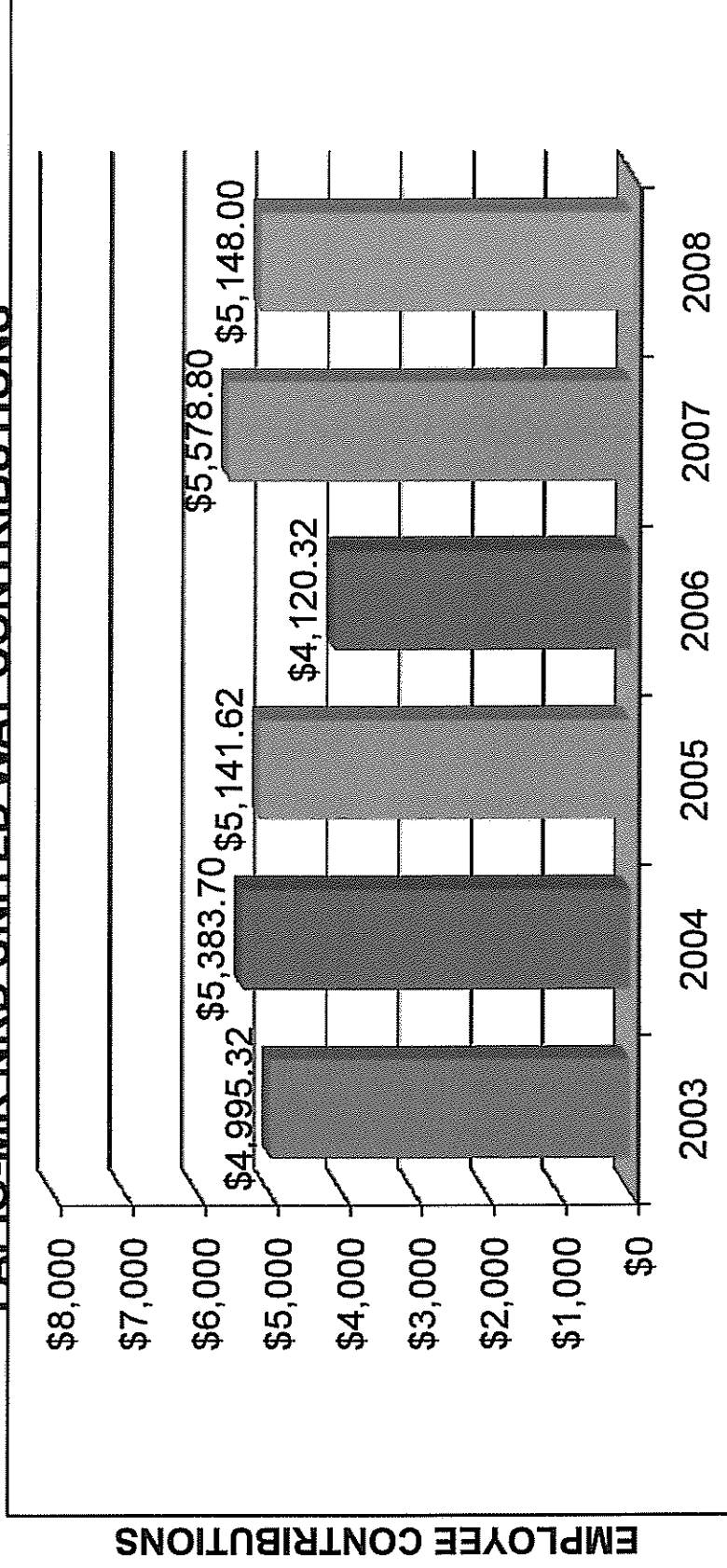
Many thanks go to the generous contributions from the NRD staff . This year a total of **\$5,148** was raised. This is a 7% decrease from last year's campaign. I attached a chart reflecting the history of NRD contributions to this memo. This year's winner for the free day of annual leave was **Linda Ellett**.

Thanks again for your continued support and to all who participated in this years campaign!

Sincerely,
Marty Nissen
Campaign Manager

mnissen@papiionrd.org
<http://www.uwmidlands.org>
<http://www.papiionrd.org>

PAPIO-MR NRD UNITED WAY CONTRIBUTIONS



November, 2008

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Updated: November 17, 2008

Current and On-Going Projects P-MRNRD Legal Counsel

★ = Top Priority

F = Future Work – No Assignment

N = New Assignment

O = Others Handling

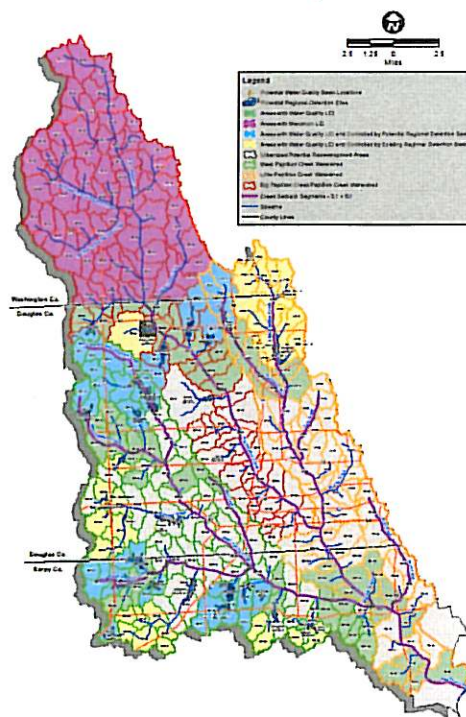
W = Work in Progress

P = PFP's Portion Completed

- **Little Papio:** (Cleveland)
 - ★ Land transfer/cross easements agreement w/Douglas County and UNL Foundation (W)
- **Big Papio:** (Cleveland)
- **West Branch** (Cleveland):
 - Land Exchange with Sarpy Co. (96th St.) (P)
- **Western Sarpy Dike** (Cleveland):
 - ★ Mel Bundy ROW easement preparation (W)
 - ★ Right of Way Certification Letter to USACE (N)
 - ★ Beacon View Drain Easement Preparation (N)
- **Floodway Purchase Program** (Grint):
 - ★ Prepare revised purchase agreement with Parkway Properties for 69th and T St. (P)
 - Floodway Property purchase agreements as needed (F)
 - Engineering professional service contract with selected firms (F)
 - ★ Review Washington County Flood Map Contract with KM (W)
- **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 P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - Silver Creek Site Easements– as needed (Site #11 and #9 ROW) (P)
 - Release of Site S-7 Easement (W)
 - Revise P/J Site 15 Agreement w/Dakota County (F)
- **Papio Watershed Dam Sites** (Grint/Petermann):
 - Review Appraisals for WPRB-5 Properties (F)
- **Papio Creek Watershed Partnership (Stormwater)** (Grint):
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites** (Sklenar):
- **Other:**
 - Kennard Wastewater Closing (Grint) (F)
 - ✪ Glacier Creek Heritage purchase agreement (Becic) (W)

NOVEMBER 2008



Stormwater Management Regulations

Watershed Management Plan Update

The Partnership revisited the stormwater policies during this month. The policies are currently being revised to reflect the implementation of Plan D along with addressing other issues such as floodplain management and financing. The partnership plans to present these policies and the Watershed Management Plan to elected officials in the first quarter of 2009.

NPDES Permit Renewal

The Partnership must renew NPDES Phase II stormwater permits issued by NDEQ in January 2009. The City of Omaha's NPDES permit has been issued and it will be used as a template for the Phase II communities.

Upcoming Events

- December 18th from 10AM – 12PM, Douglas County Environmental Services will host a webcast titled *NPDES Good Housekeeping*
- 2009 Sediment and Erosion Control Seminar, *Building for the Future* will be held on February 4th at the Holiday Inn, 72nd & Grover Streets

Next Meeting: The next full Partnership meeting is scheduled for January 14th at 9:00AM at the NRD office. The Partnership Subcommittee will meet on January 7th at 9:00AM also at the NRD office.
Please note the date and time changes.

MERRY CHRISTMAS AND HAPPY NEW YEAR!



Published Sunday November 2, 2008

Garden gives students new directions

BY JAIME POTTHAST

WORLD-HERALD STAFF WRITER

Mary Elizabeth Lomax remembers when South High School's garden used to be a landfill — full of dirty old mattresses, tires and other garbage.

"It was an eyesore," she said.

Several years ago, the school decided to clean up the mess and create a garden filled with native prairie plants.

And they haven't stopped there.

The school at 4519 S. 24th St. held a ceremony Saturday to dedicate the addition of the Four Directions Garden.

A couple dozen students, parents, faculty and other community members turned out for the event, which included the display of students' Native American pottery pieces and a sample of traditional Native American dishes.

The Four Directions Garden features stones laid to create a circle and four quadrants.

Native prairie plants were planted in each quadrant representing the four colors of the Native American circle — red, black, yellow and white.

Funding for the garden came from the Men's Garden Club of Omaha and the Papio-Missouri River Natural Resources District. The Nebraska Statewide Arboretum also helped with the garden.

The Four Directions Garden was the brainchild of Judy Beveridge, who works with Native American students at South.

She wanted to incorporate aspects of their culture into the garden and said her students have been thrilled to work on the project.

"This makes them feel their presence is known," she said.

As part of the ceremony, participants placed stones from sacred places on the outside of the circular garden. They tied medicine bundles filled with sage, sweet grass and tobacco to tree branches.

"We were able to create an opportunity for South High students to learn more about Native American culture," said Lomax, a school librarian who is in charge of the garden. "It adds a nice cultural component."

Senior Justina Miller, 17, said she is glad to see the Native American culture incorporated into the garden.

"I just like to walk through there," Miller said. "It gives us a better look on the whole school."

Fellow senior Wayne Sullivan, 17, agreed.

"I think it's important for a lot of kids to learn what that means," he said of the garden. "It was a good thing to get involved in."

• **Contact the writer:** 444-1367, jaime.potthast@owh.com

Published Thursday November 6, 2008

Omaha leaders will formulate environmental vision for city

BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

Imagine an Omaha where city buses are full, cyclists share the road amiably with motorists and kids head outdoors to play rather than anchor themselves to their computers.

Learn more

Public meeting: 6:30 p.m. to 8 p.m. Dec. 4, Scott Conference Center.

Want to get involved? Watch for the interactive web site at www.omahabydesign.org.

That's the kind of town civic leaders say they would like to see. So they have established a common environmental vision as the next major goal of the collaborative effort between the City of Omaha and the private group Omaha By Design.

A public meeting Dec. 4 will kick off the process - which could last up to two years - of writing an environmental vision for Omaha. The ideas, once finalized, will be incorporated into the city's master plan.

"This is the beginning of a process that moves the city in a direction that focuses on the environment," said Michael McMeekin, president of Lamp Rynearson & Associate Inc., a co-chairman of the initiative.

Who is involved

Team co-chairmen: Mike McMeekin, president Lamp, Rynearson & Associates Inc., and Steve Jensen, director, Omaha Planning Department

Project manager: Omaha By Design

Committee chairmen: Natural environment, Dave Ciaccio, landscape architect for Olsson Associates; building construction, Jay Noddle, president and chief executive officer of the Noddle Cos.; urban form/transportation, Marty Shukert, principal with RDG Planning and Design; resource conservation, Marcella Thompson, director of sustainability, ConAgra Inc.; community health, Mikki Frost, administrative director, healthier communities, Alegent Health
Mike Fahey sees the effort as part of his responsibility as mayor, spokesman Joe Gudenrath said.

"When you are in his office, you want to leave the city in better shape than it was when you got here," Gudenrath said. "He sees one way of doing that is to address sustainability and green aspects."

Prospective businesses and young professionals have cited Omaha's approach to sustainability as a factor when they consider locating here, said Connie Spellman, director of Omaha By Design.

Sustainability is generally defined as promoting economic growth and a quality of life that doesn't jeopardize resources needed by future generations.

Cecil Steward, president of the Joslyn Institute for Sustainable Communities, based in Lincoln, said Omaha has its work cut out for it.

"Omaha is not very sustainable," he said. He cited suburban sprawl, deteriorating urban neighborhoods and an inadequate public transit system as areas where Omaha falls short.

"But it's not too late, and they're not as far behind as many cities," he said.

In addition, he said the city and Omaha By Design have a good track record with urban design standards. Those guidelines, which were developed over the past several years, have been incorporated into city ordinances.

The proposed environmental plan will establish guidelines for five areas: the natural environment, building construction, resource conservation, community health and urban form/transportation. Urban form is the city's layout, how it functions and what it looks like.

Making a plan

Omaha city leaders will study ways to make Omaha more environmentally friendly. The five topics and some examples of possible changes are:

Natural environment: Protect natural features such as waterways and wildlife corridors from development; improve water and air quality.

Building construction: Encourage energy-efficient construction such as smart buildings that adjust lighting and temperature when people are present; greater use of natural lighting; and landscaped roofs that decrease energy needs.

Urban form/transportation: Use bus systems that encourage ridership through better routes, more reliable schedules and rider-friendly features such as Wi-Fi. Mixed-use developments that allow people to live, work and play in one area, lessening the need for cars.

Resource conservation: Increase recycling, perhaps by offering incentives; encourage renewable energy; and reduce energy consumption.

Community health: Reduce obesity by encouraging more walker-friendly neighborhoods; add hiking-biking routes.

In one way or another, the guidelines will "touch everybody in the city," Spellman said.

Among other possibilities, the plan could look for ways to make public transit more popular and encourage energy efficient construction.

Ernest Yanarella, co-director of the Center for Sustainable Cities at the University of Kentucky, said Omaha's effort has a few things going for it: the willingness to give the process time - a couple of years; committed leadership by the City Planning Department and Omaha By Design; and an apparent effort to draw in the public.

The "absolutely crucial element" for successful sustainability initiatives, he said, has been top-down leadership and bottom-up commitment.

Kent Portney, a professor at Tufts University who has studied the politics of sustainable cities for about 10 years, said a number of communities have undertaken aspects of sustainability. Those cities and some of what they have done include:

- Seattle and Portland encourage extensive use of alternative-fuel vehicles in areas such as city fleets, buses and taxis.
- Chattanooga, Tenn., began building its own electric buses after it couldn't find a U.S. manufacturer.
- Austin, Texas, generates its electricity from wind power and waives some fees for green building practices.
- New York City requires that renovated buildings and new buildings meet green standards.

Much of Omaha's work will be paid for within the existing budgets of the City Planning Department and Omaha By Design and through the help of local volunteers. However, \$75,000 has been raised to pay for a facilitator from the Rocky Mountain Institute in Colorado and for some of Omaha By Design's expenses.

That money is coming from a federal storm-water grant awarded to the City of Omaha and from grants from the Papio-Missouri River Natural Resources District and the Metropolitan Area Planning Agency.

While declining to be specific because he said he didn't want to prejudice the process, Steve Jensen, city planner and co-chairman, said he anticipates a mix of changes.

Some new ordinances are likely, he said, although he didn't anticipate anything as extensive as the new design standards created with Omaha By Design. Those design standards affect everything from the materials that can be used on a building's facade to landscaping around parking lots.

"We can make relatively simple changes that could make dramatic improvements," Jensen said.

"There are some other things where we are going to have to make dramatic improvements."

- **Contact the writer:** 444-1102, nancy.gaarder@owh.com

Support for dams not lessening much

■ A new board member's opposition isn't enough to alter plans in the Papio-Missouri River Natural Resources District.

BY NANCY GAARDER
WORLD-HERALD STAFF WRITER

The Papio-Missouri River Natural Resources District will soon have two new faces on the board, but don't expect a significant weakening of board support for dam construction.

In January, newly elected board member Scott Japp will replace Dick Connealy as the representative of the sprawling rural subdistrict, which extends from Washington to Dakota Counties. Larry Bradley will replace Rick Patterson and will serve Omaha's downtown and midtown areas.

Connealy and Patterson both chose not to run.

While Connealy sometimes supported dams, Japp opposes them.

Japp, in acknowledging the board's overall support of dam construction, said he believes dams aren't necessary.

"We can control flooding by proper urban development," he said. "That means not building in the flood plain."

Even if Japp became a consistent no vote, his opposition wouldn't be enough to tip the balance on the 11-member board.

"I do not think the balance of pro-dam, anti-dam on the board has been affected by the election," said Rich Tesar, a veteran board member who was re-elected Nov. 4. Tesar based his campaign on aggressive flood control and has at times been critical of the district's approach to dams.

An indication of board support for dams can be seen in the Octo-

ber vote to ask engineering firms to submit design proposals for a new \$20 million lake near 126th Street and Cornhusker Road in Sarpy County. The board voted 7-1 in favor of seeking the proposals. Patterson voted yes; Connealy was not at the meeting.

New board member Bradley, like his predecessor Patterson, plans to take a case-by-case approach to dams.

Bradley said he is "not point-blank against" dams, and instead plans to scrutinize each dam proposal that comes before him.

"I'd like to see other means than dams to prevent storm water runoff and flooding, but we have to act according to scientific studies," he said.

Bradley said he is committed to seeing that any future dam sites are open to the public. He was critical of the Newport Landing dam site near Bennington, which has an upscale housing development and is largely closed to the public. Board members generally agree that Newport is not the type of dam site they want in the future.

At one point, the NRD talked about building about 30 dams. It has since backed away from that number. The district has not narrowed down which dams it wants to build.

Four incumbents were returned to the board in last week's election — two because they were unopposed and two because they defeated challengers.

■ Contact the writer:
444-1102, nancy.gaarder@owh.com

Published Friday November 14, 2008

Nebraska says no to tougher clean water standards

BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

LINCOLN — Nebraska environmental regulators on Thursday turned back a push by federal wildlife officials to toughen the state's standards for water quality in streams and lakes.

The Nebraska Environmental Quality Council voted 11-1 to adopt 2008 standards that are unchanged for atrazine, selenium and methylmercury and that don't address nutrients — four areas where the U.S. Fish and Wildlife Service called for more aggressive protections.

Matt Schwarz, toxicologist for the Fish and Wildlife Service in Grand Island, told the council — Nebraska's environmental regulatory body — that the latest science supports tougher standards in those areas. John Bender, water quality standards coordinator for the Nebraska Department of Environmental Quality, disagreed.

Atrazine is a popular herbicide, selenium is a naturally occurring trace element that can be found in feedlot runoff, and methylmercury is neurotoxin that originates from a number of sources including coal-fired power plants. They appear to harm the ability of aquatic life to reproduce. Nutrients — found in farm runoff and some municipal and industrial discharges — disrupt the ecology of aquatic environments, making it harder for aquatic species to survive.

"When you're dealing with endangered species, how quickly you begin recovery is important," Schwarz said after the meeting. "The science is there enough that our concerns are well justified, and that there shouldn't be a delay."

Nebraska is home to several endangered or threatened species, including the pallid sturgeon, Topeka shiner, least tern and piping plover.

The state's selenium standard is based on EPA standards, Bender said. The EPA does not have a standard for atrazine, he said, so Nebraska's standard is based on the information available from the EPA when the state set its standard in 1999.

The state's methylmercury standards for humans are tougher than the EPA's, Bender pointed out. However, Schwarz said the state's mercury standards don't adequately protect aquatic life and are less stringent than Nebraska once had.

Additionally, Schwarz said Fish and Wildlife Service is concerned that Nebraska has further delayed setting specific standards on nutrients. The state tried to set nutrient standards in 2005, but the EPA found the state's proposals unacceptable. The 2008 update in standards does not address the EPA's objections.

When asked by an Environmental Quality Council member about the level of collaboration between the state and U.S. Fish and Wildlife Service, Bender said the agencies are communicating.

"We're not ignoring them," Bender said. "There is a lot of activity with regards to atrazine, mercury, selenium and nutrients. We didn't feel we have enough science to come before you with a definitive number to put on the books. That's why we're not proposing changes."

The state's standards are the basis for determining which streams and lakes are impaired enough that they require steps to reduce pollutants. Such state standards are required by the federal Clean Water Act. The law also requires that the standards be updated every three years, and this was such an update.

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Norfolk Daily News

Permit gives Leigh Dam green light

By GREG WEES

News Staff Writer

A federal permit needed to begin building the Leigh Dam project is finally in hand from the U.S. Army Corps of Engineers.

Officials with the Lower Elkhorn Natural Resources District received it last last week during a ceremony at the corps office in Omaha.

The permit was needed under Section 404 of the U.S. Clean Water Act because wetlands along Maple Creek will be altered by construction of the 50-foot-tall dam and lake next to the Colfax County fairgrounds at Leigh.

It was a long time coming - 27 months, to be exact, of answering questions from the corps, said Stan Staab, NRD manager at Norfolk.

"We're going to move ahead and build the project. We want the public to know because there's been a lot of rumors that it won't happen," he said. "This dispels those rumors."

The NRD board last fall approved a contract for construction, which was held up by the corps' evaluation of alternatives to the proposed dam.

Staab said that Pruss Construction of Dodge will honor its \$3.4 million bid to build the earthen dam, spillway and do other work for the first phase. Highway 91 will be raised to pass over the north end of the eventual 160-acre lake, and a county road will be moved.

"The next move is to have a preconstruction meeting with Jim Pruss and the engineer, Olsson Associates. We hope to get some fall construction under way as soon as possible," Staab said.

Still needed are permits to build in the floodplain from Platte and Colfax counties. Those permits couldn't be issued until the Section 404 permit was approved.

"Costs have gone up on the project because of the delay," Staab said. "We'll have some numbers on that, but I don't have that calculated yet."

The estimate last year was \$6.9 million to be funded with a grant from the Nebraska Resources Development Fund and by the NRD. The project is designed to provide flood protection for the fairgrounds below the dam, including property owners on the south side of Leigh and downstream landowners.

Recreation also is a big part of the project, which takes in 557 acres. There will be camper pads, a swimming beach, trail, fishing, boating and picnic shelters.

Raising the highway will create a sediment retention area and more wetlands to enhance water quality and extend the lake's life.

Planning for the project, which was requested by the Leigh Village Board, started eight years ago. Staab said the project should be open some time in 2010.

The permit requires the NRD to improve the stream channel within its property by planting trees and bushes and to monitor the downstream channel for erosion control, Staab said.

Specifically, the permit says:

"Mitigate impacts to 1.99 acres of riverine wetland through the establishment of 12.2 acres of lacustrine fringe wetland along the lake shoreline; mitigate impacts to 1,106 feet of perennial channel through riparian zone enhancement along 2,500 feet of perennial stream channel and enhancement of 2,500 feet of perennial stream channel through the construction of instream habitat structures; mitigate impacts to 1,143 feet of intermittent channel through riparian zone restoration along 1,143 feet of intermittent channel."

Rep. River Compact arbitration begins between Kan., Neb.

By GINGER JENSEN, Hub Regional Correspondent

11/20/2008

Updated 11/20/2008 12:10:23 PM CST

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CAMBRIDGE — Nonbinding arbitration of Republican River Compact settlement disagreements officially began Oct. 23 under the direction of arbitrator Karl J. Dreher of Littleton, Colo., Nebraska Assistant Attorney General Justin Lavene said Wednesday in Cambridge.

Dreher is former director of the Idaho Department of Water Resources and now is with the environmental and engineering consulting firm of Brown and Caldwell, headquartered in Walnut Creek, Calif.

Lavene told the Hub the arbitration information for his report came from the Kansas Division of Water Resources Web site.

The arbitration issues focus on water accounting disagreements between Nebraska and Kansas. The third Republican River Compact state, Colorado, has no arbitration issues at this time.

The arbitration timetable runs through July 17, 2009, when the states must give notice of whether they accept the arbitrator's decision. The decision isn't binding, so any of the three compact states could take its issues back to the U.S. Supreme Court.

Kansas officials have said they want \$72.3 million in damages because of Nebraska's past overuse of its compact allocations that resulted in water shortages for Kansas. Kansas officials claim that violated the out-of-court settlement of the Kansas v. Nebraska lawsuit in 2002.

Other remedies sought by Kansas are for Nebraska officials to shut down all groundwater irrigation wells within 2½ miles of the main stem of the Republican River and its tributaries, and to end irrigation on land developed for irrigation after 2000.

Nebraska officials maintain that compact water use accounting procedures don't give a true picture of the state's beneficial consumptive use. Kansas has challenged whether Nebraska can bring the accounting procedures into the arbitration process.

Other arbitration issues are determining how much of the water losses from evaporation off Harlan County Lake should be charged to Kansas and how much to Nebraska and whether water storage in nonfederal dams below Harlan County Dam should be included in the accounting.

Nebraska Department of Natural Resources Acting Director Brian Dunnigan said Wednesday he has been working on reorganizing his department since taking office in March.

Dunnigan was appointed as acting director following the resignation of Ann Bleed.

“We place extremely high priority on Republican River issues,” Dunnigan said. “We are looking forward to meaningful outreach in the basin.”

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Arbitration Timetable

Oct. 23, 2008-Feb. 27, 2009: Discovery period

Nov. 10, 2008: Briefs submitted on legal issues

Nov. 24, 2008: Submit responsive briefs

Dec. 5, 2008: Submit reply briefs

Dec. 19, 2008: Arbitrator issues decisions on legal issues

Jan. 20, 2009: States submit expert reports, including exhibits

Feb. 16, 2009: States submit expert reports responding to Jan. 20 primary reports, including exhibits

Feb. 23-27, 2009: Depositions of witnesses regarding trial testimony

March 9-20, 2009: Trial

April 17, 2009: Submit post-trial briefs

June 17, 2009: Arbitrator issues decision

July 17, 2009: States give notice whether they will accept the decision

It's grim: Projections hint at spending cuts or tax hike

■ **The state's "rainy day fund" probably won't be large enough to cover an expected shortfall.**

By Leslie Reed

WORLD-HERALD BUREAU

LINCOLN — Legislative leaders were given their first look Wednesday at the state's budget situation for the next two years — and it wasn't pretty.

Expenses are projected to outpace revenue by \$377 million in the two-year budget period starting July 1, said Mike Calvert, legislative fiscal analyst.

That's a best-case scenario, Calvert said, and assumes no new state spending and that school aid, welfare and Medicaid payments don't go through the roof because of the sour economy.

Nor does the projection take into account state pension funds that are being pounded by stock market declines; whether the state will lose federal dollars because of problems at the Beatrice State Developmental Center; or whether Nebraska is ordered to pay Kansas in its ongoing dispute over Republican River water.

The projected shortfall likely means budget cuts if the Legislature wants to avoid increasing tax rates. The Nebraska Constitution does not allow state government to operate in the red. The budget blows could be softened by the state's cash re-serve fund, often called the "rainy day fund." During the past few years, state leaders have socked away excess cash in that fund, and its balance now approaches \$600 million.

However, the cash reserve probably won't be enough for Gov. Dave Heineman and lawmakers to avoid having to make tough financial choices as they write the budget in next year's legislative session.

"One of the questions is the adequacy of the cash reserve fund," Calvert said.

The budget situation could be worse, he said.

Spending on school aid, Medicaid and welfare has been less than anticipated this year, partly because of the strength of the farm economy.

Without those declines in spending, Calvert said, lawmakers would be facing a budget gap of \$600 million in January. However, state senators shouldn't count on the declines continuing, because spending on those programs tends to increase when the economy is bad.

Calvert held a budget meeting with Speaker of the Legislature Mike Flood, Revenue Chairman Ray Janssen, Executive Board Chairman Pat Engel, Appropriations Chairman Lavon Heidemann and State Tax Commissioner Doug Ewald.

It was the first time lawmakers were presented with the state's balance sheet after a lackluster revenue forecast from the Nebraska Economic Forecasting Board in October.

State senators should not be surprised by the shortfall — they adjourned last spring with projections that state spending would outpace tax revenue by \$267 million in the next two-year budget. Calvert's new calculations deepen that hole by more than \$100 million.

■ Contact the writer: 402-473-9581, leslie.reed@owh.com Powered by TECNAVIA Copyright (c) 2008 Omaha World-Herald 11/20/2008

11/21/2008

State funding falling short for NRD projects

By LORI POTTER , Hub Staff Writer

GRAND ISLAND — State contributions to the Nebraska Resources Development Fund aren't nearly enough to pay for all the approved projects, let alone the nine proposals waiting in the wings.

"Frankly, it's gonna be years before we can get to these new projects," Ladd Reeves of Archer, a member of the Nebraska Natural Resources Commission, said at Thursday's Central Platte Natural Resources District Board of Directors meeting in Grand Island.

One of the half-dozen projects approved, but not yet fully funded, is the NRD's \$8.5 million Upper Prairie-Silver-Moores Flood Control Project at Grand Island, which originally was designed as a 10-year project.

Its main features are water detention cells being constructed at the old ordnance plant west of the city that will hold floodwaters for timed releases downstream to prevent flooding.

Reeves explained that the state appropriates \$3.4 million to the development fund annually. Past efforts to increase the total to \$7 million "didn't go very far," he said.

Commission members met Wednesday and Thursday to discuss funding, testify at a legislative hearing and talk to Gov. Dave Heineman about funding needs.

Reeves said that if current projects are funded in the next six fiscal years, \$26.9 million will be required. The nine proposed projects are estimated at another \$63.9 million, putting the total need at more than \$90 million.

Another worry, he said, is that a \$2 million fund established for interrelated water management planning and projects can't cover all proposed projects. "So, I think we've got a big job ahead of us," Reeves said.

A new enhanced funding bill for resources development is expected to be introduced in the 2009 legislative session. Reeves said his purpose Thursday was to ask the CPNRD directors to talk to their state senators about supporting the bill.

CPNRD Director Dick Mercer of Kearney, who also serves on the commission, said he doubted that the commission's executive committee got any good news from the governor Thursday afternoon.

Mercer said Nebraska now has a revenue surplus, but projections are for large shortfalls over the next two years, making it even more difficult to generate support for the resources funds.

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Waterlogged state may not get chance to dry out

BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

After years of drought, Al Dutcher, Nebraska's state climatologist, concedes that it still feels odd to say that dry weather is a relief.

But that's the case, as he looks back on November's weather and forward to the winter.

After a wet growing season and near-record and record moisture in October, a slightly drier than normal November allowed farmers into their fields for harvest. The month was also noticeably warmer in the western part of the state.

"It was very welcome," he said. "We had a late start on harvest."

Dutcher wouldn't mind if Nebraska didn't see much snow at all this winter - the ground is saturated, and he's worried about spring flooding.

"Many of these areas need to see an extended dry period to alleviate concerns about spring flooding," he said.

Chances may be diminishing, though, that he'll get his wish. The U.S. Climate Prediction Center now projects a generally wetter than normal December for Nebraska. There's an increasing, albeit modest, chance for a colder than normal month for the eastern fringe of the state, while southwest Nebraska might remain warmer than normal.

In Iowa, the December outlook calls for colder than normal weather and no clear bias for precipitation.

Across Nebraska, the average November temperature was significantly warmer than normal the farther one traveled west. In the Panhandle, the month was 4.5 degrees to almost 5.5 degrees warmer than normal, while in Omaha and western Iowa, it was not quite 1 degree to a little more than 1.5 degrees warmer than normal.

Much of Nebraska was slightly drier than normal, but still within the range of normal, according to data from the National Weather Service.

Kearney's precipitation was more than an inch below normal, while Hastings, Norfolk and McCook were about a half-inch below normal. The Omaha-Lincoln areas were about a quarter to a third of an inch below normal.

In October, a number of communities saw near-record to record precipitation, with the heaviest rainfall south of Grand Island, Dutcher said.

Based on preliminary data, the November high of 83 degrees was in Bridgeport on Nov. 3, while the low of 3 degrees was in Wakefield on Nov. 21.

Preliminary figures indicate that the community receiving the most rainfall in November was Fort Calhoun, with 1.8 inches.

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Supreme Court hears water tax arguments

BY PAUL HAMMEL

WORLD-HERALD BUREAU

LINCOLN – The state entered into a compact 65 years ago with Kansas and Colorado over use of Republican River water, and all state taxpayers must pay the cost to comply with it – not just the taxpayers of that river valley.

That was the argument emphasized repeatedly to the Nebraska Supreme Court today by an attorney representing nine landowners who are challenging the special property tax levied by three natural resources districts in the Republican River watershed.

At stake is whether all Nebraskans will have to pick up the costs – about \$9 million a year - of getting more water to Kansas to comply with the compact, or whether the current form of financing it, via local property and occupation taxes, will stand.

In May, Lancaster County District Judge Paul Merritt ruled that the property tax in the Republican River watershed was unconstitutional. He called it "special legislation" aimed at only a small group, in this case, about 2 percent of the state's overall property taxpayers.

Attorneys representing the state and the Upper, Middle and Lower Republican NRDs told the high court that the property taxes, approved by the Legislature in 2007, were constitutional.

They argued that the property tax was levied by the local NRDs -- not mandated by the state -- and had broader purposes than only complying with the compact. They said the benefit of the taxes were local because the tax revenue, ultimately, avoided a shutdown of irrigation and a crash in the local farm economy.

A ruling by the Supreme Court in the case is not expected for several months.

A second lawsuit by Republican Valley landowners challenging the constitutionality of the occupation tax on irrigation equipment has been filed. But it has been put on hold, pending a ruling in the property tax case.

Contact the Omaha World-Herald newsroom

NRDs make case for tax on water use

By PAUL HAMMEL

WORLD-HERALD BUREAU

LINCOLN — The state entered into a compact 65 years ago with Kansas and Colorado over use of Republican River water, and all Nebraska taxpayers must pay to comply with it — not just the taxpayers of that river valley.

That was a key argument Wednesday before the Nebraska Supreme Court in the ongoing debate over a special property tax levied in the Republican River watershed of southern and southwestern Nebraska.

The case will decide whether state government should pick up the cost, about \$9 million a year, of getting more water to Kansas to comply with the compact — or if the special property tax in three natural resources districts will stand.

"The state is the entity that made the deal. It's up to them to uphold it," McCook, Neb., farmer Angus Garey, one of nine landowners who challenged the tax, said after the hearing.

Republican River Valley residents don't gripe when they help Omaha and Lincoln with state projects, Garey said, and now urban residents need to help with the water issue.

The legal arguments are the latest chapter in the ongoing water woes of the Republican River.

The State of Kansas has threatened to sue Nebraska, claiming that farmers in the Cornhusker State are using more than their share of water under the Republican River compact. Kansas claims Nebraska owes it more than \$72 million for overuse of water.

In 2007, the Nebraska Legislature took steps to help Republican River farmers comply with the compact, passing a law allowing certain NRDs to levy special property and occupation taxes to pay farmers not to irrigate, and to take other measures to increase river flows.

Lancaster County District Judge Paul Merritt ruled in May that the property tax provisions were unconstitutional "special legislation."

Attorneys representing the state and the Upper, Middle and Lower Republican Natural Resources Districts argued that Merritt's ruling should be reversed.

They told the high court that the property taxes were constitutional because they were levied locally by the NRDs. They said that the taxes were not mandated by the state and that the benefits were local because they head off a shutdown of irrigation wells and a crash in the local farm economy.

Chief Justice Mike Heavican questioned whether any other NRDs, other than the three on the Republican River, could ever qualify to levy such a tax. How, he asked, was this not special legislation?

Under the law, only NRDs that are involved in interstate compacts involving at least three states and having one or more surface water irrigation districts qualify to levy the special taxes.

Assistant Attorney General Justin Lavene said that potentially, NRDs on the North and South Platte, Niobrara and Missouri Rivers could meet those conditions.

However, attorney Jeanelle Lust, representing the landowners, said multistate compacts are difficult to enact, requiring approval of all states and Congress.

She added that it was a representative of the Attorney General's Office — current Chief Deputy David Cookson — who told lawmakers last year that "no legislature in its right mind" would enter into another water compact.

Don Blankenau, a Lincoln attorney representing the NRDs, tried to take the sting out of that comment. He told the judges that other states have recently entered into water compacts and that it was impossible to predict if a future Nebraska Legislature would seek another compact.

A ruling by the Supreme Court is not expected for several weeks.

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