

**Programs, Projects & Operations
Subcommittee Meeting
February 7, 2006
7:00 p.m.
Agenda**

Programs, Projects & Operations:

John Conley, Chairman
Rich Tesar, Vice-Chairman
Fred Conley
Rick Kolowski
Joe Neary

Alternate Members: Dorothy Lanphier Staff Liaison: Gerry Bowen *
Jim Thompson Martin Cleveland
Ralph Puls
Dick Sklenar
Paul Woodward

1. Meeting Called to Order – Chairperson John Conley
2. Quorum Call
3. Adoption of Agenda
4. Proof of Publication of Meeting Notice
5. Review and Recommendation on Village of Kennard Waste Water Project Interlocal Agreement – Paul Woodward and George Pearson, Kennard Village Board Chair
6. Review and Recommendation on Papio Dam Site 13 Project Agreements – Paul Woodward
 - a. Interlocal Agreement with SID 521
 - b. First Addendum to Purchase Agreement with Dial Realty Development Corp
7. Review and Recommendation of Land Acquisition for Enhancement of District's Wetland Bank – Steve Oltmans and Norm Hanson, Douglas County Environmental Services
 - a. Appraisal (by Rick See, Mitchell and Assoc.)
 - b. Legal Description
 - c. Revised Purchase Agreement

8. Review and Recommendation on Mopac Trail (Highway 50 to Lied Bridge)
Supplementary Agreement with Nebraska Department of Roads – Gerry Bowen
9. Review and Recommendation on Silver Creek Watershed Bids on Sites 6, 30, 31 and 36
– Terry Schumacher; and, Jason Mead, Olsson Associates
10. Review and Recommendation on Account Over 110% -Acct # 07 08 4430 – Missouri River
Land Rights – Jim Becic
11. Adjourn

Memorandum

To: Programs, Projects and Operations Subcommittee
From: Paul Woodward, Water Resources Engineer
Date: January 30, 2006
Re: Kennard Wastewater Project

In July of 2005, the Board received a request from the Village of Kennard to provide a grant to assist the Village in improving their wastewater system by pumping their sewage to the City of Blair for treatment. Then in September, the Board heard testimony about the proposed project and the need for additional funding to supplement grants and loans from USDA Rural Development and NDEQ. Overall, the Board supported this regionalized wastewater system because it provides benefits to water quality and overall public health, and eliminates the need for the Village to employ a licensed operator.

Kennard is currently under orders from the state to complete this project because their existing treatment lagoons are not meeting compliance standards. In response to this requirement, the Village's engineer has completed a study which identified the potential of pumping the Village's sewage to Blair as the most economic option at an estimated total cost of \$970,000. This cost would include funds needed to abandon and remediate the existing lagoon site.

Currently, the Village has secured approximately \$720,000 for this project through federal and state loans or grants. Therefore, in response to the Village's request, the enclosed Interlocal Agreement between Kennard and the NRD would commit the District to provide a grant in the amount of \$250,000 for the proposed project.

Another provision of this agreement would commit Kennard to transfer title of the existing 18 acre treatment lagoon site to the NRD. Located on the banks of the Big Papillion Creek just south of Highway 30, the treatment lagoon site is within the lake, normal pool, of Dam Site 3C, see attached map. The District has performed an appraisal and the value of this property following remediation of the lagoon site is estimated at \$108,000.

In summary, the proposed agreement between Kennard and the NRD would offer a \$250,000 grant to the Village and would transfer title of the abandoned lagoon site to the NRD following the Village's completion of the new sewage system to Blair and proper decommissioning and demolition of the site.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute an Interlocal Agreement with the Village of Kennard to provide a grant in the amount of \$250,000 to support the regionalization of their wastewater treatment system, subject to minor changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.

Memorandum

To: PPO Subcommittee
From: Paul Woodward, Water Resources Engineer
Date: February 3, 2006
Re: Interlocal Agreement with SID 521 and Amended Purchase Agreement with Dial Development Corporation for Dam Site 13

Based on the Interlocal Agreement effective November 2004 between the NRD and Dial, a \$1,000,000 contribution from Dial or the SID was to be paid to the NRD on or before December 15, 2005. Due to delays in the construction of the dam, this transaction has not transpired. Furthermore, it was determined that the NRD did not have an actual agreement with SID 521 as the original agreement was executed prior to the SID being formed. Therefore, a new interlocal agreement with SID 521 has been prepared and is enclosed for your consideration.

This agreement provides for SID 521 to make a \$1,035,000 payment to the NRD upon substantial completion of the dam construction. In accordance with the NRD's original agreement with Dial, the additional \$35,000 was negotiated as interest on the \$1,000,000 at 9.25% (2% over prime).

Also, according to a purchase agreement between the NRD and Dial, Dial was to purchase approximately 4 acres of the Lyman Richey tract from the District following its closing with Lyman-Richey for a total price of \$604,000. However, only \$24,000 of this total was to be paid at closing and the remaining \$580,000 was secured in a Deed of Trust, payable within 5 years from closing. An addendum to this purchase agreement doesn't alter these costs but is needed to change the closing date from September 2005 to March 15, 2006. In addition, new provisions within the addendum commit the District and Dial to split the legal fees incurred by both parties as a result of the Japp v. NRD lawsuit, this would amount to an additional \$20,000 expense to the District.

In conclusion, a new Interlocal Agreement with SID 521 would secure the payment of the \$1,000,000 contribution originally agreed to in the NRD's agreement with Dial Development Corporation plus \$35,000 in interest; and an addendum to the existing purchase agreement with Dial would require closing on the 4 acre parcel on or before March 15, 2006 and commit the NRD to help offset a portion of the legal fees incurred by Dial.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the enclosed Interlocal Agreement with SID 521 to secure a \$1,035,000 contribution to the NRD and the enclosed First Addendum to Purchase Agreement with Dial Realty Corporation, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Memorandum

To: PPO Subcommittee
From: Paul Woodward, Water Resources Engineer
Date: February 2, 2006
Re: Land Acquisition for Enhancement of the District's Wetland Mitigation Bank

Last month, the Board approved a purchase agreement with Horgan Development Company to acquire property southeast of 132nd and State Street in Douglas County, NE subject to the following conditions:

- Final Board approval of the legal description as prepared by a licensed surveyor
- Final Board approval of an independent appraisal
- The addition of a hazardous materials indemnification provision to the agreement

A final legal description has been prepared by E&A Consulting Group for the subject property and includes a total of 62.099 acres. This drawing and legal description are attached for your consideration.

Similarly, an independent appraisal has been prepared by Richard See of Mitchell & Associates for the referenced property and is included for your information. The final appraised value for the property is \$9,287 per acre. Therefore, it is staff's recommendation to adjust the \$10,000 per acre value stated in the purchase agreement to \$9,287 per acre, yielding a total purchase price of \$576,731.

Following revisions made to the Purchase Agreement by District Legal counsel as directed by the Board, a revised agreement was forwarded to Horgan's legal counsel for review. Please find enclosed a memo from Mr. James Buser regarding his suggested modifications to the agreement and hazardous materials indemnity clause. A redline version of the revised purchase agreement, including changes to the purchase price based on the legal description and appraisal, is enclosed for your consideration. In addition, please note the summary from Mr. Hanson with the Douglas County Environmental Services regarding the landfill history and subsequent water quality.

In conclusion, District staff and legal counsel are recommending that the Board reconsider and approve the enclosed legal description, appraisal report, and revised Purchase Agreement.

Management recommends that the subcommittee recommend to the Board that the legal description prepared by E&A Consulting Group and appraisal prepared by Mitchell & Associates for the referenced property be approved and that the General Manager be authorized to execute the revised Purchase Agreement with Horgan Development Company to purchase 62.099 acres for \$576,731 for enhancement of the District's Wetland Mitigation Bank, subject to minor changes deemed necessary by the General Manager and approved as to form by District legal counsel.

Memorandum

To: Papio-Missouri River NRD Board of Directors

Subject: MoPac Trail (Highway 50 to Lied Bridge) – NDOR Supplemental Agreement

Date: January 30, 2006

From: Gerry Bowen

On March 10, 2005, the District approved an agreement with the Nebraska Department of Roads for funding of the Mopac Trail (Highway 50 to Lied Bridge), formerly called the “Platte River Trail”. The change reflected an agreement with the Lower Platte South NRD to refer to all segments of the Omaha-Lincoln Trail as the “Mopac Trail”.

The agreement called for the project to be under a construction contract within one year. This deadline will not be met, but the NDOR is willing to extend this deadline to September 1, 2006. The attached agreement reflects this change.

Staff anticipates the right-of-way process to be completed by later spring and a construction contract advertised in June, 2006.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the Supplemental Agreement with the Nebraska Department of Roads for the Mopac Trail (Highway 50 to Lied Bridge) Project.

Agenda Item: 9

MEMORANDUM

TO: Programs, Projects and Operations Sub-Committee

SUBJECT: Silver Creek Watershed Dam Sites 6, 30, 31 & 36 Construction Bids

DATE: January 30, 2006

BY: Terry Schumacher, Field Representative, Blair FO

On January 27, 2006, Olsson Associates and District staff opened bids that were submitted for a contract to construct Silver Creek Watershed Dam Sites 6, 30, 31 & 36; the sixteenth, seventeenth, eighteenth and nineteenth of the twenty-four planned erosion control dams in this watershed.

Attached for the Sub-Committee's review is a summary of bids received. Also attached is a map of the watershed showing these 4 dam sites as well as others already built and those to be built in subsequent years.

Specifications for the construction of these three dams require approximately 85,000 cubic yards of earthen fill. The contractor will have until September 30, 2006 to substantially complete the contract.

Based on bids received, Camden Excavating's bid of \$410,675.19 is the apparent low bid. District staff and Olsson Associates have reviewed the bids submitted and believe that Camden Excavating is the lowest and best bidder. The engineer's estimate for this project is \$479,624.23. The engineer's estimate does not include items that have been in past bids of these structures, i.e. mobilization, sediment and erosion control. These items are not included in the county cost share docket for EQIP cost share.

Dam Site 31 is being built with federal funds from the Environmental Quality Incentives Program (EQIP) and the P-MRNRD Special Watershed section of the Conservation Assistance Program budget. The original plan called for P-MRNRD to pay 100% of the project. The EQIP cost-share funding for this site is \$36,762.87. The P-MRNRD will contribute \$59,184.78. The other three sites were submitted for EQIP funding but did not get approved.

It is the staff's recommendation that the Sub-Committee recommends to the Board of Directors that Camden Excavating's bid of \$410,675.19 be accepted and that the General Manager is authorized to execute the necessary contract documents.

Agenda Item: 10

Memorandum

To: PPO Subcommittee

From: Jim Becic

Re: Account Over 110% -- Acct #07 08 4430 - Lower Decatur Bend Land Rights

Date: 31 January, 2006

During the early FY-06 budget preparation process, it was decided to reduce the amount of expenditures for the line item - Missouri River Corridor Land Rights from \$500,000 to \$50,000, since it had been at the \$500,000 level for the previous several years – and little progress was anticipated to be made by the NRD in FY-06. More importantly, it appeared that the new federal Wetland Reserve Enhancement Program (WREP) would be purchasing these lands in FY-06. This turned out to be true with the exception of the River's ~ 200 foot edge (Due to the Wrap's inability to deal with widening the MR Channel and the need to allow a sloughing easement – which the WREP did not allow.)

The costs for the TOTAL Missouri River land rights by the District for acquisitions at Lower Decatur Bend in FY-06 are now \$271,000 with \$232,680 already spent (Olson and Tub-Isle) and \$38,655 remaining for the final area (Williams) – hopefully to be finalized early in 2006. These acreages and exact costs were approved by the NRD Board in November of 2005.

While it was clear to staff that the District's cash flow would be sufficient to pay for this apparent deficit of \$221,335, it is not clear, however, if this Lower Decatur Bend Land Rights approval was authorized this past November with the understanding by the Board, that the line item budgeted amount would exceed 110%.

Note: So where will the \$221,335 'deficit' be made up? After the budget was "set" in July, it became apparent from HGM – the Missouri River Trail project design engineers - that the original estimate for the Missouri River trail construction - Phase 1, would likely be less than previously expected. In fact, the estimated construction cost was bid at \$280,000 less than anticipated. This \$280,000 amount already is more than enough to cover the land rights costs.

Another "anticipated" but not budgeted for item - since we had no way of knowing or counting on happening during this FY-06 time frame - was a \$54,000 revenue item. The December 30th, 2005 payment to the District by the US Fish & Wildlife Service was for the Rodgers tract at the Boyer Chute NWR. This unanticipated revenue item allows even more available cash flow for the LDB acquisitions.

It is the staff recommendation that the Subcommittee recommend to the Board that the Account, # 07 08 4430 – Land Rights, be allowed to exceed 110% of the budgeted amount.