

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: February 6, 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 January, 2008, is attached for your review.

1. Letter from Jean Bailey thanking the District for sending her the Spectrum Newsletter.

- 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 January, 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 January 14, 2008. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.

- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** Attached is the Papillion Creek Watershed Partnership Monthly Update for January, 2008. Please review and if you have any questions, contact me. The next Partnership meeting will be held on February 15, 2008 at 10:00 a.m. at the NRC. As noted previously, the Partnership has also scheduled a series of Public Forums to review the benefits of low impact development and detention alternatives in the Papio Creek watershed. The following is a list of the forums:

February 19, 2008	Papillion Creek Watershed Partnership Public Forum, WH Thompson Alumni Center, 6001 Dodge St., Omaha 4:30 – 7:30 p.m.
February 21, 2008	Papillion Creek Watershed Partnership Public Forum, Northwest High School, 8204 Crown Point, Omaha, 4:30 – 7:30 p.m.
February 25, 2008	Papillion Creek Watershed Partnership Public Forum, Papillion LaVista South High School, 10799 Hwy 370 4:30 – 7:30 p.m.

February 27, 2008	Papillion Creek Watershed Partnership Public Forum, Millard West High School, 5710 S. 176 th Ave., Omaha, NE 4:30 – 7:30 p.m.
February 28, 2008	Papillion Creek Watershed Partnership Public Forum, Bellevue Lied Activity Center, 2700 Arboretum Dr., Bellevue, NE, at 4:30 – 7:30 p.m.
March 4, 2008	Papillion Creek Watershed Partnership Public Forum, Concordia High School, 15656 Fort St., Omaha 4:30 – 7:30 p.m.
March 6, 2008	Papillion Creek Watershed Partnership Public Forum, Dana College, 2848 College Dr., Blair, NE 4:30 – 7:30 p.m.

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

1. Letter from Senator Ben Nelson: Attached is a letter from Senator Ben Nelson, dated January 8, 2008, reporting that the Senator had passed the Water Resources Development Act which is essential to flood control projects, ecosystem restoration projects and other similar water and environmental projects for Nebraska. Senator Nelson notes, “With the help of the Papio-Missouri River NRD, I was able to obtain an additional authorization for the Western Sarpy-Clear Creek Flood Damage Reduction Project included in WRDA.”
2. NARD Legislative Updates:
 - a. January 11, 2008
 - b. January 18, 2008
 - c. January 25, 2008
 - d. February 1, 2008
 - e. NARD CA and Bill Summary – 2008 Legislative Session

G. **WORKERS COMP EXPERIENCE MOD FOR FY 2008:** Attached is a copy of the claim/loss report prepared by the National Council on Compensation Insurance for Papio-Missouri River NRD Workers Comp effective July 1, 2007. **The experience mod for FY 08 has been set at .78.** This is the same as last year’s experience mod. As a point of reference, the experience mod for the District for FY 2006 was 1.02. A rating of 1.00 means that you are the average for companies in your category and you will pay 100% of the base premium for workers comp. A factor of .78 means that the District has earned a 22% credit on our base premium. The District has made great progress since FY 2006. **District employees are once again commended for practicing established safety rules and guidelines in our O&M facilities, job sites and offices.**

H. **REPORT ON 1978 AND 1993 PLATTE RIVER FLOODING – '78 Stacks Up as the Big One of Ice Jams:** At the request of Director Tesar, Marlin Petermann will be giving a presentation at the February Board meeting on past ice jam flooding experienced in the Papio-Missouri River NRD. A copy of an Omaha World Herald article that ran on February 15, 1993, entitled, '78 Stacks Up as the Big One of Ice Jams, is attached.

I. **NEWS CLIPS:**

- ✓ January 4, 2008, Omaha World Herald Public Pulse letter, written by Mike Dobesh, Wood River NE – Resolve water issues
- ✓ January 4, 2008, Omaha World Herald Public Pulse letter, written by Tim and Tracey Dreesen, Bennington, NE – Choosing their own
- ✓ January 8, 2008, Omaha World Herald article – UNL report touts switch grass
- ✓ January 9, 2008, Omaha World Herald article – Lines are drawn in water tax case
- ✓ January 9, 2008, Omaha World Herald – Robert Nelson column – Grassland wave of future for state?
- ✓ January 9, 2008, Lincoln Journal Star article – Bruning's office defends tax authority for NRDs. A law passed last year by Legislature lets the boards set property taxes to buy water to send to Kansas.
- ✓ January 11, 2008, Omaha World Herald article – 2 agencies to manage lower Platte
- ✓ January 14, 2008, Omaha World Herald article – Donors bridge funding gap for plaza. Omaha's entrance to the Missouri River span will include a sculpture, water feature and playground.
- ✓ January 17, 2008, Omaha World Herald article – Flooding, dams top forum agendas
- ✓ January 17, 2008, Omaha World Herald article – No restrictions for lower Platte. Irrigation will be allowed in 2008 despite another state agency's concerns about animal habitat.
- ✓ January 20, 2008, Omaha World Herald editorial – Meet, then move forward. Work together toward agreement on flood control for betterment of metro area.
- ✓ January 22, 2008, Omaha World Herald article – Kansas patience runs dry. Time's up for Nebraska to comply with a Republican River ruling.
- ✓ January 22, 2008, Blair Pilot-Tribune article – Papio watershed meeting to set stage for forums
- ✓ January 24, 2008, Omaha World Herald article – Environmental advocate leaves Douglas Planning Commission. Barbi Hayes offers no reason for her departure but calls for better storm water management.
- ✓ January 24, 2008, Omaha World Herald article – Bill to let city reach into Sarpy grabs no support
- ✓ January 26, 2008, Omaha World Herald article – Dams battle goes to statehouse. Competing bills could propel or stall the Papio NRD's water project.
- ✓ January 28, 2008, Omaha World Herald – Robert Nelson column – Kansas wackos thirst for justice
- ✓ January 29, 2008, Douglas County Post-Gazette article – Area governing officials, NRD to meet about water issues. Public open houses planning in February and March.
- ✓ February 1, 2008, Blair Enterprise article – Dam bills continue debate
- ✓ February 1, 2008, Omaha World Herald article – Counties' streams impaired, degraded

- ✓ February 3, 2008, Omaha World Herald article – Diverse flood controls proposed. Engineers recommend a mix of dams, basins and low-impact development to prevent damage in the Papillion Creek watershed.
- ✓ February 5, 2008, Blair Pilot-Tribune article – Officials get look at NRD proposals
- ✓ February 7, 2008, Omaha World Herald Public Pulse letter, written by Wayne and Shelia Dreessen – Dam project wrong

/pt/Winkler/GM Reports/2008/February

January 2008

Information & Education Report

Information

- ◇ Designed ads for newspaper supplements
- ◇ Helped plan and promote Intergovernmental Officials workshop
- ◇ Participated on NARD committee for redesign of statewide NRDs Rec brochure
- ◇ Published Winter SPECTRUM and initiated e-mail version
- ◇ Continued support of PCWP efforts
- ◇ Attended Annual Meeting of PRSA NE.

Education

- ☐ Continued planning Earth Day Omaha 2008
- ☐ Met with World O! Water Planning committee
- ☐ Attended Meeting at HD Zoo, and planned LEP workshop for March
- ☐ Presented Animal Adaptations programs to all 1st graders at Benson West
- ☐ Attended 4 day LEP State Coordinators meeting in St. Paul, MN
- ☐ Assisted with Wildlife Learning Encounters program at Benson West
- ☐ Met with Kellom Elementary on Outdoor Classroom Plans
- ☐ Continued planning for NRD Summer Day Camps
- ☐ Met with PeeWee's Playhouse out Nature Explore Classroom
- ☐ Sent out Water Works Applications
- ☐ Sent out Envirothon Applications
- ☐ Met with Omaha World Herald on "Kids Explore"
- ☐ Organized Statewide I&E Meeting for February 4th
- ☐ Sent out Wellness and Environmental e-mails to staff
- ☐ Sent out ticket notices for Richard Louv at the Lied
- ☐ Up-dated Water Works Web-site with Trent
- ☐ Continued working on GPS curriculum
- ☐ Planned for OPS career day presentation
- ☐ Owl presentation at Hearts & Hands Preschool
- ☐ Met to discuss Benington High School Wetland Project
- ☐ Hired Education Intern for Spring 2008

1-19-08

Thank you for the
Spectrum Newsletter for
the past several years - I have
enjoyed keeping up with your
conservation & natural resource
projects -

All good things come to an end.
I am now in a Retirement
situation and the former friends
I have passed the letter on to,
are retired or no longer with us.

I wish only for your
projects to grow & be successful -
you are so badly needed -

Thank you
Jean Bailey
4901 S 153 St #302
Omaha - Neb
68137-5650

January, 2008

4

Updated: January 14, 2008

Current and On-Going Projects P-MRNRD Legal Counsel

★ = **Top Priority**

F = Future Work – No Assignment

N = New Assignment

O = Others Handling

W = Work in Progress

P = PFP's Portion Completed

- **Little Papio:** (Cleveland)

- ★ Land transfer agreement w/Douglas County (W)
- ★ Piccolo Point easement forms (W)

- **Big Papio:** (Cleveland)

- **West Branch** (Cleveland):

- Land Exchange with Sarpy Co. (96th St.) (P)

- **Western Sarpy Dike** (Cleveland):

- Bundy and others ROW preparation (potentially modify ROW/offer) (N)
- Amended drainage ditch easements on Hickey (First National Property) (P)
- ★ Horn, Glasshoff ROW certification letter to USACE (N)

- **Floodway Purchase Program** (Woodward):

- Floodway Property purchase agreements as needed (F)

- **Trail Projects** (Bowen):

- ★ Mopac Trail (Hwy 50 to Lied Bridge) –Educational Land & Funds condemnation; closings (W)
- Missouri River Trail – Omaha O&M Agreement (N)

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

- ★ Missouri River Trail – Qwest Relocation Payment (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) (W)
 - Release of Site S-7 Easement (W)
 - S-31 – Handle Moore condemnation (P)
 - Turtle Creek #2 ROW documents (F)
- **Papio Watershed Dam Sites** (Woodward/Petermann):
 - ★ Close w/Omaha on DS-13 property (F)
- **Papio Creek Watershed Partnership (Stormwater)** (Woodward):
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites** (Sklenar):
- **Other:**
 - Kennard Wastewater Closing (Woodward) (F)
 - ★ NGP&C Interlocal Agreement on D-4 dredging (Bowen) (W)
 - ★ Complete Ice Jam Explosives Contract (Woodward) (W)
 - ★ Rumsey Station wetlands expansion purchase agreement (Cleveland) (N)

MONTHLY UPDATE

JANUARY 2008

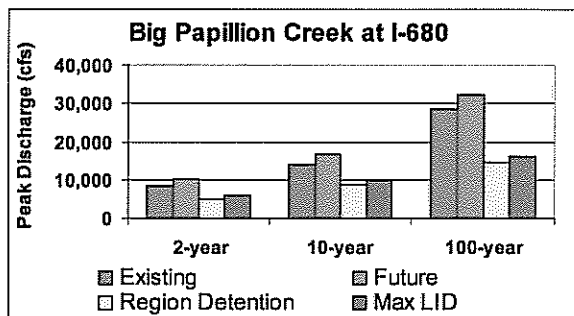


The Partnership held a meeting on January 24, 2007 along with two additional communication group meetings in January. Full meeting minutes and other materials are updated regularly on the Partnership's website: www.papiopartnership.org.

Stage IV Watershed Evaluation

HDR presented an update on the Stage IV Watershed Study and discussed the preliminary results, including peak flow reductions, water quality improvements, and capital and O&M costs, for both the Low Impact Development with on-site detention scenario (Maximum LID) and the regional detention scenario.

The outcomes of the study showed that both maximum LID and regional detention can achieve peak flow reduction within the watershed as depicted in the example graph below:



A major conclusion of the preliminary results was that a combination of both maximum LID and some regional detention sites may provide the greatest benefit. Another major conclusion was that some form of LID was needed throughout the watershed in order to produce consistent water quality improvements.

Given these preliminary outcomes, the Partnership discussed - and has decided to recommend - that a minimum level of LID be required in all new developments in each jurisdiction. This LID would need to retain the first ½ inch of stormwater runoff to improve water quality. In addition, the Partnership agreed that the peak flow from each new development, not above a potential regional detention basin, should not increase during the 2, 10, and 100-year storm events.

Public Outreach and Involvement

The focus of the public outreach effort in January was to get the word out about the upcoming open-house public forums. More briefings were held with city and county elected officials to make sure they were up-to-speed with what was going on.

The public forums will take place from 4:30-7:30 PM on the following dates and locations:

February 19, 2008 – UNO WH Thompson Alumni Center
February 21, 2008 – Northwest High School
February 25, 2008 – Millard West High School
February 27, 2008 – Papillion LaVista South High School
February 28, 2008 – Bellevue Lied Activity Center
March 4, 2008 – Concordia High School
March 6, 2008 – Dana College

IMS has recommended several strategies for announcing the public forums, such as posting fliers in public areas and on TV and radio community bulletin boards, setting up TV or radio interviews, and possibly placing an ad in the World-Herald. IMS is currently in the process of finalizing the flier and is busy working on display boards and handouts for the Stage IV Study results. In addition, the City of Omaha will be setting up a virtual open-house forum on the Partnership's website so that the public can provide input online.

Stormwater Legislation

The legislative hearing on LB 880 which would give the Papio-Missouri River NRD the authority to issue general bonds for stormwater improvements was held on January 25, 2008. This bill is currently under consideration by the Natural Resources Committee.

Senator Loudon filed an amendment to LB 534 which would enable cities and counties to charge equitable stormwater utility fees and provide a system of credits to encourage private stormwater BMPs. This bill is also awaiting approval from the Natural Resources Committee.

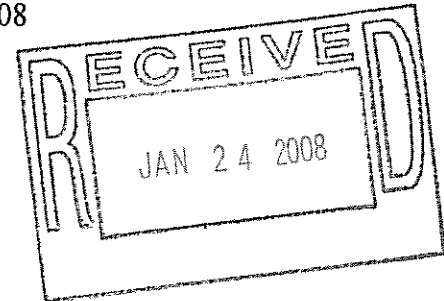
Next Meeting: The next Partnership meeting will be February 15th at 10:00 AM at the Papio-Missouri River NRD office.



BENNINGTON

United States Senate

January 8, 2008



Mr. John Winkler, General Manager
Papio-Missouri River Natural Resources District
8901 South 154th Street
Omaha, NE 68138-3635

Dear John:

Congress has completed the first session of the 110th Congress; and I would like to take this opportunity to thank the Papio-Missouri River Natural Resources District (NRD) for all of your organization's help and advice throughout the year, as well as share with you some of the things we've accomplished on behalf of Nebraska.

First and foremost is that at long last, we were able to pass the Water Resources Development Act (WRDA). Not only is this legislation essential to flood control projects, ecosystem restoration projects, and other similar water and environmental projects for Nebraska, it will also ensure that our nation's waterways are updated and properly maintained.

With the help of the Papio-Missouri River NRD, I was able to obtain an additional authorization for the Western Sarpy-Clear Creek Flood Damage Reduction Project included in WRDA. These additional funds will cover those real estate, project design, conservation measures, and project management and administration costs which have increased since the first project estimate was prepared by the Army Corps of Engineers prior to the WRDA 2000 authorization. When completed, this project will protect the vital drinking water infrastructure wells that supply nearly 50 percent of Nebraska's population in the eastern part of the state from potential floods, which annually threaten the area as a result of ice jams on the Platte River. Additionally, this project will provide protection for I-80 and U.S. Highway 6, the Burlington Northern Santa Fe Railroad, an Amtrak line, national telecommunication lines, and other public infrastructure.

I am pleased to have also secured \$935,000 for Flood Plain Remapping in the Papillion Creek Watershed. As you know, this funding will be used to conduct a comprehensive remapping of the Big Papillion Creek and Little Papillion Creek basins of the Papillion Creek Watershed located in Washington, Douglas and Sarpy counties. This remapping will produce updated digital flood insurance rate maps (DFIRMs) for the applicable watershed areas. Revision of the outdated flood insurance rate maps will enable proper flood plain insurance and local government flood plain zoning decisions and implementation using expert, up-to-date flood plain map information.

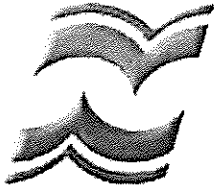
I appreciate the Papio-Missouri River NRD's support and assistance throughout this first session of the 110th Congress, and I look forward to continuing to work with you and your organization during the second session regarding efforts to further help Nebraska.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ben Nelson", with a long horizontal flourish extending to the right.

E. Benjamin Nelson
United States Senator

EBN:jwc



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

January 11, 2008

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 11 NARD Update

Session Begins -- The Nebraska Legislature convened its 60-day work session on January 9, 2008 and is tentatively scheduled to end on April 17th. Days off for Holidays (H) and Recess (R) are as follows: Jan 21 (H); Feb 8 (R), 15 (R), 18 (H) and 29 (R); March 3 (R), 14 (R), 21 (R), and 24 (R); April 4 (R), 11 (R), and 14 (R). These are dates your senator(s) should be back in the district if you wish to schedule meetings with him or her. The following are other important dates for the 60-day session:

- o January 14 -- Floor debate on bills begins
- o January 15 -- Governor Heineman's State of the State Address, 10 am.
- o January 18 -- Last day to submit bill requests to the Bill Drafter's Office
- o January 22 -- Committee Hearings begin (afternoons). Floor debate only in the morning.
- o January 23 -- Last day for bill introductions.
- o February 4 -- Speaker's Office will begin accepting requests for Speaker priority designations.
- o February 22 -- Deadline for designation of committee and senator priority bills. Last day to submit requests for speaker priority bills.
- o March 4 -- All day floor debate begins.
- o April 17 -- Tentative last day of the session.

Unicameral Web Site -- The Nebraska Unicameral website address which is www.nebraskalegislature.gov.

Term Limited Session - This session will be the last for 15 state senators due to term limits. These include: *Senator Ray Aguilar*, Grand Island, 9 years; *Senator Carroll Burling*, Kenesaw, 8 years; *Senator Ernie Chambers*, Omaha, 38 years; *Senator Pat Engel*, South Sioux City, 15 years; *Senator Phil Erdman*, Bayard, 8 years; *Senator Carol Hudkins*, Malcolm, 16 years; *Senator Ray Janssen*, Nickerson, 16 years; *Senator Joel Johnson*, Kearney, 6 years; *Senator Lowen Kruse*, Omaha, 8 years; *Senator Vickie McDonald*, St. Paul, 7 years; *Senator Dwite Pedersen*, Omaha, 16 years; *Senator Don Preister*, Omaha, 16 years; *Senator Ron Raikes*, Lincoln, 11 years; *Senator DiAnna Schimek*, Lincoln, 20 years; and *Senator John Synowiecki*, Omaha, 7 years.

New Bills -- Introduction of legislative bills occurs in the first ten working days of the session. This is the second session so there are carry over bills from last year. The following are a few new bills of interest for the NRDs introduced in the first few days. For more information on introduced legislation, visit the Nebraska Unicameral web-site at www.nebraskalegislature.gov.

LB 727 -- Change provisions relating to hearings conducted by the Department of Natural Resources. The bill proposes to change the time from 15 days to 30 days for a party to request the Department of Natural Resources to hold a hearing on a final decision made by the department that did not have an original hearing. The bill is a placeholder for DNR and other interested parties to review the department's regulatory procedures and offer any statutory changes to the process at the hearing. A late hearing will be scheduled to provide time for review. Natural Resources Committee.

LB 751 -- Change noxious weed funding provisions relating to stream vegetation removal. The bill expands the area qualified for riparian vegetation management in fully and overappropriated streams from 100 feet to 1,320 feet of the banks of a channel of any natural stream. Senator Christensen

LB 790 -- Change buffer strip reimbursement provisions. Increases the maximum payment through the Nebraska Buffer Strip Programs from \$150 to \$250 per acre. Senator Erdman

LB 798 -- Change provisions relating to irrigation water reuse pits. Changes the definition of a headwater segment of a natural stream to an ephemeral natural stream which would be exempt from state storage and use permits. The definition is further refined as that portion of a natural stream in which water flows only after a precipitation event or when augmented by surface water runoff caused by the pumping of ground water for irrigation. That portion of a natural stream that is shown as an intermittent stream on the most recent United States Geological Survey topographic quadrangle map published prior to the effective date of this act shall be considered an ephemeral natural stream unless the Department of Natural Resources has investigated the stream and determined that the stream or a reach of the stream is perennial or intermittent and subject to Chapter 46, article 2. The department's determination for the purposes of this section shall be adopted and promulgated in rule or regulation. Senator Louden

LB 799 -- Change provisions relating to applications to permit transfer of water appropriations. Allows for a transfer of surface water for irrigation when there is a change in the point of diversion which meets the following requirements: (i) The new point of diversion is on the same named stream, the same tributary, or the same river or creek as the approved point of diversion; (ii) the proposed point of diversion will not move above or below an existing diversion point owned by another appropriator; and (iii) the proposed point of diversion is not above or below a tributary stream or a constructed river return or a constructed drain. Senator Louden

LB 800 -- Change intentional underground water storage permit provisions. Allows for all intentional underground water storage projects to charge a fee for withdrawal of water. Existing law prohibits projects existing on August 26, 1983 from charging a fee. Senator Louden

LB 801 -- Add a requirement for integrated management plans. The bill would require integrated management plan developed for fully and/or overappropriated basins to prevent or offset any increased depletion to the stream resulting from the removal of a surface water appropriation from a tract of land by an adjudication, voluntary relinquishment, or transfer when the land continues to be served by a ground water well. Senator Louden

LB 802 -- Provide for water diversion during times of flooding. The bill allows water to be diverted from a stream for the purpose of alleviating harm to downstream landowners and appropriators during times of flooding upon approval by the department and with the consent of downstream appropriators who may be affected. Senator Louden

LB 862 -- Change noxious weeds funding provisions. The bill proposes to increase funding to the Noxious Weed and Invasive Plant Assistance Fund, which is used to assist county weed programs. On or before October 1, 2008, \$200,000 from the Commercial Feed Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund. Beginning January 1, 2009, 2 cents of the existing 10 cent/ton commercial feed inspection fee would be transferred to the Noxious Weed and Invasive Plant Fund. Finally, 25 percent of the sale price of each Weeds of the Great Plains book sold by the Department of Agriculture would be credited to the Noxious Weed and Invasive Plant Species Assistance Fund. Agriculture Committee.

LB 880 -- Provide for watershed enhancement bonds. The bill allows the board of directors of a natural resources district encompassing a city of the metropolitan class to issue watershed enhancement bonds to pay costs of design, rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management within the natural resources district issuing such bonds, including flood control and water quality. The bonds would be payable from an annual special watershed enhancement bond levy upon the taxable value of all taxable property in the district. The bond levy is includable in the computation of other limitations upon the district's tax levy. Senator Kopplin

LB 881 -- Impose an excise tax on production of ethanol. The bill proposes a 3 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Highway Trust Fund as follows 1) Fifty percent to the Highway Cash Fund for the Department of Roads; 2) Twenty-five percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and 3) Twenty-five percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes. Senator Stuthman

NARD Bill Summary Tracking Sheet				<i>Last Updated: 01/11/08</i>				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government	1/19/2007	Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government	1/17/2007	IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary	2/14/2007	Held in Committee	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations	3/8/2007	Held in Committee	
78	Recoverable amounts	Nantkes		Oppose	Judiciary	2/7/2007	Held in Committee	
105	Nebraska Forest Service funding	Louden		Support	Appropriations	3/6/2007	Held in Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government	1/24/2007	Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary	2/7/2007	Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources	1/19/2007	General File	AM13 - Pending
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources	1/25/2007	Select File	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources	1/31/2007	Select File	Incorp. into AM 938 to LB 701
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs	2/27/2007	Held in Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government	2/1/2007	General File	AM678-Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations	3/12/2007	General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary	2/7/2007	Held in Committee	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue	2/8/2007	IPP pending, Laid Over	AM 825 - Adopted AM864 to AM825 - Lost AM924 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources	(Revised) 3/8/2007	Held in Committee	
534	Funding storm water programs	Schimek		Support	Natural Resources	2/8/2007	Held in Committee	
566	Adopt Public Recreational Liability Act	Louden <i>et al.</i>		Support	Judiciary	2/14/2007	Held in Committee	
567	Extend recreational liability protection to landowners that charge for access	Louden <i>et al.</i>		Support	Judiciary	2/14/2007	Held in Committee	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government	2/1/2007	Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources	2/7/2007	Held in Committee	
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.			Natural Resources		Committee	
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen			Agriculture		Committee	
790	Change buffer strip reimbursement provisions	Erdman			Agriculture		Committee	
798	Change provisions relating to irrigation water reuse pits	Louden			Natural Resources		Committee	
799	Change provision relating to applications to permit transfer of water appropriations	Louden			Natural Resources		Committee	
800	Change intentional underground water storage permit provisions	Louden			Natural Resources		Committee	
801	Add a requirement for integrated management plans	Louden			Natural Resources		Committee	
802	Provide for water diversion during times of flooding	Louden			Natural Resources		Committee	
862	Change noxious weeds funding provisions	Agriculture Committee					Committee	
880	Provide for watershed enhancement bonds	Kopplin					Committee	

NARD CA & BILL SUMMARY

Carryover from 2007

The list of carry-over bills and the NARD position taken from last year will not be reviewed unless a specific request is made on a bill in the list. No vote is required on this list to retain the position on the bill.

2008 LEGISLATIVE SESSION

NARD LEGISLATIVE CONFERENCE

**EMBASSY SUITES
LINCOLN, NE
FEBRUARY 4-6, 2008**

2007 Legislative Conference Voting Delegate and Alternate

District	Delegate's Name	Alternate's Name
<i>Central Platte NRD</i>	Jerry Wiese	Jim Bendfeldt
<i>Lewis & Clark NRD</i>	Mary Ann Wortmann	Dan Kollars
<i>Little Blue NRD</i>	Lyle Heinrichs	Ed Fleharty
<i>Lower Big Blue NRD</i>	Jim Damrow	Norman Stokebrand
<i>Lower Elkhorn NRD</i>	Ken Peitzmeier	Elden Wesely
<i>Lower Loup NRD</i>	Dean Rasmussen	Virgil Gellerman
<i>Lower Niobrara NRD</i>	Diana Wendt	Sterling Schultz
<i>Lower Platte North NRD</i>	Dean Johnson	Don Kavan
<i>Lower Platte South NRD</i>	Dan Steinkruger	Doug Samuelson
<i>Lower Republican NRD</i>	Roger Nelson	Nelson Trambly
<i>Middle Niobrara NRD</i>	Dean Jochem	Martin Graff
<i>Middle Republican NRD</i>	Joe Anderjaska	Stan Moore
<i>Nemaha NRD</i>	Lisa Beethe	Don Siske
<i>North Platte NRD</i>	Gary Darnell	George Hall
<i>Papio-Missouri River NRD</i>	Rich Tesar	Tim Fowler
<i>South Platte NRD</i>	Jim Johnson	Larry Rutt
<i>Tri-Basin NRD</i>	David Nelson	David Raffety
<i>Twin Platte NRD</i>	Joe Wahlgren	Jerry Weaver
<i>Upper Big Blue NRD</i>	Doug Dickinson	Yvonne Austin
<i>Upper Elkhorn NRD</i>	Jerry Heithoff	Janet Koinzan or Dale Wiles
<i>Upper Loup NRD</i>	Judy Ridenour	
<i>Upper Niobrara White NRD</i>	Curt Roth	Steve Sandberg
<i>Upper Republican NRD</i>	Mike Mosel	Terry Martin

Index

Directors & Elections.....	4
Elections	4
<i>LB 17 - Prohibit NRD Dual Office Holding, Mines</i>	<i>4</i>
Open Meetings Act	4
<i>LB 391 - Copies of records and speaking at public meetings, Mines.</i>	<i>4</i>
<i>LB 622 – Open Meetings Act Training Sessions, Pirsch.</i>	<i>4</i>
Funding & Taxes.....	5
<i>LB42 – Change Distribution of Cigarette Tax, Hudkins.</i>	<i>5</i>
<i>LB 105 - Nebraska Forest Service, Louden.....</i>	<i>5</i>
<i>LB420 – Change Cigarette Tax Distribution and Create Funds, Erdman.</i>	<i>5</i>
<i>LB488 – Income Tax Credit for Perpetual Conservation Easement Donations, Wallman.</i>	<i>5</i>
General Administration.....	6
Interlocal Agreements	6
<i>LB 13 -- Interlocal Cooperation Act, Mines.....</i>	<i>6</i>
<i>LB 187 – Interlocal Agreements, Mines.</i>	<i>7</i>
Legal	7
<i>LB 78 – Recoverable Amounts, Nantkes.</i>	<i>7</i>
<i>LB 197 – Political Subdivisions Tort Claims Act, Schimek.</i>	<i>7</i>
<i>LB 448 – Extend the time-frame to file lawsuit against political subdivisions, Ashford.</i>	<i>7</i>
Environmental Trust.....	8
<i>LB 291 – Change membership on the Nebraska Environmental Trust Board, Hansen.</i>	<i>8</i>
Other.....	8
<i>LB 652 – Mandatory Energy Audits, White.....</i>	<i>8</i>
Land Use and Acquisition	8
<i>LB 20 – NRD Projects and Public Access, Mines.</i>	<i>8</i>
<i>LB 566 – Recreational Liability Act, Louden, et al.....</i>	<i>8</i>
<i>LB 567 – Extend Recreational Liability Protection to Private landowners that charge access, Louden, et al.....</i>	<i>9</i>
Solid Waste	9
<i>LB 202 – Integrated Solid Waste Management Act, Louden.</i>	<i>9</i>
Water Quality.....	9
<i>LB 534 – Funding Storm Water Programs and Sewage, Schimek.</i>	<i>9</i>
Water & Wetlands	9
<i>LB 295 – Irrigation and Water Wells, Natural Resources Committee.</i>	<i>10</i>
<i>LB 387 – Require Water Meters on new Construction, Langemeier.</i>	<i>11</i>
<i>LB 493 – Change requirements of the Water Policy Task Force, Langemeier.</i>	<i>11</i>

Directors and Elections

Elections

LB 17 - Prohibit NRD Dual Office Holding, Mines.

Committee: Government Status: IPP Pending

Adds NRD office holders to the list of high elective offices that would be prohibited from filing as a candidate for another high elective office. Current law defines higher elective office as a member of the Legislature, county, city, or school district.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

Open Meetings Act

LB 391 -- Copies of records and speaking at public meetings, Mines.

Committee: Government Status: General File

The bill makes several changes to copy requests of public records and the open meetings act as follows:

- 1) If an individual requests copies of all public records within a certain time frame, the request would also require a request of the specific subject matter.
- 2) Authorizes a public body to allow a member of the public or any other witness other than a member of the public body to appear speak on agenda items by means of video or telecommunications equipment.
- 3) Clarifies that the presiding officer at a public meeting can limit public comment to agenda items at the meetings.
- 4) Requires that each public body shall have a form on which citizens may recommend subjects for discussion as possible agenda items at a future meeting. Copies of such form shall be made available at every meeting and at the principal office of the public body during normal business hours.
- 5) Within ten business days after receiving such form, the secretary or other designee of the public body shall, by first class mail, send the citizen a written statement regarding the status of the request.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 622 – Open Meetings Act Training Sessions, Pirsch.

Committee: Government Status: Held in Committee

The bill requires any public officer, public records coordinator, or public employee to complete a training course regarding the powers and duties of a public body and its members under the Open Meetings Act no later than one year after the day the member (a) takes the oath of office, or (b) assumes his or her duties as a member of a public body.

The Department of Justice may provide the training course and shall approve any training course offered by a governmental agency or any other entity. The Attorney General shall make at least one approved training course available on a widely available medium at no cost. An approved training course may be provided on the Internet.

The training course shall include instruction in: (a) The legal requirements for open meetings; (b) The applicability of the Open Meetings Act to public bodies; (c) Procedures for conducting open meetings and closed sessions under the act; and (d) Penalties for failure to comply with the Act.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Funding and Taxes

LB42 – Change Distribution of Cigarette Tax, Hudkins.

Committee: Appropriations Status: Held in Committee

This bill provides that, commencing October 1, 2007, and continuing until October 1, 2012, the State Treasurer shall place the equivalent of forty-nine cents of cigarette tax in the Highway Allocation Fund, to be distributed in the same manner as all other funds accruing to the Highway Allocation Fund.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 105 - Nebraska Forest Service, Louden.

Committee: Appropriations Status: Held in Committee

Appropriates \$425,000 from the General Fund for FY2007-08 and \$425,000 from the General Fund for FY2008-09 to the Nebraska Forest Service for forest fuels management. It is intended that funds appropriated be used in conjunction with federal and private resources to reduce forest fuel loads.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB420 – Change Cigarette Tax Distribution and Create Funds, Erdman.

Committee: Appropriations Status: General File

This bill creates the Agricultural Research Fund and the Water Resources Cash Fund. Both funds would be supported by cigarette taxes, and beginning July 1, 2008, \$1.5 million and \$1 million annually would be placed in the Agricultural Research Fund and the Water Resources Cash Fund, respectively.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB488 – Income Tax Credit for Perpetual Conservation Easement Donations, Wallman.

Committee: Revenue Status: IPP Pending

Provides an income tax credit for donated conservation easements on areas designated a quick response water shortage areas in overappropriated basins and areas subject to interstate compacts, agreements, and decrees and on areas designated as biologically unique landscapes in the Nebraska Natural Legacy plan. The easements must prescribe specific limitations on use, including pumping of ground water with exceptions, etc. The credit shall be an amount equal to

50% of the appraised value of the donated portion of the conservation easement, not to exceed \$250,000, and shall be transferable.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

General Administration

Interlocal Agreements

LB 13 -- Interlocal Cooperation Act, Mines.

Committee: Government Status: Held in Committee

The bill outlines new procedures and oversight for entering into interlocal agreements. Any existing joint entities would be required to complete this application and certification process. In order to establish an interlocal agreement, each governing body would have to follow the following process:

- 1) The governing body would adopt a resolution determining that there is a need for this joint entity and setting forth the names of the proposed participating public agencies.
- 2) In determining the need for the joint entity, the governing body would take into consideration the present and future needs of the public agency with respect to the materials, goods, property, and services which a joint entity may utilize or provide, the adequacy, suitability.
- 3) The availability of such materials, goods, property, and services to meet the needs of the participating public agency if no joint entity is formed, and economic or other advantages or efficiencies which may be realized by cooperative action through a joint entity.
- 4) The resolution must be published, and after publication, the resolution could then be adopted by the governing body.
- 5) For the interlocal agreements with state agencies, approval would be required from the governing board of the agency or the Governor.
- 6) For the interlocal agreements with federal government agencies, approval would be required from the governing board of the agency or the President.
- 7) Within 30 days after adoption of the resolution for creation of a joint entity, the governing body must file with the Secretary of State a statement signed by the proposed representatives that would set forth:
 - a) The names of all the proposed participating public agencies.
 - b) A certified copy of each of the resolutions of the participating public agencies determining the need for such a joint entity.
 - c) Proof of publication as required.
 - d) A brief description of the nature of the joint entity's activities.
 - e) The name of the joint entity.
- 8) The Secretary of State would issue of a certificate of creation if all procedures were followed. After the certificate of creation is issued, the new entity would be structured in the following manner:
 - 1) Each participating public agency would appoint representatives for creation of the joint entity.
 - 2) The representatives would constitute the board in which all powers of the joint entity are vested.
 - 3) Each representative would serve for a term specified in the agreement, not to exceed four years and each participating public agency would at all times be entitled to appoint at least one representative.

- 4) Each representative would have one vote, unless the agreement provides for allowing a representative to cast more than one vote.
- 5) The bill outlines procedures for the board, including the manner of scheduling meetings, electing officers, creating an executive committee and other committees.
- 6) The board would be subject to the Open Meetings Act.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 187 – Interlocal Agreements, Mines.

Committee: Government Status: Held in Committee

Prohibits agreements pursuant to the Interlocal Cooperation Act between: (a) A school district and a public power district for the purpose of contracting for utilities for use by the school district; or (b) A school district and an educational service unit for the purpose of contracting for the services of full-time or part-time employees for use by the school district.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Legal

LB 78 – Recoverable Amounts, Nantkes.

Committee: Judiciary Status: Held in Committee

Increases amounts recoverable against any employee for claims filed pursuant to section 13-920 or under the Political Subdivision Tort Claims Act from \$1 million per occurrence and \$5 million aggregate to \$3 million per occurrence and \$12 million aggregate.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 197 – Political Subdivisions Tort Claims Act, Schimek.

Committee: Judiciary Status: Held in Committee

Provides that, if a political subdivision is transacting business under a name other than the true name of the political subdivision and has not registered a trade name as required, the time period for beginning suit under the Act shall commence upon the registration of the trade name.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 448 – Extend the time-frame to file lawsuit against political subdivisions, Ashford.

Committee: Judiciary Status: Held in Committee

The bill extends the time frame for claims to be filed against a political subdivision or a employee of a political subdivision permitted under the Political Subdivisions Tort Claims Act from 1 year to 2 years. The bill maintains the limitations of two years to begin a lawsuit against a political subdivision.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose
NARD Position: Oppose

Environmental Trust

LB 291 – Change membership on the Nebraska Environmental Trust Board, Hansen.

Committee: Natural Resources **Status: Select File**

The bill changes the requirements of appointing board members. The bill reduces the board from 9 to 8 and eliminates the requirement that 3 appointees shall be chosen from each of the three congressional districts. The eight regions would represent specific counties. Lancaster and Douglas County would each have 1 member.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Other

LB 652 – Mandatory Energy Audits, White.

Committee: Natural Resources **Status: Held in Committee**

The bill would require every agency, department, commission and every political subdivision of the State of Nebraska to conduct an audit of its energy usage. Such audit shall examine the following: (1) Methods of reducing energy usage by such agency, subdivision; (2) The costs of implementing such energy efficiency measures; (3) The projected benefits, including long-term cost reductions, from such energy efficiencies; and (4) Whether there are alternative energy resources that may be used in combination with energy efficiencies to provide further benefits.

A report of each audit conducted this act shall be provided to the Clerk of the Legislature on or before December 31, 2007. Entities required to conduct such an audit are authorized to seek technical assistance from public utilities, the Nebraska Energy Office, the University of Nebraska, and other available resources.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

Land Use & Acquisition

LB 20 – NRD Projects and Public Access, Mines.

Committee: Judiciary **Status: Held in Committee**

Requires public recreation access to NRD water project properties and private lands under NRD easements if NRD contributions are 5 percent of the cost of the project. Current law, adopted in 2006, requires public access if the NRD cost is 20 percent of the total cost.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 566 – Recreational Liability Act, Louden, et al.

Committee: Judiciary Status: Held in Committee

The bill adopts the Public Recreation Liability Act which extends some recreational liability protection the land owners (defined as the state, a state agency, including the University of Nebraska and any state college or community college, or a political subdivision that is the title holder, tenant, lessee, occupant, or otherwise in control of the land). The liability protection would apply to the owner who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes. If there is no charge, the owner does not thereby (1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

The liability protection would not extend for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or for injury suffered in any case where the owner of land charges the person or persons who enter or go on the land.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 567 – Extend Recreational Liability Protection to Private landowners that charge access, Louden, et al.

Committee: Judiciary Status: Held in Committee

The bill extends recreational liability protection to private landowner and private entities that charge for access. Current law provides this protection if they do not charge for access.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Solid Waste

LB 202 – Integrated Solid Waste Management Act, Louden.

Committee: Natural Resources Status: General File

Provides that, beginning January 1, 2008, a joint entity or joint public agency created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act that provides services under the Integrated Solid Waste Management Act shall not place a lien on property for nonpayment of debt unless the agreement creating the joint entity or joint public agency provides or is modified to provide for a governing board that consists of elected officials.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Water Quality

LB 534 – Funding Storm Water Programs and Sewage, Schimek.

Committee: Natural Resources Status: Held in Committee

The bill allows cities, villages and counties in urbanized areas to issue revenue bonds to pay for development of storm water programs, including any storm sewer systems. An urbanized area

means a statistical geographic area defined by the United States Department of Commerce, Bureau of the Census, consisting of a central place or places and adjacent densely settled territory that together contain at least fifty thousand inhabitants and have an overall population density of at least one thousand inhabitants per square mile.

The programs would be paid for by development of charges for the use of a storm sewer system which would be proportionate to the storm water contribution of the premises served and based upon sound engineering principles, as determined by the city or village, and may include allowances or adjustments for impervious land surfaces and land uses and credits for storm water quantity and quality best management practices.

Finally the bill requires a city or village that is implementing a program to establish a system of exemption from storm water charges for the property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Water & Wetlands

LB 295 – Irrigation and Water Wells, Natural Resources Committee.

Committee: Natural Resources Status: Select File

This bill makes a number of changes at the request of the Nebraska Department of Natural Resources:

- It includes the U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse.
- It provides that NDNR will issue an order of cancellation of a surface water right within sixty days after receipt of a voluntary unconditional relinquishment.
- It adds the following new language regarding wells that are entitled to spacing protection: (i) Registered irrigation wells unless (A) the water well's location is incorrect in the department's water well registration data base and the well's actual location cannot be determined or (B) the irrigation well is used to irrigate two acres or less; and (ii) Unregistered irrigation wells that have been constructed within the last sixty days.
- It prohibits irrigation from a well registered for another purpose until the well registration has been changed to irrigation and then only if the well is not within six hundred feet of an existing registered irrigation well or an irrigation well that has been constructed within the last sixty days.
- It extends the time period for nonuse of a permit under the Municipal and Rural Domestic Ground Water Transfers Permit Act from 3 to 5 years before revocation or modification by the director of NDNR.
- It prohibits increases in irrigated acres watered from an unconstructed water well that has been permitted prior to the stay once NDNR declares the area overappropriated.

Manager Recommendation: Oppose as written but offer to work w/ NDNR and interested parties to clarify issues.

NARD Legislative Committee Recommendation: Oppose as written but offer to work w/ NDNR and interested parties to clarify issues.

NARD Position: Oppose as written but offer to work w/ NDNR and interested parties to clarify issues.

LB 387 – Require Water Meters on new Construction, Langemeier.

Committee: Urban Affairs **Status: Held in Committee**

Beginning January 1, 2008, the bill would require all new residential construction equipped with plumbing shall have water meters and plumbing installed in such a way as to separate potable water used outside the residence from potable water used inside the residence. Beginning January 1, 2015, all new construction equipped with plumbing and all new water service changes shall have water meters and plumbing installed in such a way as to separate potable water used outside the building or residence from potable water used inside the building or residence. The costs of implementing this section shall be borne by the property owner, except that water meters shall be supplied and maintained by the water service provider.

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 493 – Change requirements of the Water Policy Task Force, Langemeier.

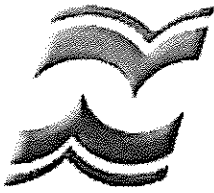
Committee: Natural Resources **Status: Held in Committee-**

The bill reduces the minimum number of meeting times the Water Policy Task Force from 2 to 1 time annually. The bill also requires the task force to review of the research done at the University of Nebraska relating to implementation of Laws 2004, LB 962, and a recommendation with respect to necessary research for continued implementation of LB 962. **Hearing Natural Resources Committee**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

January 18, 2008

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 18 NARD Update

No Regulations for Lower Platte – On Wednesday, January 16th, the Nebraska Department of Natural Resources released their decision that there will be no regulations along the Lower Platte River for protection of endangered species. The decision allows for future development within the area along the Lower Platte River. The Nebraska Game and Parks Commission had submitted a draft biological to DNR outlining concerns about additional water use and its impact to endangered species. DNR's decision will not be reviewed again until next year.

Governors State of Union Address – Governor Heineman delivered his State of the State Address on January 15th. He focused on tax relief, health care, immigration, education, and the job market. Water resource issues were not mentioned in the address.

New Bills – The following are a few new bills of interest for the NRDs introduced this week. The last day for bill introductions is next Wednesday, January 23rd. For more information on introduced legislation, visit the Nebraska Unicameral web-site at www.nebraskalegislature.gov.

LB 922 -- Adopt the Cellulosic Biomass Renewable Energy Initiative and impose and change taxes.

Senator Dubas. Creates the Cellulosic Biomass Renewable Energy Board consisting of three members appointed by the Governor. One member shall be appointed from the Nebraska Ethanol Board, one member shall be appointed from the Department of Economic Development, and one member shall be appointed from the Department of Agriculture. Members shall serve at the pleasure of the Governor. The board shall review and approve applications for incentives under the Cellulosic Biomass Renewable Energy Initiative and award incentives within four categories: (1) Cost-share grants; (2) Loans; (3) Production incentives; and (4) General grants.

The program would be funded by an excise tax of one cent per one million BTU units would be imposed on natural gas imported to Nebraska for industrial use. The tax shall be imposed until the fund reaches \$10 million and resumed when the fund falls below \$5 million.

LB 924 -- Provide for streamflow depletion offsets. Senator Fisher. The bill modifies several statutes relating to water management.

First, it establishes a clear procedure for natural resources districts to follow to quantify gains to stream flows by integrated management plans or programs, and acquisition of existing groundwater or surface water uses on a permanent or temporary basis. The NRDs would certify the amounts to DNR.

Second, it modifies the state endangered species act to more closely resemble the federal act in two respects: (1) Allows the Nebraska Game and Parks Commission to develop a reasonable and prudent alternative to a project that has been judged to jeopardize the continued existence of a protected species or adversely impacts designated critical habitat. Existing state law does not so provide although the Game and Parks Commission Rules and Regulations allow it. (2) Creates a committee to grant exceptions for projects that may harm a species. However, the project must have great value and there is no reasonable and prudent alternative. Although authorized to the US Fish and Wildlife Service under the federal Endangered Species Act, existing state law does not provide this exemption. It should be noted that under the state law, all federally listed species

are also protected by the state law. The state law, however, allows for the listing of species as threatened or endangered that may not meet the federal criteria.

Third, when applying for an instream flow right, the changes would require the Nebraska Game and Parks Commission and the natural resources to agree on an application prior to filing the application with the Department of Natural Resources. The parties would have to work together, no matter which entity initially is seeking the flow right.

Fourth, changes the annual river basin determination procedure by requiring the Department of Natural Resources to review existing surface water rights nonuse prior to the department making a preliminary conclusion that a river basin, subbasin, or reach presently is fully appropriated. If the right has been forfeited or abandoned, the rights would be adjudicated under section 46-229.02.

Finally, the bill eliminates the reference all other applicable state or federal laws for the department to consider for determining whether a basin, sub-basin or reach is fully appropriated. This change eliminates uncertainty and/or interpretation of which other laws to consider.

LB 945 -- Change authority of natural resources districts. Senator Peterson. The bill prohibits natural resources districts to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid relates to real property taken by the district through the use of eminent domain.

LB 946 -- Impose an excise tax on production of ethanol. Senator Burling. The bill proposes a 2 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Water Resources Cash Fund starting in 2009 and eliminate the additional corn and sorghum checkoff that was scheduled to be implemented in 2013.

LB 962 -- Change public body meeting provisions of the Open Meetings Act. Senator Preister. The proposal would prohibit public bodies from requiring that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda.

LB975 -- Change provisions relating to river-flow enhancement bonds. Senator Wightman. The bill clarifies limitation of groundwater pumping on acres where surface water has been leased that was passed last year in LB 701. The bill clarifies that the limitation is on the specific acre that was served by the leased or purchased water. It also outlines limitation when groundwater is purchased or leased. The bill outlines four situations and incorporates the changes needed to address the concerns of the existing language as follows:

- a) Single year NRD groundwater or surface water leases.
- b) Multiyear NRD groundwater or surface water leases.
- c) Single year State of Nebraska groundwater or surface water leases.
- d) Multiyear State of Nebraska groundwater or surface water leases.

Finally, a variance procedure is provided to allow for a landowner to rotate irrigated acres while maintaining the reduction in use.

LB 1017 -- Change provisions relating to tax levies of members of risk management pools. Senator Raikes. Requires that all costs and expenses associated with membership in a risk management pool, including, but not limited to, standard insurance coverage's, group self-insurance coverage's, assessments levied by the pool, retirement of debt incurred by the pool, and operating expenses of the pool be subject to levy limitations.

LB 1040 -- Impose an excise tax on production of ethanol. Senator Loudon. The bill proposes a 1 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the

Water Resources Cash Fund starting in 2013 and eliminate the additional corn and sorghum checkoff that was scheduled to be implemented in 2013.

LB 1041 -- Protect certain water purchased or leased for river flow enhancement. Senator Christensen. Surface water or ground water purchased or leased by the state, or purchased or leased for river-flow enhancement purposes by a natural resources district described in section 2-3226.01, shall be fully protected and accounted for by the Department of Natural Resources from the point of diversion to the intended destination or use of such purchased or leased water, except for normal carriage loss.

LB 1049 -- Change terms for members of the Nebraska Game and Parks Commission. Senator Erdman. The proposal changes the terms for members appointed after January 1, 2009 to a four year term rather than five. The bill also prohibits any person who as served two full terms after January 1, 2009, to be reappointed as a member of the commission.

LB 1050 -- Changes the Nebraska Game and Parks to a Code Agency. Senator Erdman. The bill makes the Nebraska Game and Parks Commission a code agency under the governor's office. The commission members would be changed to advisory members and the director of the agency would be appointed by the governor rather than hired by the commission members.

Hearings next week

LB 724 -- Change fees under the Remedial Action Plan Monitoring Act. Lowers application fee and deposit for those wanting to monitor remedial action plans. **Hearing 1/23. Natural Resources Committee, 1:30 Room 1525.**

LB 725 -- Provide for grants under the Waste Reduction and Recycling Incentive Act. Provides Grants to reimburse second class cities, villages, and counties of five thousand or less for deconstruction projects. **Hearing 1/23. Natural Resources Committee, 1:30 Room 1525.**

LB 790 -- Change buffer strip reimbursement provisions. Increase maximum payment through Nebraska Buffer Strip Program from \$150 to \$250. **Hearing 1/22. Natural Resources Committee, 1:30 Room 1525.**

LB 880 -- Provide for watershed enhancement bonds. Allows NRD's to issue bonds to pay costs of design, rights-of-way acquisition, and construction of certain projects. **Hearing 1/25 Natural Resources Committee, 1:30 Room 1525.**

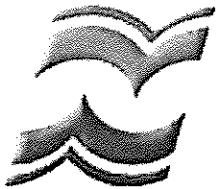
LB 945 -- Change authority of natural resource districts. Prohibits NRD's from working with private commercial and resident real estate companies as it relates to real property taken through the use of eminent domain. **Hearing 1/25. Natural Resources Committee, 1:30 Room 1525.**

Other News --

NARD Staff Changes -- Kody Schrader, NARD Information and Education Director, will be leaving NARD effective February 6th to take a position with Farm Credit Services as the Ag Representative Specialist in Omaha. We wish Kody the best in his new career. Lane Tryon will be joining the NARD as an intern this semester. Lane is native of Gothenburg and a freshman at UNL majoring in Business.

LB 701 Court Case -- The trial arguments on the constitutional questions surrounding LB 701 will be heard on January 24, 2008 at the Lancaster County District Court. A decision may be rendered by the end of February.

NARD Bill Summary Tracking Sheet				Last Updated: 01/11/08				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government		Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government		IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary		Held in Committee	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations		Held in Committee	
78	Recoverable amounts	Nanikes		Oppose	Judiciary		Held in Committee	
105	Nebraska Forest Service funding	Louden		Support	Appropriations		Held in Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government		Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimke		Monitor	Judiciary		Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources		General File	AM13 - Lost AM1540 - Adopted
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		Select File	AM123 - Adopted 156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources		Select File	Incorp. into AM 638 to LB 701
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs		Held in Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government		General File	AM578-Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations		General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary		Held in Committee	
468	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue		IPP pending, Laid Over	AM 825 - Adopted AM864 to AM825 - Lost AM824 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources		Held in Committee	
534	Funding storm water programs	Schimke		Support	Natural Resources		Held in Committee	
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		Held in Committee	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary		Held in Committee	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government		Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources		Held in Committee	
724	Change fees under the Remedial Action Plan Monitoring Act.	Nat. Res. Comm.			Natural Resources	1/23/2008	Committee	
726		Nat. Res. Comm.			Natural Resources	1/23/2008	Committee	
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.			Natural Resources		Committee	
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen			Agriculture		Committee	
790	Change buffer strip reimbursement provisions	Erdman			Agriculture	1/22/2008	Committee	
798	Change provisions relating to irrigation water reuse pits	Louden			Natural Resources		Committee	
799	Change provision relating to applications to permit transfer of water appropriations	Louden			Natural Resources		Committee	
800	Change intentional underground water storage permit provisions	Louden			Natural Resources		Committee	
801	Add a requirement for integrated management plans	Louden			Natural Resources		Committee	
802	Provide for water diversion during times of flooding	Louden			Natural Resources		Committee	
862	Change noxious weeds funding provisions	Agriculture Committee			Agriculture		Committee	
880	Provide for watershed enhancement bonds	Kopplin			Natural Resources	1/25/2008	Committee	
881	Impose an excise tax on production of ethanol	Stuthman			Revenue		Committee	
922	Adopt the Cellulosic Biomass Renewable Energy Initiative and impose and change tax	Dubas			Revenue		Committee	
924	Provide for stream flow depletion offset	Fischer			Natural Resources		Committee	
945	Change authority of natural resources district	Pedersen			Natural Resources	1/25/2008	Committee	
946	Impose an excise tax on production of ethanol	Burling			Revenue		Committee	
962	Change public body meeting provisions of the Open Meetings Act	Preister			Government		Committee	
965	Change property tax provisions	Revenue Committee			Revenue	1/24/2008	Committee	
975	Change provisions relating to river-flow enhancement bonds	Wighlman			Natural Resources		Committee	
997	Change provision relating to economic development programs of political subdivision	McDonald			Urban Affairs		Committee	
998	Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund	Gay			Appropriations		Committee	
1002	Require disclosures by group health benefit plan	Pahls			Banking		Committee	



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

January 25, 2008

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 25 NARD Update

LB 701 Court Case – The trial arguments on the constitutional questions surrounding LB 701 were heard on January 24, 2008 at the Lancaster County District Court. Attorneys for the state and NRD's argued that it wasn't tax for state purposes, rather they gave the local NRD's the taxing authority to regulate groundwater usage if they felt it was necessary. The landowners in the suit argued that LB701 is unconstitutional because it creates a tax for state purposes. Judge Paul Merritt Jr. heard the case and indicated he will take some time to make this decision.

Nebraska Unicameral Action

Sent to General File

LB 790 Advances – The Agriculture Committee advanced LB 790 after the hearing on Tuesday, January 22. The bill proposes to increase the maximum payment through the Nebraska Buffer Strip Programs from \$150 to \$250 per acre. NARD submitted a letter in support of the bill and also noted that unless funding for the program is increased, by default the cap will lower the number of acres that can be enrolled. The testimony encouraged senators to consider additional funding from the state level if the same number of acres is desired to be enrolled.

Committee Action

LB 880 -- Provide for watershed enhancement bonds. The Natural Resources committee took no action after the hearing on Friday, January 25. John Winkler, Manager of the Papio-Missouri NRD and the NARD testified in support of the bill. The PMNRD stated that that flooding has increased in the Papio Creek by 25% since 1970 and 35% in further developed areas. In order to meet the future needs of urban development, the PMNRD needs the tools to produce a comprehensive and integrated storm water management plan for the Papillion Creek Watershed.

LB 945 -- Change authority of natural resources districts. The Natural Resources committee took no action after the hearing on Friday, January 25. John Winkler, Manager of the Papio-Missouri NRD, and the NARD testified in opposition to the bill. The bill restricts NRD's from entering into agreements with real-estate entities to purchase property through eminent domain. It was argued that this bill would add unneeded language to already existing state law. LB 924 was passed by the Legislature in 2006 and places restrictions on the use of eminent domain and transfer of property for subsequent use by a commercial for-profit enterprise. In addition, the 1977 Krauter case (199 Neb. 431) states that no more property may be taken by eminent domain than is actually needed for the NRD's presently-planned, public purposes.

New Bills

The following are a few new bills of interest for the NRDs introduced this week. The last day for bill introductions was Wednesday, January 23rd. For more information on introduced legislation, visit the Nebraska Unicameral web-site at www.nebraskalegislature.gov.

LB1061 -- Provide for fees, rebates, and grants relating to electronic equipment recycling. Senator Loudon. The bill establishes a \$3 fee on televisions, computers and computer monitors. Of the fee, \$2.50 would go to the Waste Reduction and Recycling Fund and \$.50 would be retained by the electronic equipment retailer. Beginning in 2009, an electronic equipment retailer who accepts electronic equipment for recycling could receive an annual rebate of one dollar per item of electronic equipment recycled, subject to the following conditions: (a) The total amount of rebates received b) The retailer shall certify the total amount of fees remitted the previous year pursuant to such section; (c) The retailer shall certify the

amount of electronic equipment accepted for recycling; and (d) The retailer shall certify that the electronic equipment accepted for recycling was recycled.

LB1094 -- Change allocation provisions relating to the Nebraska Resources Development Fund. Senator Carlson. Changes provisions under the Nebraska Resources Development Fund to allow funding for drought relief and financial assistance to natural resources districts in the preparation of management plans pursuant to section 46-709 or for the augmentation of river flows as an incentive program pursuant to section 46-739. An additional change would require the NRC members to fund programs as required by the Department of Natural Resources director.

LB1127 -- Change permitted uses of the Water Resources Cash Fund. Senator Christensen. Allows the Water Resources Cash Fund to be used to provide aid to natural resources districts for drought relief assistance and river flow augmentation.

LB1131 -- Authorize a collection fee for collection of a natural resources district occupation tax. Senator Christensen. Clarifies that the county treasurer can collect a fee of one percent of the occupation taxes collected for NRD river flow enhancement bonds.

LB1132 -- Change provisions relating to river-flow enhancement bonds. Senator Christensen. Clarifies that occupation taxes shall be collected in the same time and manner and shall also become delinquent at the same time and manner as general real estate taxes.

LB1150 -- Appropriate funds to the Department of Natural Resources. Senator Langemeier. Increases the funding for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000.

LB1161 -- Appropriate funds to the Department of Natural Resources. Senator Karpisek. Appropriates \$100,000 from the General Fund for FY2007-08 to the Department of Natural Resources, to contract for an environmental study to consider the impact of placement of a flood control dam on the Blue River near Crete.

LB1164 -- Adopt the Wildlife Damage Act. Senator Lautenbaugh. The bill creates a wildlife damage claim program in the Nebraska Game and Parks Commission to provide a cost-share program to counties for abatement and damage claims. Wildlife damage from deer, geese, turkey and elk would be eligible for the program. The counties would be required to have a wildlife damage program for landowners to be eligible for the program. Damages would be paid out up to a maximum of \$15,000.

Hearings next week

LB 881 -- Impose an excise tax on production of ethanol. Senator Stuthman. The bill proposes a 3 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed the Highway Cash Fund (50%), the Highway Allocation Fund (25%) for rural needs and to the Highway Allocation Fund (25%) for municipal needs. **Hearing 1/30. Revenue Committee, 1:30 Room 1524.**

LB 946 -- Impose an excise tax on production of ethanol. Senator Burling. The bill proposes a 2 cent/gallon excise tax on the production of ethanol in the state and would eliminate the corn and sorghum checkoff scheduled to be implemented in 2013 for the water resources programs. **Hearing 1/30. Appropriations Committee, 1:30 Room 1524.**

LB998 -- Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund. Senator Gay. Aimed to identify a plan of development for the six-county region within the Innovation Zone (I-80 Corridor between Lincoln and Omaha). **Hearing 1/31. Appropriations Committee, 1:30 Room 1004.**

LB 1040 -- Impose an excise tax on production of ethanol. Senator Louden. The bill proposes a 1 cent/gallon excise tax on the production of ethanol in the state and would eliminate the corn and sorghum checkoff scheduled to be implemented in 2013 for the water resources programs. **Hearing 1/30. Revenue Committee, 1:30 Room 1524**

LB1061 -- Provide for fees, rebates, and grants relating to electronic equipment recycling. Senator Louden. The bill establishes a \$3 fee on televisions, computers and computer monitors designed to promote electronic recycling. **Hearing 1/31. Natural Resources Committee, 1:30 Room 1525**



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

February 1, 2008

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 1 NARD Update

NARD Legislative Conference – The NARD Legislative Conference will be at the Embassy Suites in Lincoln on February 4 & 5. NRD Delegates will discuss and take positions on the legislative bills pending before the Unicameral. Over 350 individuals involved in protecting the state's natural resources are expected to attend. Participants include Natural Resources Districts Board members, managers, and employees. Also involved are various state and federal resources agencies. Other conference highlights include a Tuesday night reception for senators to visit with conference attendees, and educational and informational sessions provided by different agencies. For meeting information visit www.nrdnet.org or contact the association office.

2007 Water Programs Summary Report. The 2007 Water Programs summary report is completed and can be accessed on the NARD webpage at www.nrdnet.org. The summary report provides up-to-date information on all 23 local Natural Resources Districts' water management activities.

2008 NRD Technician Certification Training and Water Programs Conference. The 2008 Natural Resources Ground Water Technician Certification Training and Water Programs Conference are scheduled for March 3rd and 4th at the Kearney Holiday Inn. The training class is free to all NRD employees but the charge for certification is \$53, payable to the NE Dept. of Health and Human Services by **February 18th**. The cost for the Water Programs conference is \$65 payable to the NARD. Both the technician training and conference are valid for CEU credits. Online registration is available at www.nrdnet.org.

Nebraska Unicameral Action

Hearings this week

Ethanol Tax – Three bills were discussed this week by the Revenue Committee that would impose an excise tax on ethanol production. Senator Stuthman introduced LB 881 which proposes a 3 cent/gallon tax that would go to road funding. Senator Burling introduced LB 946 which proposes a 2 cent/gallon tax for water programs. Senator Loudon introduced LB 1040 which proposes a 2 cent/gallon tax for water programs. Both LB 946 and 1040 would have eliminated the grain check-off scheduled to go into place in 2013 for water programs. No action was been taken on these bills this week.

Hearings next week

Tuesday, February 5, 2008 -- Agriculture Committee; Room 2102, 1:30 PM

- **LB 751 -- Change noxious weed funding provisions relating to stream vegetation removal.** Senator Christensen. The bill expands the area qualified for riparian vegetation management in fully and overappropriated streams from 100 feet to 1,320 feet of the banks of a channel of any natural stream.
- **LB 862 -- Change noxious weeds funding provisions.** Agriculture Committee. The bill proposes to increase funding to the Noxious Weed and Invasive Plant Assistance Fund, which is used to assist county weed programs. On or before October 1, 2008, \$200,000 would be transferred from the Commercial Feed Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund. Beginning January 1, 2009, 2 cents of the existing 10

cent/ton commercial feed inspection fee would be transferred to the Noxious Weed and Invasive Plant Fund. Finally, 25 percent of the sale price of each Weeds of the Great Plains book sold by the Department of Agriculture would be credited to the Noxious Weed and Invasive Plant Species Assistance Fund.

Wednesday, February 6, 2008 -- Natural Resources Committee; Room 1525, 1:30 PM

- **LB 798 -- Change provisions relating to irrigation water reuse pits. Senator Louden.** Changes the definition of a headwater segment of a natural stream to an ephemeral natural stream which would be exempt from state storage and use permits. The definition is further refined as that portion of a natural stream in which water flows only after a precipitation event or when augmented by surface water runoff caused by the pumping of ground water for irrigation. That portion of a natural stream that is shown as an intermittent stream on the most recent United States Geological Survey topographic quadrangle map published prior to the effective date of this act shall be considered an ephemeral natural stream unless the Department of Natural Resources has investigated the stream and determined that the stream or a reach of the stream is perennial or intermittent and subject to Chapter 46, article 2. The department's determination for the purposes of this section shall be adopted and promulgated in rule or regulation.
- **LB 799 -- Change provisions relating to applications to permit transfer of water appropriations. Senator Louden.** Allows for a transfer of surface water for irrigation when there is a change in the point of diversion which meets the following requirements: (i) The new point of diversion is on the same named stream, the same tributary, or the same river or creek as the approved point of diversion; (ii) the proposed point of diversion will not move above or below an existing diversion point owned by another appropriator; and (iii) the proposed point of diversion is not above or below a tributary stream or a constructed river return or a constructed drain.
- **LB 800 -- Change intentional underground water storage permit provisions. Senator Louden.** Allows for all intentional underground water storage projects to charge a fee for withdrawal of water. Existing law prohibits projects existing on August 26, 1983 from charging a fee.
- **LB 801 -- Add a requirement for integrated management plans. Senator Louden.** The bill would require integrated management plans developed for fully and/or overappropriated basins to prevent or offset any increased depletion to the stream resulting from the removal of a surface water appropriation from a tract of land by an adjudication, voluntary relinquishment, or transfer when the land continues to be served by a ground water well.

Wednesday, February 6, 2008 -- Appropriations Committee; Room 1003, 1:30

- **LB 1150 -- Appropriate funds to the Department of Natural Resources. Senator Langemeier.** Increases the funding for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000.
- **LB 1161 -- Appropriate funds to the Department of Natural Resources. Senator Karpisek** Appropriates \$100,000 from the General Fund for FY2007-08 to the Department of Natural Resources, to contract for an environmental study to consider the impact of placement of a flood control dam on the Blue River near Crete.

Thursday, February 7, 2008 -- Natural Resources Committee; Room 1525, 1:30

LB 924 -- Provide for streamflow depletion offsets. Senator Fisher. The bill modifies several statutes relating to water management. It makes five major changes: First, it establishes a clear procedure for natural resources districts to follow to quantify gains to stream flows by integrated

management plans or programs, and acquisition of existing groundwater or surface water uses on a permanent or temporary basis. Second, it modifies the state endangered species act to more closely resemble the federal act. Third, when applying for an instream flow right, the changes would require the Nebraska Game and Parks Commission and the Natural Resources District to agree on an application prior to filing the application with the Department of Natural Resources, no matter which entity initially is seeking the flow right. Fourth, it changes the annual river basin determination procedure by requiring the Department of Natural Resources to review existing surface water rights nonuse prior to the department making a preliminary conclusion that a river basin, subbasin, or reach presently is fully appropriated. If the right has been forfeited or abandoned, the rights would be adjudicated under section 46-229.02. Finally, the bill eliminates the reference all other applicable state or federal laws for the department to consider for determining whether a basin, sub-basin or reach is fully appropriated.

- **LB975 -- Change provisions relating to river-flow enhancement bonds. Senator Wightman.** The bill clarifies limitation of groundwater pumping on acres where surface water has been leased that was passed last year in LB 701. The bill clarifies that the limitation is on the specific acre that was served by the leased or purchased water. It also outlines limitations when groundwater is purchased or leased. The bill outlines four situations and incorporates the changes needed to address the concerns of the existing language as follows:
 - a) Single year NRD groundwater or surface water leases.
 - b) Multiyear NRD groundwater or surface water leases.
 - c) Single year State of Nebraska groundwater or surface water leases.
 - d) Multiyear State of Nebraska groundwater or surface water leases.

Finally, a variance procedure is provided to allow for a landowner to rotate irrigated acres while maintaining the reduction in use.

- **LB 1041 -- Protect certain water purchased or leased for river flow enhancement. Senator Christensen.** Surface water or ground water purchased or leased by the state, or purchased or leased for river-flow enhancement purposes by a natural resources district described in section 2-3226.01, shall be fully protected and accounted for by the Department of Natural Resources from the point of diversion to the intended destination or use of such purchased or leased water, except for normal carriage loss.

On the Federal level

Platte River Cooperative Agreement -- The Senate Energy and Natural Resources Committee yesterday approved legislation to implement the federal share of the Platte River recovery implementation plan. S. 752 – passed out of the committee as HR 1462 - will authorize the Secretary of Interior to proceed with the program and includes \$157 million to carry it out. The cost will be shared 50/50 by the states and federal government. Through the program the states will provide benefits for the endangered and threatened species as well as land, water, and scientific monitoring and research to evaluate benefits of the program. The sponsors of the legislation include United States Senators Ben Nelson, Wayne Allard, Ken Salazar and Chuck Hagel. They all applauded the committee's action as a major step toward final passage of the bill. In late 2006 the Governors of Nebraska, Colorado, and Wyoming and the Department of Interior signed the final program agreement after working together since 1997 to develop a recovery plan that benefits certain species yet allows continued water use and development along the Platte.

NARD Bill Summary Tracking Sheet							Last Updated: 02/01/08				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments			
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government		Held in Committee				
17	Prohibit NRD dual office holding	Mines		Oppose	Government		IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending			
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary		General File				
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations		Held in Committee				
78	Recoverable amounts	Nantkes		Oppose	Judiciary		Held in Committee				
105	Nebraska Forest Service funding	Louden		Support	Appropriations		Held in Committee				
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government		Held in Committee				
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary		Held in Committee	AM13 - Lost			
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources		Sent to Governor for Approval	AM1540 - Adopted ER8139 - Adopted			
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		Select File	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending			
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources		Select File	Incorp. into AM 938 to LB 701			
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs		Held in Committee				
391	Copies of records and speaking at public meetings	Mines		Oppose	Government		General File	AM678-Pending			
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations		General File	AM890 - Pending			
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary		IPP				
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue		IPP	AM 825 - Adopted AM864 to AM825 - Lost AM824 to AM825 - Lost			
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources		IPP				
534	Funding storm water programs	Schimek		Support	Natural Resources		Held in Committee	AM 1579 - Pending			
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		IPP				
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary		IPP				
622	Open Meetings Act training sessions	Pirsch		Monitor	Government		Failed to Advance From GF	AM259 - Adopted			
652	Mandatory energy audits	White		Oppose	Natural Resources		IPP				
724	Change fees under the Remedial Action Plan Monitoring Act.	Nat. Res. Comm.			Natural Resources	1/23/2008	General File				
725	Provide Grant under the Waste Reduction and Recycling Incentive Act.	Nat. Res. Comm.			Natural Resources	1/23/2008	General File				
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.			Natural Resources	2/22/2008	Committee				

751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen				Agriculture	2/5/2008	Committee	
790	Change buffer strip reimbursement provisions	Erdman				Agriculture	1/22/2008	General File	
798	Change provisions relating to irrigation water reuse pits	Louden				Natural Resources	2/6/2008	Committee	
799	Change provision relating to applications to permit transfer of water appropriations	Louden				Natural Resources	2/6/2008	Committee	
800	Change intentional underground water storage permit provisions	Louden				Natural Resources	2/6/2008	Committee	
801	Add a requirement for integrated management plans	Louden				Natural Resources	2/6/2008	Committee	AM1629 - Pending
802	Provide for water diversion during times of flooding	Louden				Natural Resources		Committee	
862	Change noxious weeds funding provisions	Agriculture Committee				Agriculture	2/5/2008	Committee	
880	Provide for watershed enhancement bonds	Kapplin				Natural Resources	1/25/2008	Committee	
881	Impose an excise tax on production of ethanol	Stuthman				Revenue	1/30/2008	Committee	
922	Adopt the Cellulosic Biomass Renewable Energy Initiative and Impose and change taxes	Dubas				Revenue	2/27/2008	Committee	
924	Provide for stream flow depletion offsets	Fischer				Natural Resources	2/7/2008	Committee	
945	Change authority of natural resources districts	Pedersen				Natural Resources	1/25/2008	Committee	
946	Impose an excise tax on production of ethanol	Burling				Revenue	1/30/2008	Committee	
962	Change public body meeting provisions of the Open Meetings Act	Preister				Government	2/13/2008	Committee	
975	Change provisions relating to river-flow enhancement bonds	Wightman				Natural Resources	2/7/2008	Committee	
998	Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund	Gay				Appropriations	1/31/2008	Committee	
1017	Change provisions relating to tax levies members of risk management pools	Reikes				Revenue	2/22/2008	Committee	
1040	Impose an excise tax on production of ethanol	Louden				Revenue	1/30/2008	Committee	
1041	Protect certain water purchased or leased for river flow enhancement.	Christensen				Natural Resources	2/7/2008	Committee	
1049	Change terms for members of the Nebraska Game and Parks Commission	Erdman				Natural Resources		Committee	
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman				Natural Resources		Committee	
1061	Provide for fees, rebates, and grants relating to electronic equipment recycling.	Louden				Natural Resources	1/31/2008	Committee	
1094	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson				Natural Resources		Committee	
1127	Change permitted uses of the Water Resources Cash Fund	Christensen				Natural Resources		Committee	
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen				Natural Resources		Committee	
1132	Change provision relating to river-flow enhancement bonds.	Christensen				Natural Resources		Committee	
1150	Appropriate funds to the Department of Natural Resources	Langemeier				Appropriations	2/6/2008	Committee	
1161	Appropriate funds to the Department of Natural Resources	Karpisek				Appropriations	2/6/2008	Committee	
1164	Adopt the Wildlife Damage Act.	Lautenbaugh				Natural Resources		Committee	

NARD CA & BILL SUMMARY
2008 LEGISLATIVE SESSION

**NARD LEGISLATIVE
CONFERENCE**

EMBASSY SUITES

LINCOLN, NE

February 4 - 6, 2008

Voting Procedures

Tuesday Morning Business Session

- 1) The first session on Tuesday morning will be spent going through the list of bills. Please wait for motions until we are completely through the outline.
- 2) A list of carry-over bills and the NARD position taken from last year will also be provided but will not be reviewed unless a specific request is made on a bill in the list. No vote is required on this list to retain the position on the bill.
- 3) After the Legislative Chairman has finished the outline, districts may make motions to vote on bills individually with a stated position. A second will be required to advance for a vote. Prior to the break for caucus, a motion and a second will be required to accept the balance of the NARD Legislative Committee recommendations. Final votes will be taken after the caucus period.
- 4) Only the voting delegate of the district, or the alternate in the case of the delegates' absence, can make a motion and vote on behalf of a district. Other NRD directors and employees can speak on issues once recognized by the chair.

Tuesday Afternoon Caucus

- 5) Caucus rooms are available in Chancellor Rooms I, II & III on a first come/first serve basis. Please share the rooms and feel free to move chairs as needed. The Atrium area may also be available, but is not reserved specifically for our group. You may also use any part of Regents A, which is the area where the general sessions are.

Tuesday Afternoon Business Session

- 6) At the session following the caucus, votes will be taken on motions made in the morning session. Each district will have five votes and a simple majority is needed to pass a motion. Simple majority is 58 of 115.
- 7) After the individual motions are voted on, and before final action is taken on the remaining NARD Legislative Committee recommendations, a final opportunity to vote on any other bill separately will be provided. Following a second, a majority vote will be required to consider the motion. Again, a simple majority vote will be used to determine whether the motion to take action on that bill passes or fails.
- 8) After a motion and second, a final vote will be taken to accept the recommended position of the NARD Legislative Committee on the remaining bills. A simple majority vote will be used to determine whether this final motion passes or fails.

2008 NARD Voting Delegates
NARD Legislative Conference
February 4 - 6, 2008

District	Delegate's Name	Alternate's Name
<i>Central Platte NRD</i>	Jerry Wiese	Jim Bendfeldt
<i>Lewis & Clark NRD</i>	Dan Kollars	Mary Ann Wortmann
<i>Little Blue NRD</i>	Lyle Heinrichs	Chuck Rainforth
<i>Lower Big Blue NRD</i>	Rodney Skleba	Norman Stokebrand
<i>Lower Elkhorn NRD</i>	Ken Peitzmeier	Bob Huntley
<i>Lower Loup NRD</i>	Dean Rasmussen	Virgil Gellerman
<i>Lower Niobrara NRD</i>	Sterling Schultz	Curt Morrow
<i>Lower Platte North NRD</i>	Dean Johnson	Don Kavan
<i>Lower Platte South NRD</i>	Dan Steinkruger	Doug Samuelson
<i>Lower Republican NRD</i>	Roger Nelson	Nelson Trambly
<i>Middle Niobrara NRD</i>	Dean Jochem	Martin Graff
<i>Middle Republican NRD</i>	Joe Anderjaska	Josh Friesen
<i>Nemaha NRD</i>	Orval Gigstad	Don Siske
<i>North Platte NRD</i>		
<i>Papio-Missouri River NRD</i>		
<i>South Platte NRD</i>	Jim Johnson	Larry Rutt
<i>Tri-Basin NRD</i>	Dave Nelson	Dave Raffety
<i>Twin Platte NRD</i>	Joe Wahlgren	Eric Hansen
<i>Upper Big Blue NRD</i>	Doug Dickinson	Yvonne Austin
<i>Upper Elkhorn NRD</i>	Jerry Heithoff	Dale Wiles
<i>Upper Loup NRD</i>	Judy Ridenour	Eric Storer
<i>Upper Niobrara White NRD</i>	Curt Roth	Tod Dorshorst
<i>Upper Republican NRD</i>	Mike Mosel	Terry Martin

Index			
Bill or CA	Description	Sponsor(s)	Page #
724	Change fees under the Remedial Action Plan Monitoring Act.	Nat. Res.	7
725	Provide Grant under the Waste Reduction and Recycling Incentive Act.	Nat. Res.	6
727	Change provisions relating to hearings conducted by DNR	Nat. Res.	6
751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen	9
790	Change buffer strip reimbursement provisions	Erdman	5
798	Change provisions relating to irrigation water reuse pits	Louden	7
799	Change provision relating to applications to permit transfer of water appropriations	Louden	7
800	Change intentional underground water storage permit provisions	Louden	8
801	Add a requirement for integrated management plans	Louden	8
802	Provide for water diversion during times of flooding	Louden	8
862	Change noxious weeds funding provisions	Agriculture	9
880	Provide for watershed enhancement bonds	Kopplin	5
881	Impose an excise tax on production of ethanol	Stuthman	6
922	Adopt the Cellulosic Biomass Renewable Energy Initiative and Impose and change taxes	Dubas	7
924	Provide for stream flow depletion offsets	Fischer	8
945	Change authority of natural resources districts	Pedersen	6
946	Impose an excise tax on production of ethanol	Burling	6
962	Change public body meeting provisions of the Open Meetings Act	Preister	6
975	Change provisions relating to river-flow enhancement bonds	Wightman	9
998	Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund	Pahls	9
1017	Change provisions relating to tax levies members of risk management pools	Raikes	10
1040	Impose an excise tax on production of ethanol	Louden	6
1041	Protect certain water purchased or leased for river flow enhancement.	Christensen	9
1049	Change terms for members of the Nebraska Game and Parks Commission	Erdman	10
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman	10
1061	Provide for fees, rebates, and grants relating to electronic equipment recycling.	Louden	7
1094	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson	5
1127	Change permitted uses of the Water Resources Cash Fund	Christensen	5
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen	5
1132	Change provision relating to river-flow enhancement bonds.	Christensen	5
1150	Appropriate funds to the Department of Natural Resources	Langemeier	5
1161	Appropriate funds to the Department of Natural Resources	Karpisek	5
1164	Adopt the Wildlife Damage Act.	Lautenbaugh	10

Funding and Taxes

Buffer Strips

LB 790 -- Change buffer strip reimbursement provisions. Senator Erdman. Increases the maximum payment through the Nebraska Buffer Strip Programs from \$150 to \$250 per acre.

Development Fund

LB 880 -- Provide for watershed enhancement bonds. Senator Kopplin. The bill allows the board of directors of a natural resources district encompassing a city of the metropolitan class to issue watershed enhancement bonds to pay costs of design, rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management within the natural resources district issuing such bonds, including flood control and water quality. The bonds would be payable from an annual special watershed enhancement bond levy upon the taxable value of all taxable property in the district. The bond levy is includable in the computation of other limitations upon the district's tax levy.

LB1150 -- Appropriate funds to the Department of Natural Resources. Senator Langemeier. Increases the funding for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000.

LB1161 -- Appropriate funds to the Department of Natural Resources. Senator Karpisek Appropriates \$100,000 from the General Fund for FY2007-08 to the Department of Natural Resources, to contract for an environmental study to consider the impact of placement of a flood control dam on the Blue River near Crete.

Occupation Tax

LB1094 -- Change allocation provisions relating to the Nebraska Resources Development Fund. Senator Carlson. Changes provisions under the Nebraska Resources Development Fund to allow funding for drought relief and financial assistance to natural resources districts in the preparation of management plans pursuant to section 46-709 or for the augmentation of river flows as an incentive program pursuant to section 46-739. An additional change would require the NRC members to fund programs as required by the Department of Natural Resources director.

LB1127 -- Change permitted uses of the Water Resources Cash Fund. Senator Christensen. Allows the Water Resources Cash Fund to be used to provide aid to natural resources districts for drought relief assistance and river flow augmentation.

LB1131 -- Authorize a collection fee for collection of a natural resources district occupation tax. Senator Christensen. Clarifies that the country treasurer can collect a fee of one percent of the occupation taxes collected for NRD river flow enhancement bonds.

LB1132 -- Change provisions relating to river-flow enhancement bonds. Senator Christensen. Clarifies that occupation taxes shall be collected in the same time and manner and shall also become delinquent at the same time and manner as general real estate taxes.

Ethanol Tax

LB 881 -- Impose an excise tax on production of ethanol. Senator Stutman. The bill proposes a 3 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Highway Trust Fund as follows 1) Fifty percent to the Highway Cash Fund for the Department of Roads; 2) Twenty-five percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and 3) Twenty-five percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

LB 946 -- Impose an excise tax on production of ethanol. Senator Burling. The bill proposes a 2 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Water Resources Cash Fund starting in 2009 and eliminate the additional corn and sorghum checkoff that was scheduled to be implemented in 2013.

LB 1040 -- Impose an excise tax on production of ethanol. Senator Louden. The bill proposes a 1 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed through the Water Resources Cash Fund starting in 2013 and eliminate the additional corn and sorghum checkoff that was scheduled to be implemented in 2013.

General Administration

LB 727 -- Change provisions relating to hearings conducted by the Department of Natural Resources. Natural Resources Committee The bill proposes to change the time from 15 days to 30 days for a party to request the Department of Natural Resources to hold a hearing on a final decision made by the department that did not have an original hearing. The bill is a placeholder for DNR and other interested parties party to review the department's regulatory procedures and offer any statutory changes to the process at the hearing. A late hearing will be scheduled to provide time for review.

LB 962 -- Change public body meeting provisions of the Open Meetings Act. Senator Preister. The proposal would prohibit public bodies from requiring that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda.

Land Use & Acquisition

LB 945 -- Change authority of natural resources districts. Senator Peterson. The bill prohibits natural resources districts to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid relates to real property taken by the district through the use of eminent domain.

Solid Waste

LB 725 -- Provide for grants under the Waste Reduction and Recycling Incentive Act. Natural Resources Committee. The bill provides grants from the Waste Reduction and Recycling Incentive program for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. In order to be eligible for grant funding, the recyclable content and structure of such building shall be processed for recycling or reuse.

LB1061 -- Provide for fees, rebates, and grants relating to electronic equipment recycling. Louden. The bill establishes a \$3 fee on televisions, computers and computer monitors. Of the fee, \$2.50 would go to the Waste Reduction and Recycling Fund and \$.50 would be retained by the electronic equipment retailer. Beginning in 2009, an electronic equipment retailer who accepts electronic equipment for recycling could receive an annual rebate of one dollar per item of electronic equipment recycled, subject to the following conditions: (a) The total amount of rebates received b) The retailer shall certify the total amount of fees remitted the previous year pursuant to such section; (c) The retailer shall certify the amount of electronic equipment accepted for recycling; and (d) The retailer shall certify that the electronic equipment accepted for recycling was recycled.

Water Quality

LB 724 -- Change fees under the Remedial Action Plan Monitoring Act. Natural Resources Committee. Lowers the application fee from \$5,000 to \$2,000 for entities that want to apply to the Department of Environmental Quality to monitor remedial action plans. The bill also lowers the additional deposit from \$5,000 to \$3,000 to cover the costs to the department.

LB 922 -- Adopt the Cellulosic Biomass Renewable Energy Initiative and impose and change taxes. Senator Dubas. Creates the Cellulosic Biomass Renewable Energy Board consisting of three members appointed by the Governor. One member shall be appointed from the Nebraska Ethanol Board, one member shall be appointed from the Department of Economic Development, and one member shall be appointed from the Department of Agriculture. Members shall serve at the pleasure of the Governor. The board shall review and approve applications for incentives under the Cellulosic Biomass Renewable Energy Initiative and award incentives within four categories:

- (1) Cost-share grants;
- (2) Loans;
- (3) Production incentives; and
- (4) General grants.

The program would be funded by an excise tax of one cent per one million BTU units is imposed on natural gas imported to Nebraska for industrial use. The tax shall be imposed until the fund reaches \$10 million and resumed when the fund falls below \$5 million.

Water & Wetlands

LB 798 -- Change provisions relating to irrigation water reuse pits. Senator Louden. Changes the definition of a headwater segment of a natural stream to an ephemeral natural stream which would be exempt from state storage and use permits. The definition is further refined as that portion of a natural stream in which water flows only after a precipitation event or when augmented by surface water runoff caused by the pumping of ground water for irrigation. The that portion of a natural stream that is shown as an intermittent stream on the most recent United States Geological Survey topographic quadrangle map published prior to the effective date of this act shall be considered an ephemeral natural stream unless the Department of Natural Resources has investigated the stream and determined that the stream or a reach of the stream is perennial or intermittent and subject to Chapter 46, article 2. The department's determination for the purposes of this section shall be adopted and promulgated in rule or regulation.

LB 799 -- Change provisions relating to applications to permit transfer of water appropriations. Senator Louden. Allows for a transfer of surface water for irrigation when there is a change in the point of diversion which meets the following requirements: (i) The new point of diversion is on the same named

stream, the same tributary, or the same river or creek as the approved point of diversion; (ii) the proposed point of diversion will not move above or below an existing diversion point owned by another appropriator; and (iii) the proposed point of diversion is not above or below a tributary stream or a constructed river return or a constructed drain.

LB 800 -- Change intentional underground water storage permit provisions. Senator Louden. Allows for all intentional underground water storage projects to charge a fee for withdrawal of water. Existing law prohibits projects existing on August 26, 1983 from charging a fee.

LB 801 -- Add a requirement for integrated management plans. Senator Louden. The bill would require integrated management plan developed for fully and/or overappropriated basins to prevent or offset any increased depletion to the stream resulting from the removal of a surface water appropriation from a tract of land by an adjudication, voluntary relinquishment, or transfer when the land continues to be served by a ground water well.

LB 802 -- Provide for water diversion during times of flooding. Senator Louden. The bill allows water to be diverted from a stream for the purpose of alleviating harm to downstream landowners and appropriators during times of flooding upon approval by the department and with the consent of downstream appropriators who may be affected.

LB 924 -- Provide for streamflow depletion offsets. Senator Fisher. The bill modifies several statutes relating to water management.

First, it establishes a clear procedure for natural resources districts to follow to quantify gains to stream flows by integrated management plans or programs, and acquisition of existing groundwater or surface water uses on a permanent or temporary basis. The NRDs would certify the amounts to DNR.

Second, it modifies the state endangered species act to more closely resemble the federal act in two respects: (1) Allows the Nebraska Game and Parks Commission to develop a reasonable and prudent alternative to a project that has been judged to jeopardize the continued existence of a protected species or adversely impacts designated critical habitat. Existing state law does not so provide although the Game and Parks Commission Rules and Regulations allow it. (2) Creates a committee to grant exceptions for projects that may harm a species. However, the project must have great value and there is no reasonable and prudent alternative. Although authorized to the US Fish and Wildlife Service under the federal Endangered Species Act, existing state law does not provide this exemption. It should be noted that under the state law, all federally listed species are also protected by the state law. The state law, however, allows for the listing of species as threatened or endangered that may not meet the federal criteria.

Third, when applying for an instream flow right, the changes would require the Nebraska Game and Parks Commission and the natural resources to agree on an application prior to filing the application with the Department of Natural Resources. The parties would have to work together, no matter which entity initially is seeking the flow right.

Fourth, changes the annual river basin determination procedure by requiring the Department of Natural Resources to review existing surface water rights nonuse prior to the department making a preliminary conclusion that a river basin, subbasin, or reach presently is fully appropriated. If the right has been forfeited or abandoned, the rights would be adjudicated under section 46-229.02.

Finally, the bill eliminates the reference all other applicable state or federal laws for the department to consider for determining whether a basin, sub-basin or reach is fully appropriated. This change eliminates uncertainty and/or interpretation of which other laws to consider.

LB975 -- Change provisions relating to river-flow enhancement bonds. Senator Wightman. The bill clarifies limitation of groundwater pumping on acres where surface water has been leased that was passed last year in LB 701. The bill clarifies that the limitation is on the specific acre that was served by the leased or purchased water. It also outlines limitation when groundwater is purchased or leased. The bill outlines four situations and incorporates the changes needed to address the concerns of the existing language as follows:

- a) Single year NRD groundwater or surface water leases.
- b) Multiyear NRD groundwater or surface water leases.
- c) Single year State of Nebraska groundwater or surface water leases.
- d) Multiyear State of Nebraska groundwater or surface water leases.

Finally, a variance procedure is provided to allow for a landowner to rotate irrigated acres while maintaining the reduction in use.

LB 1041 -- Protect certain water purchased or leased for river flow enhancement. Senator Christensen. Surface water or ground water purchased or leased by the state, or purchased or leased for river-flow enhancement purposes by a natural resources district described in section 2-3226.01, shall be fully protected and accounted for by the Department of Natural Resources from the point of diversion to the intended destination or use of such purchased or leased water, except for normal carriage loss.

Noxious Weeds

LB 751 -- Change noxious weed funding provisions relating to stream vegetation removal. Senator Christensen. The bill expands the area qualified for riparian vegetation management in fully and overappropriated streams from 100 feet to 1,320 feet of the banks of a channel of any natural stream.

LB 862 -- Change noxious weeds funding provisions. Agriculture Committee. The bill proposes to increase funding to the Noxious Weed and Invasive Plant Assistance Fund, which is used to assist county weed programs. On or before October 1, 2008, \$200,000 from the Commercial Feed Administrative Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund. Beginning January 1, 2009, 2 cents of the existing 10 cent/ton commercial feed inspection fee would be transferred to the Noxious Weed and Invasive Plant Fund. Finally, 25 percent of the sale price of each Weeds of the Great Plains book sold by the Department of Agriculture would be credited to the Noxious Weed and Invasive Plant Species Assistance Fund.

Other

LB998 -- Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund. Senator Gay. Appropriates \$150,000 from the General Fund for FY2008-09 to the Nebraska Innovation Zone Commission for the purpose of conducting phase two of a study to identify a plan of development for the six-county region within the Innovation Zone (I-80 Corridor between Lincoln and Omaha). Those counties include and are limited to Lancaster, Cass, Sarpy, Douglas, Saunders, and Washington. The commission or member organizations of the commission shall contribute not less than fifty thousand dollars to the study.

LB 1017 – Change provisions relating to tax levies of members of risk management pools. Senator Raikes. Requires that all costs and expenses associated with membership in a risk management pool, including, but not limited to, standard insurance coverage's, group self-insurance coverage's, assessments levied by the pool, retirement of debt incurred by the pool, and operating expenses of the pool be subject to levy limitations. The proposal would also require that any funds generated for insurance pools or related cost through general obligation bonds would be subject to the levy limitations.

LB 1049 – Change terms for members of the Nebraska Game and Parks Commission. Senator Erdman. The proposal changes the terms for members appointed after January 1, 2009 to a four year term rather than five. The bill also prohibits any person who as served two full terms after January 1, 2009, to be reappointed as a member of the commission.

LB 1050 – Changes the Nebraska Game and Parks to a Code Agency. Senator Erdman. The bill makes the Nebraska Game and Parks Commission a code agency under the governor's office. The commission members would be changed to advisory members and the director of the agency would be appointed by the governor rather than hired by the commission members.

LB1164 -- Adopt the Wildlife Damage Act. Senator Lautenbaugh. The bill creates a wildlife damage claim program in the Nebraska Game and Parks Commission to provide a cost-share program to counties for abatement and damage claims. Wildlife damage from deer, geese, turkey and elk would be eligible for the program. The counties would be required to have an wildlife damage program for landowners to be eligible for the program. Damages would be paid out up to a maximum of \$15,000.

NARD Bill Summary Tracking Sheet										Last Updated: 01/25/08				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments						
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government		Held in Committee							
17	Prohibit NRD dual office holding	Mines		Oppose	Government		IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending						
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary		Held in Committee							
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations		Held in Committee							
78	Recoverable amounts	Nanikes		Oppose	Judiciary		Held in Committee							
105	Nebraska Forest Service funding	Louden		Support	Appropriations		Held in Committee							
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government		Held in Committee							
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary		Held in Committee							
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources		Held in Committee	AM113 - Lost AM1540 - Adopted AM123 - Adopted AM 156 - Withdrawn AM398 - Pending						
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources		Select File							
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources		Select File	Incorp. into AM 938 to LB 701						
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs		Held in Committee							
391	Copies of records and speaking at public meetings	Mines		Oppose	Government		General File	AM678-Pending						
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations		General File	AM890 - Pending						
448	Extend timeframe for filing lawsuits against political subdivisions	Ashtford		Oppose	Judiciary		Held in Committee							
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue		IPP pending, Laid Over	AM 825 - Adopted AM864 to AM825 - Lost AM824 to AM825 - Lost						
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources		Held in Committee							
534	Funding storm water programs	Schimek		Support	Natural Resources		Held in Committee	AM 1579 - Pending						
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary		Held in Committee							
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary		Held in Committee							
622	Open Meetings Act training sessions	Pirsch		Monitor	Government		Failed to Advance From GF	AM259 - Adopted						
652	Mandatory energy audits	White		Oppose	Natural Resources		Held in Committee							
724	Change fees under the Remedial Action Plan Monitoring Act.	Nat. Res. Comm.			Natural Resources	1/23/2008	Committee							
725	Provide Grant under the Waste Reduction and Recycling Incentive Act.	Nat. Res. Comm.			Natural Resources	1/23/2008	Committee							
727	Change provisions relating to hearings conducted by DNR	Nat. Res. Comm.			Natural Resources		Committee							

751	Change noxious weed funding provisions relating to stream vegetation removal	Christensen				Agriculture	2/5/2008	Committee	
790	Change buffer strip reimbursement provisions	Erdman				Agriculture	1/22/2008	General File	
798	Change provisions relating to irrigation water reuse pits	Louden				Natural Resources		Committee	
799	Change provision relating to applications to permit transfer of water appropriations	Louden				Natural Resources		Committee	
800	Change intentional underground water storage permit provisions	Louden				Natural Resources		Committee	
801	Add a requirement for integrated management plans	Louden				Natural Resources		Committee	AM1629 - Pending
802	Provide for water diversion during times of flooding	Louden				Natural Resources		Committee	
862	Change noxious weeds funding provisions	Agriculture Committee				Agriculture	2/5/2008	Committee	
880	Provide for watershed enhancement bonds	Kopplin				Natural Resources	1/25/2008	Committee	
881	Impose an excise tax on production of ethanol	Stuhman				Revenue	1/30/2008	Committee	
922	Adopt the Cellulosic Biomass Renewable Energy Initiative and impose and change taxes	Dubas				Revenue		Committee	
924	Provide for stream flow depletion offsets	Fischer				Natural Resources		Committee	
945	Change authority of natural resources districts	Pedersen				Natural Resources	1/25/2008	Committee	
946	Impose an excise tax on production of ethanol	Burling				Revenue	1/30/2008	Committee	
962	Change public body meeting provisions of the Open Meetings Act	Preister				Government		Committee	
975	Change provisions relating to river-flow enhancement bonds	Wightman				Natural Resources		Committee	
998	Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund	Gay				Appropriations	1/31/2008	Committee	
1017	Change provisions relating to tax levies members of risk management pools	Raikes				Revenue		Committee	
1040	Impose an excise tax on production of ethanol	Louden				Revenue	1/30/2008	Committee	
1041	Protect certain water purchased or leased for river flow enhancement.	Christensen				Natural Resources		Committee	
1049	Change terms for members of the Nebraska Game and Parks Commission	Erdman				Natural Resources		Committee	
1050	Changes the Nebraska Game and Parks to a Code Agency	Erdman				Natural Resources		Committee	
1061	Provide for fees, rebates, and grants relating to electronic equipment recycling.	Louden				Natural Resources	1/31/2008	Committee	
1094	Change allocation provisions relating to the Nebraska Resources Development Fund	Carlson				Natural Resources		Committee	
1127	Change permitted uses of the Water Resources Cash Fund	Christensen				Natural Resources		Committee	
1131	Authorize a collection fee for collection of natural resources district occupation tax	Christensen				Natural Resources		Committee	
1132	Change provision relating to river-flow enhancement bonds.	Christensen				Natural Resources		Committee	
1150	Appropriate funds to the Department of Natural Resources	Langemeier				Appropriations		Committee	
1161	Appropriate funds to the Department of Natural Resources	Karpisek				Appropriations		Committee	
1164	Adopt the Wildlife Damage Act.	Lautenbaugh				Natural Resources		Committee	

Important Information About Your Workers Compensation Insurance

Dear Policyholder:

The National Council on Compensation Insurance, Inc. (NCCI), headquartered in Boca Raton, Florida, is the nation's largest information company serving the workers compensation marketplace. We provide information services to state funds, self-insureds, independent bureaus, insurance agents, regulatory authorities, insurance companies and employers like you.

A copy of your current experience rating worksheet is enclosed. NCCI calculates your rating annually on behalf of the insurance industry. The experience rating modifier, detailed on this worksheet, is one of the factors used to calculate your workers compensation insurance premium. A copy of your worksheet will be sent to you each year as part of NCCI's continuing efforts to increase employer awareness of safety in the workplace and its impact not only on your employees, but on your bottom line. Please remember, SAFETY in the workplace is one of the best ways to reduce workers compensation insurance costs.

Your experience rating factor can be found in the bottom right corner of the worksheet. A factor higher than 1.00 means your premium will be higher than that of the average company in your category. For example, a factor of 1.10 means your base premium will be surcharged 10 percent. A factor of .90 means you have earned a 10 percent credit on your base premium.

Many items impact your final experience factor including your payroll classification(s), your payroll, the frequency of injuries to your employees, and the dollar value of those injuries (the amount of medical and lost wage benefits paid to your injured employees as well as the amount of money held in reserve to pay continuing benefits). This information is reported to NCCI annually by your insurer.

If you have any questions regarding your experience rating, you should contact your insurance agent or insurance company for assistance. It is also recommended that you retain this worksheet for your files and for comparison to future annual calculations.



WORKERS COMPENSATION EXPERIENCE RATING

PAPIO MISSOURI RIVER NATURAL RESOURCES DISTRICT

NAME
OF
RISK

EFFECTIVE DATE 07/01/07

RISK IDENT. NO 260213776

STATE NEBRASKA

1 CODE	2 ELR	3D- RATI	4 PAYROLL	5 EXPECTED LOSSES	6 EXP PRIM LOSSES	7 CLAIM DATA	8 O IJ F	9 ACT INC LOSSES	10 ACT PRIM LOSSES
CARRIER 11347	POLICY NO	6KUB895X8	69703	EFF-DATE	07/01/03	EXP-DATE	07/01/04		
5606	174	18	190088	3308	595				
6217	357	17	300385	10724	1823				
7520	219	18	68662	1504	271				
8742	024	18	404598	971	175				
8810	016	20	894400	1431	286				
9102	195	18	244576	4769	858				
9807	ADDITIONAL PREMIUM	(	0)	(	0)				
9102	195	18	30822	601	108				
POLICY-TOTAL			2133531	(SUBJECT PREMIUM =	87681	)		0	
CARRIER 11347	POLICY NO	6KUB895X8	69704	EFF-DATE	07/01/04	EXP-DATE	04/04/05		
5606	174	18	167500	2915	525				
6217	357	17	239414	8547	1453				
7520	219	18	59590	1305	235				
8742	024	18	345603	829	149				
8810	016	20	775562	1241	248				
9102	195	18	198198	3865	696				
9807	ADDITIONAL PREMIUM	(	0)	(	0)				
9102	195	18	25269	493	89				
POLICY-TOTAL			1811136	(SUBJECT PREMIUM =	84415	)		0	
CARRIER 15172	POLICY NO	WC9685292		EFF-DATE	04/01/05	EXP-DATE	07/01/05		
5606	174	18	104152	1812	326				
6217	357	17	127066	4536	771				
7520	219	18	23054	505	91				
8601	038	18	6951	26	5				
8742	024	18	23369	56	10				
8810	016	20	294379	471	94				
9102	195	18	63596	1240	223				
9807	ADDITIONAL PREMIUM	(	0)	(	0)				
9102	195	18	7968	155	28				
POLICY-TOTAL			650535	(SUBJECT PREMIUM =	22640	)		0	
CARRIER 15172	POLICY NO	WC9686380		EFF-DATE	07/01/05	EXP-DATE	07/01/06		
5606	174	18	446267	7765	1398	NO 3	6 *	1418	1418
6217	357	17	306149	10930	1858				
7520	219	18	83404	1827	329				
8601	038	18	97538	371	67				
8742	024	18	195636	470	85				
8810	016	20	949732	1520	304				
	(A)	(B)	(C) EXPECTED EXCESS (D-E)	(D)	(E)	(F) ACTUAL EXCESS (H-I)	(G)	(H)	(I)

* Total by Policy Year of all cases \$2,000 or less.

Limited loss.

C Catastrophic loss.

D Disease Loss.

E Employers Liability Loss.

(11) PRIMARY LOSSES (12) STABILIZING VALUE (13) RATABLE EXCESS (14) TOTALS

PAGE NUMBER 1

DATE 01/21/08

ACTUAL	(II)	(CI) X (I-W) + (GI)	(AI) X (F)	(JI)
EXPECTED	(IE)		(AI) X (CI)	(KI)

(15) EXP.MOD.

(LJ) / (K)

** COPYRIGHT, 1993-2006. ALL RIGHTS RESERVED ** THIS EXPERIENCE MODIFICATION FACTOR IS COMPRISED OF COMPILATIONS AND INFORMATION WHICH ARE THE PROPRIETARY AND EXCLUSIVE PROPERTY OF NCCI. NO FURTHER USE, DISSEMINATION, SALE, TRANSFER, ASSIGNMENT OR DISPOSITION OF THIS EXPERIENCE MODIFICATION FACTOR OR ANY PART THEREOF MAY BE MADE WITHOUT THE WRITTEN CONSENT OF NCCI. NCCI MAKES NO REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER INCLUDING BUT NOT LIMITED TO THE ACCURACY OF ANY INFORMATION, PRODUCT OR SERVICE FURNISHED HEREUNDER AND, AS TO NCCI, RECIPIENT OF THIS EXPERIENCE MODIFICATION FACTOR SUBSCRIBES TO AND UTILIZES THE INFORMATION SERVICE "AS IS".

000830/000002 C09WU



WORKERS COMPENSATION EXPERIENCE RATING

PAPIO MISSOURI RIVER NATURAL RESOURCES DISTRICT

NAME
OF
RISK

RISK IDENT. NO 260213776

EFFECTIVE DATE 07/01/07

STATE NEBRASKA

1 CODE	2 ELR	3 D-RATI	4 PAYROLL	5 EXPECTED LOSSES	6 EXP PRIM LOSSES	7 CLAIM DATA	8 O IJ F	9 ACT INC LOSSES	10 ACT PRIM LOSSES
9102	195	18	499049	9731	1752				
9807	ADDITIONAL PREMIUM			(0)	(0)				
9102	195	18	37584	733	132				
POLICY-TOTAL			2615359	(SUBJECT	PREMIUM =	100953	)	1418	
RATING REFLECTS A DECREASE OF 70% MEDICAL ONLY PRIMARY AND EXCESS LOSS DOLLARS WHERE ERA IS APPLIED									
***** **** REVISED RATING **** *****									
RATING REFLECTS A CLASS CODE CHANGE IN THE STATE OF NE FROM 9015 TO 9102									
(ARAP) IF APPL : 1 00									
(A)	(B)	(C) EXPECTED EXCESS (D-E)	(D)	(E)	(F) ACTUAL EXCESS (H-I)	(G)	(H)	(I)	
013		69667	84651	14984	0	22750	425	425	

* Total by Policy Year of all cases \$2,000 or less.

Limited loss.

C Catastrophic loss.

D Disease Loss.

E Employers Liability Loss.

(11) PRIMARY LOSSES (12) STABILIZING VALUE (13) RATABLE EXCESS (14) TOTALS

ACTUAL	(I)	(C) X (1-W) + (G)	(A) X (F)	(J)
	425	83360	0	83785
EXPECTED	(E)	(A) X (C)	(K)	
	14984	83360	9057	107401

(15) EXP. MOD.

(J) / (K)

0 78

PAGE NUMBER 2

DATE 01/21/08

** COPYRIGHT, 1993-2006. ALL RIGHTS RESERVED ** THIS EXPERIENCE MODIFICATION FACTOR IS COMPRISED OF COMPILATIONS AND INFORMATION WHICH ARE THE PROPRIETARY AND EXCLUSIVE PROPERTY OF NCCI. NO FURTHER USE, DISSEMINATION, SALE, TRANSFER, ASSIGNMENT OR DISPOSITION OF THIS EXPERIENCE MODIFICATION FACTOR OR ANY PART THEREOF MAY BE MADE WITHOUT THE WRITTEN CONSENT OF NCCI. NCCI MAKES NO REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER INCLUDING BUT NOT LIMITED TO THE ACCURACY OF ANY INFORMATION, PRODUCT OR SERVICE FURNISHED HEREUNDER AND, AS TO NCCI, RECIPIENT OF THIS EXPERIENCE MODIFICATION FACTOR SUBSCRIBES TO AND UTILIZES THE INFORMATION SERVICE "AS IS".

000830/000003 C09WU



SEA OF ICE CUBES: Platte River flooding in 1978 swamped this farm southwest of Valley. The flood caused \$240 million in losses in eastern Nebraska.

THE WORLD-HERALD

'78 Stacks Up as the Big One of Ice Jams

Conditions Not Ripe For Repeat in 1993

2-15-93

BY JAMES IVEY
WORLD-HERALD STAFF WRITER

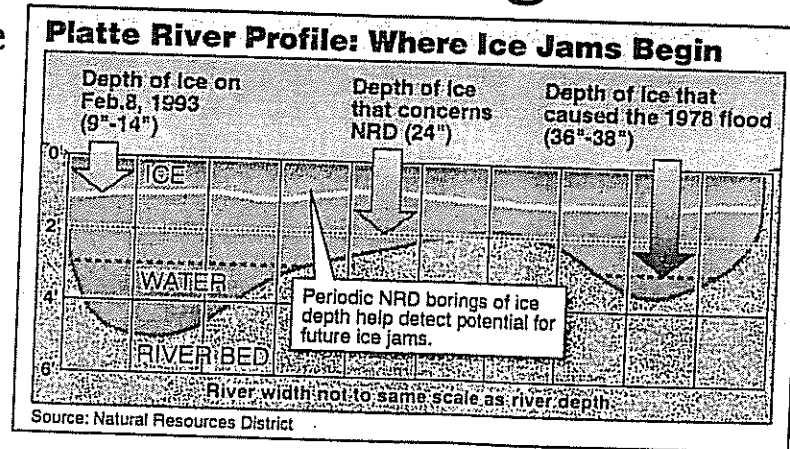
Fifteen years ago, Jack Paulson stood ankle-deep in the dull black mud of his farm between Valley, Neb., and the Platte River, stared at the charnel house that had been his hog confinement operation and wondered whether he should stay in the business.

The 700 dead hogs, victims of the 1978 Platte River ice jam flood, didn't dishearten him. He went back into the business. Paulson, who died seven years ago, always considered himself lucky because the Paulson home wasn't destroyed, a son said recently.

"It was a huge loss, but I heard him say later he really felt sorry for those who lost everything in that flood," said the son, Seth, now in farm management in the area.

Considered the worst flood in modern Platte history, it occurred at night after the Union Dike broke. Eastern Nebraska from Fremont to the Platte-Missouri River confluence sustained a total of \$240 million in losses, including \$60 million in the Valley area.

"That river went places it never had



gone before," said Valley Mayor John "Don" Johnson, a longtime conservationist and a former board member of the Papio-Missouri River Natural Resources District.

The 10-mile-long Union Dike today is 10 feet higher and, in places, 60 feet thicker than in 1978. State and area officials predict that ice-jam flooding, which happens almost every year along the Platte, won't be nearly as bad this year because the ice on the river isn't deep.

An isolated area in Saunders County, including Thomas Lakes and lowlands at the Nebraska National

Guard's Camp Ashland, are under water now.

Ice-jam floods on the Platte River aren't new. Steve Oltmans, general manager of the Papio-Missouri River NRD, says ice obstructions caused eight of the 21 worst Platte floods in eastern Nebraska this century.

The nature of the Platte subjects it to jamming, said Lu Kubicek, Nebraska water resources chief engineer. It has a braided bed and a meandering channel, leaving many sandbars. That means under certain circumstances — an early, hard freeze, for example — Platte ice deepens and can freeze to the

sandbars.

It becomes an "ice bridge," said Marlin Petermann, assistant NRI manager.

When that happens, if ice upstream loosens first, it can become wedged against the ice frozen to the sandbars, enlarging and deepening the bridge, he said. The blocking gradually increases shutting down and sometimes stopping the flow of water in the bed.

The NRD checks Platte ice levels every winter. This year, Oltmans said, borings have shown the Platte ice depth to be only 9 to 14 inches thick, leaving more flow space.

When ice is 2 feet thick, it can freeze to the sandbars and, he said, "we begin to worry more."

The winter of 1978 was extremely cold. In January, temperatures rarely were above freezing and hovered at zero for many days. That left Platte ice 36 to 38 inches deep, with a very small flow space, Oltmans said.

Even with shallow freezing, eastern Nebraska can have some lowland flooding, as it has this winter. During warming this January, Elkhorn River ice broke up and moved into the Platte near the Douglas-Sarpy County line. The Elkhorn ice caught in Platte

Please turn to Page 11, Col. 1

'78 Stacks Up as the Big One of Ice Jams

Continued from Page 9

ice and backed up the river.

The officials consider the 1978 flood the standard ice-jam flood.

North Bend and Fremont were threatened first that year when the Loup River above that area ran over its banks. The Platte, blocked with its own ice and Loup River ice, broke through a dike near North Bend and followed U.S. Highway 30 east, Fremont City Administrator Jack Sutton said.

At a roadway leading south to the Platte, Sutton said, the city quickly banked sandbags and earth and diverted the out-of-channel flow back to the river.

"Probably we sent it on to Valley.

They got the worst of it," said Sutton.

At Valley, the sturdy 3-foot ice bridge blocked other ice traveling downstream. The channel clogged.

The Platte left its banks, strained at the 78-year-old Union Dike north of Valley, topped it and finally breached it during the night, forcing the evacuation of 1,600 people.

Because the Platte River is 17 feet higher than the Elkhorn River in western Douglas County, the Platte tried to form a new channel eastward toward the Elkhorn. The water swept through Valley, the Paulson place and many other farms that March 20.

The trouble spots along the Platte change over the years because the river

channel changes, said Kubicek, the state's chief engineer of water resources. The worst stretch, he said, is the river's 35-mile swing from the Valley area between Douglas and Sarpy Counties on the east and north banks and Saunders and Cass Counties on the south banks.

There, Kubicek said, the Platte is carrying its own ice plus the ice it has received late each winter from the systems of the Loup and Elkhorn Rivers.

Other factors that contribute to or cause ice jam floods are obstructions such as bridge supports, heavy snow, rapid thaws or heavy rain. The 1978 flood was caused by a hard winter followed by warm nights and daytime highs of 50 to 60 degrees.

Valley residents are being assessed to pay for 90 percent of the \$1.8 million improvement of Union Dike. It has been built up about 10 feet, and a 60-foot berm, or shelf, outside the dike has been added to strengthen it.

As a result, Valley Mayor Johnson said, some residents are thinking about dropping their flood insurance. He said he feels good about the dike work but advises against dropping insurance.

Seth Paulson also is confident about the dike. But the stories still circulate about the 1978 flood.

"If the dike blows again," he said, "I don't want to be anywhere around."

FYI - Public Pulse Letter, OWH, January 4, 2008

Resolve water issues (OWH LTE, 1-04-08)

All is not well on the Republican River waterfront. There is a huge misunderstanding that our inability to comply with Kansas has nothing to do with the Republican River farmers or irrigation but, rather, with the drought and the 500,000 acre-feet of water retained in Kansas terraces and farm ponds.

Nebraska should simply have paid what was needed to comply with supplying enough water to Kansas rather than challenging the issue. The cost would have been only \$11.86 per acre. Most property owners wouldn't have objected to that.

The water problem with Kansas will never go away as long as those who agreed with accounting procedures in 2002 are still here.

With a Nebraska governor who seems to govern water by whichever way the political winds blow, it makes sense that natural resources districts should control the surface water and groundwater so the right hand knows what the left is doing.

The NRDs should act without prejudice to farmers. These districts have the data to regulate fairly without caving in to special-interest groups.

Mike Dobesh, Wood River, Neb.

Choosing their own

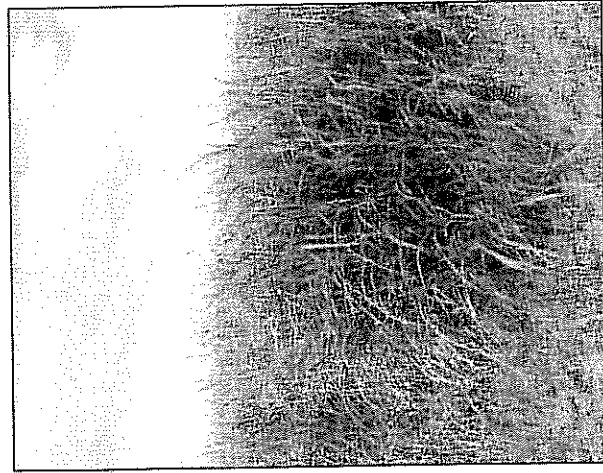
I'd like to thank the Washington and Douglas County boards for approving their own stormwater management policies.

We urge the cities that have joined the Papio-Missouri River Natural Resources District's watershed partnership to call their county board members and ask them why these two counties chose their own policies over the NRD's policy.

W - H Tim and Tracey Dreessen
1-4-08 Bennington, Neb.

UNL report touts switch grass

1-8-07



Switch grass is a tall, warm-season pasture grass that can be cut for hay.

■ Ethanol made from the perennial crop provides a greater energy gain than corn.

By BILL HORD
WORLD-HERALD BUREAU

LINCOLN — Ethanol made from switch grass can provide five times more energy than is consumed in the growing and refining processes, according to five years of research at the University of Nebraska-Lincoln.

The research — reported Monday by the National Academy of Sciences — is the most extensive ever conducted on the potential to grow switch grass for energy. The report offers a positive outlook for cellulosic biofuels.

The study indicates an energy

gain of 540 percent when processing switch grass into ethanol, compared to 130 percent to 140 percent for corn.

The energy calculations take into account all products used in production, including fertilizer and diesel fuel.

Switch grass is a tall, warm-season pasture grass that can be cut for hay. When grown for fuel production, producers allow it to reach flowering stage and cut it only once a year.

The study also found that greenhouse gas emissions from ethanol made with switch grass were 94 percent lower than emissions from gasoline production.

Key researcher Ken Vogel, a geneticist for the U.S. Department of Agriculture working at UNL, said he has been bombarded with media inquiries from around the world since the academy announced last week that the report would be published.

"This clearly demonstrates that switch grass is not only energy-efficient, but can be used in a renewable biofuel economy to reduce reliance of fossil fuels, reduce greenhouse gas emissions and enhance rural economies," Vogel said.

The report comes as the United States initiates a new energy policy that mandates the annual use of 15 million gallons of corn-based ethanol by 2012 and

See *Ethanol*: Page 2

Ethanol: Switch grass fares well

Continued from Page 1
22 billion gallons of biomass-based biofuels by 2022.

"The timing (of the report) is excellent," said Todd Sneller, administrator of the Nebraska Ethanol Board. "The question now is can we process this into economic ethanol."

Also in 2007, the U.S. Department of Energy awarded grants totaling \$385 million to help build six commercial-scale biomass refineries to continue the research.

In the future, Vogel said, biofuels from perennial crops like switch grass, crop residues and forestry biomass could replace 30 percent of current U.S. petroleum consumption.

Vogel said the first UNL-USDA study focused on energy efficiency in the farm pro-

duction of switch grass.

The grass was grown on 10 fields of up to 20 acres each starting in 2000 and 2001. Only marginal land was used, the kind that typically would be set aside in the Conservation Reserve Program.

"The intent is not to replace food and feed crops," Vogel said.

Switch grass grown on the marginal fields produced an average of 300 gallons of ethanol per acre, compared to average ethanol yields of 350 gallons per acre of corn.

UNL was chosen as a site for the research in part because of its long history studying switch grass. Those studies began in the 1930s in an effort to develop it as a pasture grass.

A follow-up report in a differ-

ent journal will analyze the economics of growing and storing switch grass on the farm, Vogel said.

"That report will also be very positive," he said.

Ken Cassman, director of the UNL Center for Energy Sciences Research, said Monday's report was "landmark" because it documents the potential for production of switch grass for biofuels.

"This justifies further investment," Cassman said.

Cellulosic ethanol production should not jeopardize corn-based ethanol production, Cassman said.

"The only major threat to corn ethanol is corn prices," Cassman said. "I think if prices were to spike to \$5 and above and stay there, it's a problem."

Lines are drawn in water tax case

By DAVID HENDEE

WORLD-HERALD STAFF WRITER

All Nebraskans should share the responsibility — including new taxes — for meeting the state's obligation to share Republican River water with Kansas, lawyers for Republican basin landowners will argue in court this month.

Not necessarily, Attorney General Jon Bruning says.

The new property taxes assessed to manage water in the Republican basin are used for substantially local — not state — purposes, Bruning said in written legal arguments released Tuesday.

The case is scheduled for trial Jan. 24. The two sides revealed their legal positions in papers filed in Lancaster County District Court.

Nine residents of the Republican basin sued the state and others, contending that new property taxes aimed at meeting Nebraska's water agreement with Kansas unfairly target only residents of the river basin.

At issue is the constitutionality of Legislative Bill 701, a new water management law passed by the Legislature last year.

The law gave three Republican basin natural resources districts authority to levy property taxes to issue bonds to lease or buy water from basin irrigation districts, then release that water to Kansas.

Bruning argues that LB 701 allows the Upper, Middle and Lower Republican NRDs to tax residents, but it's up to the locally elected NRD boards, not the state, to decide whether to levy those taxes.

A tax is one — but not the only — water management tool at their disposal, he said, noting that the districts could instead impose stricter pumping limits on local farmers to improve river flows.

The landowners, in their arguments, say the Nebraska Constitution prohibits the state from levying a property tax for state purposes. They say the new property taxes are for "complying with the state's obligation to meet the terms of the Republican River Compact."

The landowners said that if Kansas sues and wins a judgment, the whole state — not just basin residents — would be liable for damages.

Grassland wave of future for state?

80-8-1

As I was stealing bacon off Rep. Lee Terry's plate during breakfast some months ago, he began talking about something called "switch grass."

"It's the future," Terry said as I stuffed my mouth with his food. "It answers so many of those hard questions about today's ethanol."

The idea is quite simple: Switch grass, like corn, can be turned into ethanol.

But while corn needs outrageous amounts of water and chemicals to grow, switch grass, like the mid- and tall-grass prairies plowed under by pioneers to plant corn, needs very little human intervention.

A study released this week by University of Nebraska-Lincoln researchers suggests Terry's grass-covered land is no pie in the sky.

A five-year study led by researcher Ken Vogel showed that switch grass can provide five times more energy than is consumed in the growing and refining process.

Corn, on the other hand, provides only a 130 percent to 140 percent energy gain.



Robert Nelson

Also, greenhouse gas emissions from ethanol made with switch grass were 94 percent lower than emissions from gasoline production.

"This clearly demonstrates that switch grass is not only energy-efficient, but can be used in a renewable bio-fuel economy to reduce reliance on fossil fuels, reduce greenhouse gas emissions and enhance rural economies," Vogel told World-Herald reporter Bill Hord.

All this without devastating the state's surface and ground-water stores, as corn production has done.

"If we could plant switch grass in the drier regions of the state," Terry said in a phone call Tuesday, "we could go a long way toward balancing our water use."

Now that the research is in, the trick for scientists will be creating an affordable way to get the energy from the switch grass.

To do that, the state's congressional delegation, which "is already working together to push for this," Terry said, will need to keep the grant money flowing toward UNL for research.

Then, Terry said, all the state's leaders will need to work on a comprehensive plan to get the new industry up and running.

"There will need to be a plan for getting the farmers growing it, the investors putting the plants up, for getting the transportation issues figured out, for building the infrastructures," he said. "It's going to take some real work. But it's definitely worth it."

Vogel and other researchers estimate that Nebraska could have a viable switch-grass energy industry by 2020.

Terry said he's shooting for 2015.

Seven years? Is that possible?

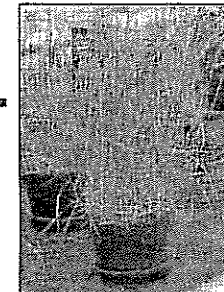
"If we focus on it, I think we can do it," he said.

I'm certainly pulling for him. While corn-based ethanol has been a boon for farmers and a good start toward energy independence, it demands huge amounts of natural resources to produce.

Imagine much of central and western Nebraska looking like it did in Willa Cather's and Mari Sandoz's time while at the same time producing green, renewable energy that helps wean America off foreign oil.

"It's exciting, isn't it?" Terry said.

Actually, yes.



THE ASSOCIATED PRESS

Switch grass, which needs little help to grow, makes a more efficient source for ethanol.

Bruning's office defends tax authority for NRDs

A law passed last year by Legislature lets the boards set property taxes to buy water to send to Kansas.

1-9-08
BY NATE JENKINS
The Associated Press

LINCOLN — The state is ready for a court fight over a water law that affects thousands near the Republican River and is being challenged by residents who say it illegally puts a state responsibility in the lap of local taxpayers.

In court briefs released Tuesday, Attorney General Jon Bruning's office paints the law as more than just a way to comply with a three-state river compact that includes Kansas and Colorado. Nebraska has overused its allotment of river water under the compact and Kansas has grown impatient, with officials there recently suggesting they're ready for a legal showdown and demanding both money and sharp cuts in water use.

"The property tax provision in LB701 is constitutional because the tax is to be levied for substantially local purposes," says the state's brief, which offers the first glimpse of how the state plans to defend the water law.

The law was passed last year by the Legislature. It lets NRD boards set property taxes that can be used

to buy water to send to Kansas, among other things.

"Revenues ... will fund programs to acquire water rights and enhance river flows to maximize the available water supply and the beneficial use of available water by local users."

The state acknowledges the law also has a state purpose — to get into compliance with the compact — but also says that "the fact that property taxes are used to fund activities which achieve both state and local purposes does not render the property tax unconstitutional."

The brief goes on to point out that the decision of whether to levy taxes "rests solely with the ... NRDs."

The arguments contrast sharply with those from plaintiffs. Their lawsuit has postponed total payments of nearly \$9 million to farmers who agreed to send water down the river to Kansas instead of irrigating their crops last year.

Nine residents of the Republican basin who filed the lawsuit in Lancaster County District Court say the property taxes aimed at helping meet the state compact unfairly target only residents of the basin. That, they say, violates an article in the state constitution that says the state "shall be prohibited from levying a property tax for state purposes."

A trial is scheduled for later this month.

The legal brief prepared by plaintiffs' attorneys contains many

quotes from state senators and officials who spoke last year about how the law could help the state get in compliance with the compact. The quotes are meant to show the law was solely designed to help meet the compact and doesn't also have local purposes as claimed by the state.

"The legislative history of LB701 is replete with references to compact compliance," says the brief from the plaintiffs.

Besides authorizing a property tax for state purposes, plaintiffs also say the law creates an illegal "closed class" of natural resources districts with taxing authority and confines taxes that benefit the whole state to one group.

Last year, the state Supreme Court declined to consider the lawsuit.

Under the water compact, signed in 1943, Nebraska gets 49 percent of the water in the basin, Kansas 40 percent and Colorado 11 percent. After Kansas claimed Nebraska had violated the compact, a settlement was reached in 2002 that gave Nebraska time to make changes in its water management program.

In 2007 and this year, Nebraska is expected to be under its water-use limit for the first time since the settlement was reached. But the state is still expected to be declared out of overall compliance with the compact, which is measured in five-year increments.

2 agencies to manage lower Platte

By DAVID HENDEE
WORLD-HERALD BUREAU

1-11-08

LINCOLN — Two state agencies are working on a way to manage the lower Platte River when conflicts arise between using water for development and preserving wildlife.

The Nebraska Game and Parks Commission says a 100-mile stretch of the Platte — from Columbus to its mouth at the Missouri River — can't suffer further withdrawals of water without jeopardizing the habitat and endangered and threatened species.

The Nebraska Department of Natural Resources, which says "yes" or "no" to applications from those seeking the Platte's water, is nearing a final decision on whether the river has enough water to meet current needs.

The department's preliminary determination is that the river does have sufficient water. However, Game and Parks officials say there is no extra water in the lower Platte.

Ann Bleed, director of the Natural Resources Department, said Thursday that the two agencies have agreed on how to use a Game and Parks study in determining how any future requests for river water might affect wildlife habitat.

Game and Parks officials say no further withdrawals of river water should be allowed to protect the habitat for three species — the pallid sturgeon, least tern and piping plover.

"The ultimate decision on issuing a permit is the (Natural Resources) department's, but we're going to be working with Game and Parks," Bleed said during a meeting with Game and Parks officials and members of the Lower Platte Basin Coalition.

The coalition includes natural resources districts, irrigators and cities that fear designating the river off-limits to new users could hinder future development in the region.

The three groups plan to meet again in March.

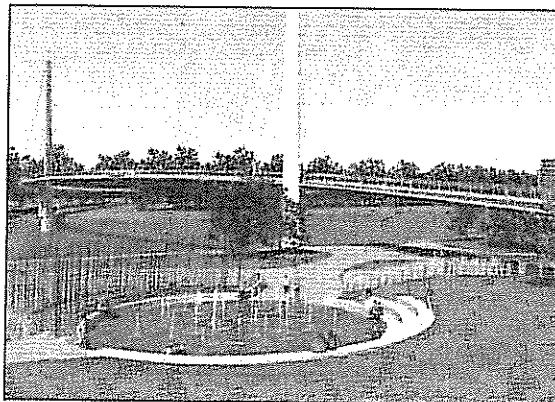
Donors bridge funding gap for plaza

■ Omaha's entrance to the Missouri River span will include a sculpture, water feature and playground.

By C. DAVID KOTOK
WORLD-HERALD STAFF WRITER

The river critters are on order and plans are in place for the water spouts as fundraising nears completion for the \$2 million plaza at the base of the new Missouri River pedestrian bridge.

A dozen foundations, individuals and companies committed \$1.55 million toward making sure the Nebraska entrance to the



A \$2 million plaza at the base of the Missouri River pedestrian bridge "will be a gathering place for families," Omaha Mayor Mike Fahey says.

bridge will be an attractive, signature place for Omahans to gather.

Mayor Mike Fahey said he expects to have the rest of the funds committed from private donors within the next month or two.

On Tuesday, the City Council is

expected to approve a contract for \$187,000 that would go toward buying playground equipment that resembles river critters. The specially designed swings and rides will look like fish, birds and other wildlife

See Plaza: Page 2

Plaza: City Council to consider equipment contract

Continued from Page 1
common in the Missouri River valley.

Another important feature will be the 26 water jets that can be pranced through by children during the day and lit in bright colors at night.

"The plaza will be a gathering place for families," Fahey said. "This will be a very unusual and unique type of setting on the Nebraska side."

John Gottschalk, chairman of the Omaha World-Herald Co., played a lead role in helping to raise much of the money, Fahey said. "We will follow up and raise the rest," the mayor said.

The bridge, which will cost \$22 million, is largely being financed through a federal earmark secured by former U.S. Sen. Bob Kerrey in 2000.

Gottschalk said he knows the

bridge connecting Omaha and Council Bluffs has been controversial and dismissed by some as a bridge to nowhere.

But the bridge lands in Omaha, Gottschalk said, and the decision to build the bridge already has been made.

"So let's get it done and do it right," Gottschalk said.

The plaza on the Omaha riverfront is an important public space and fits the privately funded Omaha By Design's mission to make Omaha's public areas outstanding, Gottschalk said.

Also included in the \$2 million for the plaza is a "fiber wave" sculpture created by Japanese artist and architect Makoto Sei. The 150 carbon fiber shafts in the sculpture will be nearly 16½ feet tall.

Larry Foster, city Parks De-

partment administrator, said the bridge and the plaza are on schedule to open Nov. 30.

However, the city may not be able to turn on the water jets for the opening, Foster said. The water will only "dance" about eight months of the year when the temperature is above freezing.

Council Bluffs also has extensive plans for the landing on the Iowa side of the bridge. The city is seeking a number of grants for roads and other infrastructure needed to develop Playland Park and other areas, said Gayle Malmquist, Council Bluffs city planner. The city has plans to develop land on both sides of the Bluffs levee.

Malmquist also leads Back to the River Inc., the nonprofit fundraising group that receives donations for work around the bridge.

Plaza donors

Donors so far for Omaha's \$2 million plaza, to be built at the base of the pedestrian bridge:

\$200,000

- First National Bank
- Mutual of Omaha
- Richard Holland
- Papio-Missouri River Natural Resources District
- Sherwood Foundation (established by Susan A. Buffett)

\$100,000

- Carmen and John Gottschalk Foundation
- Mammel Foundation
- Noddle Development Cos.
- Omaha World-Herald Foundation

\$50,000

- Broadmoor Development
- The Gallup Organization
- Dr. Stanley Truhlsen

Flooding, dams top forum agendas

1-17-88

BY NANCY GAARDER
WORLD-HERALD STAFF WRITER

The Omaha metro area's growing flood risk and the relative benefit of more dams versus other structures will be discussed at a gathering of local government officials in early February.

Jim Thompson, chairman of the Papio-Missouri River Natural Resources District board, said that the Feb. 2 meeting is an attempt to bring together more than 150 elected officials.

To keep the public informed, the NRD also is planning seven public forums through early March in Sarpy, Douglas and Washington Counties.

Eleven local governments have been working together about six years to develop policies for addressing flood risk in the Papillion Creek watershed.

Despite that effort, a schism has developed between most of those local governments and the Douglas and Washington County Boards.

Officials with the Washington and Douglas County Boards believe that the current proposed solution, led largely by the NRD and City of Omaha, relies too heavily on dams. Instead, they say, there should be more em-

Want to know more?

A public officials' summit on metro-area flood risk and policy options, open to the public, will be held Feb. 2 from 9 a.m. to noon at the Scott Conference Center, 6450 Pine St.

Public forums will be held between Feb. 19 and March 6. Each will run from 4:30 p.m. to 7 p.m.:

Feb. 19 — University of Nebraska at Omaha's Thompson Alumni Center, Bootstrapper Hall, 6001 Dodge St.

Feb. 21 — Northwest High School cafeteria, 8204 Crown Point Ave.

Feb. 25 — Papillion-La Vista South High School cafeteria, 10799 Highway 370

Feb. 27 — Millard West High School commons area, 5710 S. 176th Ave.

Feb. 28 — Lied Activity Center, 2700 Arboretum Drive, Bellevue.

March 4 — Concordia High School, 15656 Fort St.

March 6 — Dana College, Durham Center, Blair, Neb.

phasis on what is called low-impact development.

The focus of the Feb. 2 meeting and subsequent public forums will be the release of a study by Omaha's HDR Inc. that examines the relative effectiveness of dams and low-impact development.

Low-impact projects include specially designed landscaping that pools storm water and keeps it from rushing into sewers; parking lots that absorb runoff; streets with grassy ditches instead of curbs; landscaped rooftops; and barrels that catch water coming off of roofs.

Hundreds of homes and busi-

nesses in the metropolitan area are at risk of flooding.

On a parallel track, the NRD again this year is asking the Legislature for authority to issue bonds. Bonding authority is considered critical to dam construction and other infrastructure improvements.

The NRD has said it faces about \$80 million in dam construction needs over the next three to five years. Those dams are among about 30 potential dams that the NRD has mapped out at a total cost of about \$400 million. Thompson said the NRD has no plans to build all those dams.

No restrictions for lower Platte

1-17-08

■ Irrigation will be allowed in 2008 despite another state agency's concerns about animal habitat.

BY DAVID HENDEE
WORLD-HERALD STAFF WRITER

There is enough water in Nebraska's lower Platte River to allow further irrigation and development in the river basin, the State Natural Resources Department said Wednesday.

A decision on the central Niobrara River across northern Nebraska is expected next week, said Ann Bleed, the department's director.

Bleed's ruling on the Platte means there will be no special protection in 2008 for the river from Columbus to its mouth at the Missouri River.

The Nebraska Game and Parks Commission has said the 100-mile stretch can't suffer further water withdrawals without jeopardizing the habitat of three endangered and threatened species — the least tern, piping plover and pallid stur-

geon.

Kirk Nelson, an assistant Game and Parks director, said he wasn't surprised by Bleed's decision. It matched a preliminary decision made in October.

Nelson said the commission still hopes to work with water users and area natural resources districts to protect the endangered species "by not depleting the river any further."

The Natural Resources Department reviews all Nebraska rivers each year to determine whether any more have fallen into what is called "fully appropriated" status. Fully appropriated areas are those where the balance between water use and water supply couldn't be sus-

tained if further irrigation occurs.

That designation temporarily bars new groundwater irrigation wells, halts new permits for diverting river water for irrigation and stops farmers from expanding their irrigated acres.

Bleed's Wednesday order also covers Missouri River tributaries, the Blue River and a part of the lower Niobrara River basin.

Bleed's preliminary decision on the central Niobrara River was that the river is fully appropriated and requires planning to prevent future shortages. Her final decision next week will either uphold or reverse that determination.

Meet, then move forward

1-20-08

More than 150 elected officials in the Omaha area, including state legislators, will soon hold a wide-ranging meeting concerning flood-prevention plans. Officials should take advantage of this important opportunity for greater understanding and cooperation. The result would best serve the entire community.

A division has arisen between the Douglas and Washington County Boards and members of the multi-government partnership formed to decide how to protect water quality and prevent future flooding in the Papillion Creek watershed. The elected officials involved include representatives from communities such as Bennington, Bellevue and Omaha as well as the Papio-Missouri River Natural Resources District, which has jurisdiction over the entire creek system.

The proposed solution on the table right now, which is far from final, involves construction of several dams to hold back floodwaters.

Some landowners and Douglas and Washington County Board members are unhappy with the idea of dams, however. They have pushed the advantages of a more indirect, low-impact flood-control approach involving such projects as parking lots that absorb runoff and landscaping that retains water until it can be absorbed into the ground.

**Work together
toward
agreement
on flood control
for betterment
of metro area.**

HDR Inc. of Omaha is studying the relative merits of the proposals for the partnership and will present its preliminary conclusions at the Feb. 2 meeting. State senators and other involved officials also are expected to attend.

This mass meeting should give officials the opportunity to summarize their support, complaints and objections to the various proposals and clear away some of the misunderstandings that have dogged the six-year-long project. Some of that smog may dissipate after the six public informational sessions scheduled in the coming weeks.

Water quality and flooding are watershed-wide problems that require watershed-wide solutions. The physical, economic and social health of one part of the metro area affects all parts.

The time for argument and working at cross-purposes has passed. This meeting will provide a fresh start and a place where all of the involved public officials can, with goodwill and cooperation, work toward what's best for the entire metropolitan area.

Perhaps it will be dam construction, or perhaps the more low-impact ideas will work. More likely, agreement will involve a moderate middle ground with a mix of projects to prevent future flooding. In any case, it's time to move forward.

Kansas wants cash — and action — from Nebraska

83,000 acre-feet of extra water was used, Kansas says.
Nebraska says it's less.

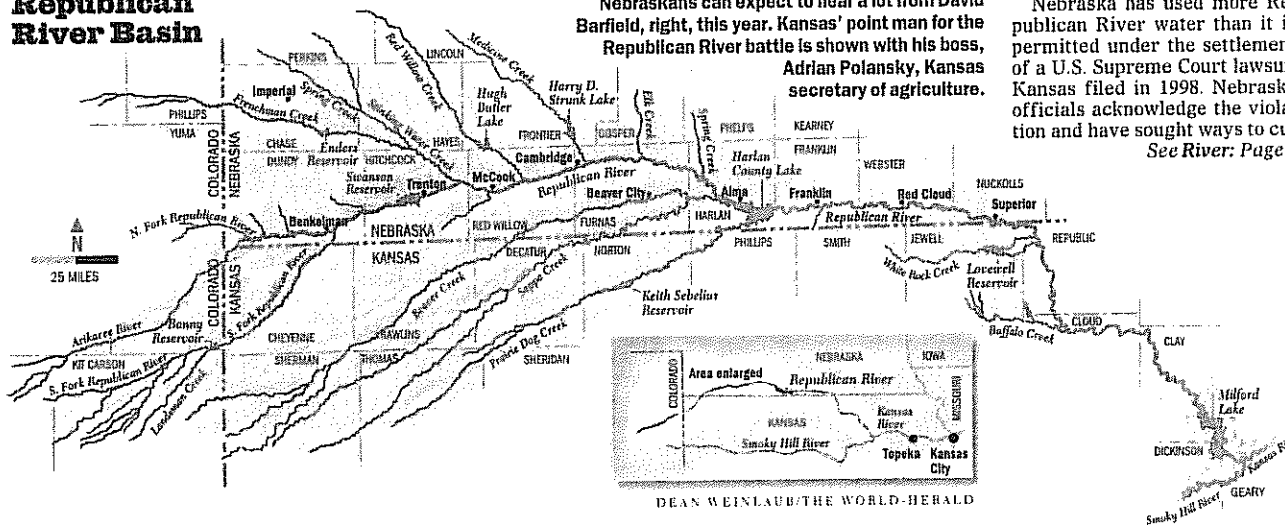
A city of 100,000 would use 83,000 acre-feet of water
in 10 years, Kansas officials say.

Kansas patience runs dry



Republican River Basin

DAVID HENDEE/THE WORLD-HERALD
Nebraskans can expect to hear a lot from David Barfield, right, this year. Kansas' point man for the Republican River battle is shown with his boss, Adrian Polansky, Kansas secretary of agriculture.



Time's up for Nebraska to comply with a Republican River ruling

BY DAVID HENDEE
WORLD-HERALD STAFF WRITER

TOPEKA, Kan. — Kansas wants water from Nebraska. It wants cash from Nebraska. It wants action, now.

"We've been patient with Nebraska," said David Barfield, the new point man for Kansas' freshly energized confrontation over Republican River water.

But time's up, Barfield said.

"You had several years to get your act together, get your measures in place. But every year you've overused, and now, finally ... you're out of compliance. You haven't delivered."

Nebraskans can expect to hear a lot from Barfield this year.

In one of his first actions after being appointed the Kansas water czar in November, Barfield demanded that Nebraska shut off thousands of irrigation wells and pay a financial penalty.

Nebraska has used more Republican River water than it is permitted under the settlement of a U.S. Supreme Court lawsuit Kansas filed in 1998. Nebraska officials acknowledge the violation and have sought ways to cut

See River: Page 2

Kansas wants Nebraska to pay for the water it used in 2005-06 above and beyond what Nebraska was allotted in a 2002 multistate settlement.

How much is it worth? Kansas is still doing the math before making specific financial demands. But if Nebraska paid the average amount it already has agreed to pay its own irrigators to send stored water downriver to Kansas, the amount would be about \$12 million. If Kansas demanded the same of Nebraska that Colorado paid Kansas for 40 years of overusing the Arkansas River, the amount would be about \$6.8 million.

How much have Nebraskans already committed to pay? About \$25 million annually in 2007-08 from new property taxes and irrigation fees in the Republican basin, if a new law remains intact. The law, based on Legislative Bill 701, was designed largely to help the state comply with the multistate agreement. Some landowners in the basin have sued, challenging the law's constitutionality.

What else does Kansas want? The shut-down of all irrigation wells, if needed to supply sufficient water, within 2.5 miles of the Republican River and its tributaries, plus any wells in the entire basin drilled since 2000. Those wells water 500,000 acres in the basin.

Sources: Kansas Water Resources Division, LB701

Continued

Republican River

It is 550 miles long, flowing from the eastern Colorado plains across southwestern and south-central Nebraska to north-central Kansas.

The Republican is a tributary of the Kansas River.

River: Kansas insists on compliance

Continued from Page 1
water use.

Now they are crafting a response to Barfield's demands.

Barfield set a timetable to resolve the matter by year's end. If not, Barfield vows to take the fight back to the Supreme Court.

Nebraska's efforts "have been grossly insufficient and unrealistic," he said, and Kansas water users suffer.

If Barfield's demand to silence the pumps that feed Nebraska's center-pivot irrigation systems were met, it would idle wells supplying water to about 500,000 acres in the Republican basin across half of southern Nebraska.

"It's a significant amount. It is. We understand that," Barfield said. "It'll hurt and it'll be difficult. . . . But we've been shorted every year, pretty much."

Kansas officials are calculating how much they think Nebraska should pay in damages. Barfield has said it will be in the tens of millions of dollars.

A Nebraska water expert said the state is in a tough spot.

"We can't dodge any longer," said David Aiken, a University of Nebraska water law authority. "This is it. We're out of compliance."

Anxiety is high among farmers who irrigate, said Dan Smith, general manager of the Middle Republican Natural Resources District in southwestern Nebraska.

"Their primary concern is who's going to shut them down, and when. We're at the mercy of Kansas. Kansas has to decide whether they'll let us off the hook. I don't think Kansas will do that unless they've got some confidence that the steps we're taking will get us in compliance in the near term," Smith said.

Barfield, 52, is chief engineer of the Kansas Department of Agriculture's water resources division. He works a block from the State Capitol in Topeka, in a little office surrounded by colleagues' cubicles.

He joined the Kansas Division of Water Resources in 1984. Since 1992, he has been involved with interstate water issues, working on disputes regarding the Republican, Arkansas and Missouri Rivers.

He was on the team that negotiated the settlement of the Supreme Court case with Nebraska and Colorado, the other state involved in the original Republican River Compact of 1943.

"Each state claimed victory at that point — deservedly so," Barfield said. "It's a fair deal."

The federal government required the three states to divvy up the Republican's water. Nebraska got 49 percent, Kansas 40 percent and Colorado 11 percent.

"It's a zero-sum deal. If somebody's using more, somebody's getting less. We're the downstream state. So that's us," Barfield said.

Kansas uses the river primarily to water 40,000 acres of cropland northwest of Concordia. Kansas has been hounding Nebraska about its extensive development of deep-well irrigation in the Republican basin since the 1980s.

Nebraska has about 18,000 irrigation wells in the basin.

"Nebraska has the right to fully develop its share," Barfield said. But he argued that groundwater pumping shouldn't exceed Nebraska's 49 percent.

Part of Nebraska's solution is to buy water from local irrigation districts with rights to the river water, then release it to Kansas.

Barfield said he is skeptical there is enough water in the river or stored in reservoirs for Nebraska to buy.

Nebraska Gov. Dave Heineman has told irrigators he hopes to talk with Kansas officials about renegotiating the Republican River compact after Nebraska begins complying.

Barfield was amused by the notion.

"If we revisit the compact, that means Nebraska's saying it wants Kansas to give up part of its share. I don't think Kansas is going to agree to give up part of its share."

Barfield said Nebraska's option for more time and new ideas is quickly evaporating.

He set a Feb. 4 deadline for Nebraska to respond to Kansas' satisfaction before taking the dispute to the Republican River Compact Administration, which would launch the process toward a possible return to the U.S. Supreme Court.

"If you (Nebraska) can come up with a better way, we'll listen. But we're going to have to believe it. It's going to have to be pretty convincing," the Kansan said. "Our primary concern is getting the water we need."

Papio watershed meeting to set stage for forums

Stormwater management and other water-related issues will be discussed at a meeting between members of the Papio-Missouri River Natural Resources District board and community leaders from Douglas, Sarpy and Washington counties.

Mayors, city council members and county board members of Douglas, Sarpy and Washington counties will join the Papio-Missouri River Board, state senators and the public at a meeting on Sat., Feb. 2, to discuss area-wide needs for water quality improvements and flood prevention in the Papillion Creek Watershed area.

The meeting will last from 9 a.m. until noon at the Scott Conference Center at 6450 Pine Street in Omaha.

The meeting will set the stage for seven public forums to be held around the affected areas, including one on Blair. That public forum

discussing the Papillion Creek Watershed is scheduled for Thursday, March 6 at Dana College from 4:30 to 7:30 p.m.

The Papillion Creek Watershed is the most flood-prone urban area in Nebraska. It covers 402 square miles, parts of three counties and more than one-third of Nebraska's population. For six years, representatives from 11 governmental bodies have been working together to develop water quality and flood prevention policies.

The Papillion Creek Watershed Partnership includes the cities of Bellevue, Bennington, Boys Town, Gretna, La Vista, Omaha, Papillion and Ralston, and Douglas County, Sarpy County and the Papio-Missouri NRD.

Washington County pulled out of the partnership when it was made

public that large reservoirs could be built in the county as part of the proposal.

HDR Engineering will present the Phase IV Study of water quality and flood prevention needs in the watershed area. Each city in the watershed area must have a final stormwater management plan in place by 2009 to meet environmental Protection Agency and state water quality requirements.

"All partnership jurisdictions will be acting on this information within the next few months," Jim Thompson, NRD Board Chairman, said.

"Our watershed has limited options, time and land available for water quality and flood prevention improvements. We are attempting to bring together over 150 elected officials that are directly impacted by these federal regulations."

Environmental advocate leaves Douglas Planning Commission

1-24-08

By JUDITH NYGREN
WORLD-HERALD STAFF WRITER

Barbi Hayes, who has drawn praise for her years of volunteer service to the county and her environmental expertise, has resigned from the Douglas County Planning Commission.

Appointed 13 years ago, Hayes was the first woman to serve on the Planning Commission and brought an environmental perspective to discussions, those familiar with the commission said.

"Her environmental expertise, her knowledge of the county, her planning background — she brought a huge expertise to the planning board, and (her departure) will be a loss," said Mary Ann Borgeson, vice chairwoman of the County Board.

Hayes, chairwoman of the Planning Commission, submitted her resignation earlier this month a day after she spoke to the County Board during a sometimes contentious discussion of a proposed interlocal agreement with the City of Valley.

Hayes appeared to urge the County Board to act on Valley's request that Douglas County cede 116 acres scheduled to be developed as part of a lakefront community.

The interlocal agreement had become controversial because some critics asserted that its final version undermined the county's newly adopted storm water management policy and put water quality at further risk.

Barbi Hayes offers no reason for her departure but calls for better storm water management.

Planning commissioners supported the interlocal agreement, and Hayes was among several people to testify that Valley and the developer had the know-how and intent to protect water quality.

Some County Board members raised questions about how the Planning Commission came to support a revised agreement that, critics asserted, lost much of the language that protected waterways.

Ultimately, the board approved an amended interlocal agreement — despite Hayes' warning that it didn't serve Valley's interest to sign it.

Valley Mayor Mary Caffey has since said her city won't enter into the revised agreement, in part because it doesn't recognize the best practices needed to deal with storm water in Valley's flat terrain.

Hayes declined to comment on the handling of the interlocal agreement or the reasons for her resignation.

But, she said, the county's work isn't done when it comes to managing storm water, a major source of contamination in area streams and rivers.

"With storm water, everyone should remember it's not a one-size-fits-all" management approach, she said.

Hayes — who with her daughter operates Hayes Environmental, an Omaha-based consulting firm — said she is proud of her tenure on the Planning Commission.

She said she always tried to strike a balance between environmental issues and development. In the past, she said, environmental issues tended to be pushed aside.

Hayes said she is most proud of the comprehensive plan the county approved about a year ago. It incorporated environmental protection, new technology and low-impact development.

"That meant a lot to me," she said. "I really think it's a great plan."

Joe Roberts, a member of the Planning Commission, said he tried to talk Hayes out of resigning.

"She was very much an asset to the board because of her environmental (knowledge). . . . She's a born leader, and she knows how to run a good meeting," he said.

The County Board will appoint someone to replace Hayes on the nine-member commission. At this point, it appears that eligible candidates must reside in unincorporated areas of the county. Such members must remain in the majority on the commission.

Bill to let city reach into Sarpy grabs no support

By C. DAVID KOTOK
AND LEIA BAEZ
WORLD-HERALD
STAFF WRITERS

A lone state senator from west-central Omaha provoked an instant border dispute Wednesday with a proposal to give Omaha the power to annex across the Sarpy County line.

State Sen. John Nelson, a 72-year-old freshman legislator, offered Legislative Bill 1166 to permit Omaha to annex across county lines — to the surprise of Omaha Mayor Mike Fahey, Sarpy County legislators and Sarpy County mayors.

"School districts cross county lines," Nelson said. "Vil-

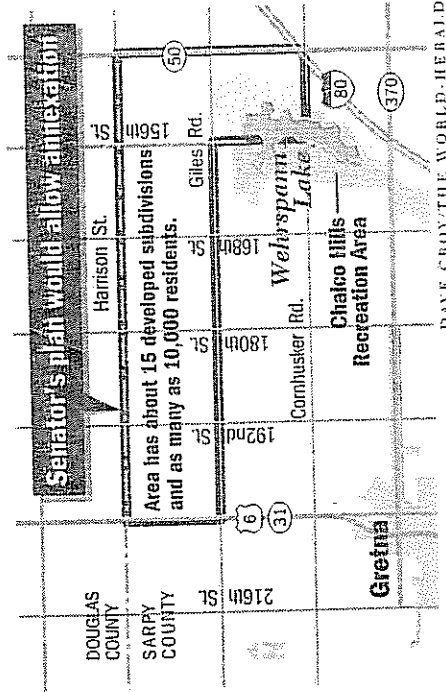
lages can straddle county lines. So why can't Omaha cross the county line to annex?"

On the unlikely chance that Nelson's idea becomes law, it would not permit Omaha to annex Bellevue, La Vista and Papillion. Their populations are too large for Omaha to swallow legally.

Gretna currently is too far from Omaha's border to be subject to annexation and probably would exceed the population limit of more than 10,000 before the two cities grew close enough.

That leaves the Chalco Hills area — or about 15 subdivisions west of Highway 50 to 180th

See Annex: Page 2



Annex: Bill roundly criticized

Continued from Page 1

Street — and possibly the Sapp Bros. interchange at Highway 50 and Interstate 80 as the real target of Nelson's action. An estimated 10,000 people live in those subdivisions beyond any city's borders.

Fahey immediately disavowed any interest in annexing any part of Sarpy County. "The mayor's position is it is not in the best interest of the metro area to annex across county lines," said Joe Gudenrath, the mayor's spokesman.

Nelson's decision to file the bill just before the deadline drew an animated confrontation with Sen. Abbie Cornett of Bellevue.

Sen. Tim Gay of Papillion also said he opposes Nelson's proposal. "I think everyone in Sarpy County is opposed to it," he said.

"I'm not thrilled about it," said Sen. Gail Kopplin of Gretna.

Kopplin, who represents much of the Chalco Hills area, said he has yet to have one resident of those subdivisions south of the Harrison Street line tell him he or she wants to be part of Omaha.

"I wouldn't mind being part of La Vista, Papillion or Gretna," said Linda Paesl of the Rock Creek subdivision, "but I don't know about Omaha."

Steve Olson, the attorney for the Rock Creek subdivision, said most of the area residents don't want to be part of Omaha. "I think that's probably a factor why these people chose to buy a home here, because they didn't want to be in the city limits," Olson said.

Gretna Mayor Tim Gilligan and Papillion Mayor James Blinn joined the chorus of opposition.

"Greed is not a virtue," Gilligan said.

The Nelson proposal would interfere with the natural growth of Sarpy County towns, Blinn said.

Nelson said he doubts there is time this session to enact the change. But he said he hopes it will generate a healthy discussion.

But Nelson may get the opposite of what he intends, said Gay. Efforts to restrict Omaha's future ability to annex anywhere just became more attractive to Sarpy County legislators, he said.

Dams battle goes to statehouse

■ Competing bills could propel or stall the Papio NRD's water project.

1-26-08

BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

Opposing sides of a dam construction initiative in the Omaha metro area took their case to a Nebraska legislative committee that heard testimony on two competing bills Friday.

One bill would allow the Papio-Missouri River Natural Resources District to issue long-term debt to finance the dams and other water projects, making those projects more likely.

The other bill would prohibit the use of eminent domain if the land is to be transferred to a commercial developer, which could make dam construction more difficult.

NRD General Manager John Winkler told the Natural Resources Committee that bonding authority, as envisioned by Legislative Bill 880, is vital to getting dams and other water projects built. The district couldn't afford them otherwise, he said.

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

This is the third time the district has tried to gain legislative approval for bonding authority. LB 880 would limit the district's ability to raise taxes to pay off the bonds by stipulating that the NRD could not exceed its current allowable maximum level.

Kevin Probst, a Washington County resident, said that even with that restriction, district residents can expect an almost 30 percent increase in taxes paid to the NRD because that's the unused cushion in the current levy.

NEBRASKA '08
LEGISLATURE

"It's naive to think this won't lead to the maximum increase," he said.

Shawn Melotz, a Douglas County resident and certified public accountant, said her examination of the bill and likely valuation trends lead her to believe that it would allow the district to issue \$450 million in bonds by 2013.

"This gives the district an open checkbook," she said.

Marty Grate, environmental services manager for the City of Omaha, urged approval of the bonding authority, saying the need for watershed projects is critical, and the NRD is in the best position to address the problem.

Legislators questioned the NRD representatives about their willingness to include a stipulation that voters be allowed to decide on bonds.

Winkler said the NRD board doesn't favor such a vote because needed flood-control projects might get turned down.

Douglas and Washington County officials also testified in opposition to granting bonding authority to the NRD.

Winkler said the district would be irresponsible if it didn't push for the watershed projects. Flood risk has risen substantially, he said.

"The Papio NRD does not have the luxury of looking the other way," Winkler said.

The legislature recently passed a bill that prohibits the use of eminent domain for economic development. The eminent domain bill reviewed Friday, LB 945, would prohibit the transfer of land to a commercial developer if the land was gained through condemnation.

Opponents of the dam-building initiative said eminent domain will be such an important lever in the NRD's effort that passage of the bill would effectively stop it.

Winkler said the bill isn't necessary because state statute already ties the district's hands.

Several opponents of the dam-building initiative also said they support flood control, but they believe the district's proposal overstates the risk and ignores less intrusive options.

NRD officials say they are looking at options beyond dams.

Kansas wackos thirst for justice

"Then, for fear some hint that the state had become respectable might percolate through the civilized portions of the nation, we have decided to send three or four harpies out lecturing, telling the people that Kansas is raising hell and letting the corn go to weed."

— William Allen White, 1896

The old editor's quote came to mind last week when I received word that the folks from Westboro Baptist Church in Topeka soon would be coming to Omaha to picket.

"In obedience to the Lord's command, our little church has made more than 40 preaching trips to Nebraska in recent years," the press release said. "The vicious, evil people of Omaha and Nebraska have persecuted us in violation of their own laws. God is now avenging us. Worse and more is coming."

The title of White's famous 1896 essay in the *Emporia Gazette* was, "What's the matter with Kansas?"



**Robert
Nelson**

One hundred and 12 years later, we're still asking the same question.

Regarding the Westboro folks (who are just the latest wave of odd religious zealots to come calling from Kansas), we should be deeply honored to be considered the "vicious, evil people of Omaha and Nebraska." When Shirley Phelps-Roper and her band of wackos hate you, you're probably doing something right.

What surprises me about all this, though, is that the Westboro congregation is calling out all Nebraskans.

This border-war language seems to be a trend down there. For example, we recently learned that Kansas farmers and state officials are giving Nebraska an ultimatum regarding what they say is our overuse of Republican River water.

As per some 1943 multistate agreement, Kansas is demanding Nebraska shut off thousands of irrigation wells and pay a penalty.

A fellow reporter described Kansas' position as such:

"The only thing they have on their side is the law."

Perhaps. But consider this:

For decades, the craziest of the Kansans — from Phelps-Roper to Michael Ryan to the Planned Parenthood bombers to the Darwin bashers — have been claiming they have "the law" on their side.

For decades, Kansans have hidden their worst behavior behind "the law."

Along this line: Don't forget, this idea that we owe Kansas water is based on something called "science."

This from the state that, for the last decade or so, has been back and forth on teaching its children one of the most basic tenets of modern science — evolution.

Dear Kansas: We're sorry, but on the third day, God placed most of the water of the Republican River in Nebraska. To avoid the wrath of God, and to follow His law, that's where we're going to keep it.

Look at it as an embargo, a sanction, much like other First World moderate democratic governments put in place against governments controlled by dimwitted and oppressive zealots.

Simply, we should treat Kansans as we treat the Taliban.

As in Afghanistan, Kansas farmers likely will first turn to growing opium. But soon, those crops will fail. Then, the people of Kansas will have to decide: Do they want to continue to be the biggest bunch of mullet heads in the United States? Do they want to continue to foster and unleash on the world people like Shirley Phelps-Roper?

You want us to send water? Then stop sending us nuts.

It's the Water for Wackos program.

And it just might be your last, best chance for a cure.

1-28-08

Area governing officials, NRD to meet about water issues

Public open houses planned in February and March

by Mary Lou Rodgers 1-29-08

To deal with water quality and flood prevention issues in Douglas, Washington and Sarpy counties, a innovative meeting is scheduled for Saturday morning, February 2.

Mayors, city council members and county board members of the three counties will join members of the Papio-Missouri River Natural Resources District Board, state senators and others to discuss area-wide needs for water quality improvements and flood prevention.

This meeting of officials will set the stage for seven public forums that will be offered in February and March.

"We consider it really unique," Emmett Egr, information/education coordinator for the Papio-Missouri River NRD, commented. "The watershed is a community, and to have representatives from the entire community is critical to any success that can be achieved from this effort. Hopefully, we'll have upstream and downstream folks."

Egr said that several state senators have indicated they will be at the meeting. Though Washington County and the City of Valley are

not members of the Papillion Creek Watershed Partnership, representatives have been invited, since those areas are also impacted.

By 2009, each city, along with Sarpy County and Douglas County, must have a plan in place to meet Environmental Protection Agency and state water quality requirements. Along with water quality, the Partnership members have been working on stormwater management policies. Nine of the 11 partners have adopted preliminary regulations. The final policies will be adopted in 2009. Their plans for meeting EPA water quality standards must be ready in 2008.

"All Papillion Creek Watershed Partnership jurisdictions will be acting on this information within the next few months," NRD Board Chairman Jim Thompson said. "Our watershed has limited options, time and land available for water quality and flood prevention improvements."

For the past six years, representatives of 11 governmental bodies have been working together through the Papillion Creek Watershed Partnership to develop water quality and flood prevention policies. The Partnership includes the cities of Bellevue, Bennington, Boys Town, Gretna, La Vista, Omaha, Papillion and Ralston;

Douglas County, Sarpy County and the Papio-Missouri River NRD.

The February 2 meeting of officials will seek to address their common problems.

"We are attempting to bring together over 150 elected officials that are directly impacted by these

Public forums

The schedule for the Papillion Creek Watershed Public Forums is:

- Tuesday, February 19 – UNO WH Thompson Alumni Center, 6001 Dodge;
- Thursday, February 21 – Northwest High School;
- Monday, February 25 – Papillion-La Vista South High School;
- Wednesday, February 27 – Millard West High School;
- Thursday, February 28 – Bellevue Lied Activity Center;
- Tuesday, March 4 – Concordia High School;
- Thursday, March 6 – Dana College in Blair.

All forums will be held from 4:30 to 7:30 p.m. Along with the stormwater and water quality issues, there will also be an opportunity to view the new floodplain maps for the West Papio prepared by the NRD.

federal regulations," Thompson said.

At the meeting, which will run from 9 a.m. to noon in Omaha, HDR Engineering will present the Phase IV study of the needs in the Papillion Creek Watershed area, which covers 402 square miles in three counties, and includes over one-third of Nebraska's population. According to the NRD, that area is the most flood-prone urban area in the state.

The watershed is the area through which rain and snowmelt enter the Papillion Creek system (Little Papillion Creek, Big Papillion Creek and West Papillion Creek), which threads through local communities to the Missouri River. The February 2 meeting of area governmental officials is a public meeting that will take place at the Scott Conference Center, 6450 Pine Street in Omaha. The public may attend, but Egr said they are encouraging the public to attend open houses later in the month, where the same information will be available.

Beginning February 19, public forums will be held at several locations. There will be no presentations at these forums, but there will be exhibits and a chance for people to give oral or written input and ask questions in an open-

house format. The Omaha planning staff has also been invited to provide information on projected growth in the watershed.

"Growth is what is motivating these issues," Egr noted. Egr pointed out that previous meetings held at Bennington High School centered on discussions of Dam Sites 1 and 3C in Washington County. Those dams are not part of the Partnership policies, he said, because Washington County is not in the Partnership, even though it is affected by watershed issues.

"Dams are still an option we're looking at," Egr said, "but there's so much more than that."

Low-impact development and other zoning issues are all part of the discussion.

"We're hoping to get a few officials from each jurisdiction," Egr said.

He said they are expecting Washington County supervisors, and representatives from the City of Blair, Village of Washington, Kennard, Bennington, and at least three from Sarpy County towns.

Mayor Mary Caffey of Valley has indicated that she will come.

For more information on the Partnership, the watershed and water issues, visit the website, www.papiopartnership.org.

Dam bills continue debate

By Stephanie Ludwig
Reporter *Enjeypire*

One bill calls for long-term debt to Omaha-metro area taxpayers, the other bill calls for the prohibition of eminent domain in certain circumstances.

Both bills appeared before the Natural Resources Committee of the Nebraska Legislature last Friday, drawing opposing sides of a controversial dam construction initiative into more discussion of an issue that has gone on for more than 40 years.

At the heart of both bills is the Papillion Creek Watershed, a 402-square mile area that includes portions of Washington, Douglas and Sarpy counties. The Papio-Missouri Natural Resources District has conducted several studies and believes

the most effective solution to preserving the floodplain is to build a series of possibly 30 dams throughout the watershed. The dams would cost upward of \$400 million.

Opponents of the dams believe there are other ways to prevent potential flooding in the area.

Legislative Bill 880, introduced by Sen. Gail Kopplin of Gretna, would give the NRD bonding authority to finance dams and other projects. NRD General Manager John Winkler told the committee on Friday that the dams cannot be built without the bonding authority.

Not so, said Kevin Propst, a village of Washington trustee and staunch opponent of the proposed dam system.

Propst said the NRD had

a budget of \$23 million in 2003 but now has a budget of \$44 million for 2008. Last year, the NRD only spent 53 percent of its budget, he said.

"Here you have an entity with surplus funds, yet they're going to the Legislature asking for more funds instead of giving the taxpayers a break on their tax levy," Propst said.

NRD Board Chairman Jim Thompson said the board has been putting money aside for the past several years because the district has no bonding authority.

"In my opinion it's a real conservative way to address those financial needs," Thompson said.

LB 880 does not allow the district to go over its current allowable level, which is 4.5

cents per \$100 of valuation. Right now, the levy is 3.47 cents.

Propst believes that taxpayers would see their taxes increase by about 30 percent as the NRD will charge its maximum levy in order to pay for the dams.

"The other thing is, it doesn't preclude them from saying we need more money," he said.

Right now, LB 880 does not contain any stipulations that allows voters to choose bonds, which Winkler told the committee last Friday was not favored by the NRD board because its needed flood control projects might get turned down by voters.

"It would be highly unlikely that everyone in the jurisdiction would under-

SEE DAM BILLS PAGE 3A

FROM PAGE 1

stand why they're voting," Thompson, the NRD Board Chairman, said. "It's totally impractical."

The other bill discussed last Friday was LB 945, introduced by Sen. Dwite Pedersen of Elkhorn who represents part of Washington County. The bill prohibits the use of government seizure of land if the land is to be transferred to a commercial developer.

Pedersen said constituents from all over his district came to him with concerns about the NRD's use of eminent domain through a bill that the legislature recently passed.

They told him they feared

that the NRD would seize private land through eminent domain for the construction of dams, then hand the rest of it over to commercial developers to turn it into parks, trails and possible housing.

The senator said he didn't have a problem with the land being used in such a way but he didn't believe it should be obtained by the NRD through eminent domain.

"They should not be using eminent domain in order to get there," Pedersen said. "It's not designed for people to take over people's property and then make money on that property."

He said that if the NRD

wants to use the land around the proposed land for commercial use, they should have to pay the landowners what the land is worth to obtain it.

Thompson pointed out that the NRD has no authority to seize property, therefore making LB 945 "a waste of an exercise in state law."

"That was premised on a fear factor. We don't do that," Thompson said.

Sen. Pedersen also criticized the NRD's use of their coffers.

"They already have enough money in their hopper to build five dams," he said. "They've got to take care of what they got. NRDs

are getting entirely too expensive for us. They need to be reigned in financially."

Elected officials from Douglas, Sarpy and Washington counties will join members of the NRD board, state senators and others in a meeting Saturday, Feb. 2, from 9 a.m. to noon at the Scott Conference Center in Omaha to discuss area-wide needs for water quality improvements and flood prevention measures in the Papio-Missouri Watershed.

A series of seven public forums will be offered during February and March.

Dana College will host the last forum of the series on Thursday, March 6 from 4:30 to 7:30 p.m.

Counties' streams impaired, degraded

2-1-08

By JUDITH NYGREN

WORLD-HERALD STAFF WRITER

Douglas County has more than 400 miles of streams, yet residents would have to drive miles from the Omaha metropolitan area to find many streams in their natural state.

Almost every stream assessed recently in Douglas County was impaired or degraded. Only one was functioning fully as nature intended.

Several area streams have E. coli levels that make them unsafe. Their shallow, meandering paths have been shortened and straightened, making them less natural cleansers and more like drainage ditches designed to quickly expel floodwater. Their banks have been degraded by dredging, development and other alterations that create erosion and contamination problems.

The firm CH2M Hill, hired by Douglas County to conduct the stream inventory, has detailed its findings in a report available at Omaha Public Libraries. The findings also will be available Saturday when the Papio-Missouri River Natural Resource District meets at 9 a.m. at the Scott Conference Center, 6450 Pine St.

The county hopes residents — in Douglas and its neighboring counties — use the CH2M Hill report to decide what they want for the future of their streams. Some of the matters that need to be decided: How can streams be protected from further degradation? Do residents want to invest in stream restoration, and how could streams add to the quality of life?

Even though Douglas County funded the \$117,000 study, the assessment extended into parts of Washington and Sarpy Counties. Streams don't start and end at county lines, and water quality has to be approached as a regional issue, those involved in the study said.

If Douglas County wants to protect its streams, the time to act is now, before the whole county is developed, said Emily Holtzclaw, project manager with CH2M Hill. Streams in parts of Douglas County already are "lost," long ago contained within storm pipes.

This is particularly true in the older, more developed parts of Omaha, where Holtzclaw couldn't find remaining streams to assess. As a result, the study focuses on the Papillion Creek watershed west of 90th Street, where streams remain in both developed and undeveloped areas.

"We're losing streams," Holtzclaw said. "Do we want that for the rest of the watershed?"

See Streams: Page 2

How you can help protect streams

- Minimize use of fertilizers and pesticides.
- Redirect downspouts to vegetation.
- Plant indigenous vegetation.
- Clean up pet waste
- Leave grass clippings on the lawn.
- Buy the least toxic products available.
- Use a commercial carwash.

Streams: Assessment finds nearly all are impaired

Continued from Page 1

In their natural state, streams are rich ecosystems that sustain wildlife and vegetation, store water and help filter contaminants.

Bob Sink of CH2M Hill can remember playing in area streams as a child. Older residents can recall visits to artesian springs to get drinking water.

Most artesian springs have vanished. As of this year, six stream segments in the Papio-Creek watershed are considered health hazards to recreational users because of high E. coli levels.

Holtzclaw said she was surprised to find so many streams in poor condition. It didn't matter if she assessed streams in urban neighborhoods or undeveloped, rural areas — she said all suffered some degree of impairment.

One exception: Glacier Creek in the Allwine Prairie, managed by the University of Nebraska at

Omaha. Holtzclaw and Sink, however, said the creek doesn't necessarily provide an ideal model for restoring or preserving streams outside the historic prairie. The land near 144th and State Streets is treeless because of controlled burns, a feature that isn't practical or desirable in developed areas of Douglas County.

Streams that serve as community amenities typically would include trees. They would have natural buffer space that could serve as quiet gathering spots or be linked with walking and biking trails, Holtzclaw and Sink said. Managed correctly, they could add value to nearby development and to people's daily lives.

It's up to residents to say "what their vision of a good stream is," Holtzclaw said. "Is it to be a ditch or is it to be an amenity?"

Water Management Meeting

A discussion of water management in Douglas, Sarpy and Washington Counties: 9 a.m. to noon Saturday, Scott Conference Center, 6450 Pine St.

Presented by: Papio-Missouri River Natural Resource District

Expected: 170 elected representatives

On the agenda: A study by HDR of Omaha that looks at how low-impact development and dams might play into future water management plans

Background: A proposal to construct dams to hold back floodwaters has stirred controversy, prompting the Douglas and Washington County

Boards to develop a plan for low-impact development, which mimics nature to control flooding and remove storm water contaminants.

Meeting organizers won't discuss the study's findings, based on several development scenarios. It would be difficult to solve the region's flooding problems with low-impact development alone, they said. At the same time, dams address flooding but not water quality.

— Compiled by Judith Nygren

Citizen comments on Douglas County's stream assessment must be submitted in writing by March 7 to Kent Holm, director of the county's Environmental Services Department, 3015 Menke Circle, Omaha NE 68134, or kent.holm@douglascounty-ne.gov. Reports are available at branches of the Omaha Public Library and online at doplanning.org.

Diverse flood controls proposed

■ Engineers recommend a mix of dams, basins and low-impact development to prevent damage in the Papillion Creek watershed.

By BETSIE FREEMAN *2-3-08*
WORLD-HERALD STAFF WRITER

A flood-control plan for the Papillion Creek watershed should include a mixture of dams and low-impact methods such as the use of porous pavement materials and landscaping that minimizes water runoff, area public officials were told Saturday.

The Papillion Creek Watershed Partnership, a coalition of 11 local governments, has been studying flood-control options for the watershed, a 402-square-mile area through which rainfall and snowmelt drain to the Missouri River.

The Papio-Missouri Natural Resources Dis-

trict invited elected officials from Douglas, Washington and Sarpy Counties to discuss the results of that work at a Saturday forum.

A preliminary scenario calls for construction of six to 15 dams, 12 water-quality basins and low-impact development in areas without dams, according to representatives from HDR, the engineering firm that conducted a study of flood-control options.

That's considerably fewer than the 29 dams that had once been suggested. The district is asking the Nebraska Legislature for bonding authority to build that number of dams, although it hasn't determined how many it actually would construct.

"We need to put to rest the notion of 29 dams," NRD board chairman Jim Thompson said Saturday.

The HDR study indicated that a plan combining dams and low-impact development would ease the flow of floodwaters, reduce the size of the floodplain and reduce flood damage.

Low-impact projects can include landscaping that pools storm water and keeps it from rushing into sewers; parking lots that absorb runoff; streets with grassy ditches instead of curbs;

See **Flood control:** Page 2

Learn more

Open houses are planned for the public to explore flood-control options for the Papillion Creek watershed. Each will run from 4:30 p.m. to 7 p.m.

Feb. 19 — University of Nebraska at Omaha's Thompson Alumni Center, Bootstrapper Hall, 66th and Dodge Streets.

Feb. 21 — Northwest High School cafeteria, 8204 Crown Point Ave.

Feb. 25 — Papillion-La Vista South High School cafeteria, 10799 Highway 370

Feb. 27 — Millard West High School commons area, 5710 S. 176th Ave.

Feb. 28 — Lied Activity Center, 2700 Arboretum Drive, Bellevue.

March 4 — Concordia High School, 15656 Fort St.

March 6 — Dana College, Durham Center, Blair, Neb.

Flood control: Alternatives projected to be costlier than dams

Continued from Page 1

landscaped rooftops; and barrels that catch water coming off of roofs.

Officials from Douglas and Washington Counties have criticized flood-control proposals for being too reliant on dams. Douglas County Board member Mike Boyle reiterated that view Saturday.

"The Douglas County Board has gone on record against the dams plan," he said, adding that he wasn't sure about the proposal to mix fewer dams with low-impact development.

The HDR report indicated that low-impact development would be almost twice as costly to operate and maintain as dams. NRD officials said the maintenance cost is higher because of the number of sites and the maintenance requirements — mowing, sediment removal and inspections.

Boyle said he thought that was a move to skew the plan toward dams, and disputed the cost. If the low-impact projects are small enough, the responsi-

bility to maintain them would go to property owners, he said.

"You underestimate the cooperative spirit of this community," he said. "The people of this community will pay for it."

The NRD said many of the sites would be on rights of way — not private property — and thus be the responsibility of government.

Douglas County Board member Clare Duda said he thought land developers should bear the cost of flood-prevention work.

If shifting the cost to developers sends them elsewhere, he said, it's better to let them go and find people who will develop the land as the county wants it developed.

Saturday's meeting also included an opportunity for citizen comments, although several speakers expressed frustration at time limitations.

The next step in the process will be seven open houses, scheduled between Feb. 19 and March 6 at locations throughout the metropolitan area and at Dana College in Blair, Neb.

Officials get look at NRD proposals

OMAHA — If Saturday's meeting of public officials from the Omaha-metro area concerning the Papio Creek Watershed was intended to create discussion, it certainly succeeded in that. However, the discussion may have created even more dissension than before.

The Papio-Missouri River Natural Resources District presented its findings from a \$1.3 million study of the watershed conducted by HDR and sponsored by the Papillion Creek Watershed Partnership, an alliance of 11 local governments from the metro area.

The purpose of the meeting was to discuss the 402-square-mile Papillion Creek Watershed, a potential floodplain covering most of Douglas County and parts of Washington and Sarpy counties.

Elected officials from Washington, Douglas and Sarpy counties, members of the Papio-Creek Watershed Partnership and the Papio-Missouri River NRD, state senators and members of the public attended the public forum at the Scott Conference Center in Omaha.

The presentations dealt mainly with the impact on the watershed area in the event of a 100-year flood event. Major areas of Omaha and Douglas County would be flooded and potentially devastated, with parts of Sarpy County receiving the stormwater runoff, the study indicated.

In order to prevent this from happening, an early model of a series of six to 15 dams, 12 water quality basins and heavy emphasis on low-impact development was presented. Low-impact development includes less platting and more emphasis on landscaping that absorbs water instead of letting it run off into sewers.

The estimated costs for the dams and low-impact development projects were between \$400 and \$530 million, with low-impact development being the costlier of the two because it takes more work to maintain.



STEPHANIE LUDWIG/PILOT-TRIBUNE

Washington County Board Chairman Harlo Wilcox speaks during the public officials' open discussion portion of Saturday's forum on NRD flood control for the Papio Creek Watershed. Wilcox asked the NRD and HDR presenters about whether developers would profit from the construction of proposed dams in the Watershed.

instead of a governmental body, therefore making it more affordable and a more appealing choice than dams.

Kevin Propst, trustee for the village of Washington, expressed his disappointment that the study, which was authorized by the Watershed Partnership, was

conducted using public funds. He criticized the NRD for allowing the Partnership, which is made up of representatives from each participating body, and is under the NRD, to use public money. Washington County declined to participate in the partnership in 2004.

Jim Thompson, NRD board chairman, said the partnership only makes recommendations to the NRD.

SEE PAPIO PAGE 3A

"We should tear this part-

PAPIO: Local officials and residents attend informational meeting

FROM PAGE 1

Propst also criticized the lack of a solid plan for the future. The Papillion Creek Watershed has been an issue for years and only small steps have been taken to prevent future problems.

"A million dollars of public funds have been spent and you don't have a plan?" Propst asked NRD officials.

John Winkler, NRD general manager, said that it will require a complex plan because it is full of complex issues and it will take time to complete.

Washington County

board chairman Harlo Wilcox and fellow supervisors Jeff Quist, Ernie Abariotes and Marvin Rohwer attended the meeting, as well as Blair city councilman Keith Christiansen.

Wilcox and Quist expressed their concerns with the study proposals.

State Sen. Don. Preister of Bellevue praised the forum process and praised Washington County's involvement.

"We need Washington County taking strong stands," he said.

Other Washington County residents attended the

meeting, with some speaking during the public comment period toward the end.

Scott Japp of Arlington said he didn't believe the Papio Creek had a greater chance to flood than any other stream.

Members of the public who did not attend Saturday's meeting will have the chance to discuss the study's proposals in a series of public forums to be held around the Omaha-metro area over the next five weeks. Dana College will host the last forum on March 6.

Dam project wrong ^{W-H} ²⁻⁷⁻⁰⁸

Having attended the Papio-Missouri River Natural Resources District meeting on Feb. 2, we noticed that NRD Chairman Jim Thompson did not answer the questions that were asked.

It seems that not one thing has been implemented since the Papillion Creek Watershed Partnership started. The studies by HDR Inc. have kept going. Developers get closer to waterways and, still, nothing.

Nearly all in attendance at the meeting were against the dams. Our guess is that HDR could run over budget for the studies and the NRD would need to throw more taxpayer money into an empty rat hole.

Wayne and Shelia Dreessen
Kennard, Neb.