

The complete report is available on the Nebraska Department of Natural Resources website at www.dnr.state.ne.us, scroll to the middle of the page, click on Nebraska Water Policy Task Force

Report of Water Policy Task Force

ABSTRACT

In, 2002, the Nebraska Legislature found that significant issues exist concerning Nebraska's laws governing the integrated management of surface water and groundwater. To examine these issues, the Legislature passed LB 1003. LB1003 created a Water Policy Task Force, to be appointed by the Governor. Governor Mike Johanns appointed 49 members to the Water Policy Task Force to discuss these issues, identify options for resolution of these issues, and, by December 2003, make recommendations to the Nebraska legislature and the Governor relating to any water policy changes deemed desirable. Specifically the task force was asked to:

- Review existing laws related to the integrated management of hydrologically connected surface water and groundwater (LB 108) and determine if any changes are needed to adequately address Nebraska's conjunctive use and integrated management of these resources;
- Evaluate the utility of allowing permanent and temporary transfers and leasing of water rights and creating a water banking system and
- Determine what issues related to inequities between surface water and groundwater users need to be addressed and what actions need to be taken.

The Task Force, its Executive Committee and various sub-committees met on a regular basis over the last 18 months. As a result of their deliberations the Task Force recommends that the basic components of existing surface water and groundwater law remain intact; the Department of Natural Resources (DNR) will still administer surface water rights under the priority system and the Natural Resources Districts (NRD) will still administer groundwater uses at the local level. The Task Force also recommends the basic components of integrated management of surface water and groundwater, adopted by LB 108, remain intact. The Task Force, however, believes that a more proactive approach is needed in the integrated management of surface water and groundwater. Therefore, the Task Force recommends that Nebraska build upon the components in LB 108 by adopting a proactive component. The proactive approach will require DNR to annually review the river basins of the state to determine which are fully appropriated. If DNR determines that a basin, sub-basin or reach is fully appropriated, there will be an immediate temporary stay on all new water uses until an integrated surface water/groundwater management plan is implemented. The integrated management plan shall be jointly developed by DNR and the NRD(s) and be implemented within three to five years. The plan's goals will include sustaining of a balance between water uses and water supplies so that the economic viability, social and environmental health, safety and welfare of the basin can be achieved and maintained in both the near term and long term.

If DNR and NRD(s) cannot agree on the plan or its implementation, the dispute will be submitted to an alternative dispute resolution process and, if there is still no resolution, to an Interrelated Water Review Board, consisting of the Governor or his or her designee who has knowledge of surface water and groundwater issues, another appointee of the Governor, and three additional members appointed by the Governor from a list of at least six names provided by the Natural Resources Commission.

Report of Water Policy Task Force

In order to allow economic development to occur in basins that are fully appropriated and in which no new water uses are allowed, the Task Force recommends that temporary and permanent transfers and changes of uses of water rights be allowed. The transfers are limited, however, in that there can be no permanent changes of use for surface water rights that involve a change in the preference category. Temporary surface water appropriations across preferences can be granted for up to 30 years with the possibility of renewal, subject to review by DNR. The Task Force further proposes that existing groundwater laws be changed to give authority to NRDs with groundwater management plans to require NRD approval of transfers of groundwater off the land and transfers to rights to use groundwater that result from NRD imposed allocations. The Task Force is not recommending the development of a water rights banking system at this time.

A major issue the Task Force considered was how to deal with inequities in basins that are presently over-appropriated. In such situations, the use of more water than basin supplies can sustain has produced hardship, primarily to surface water users. The Task Force identified two basins that were clearly being affected by overuse of the water supply, the Republican Basin and the Platte River Basin above Elm Creek, Nebraska. The Task Force recommends that the joint integrated management plans currently being developed by DNR and NRDs in the Republican Basin to ensure Nebraska's compliance with the Republican River Compact be the primary action taken to address problems in that basin. For the Platte River Basin, the Task Force recommends DNR and affected NRDs develop a basin-wide plan and integrated management plans that will incrementally reduce the difference between the present level of development in excess of supply and the fully appropriated level of development. During the first increment DNR and affected NRDs shall address the impacts of stream flow depletions caused by water use begun after July 1, 1997 and prevent stream flow depletions that would cause noncompliance by Nebraska with any formal state contract entered into no earlier than July 1, 1997. During the first increment DNR and NRD(s) will also pursue voluntary efforts, subject to the availability of funds, to offset any stream flow depletive effects from uses initiated prior to July 1, 1997 but which occur after such date.

The Task Force recommendations are the result of a consensus based decision-making process. Task Force members each decided that they could support the package being proposed, primarily because there are sufficient benefits for them in the package that outweigh any adverse aspects of the package. The Task Force has agreed that for consensus to remain, the legislation must be considered as a package.

The Task Force considers adequate funding to be critical to the successful implementation of the Task Force proposals to address the concerns that led to the passage of LB 1003. Without a funding component and a firm commitment to seek the necessary funding, a consensus of the members of the Task Force would not have been reached. The Task Force recommends establishing a Water Resources Trust Fund that will have a dedicated funding source. The Task Force also recommends NRD groundwater management activities be exempt from the statutory 2½% budget lid placed on local subdivision budgets. The NRDs also should be able to supplement the funds they can raise through their maximum 4½ cent property tax levy with an additional levy, perhaps one imposed only in groundwater management areas or in NRDs with a groundwater management area. Various methods of funding these activities are included in the Task Force's proposed legislation.

Recommended FUNDING PACKAGE

The Task Force believes that water is so essential to agriculture, the environment, industry, human health and well being and to the overall economic viability of the state that leaving it to the fluctuation and uncertainty of the annual appropriations process seems unwise. The Task Force recommends a dedicated funding source.

- Funding needs include data gathering and organization, modeling/analysis, and local specialized studies necessary to ensure decisions are based on sound scientific data.

"An historic effort that is starting to bear fruit."

-Jack Maddux
Task Force member

Without such data, the plans and regulations will not be acceptable to the public. Funding is also needed to prepare and implement the plans. Finally funding is needed to address the inequities between surface and groundwater users in over appropriated basins. Inequities could be addressed by such activities as developing alternative water supplies and providing incentives for decreasing water use.

- A **Water Resource Trust Fund** should be created to provide grants for interrelated water management activities. Grants from the fund to local NRDs would require a 20% match from local funding. \$4.7 million will be necessary to fund the Task Force recommendations for planning/management and to address inequities between surface and groundwater users. Also recommended for inclusion would be \$6.3 million of current appropriations to the Nebraska Resources Development Fund, the Nebraska Soil and Water Conservation Fund and the Small Watersheds Flood Control Fund.

NRD groundwater management activities should be exempt from the statutory 2 1/2% budget lid placed on local subdivision budgets. The NRDs also should be able to supplement the funds they can raise through their maximum 4 1/2 % property tax levy with an additional levy, imposed only in groundwater management areas. Without additional funds, some NRDs will not be able to implement Integrated Management Plans.

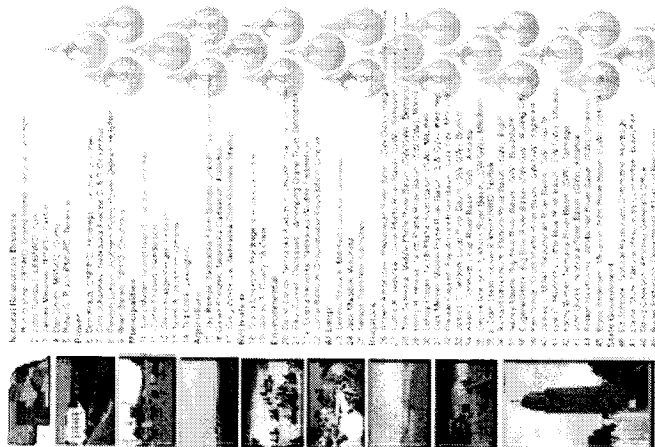
NEBRASKA WATER POLICY TASK FORCE



"In all the 30+ years I have had the honor working on water issues, this has been one of the most intense 18 months, and hopefully one of the most successful undertakings in looking at water changes that needed to come about."

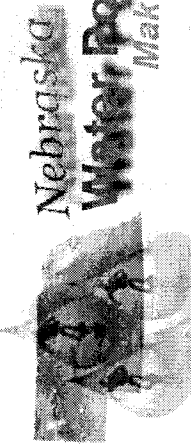
-Dick Mercer,
Task Force member

WPTF Members



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December 19, 2003



Nebraska Water Policy Task Force Makes Recommendations

In 2002 the Nebraska Legislature created a **Water Policy Task Force** to evaluate the effectiveness of and make recommendations on any needed changes to the law governing the integrated management of surface water and hydrologically connected ground water. The Legislature also asked the Task Force to make recommendations on water transfers, leasing and banking and on how to address inequities between surface water and groundwater users.

Task Force Activity

The 49 Task Force members were appointed by Governor Johans to represent specific interests as required by statute (see page 4 for membership). The first Task Force meeting took place on July 29, 2002, a total of eight full task force meetings were held prior to completion of Task Force work in December 2003. A 14 member **Task Force Executive Committee** met 18 times over the course of the effort. Interest in Executive Committee efforts was sufficiently strong that most of its meetings were heavily attended by other Task Force members. These meetings were all advertised and open to the public. A number of non-Task Force members also faithfully attended meetings and actively participated in the Task Force deliberations. In addition subcommittees were formed to address: surface water transfers, groundwater transfers, funding, data requirements, inequities between surface water and groundwater users, and presentation of the Task Force recommendations.

Consensus Based Decision Making

The recommendations of the Water Policy Task Force are the result of a consensus-based decision-making process. A consensus is the strongest form a group decision can take, because it is a settlement or solution that all participants in the decision making process accept. The consensus by members of the Water Policy Task Force was built by identifying and exploring all parties' interests, and assembling a package agreement that satisfied these interests to the greatest extent possible.

"I was skeptical of the consensus process at first, but it worked very well. The Task Force met its goal in developing a mandate for the future."

-Jim Meisner,
Task Force member

Achieving consensus involved, but did not require, unanimous support by all Task Force members for all elements of the settlement. In its consensus decisions, some parties strongly endorsed particular solutions for issues while others accepted them as workable settlements or compromises. At the end of discussions and deliberations of the Water Policy Task Force, consensus was reached, and no one blocked the approval of the package. In addition to the agreement package, some participants in the Water Policy Task Force wanted to have a section of the document where issues that need additional discussion and attention could be listed. Some of these issues were discussed by the Task Force and others were mainly mentioned as items that need future attention. Providing these comments, however, does not take away from the recommendation that the proposals be accepted by the Legislature as a package. If any one piece is changed in substance or deleted, this could change any given Task Force member's willingness to support the package and break apart the consensus that was achieved by the Task Force.



Task Force Recommendations

The Water Policy Task Force presented its report to the Governor on schedule on December 18, 2003. The Task Force recommends that the basic components of existing surface water and groundwater law be left in place, but that Nebraska adopt a stronger, more proactive approach to the integrated management of surface water and hydrologically connected groundwater. Key goals of the Task Force recommendations were to address potential problems between groundwater and surface water users before conflicts arise and to manage the water resources of the State to sustain a balance between hydrologically connected water uses and water supplies.

"The Task Force recommendations represent a major step forward in addressing equitable management of Nebraska's interrelated groundwater and surface water; with this step we have really bitten the bullet."

-Clayton Lukow,
Task Force member

December 19, 2003

Key components of the Task Force Recommendations are that the State:

- Maintain the basic framework of the existing laws.

The Task Force, in Nebraska's 23

formulating its Natural Resources Districts



recommendations, chose to work within the state's existing basic institutional and legal framework governing

the use of surface and groundwater and its recommendations are intended to build and improve upon this framework.

- Modify existing law to be more proactive and require certain management actions be taken by NDNR and the NRDs when a basin is determined to be over appropriated or fully appropriated.

- Identify the Platte River Basin above Elm Creek, Nebraska as being over appropriated. The Task Force recommends that the NDNR and NRDs develop a basin-wide plan that will guide the plans of individual NRDs that will incrementally reduce the difference between the present level of development and the fully appropriated level of development in that basin.

- Provide adequate funding to develop a sound

scientific basis

for management

decisions

and fair

implementation

of the integrated

management

plans. The Task

Force believes

that adequate

funding is

essential if

the proposed

program is to be

successful both

in avoiding such

conflicts and

in addressing

current inequities

between surface water and

groundwater users.

- Allow temporary and permanent transfers or

leases of surface water and groundwater.

Copies of the report and proposed legislation may be obtained on the NDNR website at

<http://www.ndnr.state.ne.us>

or by contacting the Department of Natural Resources.

Key Provisions of the PROACTIVE PLAN

- NDNR and the NRDs will be required to make an annual determination of which basins, sub-basins or river reaches are fully appropriated and.

- If a basin is declared over appropriated or fully appropriated there shall be an immediate suspension of all new uses until the NDNR or the NRD decide more can be allowed.

- In basins declared over appropriated or fully appropriated, NDNR and NRDs are required to jointly develop and implement an integrated surface water and groundwater management plan within 3 to 5 years of the determination.

- One goal of the Integrated Management Plan shall be to manage all hydrologically connected groundwater and surface water to sustain a balance between water uses and water supplies so that the economic viability, social and environmental health, safety and welfare of the basin, sub-basin or reach can be achieved and maintained for both the near and long term.

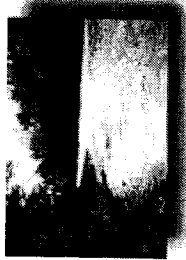
- The Integrated Management Plan may use a number of voluntary measures as well as the controls in current law, such as allocation of withdrawals, rotation of use, reduction of irrigated acres, and other measures.

- Any disputes between the NDNR and NRDs over the development or implementation of the joint action plan will go to a dispute resolution process. If the dispute is still unresolved, the disputed issues will be presented to a five member **Interrelated Water Review Board**, which will make the final decision on which components to put into the plan or how the plan shall be implemented. **The Board will consist of five members including the Governor or his or her appointee, one additional member of the Governor's choosing and three additional members appointed by the Governor from a list of at least six persons nominated by the Nebraska Natural Resources Commission.**

Key Recommendations on SURFACE WATER TRANSFERS

- Transfers of water rights from one location to another will continue to be allowed.
- In specified instances authorize NDNR to issue temporary and permanent permits that either change the purpose for which water is used or change from one type of permit to another.
- No permanent transfers or changes are allowed if it involves a change to a different preference category.

- Add safeguards to ensure changes in type of permits or changes in use will not adversely impact existing users. Some of those include:



- Temporary transfers and changes are for a minimum of one year or a maximum of thirty years, with the possibility of renewal for another 30 years after the mid-point of the term of the transfer or change.

- Temporary transfers will retain the same priority date as the original permit and shall revert to the original location and use at the end of the permit period.

- Only the historic consumptive use can be transferred or changed to a new use. Transfers for irrigation can be on an acre for acre basis. The number of acres irrigated as a result of the transfer can be increased if:

- a) The applicant can show there is not an increase in consumptive use as a result of the

- increase in acres involved in the transfer, or

- b) In basins that are not over appropriated

- or fully appropriated, the increase in the

- number of acres irrigated is not more

- than 5% of the existing permit or greater

- than 10 acres, whichever is less. Such

- increases must be on the same or an

- adjacent quarter section as the original

- permit. Such increases in acreage can

- only be done once for any given permit.

- If the transfer or change involves land served by

- an irrigation district, the district must approve the

- transfer or change.

- Development of a banking system is not necessary at

- this time. The development of a banking process

- should occur if and when there appears to be a

- need for such a system in the future.

Key Recommendations on SURFACE WATER ADJUDICATIONS

- Extend the period of allowable non-use before cancellation without excuses from 3 years to 5 years.

- If there are excusable reasons for

- nonuse, extend the allowable

- period of non-use without

- cancellation from 10 up to 15 years.

- Extend the period of allowable non-

- use before cancellation when

- water unavailability is the reason

- from 10 years to up to 30 years

"It is a double plan that recognizes everyone's interests. It would be a shame if we lose this opportunity. Changes in the adjudication statutes will streamline the process and help both NDNR and the irrigators."

-Al Schmidt,

Task Force member

or, upon petition by the appropriator, even longer if the permit is in a basin that has been determined to be over appropriated or fully

appropriated and water is expected to be restored for use in accordance with an integrated management plan.

- When an appropriation held in the name of an irrigation

- district or company is cancelled, the district shall have up to 5 years to assign the right to another use.

- After adjudication, allow a rate of diversion to be greater than one cubic foot per second for 70 acres if the higher rate is necessary, using good husbandry, to meet a full crop irrigation requirement. However, the total amount of the new diversion rate could not be greater than the total amount of the permitted rate before adjudication.

Key Recommendations on GROUNDWATER TRANSFERS

- Allow a Natural Resources District to require as a Management Area Control: 1) District approval of transfers of groundwater off the land where it is withdrawn, and 2) District approval of transfers of rights to use groundwater that result from District allocations imposed under the Groundwater Management and Protection Act. Require the District to deny or condition the approval of transfers if needed to: 1) ensure consistency of the transfer with the purposes of the Management Area, 2) prevent adverse impacts on groundwater users, surface water appropriators, or the state's ability to comply with an interstate compact, decree, or agreement, and 3) otherwise protect public interest and prevent detriment to the public welfare.

- Empower Natural Resources Districts to grant groundwater transfers off the overlying land to augment supplies in wetlands or natural streams for the purpose of benefiting fish or wildlife or producing other environmental benefits. The determination of whether to grant a permit is to be based upon stated factors, including whether the use is a beneficial use, the availability of alternative supplies, negative effects of the proposed withdrawal, cumulative effects of the proposed withdrawal, and consistency with groundwater management plans and integrated management plans.

PAPIO-MISSOURI RIVER NRD PROPOSAL for amendments to Section 12 of LB 32 would result in the following:

Sec. 12. In addition to other powers authorized by law, the board of directors of a natural resources district encompassing a city of the metropolitan, primary, or first class that is required by federal law to develop, establish, and implement storm water management programs and secure a storm water discharge permit under the National Pollutant Discharge Elimination System may establish and implement storm water management programs and projects within the district and fund the capital improvements and the operation and maintenance costs of such storm water management programs and projects by making a special levy, not subject to levy limitations specified elsewhere in state statutes and not exceeding three cents on each one hundred dollars, upon the taxable value of all taxable property in the district, and also may issue bonds of the district payable exclusively from such special levy. Any funds raised from such special levy shall be placed in a separate fund and shall not be used for any purposes other than storm water management programs and projects and retirement of such bonds.

ARGUMENTS in favor of proposal:

- The cities in the NRD do not have jurisdiction over the entire Papio watershed. Water quality issues faced by cities in the Omaha metropolitan area must be handled on a watershed basis and cannot be resolved by the cities acting alone.
- The metropolitan area cannot count on Washington County government to resolve water quality problems.
- The NRD is the only agency having lawful jurisdiction over the entire Papio watershed and thus is the only agency with ability to handle water quality on a watershed basis.
- Approximately 95% of the tax valuation of the NRD is in the area affected by NPDES permit requirements (i.e., 74% of the valuation is in Douglas County, 18.5% in Sarpy County and 2.5% in Dakota County), so it is fair that the NRD assist in funding NPDES costs.
- Groups in opposition to impervious area storm water management fee for NPDES funding objected to exempting ag land from storm water management fee. Opposition groups insisted on property tax funding instead.

AMENDMENTS TO LB 32

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Section 2-3225, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 2-3225. ~~Each~~ In addition to the levy provided in section
6 12 of this act, each district shall have the power and authority to
7 levy a tax of not to exceed four and one-half cents on each one
8 hundred dollars of taxable valuation annually on all of the taxable
9 property within such district unless a higher levy is authorized
10 pursuant to section 77-3444. The proceeds of such tax shall be
11 used, together with any other funds which the district may receive
12 from any source, for the operation of the district. When adopted
13 by the board, the levy shall be certified by the secretary to the
14 county clerk of each county which in whole or in part is included
15 within the district. Such levy shall be handled by the counties in
16 the same manner as other levies, and proceeds shall be remitted to
17 the district treasurer. Such levy shall not be considered a part
18 of the general county levy and shall not be considered in
19 connection with any limitation on levies of such counties.

20 Sec. 2. Section 18-510, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~18-510. The terms~~ For purposes of this section and
23 sections 18-501 to 18-512 and sections 11 and 12 of this act,
24 sewage system, sewerage system, storm sewer system, and disposal.

1 plant or plants ~~as used herein are defined to~~ mean and include any
2 system or works above or below ground which has for its purpose any
3 or all of the following: The removal, discharge, conduction,
4 carrying, treatment, purification, storage, or disposal of the
5 liquid and solid waste, ~~and~~ night soil, ~~and~~ storm water of a
6 municipality. It is intended that such sections ~~18-501 to 18-512~~
7 may be employed in connection with sewage projects which do not
8 include the erection or enlargement of a sewage disposal plant.

9 Sec. 3. Section 18-501, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 18-501. (1) Any city or village in this state ~~is hereby~~
12 ~~authorized to~~ may own, construct, equip, and operate, either within
13 or ~~without~~ outside the corporate limits of such municipality, a
14 sewerage system, ~~including any~~ storm sewer system, including the
15 natural drainage components of such system, ~~or~~ combination storm
16 and sanitary sewer system, and plant or plants for the treatment,
17 purification, storage, and disposal in a sanitary manner of the
18 liquid and solid wastes, sewage, ~~and~~ night soil, ~~and~~ storm water of
19 such municipality, ~~or~~ to extend or improve any existing storm or
20 sanitary sewer system or combination storm and sanitary sewer
21 system, or to establish storm water management programs.

22 (2) Any city or village ~~shall have authority to~~ may
23 acquire by gift, grant, purchase, or condemnation necessary lands
24 therefor, either within or ~~without~~ outside the corporate limits of
25 such municipality.

26 (3) For the purpose of owning, operating, constructing,
27 maintaining, and equipping such sewage disposal plant and sewerage

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1 system, including any storm sewer system or combination storm and
2 sanitary sewer system, referred to in subsections (1), (2), and (4)
3 of this section, or improving or extending such existing system,
4 any city or village is authorized and empowered to make a special
5 levy of not to exceed three and five-tenths cents on each one
6 hundred dollars upon the taxable value of all the taxable property
7 within any such municipality. The proceeds of the tax may be used
8 for any of the purposes enumerated in this section and for no other
9 purpose.

10 (4) In the event the present or proposed sewage disposal
11 system or storm sewer system of any city or village does not comply
12 with the provisions of any other law relating to sewer systems,
13 sewage disposal, or water pollution, such city or village shall
14 levy each year a tax of seven cents on each one hundred dollars of
15 taxable valuation for such purpose until sufficient funds are
16 available for the financing of a system in compliance with law. In
17 the event any city or village is otherwise raising funds for such
18 purpose, equivalent to such a levy, it shall not be required, in
19 addition thereto, to make such levy.

20 Sec. 4. Section 18-502, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 18-502. For the purpose of owning, operating,
23 constructing, and equipping such sewage disposal plant or sewerage
24 system, including any storm sewer system, ~~or~~ improving or extending
25 such existing system, or establishing storm water management
26 programs and improvements, a municipality may issue revenue bonds
27 therefor. Such revenue bonds, ~~as provided in this section~~, shall

1 not impose any general liability upon the municipality but shall be
2 secured only by the revenue ~~as hereinafter provided~~ of such utility
3 as provided in sections 18-501 to 18-512 and section 2 of this act.
4 Such revenue bonds shall be sold for not less than par and bear
5 interest at a rate set by the city council. The amount of such
6 revenue bonds, either issued or outstanding, shall not be included
7 in computing the maximum amount of bonds which the ~~said~~
8 municipality may ~~be authorized to~~ issue under its charter or any
9 statute of this state.

10 Sec. 5. Section 18-503, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 18-503. The governing body of such municipality may make
13 all necessary rules and regulations governing the use, operation,
14 and control ~~thereof~~ of a disposal plant and sewerage system,
15 including any storm sewer system, authorized by section 18-501. The
16 governing body may establish just and equitable rates or charges to
17 be paid to it for the use of such disposal plant and sewerage
18 system, including any storm sewer system, by each person, firm, or
19 corporation whose premises are served thereby. If the ~~service use~~
20 charge so established is not paid when due, such sum may be
21 recovered by the municipality in a civil action, or it may be
22 certified to the tax assessor and assessed against the premises
23 served, and collected or returned in the same manner as other
24 municipal taxes are certified, assessed, collected, and returned.
25 In addition to any other powers granted to cities regarding sewers,
26 the cities identified in section 11 of this act may impose a
27 separate storm water fee on any sewer customers served by such

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1 cities to be used exclusively to pay for the storm water management
2 programs described in such section. Such separate storm water fee,
3 if imposed, shall be based upon reasonable sewer use customer
4 classifications and shall not exceed the following limits: For
5 residential uses, fifty dollars per year per customer account; and
6 for all other uses one thousand dollars per year per customer
7 account.

8 Sec. 6. Section 18-504, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 18-504. (1) Revenue bonds which are issued, as provided
11 in section 18-502, shall not be a general obligation of the
12 municipality, but shall be paid only out of the revenue received
13 from the ~~service use~~ charges as provided in section 18-503.

14 (2) If a ~~service use~~ rate is charged, as a part of the
15 revenue, as provided in subsection (1) of this section, to be paid
16 as ~~herein provided in this section~~, such portion thereof as may be
17 deemed sufficient shall be set aside as a sinking fund for the
18 payment of the interest on ~~said bonds~~, such bonds and the principal
19 thereof at maturity.

20 (3) ~~It shall be the duty of the~~ The governing body of the
21 municipality ~~to~~ shall charge rates for the ~~service use~~ of the
22 sewerage system, including any storm sewer system, as referred to
23 in subsection (1) of this section, which rates shall be sufficient,
24 at all times, to pay the cost of operation and maintenance thereof
25 and to pay the principal of and interest upon all revenue bonds
26 issued, under ~~the provisions of~~ section 18-502, to pay the cost of
27 development, establishment, and implementation of storm water

1 management programs, and to carry out any covenants that may be
2 provided in the ordinance authorizing the issuance of any such
3 bonds.

4 (4) The holders of any of the revenue bonds or any of the
5 coupons of any revenue bonds, issued under subsection (1) of this
6 section, in any civil action, mandamus, or other proceeding, may
7 enforce and compel the performance of all duties required by this
8 section and the covenants made by the municipality in the ordinance
9 providing for the issuance of such bonds, including the making and
10 collecting of sufficient rates or charges for the specified
11 purposes and for the proper application of the income therefrom.

12 Sec. 7. Section 18-505, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 18-505. (1) For the purpose of providing for such sewage
15 disposal plant and sewerage system, including any storm sewer
16 system, or improving or extending such existing system, any such
17 municipality may also enter into a contract with any corporation
18 organized under or authorized by the laws of this state ~~to engage~~
19 ~~in the business herein mentioned~~, to receive and treat, in the
20 manner ~~hereinbefore mentioned~~, the ~~sewage and night soil thereof~~,
21 described in section 18-501, sewage, night soil, or storm water of
22 the municipality and to construct, and provide the facilities and
23 services ~~as hereinbefore described~~ in sections 18-501 to 18-507 and
24 section 2 of this act.

25 (2)(a) Such contract may ~~also~~ authorize the corporation
26 to charge the owners of the premises served ~~such a service rate~~
27 ~~therefor~~ a use rate as the governing body of such municipality ~~may~~

1 ~~determine~~ determines to be just and reasonable, or (b) the
2 municipality may (i) contract to pay the said corporation a flat
3 rate for such service, and pay ~~therefor~~ for the service out of its
4 general fund or the proceeds of any tax levy applicable to the
5 purposes of such contract, or (ii) assess the owners of the
6 property served a reasonable charge ~~therefor~~ for the service to be
7 collected as ~~hereinbefore~~ provided in section 18-503 and paid into
8 a fund to be used to defray such contract charges.

9 Sec. 8. Section 18-507, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 18-507. Whenever the governing body of any city or
12 village ~~shall~~ has ordered the installation of a sewerage
13 system and sewage disposal plant or the improvement or extension of
14 an existing system, including any storm sewer system, the fact that
15 such order was issued shall be recited in the official minutes of
16 the governing body. The ~~said~~ governing body shall thereupon
17 require that plans and specifications be prepared of such sewerage
18 system and sewage disposal plant, including any storm sewer system,
19 or such improvement or extension. Upon approval of such plans, the
20 governing body shall thereupon advertise for sealed bids for the
21 construction of ~~said~~ the improvements once a week for three weeks
22 in a legal paper published in or of general circulation within ~~said~~
23 the municipality, and the contract shall be awarded to the lowest
24 responsible bidder.

25 Sec. 9. Section 18-508, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 18-508. The owner of any sewerage system or sewage

1 disposal plant, including any storm sewer system, provided for in
2 sections 18-501 to 18-507, and section 2 of this act or the
3 municipality, ~~is hereby authorized to~~ may extend the same beyond
4 the limits of the city or village which it serves, under the same
5 conditions as nearly as may be as within such corporate limits and
6 to charge to users of its services reasonable and fair rates
7 consistent with those charged or which might be charged within such
8 corporate limits and consistent with the expense of extending and
9 maintaining the same for the users thereof outside such corporate
10 limits at a fair return to the owner thereof. The mayor and city
11 council of any city or the board of trustees of any village ~~shall~~
12 ~~have authority to~~ may enter into contracts with users of such
13 sewerage system, except that ~~PROVIDED~~, no contract shall call for
14 furnishing of such service for a period in excess of twenty years.

15 Sec. 10. Section 18-509, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 18-509. (1) The mayor and city council of any city or
18 the board of trustees of any village, in addition to other sources
19 of revenue available to the city or village, may by ordinance set
20 up a rental or use charge, to be collected from users of any system
21 of sewerage, including any storm sewer system, and provide methods
22 for collection thereof. The charges shall be charged to each
23 property served by the sewerage system or storm sewer system, shall
24 be a lien upon the property served, and may be collected either
25 from the owner or the person, firm, or corporation requesting the
26 service. The rates for any separate charges for storm water
27 systems shall be limited as provided in section 18-503.

1 (2) All money raised from the charges~~r~~ referred to in
2 subsection (1) of this section~~r~~ shall be used for maintenance or
3 operation of the existing system, for payment of principal and
4 interest on bonds issued as ~~is~~ provided ~~for~~ in section 17-925,
5 18-502, 18-506, or 19-1305, ~~or~~ to create a reserve fund for the
6 purpose of future maintenance or construction of a new sewer system
7 for the city or village, or to develop, establish, and implement
8 storm water management programs. Any funds raised from ~~this~~ such
9 charge shall be placed in a separate fund and not be used for any
10 other purpose or diverted to any other fund.

11 Sec. 11. The provisions of sections 18-501 to 18-512 and
12 section 2 of this act authorizing a municipality to establish
13 separate storm water fees and implement storm water management
14 programs shall be applicable only to cities of the metropolitan,
15 primary, or first class which are required by federal law to
16 develop, establish, and implement storm water management programs
17 and secure a storm water discharge permit under the National
18 Pollutant Discharge Elimination System.

19 Sec. 12. In addition to other powers authorized by law,
20 the board of directors of a natural resources district encompassing
21 a city of the metropolitan, primary, or first class that is
22 required by federal law to develop, establish, and implement storm
23 water management programs and secure a storm water discharge permit
24 under the National Pollutant Discharge Elimination System may
25 establish and implement storm water management programs and
26 projects within the district and fund the capital improvements and
27 the operation and maintenance costs of such storm water management

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1 programs and projects by making a special levy not subject to levy
2 limitations specified in section 77-3442 and not exceeding three
3 cents on each one hundred dollars, upon the taxable value of all
4 taxable property in the district, and may also issue bonds of the
5 district payable exclusively from such levy. Any funds raised from
6 such levy shall be placed in a separate fund and shall not be used
7 for any purpose other than storm water management programs and
8 projects and the retirement of such bonds.

9 Sec. 13. Section 77-3442, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-3442. (1) Property tax levies for the support of
12 local governments for fiscal years beginning on or after July 1,
13 1998, shall be limited to the amounts set forth in this section
14 except as provided in section 77-3444.

15 (2)(a) Except as provided in subdivision (2)(b) of this
16 section, school districts and multiple-district school systems may
17 levy a maximum levy of (i) one dollar and five cents per one
18 hundred dollars of taxable valuation of property subject to the
19 levy for fiscal years 2003-04 and 2004-05 and (ii) one dollar per
20 one hundred dollars of taxable valuation of property subject to the
21 levy for all fiscal years except fiscal years 2003-04 and 2004-05.
22 Excluded from this limitation are amounts levied to pay for sums
23 agreed to be paid by a school district to certificated employees in
24 exchange for a voluntary termination of employment and amounts
25 levied to pay for special building funds and sinking funds
26 established for projects commenced prior to April 1, 1996, for
27 construction, expansion, or alteration of school district.

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1 buildings. For purposes of this subsection, commenced means any
2 action taken by the school board on the record which commits the
3 board to expend district funds in planning, constructing, or
4 carrying out the project.

5 (b) Federal aid school districts may exceed the maximum
6 levy prescribed by subdivision (2)(a) of this section only to the
7 extent necessary to qualify to receive federal aid pursuant to
8 Title VIII of Public Law 103-382, as such title existed on
9 September 1, 2001. For purposes of this subdivision, federal aid
10 school district means any school district which receives ten
11 percent or more of the revenue for its general fund budget from
12 federal government sources pursuant to Title VIII of Public Law
13 103-382, as such title existed on September 1, 2001.

14 (c) Beginning with school fiscal year 2002-03 through
15 school fiscal year 2004-05, school districts and multiple-district
16 school systems may, upon a three-fourths majority vote of the
17 school board of the school district, the board of the unified
18 system, or the school board of the high school district of the
19 multiple-district school system that is not a unified system,
20 exceed the maximum levy prescribed by subdivision (2)(a) of this
21 section in an amount equal to the net difference between the amount
22 of state aid that would have been provided under the Tax Equity and
23 Educational Opportunities Support Act without the changes made by
24 Laws 2002, LB 898, for the ensuing school fiscal year for the
25 school district or multiple-district school system and the amount
26 provided under the act as amended by Laws 2002, LB 898. The State
27 Department of Education shall certify to the school districts and

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1 multiple-district school systems the amount by which the maximum
2 levy may be exceeded pursuant to subdivision (2)(c) of this section
3 on or before May 15, 2002, for school fiscal year 2002-03, June 30,
4 2003, for school fiscal year 2003-04, and February 15, 2004, for
5 school fiscal year 2004-05.

6 (3) Community colleges may levy a maximum levy on each
7 one hundred dollars of taxable property subject to the levy of
8 seven cents for fiscal year 2000-01 and each fiscal year
9 thereafter, plus amounts allowed under subsection (7) of section
10 85-1536.01.

11 (4) ~~Natural~~ In addition to the levy provided in section
12 11 of this act, natural resources districts may levy a maximum levy
13 of four and one-half cents per one hundred dollars of taxable
14 valuation of property subject to the levy.

15 (5) Educational service units may levy a maximum levy of
16 one and one-half cents per one hundred dollars of taxable valuation
17 of property subject to the levy.

18 (6)(a) Incorporated cities and villages which are not
19 within the boundaries of a municipal county may levy a maximum levy
20 of forty-five cents per one hundred dollars of taxable valuation of
21 property subject to the levy plus an additional five cents per one
22 hundred dollars of taxable valuation to provide financing for the
23 municipality's share of revenue required under an agreement or
24 agreements executed pursuant to the Interlocal Cooperation Act or
25 the Joint Public Agency Act. The maximum levy shall include
26 amounts levied to pay for sums to support a library pursuant to
27 section 51-201, museum pursuant to section 51-501, visiting

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1 community nurse, home health nurse, or home health agency pursuant
2 to section 71-1637, or statue, memorial, or monument pursuant to
3 section 80-202.

4 (b) Incorporated cities and villages which are within the
5 boundaries of a municipal county may levy a maximum levy of ninety
6 cents per one hundred dollars of taxable valuation of property
7 subject to the levy. The maximum levy shall include amounts paid
8 to a municipal county for county services, amounts levied to pay
9 for sums to support a library pursuant to section 51-201, a museum
10 pursuant to section 51-501, a visiting community nurse, home health
11 nurse, or home health agency pursuant to section 71-1637, or a
12 statue, memorial, or monument pursuant to section 80-202.

13 (7) Sanitary and improvement districts which have been in
14 existence for more than five years may levy a maximum levy of forty
15 cents per one hundred dollars of taxable valuation of property
16 subject to the levy, and sanitary and improvement districts which
17 have been in existence for five years or less shall not have a
18 maximum levy. Unconsolidated sanitary and improvement districts
19 which have been in existence for more than five years and are
20 located in a municipal county may levy a maximum of eighty-five
21 cents per hundred dollars of taxable valuation of property subject
22 to the levy.

23 (8) Counties may levy or authorize a maximum levy of
24 fifty cents per one hundred dollars of taxable valuation of
25 property subject to the levy, except that five cents per one
26 hundred dollars of taxable valuation of property subject to the
27 levy may only be levied to provide financing for the county's share

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1 of revenue required under an agreement or agreements executed
2 pursuant to the Interlocal Cooperation Act or the Joint Public
3 Agency Act. The maximum levy shall include amounts levied to pay
4 for sums to support a library pursuant to section 51-201 or museum
5 pursuant to section 51-501. The county may allocate up to fifteen
6 cents of its authority to other political subdivisions subject to
7 allocation of property tax authority under subsection (1) of
8 section 77-3443 and not specifically covered in this section to
9 levy taxes as authorized by law which do not collectively exceed
10 fifteen cents per one hundred dollars of taxable valuation on any
11 parcel or item of taxable property. The county may allocate to one
12 or more other political subdivisions subject to allocation of
13 property tax authority by the county under subsection (1) of
14 section 77-3443 some or all of the county's five cents per one
15 hundred dollars of valuation authorized for support of an agreement
16 or agreements to be levied by the political subdivision for the
17 purpose of supporting that political subdivision's share of revenue
18 required under an agreement or agreements executed pursuant to the
19 Interlocal Cooperation Act or the Joint Public Agency Act. If an
20 allocation by a county would cause another county to exceed its
21 levy authority under this section, the second county may exceed the
22 levy authority in order to levy the amount allocated.

23 (9) Municipal counties may levy or authorize a maximum
24 levy of one dollar per one hundred dollars of taxable valuation of
25 property subject to the levy. The municipal county may allocate
26 levy authority to any political subdivision or entity subject to
27 allocation under section 77-3443.

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1 (10) Property tax levies for judgments, except judgments
2 or orders from the Commission of Industrial Relations, obtained
3 against a political subdivision which require or obligate a
4 political subdivision to pay such judgment, to the extent such
5 judgment is not paid by liability insurance coverage of a political
6 subdivision, for preexisting lease-purchase contracts approved
7 prior to July 1, 1998, for bonded indebtedness approved according
8 to law and secured by a levy on property, and for payments by a
9 public airport to retire interest-free loans from the Department of
10 Aeronautics in lieu of bonded indebtedness at a lower cost to the
11 public airport are not included in the levy limits established by
12 this section.

13 (11) The limitations on tax levies provided in this
14 section are to include all other general or special levies provided
15 by law. Notwithstanding other provisions of law, the only
16 exceptions to the limits in this section are those provided by or
17 authorized by sections 77-3442 to 77-3444.

18 (12) Tax levies in excess of the limitations in this
19 section shall be considered unauthorized levies under section
20 77-1606 unless approved under section 77-3444.

21 (13) For purposes of sections 77-3442 to 77-3444,
22 political subdivision means a political subdivision of this state
23 and a county agricultural society.

24 Sec. 14. If any section of this act or any part of any
25 section is declared invalid or unconstitutional, the declaration
26 shall not affect the validity or constitutionality of the remaining
27 portions.

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1 Sec. 15. Original sections 2-3225, 18-501 to 18-505,
2 18-507 to 18-510, and 77-3442, Reissue Revised Statutes of
3 Nebraska, are repealed.".

Nebraska's Natural Resources Districts



2004 Legislative Conference

Embassy Suites, Lincoln, January 27 – 28, 2004

The Nebraska Association of Resources Districts, along with Nebraska's 23 state wide Districts, who work diligently in assisting and addressing natural resource concerns in their respective districts extend this invitation to attend our 2004 Legislative Meeting. This year's conference will feature legislative speakers, sessions and activities that are sure to keep attendees informed of issues pertinent to Nebraska's natural resources.



Tuesday

Participate in the NARD Legislative process and positions on legislative bills. State Senators and other key leaders will be speaking on current issues. Tuesday will include a Senators Reception at the Embassy Suites.

Wednesday

A day of concurrent sessions that are sure to be of interest to directors, NRD staff, and agency staff persons. We're planning plenty of variety in each session, providing something of interest for everyone. Continuing Education Units will be awarded for appropriate session. Michael Tefft, NRD's Financial Representative will hold a three hour update session the NRD Employee retirement program.



Motel Information

A block of sleeping rooms has been reserved at the Embassy Suites with a room rate of \$119 for single or double occupancy. Included in this rate is a complementary two-hour cocktail reception Monday evening, and a complementary buffet with cook to order breakfast each morning. These room rates are available until January 5, 2004. Make your reservations soon 402/474-1111 or 1-800-EMBASSY and request the NARD room block.

Registration Information

The registration form is located on the last page of this letter. Registration deadline is Friday January 16, 2004. "Walk-In" registrations will be an additional \$25 fee per person. Cancellations after January 19th will be subject to a \$25 processing fee. No refunds will be awarded after January 22, 2004.



In This Letter

- ♦ Times and location of Managers, NARD Board and Staff meetings.
- ♦ Tentative conference agenda.
- ♦ Hotel information.
- ♦ Registration Information.

*Tentative Agenda
Monday January 26, 2004*

- 1:00 - 4:00 p.m. NRD Managers Meeting, Lower Platte South NRD
 NARD Legislative Committee to meet immediately following, Lower Platte South NRD
- 1:00 NRD Staff Information & Education Meeting, Embassy Suites

*Tuesday January 27, 2004
Embassy Suites*

- 7:30 a.m. NARD Fiscal Planning & Budget Committee Breakfast Meeting
 NARD Native Vegetation and Forestry Subcommittee Breakfast Meeting
- 8:00 Registration
- 9:00 Opening Remarks, Governor Mike Johanns (invited)
- 9:15 Water Policy Task Force Update
- 10:00 Framing Legislative Issues and Discussion of Proposed Legislation of Interest
- 12:00 p.m. Luncheon, Senator Schrock (invited)
- 1:30 Caucus
- 3:00 Action on Proposed Legislation
- 5:30 Reception with Senators
- 7:00 Meeting with your Senator(s) - on your own.

*Wednesday January 28, 2004
Embassy Suites*

- 7:30 a.m. NARD and NRD Staff Information & Education Committee Breakfast Meeting
 NARD Program and Planning Committee Breakfast Meeting
- 8:00 Registration
- 8:00 - 11:00 Visit Senators and their staff at the Capitol Building - Optional

Concurrent Sessions

- 8:30 - 9:15 USDA Conservation Programs Update
 Don Thobor, NRCS
- Bacteria Monitoring Project,
 Pat O'Brien, NDEQ
 Pesticide Monitoring Project,
 Craig Romary, NDA and Dick Ehrman, NARD
- NRD Computer Networking, *TBA*
- 9:20 - 10:05 Conservation Security Program
 Steve Chick, NRCS
- Statewide Ground Water Quality Monitoring
 Dick Ehrman, NARD
 Ground Water Level Monitoring Program
 Mark Burbach, UNL
- Staff Development, *TBA*
- 10:20 - 11:05 NRD's Utilizing GIS/GPS, Part I
- In-Situ Nitrate Treatment of Ground Water
 Dr. Roy Spalding, UNL
 Regional Water Systems
 Jackie Stumpff, NDEQ
- NRD Office Imaging, *TBA*
- 11:10 - 11:55 NRD's Utilizing GIS/GPS, Part II
- NDEQ Livestock Waste Legislation
 Dennis Heitmann, NDEQ
 Watershed/Lake/Community-Based Planning
 John Bender and Paul Brakhage, NDEQ
- CREP/FSA, *TBA*
- 12:00 p.m. Luncheon, Senator Wehrbien (invited)
- 1:30 - 4:30 NRD Insurance and Retirement Program updates
- 1:30 NARD Board of Directors Meeting
- 1:30 Department of Natural Resources Commission Meeting
- 1:30 Pallid Sturgeon Study Group Meeting