

**Programs, Projects, and Operations Subcommittees
Meeting Minutes
July 8, 2003**

A meeting of the Papio-Missouri River Natural Resources District's Programs, Projects, and Operations Subcommittee was held at the Natural Resources Center, 8901 South 154th Street, Omaha, Nebraska, on July 8, 2003. The meeting was called to order by Chairperson John Conley at 6:00 p.m.

QUORUM CALL: Quorum call was taken. The following subcommittee members were in attendance.

Subcommittee Members Present	Subcommittee Members Absent	Other Directors Present	Others in Attendance
John Conley		Barb Nichols	P-MRNRD Staff:
Rich Jansen *		Jim Thompson	Steve Oltmans
Tim Fowler			Marlin Petermann
Joe Neary			Ralph Puls
Rich Tesar			Paul Woodward
Dick Connealy **			Jim Becic
			Jean Tait
			Pat Teer
			Dick Sklenar
			Paul Peters, Legal Counsel
			OTHERS:
			Laurie Zook Carrett
			Bob Sink
			Mark Wayne
			Dan Geier
			Wayne Talbert
			Nancy Gaarder

* Not present for quorum call, but attended meeting.

** Alternate voting member until Director Jansen arrived.

ADOPTION OF AGENDA

*** It was moved by Connealy and seconded by Fowler that agenda be adopted.**

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Conley (John), Connealy, Fowler, Neary, Tesar

Voting Nay: None

Abstaining: None

Absent: Jansen

PROOF OF PUBLICATION: Public notice of the meeting was posted at all District offices and published in the Omaha World-Herald on July 3, 2003.

DEVELOPMENT OF STORM WATER FEE SYSTEM FOR THE OMAHA METROPOLITAN AREA (PAPILLION CREEK WATERSHED PARTNERSHIP):

Assistant General Manager Marlin Petermann began discussion of the proposal with a review of the issues involved and concluded by stating the management recommendation. He introduced Bob Sink who represents the City of Omaha in the Partnership. Sink told the Subcommittee that the City supports the proposal. Mark Wayne, Sarpy County's representative also spoke in support of the proposal. Letters of support from Dennis Hilfiker, City of Bellevue, and Kent Holm, Douglas County, were distributed to the Subcommittee.

There was a considerable amount of discussion among the Board members regarding the proposal.

*** It was moved by Tesar, and seconded by Neary, that the Subcommittee recommend to the Board not to accept the Staff recommendation.**

Roll call was taken on the motion. The motion carried on a vote of 3 to 2.

Voting Yea: Fowler, Neary, Tesar
Voting Nay: Conley (John), Connealy
Abstaining: None
Absent: Jansen

Note: Director Rich Jansen arrived for the Subcommittee meeting.

PUBLIC CANOEING ACCESS AT BOYER CHUTE:

P-MRNRD General Manager Steve Oltmans began the discussion of this item with background information about the project. He described the bridge that crosses the chute and how that bridge can present a hazard to canoeists; a hazard that wasn't anticipated when the Master Plan for the Boyer Chute project was developed. He introduced Dan Grier, who described himself as an experienced canoeist and a proponent of making the Boyer Chute available for canoeing. He said that the bridge does at times present a hazard, but suggested that steps could be taken to reduce the problem.

Steve Oltmans distributed a letter he had drafted that was addressed to Bryan Schultz, Refuge Manager at Boyer Chute National Wildlife Refuge, requesting that the U.S. Fish and Wildlife Service investigate the options available to allow the public full use of the Chute with non-motorized boats.

- ✴ **It was moved by Tesar, and seconded by Fowler, that the Subcommittee recommend to the Board that the General Manager be authorized to write the U.S. Fish and Wildlife Service requesting that they resolve the issue of the use of boats on Boyer Chute.**

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Conley (John), Fowler, Jansen, Neary, Tesar
Voting Nay: None
Abstaining: None
Absent: None

EXTEND WASHINGTON COUNTY RURAL WATER STUDY DEADLINE: Project Manager Dick Sklenar initiated discussion on the proposal before the Subcommittee by explaining the proposal and by displaying a map of the project area that showed the number and locations of applicants for rural water service. He introduced Wayne Talbert who is the Chairman of the Washington County Rural Water Study Steering Committee who asked that the Subcommittee approve his request to extend the deadline for accepting hookup fee deposits and applications until July 31, 2003. Discussion followed.

- ✴ **It was moved by Jansen, and seconded by Tesar, that the Subcommittee recommend to the Board that the deadline for accepting hookup fee deposits and applications regarding the Washington County Rural Water Study be extended until July 31, 2003, and that each application for rural water service submitted to the District after that date shall be increased \$200 (\$2,600 to \$2,800).**

Amendment **It was moved by Fowler and seconded by Jansen to amend the motion**
To the **to extend the deadline to August 15, 2003**
Motion

Roll call vote was taken on the amendment. It carried on a vote of 5 to 0.

Voting Yea: Conley (John), Fowler, Jansen, Neary, Tesar
Voting Nay: None
Abstaining: None
Absent: None

Roll call vote was held on the motion as amended. The motion carried on a vote of 5 to 0.

Voting Yea: Conley (John), Fowler, Jansen, Neary, Tesar
Voting Nay: None
Abstaining: None
Absent: None

BIDS FOR PIGEON/JONES CREEK WATERSHED SITE #3 HUBBARD: P-MRNRD Staff member Ralph Puls advised the Subcommittee of the results of the bid opening for the construction of the Pigeon/Jones Watershed Site No. 3 structure. He told them that Jensen Construction of Stanton, NE, was determined to be the lowest and best bid and recommended that the Subcommittee approve the staff recommendation.

- ✱ **It was moved by Jansen, and seconded by Fowler, that the Subcommittee recommend to the Board that the General Manager be authorized to execute a contract for construction of Pigeon/Jones Watershed Dam Site #3 with Jensen Construction, D.T. Inc. in the amount of \$190,864.45**

Roll call was taken on the motion. The motion carried on a vote of 5 to 0

Voting Yea: Conley (John), Fowler, Jansen, Neary, Tesar
Voting Nay: None
Abstaining: None
Absent: None

OTHER ITEMS OF INTEREST: There were none.

ADJOURNMENT: Being no further business, the meeting adjourned by acclamation at 7:20 p.m.

Memorandum

To: Programs, Projects, and Operations Subcommittee
From: Paul Woodward, Water Resources Engineer
Date: July 7, 2003
Re: Request for Proposals to Develop a Stormwater Fee System

On June 19, 2003, the Papillion Creek Watershed Partnership decided to move forward in support of a Stormwater Fee to select a consultant to perform a needs assessment and develop a Stormwater Fee System for the Omaha Metro area in Douglas and Sarpy County, NE. The Papio-Missouri River Natural Resources District, on behalf of the Papillion Creek Watershed Partnership (PCWP), has requested proposals for professional engineering services according to the attached memorandum dated June 30, 2003.

Cities and counties that make up the Partnership are in support of proposed state enabling legislation to allow them to charge a stormwater fee to fund programs and projects that address water quality and quantity. A system needs to be developed that defines the need and basis for such a fee in order to provide a better understanding of such a system to policy makers and the public. Developing a fee together as a Partnership provides a consistent and fair system for everyone in the watershed, as well as reduces the cost.

It is estimated that these services could cost as much as \$200,000. All funding required for this effort will be supplied from Partnership contributions. This means that the District will contribute 20.5% based on our annual contribution of \$50,000 out of the total annual Partnership funding of \$244,250. Please review the attached Watershed Fund Summary for other Partner's contributions. In addition to providing funding, the City of Omaha Public Works Department and others will be assisting the District in the administration of this project as part of the Partnership effort.

Management recommends that the subcommittee recommend to the Board that the Chairperson appoint an Ad-Hoc Subcommittee to select a consultant to develop a Stormwater Fee System for the Omaha Metro area in Douglas and Sarpy County, NE on behalf of the Papillion Creek Watershed Partnership.

PAPILLION CREEK WATERSHED PARTNERSHIP

Watershed Fund Summary Updated July 17, 2003

CONTRIBUTIONS

Entity	Annual Contribution Amount	Per-cent (%)	Contribution-To-Date	Amount Due Aug. 1, 2003	Amount Due Aug. 1, 2004	Total Future Contributions
Bellevue	\$12,500.00	5.1%	\$25,000.00	\$0.00	\$12,500.00	\$12,500.00
Bennington	\$1,000.00	0.4%	\$1,000.00	\$1,000.00	\$1,000.00	\$2,000.00
Girls and Boys Town	\$1,000.00	0.4%	\$2,000.00	\$0.00	\$1,000.00	\$1,000.00
Elkhorn	\$2,500.00	1.0%	\$5,000.00	\$0.00	\$2,500.00	\$2,500.00
Gretna	\$1,000.00	0.4%	\$1,000.00	\$1,000.00	\$1,000.00	\$2,000.00
La Vista	\$3,750.00	1.5%	\$7,500.00	\$0.00	\$3,750.00	\$3,750.00
Omaha	\$100,000.00	40.9%	\$300,000.00	\$0.00	\$0.00	\$0.00
Papillion	\$5,000.00	2.0%	\$10,000.00	\$0.00	\$5,000.00	\$5,000.00
Ralston	\$2,500.00	1.0%	\$2,500.00	\$2,500.00	\$2,500.00	\$5,000.00
Douglas County	\$40,000.00	16.4%	\$40,000.00	\$40,000.00	\$40,000.00	\$80,000.00
Sarpy County	\$25,000.00	10.2%	\$50,000.00	\$0.00	\$25,000.00	\$25,000.00
Papio NRD	\$50,000.00	20.5%	\$100,000.00	\$0.00	\$50,000.00	\$50,000.00
TOTAL	\$244,250.00	100.0%	\$544,000.00	\$44,500.00	\$144,250.00	\$188,750.00

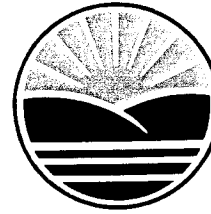
EXPENSES

Item	Expense-To-Date	Future Expenses
HDR Engineering, Inc. (Stage I)	\$357,153.04	\$0.00
Partnership Letterhead	\$175.00	\$0.00
Checks	\$15.00	\$0.00
CDM	\$7,245.45	\$33,000.00
HDR Engineering, Inc. (Stage II)	\$0.00	\$135,000.00
Stormwater Utility Fee Development	\$0.00	\$200,000.00
TOTAL	\$364,588.49	\$368,000.00

BALANCE

	Balance-To-Date	Future Balance
Contributions	\$544,000.00	\$732,750.00
Expenses	\$364,588.49	\$732,588.49
Interest	\$3,441.42	\$5,000.00
TOTAL	\$182,852.93	\$5,161.51

PAPPIO-MISSOURI RIVER
NATURAL
RESOURCES
DISTRICT



8901 S. 154TH ST.
OMAHA, NE 68138-3621
(402) 444-6222
FAX (402) 895-6543

Memorandum

To: Interested Engineering Consultants
From: Steve Oltmans, General Manager
Date: June 30, 2003
Re: Request for Proposals to Develop a Stormwater Fee System

The Papio-Missouri River Natural Resources District, on behalf of the Papillion Creek Watershed Partnership (PCWP), is requesting proposals for professional engineering services to perform a needs assessment and develop a Stormwater Fee System for the Omaha Metro area in Douglas and Sarpy County, NE. Professional services for the study will include, but is not limited to, an evaluation of the stormwater infrastructure and program needs for each of the PCWP members as well as a determination of the rationale for fees, a system of credits, cost efficient collection mechanisms, and program implementation assistance.

The PCWP is a membership formed by inter-local agreement of jurisdictions situated in whole or part within the Papillion Creek Watershed and includes the cities of Omaha, Bellevue, Bennington, Boystown, Elkhorn, Gretna, LaVista, Papillion and Ralston; the counties of Douglas and Sarpy; and the Papio-Missouri River Natural Resources District. This Partnership was formed as part of a regional comprehensive planning effort to address stormwater management and deal with the various demands on the Papillion Creek watershed. Several best management practices and projects have been identified by the PCWP that require funding, but no current system exists to equitably address these needs. A legislative bill has been proposed to allow cities, counties, and Natural Resource Districts affected by NPDES Stormwater Phase I and Phase II Regulations to implement a fee structure to pay for these programs based on impervious surface and best engineering judgment. The PCWP desires a system of billing that can be universally applied to property owners based on contribution to the stormwater drainage problem. A collection mechanism and system of credits will also be required as part of the legislation.

The proposed scope of services and a description of each are as follows:

- ☐ **Needs Assessment** - The stormwater infrastructure and program needs will be assessed based on the watershed management plan, NPDES requirements, future program goals, and engineering judgment. A report of existing deficiencies and program implementation costs will be prepared for use by the Partnership members. This will also include the determination of the feasibility of various rate structures and the selection of a rate structure for the region based on the implementation assessment and needs.

- ❑ **Rate Structure** - Development of rationale that allocates revenue requirements defined in the needs assessment and programmatic elements to charge parameters or customer classes. The determination of the rate structure for use by PCWP members may include:
 - A basic rate for individual customers based on impervious surface area in the form of Equivalent Residential Units (ERU) and the establishment of the value for an average ERU in the metropolitan area using existing Geographic Information Services (GIS) data.
 - Computation of the ERU for each commercial and industrial property in the region based on GIS data.
 - Projected rate schedule based on program needs in accordance with NPDES permit requirements and implementation schedules.

- ❑ **Credit System Development** - The proposal will include a methodology for the formation of a system of credits for the application of stormwater Best Management Practices (BMPs) in development or re-development activities. The credit system will be based on recoverable or deferred costs and implementation of such systems and which comply with Federal and State NPDES regulated programs.

- ❑ **Fee Collection System Development** - A system for the collection of drainage fees must also be developed. This system should be consistent with practices of fee collection practice in the region. The existing fee collection system for sanitary sewers should be evaluated for applicability for stormwater fees. A report on existing deficiencies in the system for stormwater fee collection will be produced with suggestions for collection on deficient accounts. The resultant system will include a system to bill alternate contributors and track them in the billing database.

- ❑ **Implementation Assistance** - Assist in the implementation of a stormwater fee based program including public meetings, public participation programs, preparation of educational materials, public testimony, stakeholder meetings, and miscellaneous program material development.

If interested, the following information should be submitted with your proposal in a form of your choosing, but the total length shall be limited to 25 pages:

1. Firm name, address and telephone number.
2. Names of principals of the firm and states in which they are registered.
3. Names of personnel you would expect to utilize, with experience of each and length of time in the organization.
4. Specific project contact person.
5. List of similar completed projects of which the firm was principle planner and contact information for each project.
6. General overview of your approach to the project.
7. Project schedule. The needs assessment, rate structure and credit system development must be substantially completed by December 15, 2003.

An Ad-Hoc Subcommittee of the District's Board of Directors will be responsible for reviewing and evaluating the responses on the said requested services. Final selection of the firm to perform such services will be determined by the following timetable:

<u>Date</u>	<u>Description</u>
July 1, 2003	Mail out RFP to engineering consultants
July 10, 2003	Final date for receipt of proposals.
July 17, 2003	Ad-Hoc Subcommittee meeting on the initial screening of proposals received. Three (3) firms selected for interview.
July 18, 2003	Send letter to selected firms notifying them of the interview time and date.
July 24, 2003	Ad-Hoc Subcommittee Meeting to interview selected firms. Subcommittee will rank each firm by preference.
August 12, 2003	Ad-Hoc Subcommittee negotiate contract with first choice firm.
August 14, 2003	District Board of Directors adopts Subcommittee recommendation on entering into contract with selected engineering firm.

Interested firms should submit nine (9) copies of its proposal to the District's Omaha office, at the letterhead address, no later than 4:30 p.m. on July 10, 2003, if they are to be considered.

Inquiries regarding this matter may be addressed to Paul Woodward at 444-6222.

Cc: Ad-Hoc PCWP Stormwater Fee Subcommittee:
Jim Thompson, Chairperson
Pete Rubin, Vice-Chairperson
Barb Nichols
Tim Fowler
Melissa Gardner

CITY OF BELLEVUE

Public Works Administration

210 West Mission Avenue
Bellevue, Nebraska 68005-5299
Ph: 402/293-3025
Fax: 402/293-3055

July 7, 2003

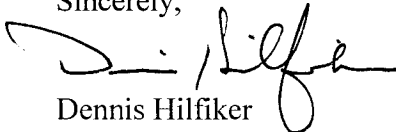
To: Board of Directors
Papio-Missouri River NRD
8901 S. 154th Street
Omaha, Nebraska 68138-6543

I understand you are to have a sub-committee meeting on Tuesday the 8th of July. An item to be discussed by the board members is authorization for your staff to seek proposals from a qualified consultant to perform a report on a fee structure for storm water funding. Unfortunately, I have another commitment and will be unable to attend the meeting.

Although the city of Bellevue is a member of the partnership (PCWP) and I represent the city at meetings, I have not discussed this item in detail with Mayor and Council and am therefore unable to give their official position on the matter. However, as a staff member working on the issue of funding the NPDES Phase II Storm Water Permit Requirements, I am in support for finding a fair and equitable method of funding this federal mandate we all are facing. It just doesn't make sense to look at adding another burden on property taxes. It makes more sense to me to set up a "user fee" that would generate funds prorated by the amount of surface water generated by the property owner. Whatever the fee might be, it should be the same fee for the entire watershed and administered similar to our wastewater user fees for treatment and maintenance. This funding should be restricted as a enterprise fund, and whatever is collected used for storm water related expenditures.

The request by your staff is the first step needed to identify a fee structure that may be acceptable. I would urge you to support this study for the benefit of all the members of the partnership.

Sincerely,



Dennis Hilfiker
Public Works Director
City of Bellevue

JUL - 8 2003



DOUGLAS COUNTY
ENVIRONMENTAL SERVICES

3015 MENKE CIRCLE, OMAHA, NE 68134

Kent E. Holm, Director

Gerald G. Leahy, Assistant Director

July 3, 2003

Board of Directors
Papio-Missouri River NRD
8901 S. 154th St.
Omaha, NE 68138-6543

Dear Directors:

As Director of Environmental Services, I represent Douglas County in the Papillion Creek Watershed Partnership (PCWP) to provide regional cooperative planning to address stormwater management in the Papillion Creek watershed.

The management of the Papio-Missouri River NRD, on behalf of the PCWP, has requested professional services proposals for an assessment of the stormwater infrastructure and program needs for the PCWP member entities, a determination of the administrative structure of a fee system to support our respective stormwater management plans, and program implementation assistance. The professional services that would be provided are essential to the on-going planning process initiated by the PCWP, and to help meet the NPDES Phase II Stormwater Permit requirements.

I am unable to attend your Tuesday, July 8th subcommittee meeting, but I urge you to form an Ad-Hoc Selection Subcommittee to facilitate the process of evaluating and retaining the best professional services consultant for this work.

Yours truly,

Kent E. Holm, Director

cc: Steve Oltmans, Papio-Missouri NRD General Manager

Noxious
Weed Control
444-4583

Parks/Trails
444-6362

OFFICE
402-444-6181

FAX
402-444-4963

Landfill
444-6181

Rural Planning
Permits & Inspection
444-7189

LB 32**Registered Principals Opposed to LB 32 (Alphabetical)**

Alegent Health
ALLTEL Communications
Associated General Contractors, Nebraska Building Chapter
Chief Industries, Inc.
Cox Nebraska Telcom, L.L.C.
Douglas County School Dist 0001
Father Flanagan's Boys' Home aka Girls and Boys Town
Father Flanagan's Boys' Home dba Boys Town National Research Hospital
Fremont Public Schools
Friends of Nebraska Nonprofit Hospitals
Greater Omaha Chamber of Commerce
Heartland Community Bankers Association
Lincoln Airport Authority
Lincoln Chamber of Commerce
Lincoln Public Schools
Millard Public Schools
Mutual of Omaha Insurance Companies
National Association of Chain Drug Stores
National Federation of Independent Business
Nebraska Association of Airport Officials
Nebraska Association of Commercial Property Owners
Nebraska Association of Homes & Services for the Aging
Nebraska Association of Hospitals & Health Systems
Nebraska Association of School Boards
Nebraska Bankers Association
Nebraska Beer Wholesalers Association
Nebraska Cable Communications Association
Nebraska Catholic Conference
Nebraska Chamber of Commerce and Industry
Nebraska Community College Association
Nebraska Council of Private Postsecondary Career Schools
Nebraska Council of School Administrators
Nebraska Grocery Industry Association
Nebraska Health Care Association
Nebraska Health System
Nebraska Homes & Services for the Aging
Nebraska Independent Auto Dealers Association
Nebraska Independent Bankers Association
Nebraska Insurance Federation
Nebraska New Car & Truck Dealers Association
Nebraska Petroleum Marketers & Convenience Store Association
Nebraska Press Association
Nebraska Realtors Association
Nebraska Restaurant Association
Nebraska Retail Federation
Nebraska Rural Telecommunication Coalition
Nebraska State Home Builders Association
Nebraska Telecommunications Association
Nebraska Trucking Association
Qwest Communications (formerly US West)
West Corporation
Westside Community Schools

5/16/03 9:10 A.M.

TOTAL P.13



Suite 110
530 South 13th Street
Lincoln, Nebraska 68508

Fax 402.434.3390
Telephone 402.434.3399
www.ruthmueller.com

Date 7/8/03

Deliver to Joe Neary

Fax Number 402-571-7467

Company _____

From Larry Ruth

Regarding LB 32 legal opinion

Total number of pages 10
(including cover page)

Originals forwarded via:
☐ First Class Mail
☐ Federal Express/UPS
☐ Other _____
☒ Originals not forwarded

Message This is the most recent legal opinion on the validity of LB 32. The first opinion sent to you was of an earlier version of the bill.

Larry

The information contained in this facsimile transmission is privileged and confidential information intended only for the use of the individual or entity to whom it is addressed.

If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.



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May 6, 2003

Mr. Randy Lenhoff
Nebraska Association of Commercial
Property Owners
Seldin Company
13057 W. Center Road
Omaha, NE 68144-3790

RE: LB 32, An Act Relating To Storm Water Drainage

Dear Mr. Lenhoff:

We have acted as counsel for the Nebraska Association of Commercial Property Owners in connection with certain legal services rendered by us in relation to analysis and review of Legislative Bill 32, an Act Relating to Storm Water Drainage, as proposed in the First Session of the 98th Legislature of the State of Nebraska. For purposes of rendering our opinion set forth herein, we have reviewed the following:

1. Legislative Bill 32 as introduced by Schrock and first read January 9, 2003, AM 811 of the Natural Resources Committee, and AM 1631;
2. Section 77-1359 R.S. Supp., 2000, Nebraska Revised Statutes, relating to agricultural and horticultural land; and
3. Various legal treatises, case law from Nebraska and other jurisdictions, White Paper reviews and various other documentation and/or legal analysis including Attorneys General Opinions concerning issues involving LB 32.

You have requested that we opine regarding the legality of LB 32 with adoption of AM 811 and AM 1631. Our opinion is limited to that specific issue.

MAIN OFFICE
800 Omaha Tower
2120 South 72nd Street
Omaha, NE 68124-2342
Phone (402) 392-1500
Fax (402) 392-1538

Eugene P. Welch
William J. Dunn
Thomas A. Grennan
Howard Fredrick Hahn
Joseph L. Leahy, Jr.
John W. Liff
Michael J. Mooney
Christopher J. Tjeden

Ronald L. Eggers
Jerry M. Stusky
Frederick D. Stehlik
Alison L. McGinn
Michael C. Schilken
Michael J. Whaley
James P. Waldron
John A. Svoboda
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Francie C. Riedmann
Stephen M. Kalhorn
Scott J. Cosahr
Shaun M. James
Thomas E. Morrow, Jr.
Donald P. Dworak
Sheryl L. Lohaus
Elias Borchert Davies
Daniel J. Fischer

OF COUNSEL
W. C. "Bud" Nelson

DECEASED
Daniel J. Gross
Harry L. Welch
Harold W. Kauffman
Joseph Potack

Other Offices: West Omaha Council Bluffs, Iowa

MEMBER: LEGAL NETLINK ALLIANCE
AN INTERNATIONAL ALLIANCE OF INDEPENDENT LAW FIRMS

Mr. Randy Lenhoff
May 6, 2003
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LEGISLATIVE BILL 32

LB 32 is permissive legislation allowing the creation of storm water utilities for cities or counties subject to Federal National Pollutant Discharge Elimination System permit requirements or Natural Resources District and counties encompassing cities with such requirements. Section 9 of LB 32 provides, in part:

"Charges to be paid for the use of a storm sewer system shall be proportionate to the storm water contributions of the premises served and based upon sound engineering principles, as established by the municipality, and may include factors such as impervious land surfaces and land uses." (emphasis added).

Section 13 of LB 32 removes agricultural land from its provisions:

"Sec. 13. Agricultural land as defined in Sec. 77-1359 shall be exempt from the imposition of charges for the use of a storm sewer system and for storm water management programs when such charges are based upon impervious land surfaces, land uses, and storm water quantity and quality best management practices under Secs. 10-12 of this Act." (emphasis added).

AM 1631 would strike original Sec. 13, and insert the following new section:

"Sec. 13. Property that does not contain impervious surfaces shall not be subject to the charges authorized pursuant to sections 18-501 to 18-512 and sections 1 and 10 to 16 of this act."

Sections 10-12 of LB 32 allow municipalities, counties or natural resources districts to establish storm water management areas and implement storm water management programs within their various jurisdictions.

Whether the establishing authority is a municipality, a county or a natural resources district, all three have authority to establish such storm sewer systems and management programs and fund such programs by assessing charges. Property owners, however, may only be charged once for such services.

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IMPERVIOUS SURFACES

LB 32 and any amendments thereto do not contain any definition of "impervious surfaces". Merriam-Webster Online Internet Dictionary defines impervious as "not allowing entrance or passage: impenetrable". It is unclear from the provisions of LB 32 whether or not such a definition has been adopted and whether or not certain surfaces qualify for classification as "impervious". For instance, while parking lots are generally considered impervious, does a parking lot composed of packed gravel qualify as impervious? Clearly there can be significant runoff from a packed gravel parking lot. Additionally, there are generally considered to be degrees of impervious surfaces in that some surfaces are more susceptible to the allowance of runoff while other surfaces may provide limited absorbent qualities while still allowing significant runoff. Clearly, a plowed field may not contain a strict definition of impervious surfaces. However, certain elements of that field would be considered impervious during heavy rainfall in that significant runoff will occur. Additionally, undeveloped real estate composed of compacted clay, shale, limestone or other rocky surfaces might fall within the definition of property that does not contain impervious surfaces. However, such compact and hardened property may contribute the same amount of runoff into a storm sewer system as a paved surface. The lack of definitions as well as consideration of other factors causing runoff rather than just impervious surfaces causes even more danger in terms of the validity of LB 32 as amended.

The exclusion of property not containing impervious surfaces presents an indefensible classification of property owners. It is possible to have property not containing impervious surfaces adjacent to property containing impervious surfaces. As such, under LB 32 as amended by AM 1631, the property not containing impervious surfaces would be exempt from the payment of fees while the adjacent property containing impervious surfaces would be subject to the storm water fees. There is little dispute that property not containing impervious surfaces may also contribute significant amounts of runoff into a storm water system. Any attempt at classification of properties in order to provide a fairly apportioned and equitable payment structure must include an analysis of factors impacting upon storm water runoff other than whether it has impervious surfaces.

ANALYSIS

I. NEBRASKA COMMON LAW

In Nebraska, our Supreme Court has definitively ruled that a public utility may not unjustly discriminate in the equitable setting of rates and charges. In Rutherford v. City of Omaha, 183 Neb. 398, 160 N.W.2d 223 (1968), the Nebraska Supreme Court had occasion to examine the methodology by which the City of Omaha established differential sewer use rates for residential versus commercial and industrial users. In

Mr. Randy Lenhoff
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this case, the Nebraska Supreme Court set forth the law in the State of Nebraska, at page 404, as follows:

"... [T]he requirement that rates and charges be equitable is declaratory of the common law which prohibits unjust discrimination by a public utility. A difference in utility rates under substantially similar conditions of service may constitute unjust discrimination."

The exemption of property not containing impervious surfaces pursuant to AM 1631 would appear to violate our Supreme Court's clear language that rates must be equitable in order to avoid unjust discrimination between similarly situated users of the public utility systems and services. In addition, the exemption of property not containing impervious surfaces is contrary to the specific provisions of Section 9 of LB 32 in that charges for the use of a storm sewer system "shall be proportionate to the storm water contributions of the premises served".

II. NEBRASKA CONSTITUTION

Article I, Section 3 of the Constitution of the State of Nebraska states:

"Sec. 3. Due Process of Law. No person shall be deprived of life, liberty, or property, without due process of law."

The Nebraska reference and reiteration of the 14th Amendment to the United States Constitution has been interpreted to provide equal protection from discriminatory statutes and ordinances. The Supreme Court of the State of Nebraska has interpreted ordinances as discriminatory and, therefore, unconstitutional on several occasions. See Ernesti v. City of Grand Island, 125 Neb. 688, 251 N.W. 899 (1933) and State v. Farmers & Merchants Irrigation Co., 59 Neb. 1, 80 N.W. 52 (1899). Our Supreme Court held in Ernesti that:

"The rule established by the authorities is that while it is competent for the legislature to classify, the classification, to be valid, must rest on some reason of public policy, some substantial difference of situation or circumstances, that would naturally suggest the justice or expediency of diverse legislation with respect to the objects classified. See Cooley, Constitutional Limitations (5th Edition) 481." (emphasis added).

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The Nebraska Constitution clearly requires that due process be afforded whenever a deprivation of property takes place. The exemption of property not containing impervious surfaces serves to foist onto payors of storm water charges a disproportionate share of the cost of the storm water system and programs. Since owners of property containing impervious surfaces are required to remit on behalf of the exempt property not containing impervious surfaces, the owners of property containing impervious surfaces are bearing more than their fair share. As such, the payors of the charges and fees under an ordinance passed pursuant to LB 32 would be deprived of their property without equitable due process and in violation of Section 3 of the Constitution of the State of Nebraska.

III. FEES V. TAXES

The proposed legislation attempts to assess "charges" or "use rates" on to property holders utilizing the storm sewer system. The language of the proposed legislation also references "rental or use charge" and specifically states that the charges to be paid for the use of the storm sewer are to be "proportionate to the storm water contribution of the premises served". A governmental levy or fee, in order not to be denominated as a tax and, therefore, uniform, must be fair and reasonable and bear a reasonable relationship to the benefits conferred on those receiving services. City of Marion v. Baioni, 312 Ark. 423, 850 S.W.2d 1 (1993).

Other authorities provide insight as to when such a charge is appropriate:

"The basis of the right to levy assessments for a drainage improvement is the particular benefit received by the property charged. A showing that the land will actually receive benefits from the proposed drainage project is a prerequisite to the assessment of lands for benefits in a public drainage proceeding. That is, the benefit is the measure of liability, and property cannot be assessed or taxed in excess of the benefit received. To charge land with an assessment greater than the benefits received would be to appropriate private property to public use without compensation." 25 AmJur2d, Drains and Drainage Districts, Section 41. (emphasis added).

Therefore, any classification of property (property containing impervious surfaces vs. property not containing impervious surfaces) for fee assessment must pass a constitutional test identical to the imposition of special or local assessments. 70(c) AmJur2d, Special or Local Assessments, Section 88, states, in part:

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"The imposition of a special or local assessment must be uniform and free from unjust discrimination. An assessment must be uniform upon the same class of property; it must be apportioned fairly and equitably among the benefited property owners." (citations omitted) (emphasis added).

The assessment or fee must be in proportion to the benefits accruing to the property holders. If proportionality is not present, then the imposition of the assessment or fee is rendered arbitrary, unreasonable, discriminatory and in violation of the due process clause. Although such fees and assessments are not considered taxes, they still fall within the constitutional safeguards regarding due process and equal protection of the law.

Our Supreme Court has stated in Nebco, Inc. v. Board of Equalization of the City of Lincoln, 250 Neb. 81, 547 N.W.2d 499 (1996), that any amount of special assessment cannot exceed the amount of benefit conferred. See also Bennett v. Board of Equalization of the City of Lincoln, 245 Neb. 838, 515 N.W.2d 776 (1994) and Purdy v. City of York, 243 Neb. 593, 500 N.W.2d 841 (1993).

The Supreme Court of the State of Nebraska in Rutherford v. City of Omaha, 183 Neb. 398, 160 N.W.2d 223 (1968) has specifically passed on the issue of sewer use fees. Our Supreme Court in Rutherford was asked to decide whether or not different rates for residential, commercial and industrial users were reasonable and did not unjustly discriminate. In Rutherford, the Court reviewed the sewer use charges and the applicability of different rates for different customers. The Court noted that sewer use charges are not to be considered special assessments. However, the Court did apply a reasonableness standard in order to differentiate rate structures for use charges and noted that different utility rates under substantially similar conditions of service may constitute unjust discrimination and violate common law of the State of Nebraska. Rates and charges must be equitable to persons similarly situated.

Despite numerous references throughout LB 32 that the proposed charge is not to be considered a "special benefit assessment", the bill's proponents cannot escape that our Supreme Court will apply the same test for fees as is applied to assessments in determining whether or not such fees are reasonable, equitable, and discriminatory. See also 61 ALR3d 1236, *Validity and Construction of Regulation by Municipal Corporation Fixing Sewer-Use Rates*, Maurice T. Bruner (1975).

Nebraska, as in other jurisdictions, follows the rule of law that fees, like assessments, must be non-discriminatory in order to avoid violation of the due process clause set forth above. LB 32 fails that test.

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IV. ANCILLARY OPINIONS

The question at hand is whether a statute may totally exempt a user of storm water facilities from paying for services rendered to the property owner. As LB 32 with AM 1631 exempts properties not containing impervious surfaces, then properties not containing impervious surfaces (although they participate in the benefits) do not participate in the costs of such systems and programs. As such, properties containing impervious surfaces would bear a disproportionately higher cost due to the fact that properties not containing impervious surfaces are not required to bear their proportionate, fair share.

The storm water fee issue is not unique to Nebraska. Several attorneys general throughout the United States have been asked to opine on this issue. In Virginia, James S. Gilmore, III, Attorney General, addressed several issues in relation to fees for storm water usage in an opinion to a member of the House of Delegates. Op. Att'y Gen. 1995 WL 58875 (Va.A.G.). The issue discussed in this opinion dealt with a statute passed by the Commonwealth of Virginia mandating a requirement of that statute that such "charges to property owners be based on their contributions to storm water runoff". Despite certain ambiguities within the statute, the attorney general dealt with the main issue of imposition of user rates based upon actual usage. The attorney general writes:

"The storm water surface charge rates Hampton has adopted distinguish between properties on only one basis – whether the properties are used for residential or non-residential purposes. ... The primary determinants in calculating storm water runoff from a property in a particular rainstorm during a given time period are (1) the total area and shape of the property, (2) the percentage of that total area that is covered by natural groundcover or by buildings, pavement or other impervious surfaces, (3) the type of soil, (4) the steepness of slopes on the property, and (5) the potential for ponding or storage of runoff on the site." (emphasis added).

In determining that a city ordinance did not comport with a state statute requiring that charges to property owners be based upon contributions to storm water runoff, Attorney General Gilmore determined that there must be some rational connection between amounts charged to various categories of property and their respective runoff contributions.

LB 32 distinguishes between property not containing impervious surfaces and property containing impervious surfaces in determining the imposition of the user fee on to such property owners. Such a classification is similar to the Virginia situation wherein

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that ordinance attempted to classify fiscally responsible parties into two classes, residential and non-residential. As was the case in Virginia, in Nebraska there is no rational basis for exempting properties not containing impervious surfaces from payment of the fees. During a rain, properties not containing impervious surfaces have runoff in the form of chemicals, nitrates, silt, and other pollutants. Property not containing impervious surfaces clearly contribute runoff to the storm sewer system that severely impacts upon the quality of the waters flowing into the storm water system.

In addition to property not containing impervious surfaces contributing to the deterioration of the quality of our waters, property not containing impervious surfaces also provides a significant quantity of runoff. Despite the lack of impervious surfaces, a rainfall creates a significant amount of runoff from these properties. Such quantity of runoff from property not containing impervious surfaces contributes to flooding, destruction of property, and the general deterioration of down-stream storm water systems.

Also pertinent is the State of California Attorney General's Opinion located at 1998 WL 97493 (Cal.A.G. 1998), in which the attorney general interpreted the calculation of monthly user fees for operation of storm drainage systems. The Attorney General of California was asked to interpret the Constitution of the State of California vis a vis the system of charging user fees for a district storm drainage system. Article XIII(D), Section 6, Subdivision (b)(3) of the California Constitution contained a specific constitutional provision that fees must be charged proportional to the cost of services attributed to various parties. The California Attorney General stated:

"The owners of land used for such purposes as storage buildings and parking lots are benefited by the district storm drainage system services. Yet they are not charged any fees if they are not connected to the district's sewer system. It necessarily follows that the district's costs associated with operating and maintaining this system are borne totally by those connected to the sewer system. Therefore, those who are charged the fees must pay more than the proportional cost of the services attributed to their parcels. This is not permissible under Article XIII(D), Section 6, Subdivision (b)(3) of the Constitution." (emphasis added).

The law across the U.S. is well settled that any imposition of "fees" must be directly related to the amount of usage of the service provided. "Fees" are subject to constitutional attack as are "taxes" and "assessments". "Fees" must not be levied in a discriminatory manner that forces one party to bear a disproportionate cost of the benefits conferred by the governmental services. LB 32 fails this test.

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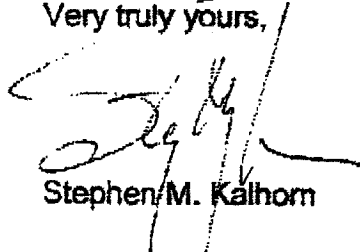
SUMMARY

LB 32, as amended by AM 1631, specifically exempts property not containing impervious surfaces. There can be no dispute that property not containing impervious surfaces experiences runoff and participates in the overall "storm water contribution" to the drainage system. The bill's exemption allows owners of property not containing impervious surfaces to avoid paying their proportionate charges for funding of the storm sewer system and program. The exclusion or exemption thereby increases the overall cost to the remaining users and those subject to the storm water charges. This exemption discriminates against the owners of property containing impervious surfaces pursuant to Section 13 of LB 32 and as further defined in Neb. Rev. Stat. § 77-1359 (2000).

The discriminatory exemption of LB 32 violates the provisions of Article I, Section 3 of the Nebraska Constitution and does not comport with Nebraska case law, other jurisdictional case law, research on the issue of apportionment of fees and attorneys general opinions from other jurisdictions.

Classifications based upon "impervious" surfaces may also be subject to equitable and constitutional challenge. It defies logic to classify properties based upon "impervious" surfaces when runoff also occurs on properties that do not have "impervious" surfaces.

Very truly yours,



Stephen M. Kalhorn

SMK/ses
7369-1/355579

Memo to: Programs, Projects and Operations Subcommittee

From: Jim Becic

Re: Brief Summary of Public Canoe Access - Boyer Chute National Wildlife Refuge.

Date: 1 July, 2003

The Master Plan for the Boyer Chute was completed with considerable input from the US Fish and Wildlife Service (F&WS) in March of 1992. This Master Plan included the use of canoes in the chute. This usage was also found to be compatible by the F&WS in their Environmental Assessment that was completed in July of 1992.

The Chute restoration including the access bridge to the ~ 1600 acre island was completed in early 1993, with the Corps of Engineers and the NRD utilizing Section 1135 funds in a 75/25 % cost share agreement.

The P-MRNRD completed construction of the canoe-hauling vehicle parking, canoe launch and pickup points and the construction of the public use portion of the Boyer Chute in 1994 – prior to turning over ownership of the site to the F&WS in October of 1997.

It was observed on numerous occasions prior to and following the time that the NRD turned the site over to the F&WS, that the access bridge to the island was virtually blocked by large trees and caused a potential, very dangerous, high velocity undertow for canoes at this location. This blockage occurs during normal or high flows and was not fully anticipated when the bridge was being designed. It is apparent that this dangerous situation will continue to be a problem unless the bridge is modified or removed.

11 July, 2003

DRAFT

Bryan Schultz, Refuge Manager
Boyer Chute National Wildlife Refuge
3720 Rivers Way
Ft. Calhoun, NE 68023

Dear Mr. Schultz:

The Papio-Missouri River Natural Resources District (P-MRNRD) is requesting that the U.S. Fish and Wildlife Service (F&WS), to more fully comply with the approved Boyer Chute Master Plan, investigate the options that need to be completed to ultimately allow the general public full use of the Chute with non-motorized boats. Initially, the public use portion of this site was designed and construction completed based upon the approved Master Plan. This Plan, among other considerations, allowed usage of non-motorized boats (generally canoeists) on the Chute.

It is understood that boat access to the Chute is currently not being allowed due to safety reasons which is certainly reasonable and prudent. It is also understood that the major impediments to boating in the Chute are the dangers that the access bridge to the island poses to potential boaters. Collision, hazardous undertow from continual debris blockage and potential drowning are all serious concerns for the safety of potential boaters of the Chute – young and experienced users alike. While these conditions exist – we are in agreement that boating should not be allowed.

However, the P-MRNRD is requesting that the F&WS investigate the possibilities or options that would ultimately allow this approved usage of the Chute for the general public. We understand that funding is limited and options are few – but, assigning this Chute usage a higher priority by the F&WS is very important to the P-MRNRD and the individuals in our District that were led to believe they would be allowed to canoe the Chute over a decade ago.

The Boyer Chute National Wildlife Refuge is an ecological diamond in the rough that is continually being cut and polished. As such, the P-MRNRD is proud to have initiated this long needed restoration dream on the northern edge of Omaha and hope that the F&WS will continue to enhance the area for the wildlife as well as its human components.

Thank you for your time and consideration of this request.

Very truly yours,

Steven G. Oltmans
General Manager

MEMORANDUM

TO: Programs, Planning and Operations Sub-committee

FROM: Dick Sklenar

SUBJECT: Request for Deadline Extension Regarding Washington County Rural Water Study

DATE: June 30, 2003

Wayne Talbert, Chairman of the Washington County Rural Water Study Steering Committee, is requesting that the District's Board of Directors extend the deadline for receiving hookup fee deposits and applications regarding the proposed Rural Water Study west of Ft. Calhoun and also along Hwy 75 near Nashville. As of the above date, about 145 applications for rural water service have been received by the District. This compares to over 280 property owners that financially participated in the rural water study last year. It is hoped that once again approximately 200-300 applications for service can be received so that the Districts consulting engineer (HGM Associates) can ascertain whether a portion of the study area is economically viable.

The staff recommends that the Sub-committee recommend to the Board of Directors that the deadline for accepting hookup fee deposits and applications regarding the Washington County Rural Water Study be extended until July 31, 2003, and that each application for rural water service submitted to the District after this date shall be increased \$200.00.

MEMORANDUM

TO: Programs, Projects and Operations Sub-Committee

FROM: Ralph Puls

SUBJECT: Pigeon/Jones Watershed Dam Site 3

DATE: June 30, 2003

On June 25, 2003 sealed bids that were submitted for a contract to construct Pigeon/Jones Dam Site 3 were opened. Site 3 will be located just outside of Hubbard, NE., and will serve primarily as a flood control structure. It will be the first of up to 20 structures in this Special Watershed Project that will be built for purposes including flood control, sediment retention, grade stabilization and recreation.

Attached for the Sub-Committee's review is a summary of bids received. Based upon bids received, Jensen Construction D.T., Inc. bid of \$190,864.45 is the apparent low bid (the engineer's estimate was \$200,000.00) Olsson Associates has reviewed the bids and concluded that Jensen Construction D.T., Inc. is the lowest responsible bidder.

Therefore, it is the staff recommendation that the Sub-Committee recommend to the Board of Directors that the General Manager be authorized to execute a contract for construction of Pigeon/Jones Creek Watershed Dam Site #3 with Jensen Construction D.T. Inc. in the amount of \$190,864.45.

HUBBARD DAM
(PIGEON / JONES CREEK WATERSHED SITE 3)
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

P-MRNRD, 8901 S. 154th St., Omaha, NE

25-Jun-03 2002-0753
2:00 p.m. Page 1 of 6

CONTRACTOR				Jensen Construction D.T. Inc		Kohl Construction, LLC		Cooney Fertilizer, Inc	
				Stanton, NE		Schuyler, NE		Walthill, NE	
ITEM	UNIT	QUANTITY	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	
1. Mobilization	LS	1	6,450.00	6,450.00	10,000.00	10,000.00	10,000.00	10,000.00	
2. Sediment Control	LS	1	1,500.00	1,500.00	1,500.00	1,500.00	3,500.00	3,500.00	
3. Clearing and Grubbing (Removal of Grasslands Only)	LS	1	2,400.00	2,400.00	2,000.00	2,000.00	6,000.00	6,000.00	
4. Excavation, Common	CY	4,789	1.20	5,746.80	1.10	5,267.90	1.25	5,986.25	
5. Earth Fill, Class "A" Compaction	CY	54,558	0.80	43,646.40	0.79	43,100.82	0.87	47,465.46	
6. Earth Fill, Class "B" Compaction	CY	5,500	0.80	4,400.00	0.79	4,345.00	0.80	4,400.00	
7. ASTM C-33 Drain Fill	CY	47.4	25.00	1,185.00	32.00	1,516.80	126.87	6,013.64	
8. NDOR "47B" Fine Drain Fill	CY	570	25.95	14,791.50	27.00	15,390.00	35.00	19,950.00	
9. NDOR "47B" Coarse Drain Fill	CY	32	25.95	830.40	35.00	1,120.00	33.78	1,080.96	
10. Salvage and Spread Topsoil	SY	11,057	0.55	6,081.35	0.30	3,317.10	0.75	8,292.75	
11. Concrete, Class 4000 Formed Structures	CY	67.8	400.00	27,120.00	520.00	35,256.00	356.50	24,170.70	
12. Concrete, Class 4000 for Pipe Bedding	CY	8.3	420.00	3,486.00	330.00	2,739.00	226.50	1,879.95	
13. Steel Reinforcement	LB	10,414	0.85	8,851.90	0.90	9,372.60	0.75	7,810.50	
14. 30" Dia. Reinforced Concrete Pressure Pipe w/30" Beveled Spigot Wall Fitting	LF	112	141.75	15,876.00	157.00	17,584.00	192.70	21,582.40	
15. 10" Dia. PVC Drawdown Pipe	LF	26	42.00	1,092.00	25.00	650.00	15.75	409.50	
16. Knife Gate Drawdown Valve and Appurtenances	LS	1	3,500.00	3,500.00	4,000.00	4,000.00	750.00	750.00	
17. Rock Riprap	TN	143	40.00	5,720.00	33.00	4,719.00	24.00	3,432.00	
18. Grouted Rock Riprap	CY	19.4	75.00	1,455.00	60.00	1,164.00	77.00	1,493.80	
19. 6" Perforated PVC Collection Pipe	LF	93	8.45	785.85	12.00	1,116.00	5.50	511.50	
20. 6" Solid Wall PVC Drain Pipe	LF	40	8.35	334.00	12.00	480.00	5.50	220.00	
21. Geotextile Filter Fabric	SY	2,123	2.90	6,156.70	1.50	3,184.50	3.30	7,005.90	
22. Metal Fabrication and Installation Riser Baffles, Drawdown Trash Rack, Railing, Grating, and Riser Manhole	LS	1	16,100.80	16,100.80	14,500.00	14,500.00	4,059.00	4,059.00	
23. Seeding and Mulching, Type I	AC	9.9	675.00	6,682.50			800.00	7,920.00	
24. Shoreline Seeding & Mulching, Type II	AC	1.3	575.00	747.50	625.00	6,187.50			
25. Drainage & Sediment Control Swale	LF	1,440	2.25	3,240.00	1.25	1,800.00	1.50	2,160.00	
26. Fence Construction (Gate Only)	LRd	3	85.00	255.00	200.00	600.00	100.00	300.00	
27. Remove Fencing	LRd	37	6.75	249.75	11.00	407.00	18.91	699.67	
28. Settlement Gate w/ Extensions	LS	1	2,180.00	2,180.00	1,800.00	1,800.00	750.00	750.00	
TOTAL UNIT PRICE BID:				\$190,864.45	\$193,825.72	\$198,883.98			

HUBBARD DAM
(PIGEON / JONES CREEK WATERSHED SITE 3)
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

P-MNRNRD, 8901 s. 154th St., Omaha, NE

25-Jun-03

2002-0753

2:00 p.m.

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CONTRACTOR	Jensen Construction D.T. Inc	Kohl Construction, LLC	Cooney Fertilizer, Inc
	Stanton, NE	Schuyler, NE	Walthill, NE
Substantially Complete By	31-Oct-03	31-Oct-03	31-Oct-03
Complete By	30-Nov-03	30-Nov-03	30-Nov-03
Addenda Acknowledged	N/A	N/A	N/A
Bid Guarantee	5% Bid Bond	5% Bid Bond	5% Bid Bond
Remarks			

HUBBARD DAM
(PIGEON / JONES CREEK WATERSHED SITE 3)
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

P-MARRND, 8901 S. 154th St., Omaha, NE

25-Jun-03 2002-0753
2:00 p.m. Page 3 of 6

CONTRACTOR			Joy Dirt Construction Cushing, IA		Sand Construction Dallas, SD		Petit, Inc. South Sioux City, NE	
ITEM	UNIT	QUANTITY	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1. Mobilization	LS	1	9,425.10	9,425.10	8,500.00	8,500.00	7,400.00	7,400.00
2. Sediment Control	LS	1	3,500.00	3,500.00	4,915.00	4,915.00	1,000.00	1,000.00
3. Clearing and Grubbing (Removal of Grasslands Only)	LS	1	6,750.00	6,750.00	2,000.00	2,000.00	1,000.00	1,000.00
4. Excavation, Common	CY	4,789	1.19	5,698.91	1.00	4,789.00	2.10	10,056.90
5. Earth Fill, Class "A" Compaction	CY	54,558	1.03	56,194.74	1.00	54,558.00	2.05	111,843.90
6. Earth Fill, Class "B" Compaction	CY	5,500	0.97	5,335.00	1.00	5,500.00	2.05	11,275.00
7. ASTM C-33 Drain Fill	CY	47.4	27.81	1,318.19	67.67	3,207.56	22.30	1,057.02
8. NDOR "47B" Fine Drain Fill	CY	570	29.75	16,957.50	52.00	29,640.00	19.74	11,251.80
9. NDOR "47B" Coarse Drain Fill	CY	32	31.10	995.20	52.00	1,664.00	25.00	800.00
10. Salvage and Spread Topsoil	SY	11,057	1.00	11,057.00	0.30	3,317.10	0.22	2,432.54
11. Concrete, Class 4000 Formed Structures	CY	67.8	565.00	38,307.00	677.05	45,903.99	385.00	26,103.00
12. Concrete, Class 4000 for Pipe Bedding	CY	8.3	450.00	3,735.00	420.00	3,486.00	210.00	1,743.00
13. Steel Reinforcement	LB	10,414	0.98	10,205.72	0.81	8,435.34	0.42	4,373.88
14. 30" Dia. Reinforced Concrete Pressure Pipe w/30" Beveled Spigot Wall Fitting	LF	112	167.34	18,742.08	207.00	23,184.00	170.00	19,040.00
15. 10" Dia. PVC Drawdown Pipe	LF	26	30.23	785.98 *	30.00	780.00	23.00	598.00
16. Knife Gate Drawdown Valve and Apertances	LS	1	4,013.01	4,013.01	4,228.69	4,228.69	4,700.00	4,700.00
17. Rock Riprap	TN	143	29.29	4,188.47	40.00	5,720.00	29.00	4,147.00
18. Grouted Rock Riprap	CY	19.4	137.91	2,675.45	94.95	1,842.03	87.00	1,687.80
19. 6" Perforated PVC Collection Pipe	LF	93	13.65	1,269.45	5.09	473.37	8.00	744.00
20. 6" Solid Wall PVC Drain Pipe	LF	40	13.35	534.00	4.98	199.20	7.00	280.00
21. Geotextile Filter Fabric	SY	2,123	2.00	4,246.00	2.00	4,246.00	2.60	5,519.80
22. Metal Fabrication and Installation Riser Baffles, Drawdown Trash Rack, Railing, Grating, and Riser Manhole	LS	1	16,473.59	16,473.59	13,544.83	13,544.83	9,000.00	9,000.00
23. Seeding and Mulching, Type I	AC	9.9	750.00	7,425.00	656.25	6,496.88	655.00	6,484.50
24. Shoreline Seeding & Mulching, Type II	AC	1.3	375.00	487.50	572.00	743.60	570.00	741.00
25. Drainage & Sediment Control Swale	LF	1,440	2.46	3,542.40	3.13	4,507.20	1.00	1,440.00
26. Fence Construction (Gate Only)	LRd	3	800.00	2,400.00	240.00	720.00	200.07	600.21
27. Remove Fencing	LRd	37	17.00	629.00	6.60	244.20	9.45	349.65
28. Settlement Gate w/ Extensions	LS	1	5,342.40	5,342.40	3,747.20	3,747.20	3,000.00	3,000.00
TOTAL UNIT PRICE BID:			\$242,233.70 *		\$246,593.19		\$248,669.00	

HUBBARD DAM
(PIGEON / JONES CREEK WATERSHED SITE 3)
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

P-MRNRD, 8901 s. 154th St., Omaha, NE

25-Jun-03

2002-0753

2:00 p.m.

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CONTRACTOR	Joy Dirt Construction	Sand Construction	Petit, Inc.
	Cushing, IA	Dallas, SD	South Sioux City, NE
Substantially Complete By	31-Oct-03	31-Oct-03	31-Oct-03
Complete By	30-Nov-03	30-Nov-03	30-Nov-03
Addenda Acknowledged	N/A	N/A	N/A
Bid Guarantee	5% Bid Bond	5% Bid Bond	5% Bid Bond
Remarks	<p><i>*Discrepancy on Bid Form between Unit Prices and Sums - Resolved Per Article 14 14.01-C, Page 00100-6</i></p>		

HUBBARD DAM
(PIGEON / JONES CREEK WATERSHED SITE 3)
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

P-MRNRD, 8901 S. 154th St., Omaha, NE

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CONTRACTOR				Japp Grading, Inc.		W. Theisen Cr. & Equip. Co.		Mark Albenesius, Inc.	
				Washington, NE		Norfolk, NE		Dakota, NE	
ITEM	UNIT	QUANTITY	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	
1. Mobilization	LS	1	23,490.75	23,490.75	24,285.73	24,285.73	68,174.00	68,174.00	
2. Sediment Control	LS	1	1,800.00	1,800.00	4,949.42	4,949.42	6,624.00	6,624.00	
3. Clearing and Grubbing (Removal of Grasslands Only)	LS	1	700.00	700.00	2,918.20	2,918.20	23,961.00	23,961.00	
4. Excavation, Common	CY	4,789	2.30	11,014.70	1.34	6,417.26	6.56	31,415.84	
5. Earth Fill, Class "A" Compaction	CY	54,558	1.45	79,109.10	1.47	80,200.26	4.30	234,599.40	
6. Earth Fill, Class "B" Compaction	CY	5,500	1.20	6,600.00	1.21	6,655.00	3.84	21,120.00	
7. ASTM C-33 Drain Fill	CY	47.4	34.20	1,621.08	31.69	1,502.11	25.00	1,185.00	
8. NDOR "47B" Fine Drain Fill	CY	570	42.00	23,940.00	27.43	15,635.10	24.50	13,965.00	
9. NDOR "47B" Coarse Drain Fill	CY	32	35.70	1,142.40	51.77	1,656.64	24.50	784.00	
10. Salvage and Spread Topsoil	SY	11,057	0.35	3,869.95	0.53	5,860.21	1.24	13,710.68	
11. Concrete, Class 4000 Formed Structures	CY	67.8	561.00	38,035.80	576.80	39,107.04	395.00	26,781.00	
12. Concrete, Class 4000 for Pipe Bedding	CY	8.3	336.60	2,793.78	484.51	4,021.43	200.00	1,660.00	
13. Steel Reinforcement	LB	10,414	0.92	9,580.88	0.98	10,205.72	0.65	6,769.10	
14. 30" Dia. Reinforced Concrete Pressure Pipe w/30" Beveled Spigot Wall Fitting	LF	112	160.00	17,920.00	113.46	12,707.52	193.00	21,616.00	
15. 10" Dia. PVC Drawdown Pipe	LF	26	25.50	663.00	48.45	1,259.70	36.00	936.00	
16. Knife Gate Drawdown Valve and Appurtenances	LS	1	4,080.00	4,080.00	8,075.20	8,075.20	2,000.00	2,000.00	
17. Rock Riprap	TN	143	32.00	4,576.00	34.61	4,949.23	40.00	5,720.00	
18. Grouted Rock Riprap	CY	19.4	37.00	717.80	40.38	783.37	90.00	1,746.00	
19. 6" Perforated PVC Collection Pipe	LF	93	12.24	1,138.32	9.96	926.28	40.00	3,720.00	
20. 6" Solid Wall PVC Drain Pipe	LF	40	12.24	489.60	10.87	434.80	25.00	1,000.00	
21. Geotextile Filter Fabric	SY	2,123	3.00	6,369.00	2.08	4,415.84	3.00	6,369.00	
22. Metal Fabrication and Installation Riser Baffles, Drawdown Trash Rack, Railing, Grating, and Riser Manhole	LS	1	14,790.00	14,790.00	20,596.37	20,596.37	9,973.00	9,973.00	
23. Seeding and Mulching, Type I	AC	9.9	675.00	6,682.50	643.75	6,373.13	750.00	7,425.00	
24. Shoreline Seeding & Mulching, Type II	AC	1.3	675.00	877.50	561.35	729.76	750.00	975.00	
25. Drainage & Sediment Control Swale	LF	1,440	1.50	2,160.00	4.12	5,932.80	6.12	8,812.80	
26. Fence Construction (Gate Only)	LRd	3	165.00	495.00	309.00	927.00	375.00	1,125.00	
27. Remove Fencing	LRd	37	13.50	499.50	17.00	629.00	3.00	111.00	
28. Settlement Gate w/ Extensions	LS	1	3,250.00	3,250.00	3,554.41	3,554.41	1,400.00	1,400.00	
TOTAL UNIT PRICE BID:				\$268,406.66		\$275,708.52		\$523,677.82 *	

HUBBARD DAM
(PIGEON / JONES CREEK WATERSHED SITE 3)
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

P-MRRNRD, 8001 s. 154th St., Omaha, NE

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2:00 p.m. Page 6 of 6

CONTRACTOR	Japp Grading, Inc. Washington, NE	W. Theisen Gr. & Equip. Co. Norfolk, NE	Mark Albenesius, Inc. Dakota, NE
	31-Oct-03	31-Oct-03	31-Oct-03
Substantially Complete By	31-Oct-03	31-Oct-03	31-Oct-03
Complete By	30-Nov-03	30-Nov-03	30-Nov-03
Addenda Acknowledged	N/A	N/A	N/A
Bid Guarantee	5% Bid Bond	5% Bid Bond	5% Bid Bond
Remarks	<p style="text-align: center;">*Discrepancy on Bid Form between Unit Prices and Sums - Resolved Per Article 14 14.01-C, Page 00100-6</p>		