

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: June 7, 2007

FROM: John Winkler, General Manager

A. **INFORMATION/EDUCATION REPORT:** A copy of the I&E Report detailing Information and Education activities for the month of May, 2007, is attached for your review.

B. **MISCELLANEOUS/PERSONNEL ITEMS:**

- Attached is a letter from Kathie Netley, 5th Grade teacher at St. Paul Lutheran, thanking **Christine Jacobsen**, Education Specialist, for her contributions to Water Works which was held May 1 and 2, 2007 at the Schramm Aquarium. Ms Netley notes, "I especially appreciated the continuity of expressing incidents and needs for animals and people to continue living on this planet."

C. **REPORT ON PURCHASES – CONSTRUCTION SERVICES, PROFESSIONAL SERVICES, PERSONAL PROPERTY:** Pursuant to Board direction, attached is a report indicating construction services, professional services and personal property purchases for the month of May, 2007. Please review this report and contact me if you have any questions.

D. **CURRENT AND ON-GOING PROJECTS – P-MRNRD LEGAL COUNSEL:** Attached is a copy of the current and on-going projects for District Legal Counsel, Paul Peters, as of May 14, 2007. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.

E. **LEGISLATIVE UPDATE:** The following information is attached for your information:

1. NARD Legislative Update:

- a. May 10, 2007
- b. May 18, 2007
- c. May 25, 2007
- d. May 31, 2007

F. **UPDATE ON TERN AND PLOVER CONSERVATION PARTNERSHIP:** The Board of Directors took action at their February 8, 2007 meeting to approve financial assistance in the amount of \$5,000 to support the 2007 program activities of the Tern and Plover Conservation Partnership. Other participants in this partnership are: Arps Gravel and Concrete, Girl Scouts – Great Plains Council, Lower Platte South NRD, Lyman-Richey Corp., Mallard Sand and Gravel, National Fish and Wildlife Foundation, Nebraska Environmental Trust, Nebraska

Game and Parks Commission, Nongame Conservation Fund, Overland Sand and Gravel, United States Fish and Wildlife Service, University of Nebraska-Lincoln and Western Sand and Gravel. Attached is a copy of the Spring, 2007, newsletter for your review.

G. NEWS CLIPS:

- ✓ May 9, 2007, Bellevue Leaders editorial – Storms leave area flooded
- ✓ May 11, 2007, Washington County Enterprise article – Counties' plan has no dams. Washington, Douglas offer alternative stormwater plan.
- ✓ May 11, 2007, Washington County Enterprise article – Old bridge targeted in flood aftermath
- ✓ May 12, 2007, Omaha World Herald article – NRD approves ditch in help Gretna flooding
- ✓ May 13, 2007, Omaha World Herald article – Experts are down on the levees. Too many are in need of repair, thus giving a false sense of security to residents of flood plains.
- ✓ May 13, 2007, Omaha World Herald article – Levee safety relies on farmers' vigilance
- ✓ May 15, 2007, Omaha World Herald article – Bellevue approves park improvements
- ✓ May 16, 2007, Lincoln Journal Star article – NRD declares temporary well moratorium for parts of Butler and Saunders counties
- ✓ May 19, 2007, Lincoln Journal Star article – Dam on Niobrara River may be removed
- ✓ May 20, 2007, Omaha World Herald article – Republican River Valley's prosperity trickles away
- ✓ May 21, 2007, Omaha World Herald article – Irrigation Empire: Paring back irrigation on the Platte
- ✓ May 21, 2007 Omaha World Herald editorial – Work it out. Opponents, proponents responsible for compromise on dam projects.
- ✓ May 22, 2007, Omaha World Herald Midlands Voices – Storm water solution will not come easily, written by Clare Duda, Douglas County Board member
- ✓ May 24, 2007, Lincoln Journal Star article – Drought aid package could be worth \$90 million
- ✓ May 25, 2007, Omaha World Herald article – Commission calling for timeout on Niobrara drilling, pumping
- ✓ May 25, 2007, Omaha World Herald Midlands Voices – Managing Niobrara is matter of state law, written by State Senator Deb Fischer
- ✓ May 30, 2007, Lincoln Journal Star article – Irrigators agree to sell water to fend off lawsuit
- ✓ May 31, 2007, Papillion Times picture – Introducing ... the Sumtur Amphitheater
- ✓ June 1, 2007, Omaha World Herald editorial – Change in direction. Will farm programs see incremental or radical reforms in Congress
- ✓ June 4, 2007, Omaha World Herald editorial – Furthermore
- ✓ June 5, 2007, Blair Pilot-Tribune article – Learning about 'conservation design'
- ✓ June 8, 2007, Omaha World Herald article – League eyes joint efforts on natural resources. The group plans a June 16 meeting to work toward an agenda.

May 2007

Information & Education Report

Information

- ◇ Met with Omaha W-H to discuss floodplain mapping
- ◇ Began work on Opinion Survey
- ◇ Continued work on update of Trails brochure
- ◇ Began work on Summer Spectrum
- ◇ Gave Speakers Bureau presentation to QUAD group of retired media
- ◇ Began work on development of interpretive signs for Chalco Hills and Prairie View
- ◇ Completed Spring aerial photography of NRD projects
- ◇ Produced ad for Sarpy County 150 publication
- ◇ Began update of Overview DVD

Education

- ☐ Held Water Works 2007—1800 5th graders from Douglas and Sarpy Counties attended
- ☐ Presented Game Scene Investigation to Louisville 3rd graders
- ☐ Arranged for Millard South Environmental Studies Class to do a park clean-up
- ☐ Presented Ladybugs and Butterfly's program to all Benson West 3rd Graders
- ☐ Held King Science Field Days—2 day event, all 7th graders attend
- ☐ Staffed Booth at the NGPC Outdoor Expo in Kearney detailing LEP Workshops/Curriculum
- ☐ Presented Tree Program to Millard South Environmental Studies Class
- ☐ Staffed Booth at King Science, Science Night
- ☐ Met with NRCS/Boy Scouts to plan programming to fit badge requirements
- ☐ Met with Environmental Audit Committee to brainstorm NRD paths
- ☐ Prepared Budget for 2008 for LEP
- ☐ Met with Suzie Worth at Nat'l Arbor Day Foundation to discuss Outdoor Classroom Programs
- ☐ Continued working on LEP Workshops planned in Lodgepole and St. Paul
- ☐ Continued Planning for 2007 World O! Water Festival

5020 Grand Avenue
Omaha, NE 68104

May 2, 2007

Dear Mrs. Jacobson,

Thank you for your part in providing the educational experience for the 5th graders. This was my first experience at "Eyes on Conservation: Water Works", and it was awesome! There were informational sessions that benefited every student. I especially appreciated the continuity of expressing incidents and needs for animals and people to continue living on this planet. Many comments related the information to where the students are right now.

I can appreciate the team's effort it took to put this together! Please know you have provided an excellent learning experience for each of us!

Sincerely,

Mrs. Kathie Netley
5th Grade
St. Paul Lutheran
Omaha

May, 2007

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Updated: May 14, 2007

Current and On-Going Projects P-MRNRD Legal Counsel

★ = Top Priority

F = Future Work – No Assignment

N = New Assignment

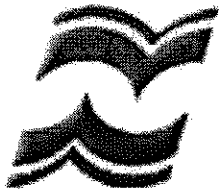
O = Others Handling

W = Work in Progress

P = PFP's Portion Completed

- **Little Papio:** (Cleveland)
- **Big Papio:** (Cleveland)
- **West Branch** (Cleveland):
 - Land Exchange with Sarpy Co. (96th St.) (P)
- **Western Sarpy Dike** (Cleveland):
 - Bundy ROW preparation (potentially modify ROW/offer) (N)
 - Amended drainage ditch easements on Hickey (First National Property) (P)
 - ★ Hansen ROW Condemnation settlement (W)
 - Glasshoff levee easement (W)
- **Floodway Purchase Program** (Woodward):
 - Floodway Property Purchase Agreements as needed (F)
- **Trail Projects** (Bowen):
 - ★ Mopac Trail (Hwy 50 to Lied Bridge) – Purchase agreements, easements and closings (W)
- **Missouri River Corridor Project** (Becic):
 - California Bend – Appeal District Court ruling on Wright's tenant (Arp) (W)
 - ★ Mo. River Trail – Purchase agreements, easements and closings (W)
 - ★ Missouri River Trail – Strafbucker and Surfside condemnations (W)

- **USDA P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - ★ Silver Creek Site Easements– as needed (Site #11 ROW) (W)
 - Release of Site S-7 Easement (W)
 - ★ S-27 easement with SIDs on Dam Rehab/Trail Replacement (W)
 - ★ S-27, S31 and S-32 – Revision of purchase agreements and handle condemnations (W)
- **Papio Watershed Dam Sites** (Woodward/Petermann):
 - ★ Shadow Lake ROW Closing (W)
 - ★ Amend Omaha/Elkhorn Agreement for DS-13 (W)
 - ★ WP-RB5 Pink Industrial Park Purchase Agreement (W)
- **Papio Creek Watershed Partnership (Stormwater)** (Woodward):
 - ★ Review HDR Stage IV Contract (W)
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites** (Sklenar):
- **Other:**
 - Kennard Wastewater Interlocal Agreement (Woodward) (P)
 - ★ Forrest Run Channel Agreement (Woodward) (W)
 - ★ Candlewood Lake diving contract (Petermann) (N)



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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(402) 471-7670

May 10, 2007

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: May 10 NARD UPDATE

2007 Nebraska State Envirothon -- The Wauneta-Palisade High School Envirothon team recently won the Nebraska State Envirothon at Fort Robinson State Park. Wauneta-Palisade also won the state competition last year. Their team consists of Brennan Keiser, Jesse Skelton, Luke Wright, Stacey Wright, and Donna Schluckebier. Teresa Hayes is the team's advisor. Wauneta-Palisade took first place in 6 out of the 7 tests, winning the Soils, Forestry, Wildlife, Range, Aquatics, and Special Topics exams. Neligh-Oakdale won the Policy Test.

There were 13 teams and 40 volunteers from all over the state taking part in this year's event. Norris High School finished 2nd, and Bellevue East finished 3rd. Upon winning the competition, Wauneta-Palisade qualified to participate in the *national* Canon Envirothon competition (July 29-Aug 4) at Hobart and William Smith Colleges in Geneva, New York. The Nebraska Association of Resources Districts has awarded \$1,000 to the Wauneta-Palisade Envirothon team to compete in the *national* competition.

Presenting the awards during the ceremony were NARD President Ted Hughes, NARD I/E Committee Chairman Jim Johnson, and Nebraska State Senator LeRoy Loudon, Chairman of the Legislatures Natural Resources Committee.

The Envirothon is aimed at teaching kids about different areas of the environment. There are 7 regional competitions held prior to the state event. The winner of each region along with the next 8 highest scores qualifies to compete in the state competition.

There were many volunteers that assisted with the success of event, including representatives of 10 NRDs, the Nebraska Department of Environmental Quality, Nebraska Department of Natural Resources, Nebraska Forestry Service, Nebraska Ethanol Board, USDA-NRCS, Chadron State College and the Nebraska Game and Parks Commission. Thanks to all the volunteers for making this year's Envirothon a great experience!

If you want to find out more information about the state envirothon check out <http://www.nrdnet.org/envirothon/index.htm> or also check out the Canon National Envirothon at www.envirothon.org

Niobrara River Public Meeting in Valentine NE— A public meeting will be held on Friday afternoon, May 11th, at the Valentine High School to discuss the issues surrounding the new development on water rights in the Niobrara River. On May 1, 2007, the Department of Natural Resources ("DNR") issued closing notices to all persons holding water rights junior to June 8, 1942, who divert water from the Niobrara River upstream of Spencer, Nebraska.

This action came in response to a "call for water" from the Nebraska Public Power District ("NPPD"). NPPD claims to hold a 1942 water right for a hydropower at Spencer that effectively

claims the entire flow of the Niobrara River. Since passage of LB 962 and as required by that law, DNR has made determinations in each of the past two years in its determination of fully appropriated basins and concluded the Niobrara River is not fully appropriated, even considering all irrigation wells in the basin. However, the decree granting the water right to NPPD on September 27, 1943 clearly states that the Niobrara River is over-appropriated by issuing the 1942 water right. Nevertheless, the State of Nebraska continued to issue new surface water rights since 1943. Next weeks update will provide a summary of the May 11th meeting.

Legislature in Recess – The Nebraska Legislature adjourned Thursday afternoon, May 10, for a 4-day weekend. They resume work Tuesday morning, May 15, which is Day 80 of the 90-day work session.

Appropriations Committee Budget Advanced – The mainline appropriations bill was advanced to Final Reading this week with no changes from the committee recommendations relating to natural resource funding. However, Senators added \$750,000 in funding for health education centers. The proposed budget reflects a 4.5% average growth over the two year biennium. The details of the budget for natural resources program are in the following chart.

Funding for Natural Resources Programs

Program	Governor Hieneman Proposed		Appropriations Committee Advanced		Percent Change	
	FY 07-08	FY 08-09	FY 07-08	FY 08-09	FY 07-08	FY 08-09
State Aid to NRDs	1,545,502	1,545,502	1,545,502	1,545,502	0.0%	0.0%
Small Watersheds	500,000	500,000	500,000	500,000	0.0%	0.0%
Soil and Water Conservation Fund	3,193,454	3,193,454	3,193,454	3,193,454	0.0%	0.0%
Water Well Decommissioning	240,840	240,840	240,840	240,840	0.0%	0.0%
Resources Development Fund	3,638,368	3,638,368	3,373,066	3,373,066	-7.3%	-7.3%
Soil Survey Fund	143,051	143,051	75,000	0	-47.6%	100.0%
Natural Resources Water Quality Fund	1,250,000	1,250,000	1,250,000	1,250,000	0.0%	0.0%
*Water Resource Development	1,257,299	1,264,348	0	0	100.0%	100.0%
Interrelated Water Mgt Plan Program	2,500,877	2,501,773	2,412,854	2,412,854	-3.5%	-3.6%
*Nebraska Water Rights	1,067,873	1,084,140	0	0	100.0%	100.0%
*DNR Agency Operations Fund	6,308,754	6,457,355	8,789,160	9,054,149	39.3%	40.2%

* Programs Merged. See narrative below.

* Eliminate Soil Survey program funding. This modification would reduce funding for the Soil Survey program to \$75,000 in FY07-08 and eliminates the program in FY08-09. This program is a cooperative venture between the department and the University of Nebraska, and soil surveys have been completed for all the counties of Nebraska. The FY07-08 funding would allow for completion of an existing project, and to close out the program.

* Consolidation of staffing and operations into Program 334. Programs 310 (Water Resource Development) and 331(Water Rights) were consolidated into Program 334 (DNR Agency Operations Fund) in the Appropriations Committee recommendation. The transfer of staff into this program would give the agency greater flexibility in the management of work assignments. There is no net increase or decrease to the agency budget, and the changes are administrative in nature.

* Reduce current base funding for the Resources Development Fund. (Prog 307 Resources Develop Fund) by \$215,302.

* Reduce General Funds due to a one-time appropriation and decrease federal funds (Prog 310 Water planning process) by \$2,547,500. The reduction shown in this program is an adjustment due to a one-time appropriation in FY06-07. Reduced funding is based upon the agency request.

NARD Bill Summary Tracking Sheet				Last Updated: 05/10/07				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
7	New provisions for Open Meetings Act	Preister		Monitor	Government	1/18/2007	IPP	
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government	1/19/2007	Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government	1/17/2007	IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary	2/14/2007	Held in Committee	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations	3/8/2007	Held in Committee	
78	Recoverable amounts	Nantkes		Oppose	Judiciary	2/7/2007	Held in Committee	
79	NDEQ reporting under Litter Reduction & Recycling Act	Nat. Res. Comm.		Monitor	Natural Resources	1/17/2007	Approved by Governor	
80	NDEQ funding of Safe Drinking Water projects	Nat. Res. Comm.		Support	Natural Resources	1/17/2007	Approved by Governor	AM30 - Adopted
105	Nebraska Forest Service funding	Louden		Support	Appropriations	3/6/2007	Held in Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government	1/24/2007	Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary	2/7/2007	Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources	1/19/2007	General File	AM13 - Pending
224	Well drilling moratorium	Kopplin	Withdrawn	Withdrawn	Withdrawn		Withdrawn	M000003 - Prevailed
272	NRD bonding authority	Kopplin		Support	Revenue	2/22/2007	IPP	
289	Records of elections to exceed tax levy limits	Louden	Speaker	Monitor	Government		Final Reading	AM316 - Pending
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources	1/29/2007	Select File	AM123 - Adopted AM156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources	1/31/2007	Select File	Incorp. into AM 838 to LB 701
301	Extend NETF distribution	Janssen		Support	General Affairs	2/5/2007	General File	AM204 - Pending
313	Clarify engineering requirements under Livestock Waste Management Act	Nat. Res. Comm.		Support	Natural Resources	1/24/2007	Approved by Governor	AM101 - adopted
314	Add dug pits to definition of water well	Louden		Support	Natural Resources	1/31/2007	General File	Incorp. into AM 838 to LB 701
321	Mainline appropriation bill	Speaker Flood, at request of Governor		Support	Appropriations	Agency Hearings Start 2/20	Final Reading	Numerous Amendments Adopted and lost
322	Water Resources Cash Fund & other funds	Speaker Flood, at request of Governor		Support	Appropriations	2/20/2007	General File	Incorp. into AM 838 to LB 701
333	Authorize fee schedule for Private Onsite Wastewater System Contractors Certification	Johnson		Monitor	Natural Resources	1/24/2007	Approved by Governor	AM90 - Adopted
362	Interlocal agreements	Raikes		Oppose	Revenue	2/22/2007	Held in Committee	
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs	2/27/2007	Held in Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government	2/1/2007	General File	AM578 - Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations	3/12/2007	General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary	2/7/2007	Held in Committee	
458	Integrated Management Plans and removing vegetation	Carlson et al.	Carlson	Oppose original version	Natural Resources	(Revised) 2/28/2007	General File	Incorp. into AM 838 to LB 701. NARD Support amended version.
477	Change insurance requirements	Wightman		Oppose	Government	2/28/2007	IPP	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue	2/8/2007	IPP pending, Laid Over	AM 825 - Adopted AM864 to AM825 - Lost AM924 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources	(Revised) 3/8/2007	Held in Committee	
503	Change NRD board vacancy appointments	Mines		Oppose	Natural Resources	2/22/2007	IPP	
530	Change allocation formula for Storm Water Management Plan program	Nantkes	Speaker	Support	Natural Resources	2/8/2007	General File	FA 00090 - Pending AM 1110 - Pending
534	Funding storm water programs	Schimek		Support	Natural Resources	2/8/2007	Held in Committee	
564	Add state and political subdivisions to those who receive recreational liability protection	Friend et al.	Augular	Support	Judiciary	2/14/2007	Final Reading	AM879 - Adopted
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
568	Extend Scrap Tire Grant Program	Nat. Res. Comm.		Support	Natural Resources	1/31/2007	Approved by Governor	AM210 - Adopted FA31 - Adopted
594	Temporary suspension of new well permits and surface water rights for irrigation	Kopplin		Reference policy statement	Natural Resources	(Revised) 3/8/2008	IPP	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government	2/1/2007	Failed to Advance From GF	AM258 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources	2/7/2007	Held in Committee	
701	Create a basin-wide management authority & committee	Christensen	Christensen	Reference policy statement	Natural Resources	2/28/2007 AM872-4/4/2007	Signed by the Governor	ER870 - Adopted AM1073 - Adopted Various Amendments adopted and lost
704	Adopt Fishable & Swimmable Waters Act	Preister		Monitor	Natural Resources	3/8/2007	IPP	
11CA	Reduce funding to NETF & create a new Crime Fund	Flood		Oppose	General Affairs	2/28/2007	Held in Committee	



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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(402) 471-7670

May 18, 2007

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

Recreational Liability Bill is Signed by Governor and Made Law – On Wednesday (5/16/07), Governor Heineman signed a bill dealing with political subdivisions' liability for accidents on public and private lands. The bill, LB 564, was introduced in response to a 2006 Nebraska Supreme Court decision, Bronsen v. Dawes County. In that case, the court overruled more than 25 years of precedent declaring that state law does not provide governmental entities with the same limited immunity. The bill proposes to create three exemptions to the liability of state or local government for claims relating to recreational activities for which no fee is charged:

- 1) Claims resulting from the inherent risk of the activity;
- 2) Claims arising out of a spot or localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or constructive notice of the defect; and
- 3) Claims arising out of the design of a skate park or bicycle motocross park that was constructed using generally recognized standards in existence at the time the facility was constructed.

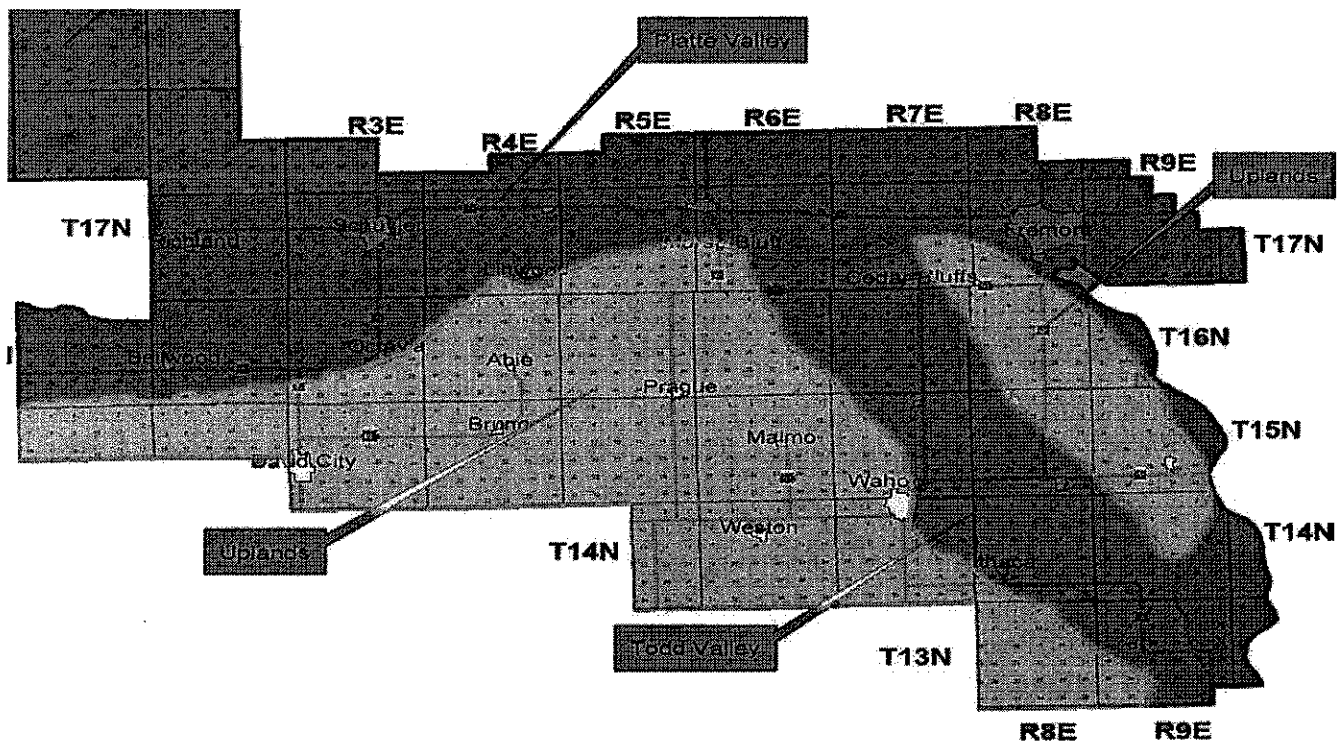
The Amendment would require political subdivisions to post and maintain a sign at each Skateboard Park and Bicycle Motocross Park sponsored by the political subdivision indicating that it is not liable for injury or death resulting from the inherent risks of the recreational activities. Under the amendment, the absence of a sign would not increase liability on the part of the political subdivision. Upon being signed by the Governor, this bill was made law due to an emergency clause placed on the bill.

Bill To Extend Ethanol Funding Moves to the Governor's Desk – Part of Governor Heineman's biennial budget, LB 322, was passed by the Legislature this week. The bill contains the extension of the 7/8 cent check-off on corn and grain sorghum for ethanol promotion from 2010 to 2012 and a General Fund transfer of \$15.5 million for the Ethanol Production Incentive Cash Fund (EPIC). This fund is used to provide production credits for ethanol plants in Nebraska. The bill adds language to suspend the ethanol check-off to if the balance of the EPIC Fund exceeds \$20,000,000 on January 1, 2013.

Well Moratorium is Place in Upland Areas of Lower Platte North NRD – On Monday (05/14/07), the Lower Platte North NRD imposed an immediate temporary stay on construction of new water wells and increase of historically irrigated acres in the upland areas of Butler and Saunders Counties. The area is delineated as Uplands in the lighter colored part of the map on the next page. This temporary stay does not apply to wells previously permitted in accordance with the NRD's regulations in the Uplands area but not yet constructed. Provided, however, such permitted wells must be constructed and water put to beneficial use on all acres to be irrigated within twelve (12) months of issuance of the permit. Also, under the resolution adopted by the board, variances could be granted upon good cause shown.

The NRD also sent a letter to the Department of Natural Resources asking for the State of Nebraska to also place a temporary stay in the issuance of any new surface water diversion permits with result in consumptive use. An exemption to this stay was requested for small diminimus uses such as farm ponds and conservation practices

The authority granted to the NRD in 2007 with passage of LB 701, the stay imposed on the Uplands area is for a period of one hundred eighty (180) days effective May 14, 2007. In accordance with statutory requirements, the NRD will hold at least one public hearing within the District during such one hundred eighty(180) days, following public notice, prior to making a determination as to imposing a permanent stay or other conditions allowed under the law.

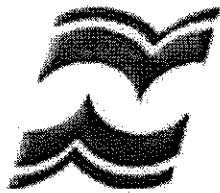


State Budget awaiting vetoes from Governor – The mainline appropriations bill was advanced to Governor Heineman this week with no changes from the committee recommendations relating to natural resource funding. The proposed budget reflects a 4.5% average growth over the two year biennium. Governor Heineman plans to make his veto announcements on Monday (05/21/07). Natural Resource funding programs will more than likely be spared the veto pen and remain intact. The details of the proposed final budget for natural resources program are in the following chart.

Funding for Natural Resources Programs

Program	Governor Hieneman Proposed		Appropriations Committee Advanced		Percent Change	
	FY 07-08	FY 08-09	FY 07-08	FY 08-09	FY 07-08	FY 08-09
State Aid to NRDs	1,545,502	1,545,502	1,545,502	1,545,502	0.0%	0.0%
Small Watersheds	500,000	500,000	500,000	500,000	0.0%	0.0%
Soil and Water Conservation Fund	3,193,454	3,193,454	3,193,454	3,193,454	0.0%	0.0%
Water Well Decommissioning	240,840	240,840	240,840	240,840	0.0%	0.0%
Resources Development Fund	3,638,368	3,638,368	3,373,066	3,373,066	-7.3%	-7.3%
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NARD Bill Summary Tracking Sheet				Last Updated: 05/18/07				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
7	New provisions for Open Meetings Act	Preister		Monitor	Government	1/18/2007	IPP	
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government	1/19/2007	Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government	1/17/2007	IPP pending, Laid Over	AM71 - Adopted M00003 - Failed M00009 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary	2/14/2007	Held in Committee	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations	3/8/2007	Held in Committee	
78	Recoverable amounts	Nantkes		Oppose	Judiciary	2/7/2007	Held in Committee	
79	NDEQ reporting under Litter Reduction & Recycling Act	Nat. Res. Comm.		Monitor	Natural Resources	1/17/2007	Approved by Governor	
80	NDEQ funding of Safe Drinking Water projects	Nat. Res. Comm.		Support	Natural Resources	1/17/2007	Approved by Governor	AM30 - Adopted
105	Nebraska Forest Service funding	Louden		Support	Appropriations	3/8/2007	Held in Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government	1/24/2007	Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary	2/7/2007	Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources	1/19/2007	General File	AM13 - Pending
224	Well drilling moratorium	Kopplin	Withdrawn	Withdrawn	Withdrawn		Withdrawn	M00003 - Prevalled
272	NRD bonding authority	Kopplin		Support	Revenue	2/22/2007	IPP	
289	Records of elections to exceed tax levy limits	Louden	Speaker	Monitor	Government		Final Reading	AM316 - Pending
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources	1/25/2007	Select File	AM123 - Adopted 156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources	1/31/2007	Select File	Incorp. into AM 938 to LB 701
301	Extend NETF distribution	Janssen		Support	General Affairs	2/5/2007	General File	AM204 - Pending
313	Clarify engineering requirements under Livestock Waste Management Act	Nat. Res. Comm.		Support	Natural Resources	1/24/2007	Approved by Governor	AM101- adopted
314	Add dug pits to definition of water well	Louden		Support	Natural Resources	1/31/2007	General File	Incorp. into AM 938 to LB 701
321	Maintline appropriation bill	Speaker Flood, at request of Governor		Support	Appropriations	Agency Hearings Start 2/20	Final Reading	Numerous Amendments Adopted and lost
322	Water Resources Cash Fund & other funds	Speaker Flood, at request of Governor		Support	Appropriations	2/20/2007	General File	Incorp. into AM 938 to LB 701
333	Authorize fee schedule for Private Onsite Wastewater System Contractors Certification	Johnson		Monitor	Natural Resources	1/24/2007	Approved by Governor	AM80 - Adopted
362	Interlocal agreements	Raikes		Oppose	Revenue	2/22/2007	Held in Committee	
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs	2/27/2007	Held in Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government	2/1/2007	General File	AM678-Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations	3/12/2007	General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary	2/7/2007	Held in Committee	
458	Integrated Management Plans and removing vegetation	Carlson et al.	Carlson	Oppose original version	Natural Resources	(Revised) 2/28/2007	General File	Incorp. Into AM 938 to LB 701. NARD Support amended version.
477	Change insurance requirements	Wightman		Oppose	Government	2/28/2007	IPP	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue	2/8/2007	IPP pending, Laid Over	AM 825 - Adopted AM824 to AM828 - Lost AM824 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources	(Revised) 3/8/2007	Held in Committee	
503	Change NRD board vacancy appointments	Mines		Oppose	Natural Resources	2/22/2007	IPP	
530	Change allocation formula for Storm Water Management Plan program	Nantkes	Speaker	Support	Natural Resources	2/8/2007	General File	FA 00090 - Pending AM 1110 - Pending
534	Funding storm water programs	Schimek		Support	Natural Resources	2/8/2007	Held in Committee	
564	Add state and political subdivisions to those who receive recreational liability protection	Friend et al.	Augulter	Support	Judiciary	2/14/2007	Approved by Governor	AM879 - Adopted
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
568	Extend Scrap Tire Grant Program	Nat. Res. Comm.		Support	Natural Resources	1/31/2007	Approved by Governor	AM210 - Adopted FA31 - Adopted
594	Temporary suspension of new well permits and surface water rights for irrigation	Kopplin		Reference policy statement	Natural Resources	(Revised) 3/8/2006	IPP	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government	2/1/2007	Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources	2/7/2007	Held in Committee	
701	Create a basin-wide management authority & committee	Christensen	Christensen	Reference policy statement	Natural Resources	2/28/2007 AM872-4/4/2007	Approved by Governor	ER870 - Adopted AM1073 - Adopted Various Amendments adopted and lost
704	Adopt Fishable & Swimmable Waters Act	Preister		Monitor	Natural Resources	3/8/2007	IPP	
11CA	Reduce funding to NETF & create a new Crime Fund	Flood		Oppose	General Affairs	2/26/2007	Held in Committee	



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May 25, 2007

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

Niobrara River debate heats up – The Nebraska Game and Parks Commission joined the Niobrara Scenic River Council in calling for a moratorium on surface water appropriation and well drilling along the Niobrara River. There has also been considerable discussion and confusion about the water rights held by the federal government. In simple terms, federal reserved rights apply only to federal lands that never left federal ownership. Once federal lands are conveyed to private parties, they forever lose the ability to have “reserved” water rights attached to them. The Scenic River designation itself is unlikely to have conferred any federal reserved water rights, because nearly all of the lands within the Scenic River corridor left federal ownership long before Congress made the designation.

Another important factor to consider in this debate is to look at the facts rather than relying on emotion. Here are some surface water and ground water data to consider:

- **Surface Water Data:** Stream-gauging information from the Nebraska Department of Natural Resources and the U.S. Geological Survey shows that the monthly flows of the Niobrara have remained unchanged over time, even with existing levels of irrigation. For instance, the mean daily stream flow in 1966 was 1,597 cubic feet per second. In 2006, 40 years later, it was 1,731 cubic feet per second which *shows an increase in stream flow of 134 cubic feet per second.*
- **Groundwater Data:** The Middle Niobrara NRD currently observes static water levels in 115 monitoring or irrigation wells. When all wells are examined, regardless of initial observation, the number of declining wells (61 wells) is greater than inclining wells (54 wells). However, the sum of decline and inclines comes out to a positive total with a *0.3 foot increase average.* In examining the subset of wells with initial observations in the 1970's, there are more inclining wells (40 wells) than declining wells (22 wells). Again, the sum of declines and inclines is a positive total with a *1.58 foot increase average since 1970.*

House Ag Subcommittees start discussions on the 2007 Farm Bill – This week, the Conservation Title of the Farm Bill crossed its first hurdle; the House Agriculture Conservation Subcommittee mark-up session. The proposal extends important land reserve programs, simplifies and improves the Conservation Security Program and substantially increases funding for the Environmental Quality Incentives and Farmland Protection Programs. It also includes several provisions to encourage cooperation between USDA and producers or other entities to deliver conservation programs.

One amendment was brought forward from Representative Zack Space (D) of Ohio regarding shifting administration of all conservation programs to the Farm Service Agency, was among the amendments withdrawn. Rep. Space withdrew the amendment at the request of Subcommittee Chairman Tim Holden of Pennsylvania with the understanding that the Agriculture Committee plans to address the issue of USDA reorganization next year.

Funding for new contracts would not be provided under the Conservation Security Program, which would be placed on hold until 2012. The Conservation Reserve Program and the Wildlife Habitat Incentives Program would receive funding at existing levels, while the Wetlands Reserve Program and the Grasslands Reserve Program would be continued but with no provision for future funding. Conservation programs could receive additional funding, if a \$20 billion reserve fund that was set aside for the Farm Bill in the FY 2008 budget would become available.

All titles of the Farm Bill are expected to come before the full committee before the July 4 recess. A summary and full text of the House proposal is available on the House Agriculture website: <http://agriculture.house.gov/inside/2007FarmBill.html>.

Interlocal agreements audit bill indefinitely postponed -- On Wednesday, May 23rd, the Revenue Committee indefinitely postponed LB362. This bill would have removed allowable exemptions from budget limit, restricted funds budgeted under an interlocal cooperative agreement, and made interlocal agreements subject to tax limits. Furthermore, it would have increased the base limitation from 2.5% to 2.75%. The State Auditor's would have also been authorized to audit the agreements.

Stormwater bill advances -- Earlier this week, the Legislature advanced LB 530 to Select File, which makes changes to stormwater funding formula. The current formula for distribution takes into account population. The bill would require that for the purpose of distributing grant funds to a county pursuant to the program, the proportion shall be based on the county population, less the population of city applicants within that county.

State Budget now final -- On Monday, Governor Heineman announced \$23.6 million in vetoes of general fund appropriations for the next two years, mainly on health care programs, aging programs, special education and rehabilitation issues. The governor also reduced the appropriation from the state Department of Roads Highway Cash Fund by \$19 million. All override attempts by the legislature on Thursday failed. Natural Resource funding programs were spared the veto pen and remain intact. The details of the final budget for natural resources program are in the following chart.

Funding for Natural Resources Programs

Program	Governor Hieneman Proposed		Appropriations Committee Advanced		Percent Change	
	FY 07-08	FY 08-09	FY 07-08	FY 08-09	FY 07-08	FY 08-09
State Aid to NRDs	1,545,502	1,545,502	1,545,502	1,545,502	0.0%	0.0%
Small Watersheds	500,000	500,000	500,000	500,000	0.0%	0.0%
Soil and Water Conservation Fund	3,193,454	3,193,454	3,193,454	3,193,454	0.0%	0.0%
Water Well Decommissioning	240,840	240,840	240,840	240,840	0.0%	0.0%
Resources Development Fund	3,638,368	3,638,368	3,373,066	3,373,066	-7.3%	-7.3%
Soil Survey Fund	143,051	143,051	75,000	0	-47.6%	100.0%
Natural Resources Water Quality Fund	1,250,000	1,250,000	1,250,000	1,250,000	0.0%	0.0%
*Water Resource Development	1,257,299	1,264,348	0	0	100.0%	100.0%
Interrelated Water Mgt Plan Program	2,500,877	2,501,773	2,412,854	2,412,854	-3.5%	-3.6%
*Nebraska Water Rights	1,067,873	1,084,140	0	0	100.0%	100.0%
*DNR Agency Operations Fund	6,308,754	6,457,355	8,789,160	9,054,149	39.3%	40.2%

* Programs Merged.

NARD Bill Summary Tracking Sheet				Last Updated: 05/25/07				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
7	New provisions for Open Meetings Act	Preister		Monitor	Government	1/18/2007	IPP	
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government	1/19/2007	Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government	1/17/2007	IPP pending, Laid Over	AM71 - Adopted MO0003 - Failed MO0008 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary	2/14/2007	Held in Committee	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations	3/8/2007	Held in Committee	
78	Recoverable amounts	Nantkes		Oppose	Judiciary	2/7/2007	Held in Committee	
79	NDEQ reporting under Litter Reduction & Recycling Act	Nat. Res. Comm.		Monitor	Natural Resources	1/17/2007	Approved by Governor	
80	NDEQ funding of Safe Drinking Water projects	Nat. Res. Comm.		Support	Natural Resources	1/17/2007	Approved by Governor	AM30 - Adopted
105	Nebraska Forest Service funding	Louden		Support	Appropriations	3/6/2007	Held in Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government	1/24/2007	Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary	2/7/2007	Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources	1/19/2007	General File	AM13 - Pending
224	Well drilling moratorium	Kopplin	Withdrawn	Withdrawn	Withdrawn		Withdrawn	MO0003 - Prevailed
272	NRD bonding authority	Kopplin		Support	Revenue	2/22/2007	IPP	
289	Records of elections to exceed tax levy limits	Louden	Speaker	Monitor	Government		Final Reading	AM316 - Pending
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources	1/25/2007	Select File	AM123 - Adopted AM156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources	1/31/2007	Select File	Incorp. into AM 938 to LB 701
301	Extend NETF distribution	Janssen		Support	General Affairs	2/5/2007	General File	AM204 - Pending
313	Clarify engineering requirements under Livestock Waste Management Act	Nat. Res. Comm.		Support	Natural Resources	1/24/2007	Approved by Governor	AM101 - adopted
314	Add dug pits to definition of water well	Louden		Support	Natural Resources	1/31/2007	General File	Incorp. into AM 938 to LB 701
321	Mainline appropriation bill	Speaker Flood, at request of Governor		Support	Appropriations	Agency Hearings Start 2/20	Approved by Governor	Numerous Amendments Adopted and lost
322	Water Resources Cash Fund & other funds	Speaker Flood, at request of Governor		Support	Appropriations	2/20/2007	General File	Incorp. into AM 938 to LB 701
333	Authorize fee schedule for Private Onsite Wastewater System Contractors Certification	Johnson		Monitor	Natural Resources	1/24/2007	Approved by Governor	AM90 - Adopted
362	Interlocal agreements	Ralke		Oppose	Revenue	2/22/2007	IPP	
367	Require water meters on new construction	Langemeier		Oppose	Urban Affairs	2/27/2007	Held in Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government	2/1/2007	General File	AM678 - Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations	3/12/2007	General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary	2/7/2007	Held in Committee	
458	Integrated Management Plans and removing vegetation	Carlson et al.	Carlson	Oppose original version	Natural Resources	(Revised) 2/28/2007	General File	Incorp. into AM 938 to LB 701. NARD Support amended version.
477	Change insurance requirements	Wightman		Oppose	Government	2/28/2007	IPP	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue	2/8/2007	IPP pending, Laid Over	AM 825 - Adopted AM864 to AM825 - Lost AM824 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources	(Revised) 3/8/2007	Held in Committee	
503	Change NRD board vacancy appointments	Mines		Oppose	Natural Resources	2/22/2007	IPP	
530	Change allocation formula for Storm Water Management Plan program	Nantkes	Speaker	Support	Natural Resources	2/8/2007	Select File	FA 00090 - Pending AM 1110 - Pending
534	Funding storm water programs	Schimek		Support	Natural Resources	2/8/2007	Held in Committee	
564	Add state and political subdivisions to those who receive recreational liability protection	Friend et al.	Augullar	Support	Judiciary	2/14/2007	Approved by Governor	AM879 - Adopted
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
568	Extend Scrap Tire Grant Program	Nat. Res. Comm.		Support	Natural Resources	1/31/2007	Approved by Governor	AM210 - Adopted FA31 - Adopted
594	Temporary suspension of new well permits and surface water rights for irrigation	Kopplin		Reference policy statement	Natural Resources	(Revised) 3/8/2008	IPP	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government	2/1/2007	Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources	2/7/2007	Held in Committee	
701	Create a basin-wide management authority & committee	Christensen	Christensen	Reference policy statement	Natural Resources	2/28/2007 AM872-4/4/2007	Approved by Governor	ER870 - Adopted AM1073 - Adopted Various Amendments adopted and lost
704	Adopt Fishable & Swimmable Waters Act	Preister		Monitor	Natural Resources	3/8/2007	IPP	
11CA	Reduce funding to NETF & create a new Crime Fund	Flood		Oppose	General Affairs	2/26/2007	Held in Committee	



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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May 31, 2007

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: May 31 NARD UPDATE – Sine Die

Legislature Adjourned - The Nebraska Unicameral adjourned Sine Die on May 31st, finishing the 90-day work session. State Senators will be back in session on January 9th, 2008 for a 60-day work session. The NARD Legislative Conference will be February 4-6 at the Embassy Suites in Lincoln. The following is a list of bills that have been approved, bills indefinitely postponed, legislation waiting for next session, and interim studies.

Legislation Approved

LB79 – Nebraska Litter Reduction and Recycling Act, Natural Resources Committee. The bill eliminates obsolete language in the Nebraska Litter Reduction and Recycling Act that pertain to transfer of funds that have already occurred. The bill also eliminates duplicative reporting requirements concerning grant activities.

LB 80 – Safe Drinking Water Act Projects, Natural Resources Committee. Extends and defines the ability of NDEQ to use the Administrative Cash Fund of the Safe Drinking Water Revolving Fund for drinking water projects involving public water systems operated by political subdivisions up to and including 10,000 residents.

LB 289 – Elections to Exceed Tax Levy Limit, Loudon. Changes the election procedure for exceeding the tax levy limit. Current law allows certain political subdivisions and villages to approve a levy in excess of the limits or the final levy allocation at a meeting of the residents of the political subdivision or village called after public notice. At least ten percent of the political subdivision or village constitutes a quorum for purposes of taking action to exceed the limits or final levy allocation. Under LB 289, a record will be made of the registered voters residing in the political subdivisions or village who are present at the meeting. The method of voting will protect the secrecy of the ballot. The committee amendment strikes obsolete provisions in § 77-3444 dealing with special elections held before October 10, 1998. This bill was passed by the legislature on May 10th and approved by the governor on May 16th.

LB 313 – Engineering Requirements under the Livestock Waste Management Act, Natural Resources Committee. The bill clarifies that livestock operations required to obtain a National Pollutant Discharge Elimination System permit and large livestock operations as defined in federal requirements are subject to the requirements of the Engineers and Architects Regulation Act. Small and medium size operations not required to obtain a National Pollutant Discharge Elimination System permit would be exempt from the Engineers and Architects Regulation Act. This bill was passed by the legislature on March 1st and later approved by the governor.

LB322 - Bill To Extend Ethanol Funding, Flood on behalf of Governor. Part of Governor Heineman's biennial budget, the bill contains the extension of the 7/8 cent check-off on corn and grain sorghum for ethanol promotion from 2010 to 2012 and a General Fund transfer of \$15.5 million for the Ethanol Production Incentive Cash Fund (EPIC). This fund is used to provide production credits for ethanol plants in Nebraska. The bill adds language to suspend the ethanol check-off to if the balance of the EPIC Fund exceeds \$20,000,000 on January 1, 2013. This bill was approved by the Governor on May 21st.

LB321 - State Budget now final, Flood on behalf of Governor – The details of the final budget for natural resources program are in the chart on the next page.

Funding for Natural Resources Programs

Program	Governor Hieneman Proposed		Appropriations Committee Advanced		Percent Change	
	FY 07-08	FY 08-09	FY 07-08	FY 08-09	FY 07-08	FY 08-09
State Aid to NRDs	1,545,502	1,545,502	1,545,502	1,545,502	0.0%	0.0%
Small Watersheds	500,000	500,000	500,000	500,000	0.0%	0.0%
Soil and Water Conservation Fund	3,193,454	3,193,454	3,193,454	3,193,454	0.0%	0.0%
Water Well Decommissioning	240,840	240,840	240,840	240,840	0.0%	0.0%
Resources Development Fund	3,638,368	3,638,368	3,373,066	3,373,066	-7.3%	-7.3%
Soil Survey Fund	143,051	143,051	75,000	0	-47.6%	100.0%
Natural Resources Water Quality Fund	1,250,000	1,250,000	1,250,000	1,250,000	0.0%	0.0%
*Water Resource Development	1,257,299	1,264,348	0	0	100.0%	100.0%
Interrelated Water Mgt Plan Program	2,500,877	2,501,773	2,412,854	2,412,854	-3.5%	-3.6%
*Nebraska Water Rights	1,067,873	1,084,140	0	0	100.0%	100.0%
*DNR Agency Operations Fund	6,308,754	6,457,355	8,789,160	9,054,149	39.3%	40.2%

* Programs Merged. See narrative below.

* Eliminate Soil Survey program funding. This modification would reduce funding for the Soil Survey program to \$75,000 in FY07-08 and eliminates the program in FY08-09. This program is a cooperative venture between the department and the University of Nebraska, and soil surveys have been completed for all the counties of Nebraska. The FY07-08 funding would allow for completion of an existing project, and to close out the program.

* Consolidation of staffing and operations into Program 334. Programs 310 (Water Resource Development) and 331 (Water Rights) were consolidated into Program 334 (DNR Agency Operations Fund) in the Appropriations Committee recommendation. The transfer of staff into this program would give the agency greater flexibility in the management of work assignments. There is no net increase or decrease to the agency budget, and the changes are administrative in nature.

* Reduce current base funding for the Resources Development Fund. (Prog 307 Resources Develop Fund) by \$215,302.

* Reduce General Funds due to a one-time appropriation and decrease federal funds (Prog 310 Water planning process) by \$2,547,500. The reduction shown in this program is an adjustment due to a one-time appropriation in FY06-07. Reduced funding is based upon the agency request.

LB 333 – Private Onsite Wastewater System Contractors Certification and System Registration Act, Johnson. This bill makes a number of provisions, including clarification of the requirement of employing a certified professional for the abandonment of an onsite system and the issuance of permits and requirements necessary for operation and maintenance. This bill was passed by the legislature on March 1st and later approved by to the governor.

LB530 - Stormwater bill, Nantkes– The Legislature approved LB 530 the last day of session, which makes changes to stormwater funding formula. The current formula for distribution takes into account population. The bill would require that for the purpose of distributing grant funds to a county pursuant to the program, the proportion shall be based on the county population, less the population of city applicants within that county.

LB564 - Recreational Liability, Friend. The bill was introduced in response to a 2006 Nebraska Supreme Court decision, Bronsen v. Dawes County. In that case, the court overruled more than 25 years of precedent declaring that state law does not provide governmental entities with the same limited immunity. The bill proposes to create three exemptions to the liability of state or local government for claims relating to recreational activities for which no fee is charged:

- 1) Claims resulting from the inherent risk of the activity;
- 2) Claims arising out of a spot or localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or constructive notice of the defect; and
- 3) Claims arising out of the design of a skate park or bicycle motocross park that was constructed using generally recognized standards in existence at the time the facility was constructed.

The Amendment would require political subdivisions to post and maintain a sign at each Skateboard Park and Bicycle Motocross Park sponsored by the political subdivision indicating that it is not liable for injury or death resulting from the inherent risks of the recreational activities. Under the amendment, the absence of a sign would not increase liability on the part of the political subdivision. Upon being signed by the Governor, this bill was made law due to an emergency clause placed on the bill.

LB 568 Tire Recycling, Natural Resource Committee - Senators passed this bill after adopting an amendment that would require the Department of Environmental Quality to do a survey of litter problems in the state. The results of the survey would be submitted to the Governor. The other provisions of the bill remain which extends the grant program for recycling tires under the Waste Reduction and Recycling Incentive Fund from June 30, 2007 to June 30, 2009. This bill was approved by the Governor on April 5th.

LB701 – 2007 Water Legislation, Christensen. The four main components of the bill include:

1. **Bonding Authority for NRDs** – This component includes the authority for NRDs in the Republican Basin to lease or acquire surface and ground water rights in the basin and divert the water from irrigation to enhance stream flows. The NRDs would also have the power to undertake other stream flow augmentation programs consistent with the all management authorities granted to the NRDs in Chapter 2, Article 32. The three Republican River Basin NRDs are currently in negotiations to lease surface water from at least 26,000 acres from Frenchman Cambridge, Frenchman Valley and Riverside Irrigation Districts for the 2007 year.

The NRDs, either on their own and/or through an interlocal agreement, would have the authority to issue bonds to pay for the projects. Funding sources for repayment of the bonds could come from up to a 10-cent property tax and up to \$10/acre occupation tax on irrigated acres. The occupation tax would be collected and become delinquent in the same manner as property taxes. This component also included extension of the 3 cent levy authority for NRDs in fully and over-appropriated areas from 2008 to 2012. The bonding authority for new projects would sunset in 15 years.

Within 45 days of a request from the Natural Resource Committee, a report would be required by the qualified NRDs issuing such bonds of existing and planned activities to the committee. Also, beginning April 1, 2008, a district that uses bonds to purchase surface water would be required to restrict the use of groundwater from water wells used on acres certified for both groundwater and surface water use to no greater than the total groundwater allocation granted less the surface water purchased.

2. **State Funding for Water Programs, LB 322** – This component is Governor Heineman's proposal in LB 322 to establish a Water Resources Cash Fund to be administered by DNR to comply with interstate water compacts and conserve water in fully and overappropriated basins. The provision of the bill appropriates \$2.7 million per year to the Water Resources Cash Fund. After October 1, 2012 and until October 1, 2019, a 3/5 cent/bushel check-off on corn and grain sorghum will be imposed and directed to the Water Resources Cash Fund. NRDs could access money from the fund with a 40 percent match requirement. This division also included \$3 million for the current fiscal year to be appropriated to the state Department of Natural Resources to negotiate leases on surface water rights in the Bostwick Irrigation District. Intent language was added to make it clear that this bill does not establish a precedent that the Legislature must or should purchase water or provide compensation for any economic impacts resulting from necessary water regulation.

This component adds a requirement for the Department of Natural Resources to develop rules and regulations for use of the Water Resources Cash Funds. These components would require a) how planned activities of the district would assist in compliance with an interstate compact or decree or a formal state contract or agreement as required by 46-715 and b) a schedule of implementation of the activity or its components. Any NRD that fails to implement and enforce controls, rules and regulations as required under 46-715 would not be eligible for funding from the Water Cash Fund.

The department would be required to submit an annual report to the Legislature by October 1 each year on the use of the funds.

3. **Water Management Changes of LB 295 & 314** – This component was already on Select File in LB 295 and makes a number of changes at the request of the Nebraska Department of Natural Resources, including 1) Adds U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse; 2) Clarifies that no person shall use a water well for purposes other than its registered purpose until the water well registration has been changed to the intended new use; 3) Provides an exception so that a person may use water well registered for purposes other than its intended purpose for a de minimis use for livestock, monitoring, observation, or any other non-consumptive use approved by the applicable natural resources district; and 4) adds dug pig pits to the definition of water well (LB314) to mean any excavation made for any purpose if ground water flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation.

This component also included language that will require DNR, in consultation with the effected natural resources district, to do an annual determination in fully and over-appropriated basins, starting January 1, 2008, and every January 1 thereafter, to estimate the maximum amount of water that may be available from stream flow for a beneficial purpose in the short and long-term. The language would not be an "order" by the department, rather only a forecast developed by DNR and the affected NRDs.

Finally, this component allows NRDs to impose a temporary well drilling moratorium without a notice or hearing, but requires a hearing within 180 days. Similar language is included allowing DNR to impose a temporary 180-day stay on new surface water natural-flow appropriations in areas where a natural resources district has imposed a temporary 180-day stay on new well construction and the addition of new irrigated acres. Water wells of public water suppliers are exempt from temporary moratoriums.

4. **Vegetation Management Provision of LB 458** – This component creates a 13-member Riparian Vegetation Task Force, as proposed in LB 458, consisting of a representative of the Governor, state agencies, NRDs, the Nebraska Environmental Trust, and a riparian landowner from each of the state's congressional districts. The task force would sunset on June 30, 2009. The task force is to analyze the cost effectiveness of available vegetation treatment and shall utilize the principles of integrated vegetation management and sound science. For administrative and budget purposes, the task force will be housed with the Department of Agriculture.

Bills Indefinitely Postponed

LB7 – Nebraska Litter Reduction and Recycling Act, Preister. This bill proposed to eliminate some duplication by providing that NDEQ will report on activities under the act for the previous state fiscal year, and that this report shall be presented to the Governor as well as the Clerk of the Legislature. This bill was indefinitely postponed on March 12th by the Natural Resources Committee.

LB 224 – Well Drilling Moratorium, Kopplin. Directs the Department of Natural Resources to not accept registrations for irrigation water wells on and after July 1, 2006, through June 30, 2008, unless the water well is a replacement water well. This bill has been withdrawn. (See LB 594)

LB 272 – NRD Bonding Authority, Kopplin. The Revenue Committee indefinitely postponed LB 272. The bill, introduced by Senator Kopplin for the Papio-Missouri River NRD, would have allowed the board of directors of a natural resources district encompassing a city of the metropolitan class to issue negotiable bonds and refunding bonds of the district, entitled flood control dam and reservoir bonds, with terms determined appropriate by the board of directors, payable from an annual special flood control dam and reservoir levy upon the taxable value of all taxable property in the district.

LB301 – Extend NETF Distribution, Janssen. Extends current distribution of NETF Lottery funds from January 1, 2008 until January 1, 2013. This bill was indefinitely postponed on May 31st as provisions of the bill were incorporated in LB658 and passed

LB 314 - Adds Dug Pits to definition of Water Wells, Louden. The bill adds to the definition of water-well any excavation made for any purpose if ground water flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. This bill was indefinitely postponed on May 31st as provisions were incorporated into LB701 and passed.

LB362 - Interlocal agreements audit bill, Raikes. On Wednesday, May 23rd, the Revenue Committee indefinitely postponed LB362. This bill would have removed allowable exemptions from budget limit, restricted funds budgeted under an interlocal cooperative agreement, and made interlocal agreements subject to tax limits. Furthermore, it would have increased the base limitation from 2.5% to 2.75%. The State Auditor's would have also been authorized to audit the agreements.

LB 458 -Integrated Management Plans and removing vegetation, Carlson, *et al.* The bill requires as part of an integrated management plan adopted pursuant to section 46-715, the plan shall include provisions to remove vegetation that has a negative impact on those river basins, sub basins, or reaches that have been declared fully appropriated or over appropriated. Any integrated management plan in existence on the effective date of this act shall be amended to include provisions pertaining to such vegetation. The amendment to the integrated management plan shall be commenced within six months after the effective date of this act. For purposes of this section, negative impact shall mean vegetation within the banks of the natural stream and any vegetation identified as a nonnative invasive species. This bill was indefinitely postponed on May 31st as provisions of the bill were incorporated into LB701 and passed.

LB477 – Change insurance requirements, Wightman. Senator John Wightman proposed a bill, which would move current state employee health insurance from its current 79% employer, 21% employee contribution breakdown to 75% employer, 25% employee in one-year increments through July 1, 2011. The bill also expresses legislative intent that political subdivisions receiving state aid should contribute in a comparable amount. If not, the subdivision could face a reduction in state aid. This bill was indefinitely postponed on March 5th.

LB503 – Change NRD board vacancy appointments, Mines. This bill proposed to change procedures for filling a NRD Board vacancy. The bill would require any director appointed within the first 19 months of a term file for election for the remaining two years of the term. The bill was brought to the Legislature at the request of Curt Bromm and the Papio Valley Preservation Association. sponsored by Senator Mick Mines of Blair. The Natural Resources Committee indefinitely postponed the bill on February 27th.

LB594 – Temporary Suspension of new well permits and surface water rights for irrigation, Kopplin. The bill proposed new issuance of surface water appropriations and water well permits for irrigation purposes statewide. Two individuals spoke in favor of the bill, while dozens of individuals and groups lined up in opposition of the bill. Several NRDs used the opportunity to update the committee and other of their district's management activities. The NRDs in the Niobrara and Elkhorn river basins presented evidence of increased stream flows over the past several decades and increased an/or stable ground water tables. Several other NRDs summarized their current water management plans and the success's of taking pro-active management. Senator Gail Kopplin of Gretna mentioned that he wanted to debate the issue and find out more about water management activities in areas of the state where there are no moratoriums. This bill was indefinitely postponed on March 9th by the Natural Resources Committee.

LB704 – Adopt the Fishable and Swimmable Waters Act, Preister. This bill proposed that all Nebraska streams, lakes, and public reservoirs meet state and federal standards by January 1, 2027. It requires the Nebraska Department of Environmental Quality to develop, publish, and put in place a plan by January 1, 2008. This bill was indefinitely postponed on March 9th by the Natural Resources Committee.

LR 11CA -- Reduce Funding to the NETF and create a new Crime Fund, Flood. A constitutional amendment to reduce the distribution of state lottery proceeds to the Nebraska Environmental Trust from 44.5% to 41.5% and established that 3% of the money remaining be transferred to a new fund for funding grants on the basis of local matching funds for local law enforcement efforts to enforce laws that deal with drug offenses, violent crime, and serious offenders. This bill is held in the General Affairs Committee.

Carry-Over for Next Year

LB 17 - Prohibit NRD Dual Office Holding, Mines – Senator Ernie Chambers filed a motion to indefinitely postpone LB 17 on the second day of General File debate on the bill. Senator Mick Mines quickly asked to pass over the bill to avoid taking up the IPP motion. As proposed the bill adds NRD office holders to the list of high elective offices that would be prohibited from filing as a candidate for another high elective office. Current law defines higher elective office as a member of the Legislature, county, city, or school district. This bill was laid over until next year's session. If the bill comes up again, the IPP motion will have to be addressed first.

LB 13 - Interlocal Cooperation Act, Mines. The bill outlines new procedures and oversight for entering into interlocal agreements. Any existing joint entities would be required to complete this application and certification process. This bill is held in the Government Committee.

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

Marlin Peterman, Papio-Missouri River NRD Assistant Manager, testified on behalf of NARD in opposition to LB 20, which increases public access to private property when NRD cost share is used. The bill changes the threshold from 20% public funds to 5% of the total cost of a project. Former Senator Curt Bromm testified in support of the bill on behalf of the Papio Valley Preservation Association, a group that opposes flood control projects. This bill is held in the Judiciary Committee.

LB42 – Change Distribution of Cigarette Tax, Hudkins. This bill provides that, commencing October 1, 2007, and continuing until October 1, 2012, the State Treasurer shall place the equivalent of forty-nine cents of cigarette tax in the Highway Allocation Fund, to be distributed in the same manner as all other funds accruing to the Highway Allocation Fund. This bill is held in the Appropriations Committee.

LB 78 – Recoverable Amounts, Nantkes. Increases amounts recoverable against any employee for claims filed pursuant to section 13-920 or under the Political Subdivision Tort Claims Act from \$1 million per occurrence and \$5 million aggregate to \$3 million per occurrence and \$12 million aggregate. This bill is held in the Judiciary Committee.

LB 105, Nebraska Forest Service, Louden. Appropriates \$425,000 from the General Fund for FY2007-08 and \$425,000 from the General Fund for FY2008-09 to the Nebraska Forest Service for forest fuels management. It is intended that funds appropriated be used in conjunction with federal and private resources to reduce forest fuel loads. This bill is held in the Appropriations Committee.

LB 187 – Interlocal Agreements, Mines. Prohibits agreements pursuant to the Interlocal Cooperation Act between: (a) A school district and a public power district for the purpose of contracting for utilities for use by the school district; or (b) A school district and an educational service unit for the purpose of contracting for the services of full-time or part-time employees for use by the school district. This bill is held in the Government Committee.

LB 197 – Political Subdivisions Tort Claims Act, Schimek. Provides that, if a political subdivision is transacting business under a name other than the true name of the political subdivision and has not registered a trade name as required, the time period for beginning suit under the Act shall commence upon the registration of the trade name. This bill is held in the Judiciary Committee

LB 202 – Integrated Solid Waste Management Act, Louden. Provides that, beginning January 1, 2008, a joint entity or joint public agency created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act that provides services under the Integrated Solid Waste Management Act shall not place a lien on property for nonpayment of debt unless the agreement creating the joint entity or joint public agency provides or is modified to provide for a governing board that consists of elected officials. This bill was advanced on to General File and will remain there until dealt with next session.

LB 291 – Change membership on the Nebraska Environmental Trust Board, Hansen. – Senators decided to pass over a bill that would change the membership on the Nebraska Environmental Trust Board. The measure would eliminate the representation by congressional district and set districts similar to the boundaries of the Nebraska Game and Parks Commission. Two pending amendments resulted in the action by the bills sponsor, Senator Tom Hansen from North Platte, to pass over the bill rather than drag out debate. One amendment offered would make the agency directors that sit on the trust board ex officio, nonvoting members. The second amendment would strike the enacting clause. State senators and interested parties will try to work out the concerns with the amendments before the bill comes up for Select File debate next year.

LB 295 – Irrigation and Water Wells, Natural Resources Committee. This bill makes a number of changes at the request of the Nebraska Department of Natural Resources, including:

- Adds U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse.
- Clarifies that no person shall use a water well for purposes other than its registered purpose until the water well registration has been changed to the intended new use.
- Provides an exception so that a person may use a water well registered for purposes other than its intended purpose for a de minimis use for livestock, monitoring, observation, or any other nonconsumptive use approved by the applicable natural resources district.

Provisions of the bill were incorporated into LB701 and approved. This bill remains on Select File.

LB 387 – Require Water Meters on new Construction, Langemeier. Beginning January 1, 2008, the bill would require all new residential construction equipped with plumbing shall have water meters and plumbing installed in such a way as to separate potable water used outside the residence from potable water used inside the residence. Beginning January 1, 2015, all new construction equipped with plumbing and all new water service changes shall have water meters and plumbing installed in such a way as to separate potable water used outside the building or residence from potable water used inside the building or residence. The costs of implementing this section shall be borne by the property owner, except that water meters shall be supplied and maintained by the water service provider. This bill was held over in the Urban Affairs Committee.

LB 391 - Copies of records and speaking at public meetings, Mines. This bill was placed on General File by the Government Committee with pending Amendment 678. The amendment would take place of the original bill, and proposes the following changes to open meetings laws. First, the amendment proposes requests for public records made during specific time must contain a specific subject matter. Second, the bill sets up a process for citizens to request an item be placed on the agenda for future meetings. Third, the amendment would not require members of the public to be on the agenda to speak on agenda items.

LB420 – Change Cigarette Tax Distribution and Create Funds, Erdman. This bill creates the Agricultural Research Fund and the Water Resources Cash Fund. Both funds would be supported by cigarette taxes, and beginning July 1, 2008, \$1.5 million and \$1 million annually would be placed in the Agricultural Research Fund and the Water Resources Cash Fund, respectively. This bill was placed on General File.

LB 448 – Extend the time-frame to file lawsuit against political subdivisions, Ashford. The bill extends the time frame for claims to be filed against a political subdivision or a employee of a political subdivision permitted under the Political Subdivisions Tort Claims Act from 1 year to 2 years. The bill maintains the limitations of two years to begin a lawsuit against a political subdivision. This bill is held in the Judiciary Committee.

LB 493 – Change requirements of the Water Policy Task Force, Langemeier. The bill reduces the minimum number of meeting times the Water Policy Task Force from 2 to 1 time annually. The bill also requires the task force to review of the research done at the University of Nebraska relating to implementation of Laws 2004, LB 962, and a recommendation with respect to necessary research for continued implementation of LB 962. This bill is held in the Natural Resources Committee.

LB 534 – Funding Storm Water Programs and Sewage, Schimek. The bill allows cities, villages and counties in urbanized areas to issue revenue bonds to pay for development of storm water programs, including any storm sewer systems. An urbanized area means a statistical geographic area defined by the United States Department of

Commerce, Bureau of the Census, consisting of a central place or places and adjacent densely settled territory that together contain at least fifty thousand inhabitants and have an overall population density of at least one thousand inhabitants per square mile.

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

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

LB488 - Income Tax Credit for Perpetual Conservation Easement Donations, Wallman. – Senator's debated a bill to allow for conservation easement tax credits this week. Senator Wallman's priority bill, LB 488, originally would have provided a 50% income tax credit to all donated conservation easements so long as that credit did not exceed \$250,000. The Revenue Committee amendment to the bill would place a cap of \$5 million in credit. After some debate and failed amendments to the bill, Senator Langmeier filed a motion to indefinitely postpone. The bill was laid over at the request of Senator Wallman rather than taking up the IPP motion.

LB 566 – Recreational Liability Act, Louden, *et al.* The bill adopts the Public Recreation Liability Act which extends some recreational liability protection the land owners (defined as the state, a state agency, including the University of Nebraska and any state college or community college, or a political subdivision that is the title holder, tenant, lessee, occupant, or otherwise in control of the land). The liability protection would apply to the owner who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes. If there is no charge, the owner does not thereby (1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

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

LB 567 – Extend Recreational Liability Protection to Private landowners that charge access, Louden, *et al.* The bill extends recreational liability protection to private landowner and private entities that charge for access. Current law provides this protection if they do not charge for access. This bill is held in the Judiciary Committee.

LB622 Open Meetings Act Training Sessions, Pirsch – Senator's failed to advance a bill on General File this week that would have required training courses for members of a public body, public officers, and public employees on the issue of public records and open meetings no later than one year after taking the oath of office or assuming his or her duties as a member of the public body or agency. Senator Pirsch introduced the bill, which was later declared a Speaker Priority Bill. A vote to advance the bill failed to garner the necessary 25 votes and thus, remains on General File.

LB 652 – Mandatory Energy Audits, White. The bill would require every agency, department, commission and every political subdivision of the State of Nebraska to conduct an audit of its energy usage. Such audit shall examine the following: (1) Methods of reducing energy usage by such agency, subdivision; (2) The costs of implementing such energy efficiency measures. (3) The projected benefits, including long-term cost reductions, from such energy efficiencies; and (4) Whether there are alternative energy resources that may be used in combination with energy efficiencies to provide further benefits.

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

2007 Interim Studies of Interest

Below is a briefly described list of 2007 Interim Study Resolutions which may be of interest to Nebraska Resources Districts. The complete list of 2007 Resolutions calling for an Interim Study can be found on pages 1675-1686 of the Legislative Journal, 83rd Day, May 18, 2007. Ctrl + click to follow this link - <http://uniweb.legislature.ne.gov/FloorDocs/Current/PDF/Journal/r1day83.pdf>.

A full report will be available on the Unicameral website after the session is over.

LR 78 – Interim study to examine issues relating to the Open Meetings Act. *Committee:* Government, Military and Veterans Affairs

LR 94 – Interim study to examine issues relating to the rapid urbanization of the Papillion Creek Watershed. *Committee:* Natural Resources/Urban Affairs

LR105 – Interim study to examine uranium mining with respect to water consumption in, expansion in, and contracts with the State of Nebraska. *Committee:* Natural Resources

LR 106 – Interim study to examine the effects of vegetation on river-flow in river basins in Nebraska. *Committee:* Natural Resources/Agriculture

LR 113 – Interim study to examine issues relating to urban storm water runoff. *Committee:* Natural Resources

LR 138 – Interim study to examine means of fully cash funding the duties of the Department of Agriculture under the Noxious Weed Control Act. *Committee:* Agriculture

LR 161 – Interim study to examine the manner in which agencies of state government are providing public notice of their intent to adopt, amend, or repeal a rule or regulation under the Administrative Procedure Act. *Committee:* Government, Military and Veterans Affairs

LR 174 – Interim study to examine coordination between natural resources districts, state agencies, and state and federal government with respect to surface water flows during times of great need. *Committee:* Natural Resources

LR 175 – Interim study to examine every major river and stream in Nebraska with respect to stream flow. *Committee:* Natural Resources

LR 176 – Interim study to examine and identify areas of historical surplus of surface water. *Committee:* Natural Resources

LR 177 – Interim study to examine the ground water model development as set forth from the Final Settlement Stipulation of the Republican River Compact regarding inputs and accounting. *Committee:* Natural Resources

LR 184 – Interim study to examine the legislative appropriations process. *Committee:* Appropriations

LR 188 – Interim study of duties of Nebraska's Carbon Sequestration Advisory Committee. *Committee:* Agriculture

LR 198 – Interim study to examine information collected from flow meters installed to measure ground water use and surface water use. *Committee:* Natural Resources

LR 210 – Interim study to examine issues under the jurisdiction of the Natural Resources. *Committee:* Natural Resources

NARD Bill Summary Tracking Sheet				Last Updated: 06/01/07				
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
7	New provisions for Open Meetings Act	Preister		Monitor	Government	1/18/2007	IPP	
13	New procedures and oversight for Interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government	1/19/2007	Held in Committee	
17	Prohibit NRD dual office holding	Mines		Oppose	Government	1/17/2007	IPP pending, Laid Over	AM71 - Adopted MO0003 - Failed MO0009 - Pending
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary	2/14/2007	Held in Committee	
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations	3/8/2007	Held in Committee	
78	Recoverable amounts	Nantkes		Oppose	Judiciary	2/7/2007	Held in Committee	
79	NDEQ reporting under Litter Reduction & Recycling Act	Nat. Res. Comm.		Monitor	Natural Resources	1/17/2007	Approved by Governor	
80	NDEQ funding of Safe Drinking Water projects	Nat. Res. Comm.		Support	Natural Resources	1/17/2007	Approved by Governor	AM30 - Adopted
105	Nebraska Forest Service funding	Louden		Support	Appropriations	3/8/2007	Held in Committee	
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government	1/24/2007	Held in Committee	
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary	2/7/2007	Held in Committee	
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources	1/19/2007	General File	AM13 - Pending
224	Well drilling moratorium	Kopplin	Withdrawn	Withdrawn	Withdrawn		Withdrawn	MO00003 - Prevailed
272	NRD bonding authority	Kopplin		Support	Revenue	2/22/2007	IPP	
289	Records of elections to exceed tax levy limits	Louden	Speaker	Monitor	Government		Approved by Governor	AM316 - Adopted
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources	1/25/2007	Select File	AM123 - Adopted AM 156 - Withdrawn AM398 - Pending
295	Irrigation well spacing and permits	Nat. Res. Comm.	Committee	Oppose (Support amended version)	Natural Resources	1/31/2007	Select File	Incorp. into AM 836 to LB 701 Incorporated into LB638
301	Extend NETF distribution	Janssen		Support	General Affairs	2/5/2007	IPP	
313	Clarify engineering requirements under Livestock Waste Management Act	Nat. Res. Comm.		Support	Natural Resources	1/24/2007	Approved by Governor	AM101 - adopted
314	Add dug pits to definition of water well	Louden		Support	Natural Resources	1/31/2007	IPP	Incorp. into AM 836 to LB 701
321	Mainline appropriation bill	Speaker Flood, at request of Governor		Support	Appropriations	Agency Hearings Start 2/20	Approved by Governor	Numerous Amendments Adopted and lost
322	Water Resources Cash Fund & other funds	Speaker Flood, at request of Governor		Support	Appropriations	2/20/2007	Approved by Governor	Incorp. into AM 836 to LB 701
333	Authorize fee schedule for Private Onsite Wastewater System Contractors Certification	Johnson		Monitor	Natural Resources	1/24/2007	Approved by Governor	AM90 - Adopted
362	Interlocal agreements	Ralkes		Oppose	Revenue	2/22/2007	IPP	
387	Require water meters on new construction	Langemeler		Oppose	Urban Affairs	2/27/2007	Held in Committee	
391	Copies of records and speaking at public meetings	Mines		Oppose	Government	2/1/2007	General File	AM678 - Pending
420	Change cigarette tax distribution and create funds	Erdman		Monitor	Appropriations	3/12/2007	General File	AM890 - Pending
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary	2/7/2007	Held in Committee	
458	Integrated Management Plans and removing vegetation	Carlson et al.	Carlson	Oppose original version	Natural Resources	(Revised) 2/28/2007	IPP	Incorp. into AM 836 to LB 701. NARD Support amended version.
477	Change insurance requirements	Wightman		Oppose	Government	2/28/2007	IPP	
488	Income tax credit for perpetual conservation easement donations	Wallman	Wallman	Support	Revenue	2/8/2007	IPP pending, Laid Over	AM 825 - Adopted AM884 to AM825 - Lost AM924 to AM825 - Lost
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources	(Revised) 3/8/2007	Held in Committee	
503	Change NRD board vacancy appointments	Mines		Oppose	Natural Resources	2/22/2007	IPP	
530	Change allocation formula for Storm Water Management Plan program	Nantkes	Speaker	Support	Natural Resources	2/8/2007	Approved by Governor	FA 00090 - Withdrawn AM 1110 - Adopted
534	Funding storm water programs	Schimek		Support	Natural Resources	2/8/2007	Held in Committee	
564	Add state and political subdivisions to those who receive recreational liability protection	Friend et al.	Augular	Support	Judiciary	2/14/2007	Approved by Governor	AM879 - Adopted
566	Adopt Public Recreational Liability Act	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
567	Extend recreational liability protection to landowners that charge for access	Louden et al.		Support	Judiciary	2/14/2007	Held in Committee	
588	Extend Scrap Tire Grant Program	Nat. Res. Comm.		Support	Natural Resources	1/31/2007	Approved by Governor	AM210 - Adopted FA31 - Adopted
594	Temporary suspension of new well permits and surface water rights for irrigation	Kopplin		Reference policy statement	Natural Resources	(Revised) 3/8/2006	IPP	
622	Open Meetings Act training sessions	Pirsch		Monitor	Government	2/1/2007	Failed to Advance From GF	AM259 - Adopted
652	Mandatory energy audits	White		Oppose	Natural Resources	2/7/2007	Held in Committee	
701	Create a basin-wide management authority & committee	Christensen	Christensen	Reference policy statement	Natural Resources	2/28/2007 AM872-4/4/2007	Approved by Governor	ER870 - Adopted AM1073 - Adopted Various Amendments adopted and lost
704	Adopt Fishable & Swimmable Waters Act	Preister		Monitor	Natural Resources	3/8/2007	IPP	
11CA	Reduce funding to NETF & create a new Crime Fund	Flood		Oppose	General Affairs	2/28/2007	IPP	



Tern and Plover Conservation Partnership

A Newsletter for and by Volunteers and Partners

MAY 18 2007

Newsletter Gets a New Look

Hi Everyone!

March roared in like a lion—or in the words of one of our local weather forecasters—a ticked-off lion. And, as the saying goes, March went out like a lamb, with record high temperatures.

Terns and plovers have started their journey back to parts north. They should find some areas along the Platte River much improved compared to the past few years. There have been some great ice jams and high water events, scouring the sandbars and depositing sand, building up the sandbars. In the central Platte area, many sandbars have been mechanically cleared of vegetation. With any luck, we will have nesting least terns and piping plovers on the central Platte once again!

The Partnership is changing and evolving every year. One example is a change to our newsletter. Not only are we introducing a new format, but we're also going online! Our current newsletter, along with past newsletters, can now be found on our website. We anticipate that the current newsletter will be online by April 16th, just in time for National Volunteer Week.

Another change we are making this year is a new volunteer position we are calling the "Volunteer Technician". This position will require more training and responsibility, plus they will receive a stipend! See page 2 for more details.

You can also find other exciting news on page 4. The Partnership is now allowed to accept dona-

tions that will help fund our program. I'll be introducing you to two new partners (on Page 2) that have contributed to that fund.

"You can't keep a good woman down" or in this case "You can't keep a good woman from moving to New Mexico". Renae Held, Program Coordinator for the past 5 years, is moving to the southwest for "greener" pastures. See page three for details.

Also on page 3 I'll introduce you to new personnel helping out this year, Sarah Rehme and Robin Smith. Additional staff information can be found on page 4.

An exciting story about the record number of bald eagle nests in Nebraska brings this season's newsletter to a close. Enjoy!

- Chris Thody, Editor

Inside this issue:

Volunteer Technician position now open	2
New Partners Announced	2
Hellos and Goodbyes	3
Donations being accepted	4
Happy National Volunteer Week!	4
Record number of bald eagle nests	4
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Special points of interest:

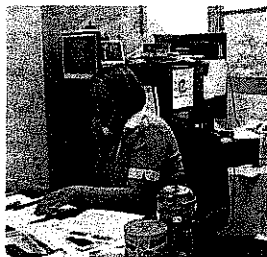
- Renae's departure will leave a large void to fill.
- A new position for a willing volunteer is now available, with a small stipend attached.
- Monetary contributions to help maintain the Tern and Plover Conservation Partnership are now being accepted through the University Foundation.

Renae Heading Southwest

As the song goes.....
♪ "So long, farewell,
auf Wiedersehen, Good-
bye..." ♪

Renae Held, Partnership Program Coordinator for the past five years, is

leaving Nebraska to pursue the position of Assistant Chief of Threatened and Endangered Species with New Mexico Game and Fish. *More about Renae on page 3.*



Help Wanted

Volunteer Technician Position Opening

The Partnership staff are pleased to announce a new position available called the "Volunteer Technician".

The position is still a volunteer position; however, we will be able to include a small daily stipend for mileage and lunch.

POSITION DESCRIPTION:

This position requires a commitment of two days a week, visiting one or two sand and gravel mines. At the mine, you will be responsible for monitoring the least terns and/or piping plovers that are nesting there. Duties include:

Counting adults, nests, chicks, and eggs; searching for new nests; informing mine personnel of any changes that may occur with the colony (for example, colony abandonment); alerting volunteer coordinator of any problems that may occur;

REQUIREMENTS:

The person chosen for this position will ideally be a past volunteer with the Tern and Plover Conservation Partnership. They should be able to identify least terns and piping plovers and their chicks. Must be

willing to put in 3-4 hours of work two days a week, and must be willing to travel to the Plattsmouth and Louisville areas.

COMPENSATION:

The Volunteer Technician will be supplied with binoculars, a spotting scope, and tripod for use during the summer. A daily stipend of \$60 will be offered.

DEADLINE: If you are interested in the position, please contact Chris Thody, Volunteer Coordinator, at 402-472-8741 by May 18th.

Volunteer Training



That's right! It's time for our yearly volunteer safety training. There have been some changes, but many things have stayed the same. Like last year, new volunteers will attend the entire session, while returning volunteers are given an abbreviated training session. Additionally this year, our training program has been

approved by the sand and gravel companies, so volunteers should have more access to monitoring inside mine areas.

You will be receiving a postcard in the mail with training dates, times, and places. It will also be posted on our website. You can also call me (Chris) at 402-472-8741 for information. The training will include:

- Background of Partnership
- Sand and gravel mining
- Basic First Aid (not certification)
- Least Tern and Piping Plover biology
- Additional birding opportunities, and
- Monitoring and data collection

Hope to see you soon!

Partnership Welcomes New Partners

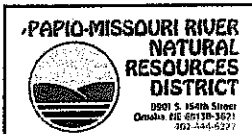
The Tern and Plover Conservation Partnership would like to welcome two new partners to our growing family. The Lower Platte South Natural Resources District and the Papio-Missouri Natural Re-

sources District. Both of these NRDs have contributed a monetary donation to a fund that has been established through the University of Nebraska Foundation. To learn more about how to

donate funds to help the Tern and Plover Conservation Partnership continue in its mission, please see page 4, "Donations being accepted".

WELCOME!

Lower Platte South
Natural Resources District



Hellos and Goodbyes

So Long, From Renae

I write this note with a mix of excitement and sadness. This past week I accepted a position with New Mexico Game and Fish as the Assistant Chief for the Non-game and Endangered Species Program in Santa Fe and will be leaving my position as Coordinator of the Partnership in April. It has been a great experience and I have had lots of enjoyment (both professional and personal) working with the partners, volunteers, and other colleagues.

We've had a lot to be proud of in just those last five years as a Partnership. To name a few, we added a Regional Wildlife Assistant to the program (Diane Beachly) who has expanded our work to the Loup and Central Platte river areas; we completed an educational poster, educators' packet and CD with song (I'm the backup "plover chick" singer) for middle-schoolers across the range of the birds; and we have diversified our funding sources by adding

several gravel companies and Natural Resource Districts as funders.

It has been a pleasure working with all of you and I hope I can continue to keep in touch during the future, my new email is renae.held@state.nm.us (substitute @ for AT). To the next five years of the Partnership, may it be even better than the last.

Sincerely,

Renae J. Held



Welcome Back, Robin!

Robin Smith has returned to the Partnership for another field season. She also worked as a Research Technician for us in 2006.

Robin received a Bachelors of Science in Fisheries and Wildlife and a minor in Anthropology/Archaeology at the University of Nebraska-Lincoln in 2005. She is looking forward to attending

graduate school in the future to study either gray wolves or ancient civilizations.

Her duties for the Partnership include monitoring colonies, putting up predator fences and exclosures, and putting up mylar flagging. This season she has the added responsibility of working closely with sand and gravel mine personnel to

help avoid any conflicts that may arise between nesting birds and mine operations.

Robin also enjoys horses, hiking, running, and many outdoor activities. She has lived in Utah, California, New Mexico, Minnesota, and Nebraska.



New Technician Helps with Partnership

Sarah Rehme is the new Conservation Technician in the Non-game Bird Program at Nebraska Game and Parks Commission. She started in January of this year and will be leaving in September 2007. Sarah received her Bachelors of Science in Biology from Concordia University in Seward, NE, in 2006. Last summer she

worked for the US Geological Survey in Wyoming and has been an avid birder her whole life. As a conservation technician, she helps Joel Jorgensen (Non-game Bird Manager) by creating and maintaining Access databases on endangered and threatened Nebraska birds such as the Bald Eagle and Whooping Crane. She has

also created an Access database for the data collected by the Tern and Plover Partnership. She will participate in the June census of the Platte River, and will be assisting our technician, Robin Smith, with monitoring nests at some of the Lower Platte sand and gravel mines.





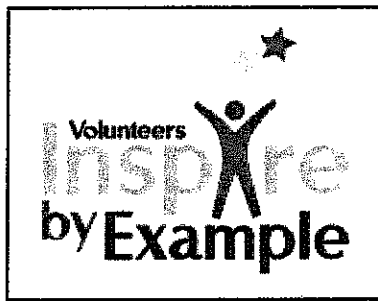
Contributions Assist Partnership Funding

Since 1999, the Partnership has been almost entirely grant-funded. These grants have helped to establish a unique group of participants who work together to help least terns and piping plovers. As belts have been tightened at the state, federal, and nonprofit sectors in the past few years; grants are getting more difficult to secure. Therefore the Partnership has found it necessary to solicit other non-traditional funding sources. Lower Platte South NRD, Papio-

Missouri NRD, Lyman-Richey Corporation, and NebCo have made generous contributions to the Partnership this year. We will also be receiving personnel time assistance from Arps Sand and Gravel and Lyman-Richey Corporation. A portion of this funding is being funneled through the recently founded "Tern and Plover Excellence Fund". We would like to welcome all of our current funders and thank them for their assistance.

Would you like to support conservation of terns and piping plovers? The new fund has been established at the University of Nebraska Foundation for the benefit and support of tern and plover conservation. Conservation activities will be coordinated through UNL's Institute of Agriculture and Natural Resources. Please contact Ann Bruntz at 402-458-1176, 800-432-3216 or abruntz@unfoundation.org for more information or to make a gift.

National Volunteer Week April 16



Hail to the Volunteers!

National Volunteer Week was April 15-21, 2007.

We'd like to take this opportunity to give our most sincere thanks for the awesome job that all of you do.

Thank you!!

What's a Volunteer?

There is a job to be done, could be lots of fun.

Just give us a call, and we'll have a ball.

You must have a big heart. It's always a help to be sorta smart.

The money is rare, but the rewards are big in compare.

"We make a living by what we do, but we make a life by what we give."

— Winston Churchill

Record Number of Bald Eagle Nests in 2006

LINCOLN, Neb. - The number of active bald eagle nests in Nebraska increased to a record 45 in 2006, up from 37 in 2005, according to Joel Jorgensen, the Nebraska Game and Parks Commission's nongame bird program manager.



The actual number of active nests is probably slightly higher. "One or two nests were not monitored, and there are probably one or two nests that have not been discovered," Jorgensen said.

Bald eagles bred historically in Nebraska, but were no longer breeding by the turn of the 20th Century. The number of breeding pairs has increased steadily since the first successful modern nesting near Valley in Douglas County in 1991.

The recovery of the bald eagle is one of the great success stories of wildlife conservation. The species currently is listed as "threatened" by both federal and state governments. The U.S. Fish and Wildlife Service however is currently considering delisting the species because bald eagle numbers have in-

creased dramatically over the past several decades throughout much of North America. In 1963 there were an estimated 417 breeding pairs in the lower 48 states; and by 1997 that number had jumped to 7,066. The bald eagle would remain protected by several statutes, however.

Perhaps the only downside to the species recovery is the challenge that comes with monitoring more and more nests. "The increase continues at such a rate it is difficult to keep track of the known nests and to find persons with the time to make observations," Jorgensen said. Bald eagle nest monitoring is carried out by personnel from Nebraska Game and Parks Commission, other cooperating agencies, and several volunteers.

Monitoring efforts, as well as other Commission programs focused on bald eagles and other nongame wildlife are supported by the Nongame and Endangered Species "checkoff" Fund. Tax payers are reminded to look for the peregrine falcon symbol near the bottom of their state tax form in order to make a contribution when completing their state income tax.

About the Partnership

Mission Statement

The Tern and Plover Conservation Partnership (Partnership) studies and protects endangered Least Terns, threatened Piping Plovers and other birds within the Platte River system, Nebraska, in a manner that minimizes conflicts with private industry, and educates and involves local communities in this effort.

History: The Partnership was initiated in 1999 to utilize a proactive approach to prevent/resolve conflicts between nesting birds and mine operations. It was initiated by Jeanine Lackey and Ron Johnson from University of Nebraska Extension, and John Dinan of the Nebraska Game and Parks Commission, to address these challenges. The approach of the Partnership is to work with all interested parties to find sensible proactive approaches to protecting terns, plovers, and other components of the Platte River ecosystem, while ensuring that business are not unnecessarily delayed.

Program Activities

- Protect colonies from predation and human disturbance using electric fences, exclosure cages, and signage.
- Create strong working relationships between gravel mining companies, conservation organizations, and the public.
- Head off and mitigate conflicts between nesting birds and business and landowner activities, using bird deterrents and attractants.
- Increase public awareness and appreciation of conservation issues by participating in events that educate thousands of people about terns and plovers and Partnership activities.
- Involve students through our "Job Shadowing" program.
- Monitor efforts with community based "Adopt-a-Colony" volunteer program.
- Produce publications such as the poster "A Tale of Two Birds" and companion educator's packet/CD with original song, biannual newsletter, brochures fact sheets, and others.

Program Impacts by the Numbers

43—Number of conflicts resolved since 1999.

60—Number of Volunteers per year.



130—The number of extra piping plovers estimated to have been produced because of implemented management techniques.

430—The number of extra least terns estimated to have been produced because of implemented management techniques.



ZERO—The number of fines to participating industry partners since 1999.

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Partners



Arps Gravel and Concrete, Girl Scouts-Great Plains Council, Lower Platte South Natural Resources District, Lyman-Richey Corporation, Mallard Sand and Gravel Company, National Fish and Wildlife Foundation, The Nebraska Environmental Trust, Nebraska Game and Parks Commission, Nongame Conservation Fund, Overland Sand and Gravel Company, Papio-Missouri River Natural Resources District, United States Fish and Wildlife Service, University of Nebraska-Lincoln, and Western Sand and Gravel.

Storms leave area flooded

BY JASON BUZZELL
LEADER STAFF WRITER

What do you get when you dump 8 inches of water on Bellevue in less than four days?

A mess, that's what.

Debris, including trees, old tires and garbage floated down the Missouri River on Monday past Haworth Park. The Bellevue Marina and boats encircled by water. The park closed due to the mighty Missouri steadily rising.

"We're just going to have to wait," said Bellevue Capt. Herb Evers. "People can't go into the park, the marina road is closed, the river is continuing to rise slowly."

Evers said the park was officially evacuated at 8:30 p.m. Sunday night. A few campers and curious onlookers were all that remained. He cautioned people to stay away for their own safety.

"You just never know what's underneath the water," he said. "We hate to see someone trapped in that kind of thing."

Sunday morning, the river had risen close to the banks after a downpour of more than 4 inches overnight, which forced approximately 20 campers to head for higher ground, Evers said.

"It was kind of scary at first (Saturday) night just because of the thunderstorms," said Lisa Olson, whose

daughter was camping with a friend at the park. "Then we heard one of the boats almost came loose and floated away."

Hours later the river rose over the banks, and no one could be more distraught than Anita Eckley, the vice president of the Omaha Rose Society, who helped plant roses at Haworth Park just last Thursday.

After four days of rain, almost all of the roses in the newly planted demonstration and test beds were under water — all but about 20.

"My husband and myself are just heartbroken," she said. "I'm just sick to my stomach."

She said they won't know until later in the week if the roses will survive.

Iske Park was also evacuated around 6:30 p.m. said Sarpy County Sheriff's Capt. Rolly Yost, adding no one is getting to the location without a good four-wheel drive vehicle since there's 1 to 2 feet of water on the other side of the levy.

"Most of the people evacuated voluntarily except for a couple diehards, so we had them sign a release saying if we have to come get you, you'll get billed," Yost said.

"This isn't the first time they've been through this."

From Friday to Sunday, 7.42 inches of wet stuff descended on Bellevue. Area golf courses and low-lying areas were submerged in water Sunday morning.

Parts of 25th and 36th streets were shut down over the weekend. Even Highway 75 was closed for a bit. Evers said dozens of cars stalled out in high water at 19th Street and Chandler Road, including a drunken driver.

The City of Bellevue is monitoring the situation closely. The extent of any damage to the marina was expected to be minimal as of Monday, said Public Works Director Jerry Hare, adding the city, despite the wallop of moisture, held up well.

"(The marina is) something we'll have to get in and check on once the river water has gone down," he said. "We spent a lot of time out around the city and working on some erosion, cleaning ditches, nothing unusual."

The spring cleanup remains as scheduled for May 19 and 20, said Phil Davidson of the City of Bellevue. Any debris that has been gathered from the weekend storms will likely have to wait until then to be picked up, he said.

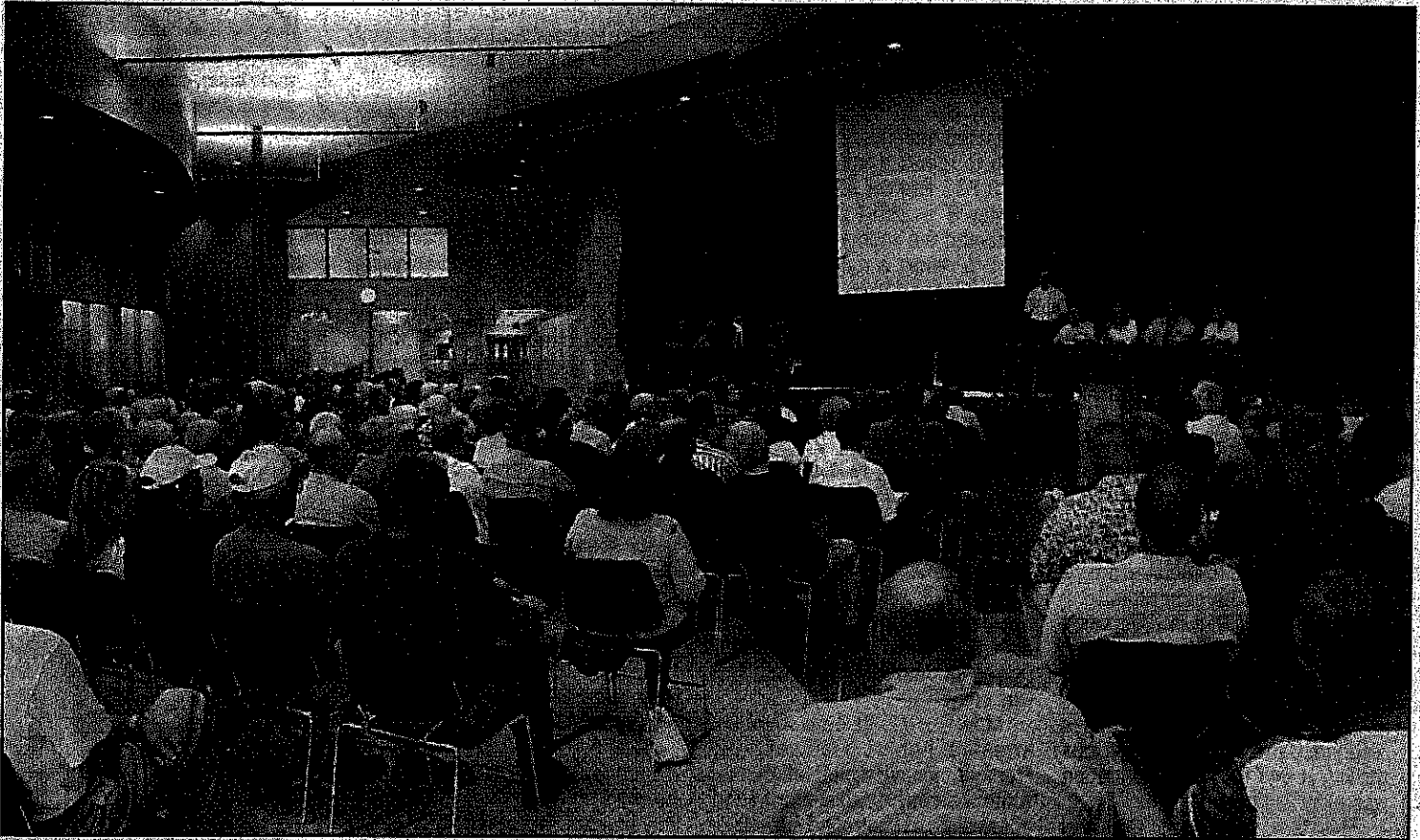
"People will just have to wait until then with debris because the tree dump

We want your photos of water and flooding. E-mail news@bellevueleader.com and check out our photo gallery during the week at:



www.bellevueleader.com

5-9-07



JIM BRAZDA/ENTERPRISE

More than 200 people were on hand to hear a presentation from Washington and Douglas county officials about their plans to manage stormwater.

Counties' plan has no dams

Washington, Douglas offer alternative stormwater plan

By Jim Brazda
Reporter

5-11-07

In past years there have been several meetings at Bennington High School to discuss stormwater and flooding in the Papillion Creek watershed. Previous meetings were hosted by the Papio-Missouri River Natural Resources District, and have been aimed at selling the idea of constructing large dams in Washington County to ease flood worries in Omaha.

For many Washington County residents, the meetings have been like pulling teeth, with vehement opposition by those who would lose their farms, homes and livelihoods, despite the district's attempt to present the plan as beneficial to the whole Omaha-metro region because of the added recreational benefits that would be secondary to the flood control dams.

The meeting held by a joint commission of Douglas and Washington county board members Wednesday, May 9, may have cleansed the commons area at Bennington High School from

lingering bad energy from those earlier meetings.

Douglas and Washington county board members presented their plan to manage stormwater — without depending on dams in the two counties — as a counterplan to one proposed by the Papillion Creek Watershed Partnership. And whereas the partnership's policies have a budget in the hundreds of thousands of dollars, the counties' plan has cost taxpayers no additional money to develop.

The Environmental Protection Agency has a national effort to clean up the nation's waterways, and

have mandated that local governments do more to stop rainwater where it lands, instead of having it run off into sewers and streams. While the partnership plan puts more emphasis on dams, Douglas County board member Clare Duda said, "We don't like the idea of dams."

The joint commission has proposed using more progressive measures to stop the rainfall where it lands and allow it to infiltrate into the soil, mimicking efforts by larger cities such as Denver and Kansas City. The

SEE WATER PAGE 3A

WATER: *Counties' plan offers alternatives to dam proposals*

FROM PAGE 1

measures would include things such as rain gardens, rain barrels, infiltration pools, porous concrete, dry dams in parks, floodway protection, buffer strips around streams and wetland restoration to reduce the peak flow of water, reduce the pollution in stormwater runoff and support wildlife and natural habitats.

If these measures were implemented, they would affect area farmers, said Washington County Board chairman Harlo Wilcox.

"I'll guarantee you one thing, ladies and gentlemen who farm this land, they're not going to affect you near as much as dams will affect you," Wilcox said.

Using natural grasses in buffer strips along creeks and streams would help slow down runoff and allow it time to infiltrate into the soil, as well as hold river banks in place to minimize erosion and sediment in stormwater, said biologist Marian Mass, who helped present the concepts behind the joint commission's proposed policies.

Another biologist, George Cunningham, said the disappearance of 99.9 percent of the wetlands in Iowa was a major contributing factor to the flooding in 1993 that left much of Iowa underwater. Wetlands are one of the best filtration devices, and are excellent facilities to control runoff.

The policies are aimed at shifting the responsibility of stormwater to develop-

ers, who would have to pay for the control measures, instead of taxpayers, who would be responsible for footing the bill for large dams, Duda said.

Patrick Rinn, Omaha, liked the idea of the new policies, but he was a bit skeptical about whether they would be implemented, saying the large construction companies in Omaha are powerful enough to sway civic leaders with campaign donations.

"If they can't buy you with funds, they'll find someone to replace you," Rinn said.

Douglas County board member Mike Boyle used the show of support by the more than 200 people in attendance to make a statement to several P-MNRD members who were in attendance.

"We don't want you to do what you're doing, we want you to stop it," Boyle said to the NRD members in the audience. "The difference is this plan truly did come from the people. This plan didn't get handed down by developers."

The Wednesday meeting was intended to gather community input to further work on the stormwater policies, which are available at the Washington County courthouse, and on the Douglas County Web site at www.co.douglas.ne.us/dept/enserv/planning.htm.

And most of that input was extremely positive.

"We have a long ways to

go, but we've come a long way from where we've started," Wilcox said.

Douglas County has already adopted the stormwater policies into its comprehensive development plan, in addition to a progressive conservation development overlay district for subdivisions that would work hand-in-hand with the stormwater policies. Wilcox said he was unsure as to when the draft stormwater policies would be incorporated into the Washington County plan. He also said he was hopeful that other members of the Papillion Watershed Partnership would take a close look at their proposal and consider it as a plan for the entire watershed.

The lingering questions from the meeting are a proposed stormwater fee aimed at equitably distributing the capital cost of redevelopment and retrofitting in the watershed, and what kind of teeth the policy would have to force developers to comply. Duda said the counties are awaiting the Nebraska Legislature to make a decision on stormwater fees before they know exactly how they will apply in the policies.

But the overall sentiment of the group in attendance was overjoyed that the two counties were working together to find a solution and provide an alternative to the dams proposed by the P-MNRD.

"In my mind, I know we can go without dams," Wilcox said.

Old bridge targeted in flood aftermath

By Jim Brazda
Reporter

Enterprise
5-11-07

Anytime more than 3 inches of rain falls in the Bell Creek Basin in a relatively short amount of time, flooding along the Bell Creek and in Arlington is a concern.

Last weekend approximately 5.5 inches of rain fell in the basin, allowing the creek to escape from its banks and encroach upon the village.

The creek peaked at 15 feet last Sunday—three feet above flood stage—flooding part of Arlington and leaving several homes with water up to their front doors, said Micheal Dwyer, deputy director of Emergency Management in Washington County. If the creek would have risen one more foot, Highway 30 would have had to be closed.

Dwyer appeared before the Washington County Board of Supervisors Tuesday, May 8, to brief board members on the damages from last weekend's storm.

The biggest issue Dwyer said he saw emerge from the storm was an abandoned bridge over the Bell Creek just south of Highway 30. The bridge collected debris and impeded the water trying to escape into the Elk-

OF BROWNWATER TO WYOMING

BRIDGE: Removal recommended

FROM PAGE 1

horn River, he said.

This bridge has concerned Emergency Management for some time, but past attempts to bring all interested parties—the village of Arlington, the county, the Natural Resources District and landowners—to the table to search for a solution have proved fruitless, Dwyer said. Nobody thinks they should be responsible for paying to remove the bridge.

"It was definitely on the back burner," Dwyer said. "I'm here to turn up the heat."

Removing the bridge would not solve all the flooding problems along Bell Creek, but it would widen it in that area and remove a major man-made obstacle, Dwyer said.

Supervisor Jeff Quist said, based on his observations, most of the flooding in Arlington was due to the Highway 30 bridge over

the Bell Creek, and not the abandoned bridge further down stream.

Dwyer respectfully disagreed.

In addition to finding a permanent solution to the abandoned bridge, Dwyer also recommended signs be placed underneath the Bell and Elkhorn river bridges, near the gauges, to inform law enforcement and emergency responders what the flood levels the gauges measurements represent.

SEE BRIDGE PAGE 3A

NRD approves ditch to help Gretna flooding

5-12-07

By NANCY GAARDER

WORLD-HERALD STAFF WRITER

Residents of the flood-prone Forest Run subdivision will get some help.

The Papio-Missouri River Natural Resources District board unanimously approved building a \$145,000 drainage ditch through the backyards of the Gretna-area neighborhood.

It isn't the dam that studies indicate is needed, but residents say they are happy to start with an enlarged ditch.

Residents brought their flooding problems to the NRD's attention about two years ago.

The flat lawn behind their homes catches runoff from about 700 acres upstream, including rapidly developing Gretna.

As Gretna has grown, so have the silt and water washing into yards downstream. One resident said more than a foot of silt now covers some of his sprin-

kler heads.

John Schwoppe, NRD board member, said the work is overdue.

"I can't apologize for anyone else, but I can apologize for myself," Schwoppe told residents this week. "I'm sorry that it got this far. I hate to think of a kid running out the back door and being swept away."

To save money, crews from the NRD and Sarpy County will build the ditch instead of having the work contracted out. Residents will be responsible for getting utility lines moved and for maintaining the ditch.

Resident Tom Lammel thanked the board for the help and pledged the residents' cooperation.

Marlin Petermann, assistant NRD general manager, said crews will stake out the project next week and begin work in June. The goal, he said, is to get the work done by July.

Experts are down on the levees

■ Too many are in need of repair, thus giving a false sense of security to residents of flood plains.

OWH - May 13, 2007
BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

MISSOURI VALLEY, Iowa — It shouldn't be a surprise that the Willow Creek levee broke north of Missouri Valley last Sunday.

Conditions were ripe for flooding. The ground was already saturated from rainfall this spring, and it couldn't absorb last weekend's downpours.

Dozens of other levees along the Missouri River and its tributaries also broke last week. More than 70 homes were flooded in Missouri Valley, as were hundreds of homes near Mound City, Mo.

The flooding was symptomatic of a larger national problem: a patchwork of obsolete and sometimes poorly maintained levees that continue to give people a false sense of security.

Compounding the problem is a national flood policy that allows local governments to benefit from construction behind levees, but often leaves communities turning to the federal government when damage occurs.

As a result, millions of people, including those homeless today in Missouri Valley, remain at greater risk than they may realize. Even the government has no idea how many people are at risk or where those risks are.

That lesson could have been — but wasn't — heeded after the summer of 1993, when Missouri and Mississippi River flooding in the Midwest caused \$15 billion in damage and took 50 lives.

"It's surprising: One thousand levees were overtopped in 1993, and not one single national policy on construction, operation or maintenance of levees was ever changed," said Larry Larson, executive director of the Association of State Floodplain Managers in Madison, Wis.

Officials in Missouri Valley remained in emergency mode this weekend, trying to help displaced residents and sort out what happened in the third major flood to hit the town in 15 years. Residents of the devastated Willow Creek neighborhood may get their first look this week at what might be salvage-

See Levees: Page 10

Levees: '93 floods a warning

Continued from Page 1
able from their properties.

Levee construction and maintenance vary widely.

The history and condition of the broken Willow Creek levee is unclear. It appears to have been built in the 1920s, and it may have been constructed primarily to protect farmland.

The levee is not in the federal system, and it's not known if it was built to federal standards. The section that broke was maintained by a local contractor.

Generally speaking, agricultural levees were built years ago by farmers and weren't designed to restrain catastrophic flooding, Larson said. They were built to control the less serious but more frequent flooding that can be expected to occur in river bottoms.

By doing so, farmers got a few extra years' crops from highly fertile soil. When the occasional bigger storms hit and levees were breached, farmers simply patched up the holes and replanted.

Another problem is that although the federal government helps build some levees and provides flood insurance, it doesn't have the authority to limit what gets built behind the levees.

Gerald Galloway, then an Army general, led an analysis of the 1993 flood for the Clinton administration. His report concluded that the government had no idea which levees were inadequate and who was at risk. A national levee inventory was needed.

"Nobody did anything," Galloway said, until after Hurricane Katrina hit in 2005. The inventory is now under way.

To be sure, other improvements were made nationally after 1993. About 20,000 homes, businesses and other buildings were removed from the flood plain.

Larson said the good news about last week's flooding in the Midwest was that it could have been worse. "You saw significant flooding, but you didn't see a lot of damage," he said.

Even so, the 17 Iowa counties declared emergency areas —

among them Harrison, Pottawattamie, Montgomery and Fremont — expect that the damage to homes, county roads, levees and farmland will run into the millions of dollars.

More than half of the nation's levees are outside the federal system. Most of the levee breaks that occurred last week happened in Iowa and Missouri, and they were on nonfederal or local levees, said Amanda Johnson of the Federal Emergency Management Agency.

Johnson said being part of the federal system does not ensure adequate maintenance — which means the nation really has little idea what kind of condition its levees are in.

Larson said no one knows how serious a problem the inventory will reveal. He believes a fraction of the nation's levees are in good shape; he has heard modernization cost estimates of \$40 billion to \$50 billion.

Compounding the problem: Many federal flood maps are 20 years old or older and don't reflect the true flood threat to homeowners and builders. Only in the past few years has the government authorized money to update some of them.

The nation also has come to see a 100-year flood risk as acceptable, when it should be a 500-year interval for urban areas and critical infrastructure such as sewage-treatment plants, Galloway and Larson said.

A 100-year flood has a 1 percent chance of occurring in any given year. Galloway said that in reality, over 30 years, there is about a 25 percent chance that something worse than a 100-year flood will occur.

The bottom line, according to Larson: Last week's storm was bad but not unprecedented.

"If our system can't match this sort of storm," he said, "then we're not very well prepared. You either have to stay out of flood plains or you have to have measures that protect you."

World-Herald staff writer Elizabeth Ahlin contributed to this report.

Levee safety relies on farmers' vigilance

May 13, 2007

BY ELIZABETH AHLIN

WORLD-HERALD STAFF WRITER

MISSOURI VALLEY, Iowa — A parade of dump trucks filled with dirt rolled on and off the Willow River levee. The weight of the trucks on the spongy, waterlogged soil caused it to react like Jell-O, yielding to the weight and springing back once the wheels passed by.

Last weekend, nature got the better of this levee when torrents of rainwater flooded the river and tore a gaping hole in the levee's side.

Accounts of how it broke differ.

Some say the water was so high that it flowed over the top, causing the levee to erode. Others say the pressure of the water broke right through the side, allowing it to deteriorate and collapse.

However the break occurred, the end result is clear. The rushing water chipped away until it flowed freely through a hole larger than a dump truck.

The water poured across farm fields, flooding them with sand and debris, before filling up the Willow Creek neighborhood in Missouri Valley, forcing hundreds of residents to evacuate and ruining dozens of homes.

"We thought (the levee) would protect us," said Amy Grandmont, whose home is still surrounded by water. "We knew that there was a risk of flooding, but we weren't prepared for it to get that bad."

Jim Olson, the contractor who maintains the levee, said the water sat right at the top of the dike, bearing down for hours. Even now, days after the water began to recede, the water line shows clearly, just underneath the grass at the top.

"It was no one's fault," Olson said. "It was a massive amount of water."

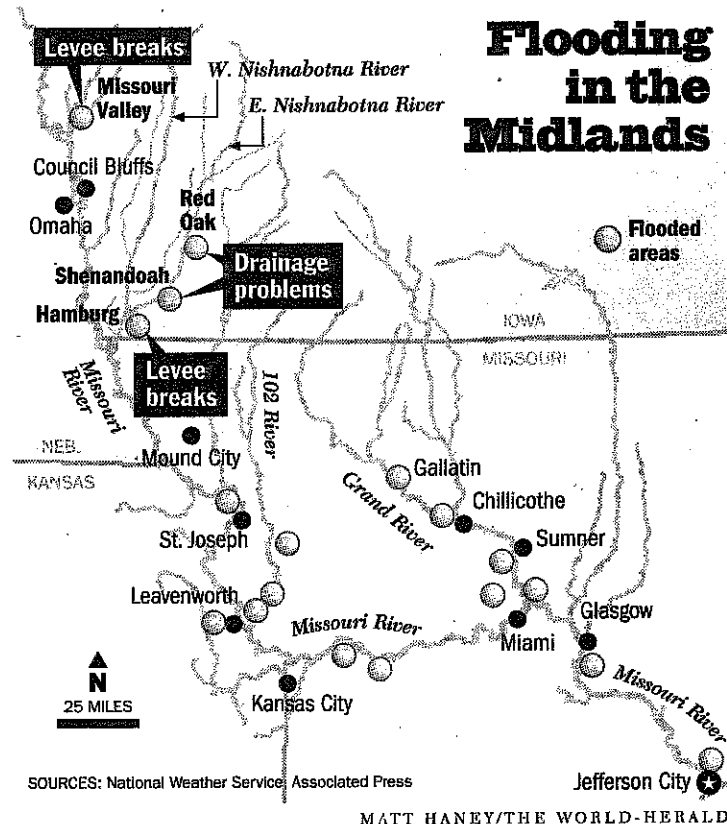
Over the four-day period leading to the levee break, rainfall in southwest Iowa totaled 8 inches — an amount that qualifies as a 50-year rainfall, said Bryon Miller of the National Weather Service in Valley, Neb. The rain came on top of record rainfalls in the last two weeks of April.

Last weekend, the rain fell fast



PHIL JOHNSON/THE WORLD-HERALD

Gene Fowler from the Iowa Department of Transportation watches as a crane clears flood debris near the Allen Creek Bridge at U.S. Highway 30 west of Missouri Valley, Iowa. Flooding in the area closed Interstate 29 north of town last week.



and heavy into Willow Creek, which drains a steep, hilly area.

When the water came rushing down the creek, it sped under-

neath a bridge that was blocked with debris and pushed up against a bend in the levee where the creek makes a slight turn,

about five miles north of town.

The Willow usually drains into the Boyer River, which in turn drains into the Missouri River. But both were full.

"The high water level in the Missouri River... just created a backlog of water that had nowhere to go," said Rollie Roberts, a Harrison County supervisor.

In Iowa, the repair and maintenance of levees such as the Willow is paid through the property taxes of those who live in individual drainage districts.

Local levees like the one on Willow Creek often were built primarily to protect agricultural land. Many times, no one knows if they were designed to withstand a specific type of flood.

Levees that are not part of a federal program are maintained locally, said John Torbert, executive director of the Iowa Drainage District Association.

In the Harrison and Pottawattamie Drainage District, which controls the Willow levee, engineers have rarely been brought in to inspect the levee, said Dennis Osborn, a former trustee. His father, Edwin Osborn, was one of the original trustees in the 1950s.

Instead, those who live in the drainage district monitor the levee.

The trustees rely on farmers to be vigilant and report problems such as a malfunctioning culvert or erosion, said Dennis Olson, who has maintained levees in the Harrison and Pottawattamie District since 1994.

In fact, most of the trustees are farmers. Wayne Kierscht lives just down the road from the location of the levee break, and Dean McIntosh farms the field that is strewn with sand and debris right next to it.

When it comes time for levee repairs, Harrison County cannot offer financial help, Roberts said. Acquiring federal aid could be difficult as well.

A presidential disaster declaration would pave the way for some help, but not for local levees, said Bret Voorhees of Iowa's emergency management office.

The local levee group would need to secure a special hazard mitigation grant from the federal government to offset repair costs.

Bellevue approves park improvements

5-15-07

By KRISTIN ZAGURSKI
WORLD-HERALD STAFF WRITER

Bellevue's Jewell Park will get a disc golf course after the City Council approved improvements there and at another city park.

The council voted 10-0 Monday to approve the plan for the park at Washington Street and Combs Road.

The Omaha Disc Golf Club will build a 16- to 18-hole disc golf course in the upper, forested area of the park. A dog run is possible in the lower portion, though the city still is working out liability concerns.

Hastings Banner Park, 52nd and Virginia Streets, will see a new road built with the approval.

X The city and the Papio-Missouri River Natural Resources District each will pay \$40,000 for the Jewell Park project and \$48,000 for the road at Hastings Banner. A letter from the resource district to the city listed incorrect amounts for the projects, said Public Works Director Jerry Hare.

The council had previously approved drainage improvements along Harvell Drive.

Also on Monday, the council voted 10-0 to give final approval for the owner of the Bellevue Days Inn to use \$3 million in tax incentives to build an indoor water park at the motel, 1811 Hillcrest Drive.

Concerns were raised earlier this month over whether the project's assessed valuation would be high enough to pay off the bonds within the required 15 years.

Attorney Tim Kenny, who is advising the city on the project, said an appraiser's report puts the facility's fair market value at \$28 million, which would be sufficient to pay off the bonds.

The council was to consider Monday adding a second executive secretary and a deputy finance director to the city staff, but Council President Gus Erickson requested that the items be removed from the agenda, saying they needed "further work."

NRD declares temporary well moratorium for parts of Butler and Saunders counties

By The Lincoln Journal Star

Wednesday, May 16, 2007 - 11:51:01 pm CDT

Citing concerns about the fragility of the aquifer that supplies the area's water, the Lower Platte North Natural Resources District board voted Monday to declare a temporary well moratorium for portions of Butler and Saunders counties.

The sixth-month moratorium went into effect immediately and blocks the drilling of any new high-capacity wells (more than 50 gallons per minute) and any expansion of irrigated acres served by existing wells in the Upland aquifer region.

The Upland aquifer includes central Butler County and western and northeastern portions of Saunders County.

The stay on new wells and expansion of irrigated acres will remain in effect for 180 days while the district begins more intensive studies of the area.

A public hearing will be held during that 180-day period to allow area residents to give their opinions on the issue.

The NRD declared the moratorium due to concerns about declining water levels in some parts of the aquifer. The region is geologically complex, with some subaquifers only a few square miles in size, so some areas have seen sharper declines than others.

The moratorium will allow the district to identify the scope of the problem, said board member Bob Hilger of David City in a news release.

"You could look at parts of that aquifer and not realize there's a problem, but there are isolated areas where water levels are declining and we need to deal with them. This six-month period gives us the chance to identify those areas before they become over-developed so we can protect the existing users," Hilger said.

Once the temporary moratorium expires in November, the district could impose a permanent moratorium on the entire Uplands area or opt for smaller, more targeted moratoriums aimed at specific problem areas. The NRD also could conclude that no permanent moratoriums will be necessary.

"No one enjoys a moratorium, even a temporary one, but we felt it was the right thing to do," said Larry Angle, the district's water resources manager. "The glacial till areas of the Uplands aquifer are fragile, and we need to be sure we're protecting that water supply both for current users and for the future."

The NRD is not planning similar moratoriums for other areas of the district, said general manager John Miyoshi.

Concerns about the water supply in the Ceresco area attracted hundreds of people to a meeting there in March. At that meeting, there were calls for moratorium action by both the Lower Platte North and the Lincoln-based Lower Platte South NRDs.

In follow-up comments Wednesday, Angle said the Lower Platte North response covered 35-40 percent of the total land area in the district.

"Most of it's pretty heavily irrigated," he said of the overall district, "except for parts of the Uplands, which, especially around the Prague area, finding enough water for a domestic well is hard enough to do."

He said most of the hills area of both Butler and Saunders counties, including the area along Nebraska Highway 92 and the towns of Prague, Abie, Malmo, Bruno and Weston, is now covered by a moratorium.

He said there hadn't been much response from residents, as of Wednesday afternoon. "I'm sure we'll hear more about it starting at the end of this week and next week."

Dam on Niobrara River may be removed

By ALGIS J. LAUKAITIS / Lincoln Journal Star

Saturday, May 19, 2007 - 12:33:47 am CDT

Tests to determine whether an abandoned hydroelectric dam on the Niobrara River can be safely removed will begin next week.

The National Park Service would like to remove Cornell Dam near Valentine, restoring the free flow of the scenic river.

But before a decision can be made, the park service and other agencies must determine if removing the dam in north-central Nebraska would unleash contaminants built up in thick layers of silt and sediment behind it.

Contaminants could include heavy metals, farm chemicals and livestock waste, banned pesticides and polychlorinated biphenyls or PCBs.

Beginning Tuesday, researchers plan to drill into the sand and mud behind the dam.

The core samples will provide data that could help the U.S. Fish and Wildlife Service — the dam's owner — decide whether to remove the structure, which is on a federally protected stretch of the river.

Ron Zelt, a supervisory hydrologist with the U.S. Geological Survey office in Lincoln, said the samples could reveal the extent of contamination, if any, in the sediment behind the dam and the thickness of the mud and sand layers deposited by the river over decades.

Researchers won't know what's in the sediment until the samples are analyzed in a lab, a process that could take months, Zelt said.

The park service has been quietly working toward removal of the 12-foot-high, 120-foot-long dam, which is on a stretch of river that flows through the Fort Niobrara National Wildlife Refuge near Valentine.

"This is something we inherited, an old relic," said Paul Hedren, superintendent of the Niobrara National Scenic River.

The park service oversees a 76-mile stretch of the Niobrara. Removing the dam is one of the key components of the agency's management plan for the river.

Built around 1915, Cornell Dam and its hydroelectric plant once provided electricity to Valentine. It was abandoned in 1985 and turned over to the U.S. Department of the Interior and became part of the wildlife refuge.

Over the years, the river has deposited tons of sand and sediment for more than two miles behind the dam.

"It was critical to the early well-being of Valentine, but it has ceased to serve any purpose whatsoever," Hedren said. "It's an imposition on the habitat today." —

The park service would like to see the dam removed so that stretch of the river could flow freely again. Blowing it up is not a preferred alternative. Instead, Hedren said, large notches could be made in the dam and the sand and sediment could flow out over time.

Thousands of canoers and tubers float down the Niobrara annually, but most put in below the dam or downstream at Berry Bridge. Water now flows over the dam's top.

"I think it (removing the dam) changes the nature of the canoeing reach," Hedren said. "It removes a manmade bulwark, an imposition on what is a beautiful, natural landscape."

But before any decision is made, the park service and Fish and Wildlife Service need to know if releasing tons of sand and silt would have an impact on downstream wildlife and habitat. Knowing what types of contaminants are in the sediment is the first step.

Zelt said the core samples will give the Fish and Wildlife Service much-needed baseline data. Additional studies and public hearings will be held before a decision on the dam's removal is made, he said.

Wildlife refuge director Royce Huber said his agency has not taken a position on removal of the dam but is cooperating with the park service on the core sample drilling.

The Niobrara Council, a grassroots group that helps the park service manage the scenic stretch of the river, also has not taken a position.

Geological Survey researchers will use a special rig made out of two shallow boats to take samples from 16 quadrants behind the dam. The work will take about three days.

Hedren said some local residents believe Cornell Dam should be preserved because of its historic significance. A few people also may have strong feelings about the dam because relatives may have helped build it.

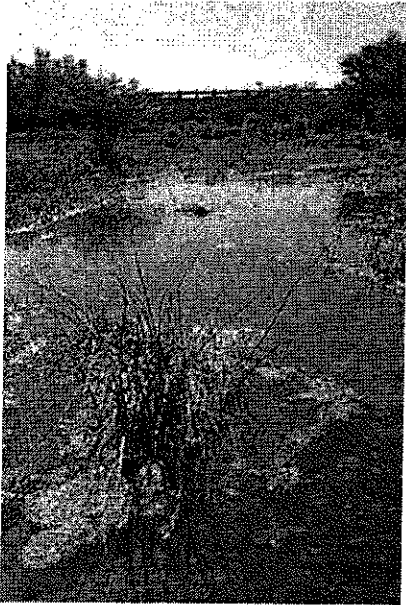
The park service recognizes those sentiments, Hedren said, but feels an exhibit could be built at the site to commemorate the dam and its role in the history of the area.

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Published Sunday | May 20, 2007

Irrigation Empire Part 4: Republican River Valley's prosperity trickles away

IMPERIAL, Neb. - Scot German stood in the hills above Frenchman Creek and motioned toward the broad tableland over the horizon.



The Republican River downstream of Harlan County Lake, a reservoir near Alma in south-central Nebraska, has been a trickle in recent years. Runoff and flooding from recent heavy rains in the basin are replenishing the lake. It holds 37 percent more water than it did a year ago.

A generation ago, several farm families lived on the dry divide separating the Frenchman and the Republican River. Their kids rode the bus with German to school in nearby Enders. Now the school is closed.

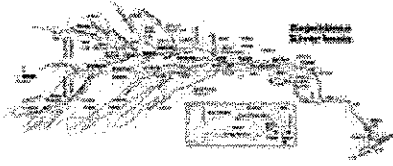
"There's nobody up there anymore," German said.

It's a change from the 1970s, when southwestern Nebraska rode a wave of economic expansion built by groundwater irrigation.

Imperial was growing then, and center-pivot dealers and farm equipment companies sprang out of the prairie to line Highway 61 east of town.

Their lights shone so brightly the road was known as the Miracle Mile.

These days, the miracle is dimming.



[Click to enlarge.](#)

Imperial is still an island in a sea of lush green circles, the telltale signs of center-pivot systems. But the farming hub of nearly 2,000 - like the rest of the Republican River basin - is coping with a continually fragile, irrigation-based economy.

Despite the flush of money created by irrigated agriculture, the number of farms in the Republican valley continues a long decline, rural businesses are struggling, and small towns are shriveling.

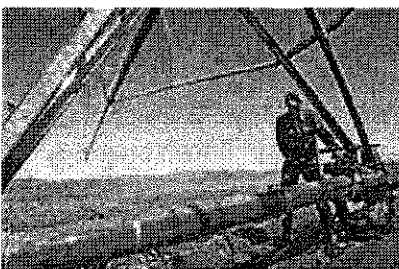
Although recent snow and rain caused river flooding, the area continues to reel from historic drought, unintended consequences of flood control and overdevelopment of groundwater irrigation. The basin faces the same supply-and-demand problems as the rest of western and central Nebraska, with the added complexity of 60-year-old interstate commitments to share the river water.

"They're standing on stilts of water," said Robert Hipple of Akron, Iowa, a former general manager of the Upper Republican Natural Resources District, which manages groundwater in Perkins, Chase and Dundy Counties.

"As that water declines . . . faster than it's being replaced," he said, "it doesn't take a rocket scientist to know that you can't do that forever."

The Nebraska Legislature has agreed to a bailout plan featuring higher taxes and tighter irrigation restrictions for the basin. The plan puts mechanisms in place in an attempt to help Nebraska regain compliance with an interstate water compact from this year forward.

Still, the delayed results of past pumping will plague Nebraska for years, and it's unclear whether this year's flurry of activity will appease Kansas over noncompliance with the interstate compact since 2003.



Scot German says he constantly irrigates to pull the full potential from sandy soil. He predicts a natural demise to southwest Nebraska's irrigation economy and fights attempts to speed it up with regulations that limit farmers' ability to pump groundwater.

The problems were intensified by farmers such as the Germans tapping groundwater to try to share in the relative prosperity of intensive corn production in a naturally dry area far west of the Corn Belt.

"A lot of people moved into this area who think, 'By golly, they're raising 300-bushel corn back east. I'm going to try that, too,'" German said.

The 48-year-old father of five raises corn on nearly 2,000 acres of irrigated land to fatten cattle in his feedlot.

His sandy land requires extensive irrigation to produce a full crop. An acre without irrigation struggles to yield enough corn to produce 40 pounds of beef a year. With irrigation, it produces 40 times that much.

"We have a boom fueled and sustained by water," German said. "We totally require the aquifer. We built our economy on it. You start to restrict it . . . you have to deal with a bunch of unintended consequences, and I'm not sure the intended benefits are as good as hoped for, either."

German and taxpayers across the state will endure pain in the coming years because of events set in motion soon after the Dust Bowl drought.

Unlike the Platte and Missouri Rivers, the Republican River doesn't carry melting snow out of the Rocky Mountains. The Republican forms on the plains of eastern Colorado, fed by rain, prairie snowmelt and springs. The river crosses northwest Kansas and wends across southern Nebraska before returning to Kansas near Superior.

Years ago, this prairie river and its tributaries sometimes ran wild.

A 1935 flash flood on the Republican killed more than 100 people. In 1947, torrential rain sent another wall of water down Medicine and Red Willow Creeks near Cambridge, killing 13.

Nearly three dozen communities across the basin banded together in the 1940s to push for federal flood control. The insistent Republican Valley Conservation Association sent a lobbyist to Washington, D.C.

Congress agreed to a system of reservoirs for flood control, irrigation and recreation, including five in Nebraska: Harry D. Strunk Lake, Enders Reservoir, Harlan County Lake, Swanson Reservoir and Hugh Butler Lake.

But they came with the stipulation that Nebraska, Kansas and Colorado divide the river

water. The result was the Republican River Compact of 1943, which allocated the river's average annual water supply: 49 percent to Nebraska, 40 percent to Kansas and 11 percent to Colorado.

For years, the states were content, not realizing that a collision was brewing - set in motion by the lure of water and the drive to hang onto it.

It was water that brought the Germans to Chase County. These descendants of Danish immigrants named Gjierremanne originally settled in Dawson County in central Nebraska in the 1860s.

Erling German (pronounced "GRR-mun") drilled one of the state's first irrigation wells near Cozad in the 1930s. In 1964, after searching for underground water with divining rods along the Republican and Platte Rivers, he moved west to a ranch near Imperial.

Scot German recalls his grandfather proclaiming that land along Frenchman Creek hid rich pools of water.

In 1967, Scot's dad, Cal, bought farmland on the Frenchman, south of Imperial, and started developing irrigation. Erling German's prediction was watertight.

"We could pump here for 200 years," Scot German said. "We're in the water."

They moved just before the region's boom years of the late 1970s, triggered by developments in irrigation technology and the advent of reduced-tillage farming. The Germans' 26 active irrigation wells are among more than 3,400 in the Upper Republican NRD, many of them drilled in the 1970s.

With irrigation, Imperial's fate no longer hinged on wheat and cattle. Corn - a more lucrative crop - became a viable option.

The biggest operations had 80 to 100 wells watering thousands of acres.

Groundwater irrigators saw themselves as progressive. Working with sandy soil, fertilizer and irrigation, they pushed the boundaries of production, competing bushel for bushel with counterparts hundreds of miles east who had the benefits of rich soil and plentiful rainfall.

The face of the countryside changed.

"It became part of the social ethic to try to control the wild flow from the hills," said Jim Goeke of North Platte, a University of Nebraska-Lincoln expert on the High Plains Aquifer.

Farmers built terraces and dams to prevent erosion and replenish the thirsty soil. They left plant debris on fields, reducing tillage to conserve soil and water.

Without floods to clear the river channel, vegetation flourished: cottonwoods, saltcedar and nonnative grasses such as phragmites.

When Scot German left the farm for the Air Force Academy in 1976, his family could pump an unlimited amount of irrigation water. But even then, water tables were falling and the Republican's flows were down.

In 1977, the Upper Republican became the state's first NRD to impose pumping restrictions.

The proliferation of groundwater irrigation in the basin caught Kansas' attention. By the mid-1980s, Kansas was grumbling that the irrigation was depleting the river.

By 1991, when German retired from flying F-16 fighter jets, irrigators back home were limited to pumping 15 inches of water per acre.

The NRD banned new wells in 1997, but Kansas sued the next year in the U.S. Supreme Court.

Nebraska's attorney general at the time, Don Stenberg, advised the Middle and Lower Republican River NRDs not to weaken the state's legal defense by restricting pumping or well development.

So drilling continued.

Kansas convinced a court-appointed special master that groundwater irrigation should be factored into the formula that determines the states' shared water supply to the extent it depletes stream flow.

Since 2002, when the states settled the case, Nebraska has had to abide by new rules reflecting the post-1943 development and impact of groundwater irrigation. Drilling moratoriums cover the entire basin, which has some of the state's strictest pumping restrictions.

Even so, Nebraska is in hock to Kansas for water. A five-year countdown to comply with the agreement is ticking down. When the deadline strikes this summer - unless significant rain falls - Nebraska will be in default.

The culprits are more than irrigation and drought. Decades of flood-control and conservation practices share the blame.

The conservation practices made sense for farmers - but not for the river. A Kansas State University study estimates that such practices reduced flows in the Republican by 50 to 80 percent.

In the five decades since the Republican dams were built, millions of trees have grown in and near the channel.

They could be robbing 105,000 acre-feet of water a year from the river in Nebraska, says Steve Smith of Imperial, founder of the WaterClaim irrigation advocacy organization. An acre-foot is the amount of water needed to cover an acre 1 foot deep.

The Kansas crisis is costly.

Gov. Dave Heineman signed a law May 1 authorizing NRDs in the basin to impose new and increased taxes and adding several million tax dollars from state coffers. The new cash will be used to trim irrigation to a sustainable level - and send water leased from farm canal districts into the Republican to help pay the Kansas IOU.

The law also launches a two-year program this spring to remove invasive vegetation from the riverbed and its banks.

Nebraska would still owe Kansas water that it was shorted in four previous years. By meeting goals this year and developing a long-term plan to remain in compliance with Kansas, Nebraska officials hope to head off a potential federal judgment shutting down basin irrigation.

But the problem with Kansas will worsen.

Although the NRD halted drilling 10 years ago, the delayed effect of decades of pumping will continue for the foreseeable future - even if all the irrigation wells were turned off today.

Hydrologists call this the lag effect. Because underground water travels at a glacial pace compared with water in a river, it takes years for depletions caused by groundwater pumping to show up in streams miles away.

The irrigation issue is divisive in the basin.

In 2004, Upper Republican NRD voters heeded calls from WaterClaim, the groundwater irrigation advocates, and turned out two board members who favored tighter water restrictions. Scot German paid for the newspaper advertisements against the two incumbents.

One of them was 30-year board member Robert Ambrosek of Haigler, a retired teacher.

His father was one of the first in the area to drill an irrigation well, and Ambrosek irrigates land he farms with a stepson. Ambrosek said, however, that southwestern Nebraska has too many wells.

"I want to see my grandchildren and great-grandchildren have an opportunity to do better

than what we've done with it," he said. "I believe we need to save it."

Rancher Kenneth Frasier of Max, the other incumbent voted off, said despite rural depopulation, Nebraska will always have farming and ranching.

"What gives us the right," he asked, "to use up all the water?"

German said it's better to use water fully while the aquifer holds out.

"There really is a natural end to this," he said. "When all these pivots start sucking air, people stop using them. The land is sold and it goes back to dryland. . . . There'll still be plenty of water for cows, just not enough for a pivot."

German says a continuing population decline is inevitable.

"The point is," he said, "all of us are fighting a battle over grandkids who aren't showing up, anyway."

Published Monday | May 21, 2007

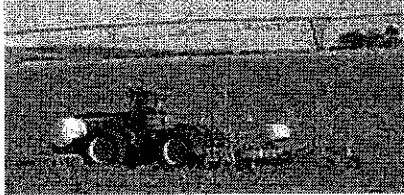
Irrigation Empire: Paring back irrigation on the Platte

BY DAVID HENDEE

WORLD-HERALD BUREAU

LINCOLN - Nebraska water regulators at the state and local level passed up chances a decade ago to limit groundwater irrigation development in the Platte River basin.

LINCOLN - Nebraska water regulators at the state and local level passed up chances a decade ago to limit groundwater irrigation development in the Platte River basin.



A farmer plants corn in an irrigated field south of North Platte this month. Of the 48,000 irrigated acres added in Lincoln County from 1997 to 2005, 74 percent were developed after 2000, as drought intensified and regulators started discussing well-drilling moratoriums.

Now, a half-million additional acres later, the state must figure out how to pare back water use to the 1997 level.

It's a multimillion-dollar question for taxpayers, as well as for the basin's farmers and rural communities. State officials have estimated it will cost \$54 million to \$102 million by 2020.

"This isn't going to be easy," said Ann Bleed, director of the Nebraska Department of Natural Resources.

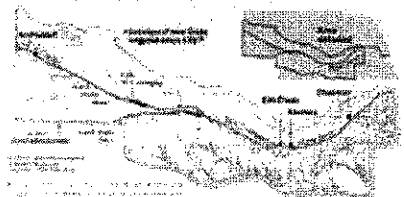
The state has a bit more time than it does in the Republican River basin to implement a solution - and the magnitude of overuse in the Platte is about a fifth of what the state faces in the Republican.

The Nebraska Legislature last month approved a cash fund pushed by Gov. Dave Heineman to help the state comply with interstate compacts and agreements and to reduce water use in troubled areas. Platte problems, however, will need more money than the cash fund alone can provide.

The predicament with the Platte goes back to 1997, when the state agreed to offset the impact of any future irrigation that removed water from the river.

Water use grows despite state's commitment

NEBRASKA'S WATER RESOURCES COMMISSION REPORTED THAT 1997-2005 PLATE RIVER BASIN WATER USE GROWTH EXCEEDED 100% IN SOME AREAS. THE REPORT ALSO STATED THAT THE PLATE RIVER BASIN'S WATER USE GROWTH WAS 100% IN SOME AREAS. THE REPORT ALSO STATED THAT THE PLATE RIVER BASIN'S WATER USE GROWTH WAS 100% IN SOME AREAS.



But, for the most part, regulators didn't stop farmers in the basin and its fringes from expanding irrigation operations. Over the next decade, irrigation was added to 508,000 acres, an area nearly the size of Lancaster County.

The reasons why they didn't take action are a mix of water politics, weather and whistling in the dark as they denied the problem:

- The Nebraska Department of Water Resources (now the Department of Natural Resources) had no authority to require natural resources districts to stop issuing permits for new irrigation wells.

- The local NRDs had little authority to stop irrigation development that affected stream flows.
- State water officials were reluctant to ask the Nebraska Legislature to grant more regulatory authority to NRDs because it was politically tough to tangle with a major industry such as irrigated agriculture.
- It was a time of abundant rain. Aquifers were rising, Lake McConaughy was full, and flows in the Platte were strong. No one knew an eight-year drought was looming.

Nebraska's signature river

The Platte River rises in the mountains of Colorado and Wyoming, crosses Nebraska from west to east and empties into the Missouri River south of Omaha.

Water is drawn from the basin for millions of farm acres, for cities from Scottsbluff to Omaha and for power plants that generate electricity used throughout the West.

The North Platte River also feeds Lake McConaughy, the state's largest reservoir, which has shrunk to about 38 percent of capacity after years of drought and the impact of upstream groundwater irrigation. The reservoir is 3.4 feet lower than this time last year.

The outlook for a McConaughy rebound this year is grim. The May 1 forecast for spring snowmelt runoff in the mountains is 50 percent of the 30-year average. This spring's heavy rainstorms missed McConaughy and other areas in the western half of the state.

- Many policymakers, lawmakers and farmers chose not to believe that unfettered irrigation development carried risks.

"In some quarters, there was a lot of reluctance in the late 1990s to even talk about the issue," said J. Michael Jess.

Jess was director of the State Water Resources Department when Nebraska signed a pact - commonly known as the Cooperative Agreement - with Colorado, Wyoming and the U.S. Interior Department to protect and enhance habitat for threatened and endangered species in central Nebraska.

Jess recalls asking his staff to compile a list simply summarizing the new irrigation wells drilled in the Platte basin during the first year of the agreement. Irrigators and others criticized the action as unnecessary.

The Cooperative Agreement evolved into the Platte River Recovery Program, signed last year. The program is designed to protect and enhance habitat for species such as whooping cranes, piping plovers and least terns.

The pact's basic premise remains unchanged: Colorado and Wyoming agree to provide Platte water for habitat, while Nebraska provides land and consents not to use habitat water for irrigation.

Nonetheless, Nebraska farmers along the Platte were allowed to continue developing irrigation during most of the time the three states and the Interior Department were hammering out details of the recovery program.

Natural Resources Department lawyer Jim Cook sent a letter to every landowner who registered an irrigation well in the central and western Platte. The letters - nearly 4,400 of them - advised that the new wells someday could be regulated differently from older ones if the state determined that expanded irrigation lowered stream flows in the Platte River.

Even though the letters required no action, Cook braced for an outpouring of complaints from farmers - and was shocked when the letters were largely met with silence.

The region had about 2.6 million irrigated acres in 1997. By the end of 2005, when a new state water law stopped development, the official count topped 3.1 million acres.

Jess said some Platte basin communities, irrigation districts that relied on river water and others sounded alarms about irrigation growth.

"But they weren't fire-drill volume," he said.

State and local officials fully understood they were creating a future obligation for somebody - the state, the NRDs or water users themselves - to handle, said Roger Patterson, Jess' successor, who was director of the State Natural Resources Department during most of the Platte negotiations.

"A lot of people thought somebody else was going to take care of it," Patterson said.

But state law at the time didn't authorize NRDs, the local government entities charged with regulating underground water, to limit groundwater irrigation development unless water tables were falling.

Cook, the resources department attorney who guided Nebraska through 13 years of negotiations leading to the Platte program, cited other reasons for inaction.

"It wasn't a fruitful time to convince people we had trouble on the horizon," Cook said. "There wasn't the understanding or basis for doing much at that time."

Water regulators didn't fully understand the Platte's unique geology and how water moves through the watershed.

Some NRD boards were reluctant to regulate groundwater irrigation because they weren't convinced the Cooperative Agreement talks would yield the need for tight water restrictions.

"The districts were not in a good position under their law at the time - or the politics of the time - to take action to stop development," Cook said.

One idea was for NRDs to challenge new irrigation development under the federal Endangered Species Act.

"But that would have been immediately challenged (by irrigators), with unknown results," Cook said.

Not until drought settled over Nebraska and the West did people begin to soften their stances, Cook said. The drought, which began in 1999, eroded opposition to sustaining water in streams and aquifers.

"We started moving away from doing all this for the Endangered Species Act to thinking about doing it for our own reasons," Cook said.

Patterson said that when then-Gov. Ben Nelson signed the Cooperative Agreement in 1997, Nebraska water regulators recognized that it marked a new era in water management. But they took no immediate action.

Wyoming and Colorado, with longer histories of water shortages in their stretches of the North Platte and South Platte Rivers, quickly stopped new irrigation development.

"We weren't there yet," Patterson said.

The growing number of irrigated acres made Patterson nervous, he said.

"We recognized we'd have to come to grips with the problem at some point," he said, "but we never had clarity on how."

Legislative Bill 962 in 2004 was part of the answer.

Patterson and State Sen. Ed Schrock of Elm Creek used the drought and Nebraska's water obligations to other states in the Platte and Republican Rivers to win legislative approval of a law setting up joint state and local management of surface water and groundwater in troubled areas.

Solutions in the Platte will be hard, divisive and expensive if what's happening in the Republican River basin across southern Nebraska repeats in central and western Nebraska.

People in the Republican basin are struggling to reduce the amount of water used for crops while sustaining their irrigated-agriculture economy.

"The Republican is a bellwether for what could happen in the Platte," Bleed said.

In less than 20 months - by Jan. 1, 2009 - Nebraska must have a plan in place to shave its water use in the Platte to the amount used July 1, 1997.

Part of the challenge has been determining the size of the problem.

The Natural Resources Department requires new irrigation wells to be registered, but not all farmers bothered to do it.

County tax assessors require irrigated fields to be identified, but not all farmers bothered to do that.

LB 962 gave farmers an incentive: Irrigated property now must be certified with the local NRD or it doesn't officially exist and can't be protected from possible irrigation restrictions later.

A coalition of NRDs, public power districts, state agencies, cities, statewide farm and irrigation groups, and environmental organizations launched a study in 1998 to understand the Platte basin's hydrological and geological conditions.

This Cooperative Hydrology Study is known as COHYST. Last fall a COHYST report identified an estimated number of post-1997 acres developed for irrigation and their effect on stream flows in the Platte.

Well-drilling moratoriums are now in place in the Platte basin upstream from Chapman, in the COHYST area of central and western Nebraska. But no decisions have been made on how to roll back the impact of the added irrigation. Possibilities include pumping restrictions and voluntary buyouts of irrigators.

Regulators will first target about 72,000 of the new acres in a key, "overappropriated" area nearest to the Platte and in some of the watershed between Elm Creek and Chapman - places where irrigation pumping has the greatest effect on depleting stream flows.

Studies indicate these acres could cause an annual depletion to the river of 26,900 acre-feet. An acre-foot is the amount of water needed to cover an acre 1 foot deep. For perspective, more than 1.1 million acre-feet of Platte water flows past Grand Island each year.

With the Republican, the state is an estimated 136,000 acre-feet in arrears to Kansas.

The Nebraska Legislature targeted problems in the Republican with Legislative Bill 701, but the new law, signed this month, also includes long-term funding to cut back water use in the Platte and elsewhere.

The law's Water Resources Cash Fund will tap \$2.7 million a year from state sales and income tax revenue and hopes to add \$300,000 a year in grants from the Nebraska Environmental Trust. Roughly \$8 million a year will be added to the fund from fees paid by corn and sorghum farmers, beginning in 2012.

The Natural Resources Department will decide how to allocate the statewide fund.

The Platte was the focus of debate last year over whether Nebraska should sign on to the recovery program. Then attention turned to the Republican basin.

"We feel a little bit like the stepchild here," said Tim Anderson, a spokesman for the Central Nebraska Public Power and Irrigation District, which owns and operates Lake McConaughy. "The Republican is getting all of the attention."

Jack Maddux, a Wauneta rancher and member of the state's Water Policy Task Force, wonders whether most Nebraskans realize that the Platte's problems will soon return to the spotlight.

"Issues in the Platte," he said, "will be every bit as serious as the Republican."

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OMAHA DAILY WORLD FOUNDED BY GILBERT M. HITCHCOCK 1885
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Work it out

The two camps are polarized, with no-dam and pro-dam forces dug in and seemingly immovable.

But move they must.

On one side is an 11-government partnership that includes Omaha, the Papio-Missouri River Natural Resources District, Boys Town, Bennington and other groups. On the other are the Douglas and Washington County Boards and homeowners fearful of being evicted by dam construction. Douglas County also belongs to the 11-member partnership; Washington County does not. The NRD coordinates the work.

The issue is the federal Clean Water Act, specifically, storm water — how the Omaha metropolitan area should contain it, protect it from pollution and send it through the Papio Creek system without washing away settled areas.

Federal law requires that local governments must deal with storm water. The amount of runoff that flows into the Papio system rises with development; the roof, walk and driveway of each new home funnels water into the stream system. New construction — homes, roads, basketball courts, almost any solid addition — prevents rainfall from soaking into the ground, instead speeding runoff water to the larger stream.

The partnership's plan suggested that up to 29 dams could be spread across the Papio watershed. The key is "up to" 29 dams: Contrary to heavy rumors and groundless fears, no one has suggested building all 29 dams. Only the number needed to control the excess water would be constructed, and partnership leaders don't yet know how many that might be.

* * *

The no-dam group's main argument is that less intrusive conservation measures, such as stronger building regulations, dry dams and rain gardens, should be the first — and, some argue, the only — resort in controlling storm water in the Papio watershed.

This informal and mostly unpaid group has come up with a policy statement/plan. It proposes a requirement that any new development or improvement that might contribute additional runoff should prevent that from happening, using

**Opponents,
proponents
responsible
for compromise
on dam projects.**

various conservation techniques. Much would depend on the strength of planning and zoning requirements in each jurisdiction as well as the good

faith of the elected officials who dole out exceptions to the rules.

Some of the red-hot words opponents fling at the NRD and the partnership it represents are deserved; some are not. NRD officials have done a poor job of communicating their ideas and plans to the communities involved, leading to rumors, misinformation and vocal opposition to anything they might propose. To opponents, NRD officials have seemed unwelcoming to conservation suggestions and, some suggest, callous in the face of the heartfelt concerns of the no-dam group.

NRD board members and staff argue they are neither unwelcoming nor callous, though appearance and perception in this instance tend to be as influential as reality.

The partnership and the NRD have a severe, perhaps insurmountable, credibility problem. The no-dam group has credibility with residents and landowners most concerned about the issue, but the group falls far short in expertise and factual grounding in the area of storm-water management.

* * *

The reasonable and potentially achievable solution: a compromise. Once all the reports and data are in, the partnership and representatives of the no-dam group should put aside their antipathies, accusations and hurt feelings. They should sit down together and forthrightly figure out how conservation measures can be used to minimize the number of dams needed.

There is a balance point between the pro-dam and no-dam positions, a point that, once found, would likely please neither side. But the entire area would benefit from an honest, even-handed solution that maximizes pollution control and flood control while minimizing cost, environmental damage and landowner disruption.

So simple to say, so difficult to do. The elected officials on both sides — authorities from Douglas, Sarpy and Washington Counties, Omaha, Bennington, Papillion and other communities — should consider leading the way.

Storm water solution will not come easily

5-22-07

BY CLARE DUDA

The writer, of Omaha, is a Douglas County Board member.

Local governments in the Omaha metropolitan area must have a storm water management plan.

A coalition formed the Papillion Creek Watershed Partnership in 2001 to develop a common plan under the leadership of the Papio-Missouri River Natural Resources District. Douglas County pays \$65,000 annually to belong. Washington County pulled out early over fear of dams.

When the individual partners were asked to approve the partnership's policy document, the Douglas County Board unanimously rejected it and said we could do better. We worked with the Washington County Board and some very knowledgeable volunteers to devise our own plan, focused on limiting runoff into our streams rather than building dams.

We felt the partnership's policies were heavy-handed with eminent domain and dams and did little to improve water quality or reduce runoff. Its policy looked like a wish list for the developers and job security for the NRD, while many members of the public with serious concerns felt alienated by the process.

The partnership's dams would turn many farms into lakes to provide limited flood protection. But dams wouldn't improve water quality or reduce runoff. Property buyers would pay \$500 per lot to repay a small portion of the cost of the dams, with bonds covering the rest if the Legislature gives the NRD bonding authority.

The dam construction would cost several hundred million dollars in property taxes and be built without a cost-benefit analysis. Douglas County lobbied against the NRD getting bonding authority and lost 7-0 in the Revenue Committee, although the county will try again next year.

Meanwhile, Douglas County updated the comprehensive plan for our zoning jurisdiction. We adopted the most progressive plan in the area — a plan that would require no increase in storm water runoff from new developments, restrict building in floodplains and require best management practices, including low-impact development techniques. The use of raingardens, bioswales, green spaces and other conservation measures would aid with water filtering and absorption where it fell, in contrast with the typical "big tube" runoff into our streams.

Omaha By Design presented the Douglas County Board with the Green Leaf award last

month in recognition of our new comprehensive plan. The Washington County Board said it will develop a similar comprehensive plan. It doesn't want dams but is willing to minimize the runoff coming from its county.

Kansas City, Mo., facing similar combined sewer overflow problems like Omaha, initiated a program called "10,000 Rain Gardens" to reduce the storm water going into its sewers. Des Moines has a similar program, and now the Western Pottawatomie Drainage District is sponsoring a "20 Rain Gardens in 2007" initiative.

The only thing I see Omaha or the partnership doing is building bigger sewers and proposing lots of dams. There is a better way.

The Douglas County/Washington County storm water policy was developed with no budget. We don't have hydrology studies to hide behind or a public-relations firm to sell our plan. However, the enthusiastic response of 200 people at our public hearing in Bennington last week confirmed that we are heading in the right direction.

The partnership's plan is on the Internet at www.papiopartnership.org. The Douglas County/Washington County plan is at www.dcplanning.org.

We, the public, have to change how we treat storm water. We can no longer just try to get it straight into a sewer as quickly as possible. Things as simple as turning a downspout from a driveway into a yard help. Installing rain barrels and small raingardens can make a big difference in the volume and quality of the water leaving our property.

We should no longer allow new development that exacerbates our storm water problem.

We ultimately may need a storm water fee assessed on every property with impervious surface, which would be controversial. The Legislature will conduct an interim study on these fees. Funds collected would be used for retrofitting improvements in storm water management in already developed areas.

This is going to be a long, painful process — requiring changes and some expense — no matter how we address our storm water problems. The stakes here are high. At issue is how the Omaha area chooses to grow: Will we just keep building more dams and bigger sewers? Or will we try to reduce the runoff and improve the water quality going into our streams and lakes?

Drought aid package could be worth \$90 million. BY ART HOVEY / Lincoln Journal Star May 24, 2007

Spending action that could be finalized as soon as Friday in the House and Senate could be worth as much as \$90 million to Nebraska's crop and livestock producers.

That's Brad Lubben's preliminary measure of how much the state's agricultural sector might get from the \$3 billion in agricultural disaster relief tucked in with the latest round of proposed spending for the war in Iraq.

Lubben, an agricultural policy specialist at the University of Nebraska-Lincoln, conceded Thursday that the non-farming portion of the population might have trouble understanding why grain producers need help at a time of robust grain prices and ample rainfall in many areas.

"That's a political question that's been asked in Washington," Lubben said. "In fact, it's sort of the political question that the administration has been asking."

The political answer appears to be that President Bush is willing to make some concessions in domestic spending for the sake of resolving a long argument with Democrats on Iraq funding.

As a result, "we're talking about a pretty significant package for Nebraska here," Lubben said.

Based on his analysis of drought-related costs in the state, crop producers could get as much as \$36 million. Cattle producers could get \$48 million as compensation for damage to pastures and other forage possibilities. And the beef sector could collect a bit more for cattle that died in winter storms.

John Hansen of the Nebraska Farmers Union and Rob Robertson of the Nebraska Farm Bureau Federation saw no need to apologize for what they regard as late delivery of help for drought damage that occurred as far back as 2005.

"There are some very substantial losses here," Hansen said. "Drought is as real as a hurricane or a fire or a freeze or whatever."

Hansen said the state would likely be among the bigger beneficiaries if Bush follows through on expectations that he will sign the spending bill.

"If you look at the amount of drought damage around the country, and if you look at the number of counties designated as eligible for disaster assistance over the last three years, Nebraska should be in the top tier of states that were adversely affected by drought — and especially in the western half of the state," he said.

Robertson said wrapping farm spending into the same package with war spending might seem unusual, depending on one's vantage point.

"From a policy standpoint, it's very odd," he said. "From a political standpoint, it doesn't surprise me."

Among people who earn their livings outside agriculture, "I think there will be some perception problems," he said. "But it will not take much to point out the severity of the drought we had in 2005 and 2006 that I believe this covers. It really did impact some agricultural producers very substantially."

Commission calling for timeout on Niobrara drilling, pumping
BY DAVID HENDEE, WORLD-HERALD STAFF WRITER 5-25-07

BRADY, Neb. - The Nebraska Game and Parks Commission stuck its paddle Thursday into the Niobrara River's troubled waters.

The commission joined the National Park Service and others in calling for a timeout on issuing new permits to let farmers in the basin drill new wells or pump water directly from the popular canoeing river.

"We need to do this before there's no water left in the Niobrara River - or too little water left - to actually accomplish what we want to accomplish," said Don Gabelhouse, the agency's fisheries chief.

The commission's resolution asks the Nebraska Department of Natural Resources to hold public hearings on pending applications to divert river water to irrigate cropland.

It also asks the department to deny applications for two or three years until the commission completes studies to identify the amount of water the river should carry to accommodate fish, wildlife, recreation and other uses.

The Niobrara attracts 30,000 to 40,000 canoeists a year. A 76-mile stretch of the river downstream from Valentine is a federally designated and protected scenic river.

The commission voted 7-1 for the resolution. Commissioner Bill Zutavern of Dunning, a rancher, voted against the resolution but said he supported conducting the studies.

Many Nebraskans share Zutavern's dilemma, said Gary Parker of Columbus, commission chairman.

"We all realize how important agriculture is to this state. We also know how important water is to the state," said Parker, a retired chief executive of Lindsay Manufacturing Co., one of the nation's leading center-pivot irrigation system companies.

"We have a responsibility and obligation to the resources of the state, and at the same time people have . . . business interests to consider," he said. "There are a lot of competing interests . . . and it's important we have a balance."

Parker said it's important not to let the Niobrara become overappropriated, as have the Platte and Republican Rivers.

"We don't want to be working behind the curve," he said.

Zutavern said the Niobrara couldn't be compared to the Platte or Republican because the Niobrara gains water seeping out of the Sand Hills as it crosses northern Nebraska.

Gabelhouse said the Niobrara's unique characteristics are precisely why studies are needed.

Commissioner Jim Stuart Jr. of Lincoln said moratoriums are needed because irrigators could pump too much more water from the river before the studies are completed.

"We have to do our best to preclude that," he said.

James Ziebarth, a commissioner and farmer from Wilcox, said studies are needed to make good decisions. Still, he said, "this is pretty hard to swallow."

The vote resolved a year-old request by the commissioners seeking recommendations on the Niobrara's needs for protected flows. In recent months, the National Park Service, the Niobrara Council, outfitters and others have asked the Department of Natural Resources to halt new diversions from the water temporarily.

Gabelhouse said he expects the studies to be conducted by the University of Nebraska-Lincoln, the U.S. Geological Survey and an Oregon consulting firm.

A study on recreational water needs could be completed by the end of the year, he said. Fish and wildlife studies might take two or three years.

Published Thursday | May 24, 2007

Managing Niobrara is matter of state law. Midlands Voices, BY DEB FISCHER ,OWH 5-25-07

The writer, of Valentine, Neb., is a Nebraska state senator representing District 43.

I represent the legislative district in Nebraska through which much of the Niobrara River flows. I want to assure everyone that I represent the farmers, ranchers, recreation interests and those with environmental concerns regarding the future of the Niobrara River.

My goal is to make sure that everyone who benefits from this wonderful river can continue enjoying those benefits for generations to come. I recently stated that managing the Niobrara should be based on sound science and the application of state law.

Last Sunday, a Harold W. Andersen column said that my statement indicated a "lack of understanding" by omitting mention of the federal role in water management. To be clear, I understand the federal role in water management, and I stand by my previous statement.

It needs to be made clear that federal law does not control the future of the Niobrara River. Federal claims to water rights take multiple forms.

In the Niobrara case, federal officials suggest that the United States holds reserved water rights to various properties under federal ownership as well as that within the Scenic River corridor.

The U.S. Supreme Court first recognized these rights in a 1907 decision, where the court concluded that Congress meant to reserve water to benefit an Indian reservation in Montana. In 1963, the court allowed the federal government to pursue similar water rights to other federal lands.

But this broader application has significant limitations:

□ First, federal reserved rights apply only to federal lands that never left federal ownership. Once federal lands are conveyed to private parties, they forever lose the ability to have "reserved" water rights attached to them.

□ Second, the amount of water that can be claimed for a federal reserved right is limited to the minimum amount necessary to achieve the purposes for which Congress made the reservation.

□ And third, before the federal government can exercise control over the water, it must have its rights fully adjudicated within the state system.

To date, the federal government has not sought to adjudicate any of its claims to water in Nebraska. As a matter of law, today the federal government holds no water rights greater than any other landowner along the river.

Moreover, only a small parcel of land along the Niobrara has remained in uninterrupted federal ownership. The Scenic River designation itself is unlikely to have conferred any federal reserved water rights, because nearly all of the lands within the Scenic River corridor left federal ownership long before Congress made the designation.

Only one federal reserved water right has ever been recognized using the Wild and Scenic Rivers Act, and that was in Idaho after a state adjudication. The water right was located wholly within a federal enclave that had never left federal ownership.

So while the federal government may be able to claim reserved rights to the Niobrara River at some point in the future, no such rights can be said to exist today.

All of this is not to say that the federal government does not have a voice. The views of its representatives are important and will be considered. But those must be weighed in light of state law and scientific information.

Stream-gauging information from the Nebraska Department of Natural Resources and the U.S. Geological Survey shows that the monthly flows of the Niobrara have remained unchanged over time, even with existing levels of irrigation.

For instance, the mean daily stream flow in 1966 was 1,597 cubic feet per second. In 2006, 40 years later, it was 1,731 cubic feet per second. More important, recent changes in state law allow for a halt on new development if there appears to be a serious management issue — something that did not exist when the Platte River, to which Mr. Andersen referred, was in its early stages of development.

The Niobrara River is a treasure to all Nebraskans. People and communities rely on this river for their livelihoods and appreciate the river's natural beauty as well. As Nebraskans, we are rightfully concerned with managing and maintaining the Niobrara for everyone to enjoy for years to come.

Ultimately, Nebraska has the legal and scientific tools to manage the river for future generations. Let's not allow the threat of federal entanglements or unsubstantiated claims of disaster to paralyze us from using those tools.

It needs to be made clear that federal law does not control the future of the Niobrara River.

Irrigators agree to sell water to fend off lawsuit

By ART HOVEY / Lincoln Journal Star

Wednesday, May 30, 2007 - 12:24:08 am CDT

A wet spring is helping the Republican River Basin in southwest Nebraska recover slowly from years of drought.

But the management of the Bostwick Irrigation District at Red Cloud and the state Department of Natural Resources were moving at a much faster pace Tuesday on a deal in which the state will pay \$5.6 million to acquire the rights to about 17,500 acre-feet of Republican water for delivery to Kansas.

The Bostwick board of directors decided Tuesday morning to accept the state's offer. By mid-afternoon, Natural Resources Director Ann Bleed made a \$3 million response.

"I just signed the contract about an hour ago and handed over to them a check for partial payment," Bleed said.

For the second year in a row, some 250 Bostwick irrigators have agreed not to use surface water from the Republican. The water instead will go downstream to Kansas irrigators as Nebraska tries to fend off a lawsuit that could arise from violation of the Republican River Compact.

Last year's price tag was \$2.5 million.

"In my view, the purchase of surface water does two very important things," Bleed said. "One, it does provide water to Kansas. And, two, I think it's a demonstration of not only the state, but also natural resources districts in the basin and people in the basin to take responsibility and to do what they can to comply with the compact."

The possible lawsuit is one of many effects of a prolonged drought that has depleted the river, its tributaries and reservoirs.

Crop producers in the Bostwick area went through four decades before encountering circumstances in which they got no water from the Republican for their cornfields.

Now it's happened for four years in a row, the last two because of cash compensation for a diminished supply that fell far short of the irrigators' needs through the entire growing season.

Bostwick Manager Mike Delka is hoping that better precipitation in 2007 will continue and that district irrigation operations will be back to normal next year.

"We would hope that would be the case," Delka said. "We'd rather deliver water than sell water."

In the last 30 days, Harlan County Reservoir has risen by about 3 feet and its contents have gone from 183,000 acre feet to 204,000 acre feet.

But that won't have any effect on a situation in which Nebraska has failed to meet its obligations to Kansas for several years in a row.

Bleed conceded that attempts to solve that problem for 2007 with a surface water purchase are more expensive than paying farmers to quit irrigating with groundwater farther from the river channel.

"I think one of the big issues is that, if you're retiring acres at some distance from the river, it's not going to have an immediate impact on the river. If you take surface water, that's an immediate impact. That's a big difference."

Natural resources districts in the basin are also buying water on their own from two other irrigation districts to compensate Kansas.

"They're saying 'We're doing what we need to do to be in compliance with the compact,'" Bleed said, "and it's unprecedented."

Page 11 of 11 5-31-07

Introducing ... the Sumtur Amphitheater

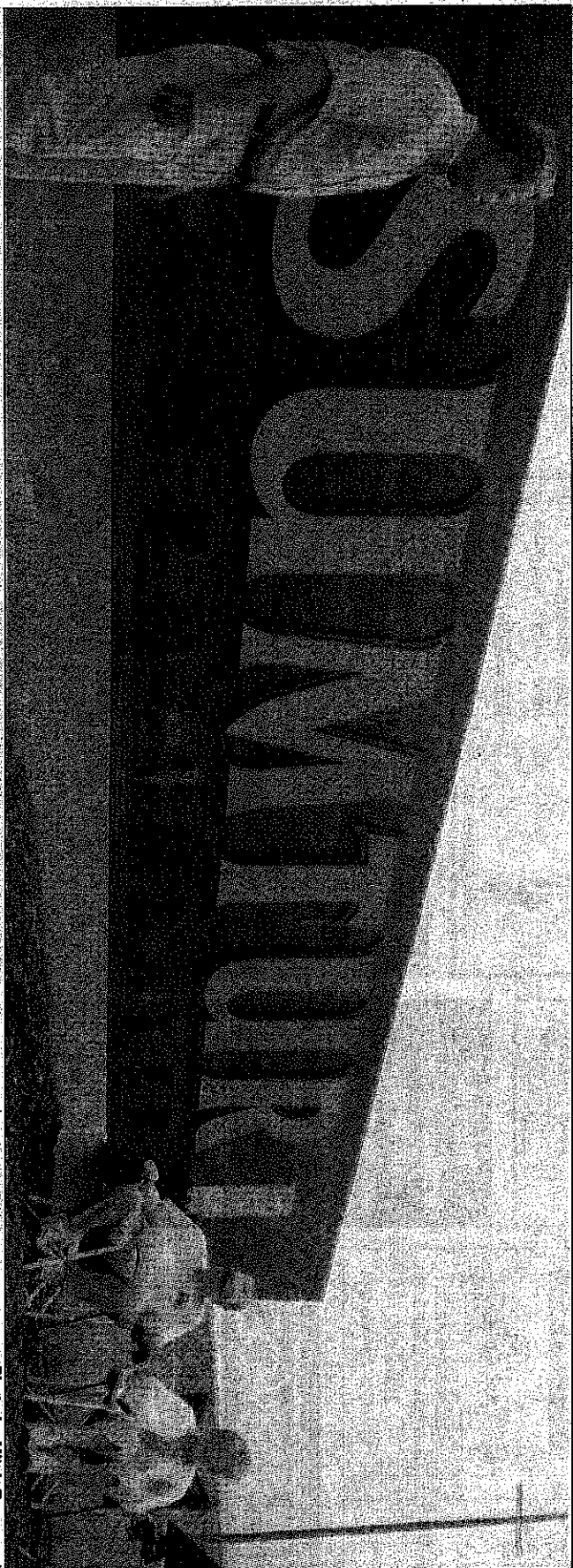


Photo by Mitch Beaumont

The Walnut Creek Amphitheater got its new name Tuesday afternoon. The facility is named after Wes and Elaine Sump and Wes and Ruby Turtischer, pictured at right. Above left is project coordinator Ken Molzer, who made the announcement. Wes Sump also attended Tuesday's ceremony.

Change in direction

6-1-07

As Congress writes a new farm bill, one pertinent question will be whether the measure should radically depart from previous farm programs or whether smaller, more incremental changes in the existing formula would suffice.

Ideas already floated by the U.S. Department of Agriculture spring from the latter, more measured approach. The Lugar-Kind FARM 21 proposal epitomizes the former, more drastic change.

FARM 21 (the Food & Agriculture Risk Management for the 21st Century Act) is a serious-minded proposal that likely will draw much attention on Capitol Hill and in policy circles because of both its innovative nature and its sponsors: U.S. Sen. Richard Lugar, R-Ind., and a group of House members led by Rep. Ron Kind, D-Wis.

The legislation would do away with the current farm subsidy program. Instead, it would substitute risk management/income stabilization accounts and insurance tools.

Such a dramatic change would have its potential benefits. But the bill's overall effects — above all, the viability of the risk management accounts — need great scrutiny before lawmakers make their decision.

* * *

At the heart of the proposal is the creation of risk management accounts. Each participating farmer would hold one.

During a transition period, the federal government would add money to the accounts while phasing out the subsidies to which the farmers are entitled. In theory, by the time the government stops subsidizing agriculture, farmers' individual accounts should have enough money to tide them over during bad years. During good years, farmers would add to the accounts.

FARM 21 also involves a broad-based crop insurance program, according to Sen. Thad Cochran, R-Miss. It would offer all farmers, not just those whose crops are currently subsidized, a voucher for 45 percent of the cost of his or her new crop insurance premium.

One provision of the measure would cancel the nation's sugar subsidy, a change that would be of obvious concern to Nebraska sugar beet producers. Domestic sugar prices,

Will farm programs see incremental or radical reforms in Congress?

kept artificially high by the sugar program and trade barriers, would fall to world sugar price levels, benefiting many U.S. food manufacturers.

Sponsors of the legislation expect their farm program to cost significantly less than the existing program, particularly after subsidies are phased out. Savings would be directed toward various needs: Rural development. Anti-hunger programs, including food stamps. Conservation programs. Renewable energy programs and research. And reducing the federal deficit by more than \$20 billion over 10 years.

Besides the tangible benefits claimed for the legislation, it is designed to bring the United States more closely into compliance with world trade regulations. The issue is complex, but some types of farm subsidies distort the market and can be contrary to international trade agreements.

The bill also would address some of the inequities in the farm support system, including subsidies paid to extremely wealthy farmers or owners of land that once was farmed but is no longer. That is all to the good.

* * *

Sen. Ben Nelson is right to raise an important concern about the income stabilization accounts: Would they provide enough of a safety net for farmers during a long-term drought or similar disaster? For instance, market fluctuations might leave a farmer's account short when the money is needed most.

That is, of course, a fundamental consideration of direct concern to agricultural producers.

Nevertheless, the proposal has some attractive features. It would give farmers control over what they plant, how they manage their farms and how they design their futures, even as it smoothes out the financial roller coaster of agriculture.

Sen. Lugar and Rep. Kind have thrown a challenging proposal into the congressional hopper. They have offered their colleagues — and the farmers the bill would affect — a serious and clear alternative to the existing approach to agriculture.

The ramifications of this proposal need to be studied and debated thoroughly. The outcome of this policy debate will decide the direction of farming for years to come.

W-H
6-4-07

Furthermore . . .

■ Lawmakers and Gov. Dave Heineman have been rightly praised for their forward thinking in regard to the substantial water legislation that senators approved this session to address shortfalls in the Republican River basin. Also deserving of praise are the elected leaders on several local natural resources districts throughout the region. They deserve much credit for coming to the table and contributing significantly to the bill and its more difficult provisions, including taxing authority that will prove unpopular at home. True leaders are willing to

sacrifice short-term gains for long-term good. These NRDs led.

■ A German appeals court has reversed the yanking of custody of a now 16-year-old girl from her parents, who had chosen to partially homeschool her. A historical irony of the Melissa Busekros affair lies in who outlawed homeschooling in Germany. Though the West sought to reverse Nazi influences after World War II, the anti-homeschooling law — decreed by Adolf Hitler in 1937 to aid in indoctrinating German young people — wasn't touched and remains on the books today.

Learning about 'conservation design'

By Jim Brazda
Reporter
6-5-07

Many Washington County residents cite the rural character of the county as one of its most desirable assets and an important factor in deciding to live here.

But what few realize is the zoning regulations are set up for this rural character to be gradually changed as more landowners turn to developers to reap the profits from subdividing their farmland into neighborhoods—which in turn are marketed as "country living."

But a new trend across the country—just beginning to arrive in the Omaha metro area—is aimed at balancing these two concerns, as well as managing stormwater and protecting the environment. Conservation design is a method of approaching development that emphasizes preserving natural features and hydrology, minimizing infrastructure and grading and clustering building sites closer to-

gether with 40 to 70 percent common greenspace.

Douglas County adopted conservation design standards in its comprehensive development plan last year, and some Washington County residents think the county should follow suit. The drive behind the change was a number of rural acreages popping up in Douglas County that could have been served by the Omaha sewer system, said Kent Holm, director of environmental services at the Douglas County planning department.

Holm said he believed allowing subdivisions far away from city services was an inefficient use of the land, and sought the advice of consultants who said acting conservation design standards would be a good way to focus development and deal with stormwater.

"Conservation design is about taking a different approach to the design process," Holm said.

First, the developer iden-

tifies environmental resources to set aside as common space, such as trees, floodplains, wetlands, streams, steep slopes and erodible soils. Then, suitable locations are selected where buildings can be clustered and streets can be incorporated with minimum grading and disturbance to the land, he said. An added benefit is lower infrastructure costs, as developers pay less to grade and pave the area and install storm sewers.

"It allows us to deal with stormwater on a more proactive level," Holm said.

The conventional approach to subdivision design often disregards site topography in an attempt to maximize the number of lots that can fit on a property, altering the historical drainage pattern of the land and replacing it with storm sewers, he said.

A common misconception is that more greenspace means fewer lots, or

that conservation design is aimed at reducing density, Holm said. The concept is to conserve sensitive land, not reduce density, he said. By allowing smaller lot sizes in exchange for preserving more greenspace, developers can attain the same number of building sites as in a conventional design.

Washington County has elements of conservation design in the updated comprehensive development plan, but it is not mandated like it is in Douglas County, said Washington County planning administrator, Doug Cook.

Article 5.15 in the zoning regulations allows for a residential mixed-use district, which promotes creative design of new residential areas with more greenspace, he said. While Cook said he pitches the idea to every developer interested in Washington County, he hears time and again there is no market for such a development.

"I can't believe there's not a market," Cook said. "But I'm not the one qualified to make that determination."

While the lack of conservation subdivisions in the Omaha area does make it difficult to gauge their marketability, nationally, they have sold extremely well, Holm said. A developer would not have a hard time selling lots in a true conservation subdivision, Holm predicted. People will pay a premium to live near large tracts of open space, he said.

The federal government's focus on water quality and sediment control, as well as the Papio-Missouri River Natural Resources District's proposals to build numerous dams in Washington and Douglas counties have given both county boards incentives to adopt increased stormwater controls. Counties need to be careful about what they permit to be built within their jurisdictions,

SEE CONSERVATION PAGE 3A

CONSERVATION DESIGN: *County hears from Douglas Co. planner about possible benefits*

FROM PAGE 1

especially as stormwater concerns will only increase as the Papillion Creek Valley is predicted to be built-out sometime in the future, Holm said. Counties need to require as much stormwater management as possible prior to approval of a development, because after a subdivision is developed, counties have few options.

"We can't do stormwater management very well on private property," Holm said.

Both the Washington and Douglas county boards recently held a meeting to present stormwater management practices that proposed best management practices (BMPs) such as using rain gardens, infiltration pools, porous concrete, dry dams, buffer strips around streams and wetland restoration to reduce the peak flow of water, reduce the pollution in stormwater runoff and support wildlife and natural habitats.

The Douglas County board took their efforts one step farther by enacting conservation design in its zoning regulations. Stormwater BMPs and conservation design work well together because "a conservation design will preserve natural drainage patterns, taking care of stormwater from the get-go," Holm said.

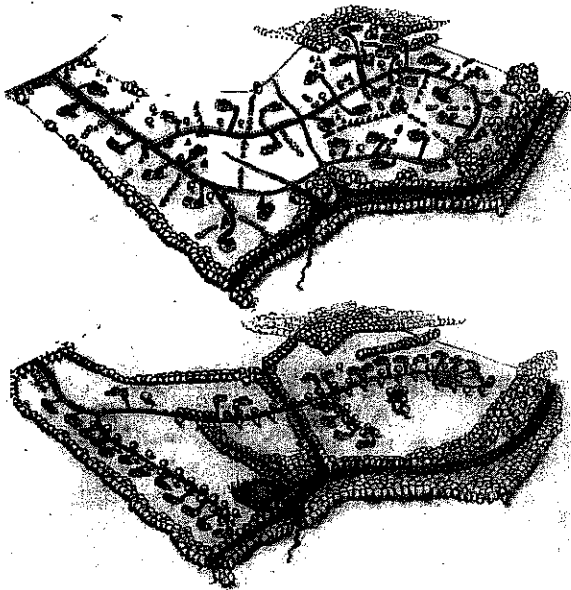
"It seems to work very, very well together; that's why Douglas County is going in that direction," Holm said.

Stormwater BMPs could work to manage stormwater without conservation design, Cook said, but the two practices compliment each other.

"In a perfect world, the two of them together is awesome," Cook said.

But it all depends on where the emphasis needs to be. Stormwater BMPs put more focus on controlling stormwater, while conservation design puts more emphasis on the environment, he said. They are two different methods that provide more or less the same ends, he said.

Some Washington County residents think the county should adopt both methods as a way to both preserve the county's character and manage stormwater, including candidate for Washington



An example of a conventional subdivision design, and how the same property would look with a conservation design with the same number of building lots. The conventional design subdivides the land into the smallest lot sizes allowed by the zoning regulations with little regard to preserving sensitive environmental features. The conservation design identifies environmental amenities first, and plots the building sites around them with minimal paved surfaces which allows for more natural drainage. Images courtesy of the NEMO project of the University of Connecticut.

County Board of Supervisors, Pam Daly, who invited Holm to present the concept before the Subcommittee of Six, or "six-pack committee," made up of three county board members and three planning commissioners.

Although Holm said he thinks conservation design is a great thing for Douglas County, he has no wishes to dictate policy to Washington County leaders. His appearance before the subcommittee was for education and outreach, which he said he is willing to do for any group interested in learning more about the concept.

"We think this is a good way to go, and would encourage other people to take a look at it," Holm said.

County Supervisor Ernie Abariotes, who sits on the six-pack committee, said he was in favor of the idea of conservation design, although he did not think the concept was completely clear.

"I think the city (of Blair) should do it, I think the county should do it," Abariotes said.

The stormwater management aspects of conservation design was what Abariotes said appealed to him.

Another development still under construction--The South Hamptons on West Q Road, near the Elkhorn River--was adapted from its original design to be a conservation subdivision with the same number of lots and 50 percent greenspace.

County planning commissioner Gary Lambrecht, conversely said he did not think conservation design standards would be good for the county.

"It might be a great thing on paper, but in practice, I'm not sure how it would work," he said.

Lambrecht said he was concerned about mandating landowners leave up to 50 percent of their property undeveloped, as well as who would be responsible for maintaining the greenspace. In addition, smaller lot sizes mean landowners would own less ground.

"It's not an idea I foresee as being great for us," Lambrecht said. "I think we need to be looking at conserving some of our natural resources, but we can't force it on everybody."

"Anything we can do to add to the comp plan that is going to be environmentally friendly, I think that's the way to go," he said.

Having environmentally friendly subdivisions could ultimately be an advertisement for the county, he said.

But at the same time, he said it is important for everybody to be on the same page on the details. Before any action is taken by the board on this issue, it would be nice to be able to see a conservation subdivision, he said.

That may be a tall order, considering no developers have decided to construct a conservation subdivision in Douglas County since the new regulations were adopted in March 2006.

One subdivision, Newport Hills near Bennington, asked for the county to cede its zoning jurisdiction to the city of Bennington, which the county did in exchange for the developer's agreement to use some elements of conservation design, resulting in a "hybrid," Holm said.

League eyes joint efforts on natural resources

■ The group plans a June 16 meeting to work toward an agenda.

By NANCY GAARDER

WORLD-HERALD
STAFF WRITER

A conservation group that seeks to revitalize itself and boost political support for protection of Nebraska's natural resources is reaching out to like-minded organizations.

The Nebraska League of Conservation Voters has hired its first executive director, has begun publishing voter guides and is sponsoring a networking session later this month.

The league will host a June 16 meeting to work toward a common agenda for conservation groups, said Mary Harding, executive director. The public is invited.

The event will run from 1 p.m. to 4:30 p.m. at the Izaak Walton League Hall in Lancaster County. For information, contact Harding at mharding@nlcv.org, visit www.nlc.org or call 402-560-0630.

Harding said the league's focus for now is on widening its membership base and strengthening other organizations so that conservation interests have a stronger voice in Nebraska policies.

Harding is the former executive director of the Nebraska Environmental Trust, one of the state's top sources of funding for habitat protection.

"This is about establishing relationships so that there's a real opportunity to succeed," she said.

"Nebraskans love their land, they love their resources. They're here in part because it's clean, wide open and abundant," she said. "There's almost unanimous agreement that everyone wants to keep it that way. But there is disagreement about how to get there."