

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: March 6, 2009

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 February, 2009, is attached for your review.

B. **MISCELLANEOUS/PERSONNEL ITEMS:**

1. **Martin Cleveland**, Construction Engineer, attended the Kansas Dam Safety Conference, February 9-11, 2009 at Lawrence, KS. A memo detailing the sessions Martin attended is attached.
2. **George Tillwick** has been hired as the Water Supply Operator for the Washington County Rural Water Supply 1 and 2. He will be working out of the Blair Field Office. Mr. Tillwick's first day of employment with the District will be Monday, March 23, 2009. We all welcome George to the P-MRNRD team.
3. **Jean Tait** and **Pat Teer** attended the NARD Wellness Workshop on March 3, 2009 in Lincoln, NE. The P-MRNRD, along with the Lower Platte North NRD in Norfolk, the Lower Platte South NRD in Lincoln and the Nemaha NRD in Tecumseh comprise the Region 2 team. The group reviewed data from the Nebraska Worksite Wellness Survey and identified two health indicators – stress and alcohol, specifically binge drinking and drinking and driving, to include in the Region 2 Wellness Plan.
4. On January 27, 2009, the District, in conjunction with the Greater Omaha Chapter of the National Safety Council, offered a class on Custom Confined Space Training for our equipment operators and employees working on rural water supply systems. The following employees attended: **Keith Butcher, Dennis Cady, Terry Keller, Ron Lehman, Keith Lienemann, Lance Olerich, Dennis Piper, Jason Schnell, Dick Sklenar, Marty Thieman and Bill Warren**. I would like to thank **Jean Tait** for coordinating the training.

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 February, 2009. 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 February 17, 2009. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** The February, 2009 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on March 26, 2009, at 10:00 a.m. at the NRC. I also wanted to share the following correspondence (attached) received regarding the PWCP:
1. Letter from Duane Wilcox, Chairperson, Washington County Board of Supervisors, informing the Partnership that the Washington County Board “went on record to request any reference to Washington County in the Papillion Creek Watershed Partnership Management Plan be removed, specifically in reference to fees collected in “Rural Estates.”
 2. Letter from Randall Lenhoff, President, Nebraska Association of Commercial Property Owners, commending the Partnership for their efforts. He states, “We continue to remain concerned about potential flooding starting in Washington County and washing hog and cattle confinement waste through the more heavily populated counties in this watershed.”
- F. **LEGISLATIVE UPDATE:** The following information is attached for your information:
1. February 6, 2009 NARD Update
 2. February 13, 2009 NARD Update
 3. February 20, 2009 NARD Update
 4. February 27, 2009 NARD Update
 5. March 6, 2009 NARD Update
- G. **NEWS CLIPS:**
- ✓ February 7, 2009, Omaha World Herald article – Water ruling may spread tax burden statewide. A property tax on Republican River basin residents is struck down.
 - ✓ February 7, 2009, Omaha World Herald article – A perfect storm for Midlands flooding? Rain forecast for Monday will fall on half-frozen fields and iced-up rivers, creating runoff and possibly ice dams.
 - ✓ February 10, 2009, Omaha World Herald article – Ice Jam Breaks Up. Threat of flooding near Linoma Beach rises, falls.
 - ✓ February 10, 2009, Washington County Pilot-Tribune article - Papio meeting planned
 - ✓ February 11, 2009, Omaha World Herald article - An anti-tobacco drive screeches to a halt.
 - ✓ February 11, 2009, Nebraska Farm Bureau News article – Fully Appropriated Determination FAQs
 - ✓ February 11, 2009, Wall Street Journal article – Cedar Rapids still reeling from last year’s flood. Economic slip has exacerbated struggle to rebuild wrecked neighborhoods and deliver aid to homeowners.
 - ✓ February 12, 2009, Omaha World Herald editorial – Republican River – Ruling is bad for taxpayers

- ✓ February 13, 2009, Washington County Enterprise article – County wants no part of water plan
- ✓ February 13, 2009, Friday Message from Steve Chick – Turtle 2 rehab underway
- ✓ February 14, 2009, Omaha World Herald article – Board votes: Butts out of NRD vehicles
- ✓ February 15, 2009, Omaha World Herald article – 7 dams, 3 years, \$134 million
- ✓ February 17, 2009, Washington County Pilot-Tribune article – County out of dam plan – for now
- ✓ February 19, 2009, Omaha World Herald Public Pulse letter, written by John W. Hunt – Wanting more, spending more
- ✓ February 19, 2009, Lincoln Journal Star article – MoPac trail connector picked for this side of Platte River (plus comments from the public)
- ✓ February 19, 2009, Papillion Times article – Counties need 7 new dams for flood control
- ✓ February 24, 2009, Douglas County Post-Gazette article - New park on West Dodge offers third access to Elkhorn River
- ✓ February 24, 2009, USA Today article – Army Corps cracks down on flunking levees
- ✓ February 25, 2009, Omaha World Herald article – Waterloo levee plan likely to go to voters
- ✓ February 25, 2009, Omaha World Herald article – Irrigators sound off against restrictions
- ✓ February 26, 2009, Omaha World Herald article – Committee looks at bill to strip Niobrara Council of duties
- ✓ February 27, 2009, Omaha World Herald article – Waterloo to move ahead on bond vote
- ✓ February 28, 2009, Lincoln Journal Star article – State's top water official in tough spot

February 2009 Information and Education Report

Information

- Helped publicize and coordinate the PCWP Public Officials Meeting
- Planned and staffed the NRD display at the Omaha Boat Sports and Travel Show
- Continued working on Spring 09 Public Service Announcements
- Continued redesign of NRD Web Site
- Began work on Spring 09 SPECTRUM.
- Continued work on Recreation Area signs
- Published ad in Discover Sarpy County Magazine

Education:

- Attended 2 Earth Day Omaha meetings
- Attended all employees meeting
- Millard South program - Wildlife Encounters = 10 high school students
- Boy Scouts of America Leaders Conference - talked on NRD programs and opportunities = 30 leaders
- Benson West program – Enviroscope = 70 5th grade students
- Water Works meeting
- Millard South program – owl pellets = 10 high school students
- Outdoor Expo meeting
- Set up for Boat show
- MORE Nature meeting
- La Vista JH program – High Ability Learners – Enviroscope = 15 8th grade students
- Coordinated sponsorship of Health and Wellness expo
- Continued planning for Earth Day Omaha
- Continued organizing LEP Workshop
- Organized Envirothon tests
- Secured Funding from the Junior League and Pottawattamie County Conservation Foundation to support MORE Nature Family Nature Nights
- Participated in PF conference call on new LEP website
- Started planning for MPS Fishing for All event
- Continued planning Outdoor Classroom at Millard West
- Continued Water Works Registration, and managing of data bases
- Continued planning for Louv/Linn Event
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MEMORANDUM

TO: File

FROM: Martin P. Cleveland, P.E.

SUBJECT: Kansas Dam Safety Conference, February 9-11, 2009

DATE: February 17, 2009

On February 9 – 11, 2009, the writer attended the referenced annual conference held in Lawrence, Kansas. The writer attended the following sessions:

1. Kansas Water Resources Status – David Barfield, Kansas Department of Agriculture.
2. Auxiliary Spillway Failures and Successes in Oklahoma Dams – Chris Stoner, NRCS.
3. Removal of Marmot Dam, Sandy River, Oregon – Jon Major, USGS.
4. Lake Sediment Management Techniques – Dennis Haag, Burns and McDonnell.
5. BowerSock Dam – History of Dam and Hydro Power in Kansas.
6. Archeology and Reservoirs – Bob Hoard, Kansas Historical Society.
7. Lake Blalock Spillway and Outlet Works Improvements – Scott Brand, Black and Veatch.
8. Partnering to Rehabilitate a 102-year Old Outlet Works With a Full Reservoir – Tom MacDougals, RJH Consultants, Inc.
9. Dam Modification of a Lake Due to Hazard Classification Changes – Monty Prescott, BG Consultants.
10. Security for Dams – Jack Byers, Applegate Group.
11. High Hazard Dam Emergency Action Plans – Sherry Durst, Kansas DWR.
12. Construction Inspections – Mitch Hollingsworth, Labette Watershed District No. 96.
13. Conservation Culverts – Wayne Stancill, USFWS.
14. Kansas River Degradation – Earl Lewis, Kansas Water Office.
15. Streambank Stabilization – Phil Balch, Wild Horse Riverworks, Inc.
16. Levee Inspections and Flood Control Channels – Bob Finneran, USACE.
17. Wichita Levee Project and PAL Process – Joe File, AMEC.

February, 2009

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Updated: February 17, 2009

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)
 - UNL Foundation ROW transfer (P)
- **Big Papio :** (Cleveland)
- **West Branch** (Cleveland):
 - Land Exchange with Sarpy Co. (96th St.) (P)
- **Western Sarpy Dike** (Cleveland):
 - ★ Mel Bundy ROW easement preparation (P)
- **Floodway Purchase Program** (Grint):
 - Prepare revised purchase agreement with Parkway Properties for 69th and T St. (P)
 - Floodway Property purchase agreements as needed (F)
- **Trail Projects** (Bowen):
 - ★ Western Douglas County Trail – purchase agreements, deeds, easements, etc. (W)
- **Missouri River Corridor Project** (Becic):
 - Agreement for Omaha to maintain Missouri River Trail at N.P. Dodge North (P)
- **USDA P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - Release of Site S-7 Easement (W)

- **Papio Watershed Dam Sites** (Grint/Petermann):
 - ✳ Review appraisals and prepare purchase agreements for WPRB-5 Properties (N)
 - ✳ WPRB-5 City of Papillion Interlocal Agreement (W)
- **Papio Creek Watershed Partnership (Stormwater)** (Grint):
 - ✳ Draft new 5-year Partnership Interlocal Agreement (N)
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites** (Sklenar):
- **Other:**
 - Kennard Wastewater Closing (Grint) (F)
 - ✳ Glacier Creek Heritage appraisals/purchase agreement (Becic) (W)
 - ✳ Cinnamon Acres easement documents (Cleveland) (N)
 - ✳ Radio system service agreement (Cleveland) (N)
 - ✳ Lakeview development levee certification language (Cleveland) (W)
 - ✳ Review amendment to PBS&J Floodplain Mapping contract (Grint) (N)

MONTHLY UPDATE

FEBRUARY 2009



A Partnership meeting was held on February 26th. Meeting minutes and other materials are updated regularly on the Partnership's website: www.papiopartnership.org.

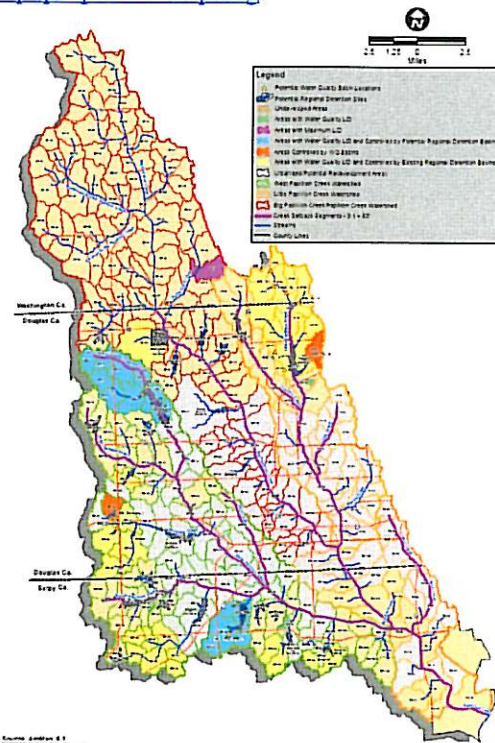
Watershed Management Plan Update

On February 14th, the Partnership hosted a Public Officials Workshop to present recommendations for the Watershed Management Plan, Implementation Plan and Revised Stormwater Policies. Marty Grate, City of Omaha, gave a presentation and facilitated a question and answer session for elected officials. A panel of Partnership members and their technical consultants, HDR and CDF, were on hand to answer questions. An open house before and after the presentation allowed an opportunity for one on one conversation and input. Elected officials from Washington County, Sarpy County, Papio Missouri River NRD, Papillion, Ralston, Blair, Bellevue and the Village of Washington attended. The presentation provided a summary of the Partnership's recommended Watershed Management Plan to address water quality and water quantity. Recommendations were also presented for Revised Stormwater Management Policies and an Implementation Plan. This plan shows the group's planned projects for a three year period (2011-2013). Those proposed projects include 5 water quality basins, 2 regional detention basins, water quality LID and maximum LID where development occurs are listed below:

- West Papillion Regional Basin No. 5 (WPRB5), South Papillion Tributary
- Water Quality Basin for WPRB5
- Dam Site 15A, North Branch West Papillion Creek
- Two (2) Water Quality Basins for Dam Site 15A
- Water Quality Basin for Zorinsky Lake
- Water Quality Basin for Cunningham Lake

The recommendations from the Partnership will be brought to each community's governing body within a few months for consideration along with a new interlocal agreement. A copy of the presentation along with handout materials and a copy of the Watershed Management Plan Executive Summary

are available on the Partnership's website, www.papiopartnership.org.



NPDES Compliance

La Vista and Gretna join Omaha, Sarpy County, Papillion, and Boys Town in adopting the stormwater ordinance amendment to control the first half inch of stormwater runoff.

The Phase 2 communities have submitted a notice to renew their NPDES permit which expire on July 31, 2009.

The Partnership is in the process of reviewing its interlocal agreement and will be working toward a draft with a goal of presenting it to communities for approval in May 2009.

Upcoming Events

Pat O'Brien, Nebraska Department of Environmental Quality, is planning to speak to the Partnership on March 26th on the Papillion Creek Total Maximum Daily Load Report.

Next Meeting: The next full Partnership meeting is scheduled for March 26th at 10:00AM at the NRD office.



**WASHINGTON COUNTY
BOARD OF SUPERVISORS**

Courthouse – 1555 Colfax Street
PO Box 466, Blair, Nebraska 68008
Phone 402-426-6822

Duane Wilcox
Chairman

Jeff Quist
Vice Chairman

February 10, 2009

Papillion Creek Watershed Partnership
c/o Natural Resources Center
Attention: John Winkler
8901 So 154th Street
Omaha, Nebraska 68138

Dear Mr. Winkler;

At the regular meeting of the Washington County Board of Supervisors held Tuesday, February 10, 2009, the Board went on record to request any reference to Washington County in the Papillion Creek Watershed Partnership Management Plan be removed, specifically, in reference to fees collected in "Rural Estates".

Washington County currently has their own Stormwater Management Policies in place for controlling stormwater runoff. Fees in regards to Washington County Stormwater Policies are 100% developer funded.

Sincerely,

A handwritten signature in black ink that reads "Duane Wilcox". The signature is written in a cursive, flowing style.

Duane Wilcox, Chairperson
Washington County Board of Supervisors



Real Estate Development • Commercial Sales & Leasing • Commercial Real Estate Property Management • Multi-Family Property Management

February 5, 2009

Mr. John Winkler
P-MRNRD
15405 Giles Road
Omaha, NE 68137

FEB 18 2009

RE: Papillion Creek Watershed
Stormwater Management Policies

Dear Mr. Winkler:

We have attended numerous meetings and commend the Partnership for their efforts.

MOBA has written a comprehensive letter dated December 24, 2008, supporting the watershed plan with important revisions outlined in the letter. We support MOBA's position.

We continue to remain concerned about potential flooding starting in Washington County and washing hog and cattle confinement waste through the more heavily populated counties in this watershed. Eastern Iowa had this experience this past summer and many houses were ruined by the animal waste in the flood waters.

We support the construction of dams and ask that the NRD start immediately to prevent a catastrophe like Iowa experienced.

Sincerely,

Randall Lenhoff
President
Nebraska Association of Commercial Property Owners

RL/jk



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

February 6, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 6 NARD Update

LB 701 Property Tax Unconstitutional -- The Nebraska Supreme Court ruled today that the special property tax authority granted to the NRDs in the Republican River Basin by LB 701 to help pay for water projects is unconstitutional. The court only ruled that the additional 10 cent levy authority was a tax for state purposes, which is prohibited by the Nebraska Constitution. Districts in the Republican Basin had used the tax and an occupation tax to pay for river augmentation programs including water leases in the basin in 2007. The decision does not alter the NRDs' authority to levy an occupation tax so the existing IMPs appear viable. The court did not specifically rule on other taxing authorities granted to the NRDs. It will take some time to sort out what specifically the NRDs are to do under the decision. NARD and the NRDs in the basin will work closely with the Nebraska Attorney General's Office for direction in the matter.

Attorney General John Bruning commented "Compact compliance will always require a partnership between the local managers, users and the state. The nature of the partnership between is what's at issue here. We respectfully disagree with the courts ruling. We remained committed to defending the tools currently available to the NRDs to manage water use," said Bruning.

2008 Water Programs Summary Report. The 2008 Water Programs summary report is completed and can be accessed on the NARD webpage at www.nrdnet.org. The summary report provides up-to-date information on all 23 local Natural Resources Districts' water management activities.

2009 NRD Technician Certification Training and Water Programs Conference. The 2009 Natural Resources Ground Water Technician Certification Training and Water Programs Conference are scheduled for March 2nd and 3rd at the Kearney Holiday Inn. The training class is free to all NRD employees but the charge for certification is \$53, payable to the NE Dept. of Health and Human Services by **February 25th**. The cost for the Water Programs conference is \$65 payable to the NARD. Both the technician training and conference are valid for CEU credits. Online registration is available at www.nrdnet.org.

Nebraska Unicameral Action

Hearings this week

LB 389 – Change appointment provisions for the Climate Assessment Response Committee. Senator Carlson. The bill eliminates the provision that members appointed by the governor to the Climate Assessment Response Committee be confirmed by the legislature. The bill also makes the chairpersons of the Committee on Agriculture and Natural Resources non-voting, ex-officio members of the committee. No action has been reported from the committee on the bill.

LB 438 – Prohibits in-stream appropriations in fully or over-appropriated areas. Senator Fischer. The bill prohibits the Director of Natural Resources from approving an in-stream flow appropriation in a river basin, subbasin, or reach that has been determined or designated by the department to be fully-appropriated or over-appropriated. Current law already prohibits new appropriations of water in such areas. NARD testified in support on behalf of the association and also submitted a letter on behalf of the Middle Niobrara NRD. No action has been reported from the committee on the bill.

LB 477 -- Change provisions relating to water transfer permits. Senator Carlson. The bill changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. John Thorburn testified in support, with clarifying amendments, on behalf of the NARD. No action has been reported from the committee on the bill.

LB 520 – Provide for an income tax credit for perpetual conservation easement donations. Senator Hadley. The bill allows for a refundable income tax credit to a taxpayer who donates all or part of the value of a perpetual conservation easement upon real property the taxpayer owns to the state, to a political subdivision of the state, or to a charitable

organization. John Thorburn testified in support on behalf of NARD. No action has been reported from the committee on the bill.

LB 577 – Change provisions relating to improvement project areas of natural resources districts, Senator Rogert.

The bill limits the power or authority of NRDs to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid under the Improvement Project Area (IPA) statute. The bill strikes most existing language and definitions relating to IPA statutes and severely limits the ability to use the law to protect and improve property. John Thorburn testified in opposition to the bill on behalf of NARD and also submitted letters from 11 other NRDs in opposition. Other testimony in opposition was provided by Marlin Peterman, PMRNRD Manager; Jasper Fanning, Upper Republican NRD Manager; and Stan Staab, Lower Elkhorn NRD. The bill was brought to the legislature by the Papio Valley Preservation Association, a Washington County based group that opposes flood control programs to protect lives and property in Omaha.

LB 624 -- Provide for energy efficiency loans for public buildings, Haar. The bill creates the Public Building Energy Efficiency Fund for use by any political subdivision for a public building energy efficiency loan. No action has been reported from the committee on the bill.

Committee Action

The Natural Resources Committee has advanced **LB 184** and **LB 379** to the General File. **LB 184** authorizes the Department of Natural Resources to consider and administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. **LB 379** extends the grant program for scrap tires from June 30, 2009 to June 30, 2014.

Floor Action

The Senators gave final approval to **LB 179e** and **LB 180** this week and presented them to the Governor to sign into law. **LB 179e** clarifies a start date of July 1, 1993 for annual inflation adjustments to the cap on the Nebraska Resources Development Fund. The bill included the emergency clause so the bill would go into effect as soon as it is signed by the governor. **LB 180** proposes to allow grants from the Waste Reduction and Recycling Incentive Fund to be used for reimbursement of costs to cities of the second class, villages, and counties with population of five thousand or fewer for the deconstruction of abandoned buildings.

Hearings next week

Tuesday, February 10, 2009 -- Agriculture Committee; Room 1524, 1:30 PM

- **LB 263 -- Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act. Senator Rogert.** The bill proposes that the Nebraska Seed Law and any rules and regulations adopted under the act shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of seeds.
- **LB 581 -- Change disposition of funds from Pesticide Act fees and weed book sales. Senator Carlson.** The bill makes changes to the distribution of pesticide fees to increase funding to the noxious weed program.

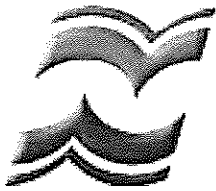
Wednesday, February 11, 2009 -- Health & Human Services Committee; Room 1510, 1:30 PM

- **LB 656 -- Adopt the Health Care Accessibility and Affordability Act. Senator Harms.** Establishes a Health Care Plan Advisory Council to develop recommendations for a comprehensive plan to require all Nebraskans not covered by Medicare to have a basic health insurance plan.

The Legislature will not be in session on Friday, February 13 and Monday, February 16th, providing an opportunity to spend a long weekend in the home districts.

| NARD Bill Summary Tracking Sheet | | | | | | | | | | Page 1 of 2 | |
|----------------------------------|---|---|----------|------------------------|--|---------------------------|--------------|-------------------------------|-------------------------------|-------------|--|
| Bill or CA | Description | Sponsor(s) | Priority | Last Updated: 02/06/09 | | Committee | Hearing Date | Status | Amendments | | |
| | | | | NARD POSITION | | | | | | | |
| LB 12 | Increase NRDF | Langemeier | | Support | | Appropriations | | Committee | | | |
| LB 18 | Prohibit irrigation on new school land leases | Christensen | N/A | N/A | | Natural Resources | N/A | Withdrawn | Christensen MO4-passed | | |
| LB 42 | Improvements to Rural Water Systems | Flood | | Monitor | | Natural Resources | 1/21/2009 | General File | | | |
| LB 43 | Eliminate Interstate Water Rights Fund | Flood | | Monitor | | Natural Resources | 1/21/2009 | General File | | | |
| LB 54 | Integrated Water Management Procedures | Fischer | | Support | | Natural Resources | 1/28/2009 | Committee | | | |
| LB 56 | Modify Livestock Waste Management | Fischer | | Monitor | | Natural Resources | 1/28/2009 | Committee | | | |
| LB 98 | Extend Riparian Vegetation Management | Carlson | | Support | | Agriculture | 2/17/2009 | Committee | | | |
| LB 134 | Limit NRD Eminent Domain Authorities | Pankonin | | Opposed | | Natural Resources | 1/23/2009 | Committee | | | |
| LB 160 | Bond Authority for PMNRD | Gay | | Support | | Natural Resources | 1/23/2009 | Committee | | | |
| LB 162 | Change provisions relating to contractor registration and income tax withholding | Carlson | | Monitor | | Revenue | 2/6/2009 | Committee | | | |
| LB 179 | Change project limit adjustments under the Nebraska Resources Development Fund | Natural Resources Committee | | Support | | Natural Resources | 1/21/2009 | Presented to Governor, 2/6/09 | | | |
| LB 180 | Change provisions relating to the Waste Reduction and Recycling Incentive Fund | Natural Resources Committee | | Support | | Natural Resources | 1/21/2009 | Presented to Governor, 2/6/09 | FA2-Lost, FA3-Lost, AM60-Lost | | |
| LB 184 | Authorize Department of Natural Resources to administer riparian water rights | Louden | | Support | | Natural Resources | 1/28/2009 | General File | | | |
| LB 209 | Change provisions relating to time for construction of irrigation projects and dams (NARD Bill) | Langemeier | | Support | | Natural Resources | 1/30/2009 | Committee | | | |
| LB 210 | Change provisions relating to aid to natural resources districts (NARD Bill) | Langemeier | | Support | | Revenue | 3/12/2009 | Committee | | | |
| LB 218 | Change, eliminate, and provide state aid to various political subdivisions | Cornett | | Monitor | | Revenue | 1/28/2009 | Committee | | | |
| LB 235 | Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration | Adams | | Monitor | | Education | 3/9/2009 | Committee | | | |
| LB 246 | Reestablish the Biopower Steering Committee; to provide for a study | Dubas | | Monitor | | Natural Resources | 1/30/2009 | Committee | | | |
| LB 263 | Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act | Rogert | | Opposed | | Agriculture | 2/10/2009 | Committee | | | |
| LB 286 | Change the distribution of lottery funds | General Affairs Committee | | Monitor | | General Affairs Committee | | Committee | | | |
| LB 289 | Appropriate funds to the Game and Parks Commission | Christensen | | Support | | Appropriations | | Committee | | | |
| LB 304 | Change limitation of action provisions under the Political Subdivisions Tort Claims Act | Council | | Monitor | | Judiciary | 2/4/2009 | Committee | | | |
| LB 315 | Mainline appropriations for state government operations | Speaker Flood on behalf of the Governor | | Support | | Appropriations | | Committee | | | |
| LB 316 | Budget cash fund transfers | Speaker Flood on behalf of the Governor | | Support | | Appropriations | | Committee | | | |

| NARD Bill Summary Tracking Sheet | | | | | | | Page 2 of 2 | |
|---|--|------------------|-------------|------------------------|--------------------------|---|-------------|--------------|
| LB | Bill Number | Bill Description | Friend | Last Updated: 02/08/09 | Monitor | Committee | 3/12/2009 | Committee |
| LB 336 | Exempt municipal water from sales tax | | Friend | | Monitor | Revenue | | Committee |
| LB 361 | Change roll call provisions under the Open Meetings Act | | Avery | | Monitor | Government, Military and Veterans Affairs | | Committee |
| LB 362 | Change requirements for candidate filing forms | | Avery | | Monitor | Government, Military and Veterans Affairs | | Committee |
| LB 379 | Extend the scrap tire grant program | | Haar | | Support | Natural Resources | 1/29/2009 | General File |
| LB 389 | Change appointment provisions for the Climate Assessment Response Committee | | Carlson | | Monitor | Agriculture | 2/3/2009 | Committee |
| LB 438 | Prohibits instream appropriations in fully or over appropriated areas | | Fischer | | Support | Natural Resources | 2/5/2009 | Committee |
| LB 466 | Eliminate excise tax on corn and grain sorghum | | Wallman | | Monitor | Revenue | 3/12/2009 | Committee |
| LB 477 | Change provisions relating to water transfer permits | | Carlson | | Support w/ clarification | Natural Resources | 2/5/2009 | Committee |
| LB 480 | Change budget limit and tax levy limitation provisions | | Dierks | | Support | Revenue | 2/19/2009 | Committee |
| LB 482 | Change provisions of the NE GW Management and Protection Act | | Langemeier | | Monitor | Natural Resources | 1/29/2009 | Committee |
| LB 483 | Change well moratoriums | | Langemeier | | Support | Natural Resources | 1/29/2009 | Committee |
| LB 486 | Require certain governmental entities to identify themselves as such in their official name | | Karpisek | | Monitor | Government, Military and Veterans Affairs | | Committee |
| LB 504 | Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state | | Langemeier | | Support | Natural Resources | 2/27/2009 | Committee |
| LB 520 | Provide for an income tax credit for perpetual conservation easement donations | | Hadley | | Support | Revenue | 2/6/2009 | Committee |
| LB 535 | Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs. | | Stuhman | | Oppose | Natural Resources | 2/20/2009 | Committee |
| LB 565 | Adopt the Woody Biomass Energy Act | | Louden | | Support | Natural Resources | 2/4/2009 | Committee |
| LB 577 | Change provisions relating to improvement projects areas of NRDs. | | Rogert | | Oppose | Natural Resources | 2/6/2009 | Committee |
| LB 581 | Change disposition of funds from Pesticide Act fees and weed book sales | | Carlson | | Monitor | Agriculture | 2/10/2009 | Committee |
| LB 582 | Create the NE Invasive Species Council | | Dierks | | Support w/ modifications | Natural Resources | 3/4/2009 | Committee |
| LB 624 | Provide for energy efficiency loans for public buildings | | Haar | | Monitor | Natural Resources | 2/4/2009 | Committee |
| LB 626 | Change prohibited activities for public officials and public employee's use of public resources | | Karpisek | | Support | Government, Military and Veterans Affairs | | Committee |
| LB 632 | Adopt the NE Green Building Advantage Act and authorize a sales refund | | Mello | | Monitor | Revenue | 3/5/2009 | Committee |
| LB 639 | Change provisions to telephone conferencing for public meetings | | Karpisek | | Monitor | Government, Military and Veterans Affairs | | Committee |
| LB 643 | Change and provide notice requirements of road construction near electric lines | | Schliiz | | Monitor | Natural Resources | 2/20/2009 | Committee |
| LB 644 | Adopt the Electronics Recycling Act | | Mello | | Monitor | Natural Resources | 3/11/2009 | Committee |
| LB 651 | Create Water Resources Revolving Loan Fund Act (NARD Bill) | | Christensen | | Support | Natural Resources | 2/26/2009 | Committee |
| LB 656 | Adopt the Health Care Accessibility and Affordability Act | | Harms | | Monitor | Health and Human Services | 2/11/2009 | Committee |
| LB 666 | Changes to the Niobrara Scenic River Council | | Langemeier | | Support | Natural Resources | 2/25/2009 | Committee |
| LB 678 | Change provisions relating to minutes of public meetings | | Haar | | Monitor | Government, Military and Veterans Affairs | | Committee |



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

February 13, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 13 NARD Update

2009 NRD Technician Certification Training and Water Programs Conference. The 2009 Natural Resources Ground Water Technician Certification Training and Water Programs Conference are scheduled for March 2nd and 3rd at the Kearney Holiday Inn. The training class is free to all NRD employees but the charge for certification is \$53, payable to the NE Dept. of Health and Human Services by **February 25th**. The cost for the Water Programs conference is \$65 payable to the NARD. Both the technician training and conference are valid for CEU credits. Online registration is available at www.nrdnet.org.

Nebraska Unicameral Action

Hearings this week

LB 263 -- Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act. Senator Rogert. The bill proposes that the Nebraska Seed Law and the Nebraska Fertilizer and Soil Conditioners act and any rules and regulations adopted under the act shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of seeds. NARD is working with Senator Rogert, the sponsor of the bill, and Senator Carlson, Chair of the Ag Committee, to clarify that NRDs can still regulate fertilizers under the Nebraska Groundwater Management and Protection Act. No action has been taken by the Ag Committee.

LB 581 -- Change disposition of funds from Pesticide Act fees and weed book sales. Senator Carlson. The bill makes changes to the distribution of pesticide fees to increase funding to the noxious weed program. No action has been taken by the Ag Committee.

Committee Action

LB 56-- Change the Livestock Waste Management Act, Fischer. The Natural Resources Committee advanced LB 56 with **AM 310** this week. The original bill proposes several changes to the permit system including: 1) Changes the standard for small operations to be subject to the inspection, construction and operating permit system. Small operations (less than 300 head cattle, 750 hogs, etc) are exempt from permits but can be subject to the permit if there has been a discharge to water of the state. The proposal would have it apply only if an intentional or willful intent to discharge occurred. 2) Defines discharge violations to be those discovered after investigation to be caused intentionally or by willful negligence. 3) Establishes that if a permit-holder loses his/her permit for violations on one operation, the revocation does not include any other person who is a relative, partner, member, shareholder, resident, parent company, subsidiary, or other affiliate of the permit holder. 4) Currently, a permit can be revoked for three non-permitted discharges from a facility, whereas the bill proposes to make it three discharge violations. The bill proposes to count those violations on a per facility basis, rather than the current per operator basis. In other words, the bill proposes that a large operator with several facilities could have many violations and still not come under the three strikes provision as long as no one of those facilities had three violations.

The committee amendment (AM 310) eliminates that the producer's discharge must be "willfully" committed before a discharge violation can be charged, leaving only that the discharge must be intentionally or negligently committed before a discharge violation, or "strike", can be assessed. The committee amendment also increases the number of discharges, or strikes, from three to five that a producer must commit before being determined unsuited to hold a permit.

LB 438 – Prohibits in-stream appropriations in fully or over-appropriated areas. Senator Fischer.

The bill prohibits the Director of the Department of Natural Resources from approving an in-stream flow appropriation in a river basin, sub-basin, or reach that has been determined or designated by the department to be fully-appropriated or over-appropriated. Current law already prohibits new appropriations of water in such areas. NARD testified in support on behalf of the association and also submitted a letter on behalf of the Middle Niobrara NRD. The Committee is working on a clarifying amendment to allow for a transfer from an existing appropriation to an instream flow appropriation in fully or over-appropriated areas. No final committee action has been taken.

LB 54 – Integrated Water Management Procedures. Senator Fischer. The bill creates a process for the NRDs and DNR to use in fully and over-appropriated basins for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin. Just prior to the hearing, surface water irrigators requested three changes to the bill. First, they are requesting a "zero tolerance" standard to be applied for offset water. The language would state that offset water not be allowed if there is any adverse affect on existing water users, no matter how minuscule the affect. The second request is to force collaboration, in addition to consultation, between the NRDs and all surface water users on developing rules on offset water. The third request is to force all Integrated Management Plans to be updated every two years. The third request has been dropped, but parties are meeting to discuss other options for the other two. No final committee action has been taken.

Floor Action

Senators advanced **LB 184** and **LB 379** this week to Select File. **LB 184** authorizes the Department of Natural Resources to consider and administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. **LB 379** extends the grant program for scrap tires from June 30, 2009 to June 30, 2014.

Hearings next week

Tuesday, February 17, 2009 -- Agriculture Committee, Room 1524, 1:30 PM.

LB 98 – Extend the termination date for the Riparian Vegetation Management Task Force, Carlson.

Extends the termination date for the Riparian Vegetation Management Task Force from 2009 to 2011. The bill also outlines legislative intent to appropriate \$2 million annually for the next two fiscal years. Finally, the bill makes fully appropriated river basins subject to compacts and decrees the priority for programs rather than just the initial priority when the programs started in 2007.

Thursday, February 19, 2009 - Government Committee, Room 1507, 1:30 PM.

LB 361 -- Change roll call provisions under the Open Meetings Act, Avery. Current law requires that the vote on any question or motion moved and seconded to be on a roll call vote in an open session. There is a provision to allow a municipality to satisfy this requirement by voice vote if an electronic voting device is used and can be viewed by the public. The bill proposes to add a joint entity created pursuant to the

Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to the list that can utilize an electronic voting device.

LB 639 -- Change provisions relating to telephone conferencing for public meetings, Karpisek.

Makes a change to allow advisory committees of a risk management pool organized under the Intergovernmental Risk Management Act to hold more than half of their meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

LB 678 -- Change provisions relating to minutes of public meetings, Haar. The bill allows minutes of meetings subject to the Open Meetings Act to be written or in an electronic recording, including audio or video recording of the meeting.

Thursday, February 19, 2009 - Revenue Committee, Room 1524, 1:30 PM.

LB 480 -- Change budget limit and tax levy limitation provisions, Dierks. The bill changes the definition of capital improvements by specifying that such improvements must have a useful life of five years or more. The bill also states that property tax levies for capital improvements as so defined are not included in property tax levy limits.

Friday, February 20, 2009 -- Natural Resources Committee, Room 1524, 1:30 PM.

LB 535 -- Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts, Stuthman. The bill increases from 3 to 15 members appointed by the Governor to the Natural Resources Commission. The additional 12 appointments would be representatives of the business community.

The bill also requires that all programs and projects of natural resources districts shall first be shown to be wanted by a majority of the residents of the watershed. If the residents approve, then surveys may be used for general programs or projects to determine potential utilization of the program or project. Any surveys used shall be consistent with state and federal agency statistics and shall not include the same population areas to justify more than one of the same kind of project in a 50-year period of time. All projects shall be bid in total, not by part, and all expenses shall be included when determining a rate of return for a project.

Finally, the bill prohibits the NRD use of eminent domain powers until all other requirements for a dam or any other improvement project have been complied with.

LB 643 -- Change and provide notice requirements of road construction near electric lines, Schilz. The bill requires natural resources districts to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, poles, or anchors.

If the line, poles, or anchors to be moved are within an area that will require Federal Aviation Administration approval, notice shall be given at least one year prior to the start of any work.

The Legislature will not be in session on Monday, February 16th.

| NARD Bill Summary Tracking Sheet | | | | | | | | | | Page 1 of 2 | |
|----------------------------------|--|---|----------|------------------------|---------------|---------------------------|--------------|-------------------------------|---|-------------|--|
| Bill or CA | Description | Sponsor(s) | Priority | Last Updated: 02/13/09 | NARD POSITION | Committee | Hearing Date | Status | Amendments | | |
| LB 12 | Increase NRDF | Langemeier | | | Support | Appropriations | | Committee | | | |
| LB 18 | Prohibit irrigation on new school land leases | Christensen | N/A | | | Natural Resources | N/A | Withdrawn | Christensen MO4-passed | | |
| LB 42 | Improvements to Rural Water Systems | Flood | | | Monitor | Natural Resources | 1/21/2009 | General File | | | |
| LB 43 | Eliminate Interstate Water Rights Fund | Flood | | | Monitor | Natural Resources | 1/21/2009 | General File | | | |
| LB 54 | Integrated Water Management Procedures | Fischer | | | Support | Natural Resources | 1/28/2009 | Committee | | | |
| LB 56 | Modify Livestock Waste Management | Fischer | | | Monitor | Natural Resources | 1/28/2009 | General File | Am310-Pending | | |
| LB 98 | Extend Riparian Vegetation Management | Carlson | | | Support | Agriculture | 2/17/2009 | Committee | | | |
| LB 134 | Limit NRD Eminent Domain Authorities | Pankonin | | | Opposed | Natural Resources | 1/23/2009 | Committee | | | |
| LB 160 | Bond Authority for PMNRD | Gay | | | Support | Natural Resources | 1/23/2009 | Committee | | | |
| LB 162 | Change provisions relating to contractor registration and income tax withholding | Cornett | | | Monitor | Revenue | 2/6/2009 | Committee | Cornett name added, Carlson name withdrew | | |
| LB 179e | Change project limit adjustments under the Nebraska Resources Development Fund | Natural Resources Committee | | | Support | Natural Resources | 1/21/2009 | Presented to Governor, 2/6/09 | Passed with Emergency Clause | | |
| LB 180 | Change provisions relating to the Waste Reduction and Recycling Incentive Fund | Natural Resources Committee | | | Support | Natural Resources | 1/21/2009 | Presented to Governor, 2/6/09 | FA2-Lost, FA3-Lost, AM60-Lost | | |
| LB 184 | Authorize Department of Natural Resources to administer riparian water rights | Louden | | | Support | Natural Resources | 1/28/2009 | Select File | | | |
| LB 209 | Change provisions relating to time for construction of irrigation projects and dams (NARD Bill) | Langemeier | | | Support | Natural Resources | 1/30/2009 | Committee | | | |
| LB 210 | Change provisions relating to aid to natural resources districts (NARD Bill) | Langemeier | | | Support | Revenue | 3/12/2009 | Committee | | | |
| LB 218 | Change, eliminate, and provide state aid to various political subdivisions | Cornett | | | Monitor | Revenue | 1/28/2009 | Committee | | | |
| LB 235 | Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration | Adams | | | Monitor | Education | 3/9/2009 | Committee | | | |
| LB 246 | Reestablish the Biopower Steering Committee; to provide for a study | Dubas | | | Monitor | Natural Resources | 1/30/2009 | Committee | | | |
| LB 263 | Provide that state law preempt local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act | Rogert | | | Opposed | Agriculture | 2/10/2009 | Committee | | | |
| LB 286 | Change the distribution of lottery funds | General Affairs Committee | | | Monitor | General Affairs Committee | | Committee | | | |
| LB 289 | Appropriate funds to the Game and Parks Commission | Christensen | | | Support | Appropriations | | Committee | | | |
| LB 304 | Change limitation of action provisions under the Political Subdivisions Tort Claims Act | Council | | | Monitor | Judiciary | 2/4/2009 | Committee | | | |
| LB 315 | Mainline appropriations for state government operations | Speaker Flood on behalf of the Governor | | | Support | Appropriations | 2/23/2009 | Committee | | | |

| | | | | | | | | |
|--------|----------------------------|---|--|---------|----------------|-----------|-----------|--|
| LB 316 | Budget cash fund transfers | Speaker Flood on behalf of the Governor | | Support | Appropriations | 2/23/2009 | Committee | |
|--------|----------------------------|---|--|---------|----------------|-----------|-----------|--|

| NARD Bill Summary Tracking Sheet | | | | | | | Page 2 of 2 | |
|---|--|-------------|------------------------|--------------------------|---|-----------|-------------|--|
| LB 336 | Exempt municipal water from sales tax | Friend | Last Updated: 02/13/09 | Monitor | Revenue | 3/12/2009 | Committee | |
| LB 361 | Change roll call provisions under the Open Meetings Act | Avery | | Monitor | Government, Military and Veterans Affairs | 2/19/2009 | Committee | |
| LB 362 | Change requirements for candidate filing forms | Avery | | Monitor | Government, Military and Veterans Affairs | 2/25/2009 | Committee | |
| LB 379 | Extend the scrap tire grant program | Haar | | Support | Natural Resources | 1/29/2009 | Select File | |
| LB 389 | Change appointment provisions for the Climate Assessment Response Committee | Carlson | | Monitor | Agriculture | 2/3/2009 | Committee | |
| LB 438 | Prohibits instream appropriations in fully or over appropriated areas | Fischer | | Support | Natural Resources | 2/5/2009 | Committee | |
| LB 466 | Eliminate excise tax on corn and grain sorghum | Wallman | | Monitor | Revenue | 3/12/2009 | Committee | |
| LB 477 | Change provisions relating to water transfer permits | Carlson | | Support w/ clarification | Natural Resources | 2/5/2009 | Committee | |
| LB 480 | Change budget limit and tax levy limitation provisions | Dierks | | Support | Revenue | 2/19/2009 | Committee | |
| LB 482 | Change provisions of the NE GW Management and Protection Act | Langemeier | | Monitor | Natural Resources | 1/29/2009 | Committee | |
| LB 483 | Change well moratoriums | Langemeier | | Support | Natural Resources | 1/29/2009 | Committee | |
| LB 486 | Require certain governmental entities to identify themselves as such in their official name | Karpisek | | Monitor | Government, Military and Veterans Affairs | 3/5/2009 | Committee | |
| LB 504 | Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state | Langemeier | | Support | Natural Resources | 2/27/2009 | Committee | |
| LB 520 | Provide for an income tax credit for perpetual conservation easement donations | Hadley | | Support | Revenue | 2/6/2009 | Committee | |
| LB 535 | Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs. | Stuthman | | Oppose | Natural Resources | 2/20/2009 | Committee | |
| LB 565 | Adopt the Woody Biomass Energy Act | Louden | | Support | Natural Resources | 2/4/2009 | Committee | |
| LB 577 | Change provisions relating to improvement projects areas of NRDs. | Rogert | | Oppose | Natural Resources | 2/6/2009 | Committee | |
| LB 581 | Change disposition of funds from Pesticide Act fees and weed book sales | Carlson | | Monitor | Agriculture | 2/10/2009 | Committee | |
| LB 582 | Create the NE Invasive Species Council | Dierks | | Support w/ modifications | Natural Resources | 3/4/2009 | Committee | |
| LB 624 | Provide for energy efficiency loans for public buildings | Haar | | Monitor | Natural Resources | 2/4/2009 | Committee | |
| LB 626 | Change prohibited activities for public officials and public employee's use of public resources | Karpisek | | Support | Government, Military and Veterans Affairs | 3/4/2009 | Committee | |
| LB 632 | Adopt the NE Green Building Advantage Act and authorize a sales refund | Mello | | Monitor | Revenue | 3/5/2009 | Committee | |
| LB 639 | Change provisions to telephone conferencing for public meetings | Karpisek | | Monitor | Government, Military and Veterans Affairs | 2/19/2009 | Committee | |
| LB 643 | Change and provide notice requirements of road construction near electric lines | Schitz | | Monitor | Natural Resources | 2/20/2009 | Committee | |
| LB 644 | Adopt the Electronics Recycling Act | Mello | | Monitor | Natural Resources | 3/1/2009 | Committee | |
| LB 651 | Create Water Resources Revolving Loan Fund Act (NARD Bill) | Christensen | | Support | Natural Resources | 2/26/2009 | Committee | |
| LB 656 | Adopt the Health Care Accessibility and Affordability Act | Harms | | Monitor | Health and Human Services | 2/11/2009 | Committee | |
| LB 666 | Changes to the Niobrara Scenic River Council | Langemeier | | Support | Natural Resources | 2/25/2009 | Committee | |
| LB 678 | Change provisions relating to minutes of public meetings | Haar | | Monitor | Government, Military and Veterans Affairs | 2/19/2009 | Committee | |



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

February 20, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 20 NARD Update

Hearings this week

LB 98 – Extend the termination date for the Riparian Vegetation Management Task Force, Carlson. Extends the termination date for the Riparian Vegetation Management Task Force from 2009 to 2011. The bill also outlines legislative intent to appropriate \$2 million annually for the next two fiscal years. Finally, the bill makes fully appropriated river basins subject to compacts and decrees the priority for programs rather than just the initial priority when the programs started in 2007.

Mike Clements, Lower Republican NRD Manager, testified in support of the bill on behalf of NARD. The committee has not taken action on the bill.

LB 643 -- Change and provide notice requirements of road construction near electric lines, Schilz. The bill requires natural resources districts to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, poles, or anchors. The bill was introduced on behalf of the Nebraska Rural Electric Association.

John Miyoshi, Manager of the Lower Platte North NRD, testified in a neutral capacity on the bill but raised questions on the correct number of days for a notice requirement. The Nebraska Association of County Officials and Nebraska Association of General Contractors raised similar concerns also in a neutral capacity.

Senator Schilz requested that no action be taken on the bill while the counties, natural resources districts, rural electric organizations and other interested parties review the existing law over the interim and bring back an amendment for the bill next year.

LB 535 -- Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts, Stuthman. The bill increases from 3 to 15 members appointed by the Governor to the Natural Resources Commission. The additional 12 appointments would be representatives of the business community. The bill also requires that all programs and projects of natural resources districts shall first be shown to be wanted by a majority of the residents of the watershed. If the residents approve, then surveys may be used for general programs or projects to determine potential utilization of the program or project. The bill would also require a vote of the people in the entire watershed if a bond was issued under the improvement project statutes. The bill was introduced on behalf of a constituent who testified in support of the bill.

Opposition to the bill was presented on behalf of NARD by Stan Stabb, Lower Elkhorn NRD Manager. Additional opposition testimony was submitted by Papio Missouri River NRD, City of Omaha, and the Sierra Club.

Open Meetings Act Legislation – The Government and Military Affairs Committee accepted testimony on three bills relating to open meetings act this week. The summary of the bills and related actions follows.

- **LB 361 -- Change roll call provisions under the Open Meetings Act, Avery.** Current law requires that the vote on any question or motion moved and seconded to be on a roll call vote in an open session. There is a provision to allow a municipality to satisfy this requirement by voice vote if an electronic voting device is used and can be viewed by the public. The bill proposes to add a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to the list that can utilize an electronic voting device.

The bill was introduced on behalf of the Nebraska Municipal Power Pool Energy . The Nebraska Association of County Officials told the committee that they would support the bill if they included counties in the language. No one testified in opposition and no action was taken on this bill.

- **LB 639 -- Change provisions relating to telephone conferencing for public meetings, Karpisek.** Makes a change to allow advisory committees of a risk management pool organized under the Intergovernmental Risk Management Act to hold more than half of their meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing. This bill was supported by the Nebraska League of Municipalities. No one testified in opposition and no action was taken by the committee on this bill.
- **LB 678 -- Change provisions relating to minutes of public meetings, Haar.** The bill allows minutes of meetings subject to the Open Meetings Act to be written or in an electronic recording, including audio or video recording of the meeting.

An amendment to this bill was offered at the hearing to require meeting administrators to provide written minutes to any person who requests them within 10 business days of the request, if the request is made prior to the next regularly scheduled meeting of the group. Administrators will be allowed to assess a reasonable charge for this service. Current law requires written minutes to be provided upon request within four business days of the request. Alternatively, electronic minutes will also be provided to anyone upon request.

Supporters included the Nebraska Association of County Officials and the City of Lincoln. The Nebraska League of Municipalities presented neutral testimony and noted that this bill would not affect any municipality less than 100,000 in population or any other governmental organization that is by law required to publish minutes of their meetings. Media of Nebraska testified in opposition to the bill. No action has been taken by the committee on the bill.

Committee Action

LB 54 – Integrated Water Management Procedures. Senator Fischer. The bill creates a process for the NRDs and DNR to use in fully and over-appropriated basins for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin.

An amendment is under consideration by the natural resources committee to allow offsets for new uses as long as there is no more than a de minimus affect on existing users. A second part of the amendment would require consultation and an opportunity for public comment from all water users. At a meeting involving state senators this week, the Nebraska Association of Resources Districts, Nebraska Water Resources Association, Nebraska Farm Bureau Federation and the Nebraska State Irrigation Association

agreed to the amendment. However, there appears to be opposition from a few large irrigation and power districts to the amendment because it no longer has a “zero tolerance” standard for offsets and does not mandate collaboration.

No final committee action has been taken.

Hearings next week

Wednesday, February 25, 2009 – Natural Resources Committee, Room 1524, 1:30 PM.

LB 666 – Changes to the Niobrara Scenic River Council, Langemeier. The bill removes the requirement that the Niobrara Scenic River Council has to approve of zoning requirements imposed by cities, villages and counties in the area covered by the designation. The change places the appointed council in an advisory role to local elected officials rather than an oversight role.

The bill redefines the mission of the council to provide local representation to the National Park Service and report to the county boards of Brown, Cherry, Keya Paha, and Rock counties. The bill changes the membership requirements of the council for three representatives on the council so that they must reside in a county that includes land in the Niobrara Scenic River corridor. These representatives include: 1) the recreational business representative; 2) the timber industry representative; and 3) the recognized, nonprofit, environmental, conservation, or wildlife organization representative.

The bill further encourages the use and enjoyment of the Niobrara River for recreational, fish and wildlife, geological, historical, cultural, or other assets, and encourage continuance of existing agricultural, horticultural, forestry, and open space land and water uses.

Finally, the bill strikes the authority of the council to hold titles to real estate, accept gifts of real estate, or obtain conservation easements in the name of the council.

Thursday, February 26, 2009 - Natural Resources Committee, Room 1524, 1:30 PM.

LB 651 – Create Water Resources Revolving Loan Fund Act, Christensen. (NARD Bill) The bill creates the Water Resources Revolving Fund to provide low interest loans to natural resources districts or any joint entity with a joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have oversight over the program and an administrative fee would be allowed to pay for operational cost of the program.

The loans under the program would be for activities related to financing or refinancing the costs of eligible projects including , but not limited to, river augmentation, vegetation management, acquisition of water rights, and to furnish water for domestic purposes.

The initial funding source for the program would come from the repayment of the loan provided by the State of Nebraska to the natural resources districts in the Republican River Basin last year under LB 1094.

Friday, February 27, 2009 - Natural Resources Committee, Room 1524, 1:30 PM.

LB 504 - Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state, Langemeier. Authorizes the Nebraska Department of Environmental Quality to take over the 404 permit process from the U.S. Army Corps of Engineers.

| NARD Bill Summary Tracking Sheet | | | | | | | | | | Page 1 of 2 | |
|----------------------------------|---|---|----------|------------------------|-----|---------------------------------------|--------------|-------------------------------|---|-------------|--|
| Bill or CA | Description | Sponsor(s) | Priority | Last Updated: 02/20/09 | | Committee | Hearing Date | Status | Amendments | | |
| | | | | NARD POSITION | | | | | | | |
| LB 12 | Increase NRDF | Langemeier | | Support | N/A | Appropriations | 3/9/2009 | Committee | | | |
| LB 18 | Prohibit irrigation on new school land leases | Christensen | N/A | | | Natural Resources | N/A | Withdrawn | Christensen MO4-passed | | |
| LB 42 | Improvements to Rural Water Systems | Flood | | Monitor | | Natural Resources | 1/21/2009 | General File | | | |
| LB 43 | Eliminate Interstate Water Rights Fund | Flood | | Monitor | | Natural Resources | 1/21/2009 | General File | | | |
| LB 54 | Integrated Water Management Procedures | Fischer | | Support | | Natural Resources | 1/28/2009 | Committee | | | |
| LB 56 | Modify Livestock Waste Management | Fischer | | Monitor | | Natural Resources | 1/28/2009 | General File | Am310-Pending | | |
| LB 98 | Extend Riparian Vegetation Management | Carlson | | Support | | Agriculture | 2/17/2009 | Committee | | | |
| LB 134 | Limit NRD Eminent Domain Authorities | Pankonin | | Opposed | | Natural Resources | 1/23/2009 | Committee | | | |
| LB 160 | Bond Authority for PMNRD | Gay | | Support | | Natural Resources | 1/23/2009 | Committee | | | |
| LB 162 | Change provisions relating to contractor registration and income tax withholding | Cornett | | Monitor | | Revenue | 2/6/2009 | Committee | Cornett name added, Carlson name withdrew | | |
| LB 179e | Change project limit adjustments under the Nebraska Resources Development Fund | Natural Resources Committee | | Support | | Natural Resources | 1/21/2009 | Approved by Governor, 2/12/09 | Passed with Emergency Clause | | |
| LB 180 | Change provisions relating to the Waste Reduction and Recycling Incentive Fund | Natural Resources Committee | | Support | | Natural Resources | 1/21/2009 | Approved by Governor, 2/12/09 | FA2-Lost, FA3-Lost, AM60-Lost | | |
| LB 184 | Authorize Department of Natural Resources to administer riparian water rights | Louden | | Support | | Natural Resources | 1/28/2009 | Select File | | | |
| LB 209 | Change provisions relating to time for construction of irrigation projects and dams (NARD Bill) | Langemeier | | Support | | Natural Resources | 1/30/2009 | Committee | | | |
| LB 210 | Change provisions relating to aid to natural resources districts (NARD Bill) | Langemeier | | Support | | Revenue | 3/12/2009 | Committee | | | |
| LB 218 | Change, eliminate, and provide state aid to various political subdivisions | Cornett | | Monitor | | Revenue | 1/28/2009 | Committee | | | |
| LB 235 | Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration | Adams | | Monitor | | Education | 3/9/2009 | Committee | | | |
| LB 246 | Reestablish the Biopower Steering Committee; to provide for a study | Dubas | | Monitor | | Natural Resources | 1/30/2009 | Committee | | | |
| LB 263 | Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act | Rogert General Affairs Committee | | Opposed | | Agriculture General Affairs Committee | 2/10/2009 | Committee | | | |
| LB 286 | Change the distribution of lottery funds | Christensen | | Support | | Appropriations | 3/11/2009 | Committee | | | |
| LB 289 | Appropriate funds to the Game and Parks Commission | | | Monitor | | Judiciary | 2/4/2009 | Committee | | | |
| LB 304 | Change limitation of action provisions under the Political Subdivisions Tort Claims Act | Speaker Flood on behalf of the Governor | | Support | | Appropriations | DNR 3/9/09 | Committee | | | |
| LB 315 | Mainline appropriations for state government operations | Speaker Flood on behalf of the Governor | | Support | | Appropriations | 2/23/2009 | Committee | | | |
| LB 316 | Budget cash fund transfers | | | Support | | Appropriations | | Committee | | | |

| NARD Bill Summary Tracking Sheet | | | | | | | Page 2 of 2 | |
|----------------------------------|--|------------------|--------------------------|---|-------------|--------------|-------------|--|
| LB | Bill Number | Bill Description | Staff | Last Updated: 02/20/09 | Committee | Meeting Date | Committee | |
| LB 336 | Exempt municipal water from sales tax | Friend | Monitor | Revenue | Committee | 3/12/2009 | Committee | |
| LB 361 | Change roll call provisions under the Open Meetings Act | Avery | Monitor | Government, Military and Veterans Affairs | Committee | 2/19/2009 | Committee | |
| LB 362 | Change requirements for candidate filing forms | Avery | Monitor | Government, Military and Veterans Affairs | Committee | 2/25/2009 | Committee | |
| LB 379 | Extend the scrap tire grant program | Haar | Support | Natural Resources | Select File | 1/29/2009 | Select File | |
| LB 389 | Change appointment provisions for the Climate Assessment Response Committee | Carlson | Monitor | Agriculture | Committee | 2/3/2009 | Committee | |
| LB 438 | Prohibits instream appropriations in fully or over appropriated areas | Fischer | Support | Natural Resources | Committee | 2/5/2009 | Committee | |
| LB 466 | Eliminate excise tax on corn and grain sorghum | Wallman | Monitor | Revenue | Committee | 3/12/2009 | Committee | |
| LB 477 | Change provisions relating to water transfer permits | Carlson | Support w/ clarification | Natural Resources | Committee | 2/5/2009 | Committee | |
| LB 480 | Change budget limit and tax levy limitation provisions | Dierks | Support | Revenue | Committee | 2/19/2009 | Committee | |
| LB 482 | Change provisions of the NE GW Management and Protection Act | Langemeier | Monitor | Natural Resources | Committee | 1/29/2009 | Committee | |
| LB 483 | Change well moratoriums | Langemeier | Support | Natural Resources | Committee | 1/29/2009 | Committee | |
| LB 486 | Require certain governmental entities to identify themselves as such in their official name | Karpisek | Monitor | Government, Military and Veterans Affairs | Committee | 3/5/2009 | Committee | |
| LB 504 | Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state | Langemeier | Support | Natural Resources | Committee | 2/27/2009 | Committee | |
| LB 520 | Provide for an income tax credit for perpetual conservation easement donations | Hadley | Support | Revenue | Committee | 2/6/2009 | Committee | |
| LB 535 | Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs. | Stultman | Oppose | Natural Resources | Committee | 2/20/2009 | Committee | |
| LB 565 | Adopt the Woody Biomass Energy Act | Louden | Support | Natural Resources | Committee | 2/4/2009 | Committee | |
| LB 577 | Change provisions relating to improvement projects areas of NRDs. | Rogert | Oppose | Natural Resources | Committee | 2/6/2009 | Committee | |
| LB 581 | Change disposition of funds from Pesticide Act fees and weed book sales | Carlson | Monitor | Agriculture | Committee | 2/10/2009 | Committee | |
| LB 582 | Create the NE Invasive Species Council | Dierks | Support w/ modifications | Natural Resources | Committee | 3/4/2009 | Committee | |
| LB 624 | Provide for energy efficiency loans for public buildings | Haar | Monitor | Natural Resources | Committee | 2/4/2009 | Committee | |
| LB 626 | Change prohibited activities for public officials and public employee's use of public resources | Karpisek | Support | Government, Military and Veterans Affairs | Committee | 3/4/2009 | Committee | |
| LB 632 | Adopt the NE Green Building Advantage Act and authorize a sales refund | Mello | Monitor | Revenue | Committee | 3/5/2009 | Committee | |
| LB 639 | Change provisions to telephone conferencing for public meetings | Karpisek | Monitor | Government, Military and Veterans Affairs | Committee | 2/19/2009 | Committee | |
| LB 643 | Change and provide notice requirements of road construction near electric lines | Schilz | Monitor | Natural Resources | Committee | 2/20/2009 | Committee | |
| LB 644 | Adopt the Electronics Recycling Act | Mello | Monitor | Natural Resources | Committee | 3/11/2009 | Committee | |
| LB 651 | Create Water Resources Revolving Loan Fund Act (NARD Bill) | Christensen | Support | Natural Resources | Committee | 2/26/2009 | Committee | |
| LB 656 | Adopt the Health Care Accessibility and Affordability Act | Harms | Monitor | Health and Human Services | Committee | 2/11/2009 | Committee | |
| LB 666 | Changes to the Niobrara Scenic River Council | Langemeier | Support | Natural Resources | Committee | 2/25/2009 | Committee | |
| LB 678 | Change provisions relating to minutes of public meetings | Haar | Monitor | Government, Military and Veterans Affairs | Committee | 2/19/2009 | Committee | |



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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

nard@nrdnet.org
(402) 471-7670

February 27, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 27 NARD Update

LB 184 Riparian Water Management Bill Stalls -- A bill to authorize the Department of Natural Resources to consider and administer any riparian water right stalled on Select File this week after constitutional questions arose about the measure. Senator Chris Langemeier filed a motion (MO18) to send the bill back to the Natural Resources Committee for reconsideration. When the bill came up for scheduled debate on Friday Senator Loudon, the sponsor of the bill, requested the bill be passed over and not be debated.

The following bills were acted upon by the Natural Resources Committee:

- **LB 54 – Integrated Water Management Procedures. Senator Fischer.** The Natural Resources Committee **advanced LB 54** this week with **AM 346**. The bill creates a process for the NRDs and DNR to use in fully and over-appropriated basins for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin.

The amendment allows offsets for new uses as long as there is no more than a de minimus affect on existing users. A second part of the amendment would require consultation and an opportunity for public comment from all water users.

- **LB 483 - Change well moratoriums, Langemeier.** The Natural Resources Committee **advanced LB 483** this week with **AM 502**. Senator Langemeier also declared the bill his **Priority Bill** for the session. The bill changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

Under the committee amendment, the bill would require districts in this situation to create and implement a policy for the prioritization and granting of water well permits for the four-year period following such situations. It would require moratoriums to stay in place until the districts developed a plan to allow limited growth that would not reach a point to cause a fully appropriated determination. The bill would also prohibit DNR from issuing a surface water right that would result in a fully appropriated status.

The committee amendment would require NRD rules and regulations that allow water well permits to be issued that will result in no more than 2,500 irrigated acres or that will result in an increase of not more than 20 percent of all historically irrigated acres within the hydrologically connected area of each natural resources district within the affected river basin, sub-basin, or reach, whichever is less, for each calendar year of the four-year period following the date of the determination.

For DNR, the amendment would limit issuances of surface water permits to a net increase of more than four hundred irrigated acres in each natural resources district during each calendar year of the four-year period following the date of the determination described in this section. The department shall not in any event issue a new surface water appropriation that will cause a basin, sub-basin, or reach to be fully appropriated.

- **LB 577 – Change provisions relating to improvement project areas of natural resources districts, Senator Rogert.** The Natural Resources Committee **indefinitely postponed LB577** this week. The bill proposed to limit the power or authority of NRDs to cooperate with private landowners to protect and improve property under the Improvement Project Area (IPA) statutes. The bill was brought to the legislature by the Papio Valley Preservation Association, a Washington County-based group that opposes flood control programs to protect lives and property in Omaha.
- **LB 477 -- Change provisions relating to water transfer permits. Senator Carlson.** The Natural Resources Committee **advanced LB 477** this week with **AM 481**. The bill, with the amendments, changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill also clarifies in law that NRDs can certify ground water irrigated acres. The bill then requires that any transfer of certified acres or uses, include similar evidence of the lien holder's agreement to allow the transfer.
- **LB 209 – Change provisions relating to time for construction of irrigation projects and dams. Senator Langemeier.** The Natural Resources Committee **advanced LB 209** this week as written. The bill changes the time frame from 6 months to 12 months after the Department of Natural Resources approves of water project to commence the excavation or construction. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction.

Hearings this week

LB 666 – Changes to the Niobrara Scenic River Council, Langemeier. The hearing on the bill this week turned into an emotional plea from opponents of the bill to "Save the Niobrara River". However, the bill does nothing to change the flow in the river. The DNR determination last year that the basin is fully appropriated prohibits new water uses unless offset water is provided.

The bill simply removes the requirement that the appointed Niobrara Scenic River Council has to approve of zoning requirements imposed by cities, villages and counties in the area covered by the designation. The change places the appointed council in an advisory role to local elected officials rather than an oversight role. This is the only area in the state that an appointed board has such authority over an elected body. It was revealed at the hearing that the National Park Service tells the Council whether to approve or disapprove of local zoning actions and conservation plans.

Mike Murphy, Middle Niobrara NRD Manager, testified in support of the change on behalf of NARD. The testimony asked the legislature to clarify what the role of the Council should be especially on approving individual conservation programs for landowners that have already been approved by federal, state and other local entities. Several other individuals testified in support of the measure and

several environmental interests testified in opposition. The Natural Resources Committee took no action on the bill.

LB 651 – Create Water Resources Revolving Loan Fund Act, Christensen. (NARD Bill) Jasper Fanning, Upper Republican NRD Manager, and Dan Smith, Middle Republican NRD Manager, testified in support of the bill on behalf of NARD which creates a Water Resources Revolving Fund. The testimony focused on the need to have funds available to NRDs in the fully and over-appropriated districts to finance projects for water needs throughout the state.

The bill would provide low interest loans to natural resources districts or any joint entity with a joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have oversight over the program and an administrative fee would be allowed to pay for operational cost of the program.

The loans under the program would be used for activities related to financing or refinancing the costs of eligible projects including, but not limited to, river augmentation, vegetation management, acquisition of water rights, and to furnish water for domestic purposes.

Several members of the group that filed the lawsuit against LB 701 spoke in opposition to the bill, but did not mention any specific problems with the bill. Rather their focus was on the court decision that ruled the property tax unconstitutional and that groundwater users other than them should be shut down. Frenchman Cambridge Irrigation District spoke against the bill and focused their testimony making sure that any water savings from NRD programs are not protected for compact compliance. Rather they want all Nebraska surface water irrigators have all of their water rights filled to the maximum amount before any water is delivered to Kansas under the compact. Going as far back to the early 1900s, surface water irrigators in the basin were granted diversion rights of 3 feet of water directly out of the river per irrigated acre in the basin. Groundwater irrigators, which began development in the 1950s, are limited to 9-13 inches/acre in the basin.

The committee took no action on the bill.

LB 504 - Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state, Langemeier. John Miyoshi, Manager of the Lower Platte North NRD, presented testimony on behalf of NARD in support of LB 504 which allows the State of Nebraska to take over the 404 permit process from the U.S. Army Corps of Engineers. Ken Berney, Assistant Manager of the Lower Elkhorn NRD, also submitted a letter in support.

The testimony outlined the lengthy and expensive delays for obtaining a 404 permit for flood control projects from the Corps. Governor Dave Heineman recently sent a letter to President Obama noting that the 404 permit process needs to be fixed to assist with infrastructure development in Nebraska. The fiscal note from the Department of Environmental Quality listed just over \$1 million per year to operate the program, which may be less than the losses from the delays.

Other supporters included the Nebraska Cattlemen and a private contractor. The League of Conservation Voters testified in a neutral capacity on the bill, but stressed there are lengthy delays in obtaining permits under the current system. No testimony was provided in opposition to the bill and the committee took no action.

HEARINGS NEXT WEEK

Monday, March 2, 2009 – General Affairs Committee, Room 1510, 1:30 PM.

LB 286 – Change the distribution of lottery funds, General Affairs Committee, General Affairs Committee. The bill proposes to change the way lottery proceeds are transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund.

Wednesday, March 4, 2009 – Natural Resources Committee, Room 1525, 1:30 PM.

LB 582 -- Create the Nebraska Invasive Species Council, Dierks. The bill establishes the Nebraska Invasive Species Council to recommend action to minimize the effects of harmful invasive vegetation in Nebraska.

Wednesday, March 4, 2009 – Government, Military, and Veterans Affairs Committee, Room 1507, 1:30 PM.

LB 626 -- Change prohibited activities for public officials and public employee's use of public resources, Karpisek. The bill makes several changes and clarifications regarding incidental use of governmental property by governmental employees. Primarily, the bill outlines that use of public resources by a public official or public employee which is incidental, de minimis, or unintentional shall not constitute a violation of the Nebraska Political Accountability and Disclosure Act.

Thursday, March 5, 2009 – Government, Military, and Veterans Affairs Committee, Room 1507, 1:30 PM.

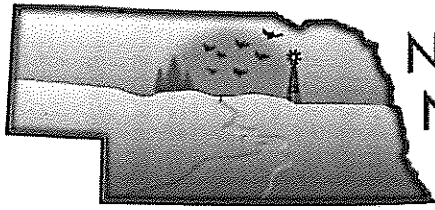
LB 486 -- Require certain governmental entities to identify themselves as such in their official name, Karpisek. The bill provides that the state, its agencies, the University of Nebraska, and each political subdivision of the state and any other unit of local government, which includes any entity created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act, shall include as part of its official name the words that clearly identify the entity as a unit of government.

Thursday, March 5, 2009 – Revenue Committee, Room 1524, 1:30 PM.

LB 632 -- Adopt the Nebraska Green Building Advantage Act and authorize a sales tax refund, Mello. The bill adopts the Nebraska Green Building Advantage Act and provides a sales tax credit to those commercial buildings that use the Leadership in Energy and Environmental Design Green Building Rating System (LEED).

| NARD Bill Summary Tracking Sheet | | | | | | Page 1 of 2 | | |
|----------------------------------|---|---|----------|------------------------|---------------------------|--------------|-------------------------------|--|
| Bill or CA | Description | Sponsor(s) | Priority | Last Updated: 02/27/09 | Committee | Hearing Date | Status | Amendments |
| LB 12 | Increase NRDF | Langemeier | | Support | Appropriations | 3/9/2009 | Committee | |
| LB 18 | Prohibit irrigation on new school land leases | Christensen | N/A | N/A | Natural Resources | N/A | Withdrawn | Christensen MO4-passed |
| LB 42 | Improvements to Rural Water Systems | Flood | | Monitor | Natural Resources | 1/21/2009 | General File | |
| LB 43 | Eliminate Interstate Water Rights Fund | Flood | | Monitor | Natural Resources | 1/21/2009 | General File | |
| LB 54 | Integrated Water Management Procedures | Fischer | | Support | Natural Resources | 1/28/2009 | General File | AM346 |
| LB 56 | Modify Livestock Waste Management | Fischer | | Monitor | Natural Resources | 1/28/2009 | General File | AM310-Pending |
| LB 98 | Extend Riparian Vegetation Management | Carlson | | Support | Agriculture | 2/17/2009 | Committee | |
| LB 134 | Limit NRD Eminent Domain Authorities | Pankonin | | Opposed | Natural Resources | 1/23/2009 | Committee | |
| LB 160 | Bond Authority for PMNRD | Gay | | Support | Natural Resources | 1/23/2009 | Committee | |
| LB 162 | Change provisions relating to contractor registration and income tax withholding | Cornett | | Monitor | Revenue | 2/6/2009 | General File | Cornett name added, Carlson name withdrew, AM357-Pending |
| LB 179e | Change project limit adjustments under the Nebraska Resources Development Fund | Natural Resources Committee | | Support | Natural Resources | 1/21/2009 | Approved by Governor, 2/12/09 | Passed with Emergency Clause |
| LB 180 | Change provisions relating to the Waste Reduction and Recycling Incentive Fund | Natural Resources Committee | | Support | Natural Resources | 1/21/2009 | Approved by Governor, 2/12/09 | FA2-Lost, FA3-Lost, AM60-Lost |
| LB 184 | Authorize Department of Natural Resources to administer riparian water rights | Louden | | Support | Natural Resources | 1/28/2009 | Select File | AM 453-Pending, MO18 - Pending |
| LB 209 | Change provisions relating to time for construction of irrigation projects and dams (NARD Bill) | Langemeier | | Support | Natural Resources | 1/30/2009 | General File | |
| LB 210 | Change provisions relating to aid to natural resources districts (NARD Bill) | Langemeier | | Support | Revenue | 3/12/2009 | Committee | |
| LB 218 | Change, eliminate, and provide state aid to various political subdivisions | Cornett | | Monitor | Revenue | 1/28/2009 | Committee | |
| LB 235 | Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration | Adams | | Monitor | Education | 3/9/2009 | Committee | |
| LB 246 | Reestablish the Biopower Steering Committee; to provide for a study | Dubas | | Monitor | Natural Resources | 1/30/2009 | Committee | |
| LB 263 | Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act | Rogert | | Opposed | Agriculture | 2/10/2009 | Committee | |
| LB 286 | Change the distribution of lottery funds | General Affairs Committee | | Monitor | General Affairs Committee | 3/2/2009 | Committee | |
| LB 289 | Appropriate funds to the Game and Parks Commission | Christensen | | Support | Appropriations | 3/11/2009 | Committee | |
| LB 304 | Change limitation of action provisions under the Political Subdivisions Tort Claims Act | Council | | Monitor | Judiciary | 2/4/2009 | Committee | |
| LB 315 | Mainline appropriations for state government operations | Speaker Flood on behalf of the Governor | | Support | Appropriations | DNR 3/9/09 | Committee | |
| LB 316 | Budget cash fund transfers | Speaker Flood on behalf of the Governor | | Support | Appropriations | 2/23/2009 | Committee | |

| NARD Bill Summary Tracking Sheet | | | | | | | | | | Page 2 of 2 | |
|---|--|-------------|--------------------------|------------|---|--|-----------|------------------------|---------------|-------------|--|
| | Friend | Priority | Last Updated: 02/27/09 | | Revenue | | 3/12/2009 | Committee | | | |
| LB 336 | Exempt municipal water from sales tax | | Monitor | | Revenue | | | Committee | | | |
| LB 361 | Change roll call provisions under the Open Meetings Act | Avery | Monitor | | Government, Military and Veterans Affairs | | 2/19/2009 | Committee | | | |
| LB 362 | Change requirements for candidate filing forms | Avery | Monitor | | Government, Military and Veterans Affairs | | 2/25/2009 | Committee | | | |
| LB 379 | Extend the scrap tire grant program | Haar | Support | | Natural Resources | | 1/29/2009 | Final Reading | | | |
| LB 389 | Change appointment provisions for the Climate Assessment Response Committee | Carlson | Monitor | | Agriculture | | 2/3/2009 | Committee | | | |
| LB 436 | Prohibits instream appropriations in fully or over appropriated areas | Fischer | Support | | Natural Resources | | 2/5/2009 | Committee | | | |
| LB 466 | Eliminate excise tax on corn and grain sorghum | Wallman | Monitor | | Revenue | | 3/12/2009 | Committee | | | |
| LB 477 | Change provisions relating to water transfer permits | Carlson | Support w/ clarification | | Natural Resources | | 2/5/2009 | General File | AM481 | | |
| LB 480 | Change budget limit and tax levy limitation provisions | Dierks | Support | | Revenue | | 2/19/2009 | Committee | | | |
| LB 482 | Change provisions of the NE GW Management and Protection Act | Langemeier | Monitor | | Natural Resources | | 1/29/2009 | Committee | | | |
| LB 483 | Change well moratoriums | Langemeier | Support | Langemeier | Natural Resources | | 1/29/2009 | General File | AM502-Pending | | |
| LB 486 | Require certain governmental entities to identify themselves as such in their official name | Karpisek | Monitor | | Government, Military and Veterans Affairs | | 3/5/2009 | Committee | | | |
| LB 504 | Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state | Langemeier | Support | | Natural Resources | | 2/27/2009 | Committee | | | |
| LB 520 | Provide for an income tax credit for perpetual conservation easement donations | Hadley | Support | | Revenue | | 2/6/2009 | Committee | | | |
| LB 535 | Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs. | Stuthman | Oppose | | Natural Resources | | 2/20/2009 | Committee | | | |
| LB 565 | Adopt the Woody Biomass Energy Act | Louden | Support | | Natural Resources | | 2/4/2009 | Committee | | | |
| LB 577 | Change provisions relating to improvement projects areas of NRDs. | Rogert | Oppose | | Natural Resources | | 2/6/2009 | Indefinitely Postponed | | | |
| LB 581 | Change disposition of funds from Pesticide Act fees and weed book sales | Carlson | Monitor | | Agriculture | | 2/10/2009 | Committee | | | |
| LB 582 | Create the NE Invasive Species Council | Dierks | Support w/ modifications | | Natural Resources | | 3/4/2009 | Committee | | | |
| LB 624 | Provide for energy efficiency loans for public buildings | Haar | Monitor | | Natural Resources | | 2/4/2009 | Committee | | | |
| LB 626 | Change prohibited activities for public officials and public employee's use of public resources | Karpisek | Support | | Government, Military and Veterans Affairs | | 3/4/2009 | Committee | | | |
| LB 632 | Adopt the NE Green Building Advantage Act and authorize a sales refund | Mello | Monitor | | Revenue | | 3/5/2009 | Committee | | | |
| LB 639 | Change provisions to telephone conferencing for public meetings | Karpisek | Monitor | | Government, Military and Veterans Affairs | | 2/19/2009 | Committee | | | |
| LB 643 | Change and provide notice requirements of road construction near electric lines | Schliz | Monitor | | Natural Resources | | 2/20/2009 | Committee | | | |
| LB 644 | Adopt the Electronics Recycling Act | Mello | Monitor | | Natural Resources | | 3/11/2009 | Committee | | | |
| LB 651 | Create Water Resources Revolving Loan Fund Act (NARD Bill) | Christensen | Support | | Natural Resources | | 2/25/2009 | Committee | | | |
| LB 656 | Adopt the Health Care Accessibility and Affordability Act | Harms | Monitor | | Health and Human Services | | 2/11/2009 | Committee | | | |
| LB 666 | Changes to the Niobrara Scenic River Council | Langemeier | Support | | Natural Resources | | 2/25/2009 | Committee | | | |
| LB 678 | Change provisions relating to minutes of public meetings | Haar | Monitor | | Government, Military and Veterans Affairs | | 2/19/2009 | Committee | | | |



Nebraska's Natural Resources Districts

www.nrdnet.org

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

nard@nrdnet.org
(402) 471-7670

Protecting Lives • Protecting Property • Protecting the Future

March 6, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: March 6 NARD Update

North Platte NRD responds to Central suit -- The North Platte Natural Resources District in Scottsbluff responded today (Friday, March 6) with a Motion to Dismiss a lawsuit filed January 8, 2009 by Central Nebraska Public Power and Irrigation District of Holdrege. Central filed the lawsuit seeking to overturn the 12-inch annual ground water allocation for water users in Pumpkin Creek Basin, and calling for more severe water restrictions in western Nebraska.

Counsel for the North Plate Natural Resources District in this litigation are Stephanie F. Stacy and Peter W. Katt with the Baylor Evnen Law Firm in Lincoln, together with the District's local counsel Steven C. Smith of Scottsbluff.

"While Central's filing with the Court is entertaining to read and makes great news, it is short on legal substance," Katt said of the 17-page complaint/petition against the NRD. Katt, Stacy, and Smith maintain that Central is asking the Court to invalidate the amended rules and regulations, which the NRD established pursuant to its statutory and legal authority, something the Court has no jurisdiction to review.

At the heart of Central's claim is the Lytle Report submitted by Central at the public hearing held October 16, 2008 in Harrisburg, recommending immediate limitation of the entire groundwater withdrawal from the Pumpkin Creek Basin to 8,000 acre/feet. Spread out over the 38,645.43 acres certified and irrigated with groundwater in the entire basin, the result would be about 2 ½ inches of irrigation water per acre for the crop land in Pumpkin Creek Basin.

"That is not enough to survive in this part of the country," Smith said. "Central seeks to put the water users in the entire Pumpkin Creek Basin out of business immediately."

Smith also points to the fact that water users within the boundaries of the CNPPID irrigate more acres with groundwater than the entire Pumpkin Creek Basin. Those irrigators within Central's boundaries have six to eight additional inches in surface water supply, not available to Pumpkin Creek Basin irrigators, and have received almost twice the average annual precipitation as water users in the Pumpkin Creek Basin.

"The arrogance of Central's action reveals an absolute disregard for the welfare of hundreds of farm families in the North Platte NRD and a continuing effort on Central's part to place legal liability for diminishing supplies in their reservoirs solely on water users in our basin," Smith said.

In responding to the lawsuit, NPNRD's team of legal counsel, along with its Board of Directors, maintains that the NRD has a legal right and obligation to protect the economic viability of residents in western Nebraska. "The NRD will vigorously defend its right and duty to make fair and sensible rules and regulations regarding our groundwater resources asserting the District's right to protect our existing beneficial uses," Smith said.

Balancing competing claims between ground water and surface water uses is to be done through the development of an Integrated Water Management Plan (IMP) by and between the Nebraska Department of Natural Resources (NDNR), the appropriate Natural Resources Districts (NRD's), and various stakeholders which would include Central. The attorneys pointed out that the NRD is adhering to that process and is scheduled to have its local IMP completed by September 2009.

"The causes of Central's problems involve many factors, especially the longstanding drought, over which this NRD has no control," Smith said. "We believe we have a very strong case, and will seek to obtain a ruling from the courts that Central has no legal right to second guess, in the form of this lawsuit, the rules and regulations properly adopted by our NRD Board."

Appropriations Committee releases preliminary budget report -- The Appropriations Committee released its preliminary budget report Feb. 26, proposing adjustments that would put spending growth at 2.4 percent per year, slightly higher than the governor's recommendation of 1.8 percent. Both numbers are significantly lower than the pre-session estimate of 4.6 percent. The preliminary budget increases state obligations by \$54.8 million over the biennium in comparison to Gov. Dave Heineman's budget plan and would result in a financial status that is \$36.4 million below the minimum reserve. This likely will be adjusted in the final budget recommendation, as the committee foresees significant alterations to the preliminary financial status before April.

The difference between the governor's proposed budget and the preliminary budget amounts to approximately 0.75 percent of the total general fund budget over the two-year period. Among the significant adjustments from the current biennium recommended by the committee are the following:

Factors that likely will alter the financial status include revenue forecast revisions, availability and use of federal stimulus funds, the status of the state's defined benefit retirement funds and use of cash reserve fund monies. The Appropriations Committee public hearings on the budget will continue in March. The committee has until the 70th legislative day during a long session (April 29th) to place budget bills on General File for debate by the full legislature.

LB 483 -- Water legislation advances -- Senators advanced LB 483, Senator Langemeier's Priority Bill, to Select File this week. The bill, with the adopted committee amendments (AM 502), changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

Under the committee amendment, the bill would require districts in this situation to create and implement a policy for the prioritization and granting of water well permits for the four-year period following such situations. It would require moratoriums to stay in place until the districts developed a plan to allow limited growth that would not reach a point to cause a fully appropriated determination. The bill would also prohibit DNR from issuing a surface water right that would result in a fully appropriated status.

The committee amendment would require NRD rules and regulations that allow water well permits to be issued that will result in no more than 2,500 irrigated acres or that will result in an increase of not more than 20 percent of all historically irrigated acres within the hydrologically connected area of each natural resources district within the affected river basin, sub-basin, or reach, whichever is less, for each calendar year of the four-year period following the date of the determination.

For DNR, the amendment would limit issuances of surface water permits to a net increase of no more than four hundred irrigated acres in each natural resources district during each calendar year of the four-year period following the date of the determination described in this section. The department would be prohibited from issuing a new surface water appropriation that will cause a basin, sub-basin, or reach to be fully appropriated.

LB681 -- LB 701 tax refund -- Senator Mike Flood, Speaker of the Legislature, introduced LB 681 on behalf of Governor Heineman this week which would provide refunds for taxes declared unconstitutional. The bill is in response to a recent Nebraska Supreme Court ruling that property taxes levied under LB 701 were a state purpose and thus unconstitutional. Existing law allows for refunds if a taxpayer had filed a protest of the taxes within specific timeframes when the tax was imposed. The bill would provide refunds to all taxpayers, whether they filed the protest or not and apply to all future tax cases. The hearing on the bill is scheduled for March 11th at 1:30 before the Revenue Committee.

Committee Hearings this week

LB 286 -- Change the distribution of lottery funds advances. After the hearing this week, the General Affairs Committee advanced LB 286 on a unanimous vote. The bill eliminates a sunset date in a provision of the State Lottery Act governing how funds are to be distributed to Lottery beneficiaries. It requires that the dollar amount transferred to beneficiary funds shall equal the greater of (a) the dollar amount transferred to the funds in fiscal year 2002-03, which

amounts to approximately \$20.2 million, or (b) any amount which constitutes at least 22% and no more than 25% of the dollar amount of the lottery tickets which have been sold on an annualized basis. To the extent that funds are available, the Tax Commissioner and Lottery Director may authorize a transfer exceeding 25% of the dollar amount of the lottery tickets sold on an annualized basis. The bill was supported by the Nebraska Lottery, the Coordinating Commission for Postsecondary Education, the Nebraska Environmental Trust and the Nebraska State Fair Board. There was no opposition to the bill.

LB 582 -- Create the Nebraska Invasive Species Council, Dierks. The Natural Resources Committee accepted testimony on LB 582 this week which establishes the Nebraska Invasive Species Council to recommend action to minimize the effects of harmful invasive vegetation in Nebraska. Mike Clements, Manager of the Lower Republican NRD, testified in support of the bill on behalf of NARD. Other supporters included the Weed Management Association, the Nebraska State Forester, Sierra Club, Nebraska Farmers Union and individual landowners. The Nebraska Cattlemen opposed the bill raising some concerns about too much federal representation on the proposed council. The committee took no action on the bill.

LB 626 -- Change prohibited activities for public officials and public employee's use of public resources, Karpisek. The Government Committee accepted testimony this week on LB626, a bill makes several changes and clarifications regarding incidental use of governmental property by governmental employees. Primarily, the bill outlines that use of public resources by a public official or public employee which is incidental, de minimis, or unintentional shall not constitute a violation of the Nebraska Political Accountability and Disclosure Act. The Nebraska Association of Resources Districts submitted a letter in support of the bill, specifically on the provision that allows local governing boards to set policies on de minimis uses.

Other supporters included the League of Municipalities and other political subdivisions. There were several neutral testifiers that suggested something needs to be done to address de minimis use. The Nebraska Accountability and Disclosure Commission opposed the bill because of other provisions that allow for use of public resources but did mention that the section dealing with local governing boards setting policies on de minimis use was a good idea. The committee took no action on the bill after the hearing.

HEARINGS NEXT WEEK

Monday, March 2, 2009 -- Appropriations Committee, Room 1524, 1:30 PM.

- **LB 12 - Increase Nebraska Resources Development Fund, Langemeier (NARD Bill).** Increases the annual general fund appropriation for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000 for FY 2009-10 and 2010-11.
- **LB 315, DNR agency hearing and budget request.**

Wednesday, March 11, 2009 -- Revenue Committee, Room 1524, 1:30 PM.

- **LB681 -- LB 701 tax refund --** Senator Mike Flood, Speaker of the Legislature, introduced LB 681 on behalf of Governor Heineman this week which would provide refunds for taxes declared unconstitutional. The bill is in response to a recent Nebraska Supreme Court ruling that property taxes levied under LB 701 were a state purpose and thus unconstitutional.

Thursday, March 12, 2009 -- Revenue Committee, Room 1524, 1:30 PM.

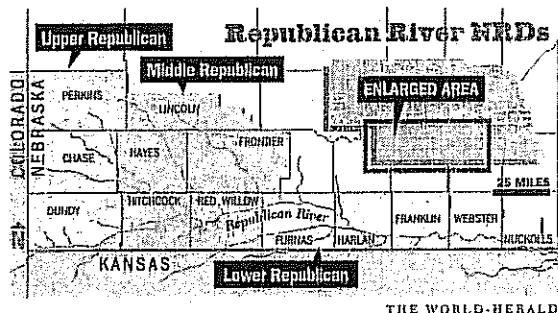
- **LB 210 -- Change provisions relating to aid to natural resources districts, Langemeier (NARD Bill).** Changes the state aid formula for natural resources districts so that the amount of property tax levied by the district shall not include the property tax levied to principal or interest on bonds. State aid to NRDs is calculated on the ratio of property taxes levied by a district compared to the total property taxes levied by all districts.

| NARD Bill Summary Tracking Sheet | | | | | | | | | | Page 1 of 2 | |
|----------------------------------|---|---|----------|---------------|---------------------------|--------------|-------------------------------|--|--|-------------|--|
| Bill or CA | Description | Sponsor(s) | Priority | NARD POSITION | Committee | Hearing Date | Status | Amendments | | | |
| LB 12 | Increase NRDF | Langemeier | | Support | Appropriations | 3/9/2009 | Committee | | | | |
| LB 18 | Prohibit irrigation on new school land leases | Christensen | N/A | N/A | Natural Resources | N/A | Withdrawn | Christensen MO4-passed | | | |
| LB 42 | Improvements to Rural Water Systems | Flood | | Monitor | Natural Resources | 1/21/2009 | General File | | | | |
| LB 43 | Eliminate Interstate Water Rights Fund | Flood | | Monitor | Natural Resources | 1/21/2009 | General File | | | | |
| LB 54 | Integrated Water Management Procedures | Fischer | | Support | Natural Resources | 1/28/2009 | General File | AM348 | | | |
| LB 56 | Modify Livestock Waste Management | Fischer | | Monitor | Natural Resources | 1/28/2009 | General File | AM310-Pending | | | |
| LB 98 | Extend Riparian Vegetation Management | Carlson | Carlson | Support | Agriculture | 2/17/2009 | Committee | | | | |
| LB 134 | Limit NRD Eminent Domain Authorities | Pankonin | | Opposed | Natural Resources | 1/23/2009 | Committee | | | | |
| LB 160 | Bond Authority for PMNRD | Gay | | Support | Natural Resources | 1/23/2009 | Committee | | | | |
| LB 162 | Change provisions relating to contractor registration and income tax withholding | Cornett | | Monitor | Revenue | 2/6/2009 | General File | Cornett name added, Carlson name withdrew, AM357-Pending | | | |
| LB 179e | Change project limit adjustments under the Nebraska Resources Development Fund | Natural Resources Committee | | Support | Natural Resources | 1/21/2009 | Approved by Governor, 2/12/09 | Passed with Emergency Clause | | | |
| LB 180 | Change provisions relating to the Waste Reduction and Recycling Incentive Fund | Natural Resources Committee | | Support | Natural Resources | 1/21/2009 | Approved by Governor, 2/12/09 | FA2-Lost, FA3-Lost, AM60-Lost | | | |
| LB 184 | Authorize Department of Natural Resources to administer riparian water rights | Louden | | Support | Natural Resources | 1/28/2009 | Select File | AM 453-Pending, MO18 - Pending, AM 543-Pending | | | |
| LB 209 | Change provisions relating to time for construction of irrigation projects and dams (NARD Bill) | Langemeier | | Support | Natural Resources | 1/30/2009 | General File | | | | |
| LB 210 | Change provisions relating to aid to natural resources districts (NARD Bill) | Langemeier | | Support | Revenue | 3/12/2009 | Committee | | | | |
| LB 218 | Change, eliminate, and provide state aid to various political subdivisions | Cornett | | Monitor | Revenue | 1/28/2009 | Committee | | | | |
| LB 235 | Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration | Adams | | Monitor | Education | 3/9/2009 | Committee | | | | |
| LB 246 | Reestablish the Biopower Steering Committee; to provide for a study | Dubas | | Monitor | Natural Resources | 1/30/2009 | Committee | | | | |
| LB 263 | Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act | Rogert General Affairs Committee | | Opposed | Agriculture | 2/10/2009 | Committee | | | | |
| LB 285 | Change the distribution of lottery funds | Christensen | | Monitor | General Affairs Committee | 3/2/2009 | General File | | | | |
| LB 289 | Appropriate funds to the Game and Parks Commission | Christensen | | Support | Appropriations | 3/11/2009 | Committee | | | | |
| LB 304 | Change limitation of action provisions under the Political Subdivisions Tort Claims Act | Council Speaker Flood on behalf of the Governor | | Monitor | Judiciary | 2/4/2009 | Committee | | | | |
| LB 315 | Mainline appropriations for state government operations | Speaker Flood on behalf of the Governor | | Support | Appropriations | DNR 3/9/09 | Committee | | | | |
| LB 316 | Budget cash fund transfers | Speaker Flood on behalf of the Governor | | Support | Appropriations | 2/23/2009 | Committee | | | | |

| NARD Bill Summary Tracking Sheet | | | | | | Last Updated: 03/06/09 | | Page 2 of 2 | |
|---|--|------------------|---|------------|--------------------------|---|---------------|--------------------|----------------|
| LB | Bill Number | Bill Description | Friend | Priority | Monitor | Revenue | Committee | Committee | |
| LB 336 | Exempt municipal water from sales tax | | | | | | | | |
| LB 361 | Change roll call provisions under the Open Meetings Act | | Avery | | Monitor | Government, Military and Veterans Affairs | General File | | AM 552-Pending |
| LB 362 | Change requirements for candidate filing forms | | Avery | | Monitor | Government, Military and Veterans Affairs | Committee | | |
| LB 379 | Extend the scrap tire grant program | | Haar | | Support | Natural Resources | Final Reading | | |
| LB 389 | Change appointment provisions for the Climate Assessment Response Committee | | Carlson | | Monitor | Agriculture | General File | | Am 355-Pending |
| LB 438 | Prohibits instream appropriations in fully or over appropriated areas | | Fischer | | Support | Natural Resources | Committee | | |
| LB 466 | Eliminate excise tax on corn and grain sorghum | | Wallman | | Monitor | Revenue | Committee | | |
| LB 477 | Change provisions relating to water transfer permits | | Carlson | | Support w/ clarification | Natural Resources | General File | | AM 481-Pending |
| LB 480 | Change budget limit and tax levy limitation provisions | | Dierks | | Support | Revenue | Committee | | |
| LB 482 | Change provisions of the NE GW Management and Protection Act | | Langemeier | | Monitor | Natural Resources | Committee | | |
| LB 483 | Change well moratoriums | | Langemeier | Langemeier | Support | Natural Resources | Select File | | AM502-Adopted |
| LB 486 | Require certain governmental entities to identify themselves as such in their official name | | Karpisek | | Monitor | Government, Military and Veterans Affairs | Committee | | |
| LB 504 | Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state | | Langemeier | | Support | Natural Resources | Committee | | |
| LB 520 | Provide for an income tax credit for perpetual conservation easement donations | | Hadley | | Support | Revenue | Committee | | |
| LB 535 | Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs. | | Stuthman | | Oppose | Natural Resources | Committee | | |
| LB 565 | Adopt the Woody Biomass Energy Act | | Louden | | Support | Natural Resources | Committee | | |
| LB 577 | Change provisions relating to improvement projects areas of NRDs. | | Rogert | | Oppose | Natural Resources | IPP | | |
| LB 581 | Change disposition of funds from Pesticide Act fees and weed book sales | | Carlson | | Monitor | Agriculture | Committee | | |
| LB 582 | Create the NE Invasive Species Council | | Dierks | | Support w/ modifications | Natural Resources | Committee | | |
| LB 624 | Provide for energy efficiency loans for public buildings | | Haar | | Monitor | Natural Resources | Committee | | |
| LB 626 | Change prohibited activities for public officials and public employee's use of public resources | | Karpisek | | Support | Government, Military and Veterans Affairs | Committee | | |
| LB 632 | Adopt the NE Green Building Advantage Act and authorize a sales refund | | Mello | | Monitor | Revenue | Committee | | |
| LB 639 | Change provisions to telephone conferencing for public meetings | | Karpisek | | Monitor | Government, Military and Veterans Affairs | Committee | | |
| LB 643 | Change and provide notice requirements of road construction near electric lines | | Schlitz | | Monitor | Natural Resources | Committee | | |
| LB 644 | Adopt the Electronics Recycling Act | | Mello | | Monitor | Natural Resources | Committee | | |
| LB 651 | Create Water Resources Revolving Loan Fund Act (NARD Bill) | | Christensen | | Support | Natural Resources | Committee | | |
| LB 656 | Adopt the Health Care Accessibility and Affordability Act | | Harms | | Monitor | Health and Human Services | Committee | | |
| LB 666 | Changes to the Niobrara Scenic River Council | | Langemeier | | Support | Natural Resources | Committee | | |
| LB 678 | Change provisions relating to minutes of public meetings | | Haar | | Monitor | Government, Military and Veterans Affairs | Committee | | |
| LB 681 | Provide for refund of unconstitutional taxes, assessments, and penalties | | Speaker Flood on behalf of the Governor | | Support | Revenue | Committee | | |

2-7-09

Water ruling may spread tax burden statewide



BY DAVID HENDEE
WORLD-HERALD STAFF WRITER

A Nebraska Supreme Court ruling on a Republican River issue could have broader implications for taxpayers across the state.

The fallout could see all Nebraska taxpayers shouldering more of the costs of regulating the state's water use to comply with interstate agreements, said Lincoln attorneys Don Blankenau and Jeanelle Lust.

A property tax on Republican River basin residents is struck down.

The court on Friday ruled unconstitutional a special, state-approved property tax levied by natural resources districts in the Republican River basin. The districts planned to use the funds to help the state deliver more water to Kansas,

as required under a three-state compact.

"This is a statewide problem. It needs a statewide solution and needs statewide dollars to fix it," said Lust, who represented the Republican basin taxpayers who filed the lawsuit. "This is a state obligation to take care of the water needs of Kansas, and it needs to fall on the entire state."

Blankenau, who helped defend the state, said the high
See Court: Page 2

Court: Occupation tax on basin residents remains

Continued from Page 1
court's decision could create taxing troubles not only in the Republican basin but also in the Platte River basin, which stretches across Nebraska.

Several Platte River natural resources districts use local property taxes to regulate water usage to help protect endangered species habitat under an agreement with Colorado, Wyoming and the federal government.

Blankenau acknowledged that the special property tax rejected by the court was created solely for Republican River NRDs.

"But the court said we can't use property taxes to regulate water for a state purpose," he said. "It's a serious problem. The door is open."

The special property tax law — known as Legislative Bill 701 in 2007 — was part of the effort by the Legislature and the Upper, Middle and Lower Republican Natural Resources Districts to comply with the 1943 Republican River agreement among Colorado, Kansas and Nebraska.

The property-poor districts can't raise enough money from general tax collections to fund big projects to keep the river flowing, such as buying water from farmers in the region to send downstream to Kansas.

Nebraska has used more than its share of water under the compact, leaving less for Kansas, which is pushing Nebraska for water and for millions of dollars in damages. The states are currently in a nonbinding arbitration process to try to resolve the conflict.

After the Legislature authorized the three NRDs to charge two new taxes, the districts

REPUBLICAN RIVER TIMELINE

1943

Colorado, Kansas and Nebraska agree to the Republican River Compact, allocating 11 percent of river water to Colorado, 40 percent to Kansas and 49 percent to Nebraska.

1999

Kansas sues Colorado and Nebraska in U.S. Supreme Court for using more than allotted shares of water.

2002

States settle lawsuit, agreeing on procedure to measure water using computer model.

2003-06

Nebraska overuses river water.

moved quickly. They generated nearly \$8.8 million in new occupation and property taxes to buy water rights from irrigators.

After a group of basin residents challenged the taxes, the NRDs set the funds aside. Water, however, had already been bought from farmers, and some was released to Kansas.

The Legislature stepped in and loaned the NRDs \$9 million to pay for the water last year until the litigation over the new taxes was resolved.

Attorney General Jon Bruning said Friday he disagreed with the court's ruling.

Nebraska's ability to comply with the three-state agreement requires a partnership among NRD managers, irrigators and the state, he said.

"The nature of the partnership is what's at issue here," Bruning said. "We remain committed to

2006-07

State leases or purchases water from surface-water irrigators, releasing it to flow to Kansas.

2007

Gov. Dave Heineman signs Legislative Bill 701, authorizing new taxes in Republican River basin for NRD programs to comply with compact. Nine Republican River basin landowners challenge the constitutionality of LB 701's property tax provision.

2008

Lancaster County District Judge Paul Merritt Jr. rules special property tax unconstitutional.

Friday

Nebraska Supreme Court affirms District Court order.

defending the tools currently available to the natural resource districts to manage water use."

Attorneys for the NRDs argued that the property taxes were constitutional because they were levied locally by the districts. They said that the state didn't mandate the taxes and that the benefits were local because they head off a shutdown of irrigation wells and a crash in the local farm economy.

The ruling upholds an earlier decision by Lancaster County District Judge Paul Merritt.

Angus Garey of McCook, one of nine Republican River basin landowners and residents who filed the lawsuit, said he was pleased with the decision and expected county commissioners to begin asking NRDs to refund the special property tax revenue to the counties.

"The taxpayers of southwest

Nebraska are relieved," Garey said.

The court's decision, however, doesn't rob the NRDs of all the new taxing tools provided in LB 701.

An occupation tax of up to \$10 per acre on irrigated land generated about three-fourths of the nearly \$9 million collected under the new law. The court's decision didn't affect the occupation tax, but the tax is being challenged in a separate District Court case.

State Sen. Mark Christensen of Imperial, who introduced LB 701, said he wasn't worried about the Republican NRDs' ability to fund other expensive river programs — as long as they don't lose the occupation tax.

"It's all we need," Christensen said.

Christensen and State Sen. Chris Langemeier of Schuyler, chairman of the Legislature's Natural Resources Committee, said senators would meet next week with Bruning's staff to determine whether new legislation is needed this session.

Lust said the court's message to state senators and water managers is "you can't stick your head in the sand and do nothing about the Republican River issues. Maybe this is what some state senators who don't live in the basin needed to hear."

Lust said Nebraska's water issues won't disappear.

"What we were really hoping to accomplish — in addition to eliminating the property tax — was to get the Legislature to realize that they can't solve the state's compliance problems on the backs of the people in the Republican River basin," she said.

Contact the writer:
444-1127, david.hendee@owh.com

A perfect storm for Midlands flooding?

■ Rain forecast for Monday will fall on half-frozen fields and iced-up rivers, creating runoff and possibly ice dams.

BY NANCY GAARDER
WORLD-HERALD STAFF WRITER

Al Dutcher doesn't like the look of the coming week—a rainstorm on the way; frozen rivers on the verge of breaking up; and waterlogged, half-frozen fields.

It's a perfect recipe for flooding.

Come to think of it, Dutcher, the Nebraska state climatologist, would probably be happy when the whole of spring is over. During the months ahead, he said, the flood threat could be worse than last year, when floods struck across the Midwest.

Flooding is a threat every spring, but next week, and this spring in general, the risk is "definitely above normal," said Dutcher, with the University of Nebraska-Lincoln School of Natural Resources.

Areas along the Platte, Elkhorn and Blue Rivers that typically are at risk of flooding should be on alert, he said. Residents in the Platte River Valley from Columbus downstream should pay attention to changing conditions, and those along the Blue River from Grand Island downstream should be on the lookout.

Storms forecast to begin Monday morning could bring a half-inch of rain or more across the eastern two-thirds of Nebraska, and up to an inch across much of Iowa, according to the National Weather Service. Isolated thunderstorms could bring greater amounts to some areas, forecasters said.

Think of it this way, Dutcher said: If temperatures were lower, the storm would probably produce 6 to 15 inches of snow.

"This is a pretty strong storm," he said.

Dutcher and Becky Griffis, meteorologist for the weather service office in Valley, point to a couple of factors that worry them.

"Rain this early on (river) ice is not normal," Griffis said. "We haven't had a situation like this in a long time."

The problem, she said, is that the warm weekend will thaw out some of that ice, making it easier to break apart. When the rains come, the volume of runoff could be so heavy that it will churn up that ice, contributing to jamming and "ice dams."

In Iowa, there is 18 inches of snow on the ground in Lake Mills, near the Minnesota border and 4 inches in the central part of the state around Des Moines.

A combination of snowmelt and heavy rain atop frozen ground could cause problems, said Kenny Podrazik, a weather

See Flood: Page 2

2-7-09

Flood: 'We could have a real mess on our hands'

Continued from Page 1
service meteorologist in Johnston, Iowa.

"That on top of all the frozen ground still and the snow depth across northern Iowa could potentially lead to some kinds of river issues," he said Friday.

Flooding in low-lying areas and ice jams along rivers are possible.

As of Friday, forecasters had not issued flood warnings in Nebraska or Iowa. Griffis said the weather service will con-

tinue to monitor the situation and will know more this weekend as the ice in rivers breaks up.

The reason runoff is such a problem, Dutcher said, is that fields are waterlogged from heavy rains last fall. In October, 5 inches of rainfall was common in parts of eastern Nebraska, with some areas seeing 8 to 11 inches—an amount that typically would fall from October through April.

With the ground saturated,

the rain will flow to low-lying areas.

"We could have a real mess on our hands," he said.

Dutcher said the flood risk likely will linger through the spring.

The issue isn't just flooding, he said, it's also the potential for delayed spring planting. If farmers can't get into their fields in a timely manner, crops will be at greater risk for other problems through the growing season, he said.

Dutcher said he only has to look at last year to see how damaging floods can be across the region.

The problem, he said, is that conditions are more ripe for flooding now than they were at this time last year.

This report includes material from the Associated Press.

■ Contact the writer:

444-1102, nancy.gaarder@owl.com

Threat of flooding near Linoma Beach rises, falls

BY NANCY GAARDER
WORLD-HERALD STAFF WRITER

A sudden breakup of an ice jam along the Platte River brought a great deal of relief to the Linoma Beach area this morning.

Sarpy County sheriff's deputies had gone door to door this morning in the area, asking people to evacuate because the ice jam was sending floodwaters their way. Flooding appeared imminent, according to Sarpy County Sheriff's Lt. Chris Culler.

However, the jam broke up and waters began receding, so deputies called off the evacuation.

Culler said it appears that no homes in the Beacon View and

Thomas Riverside Acres housing areas were flooded. Those are the housing areas closest to Linoma Beach, a popular campground and restaurant.

The low-lying area along the Platte River is prone to flooding, he said.

"This is typical at this time of year," he said. "Whenever ice jams happen, this is the first place we go."

The Papio-Missouri River Natural Resources District, with assistance from the Omaha Police Department's helicopter unit, was to fly over the area this morning to examine the extent of the problem.

John Winkler, general manager of the NRD, said the district began getting concerned

See Ice jam: Page 2

Ice jam:

Flooding threat eases near Linoma Beach

Continued from Page 1

Monday night when river gauges were showing rapid rises in river levels. Night-time conditions made visibility difficult, he said.

The area of concern, Winkler said, was centered around the Highway 6 bridge. The Platte River from Interstate 80 downstream to its confluence with the Missouri River seems generally clear, he said.

Bryon Miller, meteorologist with the National Weather Service, said conditions the rest of the week should contribute to a safe breakup of river ice. Snow is possible later in the week.

"If we can get a lot of the ice flushed out of here over the next couple of days — before the snow develops — that would be a good thing," Miller said.

Minor flooding remained possible today and this evening along the Loup, Elkhorn and Platte Rivers, according to the weather service.

Miller said that Logan Creek in parts of Cuming, Dodge and Washington Counties in Nebraska and the Little Sioux in Minona County, Iowa, appeared to be running bank full.

Miller said the area was spared a more serious flood threat because rain totals did not reach the level forecast. The National Weather Service had forecast a half-inch or more, with the potential for localized heavy rain from thunderstorms. The area generally received .10 of an inch to .30 of an inch of rain.

The storm system moved through faster than expected, Miller said.

Contact the writer:

444-1102, nancy.gaarder@owh.com

TUESDAY, FEBRUARY 10, 2009

BLAIR, NEBRASKA 68008

Papio meeting planned

By Stephanie Ludwig
Reporter

A flood of questions, and hopefully, a dam of answers will be discussed at a meeting of local officials this Saturday.

The workshop will discuss water quality improvement and flood prevention throughout the Papillion Creek Watershed, an area that covers parts of Washington, Douglas and Sarpy counties. It is the most flood-prone urban area in Nebraska, as it covers over one-third of Nebraska's population.

Members of the Papillion Creek Watershed Partnership, a group formed six years ago that consists of 11 governmental bodies from around the watershed area, will present water quality and flood recommendations to the community. It also plans to propose watershed management policies and a watershed management plan for flood prevention in the metro-area.

Mayors, city council members and county board members from Douglas, Sarpy and Washington counties are expected to be on hand, as well as board members from the Papio-Missouri River Natural Resources District.

"All partnership jurisdictions will be acting on this information within the next few months," said Jim Thompson, NRD board chairman. "Our watershed has limited options, time and land available for water quality and flood prevention improvements. We are attempting to bring together over 150 elected officials that are directly impacted by these federal regulations."

The workshop will officially begin at 9:30 a.m. in the Scott Conference Center in Omaha. An open house will precede the meeting, however, with technical information and maps on display at stations for viewing and discussion beginning at 9 a.m.

The open house will continue at 10:30 and conclude at noon.

While the open house will allow public comment, it will not be in an official format. Discussion among community members and officials will take place at stations containing information.

Thompson said he believed the open house format should be more effective.

"It's more valuable when people can look at the maps and go over different items on the maps," he said. "After the presentation, we'll all go to our different stations. It will be good interaction."

The Papio Creek Watershed Partnership is made up of the cities of Bellevue, Bennington, Boys Town, Gretna, La Vista, Omaha, Papillion, Ralston, Douglas and Sarpy counties and the Papio-Missouri NRD. Its purpose is to work together to develop wise water quality and flood prevention policies. Washington County declined to be a part of the partnership several years ago.

*Pilot Tribune
Newspaper
front page
2-10-09
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2/11/09

MIDLAND

An anti-tobacco drive screeches to a halt

By NANCY GAARDER
WORLD-HERALD STAFF WRITER

Ewww. Gross.

Apparently, some tobacco-chewing natural resources district workers are spitting on the floorboards of their government vehicles and leaving their chew cups behind. And, smokers, even if they clean up after themselves, are leaving behind that all-too-stale smell.

And since some non-tobacco-using employees objected, the Papio-Missouri River Natural Resources District's general manager, John Winkler, has proposed that the district ban all tobacco products from district vehicles.

Not so fast, he found out.

A five-member committee of the Papio-Missouri NRD board refused Tuesday to support Winkler's proposed total ban. For now, current district policy will remain in place. It bans smoking in buildings but allows it in district vehicles as long as a nonsmoker is not in the vehicle. The policy is silent on chewing tobacco.

It's not clear whether the effort will get a fresh look at tonight's full board meeting.

Board member John Conley, who was not on the committee, said he would poll his colleagues to see whether there was support for the measure on the 11-member board.

At Tuesday's meeting, committee member Scott Japp offered an unsuccessful motion to ban tobacco products, but sentiment was largely against restricting employees.

"You can guess where I'm

going to come down on this," board member Rich Tesar said as he held up an unlit pipe.

Tesar said he would have no problem banning smoking, but he thinks workers should be able to chew tobacco. Tesar was among those monitoring ice jams Monday night, and he cited that as an example.

"If it wasn't for the fact that I was able to light up a pipe or smoke a cigar, I would have had a hard time staying awake."

Board member David Klug said district personnel should be allowed to use tobacco products in vehicles. If people are making a mess, then the solution is disciplinary action.

Winkler said after the meeting that the problem tends to crop up mostly in field vehicles — such as pickups, front-end loaders and dump trucks.

Policies vary. Metropolitan Utilities District and the Omaha Public Power District ban all tobacco-related products from district vehicles, spokespersons said. The City of Omaha and Douglas County ban smoking in vehicles, but their policies don't address chewing tobacco.

Papio-NRD board members Rick Kolowski and Larry Bradley, who were not on the committee, spoke in favor of curtailing tobacco use in vehicles.

Kolowski said doing so would send a message to staff that management cares about their health and well-being. Bradley said that it isn't right to ask non-smoking staff members to use vehicles that smell of smoke.

■ Contact the writer:
444-1102, nancy.gaarder@owh.com

Fully Appropriated Determination FAQs

1. How was the Lower Platte Basin determined to be fully appropriated?

The Department of Natural Resources is required by Nebraska law to conduct an annual evaluation of each basin that has not previously been determined to be fully appropriated or over-appropriated. The evaluation uses the best data and scientific methodologies in conjunction with various rules promulgated by the department. The established rules serve as a strict set of guidelines that the department must use to determine if a basin is fully appropriated.

2. How can I voice my opinion on the preliminary fully appropriated determination?

The Department of Natural Resources will be holding hearings at three sites to receive written and/or oral testimony from those wishing to provide such information. The three sites will be distributed throughout the Platte Basin (one in the Elkhorn Basin, one in the Loup Basin, and one in Lincoln) and will likely occur between mid-February and mid-March. Specific dates, times, and locations will be posted on the Department of Natural Resources website (<http://www.dnr.ne.gov>) and noticed in a paper of statewide circulation once they have been confirmed.

3. When will the final fully appropriated determination be made?

The final determination of whether the Lower Platte Basin is fully appropriated will be made within 30-days following the final public hearing. This should be about mid-April.

4. What does the determination of fully appropriated mean if I have an existing irrigation well?

For those who have an existing irrigation well and have historically irrigated,

you can continue to irrigate those same acres. You cannot expand the number of historically irrigated acres without an exemption from your local Natural Resources District.

5. What does the determination of fully appropriated mean if I currently have a surface water appropriation?

If, as of Dec. 16, 2008, you currently hold a surface water appropriation, you will still be administered by the Department of Natural Resources in the same way as the past. The department knows from the water appropriation permit the location and number of the acres that can be served by your appropriation so certification of those tracts is not required.

6. How will the determination of fully appropriated impact me if I want to drill a new irrigation well for which I do not currently have a well construction permit from my local Natural Resources District?

The preliminary determination imposed an immediate stay on the construction of any new water wells within the hydrologically connected area. There are limited exceptions and variances that may apply. Consult your local Natural Resources District for further information regarding the construction of a new irrigation well.

7. If I currently hold a well construction permit from my local Natural Resources District can I still drill my well?

No, not without an exception or variance. The preliminary determination imposed an immediate stay on the construction of any new water wells within the hydrologically connected area, even if you already have a well permit. There are limited exceptions and variances that may apply. Consult your local Natural Resources District for further

information regarding the construction of a new irrigation well.

8. If I drilled a well prior to the preliminary fully appropriated determination (Dec. 16, 2008) but have yet to use it for irrigation, can I still use it?

No, not without an exception or variance. The preliminary determination imposed an immediate stay on the use of existing wells to expand the number of acres historically irrigated within the hydrologically connected area. There are limited exceptions and variances that may apply. Consult your local Natural Resources District for further information regarding this process.

9. How will the fully appropriated determination impact those trying to drill a domestic or livestock well (less than 50 gpm)?

You will still be able to drill a domestic or range livestock well with a capacity of 50 gpm or less.

10. What does the fully appropriated determination mean for municipalities?

The determination requires municipalities to track their water uses and establish baseline water uses for the existing levels of development within their communities. Once the baselines uses are established, there will be annual tracking to determine if changes in water use have occurred. If water use increases over the baseline uses, there will need to be offsets provided by either the Natural Resources District or the municipality. For more specifics please contact the Department of Natural Resources or your local Natural Resource District.

11. What does the fully appropriated determination mean to industries?

The determination requires industries to track their water uses and establish base-

line water uses. Once the baselines uses are established there will be annual tracking to determine if changes in water use have occurred. If water use increases above the baseline uses, there will need to be offsets provided by either the Natural Resources District or the industry. For more specifics please contact the Department of Natural Resources or your local Natural Resource District.

12. What does the integrated management process entail?

Once a final determination of fully appropriated has been made, each Natural Resources District affected by the determination and the Department of Natural Resources will work cooperatively to develop an integrated management plan for management of hydrologically connected surface water and groundwater supplies with a goal of sustaining a balance between use and supply. The integrated management planning process will include consultation with local stakeholders from a variety of interests along with public input to develop a plan that will address local as well as basin-wide water management issues.

13. Where can I obtain additional information on the fully appropriated determination?

Additional information on the fully appropriated determination can be obtained from your local Natural Resources District or from the Department of Natural Resources' website at <http://www.dnr.ne.gov> or by contacting the department at 301 Centennial Mall South, Lincoln, Nebraska 68509-4676 or (402) 417-2363.

U.S. NEWS

Cedar Rapids Still Reeling From Last Year's Flood

Economic Slump Has Exacerbated Struggle to Rebuild Wrecked Neighborhoods and Deliver Aid to Homeowners

By ILAN BRAT

CEDAR RAPIDS, Iowa—Eight months after being hit by a flood expected to come along less than once every 500 years, this city of 120,000 is still struggling to get its head above water.

About 10 square miles of flood-wrecked neighborhoods are largely abandoned, with thousands of boarded-up houses and businesses lining debris-dotted streets. A steam and electricity generating station that served some of the city's biggest employers is still inoperable. More than 300 municipal buildings are in need of repair, along with roads and bridges.

Now, with Janet Napolitano, the new chief of the Department of Homeland Security, scheduled to visit Cedar Rapids on Wednesday, this stronghold of the Midwest manufacturing base is facing a second crisis on top of the first: the global economic slowdown.

While the area's unemployment rate of 4.6% is still well below the national average, civic leaders say the flood damage accelerated job losses.

"The flood came at the worst possible time, when the whole country's going through a recession," says Justin Shields, a city councilmember.

The Cedar Rapids area, among the hardest hit nationally by heavy spring floods, has so far

received tens of millions of dollars in immediate flood assistance from the state and federal governments aimed at small businesses and infrastructure repair, and it is slated to receive tens of millions more. Local officials estimate the initial flood damage at more than \$2 billion.

City leaders also complain that longer-term aid for fixing and replacing damaged homes has been inadequate. Federal and state agencies have provided about \$40 million so far, but local officials say that repairing and replacing the 5,400 apartments and houses damaged by the flooding could cost \$300 million.

During Secretary Napolitano's visit, city leaders intend to press her for better coordination among federal agencies to speed the flow of aid. "Those programs simply don't work together, they don't complement each other and in many cases work against each other," says Jim Prosser, Cedar Rapids's city manager.

Federal officials say the city needs to be patient. "A disaster of this breadth and scope is not going to be resolved in a year," says Russ Edmonston, a Federal Emergency Management Administration spokesman based in Iowa. "It is going to take a long while to get a sense of normalcy for the people of Cedar Rapids, and we'll be here to shoulder those burdens" along with the state and other federal agencies.

The city started 2008 with high hopes. Aiming to steer housing and commercial development into the decaying downtown, city leaders declared it the "Year of the River," with events including an outdoor concert, a sculpture exhibit and a water-skiing show.

Then, on June 13, the Cedar River, swollen by the melting of heavy winter snow and a rainy spring, surged to a crest of 19 feet above flood stage, and 11 feet over the highest recorded in the city.

An effective evacuation helped the city escape without a single death, but the water swallowed 14% of the city's surface area. City Hall, a local jail and a courthouse, all located on an island in the middle of the river, along with key communications systems, were quickly knocked out of commission.

Emergency aid such as food and temporary shelters arrived quickly, but city officials and other local leaders say financial help for long-term recovery has only trickled in. About 1,200 homeowners and their families are still living with relatives or in other temporary situations, according to the Affordable Housing Network, a local nonprofit that is coordinating assistance. None of the housing for flood victims the city hoped to build following the disaster has been constructed, as the financial crisis hampered developers' ability to raise funds for new projects.

Many residents are struggling to cope.

Linda Seger, 64 years old, and her husband, Gary, 62, have depleted all of their savings while trying to rebuild their home, where water rose to about nine feet. Ms. Seger, who works part-time as a substitute cook in schools, and her husband, a welder, have devoted about \$18,000 of their own money to restoring their home while they live in a mobile home provided by the government. They received about \$23,000 from the federal government, and anticipated getting about \$20,000 more. Then state and federal help was suddenly cut off in December, when the city declared that theirs was one of 554 homes in a planned construction zone for a giant levee and other infrastructure projects. The city says it plans to buy them, but not for another at least five to seven years.

"It's a state of suspension that we're in," says Ms. Seger. "What's in our checkbooks is all we have."

On a trip to Washington in early January to push for funding from the stimulus package, Jerry McGrane, a city councilmember who himself is living in a FEMA mobile home, says he was told by one federal official: "We thought you were all fixed up."

"You get miles away, or five blocks away from the river, and nobody really knows" the extent of the city's damage, he says.

Associated Press



Buildings floated in the Cedar River in Cedar Rapids, Iowa, following a devastating flood last year. Civic leaders say aid has been insufficient.

REPUBLICAN RIVER

Ruling is bad for taxpayers

A recent Nebraska Supreme Court ruling on the Republican River issue threw a wrench into state water policy.

The effect of the ruling could be felt by all Nebraskans, who would shoulder the burden in the form of higher taxes.

The high court ruled that when the Legislature gave Republican River natural resources districts the power to levy an additional property tax, lawmakers had gone too far.

The purpose of the property tax on land and buildings in the NRDs, the high court said, was to solve a state problem — compliance with a 1943 compact on sharing Republican River water between Nebraska and Kansas. Therefore, the law was unconstitutional special legislation.

The situation is complicated by Kansas' threats to take Nebraska to the U.S. Supreme Court over the problem; the claim is in nonbinding arbitration.

The property tax was one provision of Legislative Bill 701, passed in 2007 to give the state and the Republican River NRDs the tools to manage water flow and groundwater and surface-water irrigation. The reasoning in the Legislature at the time was that property owners in the river basin should pay to solve the problem caused, in large part, by Republican basin irrigators.

This ruling could affect decisions being made not only on the Republican, but in the Platte River basin and, perhaps, the Niobrara basin as well.

If the decision stands — and Attorney General Jon Bruning's office may yet ask the court to review its ruling — then taxpayers statewide could wind up paying more of the costs of complying with interstate compacts. This burden would be shared by irrigators as well as nonirrigators.

The argument made by the state and NRDs to the high court was that the property tax was levied not by state government but by the local NRDs at their discretion; therefore, it was not a state property tax.

Both the tax and the benefits were local, attorneys argued, because they forestall potentially stringent cutbacks in the amount of irrigation water allowed each farmer; that would decimate crop yields. And that could deal a major blow to local farming economies.

DWH

2-12-09

The Supreme Court did leave intact a major funding provision in LB 701 — an occupation tax of up to \$10 per acre on the hundreds of thousands of acres of irrigated land in the Republican basin.

That tax raised much of the money used to buy water to supplement the river's flow since LB 701 passed, totaling more than \$6 million of the \$8.8 million in taxes taken in by the Republican NRDs. But that provision, too, is facing a challenge in Lancaster County District Court.

Bruning put his finger on an important point in his comments after the decision was announced. Complying with the water compact necessitates a partnership among the NRDs, irrigators and state officials, he said. What the lawsuit attempted to clarify was "the nature of the partnership."

Indeed, LB 701 laid out extensive partnership plans and detailed the NRDs' responsibility for managing irrigation. If it has fallen short in this one instance, the property tax provision, state senators may have to consider revisiting the funding issue raised by the court.

Or not, if the occupation tax stands up to judicial tests. State Sen. Mark Christensen of Imperial suggested that tax could be all that is needed to pay for water programs. In 2006 and 2007, water was leased or purchased from surface-water irrigators and left in the Republican River to flow to Kansas.

The situation remains uncertain as the 2009 irrigation season rapidly approaches. Kansas continues to minimize and complain about Nebraska's efforts to comply with the compact. The additional challenge of funding questions complicates things.

But Nebraska's water policy is more than just a disputed property tax. It has been built on a partnership, as Bruning said, and that partnership should be maintained and strengthened.

The Legislature, the state administration and the NRDs should work together toward that end.

ENTERPRISE

WASHINGTON COUNTY

FRIDAY, FEBRUARY 13, 2009

BLAIR, NEBRASKA 68008

[Handwritten signature]

FEB 23 2009

County wants no part of water plan

By Stephanie Ludwig
Reporter

Officials in Washington County have said they want out of a new stormwater and flood control plan drafted by a coalition of neighboring governments.

County supervisors voted Tuesday to send a letter to the Papillion Creek Watershed Partnership stating they want any reference to Washington County to be removed from a management plan the partnership will be presenting at a workshop on

Saturday.

It also states that all references to Washington County should be removed, "specifically, in reference to fees collected in 'rural estates.'"

The board said the county already has stormwater management policies in place, and that fees associated with these policies are developer funded.

John Winkler, general manager of the Papio-Missouri River Natural Resources District, said

he had not received the letter from the county as of Thursday morning, but called the board's action "extremely unfortunate" because the plan covers the entire watershed.

Washington County sits at the head of the Papio Creek Watershed.

"This will break up the planning process because this is watershed-wide," Winkler said. "That would make it more difficult from a coordination aspect and a practical aspect."

Winkler acknowledged that the NRD and the county may not agree on best management practices but that without Washington County, it may be difficult to make the rest of the plan work together to form an efficient system.

The Papillion Creek Watershed Partnership, which consists of 11 governmental bodies and the Papio-Missouri NRD, will be presenting its watershed management plan and management policies at a meeting at the

Scott Conference Center, 6450 Pine Street, in Omaha this Saturday, February 14, from 9 a.m. until noon.

The public is welcome to attend; however, public comment will be restricted to two open houses before and after the presentation.

Washington County declined membership in the Watershed Partnership several years ago, but because the county is at the head of the Papillion Creek floodplain, it is considered part of the watershed itself.

From: Chick, Steve - Lincoln, NE
Sent: Friday, February 13, 2009 9:23 AM
Subject: Friday Message

To: All Employees and Conservation Partners

February 13, 2009

3. Turtle 2 Rehab Underway – As part of our efforts to rehabilitate PL566 projects in Nebraska I am pleased to shared that construction is well underway on the restoration of Turtle 2 dam near Springfield, NE. Turtle Creek Watershed was originally treated because of severe gully erosion off rolling farmland and also to a lesser degree for flooding problems. In the 1930s one farm in the watershed reported a gully ½ mile in length, 20 feet deep and 100 feet wide. Two major grade stabilization structures were installed in the early 1960s along with a lot of land treatment practices on the watershed. Since that time this area has experienced urbanization causing the Turtle 2 dam to be reclassified to a high hazard structure. Through the Watershed Rehabilitation Program the Papio-Missouri River NRD as sponsor and NRCS are cooperating to bring this dam up to high hazard standards including increasing the life expectancy to 100 years. The original pipe principal spillway is being removed and replaced with a large broad-based crested weir chute spillway. This is another great example of how the rehabilitation program is working as designed to restore and improve the capacity of this important flood control infrastructure in Nebraska. We fully expect funds to be included in the stimulus package to allow us to rehabilitate additional high hazard dams in Nebraska.



Concrete work began this week on pouring the floor of the broad-crested weir chute spillway on Turtle 2. The workers in the picture are just a small part of the employment created by such work, while at the same time adding the necessary flood protection to communities below. Jason Sall is our NRCS Project Engineer overseeing this construction.

Published Saturday February 14, 2009

Board votes: Butts out of NRD vehicles

BY NANCY GAARDER
WORLD-HERALD STAFF WRITER

Papio-Missouri Natural Resources District crewman Keith Lienemann has had to slide across a tobacco-spit-covered floor to crawl under trucks to work on them.

And he has climbed into the cab of district vehicles after a nearly three-pack-a-day smoker has worked a shift in them.

So Lienemann, himself a former smoker, was a little anxious Thursday night as he watched the Papio-Missouri NRD board debate its tobacco policy for nearly an hour, deadlocking three times over a partial or total ban.

Finally, the 48-year-old Lienemann, who has undergone five open-heart surgeries for a congenital defect, asked to speak. His description of working conditions achieved what the comments of other board members, public health advocates and a legislative lobbyist couldn't: he convinced the board to adopt a total ban.

The natural resources district voted 7-3 Thursday to ban all tobacco products from district vehicles and buildings.

"It was making me nervous — that it would go the other way," said Lienemann, who helps maintain the district's levees. "But I learned as a young man to stand up for something you believe in,"

Board member John Conley, who presented the motion that passed, said Lienemann "was instrumental" in getting the policy passed.

"I think we sent a positive message about wellness and the health of our employees," Conley said.

Susie Dugan, project manager for Pride Omaha, an anti-drug abuse group, told the board that poisons from second-hand cigarette smoke are absorbed by soft surfaces, such as upholstery and rugs, and then are slowly released back into the air, posing a health threat.

"There is no safe level of tobacco use," she said.

Voting in favor of the ban were Conley, Larry Bradley, Fred Conley, Scott Japp, Rick Kolowski, Dorothy Lanphier and Jim Thompson. Voting against it were Dave Klug, John Schwope and Rich Tesar.

Kolowski said Friday that the NRD's vote brings the district more in line with standards adopted by other employers, including some other governmental entities.

Previously, district policy banned smoking in buildings but allowed it in vehicles as long as a nonsmoker wasn't present. The policy was silent on chewing tobacco.

Tesar said Friday that the previous policy was adequate.

Tobacco use helps some staff members stay alert on the job, he said. Besides, he said, staff use of cell phones while driving is a bigger threat to public safety.

• **Contact the writer:** 444-1102, nancy.gaarder@owh.com

Contact the Omaha World-Herald newsroom

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Published Sunday February 15, 2009

7 dams, 3 years, \$134 million

BY RICK RUGGLES

WORLD-HERALD STAFF WRITER

Seven dams should be erected in Douglas and Sarpy Counties over the next few years for flood control and water quality improvement, a local agency recommended Saturday.

The Papillion Creek Watershed Partnership, a group of local government officials, produced a three-year plan for \$134 million worth of construction, much of which would start in 2011.

Proponents argued that failing to enact the plan could put Douglas, Sarpy and Washington Counties at odds with state and federal water-quality requirements. Further, it could endanger residents and property if there is massive rainfall that leads to flooding, they said.

"We do feel that there's an urgency today," said Mark Stursma, planning director of the City of Papillion.

The plan for numerous dams, in the works since 2001, is by no means universally welcomed. Washington County, in fact, has registered so much discontent with the dam proposals that the watershed group recommended none be erected there for the short term.

Three or four smaller dam projects are on the Washington County map in the partnership's 30-year plan, however. One of those is on the border of Douglas and Washington Counties.

John Winkler, general manager of the Papio-Missouri River Natural Resources District, said achieving the goals of the three-year plan hinges in part on the Nebraska Legislature's approval this year of bonding authority for the program.

The NRD most likely would issue bonds over 20 years for the project, Winkler said.

Two-thirds of the construction costs would be paid with public money and one-third by development fees.

The partnership's 30-year plan calls for the construction of about 20 additional dams, roughly through the year 2040. The group made its presentation at the Scott Conference Center at the University of Nebraska at Omaha.

"It's a public health and safety issue," Winkler said. "And that's what we have to focus on."

Two of the proposed projects, one west of Standing Bear Lake and the other northwest of Walnut Creek Lake in Sarpy County, would produce fairly large lakes. They would accommodate fishing and boats, but not water skiing, said Marlin Petermann, assistant general manager of the NRD.

The five other dam projects would produce considerably smaller sediment basins for water quality purposes, Petermann said.

The partnership also encouraged local governments to require developers to use "low impact" strategies. They would prevent sediment, chemicals and other elements from flowing off projects and into the watershed. Those strategies include creating small detention basins to control runoff.

Douglas Kagan, chairman of Nebraska Taxpayers for Freedom, said his organization opposes dam construction unless a local government entity feels it is necessary. But taxpayers throughout the three-county watershed shouldn't be stuck with higher taxes, he said.

Kagan said he hoped the low-impact strategies imposed on developers might work just as well as dam construction.

Marty Grate, environmental services manager for the City of Omaha, said the partnership's vision is only a recommendation to be considered by the local jurisdictions affected. But it should be enacted, he said.

"This is the plan that makes the most sense and is in the best interests of the community," Grate said.

• **Contact the writer:** 444-1123, rick.ruggles@owh.com

WASHINGTON
COUNTY

Pilot-Tribune

TUESDAY, FEBRUARY 17, 2009

BLAIR, NEBRASKA 68008

CH

County out of dam plan – for now

By Stephanie Ludwig
Reporter

For opponents of dams in Washington County, there's good news.

The Papillion Creek Watershed Partnership recommended in a plan unveiled Saturday that seven dams be built by 2013, none of them in Washington County.

The plan was presented by the partnership, an agency of 11 governmental bodies created to improve storm-water management in the Papio Creek watershed, a 402-square-mile area covering parts of Washington, Douglas and Sarpy counties. Officials in the watershed as well as the public were invited to attend a workshop Saturday that unveiled the plan.

HDR Inc., helped draft

the plan, which calls for the seven dams in Douglas and Sarpy counties at a cost of approximately \$134 million. Maximum Low Impact Development (LID) was recommended for Washington County.

"I think they've definitely been listening to us. We've been firm on not wanting dams in Washington County," said County Board chairman Harlo Wilcox.

Wilcox said the county's stormwater management plan calls for LIDs in new developments.

Wilcox, as well as many board members and citizens in the county, believe that much of the watershed's flooding problems have not been caused by runoff from Washington County, but

rather developments in the floodplain in Douglas and Sarpy counties. Because of this, many oppose the building of dams in the county, or even paying for partnership projects that do not benefit locally.

The dams will be paid for through a combination of homebuilder and developer fees, levy revenues from the Papio-Missouri River Natural Resources District, and supplemental bonding revenues.

The NRD currently lacks bonding authority, a situation it is trying to rectify through legislative bill currently under review with the Revenue Committee of the Nebraska Legislature. Another bill, LB 577, counteracts the bonding bill by allowing only citizens

who will benefit from NRD projects to be taxed.

Wilcox said he thinks the plan's usefulness still hinges on whether the bonding bill will pass.

"That will sure change their plan," he said.

County Board members Jeff Quist, Kent Clausen and Mary Alice Johnson also attended Saturday's meeting.

While Washington County may be safe from dams at the moment, the future is uncertain. The plan calls for total flood prevention throughout the watershed by 2050. However, it has been estimated that less than 20 percent of the maximum LIDs will be completed by 2050 due to population growth estimates. As a result, the partnership may call for dams in the future.

FEB 23 2009

2-17-04
DWH PP

Wanting more, spending more

The way the Papio-Missouri River Natural Resources District continuously pushes for big money for dam-building makes one wonder if it's really motivated by dedication to the public or by self-serving objectives.

It appears that Douglas County already is having problems keeping up with maintenance and expenses with current dams like the one at Cunningham Lake. And yet the NRD wants 28 more.

It is amazing that the NRD is continuing with big spending plans even after the economy has been devastated by similar greed and self-interest. It looks like the same causes unfortunately continue to exist for our future economy.

John W. Hunt, Bennington

MoPac trail connector picked for this side of Platte River

By ALGIS J. LAUKAITIS / Lincoln Journal Star

Thursday, Feb 19, 2009 - 12:01:39 am CST

One landowner said he would see the Lower Platte South Natural Resources District directors in court if they tried to condemn his land for a recreational trail.

Another vowed to take more drastic action.

"You guys will have to pick me up off the ground in front of the bulldozer," said Thomas Reed.

Related Link(s):

Map: Proposed extension of MoPac East Trail

1.22.09: MoPac East Trail extension project heats up with petition drives Despite such strong landowner opposition, the Lincoln-based district on Wednesday selected a final route for a MoPac East trail segment that would help complete a 50-mile recreational trail between Lincoln and Omaha.

"We will take you to court if you are going with eminent domain. Why are you taking away our property rights?" landowner Bob Rikli asked the board.

Basically, the 10-mile trail segment would start at the unincorporated village of Wabash in Cass County and continue north on the west side of 334th Street before it connects with East Park Highway (Nebraska 66) and finally the Lied Platte River Bridge near South Bend.

The northern part of the route is different from the one recommended by The Schemmer Associates.

After a study of possible routes and discussions with 60 percent of the landowners, the engineering firm recommended a longer — but less costly and more user and

environmentally friendly — route that would follow part of Allison Drive and use an old Rock Island Railroad corridor.

The selection of the trail segment paves the way for its future construction, but judging by remarks made at Wednesday's meeting, the district may have a battle on its hands.

Paul Morrison, a former NRD board member, suggested that directors table the issue so they can get rid of it. (An earlier motion to table the issue for 30 days made by director David Nielsen failed.)

Morrison said the district will have difficulty completing the project because it will be fighting at least 20 eminent domain or condemnation cases in court.

He suggested other options, including using an alternative route that would follow another old railroad corridor to Nebraska 50 and then north toward Sarpy County, where it would connect with a trail leading to Omaha.

The Papio-Missouri River Natural Resources District has already completed eight miles of a 17.5-mile trail segment on its side of the Platte River, and six more miles will be built this year, reported Lower Platte South NRD director Phyllis Hergenrader.

The last 3.5 miles is scheduled to be done in 2010.

Landowner David Wendt of Murdock speculated that less than 1 percent of the population of Lincoln and Omaha will use the trail, and he wondered if spending \$2 million on the project was worth it.

Other landowners voiced concerns about having their land split up, creating drainage problems for their fields and taking property off the tax rolls.

Director Don Jacobson said the northern route that follows East Park Highway isn't the safest route. He said the trail should be as far from the highway as possible.

Fourteen directors voted for the trail segment. Six opposed it, and Greg Osborn abstained.

Voting no were: Bob Andersen, Marsha Babcock, Larry Hall, Don Jacobson, David Nielsen and Dan Steinkruger.

Reach Algis J. Laukaitis at (402) 473-7243 or alaukaitis@journalstar.com.

COMMENTS:

Galen wrote on February 19, 2009 5:46 am:

" Another waste of taxpayer time, effort and MONEY. How much more are we going to waste in courts trying to steal landowner property? "

Chet Zesty wrote on February 19, 2009 5:50 am:

" This is a fantastic project and will be a great addition to the trail system! Growth has been stopped by the 'not in my backyard' folks for way too long.

Now on to the south bypass. "

Good luck wrote on February 19, 2009 7:10 am:

" Thomas Reed,when they(govt.-special interest groups)want something they usually get it! When the railroad put the tracks cross country they got the land they needed with basically a lifetime use,as the ownership would revert to the owners when the RR was done with it.In WRITING yet.Well they pulled the rails and the game and parks came in and nixed that contract and put bike trails on it.Now if a biker hiker crosses over your fence and steps in a hole and breaks a leg your liable! So good luck Tom,hell you'll be lucky to stand with'in 50 feet of it on your own property and smoke a cigarette and have a beer! "

Not so free wrote on February 19, 2009 7:42 am:

" I am horrified at the thought of the government taking away the property of its citizens like this. If they don't want to sell, YOU DON'T GET IT. There is no greater public good being accomplished by forcing these people to give up their land. I absolutely do not agree with the concept of eminent domain, except in times of dire need. This most certainly is not a dire need.

I am a huge supporter of this trail project. I love these rails-to-trails pathways. But at what cost are they being built? This is 100% wrong. "

Brock Landers wrote on February 19, 2009 8:11 am:

" Dang straight the money to be spent will be worth it! See you all on the trail! This is going to be great!!! "

Trail rider wrote on February 19, 2009 8:20 am:

" Lincoln has been voted for being in the top 10 healthiest cities many times. These trails are one of the main reasons for this. Why are people trying to stop this? I can't wait until the trail system is connected. "

Scotious wrote on February 19, 2009 8:48 am:

" I've always had a problem with these trails. If you take the amount of money spent on them and divide it by the number of people who actually use them, you find the amount of money spent per user is way out of line. I owned land by the Lincoln to Beatrice trail for the last two years, and I can tell you, with the best of weather on a weekend day last summer you would see maybe 25 people at the most go by. Other days you would see zero. What a waste of money. "

Doug wrote on February 19, 2009 8:53 am:

" Kohl v. United States

Whenever lands in a State are needed for a public purpose, Congress may authorize that they be taken, either by proceedings in the courts of the State, with its consent, or by proceedings in the courts of the United States.

The Fifth Amendment

The Fifth Amendment to the Constitution says 'nor shall private property be taken for public use, without just compensation'

Don't worry landowners, you will be compensated. You are very conceited to think that your ownership of land and the rights to that land are any better than the rest of the citizens of Nebraska or the United States for that matter. All land is owned first by the government then by you as the landowner. "

Did wrote on February 19, 2009 9:45 am:

" Did the drainage work any better when a train was running on the tracks thru their property? "

JoBeth wrote on February 19, 2009 9:49 am:

" It is my understanding that the land used for the railroad was promised to be returned to the farmers when the line was abandoned. This is a waste of money in a time when we can not afford to do so. We must not steal taxpayers land anymore. This is a bad idea. "

-chet el originale wrote on February 19, 2009 9:59 am:

" All other issues aside, you'd think the land rich, cash poor folk opposing this would love a little eminent domain kickback in these hard times.

I was hoping they would use more of the Rock Island line, but given the amount of quonset huts and homes built on the grade, it's not feasible. This is a prime example of why railbanking is so necessary.

Anyone doubting the popularity of the trails needs to look no further that Council Bluff's Wabash Trace Trail. Keep the tax dollars here is the theme, right? "

Der Commissar wrote on February 19, 2009 10:03 am:

" I'll bet all those in favor aren't having their property confiscated. I bike but I'm not for confiscating private property. Though that does seem to be the trendy thing right now. Either find a path where the landowners are ok with it or don't do it. Really, how many people are going to use a trail that far away from either Lincoln or Omaha?? It would be money better spent improving and creating trails closer to both cities than using eminent domain for bike trails in the country. Lighten up comrades. "

Larry D. wrote on February 19, 2009 10:14 am:

" I'm someone who has "biked" in this area for 30 years. Despite the development of trails in the Lincoln area, bicyclists remain easy targets; literally & metaphorically. I am grateful for the immense time and effort invested by relatively few to make "rails to trails" a resource for the general public's enjoyment. If you're not part of the Cabella's demographic, you don't have many recreational outlets in these parts. Is it too much to ask for completion of a SINGLE trail connecting to Omaha? "

Counties need 7 new dams for flood control

Seven dams should be built in Sarpy and Douglas counties over the next few years for flood control and water quality improvement, a local agency recommended Feb. 14.

The Papillion Creek Watershed Partnership, a group of local government officials, produced a three-year, \$134 million construction plan that would start in 2011.

Proponents argued that failing to enact the plan could put Sarpy, Douglas and Washington counties at odds with state and federal water-quality requirements. Further, it could endanger residents and property if there is heavy rainfall that leads to flooding, they said.

"We do feel that there's an urgency today," said Mark Stursma, planning director of the City of Papillion.

The plan for numerous dams, in the works since 2001, is by no means universally welcomed. Washington County, in fact, has registered so much discontent with the dam proposals that the watershed group recommended none there for the short term.

However, three or four smaller dam projects are on the Washington County map in the partnership's 30-year plan. One of those is on the border of Douglas and Washington counties.

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souri River Natural Resources District, said achieving the three-year plan hinges in part on the Nebraska Legislature's approval this year of bonding authority for the program. The NRD most likely would issue bonds over 20 years for the project, he said.

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The five other dam projects would produce considerably smaller sediment basins for water quality purposes, Petermann said.

—Omaha World Herald
News Service

New park on West Dodge offers third access to Elkhorn River

Water-based recreation users in the Omaha-metro area now have another scenic Elkhorn River access site for canoeing, kayaking, fishing, picnicking and more.

The new park, Graskie Crossing, opened October 24, 2008, joining two other Elkhorn River parks designed to facilitate short-to-moderate river float trips for canoeists, kayakers, and tubers.

"A kayaker will be able to launch at Elkhorn Crossing near 252nd Street and Bennington Road and leisurely boat for approximately three hours to a recently opened park at West Maple Road. Another two hours will take the boater to the new Graskie Crossing," said John Winkler, general manager, Papio-Missouri River Natural Resources District.

Post-Gazette 2-24-09
New Elkhorn River Access

The three parks also offer fishing, picnicking, wildlife viewing and parking.

"More and more people are using our rivers now for various types of recreation," said Winkler. "These float trip activities have blossomed in our metro area due to the NRD's

construction of public access river launch and landing areas."

The NRD operates both the Graskie Crossing and Elkhorn Crossing sites. The Village of Waterloo maintains the Elkhorn River Public Access on West Maple Road. The Nebraska Game and Parks Commission contributed funding toward construction of both Graskie Crossing and the West Maple area.

The Graskie Crossing name was suggested by G&G Manufacturing of Omaha, owned by the Graskie family. G&G donated all land needed for the project. The entrance is off Skyline Drive just south of the Skyline exit on West Dodge Road. It is on the east side of the Elkhorn River.

The canoe landing will have several acres of land, including a parking lot, restroom facility, picnic tables and a ramp. The contractor for the project is Dostals Construction Company out of Gretna, which bid \$608,000. That price includes the fencing, entrance gates and signature sign, and the road to it, which winds west from Skyline Drive down to the river.

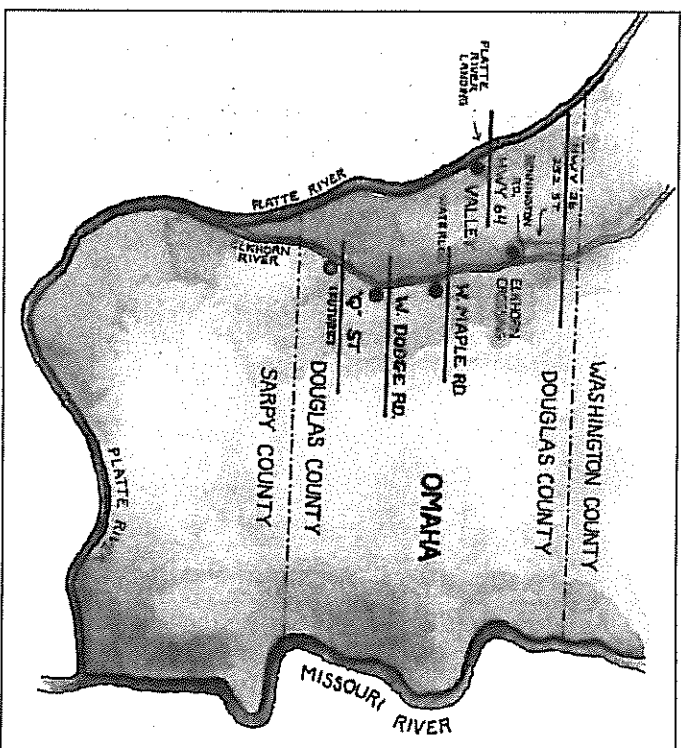
Dick Sklenar, project manager for the NRD, said the Dodge access point is the response to a need by the general public to enjoy the Elkhorn River for canoeing, tubing and fishing. People will be able to take half-day trips down the river from one to another. In the past, they had to ask private owners for access to the river.

The Elkhorn River Public Access on West Maple was built on land donated to the Village of Waterloo by Robinson Seed Company.

Elkhorn Crossing Park at 252nd and Bennington Road was closed this past summer and fall due to damage caused by Elkhorn River flooding. The site will not reopen until late summer.

The NRD is seeking a site further south for another access to the Elkhorn River, possibly near "Q" St.

The Maple and Dodge river access sites will open for the 2009 season on April 1. The sites are free for the public to use, except for fishing licenses, which can be obtained from the Nebraska Game and Parks Commission.



A new access to the Elkhorn River opened this past year south of West Dodge Road. The entrance is from Skyline Drive. Graskie Crossing is now one of three Elkhorn River parks (shown above) allowing access for canoeists, kayakers and tubers.

Army Corps cracks down on flunking levees

By Peter Eisler

WASHINGTON — More than 100 levees in 16 states flunked maintenance inspections in the last two years and are so neglected that they could fail to stem a major flood, records from the U.S. Army Corps of Engineers show.

The 114 levees received "unacceptable" maintenance ratings in corps inspections, meaning their deficiencies are so severe that it can be "reasonably foreseen" that they will not perform properly in a major flood, according to the records, which were requested by USA TODAY. As a result, the corps is advising state and local levee authorities that the levees no longer qualify for federal rehabilitation aid if damaged by floodwaters.

People who rely on the levees should "be aware that there is reason for concern," says Tammy Conforti, head of the corps' levee safety program.

The corps built most of the levees and turned them over to state and local governments, which were supposed to maintain them. Some of the neglected levees protect urban, residential areas, such as the Arcade Creek levee in Sacramento; others guard rural or agricultural land.

The corps' levee inspections were revamped under a public safety initiative started after Hurricane Katrina in 2005. A round of 63 levees with unacceptable maintenance lost eligibility for federal rehabilitation aid last year after they were not fixed within a one-time, one-year grace period.

Now, the addition of 114 levees to that list leaves a total of 177 nationwide that are so poorly maintained that they don't qualify for federal rehabilitation. That's 9% of the nearly 2,000 levees the corps inspects.

There are thousands of levees nationwide — the government has no precise number — that aren't subject to federal oversight, often because they were built by local or private sponsors. And many big levees, including some on the Mississippi River and around New Orleans, are federal projects where the corps handles major maintenance itself.

The corps will alert the Federal Emergency Management Agency to poorly maintained levees. If states and communities cannot certify to FEMA that those levees will handle a 100-year flood — one that has a 1% chance of hitting each year — owners of property behind them may have to buy flood insurance.

Published Wednesday February 25, 2009

Waterloo levee plan likely to go to voters

BY CHIP OLSEN
WORLD-HERALD STAFF WRITER

Waterloo officials are expected to approve plans Thursday to overhaul the village's 41-year-old levee, meeting new federal requirements. But the multimillion-dollar project is unlikely to move forward without residents' approval.

The Waterloo Board of Trustees is expected to make its decision after Thursday night's public information meeting about the project. It will be the second of three scheduled meetings detailing the levee's design, costs and funding options.

If the trustees approve the estimated \$3.8 million upgrade, residents could be asked, as soon as in May, to approve \$2.2 million in bonds to help pay for the improvements, Board Chairman Stan Benke said.

Because of the village's size and property valuations, the board needs voter approval for bonds worth more than \$965,000. The maximum amount of bonds the board could seek for the project, even with voter approval, is \$2.6 million.

The rest of the funds could come from the Papio-Missouri River Natural Resources District. That agency's board recently approved a 50 percent cost-share with Waterloo. But the amount the Papio-Missouri NRD would pitch in will not exceed \$2 million, said board member Rich Tesar.

The NRD also covered half of the village's nearly \$400,000 levee study, conducted by JEO Consulting Group.

Last October at the first informational meeting, JEO officials told residents that it could cost as much as \$3 million to raise the levee to meet new requirements set forth by the Federal Emergency Management Agency.

However, further review by JEO indicated that some areas of the levee needed more work than previously thought, said JEO's John Callen.

In 2007, residents of Waterloo were informed that FEMA was preparing to examine the village's levee, which surrounds Waterloo — protecting it from the Elkhorn and Platte Rivers. FEMA plans to decertify levees that aren't tall enough or strong enough to meet U.S. Army Corps of Engineers standards for a 100-year flood, severe flooding that has a 1 percent chance of happening each year.

The levees must meet or exceed the recommended elevation above flood level.

Waterloo has until January 2010 to bring its levee up to standards or risk being redrawn into a flood plain, which would make flood insurance necessary for some in Waterloo.

Thursday's meeting will be at Douglas County West Middle School, 800 N. Front St., in Waterloo. It begins at 5:30 p.m. with an open house. At 6 p.m., representatives from JEO will explain the project.

• **Contact the writer:** 444-3198, chip.olsen@owh.com

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Irrigators sound off against restrictions

BY DAVID HENDEE
WORLD-HERALD BUREAU

LINCOLN — If possible water restrictions alarm developers in Omaha, Lincoln and other eastern Nebraska cities, those concerns haven't surfaced in the one-sided tide of opposition to the proposal.

Irrigators and well-drillers dominated a public hearing Tuesday in Lincoln, challenging the idea that demand for water in the lower Platte River basin is on the verge of outpacing supply.

The Nebraska Department of Natural Resources said in a preliminary decision two months ago that farmers who pump water from the ground in some of eastern Nebraska and most of the Sand Hills could be in line for tight restrictions on future use. The goal is to help ensure that the lower Platte has enough water to meet the needs of irrigators, cities and fish and wildlife.

Omaha and Lincoln rely on the Platte for a significant amount of their municipal water supplies.

The preliminary designation temporarily bans new irrigation wells and stops farmers from expanding their irrigated acres.

Possible future water constraints could halt a suburban acreage owner's plan to build a pond, a developer's plan to build an ethanol plant or a rancher's plan to irrigate more cropland to feed cattle.

Rural water users at the hearing challenged the need to restrict their ability to pump groundwater.

The effects of not allowing farmers to convert nonirrigated cropland to irrigated would ripple through Nebraska's economy as production and employment fall, said David Rosenbaum of Lincoln, an economist who presented a report on behalf of center-pivot irrigation system manufacturers.

"The multiplied impact to Nebraska over 20 years could be over \$1.2 billion in lost or forgone output and more than \$43 million in forgone property taxes," Rosenbaum said.

Rosenbaum was one of nine people who testified against the proposal.

John Krueger, who farms south of Tilden, said he and other irrigators in the region use a fraction of the groundwater pumped by farmers in drier areas of Nebraska. Krueger said he has two new irrigation wells in limbo while the Platte restrictions are debated.

June DeWeese, a field supervisor for the U.S. Fish and Wildlife Service in Grand Island, was the only person to testify in favor of the proposed designation.

DeWeese said the lower Platte is crucial to the recovery of the federally protected pallid sturgeon, interior least tern and piping plover.

The hearing was the second of four scheduled before the Natural Resources Department issues a final determination by mid-April.

Other hearings are set for March 11 in Ord and March 12 in Fremont.

• **Contact the writer:** 444-1127, david.hendee@owh.com

Published Thursday February 26, 2009

Committee looks at bill to strip Niobrara Council of duties

BY DAVID HENDEE

WORLD-HERALD BUREAU

LINCOLN - Don't change canoes in the middle of a stream.

That was the message floated by most people testifying Wednesday before the Legislature's Natural Resources Committee on a bill that would leave the Niobrara Council without an oar in the water to help protect and manage the Niobrara River, the state's premier paddling stream.

"We seem to be taking a vehicle to the shop that doesn't really need to be repaired," Betty Hall of Bassett, Neb., said of Legislative Bill 666. She is a rancher and serves as Keya Paha County's landowner representative on the council.

LB 666 would remove various river management powers and duties of the Niobrara Council, leaving it an advisory body to the National Park Service. State Sens. Chris Langemeier of Schuyler and Deb Fischer of Valentine introduced the bill.

Langemeier said the bill -known among opponents as "The Devil's Bill" because of its biblically ominous number - is needed because there is confusion in the Niobrara valley about who's in charge of managing the river and adjacent land.

The council was formed in 1997 to assist the National Park Service in managing and protecting the Niobrara National Scenic River, a 76-mile stretch of the Niobrara designated by Congress in 1991. The Legislature strengthened the council when it delegated river management authority to the locally based organization in 2000.

One element of the bill would require all council members to be residents of Brown, Cherry, Keya Paha or Rock Counties. Currently, one of the council's 16 seats - dedicated to a conservation organization - is held by Dave Sands of Lincoln, executive director of the Nebraska Land Trust.

Several landowners and other opponents said the council isn't broken and doesn't need fixed by the Legislature.

Dan Foster of Valentine, superintendent of the Niobrara National Scenic River, said the bill undermines years of hard work to establish a working relationship between a local group and the park service.

Dean Edson of Lincoln, executive director of the Nebraska Association of Resources Districts, which supports the bill, said the state's natural resources districts don't want get rid of the council.

"We fully support the Niobrara Council, we just want to determine what its role is," he said.

The three-hour hearing attracted about 100 people, many wearing "Save Our Council" stickers. Opponents who testified outnumbered supporters 12-4.

The committee took no immediate action on the bill.

2-27-09

FYI...

A roundup of local governmental news.

WATERLOO BOARD OF TRUSTEES

Waterloo to move ahead on bond vote

What's new: The Waterloo board decided Thursday night to move forward with a special \$2.2 million bond election that would help fund multimillion dollar improvements to the village's 41-year-old levee.

What we already knew: To meet a federal mandate, Waterloo must make improvements to its levee.

The details: Last year, JEO Consulting Group found that Waterloo's levee does not meet federal requirements. Waterloo has about 10 months to upgrade its levy, at an estimated cost of

\$3.8 million. Without the improvements, which include elevating the levee 4 feet in certain spots, the village could be redrawn into a flood plain, meaning flood insurance could be required in some instances. The Papio-Missouri River Natural Resources District will cover half of the cost. The amount the Papio-Missouri NRD would pitch in will not exceed \$2 million.

What's next: Waterloo residents will be asked to vote May 12 on the bonds. Bids for the project will be sought in advance of the election with the contingency that the bond vote meets voter approval. If passed, construction is scheduled to start in the summer.

— Chip Olsen

State's top water official in tough spot

BY ART HOVEY / Lincoln Journal Star
Saturday, Feb 28, 2009 - 12:18:10 am CST

The director of Nebraska's Department of Natural Resources is supposed to make his decision based on the best scientific information available.

But irrigators and others opposed to a ban on new water development in the Lower Platte River Basin are reaching beyond the scientific realm to try to persuade Brian Dunnigan to reverse the preliminary ruling he made in December.

In a state that is home to the world's four largest manufacturers of center-pivot irrigation units, Dunnigan is getting an earful about the economic impact from the industry and from farmers who want to water more acres

Nebraska's water usage

Chris Roth, president of one of the Big Four, Reinke Manufacturing Co. in Deshler, acknowledged that water science is supposed to be the deciding factor.

Roth said he's not trying to bring any undue pressure to bear by being a partner to a consultant report that puts the 20-year cost of a ban at \$1.2 billion and 2,200 jobs.

"I think our intention is just to make everyone aware of what this means in terms of the economic impact on the state's economy."

Butch Koehlmoos, based in Ord with the Lower Loup Natural Resources District, is glad he's not in Dunnigan's shoes. "He's in a rough spot right now," Koehlmoos said Friday.

"The economy's bad. Money's tight. The natural conditions of the rivers and the water tables are up. So it's kind of a hard pill to swallow to declare the basin fully appropriated at this time."

A 2004 state law obligates the state's top water official to shut off new development whenever a basin reaches a balancing point between supply and demand from agriculture, industry and just about anything bigger than individual domestic wells.

Dunnigan's initial decision to protect existing users applies to the eastern reaches of the Platte and its Loup and Elkhorn tributaries to the north and west.

Since December, his proposed action has taken a pounding at public hearings in Norfolk and Lincoln. More objections are likely at the remaining hearings in Ord March 11 and Fremont March 12.

Even the city of Lincoln, which might gain some sense of long-term water security from protection of its wells along the Platte, is hedging its bets and has yet to testify.

"I don't know if we know yet," responded Assistant City Attorney Steve Huggenberger, when asked Friday which way City Hall was leaning.

Uncertainty has much to do with the fact that city taxpayers and others within the boundaries of the Lower Platte South Natural Resources District could soon face substantial costs for water offsets.

That's because the same law that lays out the criteria for capping water development says that new uses for industry and other purposes can occur only if that use is offset by retiring irrigated acres or by employing some other conservation strategy.

Related costs could add up quickly, Huggenberger said, and "the imposition of those costs goes on the NRD, which is primarily taxpayers in the city of Lincoln."

Adding to the intrigue is legislation proposed Thursday by Sen. Chris Langemeier of Schuyler.

Langemeier said his LB483 is meant to provide for some limited irrigation development should a decision to declare a river basin fully appropriated is reversed.

He said the Lower Platte Basin is "an example" of where his limiting idea might need to be applied, because of the "zillions of wells" farmers would want to drill about as quickly as a development ban is lifted.

If Dunnigan is having any second thoughts, he isn't saying. He wouldn't comment Friday on how much heat he's catching or on how much economic considerations should matter — if at all.

"I will evaluate all of the testimony," he said, "and decide how it pertains to the actual statutory language that the department has to make that determination."

Reach Art Hovey at 473-7223 or at ahovey@journalstar.com