

MEMORANDUM

TO THE BOARD:

SUBJECT: General's Manager Report

DATE: March 5, 2004

FROM: Steve Oltmans, General Manager

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- A. **INFORMATION/EDUCATION REPORT**: A copy of the I&E Report detailing Information and Education activities of the District for the month of February, 2004, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS**:
1. On February 23, 2004, Ralph Puls, Land and Water Programs Coordinator, was the guest speaker at the Omaha Agri-Business meeting. Ralph informed the group about the District's programs and projects. An overview of Ralph's presentation is attached. This review was published in the March 2004 issue of the Omaha Agri-Business newsletter.
 2. The GM and Ralph Puls attended the 27th Dakota City-County-Schools meeting in South Sioux City, NE, on February 24, 2004. At the meeting the GM announced that the Papio-Missouri River NRD had hired an architect to plan the Dakota County Service Center to be located in Dakota City.
- 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, 2004. 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, 2004. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **REPORT ON WASHINGTON COUNTY RURAL WATER PROJECT NO 2/ DEVELOPMENT**: The first of a series of informational letters has been sent to property owners that have submitted hookup fees for the proposed Washington County Rural Water System #2. A copy of the letter is attached. It is hoped that such an effort will keep the property owners informed as to the progress being made.

F. **NEWS CLIPS:**

- ✓ December, 2003, Nebraska Farmer Magazine article – Nebraska Scene – District dilemmas
- ✓ February, 2004, South Sioux City NRD Page – Household Hazardous Waste Collections Scheduled
- ✓ February 9, 2004, Omaha World Herald article – Rush to dig wells puts new focus on water, drought. Seven NRDs have suspended new drilling. Nebraska now has 85,847 irrigation wells, more than one per square mile.
- ✓ February 12, 2004, Omaha World Herald article – Snow brings flood worry. Eastern Nebraska River watchers think thaw.
- ✓ February 12, 2004, Omaha World Herald article – Keystone Trail power line wins initial OK amid opposition.
- ✓ February 16, 2004, Omaha World Herald editorial – Data trailing decision. How much is ‘significantly more’? Is it worth marring the Keystone?
- ✓ February 17, 2004, Omaha World Herald article – Floodplain to be remapped. The Papio-Missouri River Natural Resources District will spend \$370,000 on the West Branch
- ✓ February 18, 2004, Gretna Breeze article – Wild winter has some watching for spring thaw
- ✓ February 24, 2004, Omaha World Herald article – Fahey promotes plan for bike trail. The proposed path on Eppley Airfield property had been blocked by airport officials.
- ✓ February 19, 2004, Omaha World Herald article – Power-line proposal jolts design consultant
- ✓ February 25, 2004, Omaha World Herald article – County Board cool to power poles on Keystone Trail. Board members say they want more information from OPPD before making a final decision.
- ✓ February 27, 2004, Omaha World Herald article – DeSoto plan links lake, river. The Corps of Engineers wants to convert a lake at the refuge into a chute so water would flow through it.
- ✓ February 27, 2004, Omaha World Herald article – River plan favors commerce.
- ✓ February 28, 2004, Omaha World Herald article – OPPD listening to high-voltage opposition. The utility proposes placing a power line beside a popular recreational trail.
- ✓ February 28, 2004, Omaha World Herald article – City parks director sees great potential in trail.
- ✓ February 29, 2004 – Omaha World Herald article – Ice on Platte, Elkhorn Rivers no longer a threat.
- ✓ February 29, 2004 – Omaha World Herald article – Sioux City might not see barges on Missouri River this year.
- ✓ February 29, 2004 – Omaha World Herald editorial – Missouri trouble. The non-plan: Let’s just keep doing what we’ve been doing on the river.
- ✓ March 1, 2004 – Omaha World Herald article – Portion of West Papio Creek will be widened to ease floods.
- ✓ March 3, 2004 – Omaha World Herald article – 72nd Street residents on power line: Not in our back yards. Owners of homes and businesses say the area has had its fill of construction projects and has no room for the new OPPD towers.

- ✓ March 4, 2003 – Omaha World Herald article – OPPD gives line cost estimates. Some board members lean toward a compromise route for the new power line.
- ✓ March 4, 2004 – Omaha World Herald article – Water policy sparks urban-rural clash. A bill aims to resolve conflict between surface water and groundwater users.
- ✓ March 3, 2004 – Omaha World Herald article – Supreme Court examines irrigation rights. The lawsuit focuses on who has a higher priority – farmers who draw water from streams or those who pump from wells.

February 2004

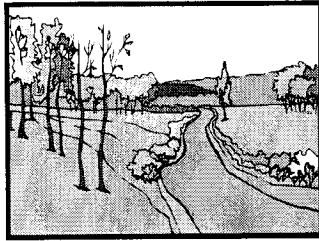
Information & Education Report

Information

- .Planned and staffed NRD booth at the Omaha Sports Show
- Updated web site pages.
- Completed work on Winter 2004 SPECTRUM
- Planned and staffed NRD booth at the Omaha Home and Garden Show
- Gave Speakers Bureau presentation to Overland Hills Baptist Men's Club
- Reviewed applications for Outdoor Classroom Grants
- Prepared for the Regional and State Envirothon Competitions
- Worked with NARD staff on Spring tree giveaways

Education

- Trained 16 pre-service teachers in PLT/WET at Creighton
- Interviewed speech students at Millard South for Project PAYBAC
- Worked NRD Boat Show booth
- Provided Volunteer information for Master Gardener training
- Continued working on state correlations of LEP
- Ordered Pedometers for NRD staff—Wellness Program
- Edited and mailed Envirothon 2004 applications to all High School science teachers in Douglas and Sarpy Counties
- Started planning 3 Spring LEP workshops
- Wrote LEP article for monthly Nebraska PF newsletter
- Started NRD Kudos program to recognize exceptional staff achievements
- PLT/WET/WILD Advisory Committee Meeting
- Organized and inventoried I & E materials in NRC basement
- Managed 56 volunteer hours
- Edited and printed Walnut Creek Campground Rules & Regulations
- Chose schools for Water Works 2004 and continued planning the event



Looking Back - Monday, February 23, 2004

Ralph Puls
Land and Water Programs Coordinator

Papio-Missouri River Natural Resource District Update

Our featured speaker, Steve Oltmans was out of the City attending a funeral.

Ralph Puls graciously stepped in and presented for Steve. Ralph shared his involvement with the NRD and showed a 16-minute slide presentation giving a good overview of total Papio-Missouri River NRD activities. The NRD includes the counties of Sarpy, Douglas, Washington, Dakota, and 60% of Burt and Thurston Counties. The staff of the NRD includes engineers, planners, resource experts, and support personnel with headquarters at Chalco Hills Recreation Area in Omaha, Nebraska and field offices in Blair, Lyons, Walthill, and South Sioux City, Nebraska. The NRD has been an instrumental partner in the work of the Omaha River Front Project including the planning of the "Pedestrian Bridge" soon to become the River Cities' signature icon linking Iowa with Nebraska. The popular Papio Trails Project is a joint project of the NRD and metro-area cities and counties offering safe hiking and biking trails. The NRD offers Wildlife Habitat Improvement Programs along with tree planting cost share and resource education with the local media, special interest groups, schools and community groups. In addition the NRD provides special flood control within the 402 square mile Papio Creek Watershed with potential flood control problems for the Cities of Omaha, Papillion, and Bellevue, Nebraska. NRD has adopted Ground Water Management Plans written to take a comprehensive look at present and future ground water conditions. This includes 100 monitoring wells for ongoing quality testing efforts. A Well Abandonment Program with cost share has been implemented as a means of preventing pollution of groundwater. The district has initiated studies and sedimentation and pollution protection measures targeting Wehrspann Lake in Sarpy County and Summit Lake in Burt County. The NRD has joined the Lower Platte River Alliance to help protect the Platte River. It also operates three Rural Water Supply Projects in Washington, Thurston, and Dakota Counties serving a total of 1,000 rural households and the City of Fort Calhoun, Nebraska. Other projects include soil conservation cost share programs for building agricultural terraces, waterways, and erosion control dams. The NRD partners with the USDA Natural Resources Conservation Service for special soil conservation efforts targeting watersheds including Hanson's Lake in Sarpy County and the Silver Creek Watershed in Burt County. Projects of national significance include the Back to the River and Missouri River Corridor Projects designed to renovate wetlands along the Missouri River lost due to channelization. National projects effect the Blackbird Scenic Overview in Burt County, the 2000 acre Boyer Chute National Wildlife Refuge near Fort Calhoun, Nebraska, the Hidden Lake/Great Marsh in Bellevue, Nebraska, Rumsey Station In Sarpy County, Heron Haven in Omaha, Nebraska, the Platte River Landing near Highway 64 in Douglas County, and Elkhorn Crossing near Highway 31 in Douglas County. The Papio-Missouri River NRD is a valuable asset to our community standing strong in protecting the natural world around us while also adding value to and protecting our communities. Thank you Ralph for the excellent presentation.

February 2004

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Updated: February 17, 2004

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

- **Big Papio Channel Project - West Center Road to West Dodge Road (Woodward):**
- **Little Papio:** (Cleveland)
- **Big Papio :** (Cleveland)
- **West Branch** (Cleveland):
 - Land Exchange with Sarpy Co. (96th St.) (W)
 - Land Exchange with Bellino (96th St.) (W)
 - ROW Hearing Documents (84th – Giles) (N)
- **Western Sarpy Dike** (Sklenar, Cleveland):
 - Closing with Bundy's (potentially modify ROW/offer) (F)
 - Complete easements – three dikes and one drainage ditch (F)
 - Amended drainage ditch easements on Hickey (First National and Bundy Properties) (W)
 - Levee ROW research (RSP, etc.) (W)
- **Floodway Purchase Program** (Woodward):
 - Prepare draft Interlocal Agreement for Flood Mitigation Planning and Mapping Assistance Program (P)
 - Floodway Property Purchase Agreements for Proskel Property at Elbow Bend (W)
- **Trail Projects** (Bowen):
 - Bennington Trail Interlocal Agreement (W)

- **Missouri River Corridor Project** (Becic):
 - ★ California Bend – Final settlement with tenant (Wright's) (W)
 - ★ Lower Decatur Bend – Appraisal Review, ROW documents and habitat easements (W)
- **USDA P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
 - Papio Site S-30 – development agreements (F)
 - Silver Creek Site Easements– as needed (W)
 - Release of Site S-7 Easement (W)
- **Papio Watershed Dam Sites:**
 - Dam Site 19 agreement (Petermann) (F)
 - Candlewood Easements (Chris Curzon) (O)
 - Dam Site 13 Agreement (Petermann) (F)
- **Papio Creek Watershed Partnership (Stormwater)** (Woodward):
 - Storm water Utility Legislation (W)
 - Partnership Interlocal Agreement (W)
- **Rural Water Projects:** (Sklenar)
- **Other:**
 - Aerial photo/GIS Consortium Agreement with MAPA (W) (Woodward)
 - Interlocal Agreement with Bellevue for Missouri Riverfront Development (N) (Becic)
 - Interlocal Agreement for Dakota County Natural Resources Center (W) (Puls)

PAPIO-MISSOURI RIVER
NATURAL
RESOURCES
DISTRICT



February 24, 2004

RE: Washington County Rural Water Project No. 2/Development

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

Dear Property Owner:

As promised, this is the first of a series of newsletters that I will hope to keep you updated with, with regards to the District's development of a rural water system that will serve your property. It is my intent to send one out about every three months. Of course you're welcome to call me at any time.

I will begin by telling you what has been accomplished by the District so far this year:

- (1) A three party agreement between the City of Blair, Washington County and the District was signed by all parties during the first week of January. Blair has agreed to sell water to the District. In addition, the City of Blair and Washington County are providing funds for over-sizing (most if not all) water mains. These monies will be repaid by the District as future hookups develop in the years ahead.
- (2) The District's Board of Directors also approved and executed an agreement for engineering services with HGM Associates regarding final design of the rural water system.
- (3) A field survey was conducted along all water main routes to determine which side of the county road the waterlines should be placed. Locations where easements will be necessary from property owners were identified.
- (4) HGM Associates completed and delivered a right-of-way map identifying the proposed location of the waterlines.
- (5) The District hired a firm to do title searches of the properties where easements will be necessary.
- (6) Investigation into the acquisition of property for the water tower has been initiated.

As of yet, the District has not had any serious setbacks regarding our schedule. We still envision awarding contracts by late fall of this year for constructing the water tower and distribution system. With any luck, water service should be made available to residents by summer 2005. During the interim, District personnel may be contacting you about executing an easement for the waterline in your area. The sooner easements are signed by property owners, the sooner we are able to get under way with construction activities.

Overall we are still running smoothly in achieving our goals. Your continued help and support is fully appreciated!

Sincerely,

Dick Sklenar

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of One Dollar (\$1.00) and other good and valuable consideration paid to: _____, hereinafter referred to as **GRANTORS**, by Papio-Missouri River Natural Resources District hereinafter referred to as **GRANTEE**, the receipt of which is hereby acknowledged, the **GRANTORS** do hereby grant, bargain, sell, transfer, and convey unto the **GRANTEE**, its successor and assigns, a perpetual easement with the right to erect, construct, install, and lay, and thereafter use, operate, inspect, repair, maintain, replace, and remove pipelines for the transportation of water, and all valves, devices, connections, and other appurtenances thereto (and the right to have the easement corridor free from other structures, trees and shrubs) in, under, over, across, and through the land of the **GRANTORS** in Washington County, Nebraska, described as follows:

The easement corridor shall be _____ feet (____) in width, the centerline of which is _____ feet (____) either side of, and parallel to, the entire length of facilities constructed by the **GRANTEE** (excluding county road right-of-way), together with the rights of egress and ingress of adjoining lands of the **GRANTORS**.

The **GRANTORS** waive compliance by the **GRANTEE** with the notice and other provisions of the Uniform Procedure for Acquiring Private Property for Public Use (Sec. 25-2501, R.R.S. 1943, et seq., as amended).

The **GRANTORS**, for itself and for its successors and assigns, covenants and agrees that **GRANTORS** are the owner of the Easement Area and that it has good

This Easement shall not pass, nor be construed to pass, to the **GRANTEE**, any fee simple interest or title to the Easement Area. The **GRANTORS** shall have the reserved right to make reasonable non-structural uses of the Easement Area which do not interfere with the **GRANTEE'S** rights under this Easement.

The grant and other provisions of this easement shall constitute a covenant running with the land for the benefit of the **GRANTEE**, its successors and assigns.

GRANTOR

GRANTOR

On this _____ day of _____, 20____, before me, a Notary Public in and for said _____ County, _____ personally came the above named _____, who is (are) _____, personally known to me to be the identical person(s) whose name(s) is (are) affixed to the above instrument as **GRANTORS**, and acknowledged the execution of said instrument to be his (her) (their) voluntary act and deed.

WITNESS my hand and Notarial Seal the Date last aforesaid.

Notary Public

NEBRASKA SCENE

District dilemmas

Despite what my computer's spell check suggests, Nebraska's NRDs are not nerds. With the challenges facing NRD boards today, they can't afford to be.

The 23 natural resources districts, formed along river basin boundaries, celebrated their 30th birthday last year. They remain a unique system of local government. Boards, primarily composed of farmers and ranchers, are charged with preventing soil erosion and floods and with managing wildlife habitat, forests and recreation. But protecting groundwater — its supply and quality — is a board's biggest responsibility.

That responsibility has never been greater. Drought, interstate river compacts and federal laws, such as the Endangered Species Act, have pushed districts to restrict new well drilling and to consider capping the amount of water pumped from existing wells.

Boards are facing making difficult and unpopular decisions about water use, imposing rules that affect themselves and neighbors.

Here's a summary of recent NRD activities:

- In the Republican River Basin, the Middle and Lower Republican NRDs have suspended new wells as one step in implementing the Nebraska-Kansas lawsuit settlement.
- The Upper Republican NRD (Chase, Dundy and Perkins counties) has a permanent well moratorium.
- Three Panhandle districts suspended the drilling of new wells in all or portions of their districts. The move gives them time to figure out what to do about declining streams and groundwater levels.
- The Upper Big Blue NRD reports the biggest groundwater declines since 1987.

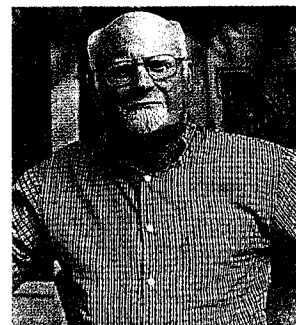
NRD boards should be commended for facing the challenges. Debates will be heated. Some farmers will oppose any water regulation, but many understand the need to sustain this most valuable of natural resources.

HELP NEEDED

The directors and staffs of NRDs implementing new groundwater management programs soon discover the heavy recordkeeping demands and hydrologic information necessary. You need accurate information, for instance, if you're going to tell a well owner someday that his pumping affects a stream.

Mike Jess, a water lecturer with the University of Nebraska Conservation and Survey Division, says NU ought to offer more educational assistance to NRD directors, primarily leadership training. "[Board members] are facing complicated issues and tough choices."

The state also must make sure NRDs have the funds to carry out the mandates given them by the Legislature in the first place.



DON MCCABE
EDITOR

dmccabe@farmprogress.com

Household Hazardous Waste Collections Scheduled

Feb, 2004

The Nebraska Resource Conservation and Development (RC&D) Council is sponsoring three household hazardous waste collections next month at the following sites:

Homer (Dakota County) - Friday, March 12 from 4 p.m. to 7 p.m.

Tekamah (Burt County) - Saturday, March 13 from 9 a.m. to Noon

North Bend (Dodge County) - Saturday, March 13 from 3 p.m. to 6 p.m.

These collections will allow residents to dispose of potentially hazardous household products at no charge. "I encourage everyone to take advantage of this free opportunity to dispose of unwanted and hazardous household waste. Not only will your home be safer, but our environment will be protected by proper disposal methods," said

Craig Rowland, County Executive Director for the Farm Service Agency (FSA) in South Sioux City.

Items that will be accepted include cleaning products, yard and garden chemicals, paint, used oil, car batteries, anti-freeze, aerosol cans, and other household hazardous waste. Some items will NOT be accepted, including appliances, tires, fluorescent light bulbs, ballasts, science lab chemicals, items containing asbestos, wood preservatives, PCBs, explosives, construction waste or anything of commercial quantities.

Materials should be in their original containers if possible and delivered to the collection site in sturdy, disposable boxes or other containers no larger than five gallons or 50 pounds. If the original container does not exist, substitute containers should be labeled as to the contents.

All acids and/or bases must be brought in 5-gallon containers or smaller. The household hazardous waste program personnel reserve the right to reject any materials.

The collection and disposal of the household hazardous waste is being funded through a grant from the Nebraska Department of Environmental Quality (DEQ) Waste Reduction and Recycling Program to the Nebraska Loess Hills RC&D. County officials and local volunteers are helping to coordinate and conduct the collection events.

If you have questions about materials that will be accepted, or if you'd like to volunteer to help at the collection sites, please contact Kent Neumann, Nebraska Loess Hills RC&D, in Oakland, at (402) 685-5175 or by email at kent.neumann@ne.usda.gov

Rush to dig wells puts new focus on water, drought

Seven NRDs have suspended new drilling. Nebraska now has 85,847 irrigation wells, more than one per square mile.

2-9-04
By PAUL HAMMEL
WORLD-HERALD BUREAU

LINCOLN — Drilling of irrigation wells hit a 22-year high in 2003 as anxiety grew about continued drought and the expansion of moratoriums on new irrigation wells.

Seven natural resources districts, covering all of the Republican River basin and most of the Platte River west of Columbus, Neb., have suspended drilling of new irrigation wells.

An eighth district, the Twin Platte Natural Resources District, based in North Platte, Neb., is in the process of enacting a moratorium.

Farmers rushed to beat the bans and to provide more protection against lack of rainfall.

Nebraska now has 85,847 active irrigation wells. That is more than one per square mile.

The rush to mine groundwater for crops is one of the reasons the state needs to adopt a new strategy to resolve water shortages and conflicts between surface water and groundwater users, said two water authorities.

A strategy devised by a state task force and outlined in Legislative Bill 962 would require the state to annually evaluate whether water resources in a river basin are being overused. If they are, no new irrigation or water use would be allowed until a management plan is adopted.

Ann Bleed, deputy director of the Nebraska Natural Resources Department, said it's clear that the Republican and Platte River basins no longer can sustain the current irrigation levels.

The latest area to enact a temporary ban on new wells is the state's largest area for groundwater irrigation, the Central Platte NRD, based in Grand Island. It enacted a three-year moratorium in November because of concerns about water shortages.

That sparked a flurry of well-drilling activity before the ban went into effect. The 329 new wells drilled in the Central Platte NRD were the most of any district in the state.

Many were drilled to supplement older, less productive

wells or to compensate for the lack of water being delivered from irrigation canals, said Ron Bishop, general manager of the Central Platte district.

"It was a tough year, tough not only on surface water supplies, but groundwater supplies," he said. "We stressed a bunch of the wells. They couldn't keep up."

The three-year ban, he said, will allow his district to determine whether water resources are being overused and then plan how to resolve that.

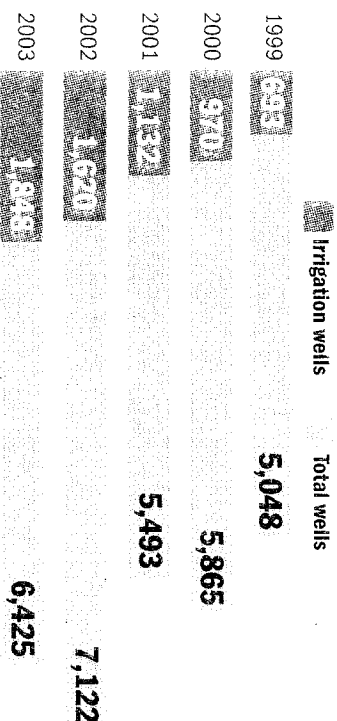
As of Feb. 2, 1,848 new irrigation wells had been registered as constructed during 2003. That figure could rise — well drillers have 60 days to register a new well.

The 2003 figure was the most new irrigation wells sunk since 1981, which marked the end of a surge in well drilling prompted by the development of the center-pivot irrigation system.

One system can pump about 52 million gallons of water a year to irrigate 160 acres of crops. That would supply, on average, the needs of about 570 people.

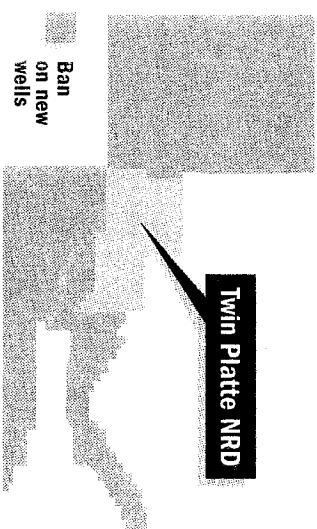
Nebraska well construction

Drilling of irrigation wells hit a 22-year high last year, spurred by fears of drought and moratoriums on well drilling. The numbers are subject to increase because well drillers have 60 days to register new wells.



Moratoriums on well drilling

Seven Nebraska Natural Resource Districts have banned new wells. An eighth district, the Twin Platte, is in the process of enacting a ban.



SOURCE: Nebraska Dept. of Natural Resources

DAVE CROV/THE WORLD-HERALD

Snow brings flood worry



PHIL JOHNSON/THE WORLD-HERALD

Papio-Missouri River Natural Resources District employees Jason Schnell, left, and Ron Lehman slog through deep snow to reach the ice-covered Platte River to take ice samples for assessing prospects for spring flooding.

Eastern Nebraska river watchers think thaw

2-12-04

BY JOE DEJKA

WORLD-HERALD STAFF WRITER

Record snow depths blanketing eastern Nebraska and unyielding cold could pose a risk for spring ice jams and flooding on area rivers, authorities said.

The risk, however, is not as great as it would appear from all the mounds of snow.

"I guess to some extent it depends on how Mother Nature wants to melt this," said Jeff Reese, hydrologist with the National Weather Service in Omaha. "If it's instantaneous, then we're really going to have a problem."

Most state and local officials said that barring an extraordinary warm-up, the likelihood of massive flooding is fairly low.

But they are concerned that new snow and sustained cold would thicken the river ice and inhibit the gradual melting of the widespread snowpack.

If those conditions persisted for



PHIL JOHNSON/THE WORLD-HERALD

Lehman and Schnell bore into the frozen Platte River to measure the thickness of the ice.

Inside

How to keep your car rolling in the snow and cold. **Midlands, Page 5**

Tips for cleaning up leaks and preventing mold. **Living**

several weeks, a rapid spring thaw — or, even worse, an early thunderstorm — could cause large cakes of ice to break up and jam along bridges downstream. Snow-melt would build up behind the ice dams, eventually spilling over banks.

Areas at greatest risk are near the confluence of the Platte and Elkhorn Rivers in western Sarpy County and along the Elkhorn in northern Dodge County.

State agencies are ready to dust the Platte River ice with fly ash to induce a controlled breakup, if the need arises.

February may seem early to be thinking of flooding, but in late

See Flood: Page 2

Flood: Deep snow, rapid thaw would increase risk

Continued from Page 1

February 1997 authorities were blasting ice jams on the Platte River.

Jams that year caused flooding in northeast Nebraska on the Elkhorn River from Wisner to Winslow in Dodge and Cuming Counties.

Eleven years ago eastern Nebraska experienced a massive early March thaw.

During 11 days beginning March 6, 1993, the National Weather Service issued 187 flood notices as snow up to 18 inches deep in east-central Nebraska started melting.

With the near-record inflows blocked by ice jams, the Platte and Elkhorn Rivers and area streams jumped their banks and destroyed levees.

Floodwaters routed 1,400 people from their homes, swept away bridges, cut gaping holes in highways and railroads, scoured thousands of acres of farmland, broke up businesses and killed two sightseers.

Wednesday morning, snow depth was 20 inches at Omaha's Eppley Airfield, down from the February record of 26 inches Friday morning, according to the National Weather Service.

The best weather situation would be a slow transition to spring weather: 40 degrees during the day, temperatures in the teens at night, said Steve Oltmans, manager of the Papio-Missouri River Natural Resources District.

The good news is that, so far,

River flow rates

At selected locations Wednesday morning:

Platte River at Louisville, Neb., 13,680 cubic feet per second; 20 percent of flood flow (the amount of water flowing through the river at flood stage).

Two-thirds of the flow in the lower Platte River — the last 110 miles — comes from the Loup and Elkhorn Rivers. The rest comes from areas of Wyoming and western Nebraska. The Platte River is running lower than normal because of drought-stricken headwaters.

Elkhorn River at Waterloo, Neb., 1,523 cubic feet per second; 3 percent of flood flow.

The Elkhorn River is flowing nearly normally for this time of year, and its basin is snow-covered with depths in the double digits.

Loup River near North Bend, Neb., 8,227 cubic feet per second; 18 percent of flood flow.

The Loup basin has less snowfall, and the river is running slightly below normal levels.

Source: National Weather Service

the snowfall has been relatively dry.

Becky Griffis, a meteorologist with the National Weather Service in Valley, Neb., said snow from the trio of storms that struck Omaha contained about 2 to 2.5 inches of water.

The bad news is that the snow is widespread.

Because of drought conditions upstream, the Platte thus far has lower flows than is normal for this time of year. Although that could mean less water building up behind ice jams, the lower flows could also make jams more likely.

"You can't float ice out unless you have water underneath it,"

Oltmans said.

Last Wednesday, Ron Lehman, 59, the district's maintenance superintendent, measured Platte River ice for the first time this season — a late-winter routine since 1987.

At Union Dike near Valley, Neb., Lehman used an ice auger to make a hole in the ice, then lowered a pole to measure the thickness.

The thickness ranged from 9 inches to 15 inches, averaging 10.6 inches.

Last year on Feb. 6, ice at the same location measured an average of 13.9 inches thick.

Lehman took additional borings Wednesday at Union Dike

and found that the ice had thickened, despite an insulating snow cover.

Ice ranged in thickness from 10.5 to 21 inches, an average of 14.7 inches.

During ice-jam floods in 1997 and 1993, the ice averaged 20 inches thick, an measured as much as 24 inches in some places, Oltmans said.

Even 10 inches of ice can cause a jam, said Paul Woodward, a water resources engineer for the district.

"It's fairly thick, and that means there's enough of it that it might cause a decent jam," Woodward said. "We've got that potential."

Ed Gilbert has lived at Hanson's Lakes along the Platte River south of Bellevue since 1968.

Gilbert, who in years past has witnessed giant slabs of ice beaching by his community, said he isn't worried at this point.

"It's just not that thick," he said. "We're going to start coming out of this in 14 days."

Randy Behm, chief of the floodplain management services section for the Army Corps of Engineers in Omaha, expects sloppy conditions when the snowcover melts.

But Behm, too, sees good news in the dry snow.

"An August rainstorm dropping two inches of rainfall is probably going to cause a heck of a lot more damage than what we'll see coming out of this," he said.

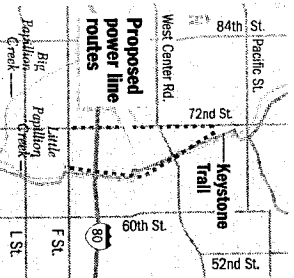
Keystone Trail power line wins initial OK amid opposition

2-12-04
By NANCY GAARDNER
WORLD-HERALD STAFF WRITER

A local natural resources board committee has given an initial OK to a proposed high-voltage power line along one of Omaha's busiest trails.

The Omaha Public Power District line would run along the Keystone Trail from about Interstate 80 to the Ak-Sar-Ben campus. A number of trees would be removed.

The operations subcommittee of the Papio-Missouri River Natural Resources Board voted 4-0 Tuesday night to recommend to the full board that the utility be allowed to use the trail. The 11-person board is scheduled to vote today.



DAVE CROFT/THE WORLD-HERALD

Larry Troutman, OPPD's manager of transmission and engineering, told the committee that construction would be easier and less disruptive along the trail. Traffic and a number of busi-

nesses would be affected if the line were placed along the alternative route of 72nd Street.

Construction costs are similar for the two routes, he said, but what is not known is the difference in right-of-way costs.

At the meeting, five citizens spoke out against the trail, and Karen Rock of the Sierra Club presented a petition with 28 signatures opposing it. NRD board member Melissa Gardner read a letter from the Ak-Sar-Ben Future Trust.

The trust owns more than 150 acres along the trail and intends to develop the site into a "first-class" community asset, Kermit Brashers wrote. As attorney for the trust, Brashers wrote that the "enormous size and troubling en-

vironmental concerns ... are wholly inconsistent with the character and aesthetics" of any proposed development.

Gardner urged the committee to vote against it.

"When you live in the city, you have few places to get away from urban life and see natural beauty," she said.

Troutman showed the board pictures of what the lines would look like. The poles stand about 120 feet to 150 feet tall and are about 3 to 4 feet wide at the base.

After seeing the pictures, board member Jim Thompson said he would vote no.

"It looks like a big fence," he said. "It's uglier than I thought."

Those voting to recommend use of the trail were John Conley,

Rich Tesar, Rich Jansen and Tim Fowler. Joe Neary abstained, saying he wanted to see more complete cost estimates.

Fowler said he thinks the trail is a better location because it would be less disruptive and safer. To the extent that an electromagnetic field generated by the line could pose health problems, he said, fewer people would be affected along the trail.

Conley said he was particularly concerned about the line's impact on the Westgate neighborhood if it were to be built on 72nd Street.

"All of the factors involved convince me that the trail is the best route for the power lines," he said. "But I don't want to see this become the standard for

OPPD — that they come to us every time they want to run a power line."

Use of the trail could spell a defeat for a major community improvement effort before it gets off the ground. Community groups have pitched in \$800,000 to support the Omaha By Design task force, which is studying green space, streets and neighborhoods. The group has asked the NRD to delay its decision.

The College of St. Mary also has written to oppose it.

If the NRD approves use of the trail, OPPD will take the issue to the Douglas County Board for its approval. The OPPD board will not have to vote on the trail route. OPPD hopes to have the line in place by 2005.

2-16-04

Data trailing decision

A proposed high-voltage power line along an Omaha trail poses a tough question for the city: Is the visual blight to an urban green space a better tradeoff than the disruption to business and traffic that would result from a 72nd Street route?

Approving the route along the Keystone Trail would make for a rough start for Omaha By Design. That effort is a laudable movement. Focusing on the city's aesthetics will protect the city's long-term interests. Trails and green spaces are an important element in fostering a pleasing urban environment.

The proposed Keystone power line would demolish a line of trees, replacing natural beauty with what one NRD board member described as a big, ugly fence. (The Papio-Missouri River Natural Resources Dis-

How much is 'significantly more'? Is it worth marring the Keystone?

trict maintains the trail network.) What precedent would routing this power line along a trail establish?

Certainly, cost concerns must weigh into the decision. Yet public knowledge of those is incomplete. Construction costs would be similar, OPPD says, but the utility hasn't offered data on right-of-way costs for the two routes. A spokesman said it would be "significantly more expensive" to build on 72nd Street. How much is that? Tens of thousands? Hundreds of thousands? Millions?

While the NRD board has OK'd the trail route, the Douglas County Board has yet to give its blessing.

This decision may be a significant test of Omahans' will to preserve green space. It's a decision that, at minimum, ought to be made with all the facts in hand.

Flood plain to be remapped

2-17-84

By Rick Ruggles

WORLD-HERALD STAFF WRITER

The West Branch Papillion Creek flood plain will be remapped within the next two years, which may compel some property owners to buy flood insurance.

The Papio-Missouri River Natural Resources District will conduct the first extensive remapping of the West Branch Papillion Creek, or West Papio, flood plain in about 25 years.

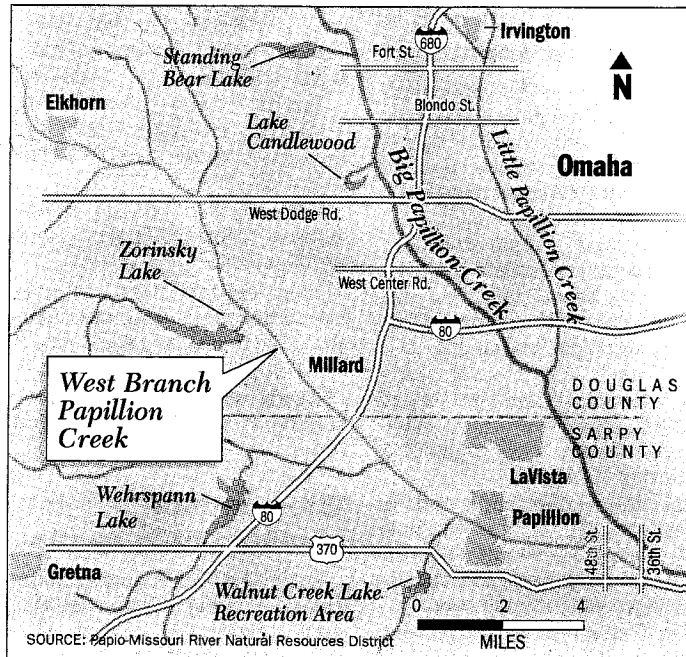
A flood plain is the area that would be inundated with water if the West Papio were to have a 100-year flood, or a flood that has a 1 percent chance of occurring annually.

West Branch Papillion Creek runs roughly from Elkhorn southeast through Millard and flows into Big Papillion Creek near 36th Street and Nebraska Highway 370 in the Bellevue area.

The flood plain most likely has changed in places, said Paul Woodward, water resources engineer for the natural resources district.

Rainwater soaks more efficiently into rural land than into the asphalt and concrete of urban areas, Woodward said. So with urban development in west Omaha and beyond, he said, runoff into West Papio most likely has increased, causing the flood

The Papio-Missouri River Natural Resources District will spend \$370,000 on the West Branch



THE WORLD-HERALD

plain to expand in places.

He declined to speculate on how dramatic an increase in the flood plain's size to expect.

Generally, homes that are in flood plains and that have federally backed mortgages must

purchase federal flood insurance. Such insurance typically costs several hundred dollars a year.

The \$370,000 study will examine West Papio and tributaries
See Flood: Page 2

Flood: Mapping expected to be done by July 2005

Continued from Page 1
such as South Papio Creek, which runs from 108th Street and Giles Road to Gretna, and Hell Creek, which runs from Girls and Boys Town to 108th Street and Giles Road.

The flood plain is as narrow as 100 feet on small tributaries to

3,000 feet wide where the West Papio meets the Big Papio.

The natural resources district has hired HDR Engineering to conduct the analysis. The district received a \$350,000 federal grant for the project.

The study requires surveyors, engineers, computer modeling and other technology.

Woodward said the NRD in time hopes to obtain grants to remap the flood plains of Big Papillion Creek and Little Papillion Creek.

Because West Papio Creek runs through the areas that have seen the most development in recent years, it was determined that there was a greater need to

study its flood plain.

Woodward said the study probably will be completed by July 2005. The Federal Emergency Management Agency and the public will have the opportunity to review it until March 2006, when FEMA's approval is anticipated.

Wild winter has some watching for spring thaw

Jason Schnell, left, and Ron Lehman bore a hole in the ice covering the Platte River last week near at the National Guard Camp near Ashland. The two Papio-Missouri River Natural Resources District employees have been drilling holes for the past several weeks trying to determine ice thickness.



SCOTT R. KEMPEN / GRIFFIN BREEZE

By Tim Karstens
814-444-218-04

Ron Lehman and Jason Schnell have a sled and during this cold and snowy winter, they have been using it a lot.

But the two grown men pull an ice auger and measuring sticks in the box sled, and their days are spent fooling around. What the two Papio-Missouri River Natural Resources District employees do is serious business.

The pair has the unusual task of measuring ice thickness on the Platte and Elkhorn rivers, and does so several times a week. The information they gather is valuable as researchers and resource officials wait for the thaw, whiling away the days trying to predict what the rivers will do come spring.

With ice jams and resulting floods in 1993 and 1997 still fresh in local memory, the wait

— continued on page 12

Ice jams: Observers play wait-and-see

from PAGE A1

In an attempt to avoid surprises, Lehman and Schnell venture out three times a week to bore holes at three different sites on the Platte and Elkhorn. They begin by boring a hole 50 feet from shore and then several more at 200-foot intervals. At the National Guard Camp near Ashland, where the river is about 1,300 feet across, they drill six holes spanning the Platte River.

In recent years, the river has been "really low," Lehman said, which is bad for farmers and could be bad for flood watchers.

In 1993, the last year marked by a 100-year flood, the Elkhorn River released its ice early, Lehman said, during a warm spell in March. But the weather turned frigid again and though it was brief, it was also devastating.

The resulting ice jam plugged the river with massive chunks that water flow could not dislodge. Water began to build up behind the ice masses and spilled over the Platte's banks. The flood destroyed riverfront homes, submerged fields, washed out a bridge on Highway 6 and even closed Interstate 80 for a day.

Last week, on a sunny but frigid day, Lehman and Schnell bundled up and trundled out on the frozen Platte. The weight of the sled and auger, and four grown men, couldn't make the ice groan. Schnell had to scoop snow from the ice surface in order to bore a suitable hole.

In less than two minutes, the auger broke through the ice creating a hole, chock full of gray icy slush, about seven inches across. Lehman thrust a flat pole, with a yellow measuring tape on its side and a horizontal bolt drilled across the bottom.

Lehman pulled the pole tight against the side of the hole, while pulling up until the bolt hit the underside of the ice. He marked the length and pulled the pole out of the water.

The ice, he said, was 13 inches thick. The week before, in the same place, the ice was 19 inches thick.

When asked if a six-inch loss in one week was business as usual, the 20-year ice boring veteran looked surprised and somewhat lost in thought.

"No, that's not normal," he said.

can be a white-knuckle ride, Lehman said. "Is that a good thing? I don't know," he said of the low water levels on the Platte. "But the river needs flow to keep the ice moving."

Lehman, who has been measuring ice thickness since 1984, said trying to predict what will happen now would be fruitless. But when the temperatures rise, and the river ice melts, weather patterns become very important. If there aren't any unusually warm, then cold snaps, the ice should melt evenly, and jams would be unlikely.

But if Mother Nature hiccups, and one day of unseasonable warmth is followed by freezing cold, there could be ice jams and floods, Lehman said.

Please see Ice jams, Page A2

Fahey promotes plan for bike trail

■ The proposed path on Eppley Airfield property had been blocked by airport officials.

2-24-04
By C. DAVID KOTOK

WORLD-HERALD STAFF WRITER

Omaha Mayor Mike Fahey plans to make another run at locating a bike trail around Eppley Airfield.

The city has come up with a plan that Fahey hopes will satisfy concerns expressed by the Omaha Airport Authority about a bike and pedestrian trail along the Missouri River levee east of the airport.

The authority has granted Fahey's request to make his pitch when the board meets March 16.

Don Smithey, Eppley executive director, declined to comment on the city's latest attempt to put the trail on airport property. He said he hasn't seen the latest plan.

The seemingly simple proposal to run the northbound segment of the river trail from downtown past the airport ran into roadblocks last spring.

Airport officials have thus far refused to approve any plan that puts the path along property under its jurisdiction.

Originally, members of the Airport Authority cited security issues.

But they dropped those concerns, replacing them with a series of questions and conditions relating to height restrictions along Eppley flight paths.

They also fear that the airport, not the city, would face potential liability and possible additional environmental considerations.

Any decision has been on hold since October, when the Airport Authority set its conditions.

The most serious objection, according to Fahey and City Parks Director Larry Foster, is that a portion of the river levee falls under the "runway protection zone."

With the added height of bicycle riders on the raised levee, this could cause problems in these zones, which fan out from the ends of the runways.

To get around those restrictions, Foster said, the city is willing to drop the bike path off the levee to ground level along Lindbergh Plaza and within the runway protection zones.

Lindbergh Plaza is the airport-owned road along the river side of the airport that many bikers and runners now use to get from downtown to N.P. Dodge Park.

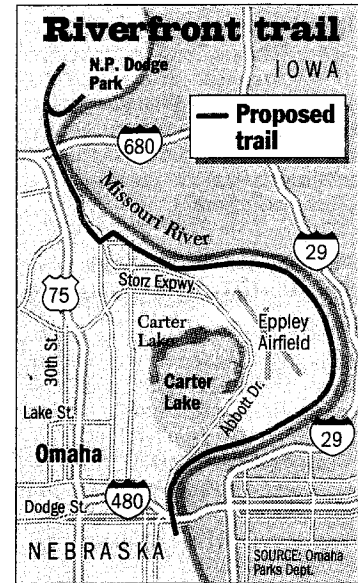
Once the protection zones are cleared, the trail path would go back onto the levee, Foster said, providing great views of the downtown skyline.

He said any concerns that airport officials have about meeting Federal Aviation Administration standards can be addressed and overcome.

If Eppley officials approve the city plan, the matter would go to the FAA for consideration.

A number of other legal concerns could be handled through agreements with the city.

"We recognize there are some issues," Fahey said. "We just want to make our presentation and answer their questions."



Power-line proposal jolts design consultant

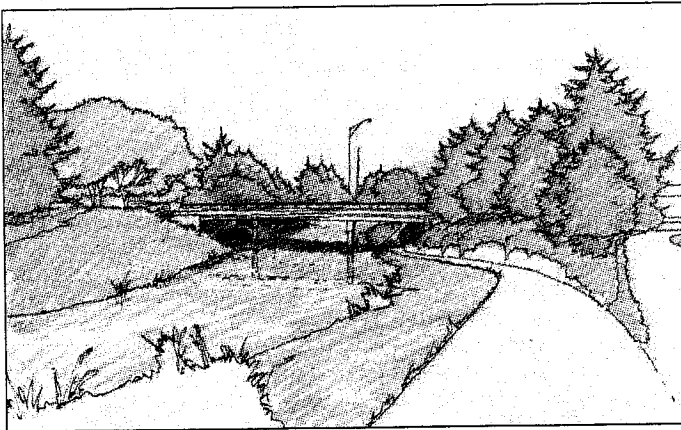
By C. DAVID KOTOK ²⁻¹⁹⁻⁸⁴
WORLD-HERALD STAFF WRITER

The citywide improvement effort Omaha By Design was put on a collision course Wednesday with the high voltage power lines Omaha Public Power District wants to erect along the Keystone Trail.



"If you are serious about Omaha By Design, you don't want these power lines," Jonathan Barnett, the lead consultant to the group, told nearly 250 people gathered to discuss Green Omaha — one of three objectives in the \$800,000 study effort.

Barnett, a prominent Philadelphia-based urban designer, may not have realized the awkward position he created for Del Weber, the Omaha By Design co-chairman. Weber also is an OPPD board member.



OMAHA BY DESIGN

This artist's rendering depicts what the Keystone Trail would look like with trees added to screen the trail from surrounding businesses.

The controversy is over the plan to erect 150-foot power poles along the Keystone Trail

for a stretch between Interstate 80 and the Ak-Sar-Ben campus. The Papio-Missouri River Natural Resources District board recently endorsed the proposal on a 5-4 vote.

The final hurdle comes before the Douglas County Board.

The City of Omaha has no say in the matter. But City Planning Director Bob Peters told those attending Wednesday's meeting they could have a big impact by showing up when the matter comes up before the County Board.

The power line issue is the first battle line to emerge from the Omaha By Design effort but undoubtedly not the last. Omaha By Design is a joint effort by the city and Lively Omaha, which is funded by major corporations and individuals.

Omaha By Design is taking a look at the city in three ways — Green Omaha, Civic Omaha and Neighborhood Omaha — with a goal of setting new standards for development and improvements within the city.

One of those areas discussed Wednesday was turning the

See Keystone: Page 2

Keystone: Power-line proposal jolts consultant

Continued from Page 1
city's creek beds into green parks.

Barbara Nichols, a Papio NRD member who voted for the OPPD lines along the Keystone, said the existence of power lines didn't keep the NRD from building trails along other stream banks.

"This was not an easy decision," she said. "We have to balance the needs of nature and the demands of man."

Weber, Peters and others said the idea of putting power lines along the creek and trails would not have been an issue two years ago. Today's controversy is an example of how interested Omahans have become in appearance.

Barnett said Omahans should

at least demand that OPPD detail how much more it would cost to put the lines along 72nd Street or underground. Weber said he understands the 72nd Street option would be an additional \$1 million and the cost to go underground is prohibitive.

Barnett also suggested lining the freeway system in and around Omaha with trees, wildflowers and grasses. People

might travel to Omaha just to drive the Interstate to see the wildflowers in bloom, Barnett suggested.

The starting point might be a couple of miles of experimental plantings, he said.

Omaha won't change its look overnight. This is more of a 30-year process, Peters said, with a once-in-a-lifetime opportunity to make changes.

Metro Omaha & the Region

County Board cool to power poles on Keystone Trail

■ Board members say they want more information from OPPD before making a final decision.

2-25-04

By Tom Shaw

WORD-HERALD STAFF WRITER

A majority of the Douglas County Board members say they are not prepared to approve placing power lines along the Keystone Trail.

The Omaha Public Power District wants to erect a series of 120- to 150-foot power poles along the trail from the Ak-Sar-Ben campus to Interstate 80.

The Papio-Missouri River Nat-

ural Resources District board, which owns the land, narrowly approved the Keystone plan this month.

The County Board also has a vote on the project because the county maintains the trail.

The biggest questions raised by County Board members in interviews focus on the costs of alternatives, such as placing the poles along 72nd Street or burying the lines.

"They've got to have hard

numbers," said board member Kathleen McCallister.

The project, which McCallister opposes, would be in her district.

OPPD has said that putting lines along 72nd Street could add possibly \$1 million to the \$1.3 million construction costs and disrupt businesses. Burying the power lines, the company says, would be too expensive.

OPPD spokesman Mike Jones said Tuesday that company officials are calculating specific cost estimates for alternatives to using the trail and will explain why the Keystone Trail was chosen for the project.

"They're going to try their best

to answer all of (the board's) questions," Jones said.

Jones said OPPD has not decided when to bring the issue before the County Board for a vote.

McCallister said she wants to know where the power from the project will be used.

She said that if the power is to support growth in west Omaha, the power lines should be buried because that's what is done in the west.

"West Omaha has beautiful green space already," McCallister said. "I don't want to live in two different cities."

The power lines for this project, Jones said, will support homes and businesses in a one-

two-mile radius.

The lines, he said, are high-voltage lines that are not as easily buried as distribution lines.

Board member Mike Boyle said he will listen to OPPD but is leaning against the plan.

"I think it's the ugly factor," Boyle said of having tall poles running along the Keystone Trail.

Board member Carol McBride Pirsch said residents in her central Omaha district question the look of the project as well.

"I have heard from constituents who'd rather it be on the street," she said.

Pirsch and board member Mary Ann Borgeson said they

need to be shown specifically why the trail proposal is the right choice.

"It would have to be proved to me that (using the trail) was the best, most efficient or economical" plan, Pirsch said.

Board member Carole Woods Harris said she opposes using the Keystone Trail and would like to look at OPPD's alternatives.

Board members Clare Duda and Kyle Hutchings said they need more information from OPPD before making a decision.

"This certainly looks like the easiest place to put it, but that doesn't necessarily make it the best place," Duda said of the trail proposal.

DeSoto plan links lake, river

■ The Corps of Engineers wants to convert a lake at the refuge into a chute so water would flow through it.

2-27-04
By LARRY PORTER

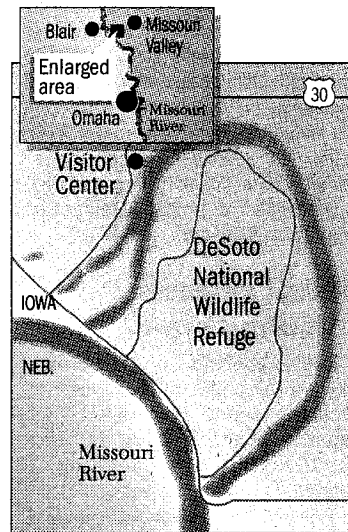
WORLD-HERALD STAFF WRITER

A 760-acre lake at DeSoto National Wildlife Refuge may become a flow-through oxbow chute similar to other chutes constructed in recent years along the Missouri River by the Army Corps of Engineers.

Officials of the corps, the U.S. Fish and Wildlife Service and the Nebraska Game and Parks Commission said the plan to reopen the oxbow is in the preliminary stage.

"The proposal is so preliminary that I wouldn't even say we're totally sold on it," said Michael George, a corps biologist.

If the plan is developed, the



THE WORLD-HERALD

Coming today

After nearly 15 years of deliberation, study and conflict, the Army Corps of Engineers is to release its new master plan for managing dams on the Missouri River. Habitat restoration projects like the one at DeSoto National Wildlife Refuge are sure to be part of the plan.

the lake during spring and fall migration.

Initial plans call for the chute to be blocked in some manner during migration periods so that waterfowl would continue to use it as a staging area.

"A lot has to be worked out with the Fish and Wildlife Service because it is a national refuge," George said. "Obviously, they have concerns because they manage it for the benefit of waterfowl. That's what DeSoto Bend was established for."

Larry Klimek, DeSoto refuge manager, said the proposal is being studied at higher levels

See DeSoto: Page 2

lake — a popular destination spot for Omaha-area anglers — would become part of a seven-mile chute through which water would slowly meander at about 500 cubic feet per second.

Of primary concern to Fish and Wildlife officials is possible disruption of waterfowl — including as many as a half-million snow and blue geese — that use

DeSoto: Plan would consider effects on waterfowl

Continued from Page 1
within the Fish and Wildlife Service. That agency can veto the proposal, he said.

"We will provide comments when we see what the final project looks like," Klimek said. "We're neither for nor against the project right now. But it's reasonable to say that I have concerns and questions about it."

In an effort to restore wildlife and aquatic habitat, the corps in recent years has developed nine chutes on both sides of the river from Sioux City south. Work on four more will begin soon.

A total of 32 chutes along the entire length of the channelized portion of the river — from Sioux City to St. Louis — have either been constructed or are set for work to begin soon. The corps has identified nearly 80

sites that it hopes to develop in future years.

Included in the corps' mitigation projects is a responsibility to create and develop shallow-water habitat that will benefit pallid sturgeon, an endangered fish.

A chute at DeSoto, however, must continue to be attractive to waterfowl.

"I believe we can have a dual use for that refuge — give sturgeon access to water in the bend in mid- to late summer and allow waterfowl use in late fall and early winter," George said. "If we can't have that dual use, then we'll back away from there and move on to the next potential site."

Pallid sturgeon, however, aren't likely to use the chute if the flow is only 500 cubic feet per second.

"Biologists I've talked to don't

believe that velocity is fast enough," said Gerald Mestl, the commission's Missouri River specialist. "The corps is working on shallow and slow habitat, which the river desperately needs. But if it's too slow, it's not pallid sturgeon habitat."

An adult pallid sturgeon was captured in Hamburg Bend near Nebraska City about two months ago.

"That's the first adult pallid sturgeon caught in one of these restored chutes," Mestl said. "The velocity there is much higher than 500 cfs. If the velocity at DeSoto is only 500 cfs, I don't think pallid sturgeon will utilize it."

"If they tailor it to sturgeon habitat (by increasing the flow), that would be very positive for the river," Mestl continued. "If it functions more like a backwater, it still would contribute but

just in a different fashion — and not directly for pallid sturgeon."

Constructing a chute at DeSoto still would benefit the river — and, to a certain extent, pallid sturgeon, Mestl said.

Native river fish would use the shallow, slow-moving water to spawn. Young fish subsequently would leave the chute and become potential food for pallid sturgeon.

The fishery at DeSoto could take a big hit if the chute is constructed. DeSoto Lake contains a good panfish population. Although the fish initially may remain in the seven-mile chute, they eventually could disappear.

"It's a pretty good crappie and bluegill fishery," George said. "If we introduce new predators by opening it up to native fish, they certainly could have an impact on that fishery."

■ Support for barge operators who need managed river flows.



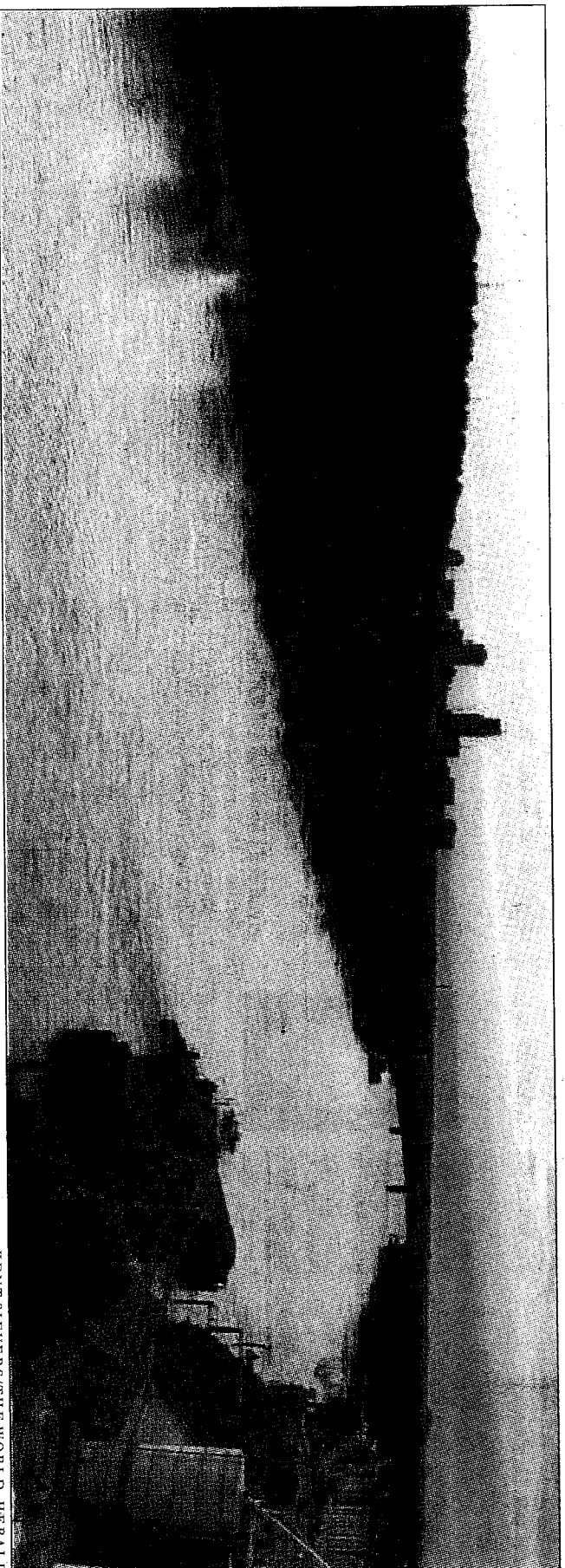
■ Engineered habitats for pallid sturgeon.



■ More lake water during dry times to sustain recreation.



River plan favors commerce



River plan favors commerce

2-27-04

By Henry J. Cordes

WORLD-HERALD STAFF WRITER

The Army Corps of Engineers on Friday proposed a new plan for operating its dams on the Missouri River that keeps more water in upstream reservoirs during droughts but rejects the more natural flows that wildlife officials say are needed to help an endangered fish.

Instead of the flow changes, the corps proposed stepping up efforts to build more shallow-water habitat for the endangered pallid sturgeon. The corps said the Bush administration's proposed budget would put \$69 million into such habitat restora-

tion.

The decision was a victory for barge operators, power companies and river marina operators who have come to depend on a steady, managed river.

The corps' decision was challenged immediately by wildlife groups. They said they would go to court next month to ask a judge to order the natural flows they said are required for the sturgeon, other wildlife and the river's general health.

"Despite the virtual disappearance of barge traffic, the corps signaled today that it will continue to enshrine navigation above the ecological health and other economic uses of the Mis-

Inside

The lake at DeSoto National Wildlife Refuge may become a flow-through oxbow chute.

Midlands

souri River," natural rivers advocate American Rivers said in a statement.

The group said the corps' decision conflicts with the U.S. Fish and Wildlife Service's opinions of what is needed to help the pallid sturgeon and other threatened species recover. The service is charged with enforcing the Endangered Species Act.

But corps officials said they

thought the habitat restoration program they were proposing would help the corps meet its obligations under the act. Scientific uncertainty remains on just what the sturgeon needs to recover, the corps said.

"Our immediate goal is to work with the U.S. Fish and Wildlife Service to develop the amount of habitat that will allow this year's operation for minimum navigation service and provide for other (river water) uses," Brig. Gen. William Grissoli said in a statement issued in Omaha, the home of the corps' Missouri River operations.

The corps said it plans to create 1,200 acres of shallow wa-

ter habitat by July 1 of this year.

If the corps failed to do so by that date, it would drop river levels somewhat this summer in an effort to increase shallow-water habitat. The river would drop to a level that in the past has not affected marina or power plant operation but could force a shut-down of river navigation.

The drought conservation plan could court some favor with South Dakota, North Dakota and Montana, home to the corps' six major reservoirs on the Missouri. The corps would keep more water in the reservoirs during dry times in an effort to boost fishing and water recrea-

See River: Page 2

River: Missouri plan likely to be challenged in court

Continued from Page 1

tion.

Nebraska and Iowa generally have favored the status quo. The high water the corps has maintained during summer supports the limited barge navigation that makes it upriver and provides steady water levels for marinas, farmers who plant along the river and power companies who use the river for cooling.

Nebraska, however, has shown willingness during recent litiga-

tion to keep more water in reservoirs during droughts and has supported modest, experimental flow changes for the sturgeon.

The plan announced Friday is intended to be the corps' final decision in a 15-year struggle over how it manages its dams on the nation's longest river.

In the face of continued delays by the corps in preparing its revised Master Manual, a federal judge in Washington last summer ordered the corps to reduce

river levels in July. The lower river grounded barge traffic and led to the closure of Omaha's N.P. Dodge Park Marina for nearly three weeks.

All Missouri River litigation now has been consolidated with a federal judge in Minnesota who will hear the wildlife groups' expected challenge to the new corps plan. Friday's release of the operating plan meets a March deadline set by that judge.

The corps' plan to create more

shallow-water habitat would restore natural oxbows in the river that were shut off in the last half century as the river was straightened and channeled to support barge traffic. Although the president has proposed increased funding for such restoration projects, it has not been approved by Congress.

The corps will take public comment on its plan for the next two weeks, with a goal of having the plan in place by March 19.

OPPD listening to high-voltage opposition

■ The utility proposes placing a power line beside a popular recreational trail.

2-28-04

By NANCY GAARDER
WORLD-HERALD STAFF WRITER

Public opposition to placing a high-voltage line along the popular Keystone Trail has not been lost on the Omaha Public Power District, board members say.

And while that doesn't mean OPPD will spare the green space and use a commercial corridor instead, they say people should realize the utility is listening.

"OPPD is not a company that is just going to bludgeon its way right through this stuff," said OPPD board member Del Weber. "It's not some noncarrying bureaucratic entity that is just doing what it wants to do. In

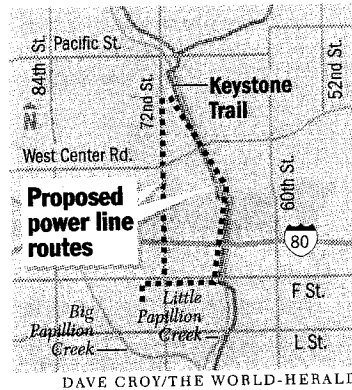
the final analysis, it will do what's right, given all of the circumstances."

Opposition to using the trail, one of Omaha's busiest, has grown in the past month.

The Ak-Sar-Ben Future Trust, Sisters of Mercy, College of St. Mary, Audubon Society, Sierra Club and Lively Omaha oppose the use of the trail.

Although the Papio-Missouri River Natural Resources District narrowly approved the plan, the Douglas County Board, which owns the trail, has said it wants specific cost comparisons before it is ready to vote.

OPPD board member Anne McGuire said she suspects op-



DAVE CROY/THE WORLD-HERALD

position would crop up if OPPD were to drop the preferred Keystone route and instead use 72nd Street.

"Nobody wants transmission lines," she said. "Right now, we're just hearing opposition from one side. Are people willing to be inconvenienced by having it along 72nd Street?"

But Omahan Clyde Anderson

sees 72nd Street as the proper route — it has major power poles along it already. "It's a utility corridor," he said.

Roughly the same number of residences are within 300 feet of either route, according to an OPPD analysis. Significantly more businesses and traffic run along 72nd Street.

About 10 to 15 feet of right of way is needed, and OPPD has agreed to pay the resources district and Douglas County a total of \$100,000 for use of the trail corridor.

Right of way along 72nd Street would be more expensive. While some free public right of way remains on 72nd, the utility would need to buy the rest. This is what is expected to drive up the costs.

R.J. Neary of Investors Realty said property along

See OPPD: Page 2

OPPD: Cost a major factor in deciding line's route

Continued from Page 1

72nd Street sells by the square foot, and prices can range anywhere from \$5 to \$15 per square foot.

OPPD is compiling cost comparisons.

Because of the potential for extra cost, the Keystone route has support among several OPPD board members. The board, however, does not vote on the issue.

"Generally speaking, unless it involves significant hardship, I'm going to go with whatever costs less money and impacts the least amount of people," said board member Mike Cavanaugh.

Board member Fred Ulrich said landscaping by the utility would ease the impact of the poles. "Our people are very talented at making these things look better," he said.

A number of trees would have to be removed, especially near Grover Street. Some of the trees

OPPD's proposed high-voltage line

What it would do: Connect substation at 72nd and Pine Streets to one at 75th and F Streets.

Why it's needed: To meet growing demand in the area within about 2 miles of the two substations. To improve reliability for Pacific Street corridor from Missouri River to west Omaha. Secondary benefit: To link new MidAmerican Energy Co. power plant being built in Council Bluffs to the regional grid. Utilities are required to interconnect to improve overall reliability.

Possible routes: OPPD's preferred route is along the Keystone Trail from Ak-Sar-Ben campus to F Street, and then west on F to 75th Street substation. Alternative route is along the east side of 72nd Street from Pine to F Streets, then west on F to the substation.

What it would cost: Construction could cost \$1.3 million to \$1.5 million along either the Keystone Trail or 72nd Street. Land costs unknown.

Size: Poles about 10 stories tall, 3 to 4 feet wide and about 500 to 600 feet apart. Lines would carry 161,000 volts. Another 69,000 volts may be added if a line is relocated from the Westgate neighborhood.

What's next: Douglas County Board must vote on the Keystone route.

in the scenic row behind the College of St. Mary might have to be removed, too, although OPPD says it would work to

avoid that.

High-voltage lines generally encounter opposition — sometimes enough to change things.

MidAmerican Energy Co. altered its plans for an \$80 million transmission line to Des Moines. Instead of cutting a new route across western Iowa, the utility will upgrade an existing line — at an added cost of \$20 million.

Some have asked why OPPD didn't install the lines while 72nd Street was torn up for street widening. Spokesman Mike Jones said that wasn't done because the utility considers the Keystone the preferred route.

"I'm not saying we've already decided," Jones said. "We saw what we thought was better of two routes, the route we felt would work best, so that's one we chose to pursue."

Traditionally, when OPPD picks a route, it looks for one that will pass fewest people. But the outcry over the Keystone has some, including Weber, saying that impact on green space also should be considered.

City parks director sees great potential in trail

2128/04
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By NANCY GAARDER
WORLD-HERALD STAFF WRITER

Judy Karnia has spent long hours on the Keystone Trail, her tennis-shoed feet slapping against the pavement, music from her headphones providing rhythm.

The long-distance runner says she will probably look for a different route if the Omaha Public Power District installs its high-voltage lines along the trail. The lines will generate static on her radio and mar the scenery.

"It would be ugly, and I'd worry about the health effects," she said. "When I run, I try to get away from the busy-ness of life."

Local officials are being asked to weigh the benefits of unfettered trails versus the con-

venience and cost savings of routing power lines along the trails.

So far, one agency, the Papio-Missouri River Natural Resources District, has given its OK to OPPD's use of the Keystone Trail. Another, the Douglas County Board, has asked for more information. The trail is owned by the county; the land belongs to the resources district.

Steve Oltmans, general manager of the resources district, said it was difficult to do, but he did recommend to his board that OPPD be allowed to use the trail.

About 20 percent of the city's trails co-exist with power lines.

"It's a little bit hypocritical to say, 'Oh, my God, we've got power lines proposed here' when we've got people walking

under them right now," he said.

But what makes this different is that it's the first time a high-voltage line has come in after a trail was built. And it comes at a time when the community has undertaken an \$800,000 effort to improve quality of life.

"Countless projects could be done more easily on public open space," said Larry Foster, head of Omaha's parks department. "We could build every fire station in the middle of a park and it would save money. We could route our streets through parks and it would save money."

But open space, he said, brings its own value to a community. And the Keystone Trail, he said, has some of the greatest potential of Omaha's trails.

"Given the right imagination,

the right tools," Foster said, "it could be something quite spectacular."

The trail is rich with potential for two reasons. First, it's in the heart of Omaha. Second, there is space to re-engineer the stream and bring the corridor to life.

Small dams could be installed, Foster said, creating a series of cascading pools. The corridor could be widened in some spots and landscaped with boulders, trees, benches and terraces.

"The whole idea that this is public open space that, at the drop of the hat, can be reallocated for something else just because it's unused property — that just has to be resisted at every turn," Foster said. "We have two jobs. One of them is what we do. The other is being a steward."

Ice on Platte, Elkhorn Rivers no longer a threat

2-29-04

By RICK RUGGLES

WORLD-HERALD STAFF WRITER

The potential for ice-related flooding on the Platte and Elkhorn Rivers vanished Saturday when much of the ice broke up and washed downstream.

"Our ice-jam flood threats are

over for another year," said Steve Oltmans, general manager of the Papio-Missouri River Natural Resources District.

Ice jams broke loose at midnight Friday or shortly after, Oltmans said. Ice floes drifted past Yutan around noon, he said.

Much of the ice that built up on the Platte and Elkhorn would have flowed into the Missouri by dusk Saturday, he said.

The National Weather Service also noted the ice breakup.

"This greatly decreases the chance of any jamming on the smaller streams that empty into the Platte or Elkhorn Rivers,"

the weather service reported.

The service said this most likely would be the major breakup of river ice this season in east-central Nebraska.

Heavy flooding took place in 1993 because of ice jams. Earlier this month, officials said they would consider using dynamite to break jams if necessary.

Sioux City might not see barges on Missouri River this year

29-04
SIOUX CITY, Iowa (AP) — This city's barge traffic could dry up this year.

Citing uncertainty over low flows and the government's management, the two towing companies serving Sioux City have both said that they do not plan to go that far up the Missouri River this year, said Doug Palmer,

president of Tegra Corp., which owns the Big Soo Terminal.

If so, it would mark the first time since such navigation began on the Missouri River in the early 1960s that Sioux City would face a season without barge traffic.

"We're disappointed," Palmer said. "It will make for a challenging year."

The tow boat firms — Memco Barge Co. of St. Louis and Blaske Marine Inc. of Alton, Ill. — reacted to recommendations in December calling for a spring rise and more shallow summer waters. Barge interests said that would have resulted in sharply reduced traffic.

On Friday, the Army Corps of

Engineers released a management plan that rejects the flow change recommendations.

But even if the waters remain consistently high this season, the corps' new plan likely comes too late for navigation in Sioux City. For the first barges to get here in April, they typically must leave the Gulf of Mexico by February.

Missouri trouble

The Army Corps of Engineers released a blueprint for trouble on the Missouri River Friday, holding the line against any flow changes to improve the river's recreational and economic potential or to benefit the river system's health.

The corps' river management plan and the environmental impact statement on which it is based snub the sound science behind flow changes, even in a limited form. Basically, it exploits a loophole in a biological opinion issued by a Fish and Wildlife team appointed last year after the Bush administration dismissed the first team, whose recommendations it didn't like.

The second team was qualified and independent, but it had only weeks in which to evaluate years of work generated by the first researchers. Its opinion, which generally agreed with that of its predecessors, was condemned at the time by environmental organizations that pointed out the loophole.

The corps has proposed to create upward of 1,200 acres of new shallow-water habitat, which it claims will offset the lack of low summer water flow proposed by Fish and Wildlife biologists. As far as it goes, adding habitat is an excellent idea. It creates wildlife areas and provides recreational opportunities for nature lovers. But it is no substitute for a more natural flow regime.

The corps' failure to make a credible gesture toward compromise is hard to comprehend, given recent developments. The corps has long run the river to benefit certain interests, including navigation, power generation and agriculture. But this year, according to the advocacy group American Rivers, the two largest barge companies operating

**The non-plan:
Let's just
keep doing
what we've
been doing
on the river.**

on the river announced that in 2004 they won't ship grain or fertilizer, the main cargoes typically cited by navigation advocates.

In 2001, the corps estimated the annual economic contribution of commercial navigation on the river to be a questionable \$7 million. Now that figure has been revised — up. The corps now suggests navigation is worth \$9 million. How?

Environmental organizations, led by American Rivers, have been aggressively challenging the corps. The issue is being considered by a Minnesota federal judge who has grown impatient because of the 15-year delay in revising the plan.

U.S. District Judge Paul A. Magnuson denied a corps request for an extension of his March 19 deadline for the plan. "The court cannot permit the corps to hide behind its illusory promises," he said. His sensible approach should allow him to see through the corps' latest non-plan.

Fortunately, there is an alternative. Nebraska state officials have a proposal that, among other things, would institute modest changes in flow levels to determine their impact on the river's ecosystem. Most of the states lining the river have signed on to the compromise, and several environmental organizations have shown reserved interest.

Gov. Mike Johanns and natural resources director Roger Patterson should make sure Judge Magnuson understands their compromise, its reasonable provisions and the solid support behind it. If he rejects the corps' plan — as he should — the Nebraska proposal offers an excellent back-up.

We're glad Magnuson is keen to resolve this. The corps has not been willing to plan for the river's future. Perhaps the court can.

Portion of West Papio Creek will be widened to ease floods

3-1-04

BY NANCY GAARDER

WORLD-HERALD STAFF WRITER

A flood-prone stretch of the West Papio Creek will be widened in Sarpy County to better contain the stream.

When the project is completed, the West Papio will be able to handle the type of flooding that comes along every 20 years, instead of its current five-to-10-year capacity.

The Papio-Missouri River Natural Resources District is in the process of obtaining the right of way needed to double the width of the creek, said Martin Cleveland, construction engineer.

A total of 91 acres will be required along a two-mile stretch of the channel, he said.

The area involved is the stretch of creek southwest of Cornhusker Road. Widening will take place from Second and Adams Street in Papillion upstream to Giles Road at 108th Street. The land is largely agricultural now, but is prime development property.

The low-water channel bed will remain at the same depth and width, Cleveland said. But the upper half of the bank will be excavated, widening the creek from its current 125 feet to 250 feet. A number of trees and shrubs will be removed, and the slopes will be reseeded with grasses.

The design will include roads on both sides. Cleveland said current plans are to eventually convert the south road to a hiking-biking trail.

Improvements are expected to cost about \$2 million, with work completed possibly in 2007.

Giles is as far north as the NRD can go, Cleveland said, without hurting the levees downstream. Nor are there plans to build levees in this area, he said, because that, too, would contribute to potential flood damage downstream.

The NRD also is in the process of re-mapping the West Papio's flood plain. The new maps are needed to show what homes and businesses are at greater risk of flooding because of increased development in the metro area.

Metro Omaha & the Region

72nd Street residents on power line: Not in our back yards

■ Owners of homes and businesses say the area has had its fill of construction projects and has no room for the new OPPD towers.

By JEFFREY ROBB

WORLD-HERALD STAFF WRITER

Wherever the Omaha Public Power District builds its central Omaha power lines, opposition is likely to follow.

Unless the utility buries the lines, at least.

Environmental groups and trail users have complained about OPPD's preferred location along the Keystone Trail. But several property owners along 72nd Street — one optional route discussed — say the trail would be a better location for them.

"I think that'd be too much on 72nd Street," said Heather Carlson, who lives in the Westgate neighborhood on 72nd Avenue.

OPPD wants to beef up its system in the central Omaha area to accommodate growing demand, connecting a substation at 72nd and Pine Streets with one at 75th and F Streets. To do that, it proposes high-voltage transmission lines on poles that are about 10 stories tall and 3 to 4 feet wide.

The debate has highlighted competing priorities: OPPD's goal of a cost-effective route that is more out-of-the-way and a desire among some in the community to preserve the trail's aesthetics.

The Sierra Club, the Audubon Society and the lead urban planner in the Omaha By Design initiative are among those concerned with OPPD's preferred plan. Neighbors from the Ak-Sar-Ben Future Trust, Sisters of Mercy and College of St. Mary also oppose a trail location.

The board for the Papio-Missouri River Natural Resources District, which owns the land, approved use of the Keystone Trail on a 5-4 vote. The Douglas County Board will vote, too, and is asking for cost comparisons on alternatives. The county maintains the trail.

OPPD officials say they are listening to the public's concerns. But Mike Jones, an OPPD

spokesman, said there will always be people unhappy with the location of such lines.

"Any time you talk about putting up transmission lines, you're going to have some opposition," Jones said. "They are just not the type of thing people embrace warmly."

If 72nd Street entered the plans, the outcry might not be as loud as that surrounding the Keystone Trail. Twenty-two homes back onto the street, OPPD says about 30 commercial buildings would be within 300 feet of a 72nd Street line, which would go on the street's east side.

But those buildings are what OPPD sought to avoid by proposing the trail route.

Melissa Gardner, a leading opponent to the Keystone Trail location, said she hears concerns

from the whole community about the trail plan. She said putting the lines along 72nd Street would be the lesser of two evils.

"My feeling is it (72nd Street) has already been designated as a utility corridor," she said.

Like Carlson, one business owner and homeowners with back yards near 72nd Street said the corridor is full enough.

If OPPD went along 72nd Street, it would follow widening of the street through the area. Plus, smaller voltage distribution lines were buried in front of 72nd Avenue homes in connection with the street work.

Warren Anderson, who owns Anderson's BP Amoco at 72nd and Grover Streets, said 72nd Street seems to have too many distractions already. He also said he doesn't have much room for power poles.

"I don't see the problem going along the creek," Anderson said. "I can see where people using the trail would be bothered by it."

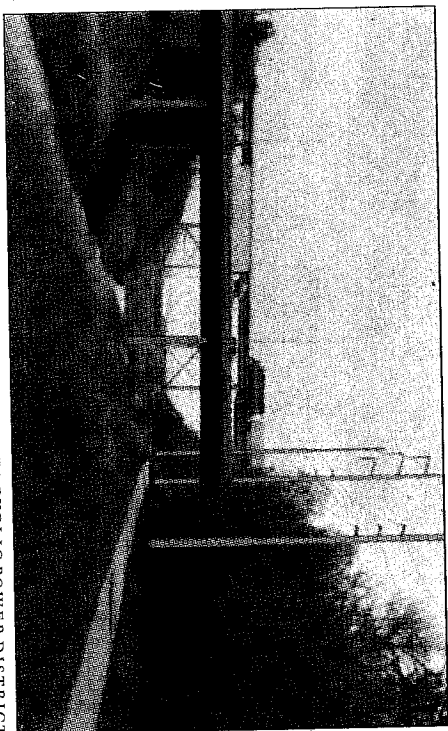
Said 72nd Avenue resident Hyla Dizomo, "We sure don't like it in our back yard. We've had enough stuff with construction than to put that back there."

While some were concerned about a cluttered 72nd Street, others said power lines would fit with that environment. And many wondered why OPPD doesn't bury the power lines, an option that Gardner favors but that OPPD says is extremely expensive.

Neighbor Terry Coleman said power lines are a part of life.

"That's more in line with what happens on 72nd," he said. "I wouldn't have a problem with it."

OPPD gives line cost estimates



OMAHA PUBLIC POWER DISTRICT
This is an artist's depiction of how a new high-voltage power line would look if installed along the Keystone Trail.

■ Some board members lean toward a compromise route for the new power line.

3-4-04

By NANCY GAARDER
WORLD-HERALD STAFF WRITER

Routing a high-voltage power line along one of Omaha's most popular hiking and biking trails could save the Omaha Public Power District an estimated \$400,000 over the cost of building it along busy 72nd Street.

The utility calculated the cost difference because its board and the Douglas County Board wanted more specific information as opposition to using the Keystone Trail grows.

Adding it up
Cost comparisons of proposed high-voltage line:

Overhead line

Keystone Trail: \$1.7 million
72nd Street: \$2.1 million

Compromise route using Keystone and 72nd Street: \$2 million to \$2.2 million.

Buried lines

Keystone Trail: \$6.2 million to \$9.8 million.

72nd Street: \$8.7 million.

A number of trees would be cut
See OPPD: Page 2

OPPD: Cost estimates given for line route options

Continued from Page 1
down to make room for the 10-story-tall transmission poles.

The extra cost would have negligible impact on OPPD's \$618 million annual budget.

Some OPPD board members are leaning toward a compromise that would keep the lines off a short but crucial section of the trail. The compromise would run south on 72nd Street from Pine Street to Mercy or Center Roads, and then jog along one of those roads east to the trail, then south to F Street.

"The compromise decision might be the way to go," said OPPD board member N.P. Dodge. "But I think we have to hear from everybody, and we haven't yet. How do people

along 72nd Street feel?"

Along the trail, the compromise route would avoid conflicts with the Ak-Sar-Ben Future Trust and the College of St. Mary. Along 72nd Street, it would avoid conflicts with most business owners. But it would not spare most of the trail, nor would it save money. The cost is similar to the higher cost of the 72nd Street option.

Burying the line is out of the question, said OPPD board member Mike Cavanaugh. Going underground for the full length of 72nd Street could cost \$8.7 million, while the full length of the Keystone would run \$9.8 million.

Burying costs more because trenches must be dug, concrete

housing must be poured, more expensive cable must be used, manholes must be installed and more workers are needed.

Overhead transmission cable costs about \$1 a foot while underground cable costs \$30 to \$40 a foot. That's because overhead cable isn't insulated, but underground cable is.

Cost is one of the reasons the utility has said it prefers to build along the Keystone. While the 72nd Street route is half as long, it is about 25 percent more expensive. That's because of the cost of purchasing commercial right of way.

Other reasons why the Keystone route is desirable, said Larry Troutman, OPPD manager of transmission and engi-

neering, include easier and safer construction and maintenance, and the line's proximity to people.

The final decision to use the Keystone rests with the Douglas County Board, because the county owns the trail. The OPPD board does not have to vote on it. OPPD has not decided when it will take its proposal to the county.

The transmission line is needed to improve reliability along the Leavenworth Avenue-Pacific Street corridor from downtown to west Omaha, Troutman said.

The utility estimates that in five years, growing demand will outstrip OPPD's ability to quickly bounce back from an outage along that corridor.

Water policy sparks urban-rural clash

■ A bill aims to resolve conflict between surface water and groundwater users.

3-4-04
BY MARTHA STODDARD
WORLD-HERALD BUREAU

LINCOLN — Nebraska lawmakers might as well be trying to push water uphill.

For nearly two days, they have discussed a major water policy proposal aimed at resolving conflicts between surface water and groundwater users.

In the process, they set off a conflict between urban and rural senators about funding the proposed new policy.

State Sen. Chris Beutler of Lincoln and some Omaha senators argued that irrigators should pay part of the cost for implementing the new water policy. Beutler proposed a \$50 annual fee.

"Number one, we don't have any money, and, number two, this is going to be enormously expensive," he said. "It's an enormously detailed bureaucracy."

Sen. Ed Schrock of Elm Creek,

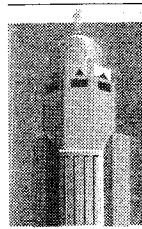
sponsor of Legislative Bill 962, envisions using general fund dollars and allowing natural resources districts to raise property tax levies.

He said the cost is small compared with the \$2.6 billion state budget and to the value of agriculture to the state. Nebraska farmers already pay a disproportionate share of property taxes and are the sole support for the state's ethanol incentives, he said.

"I don't see how we can do an adequate job without money," Schrock said.

The Legislature adjourned Wednesday without voting on advancement of LB 962 or the substantive amendments to the bill. Schrock said he is willing to take as much time as needed on the proposal.

"I don't think very many people want to go home without this bill being passed," he said.



2004
Legislature

LB 962 represents a compromise crafted over 18 months by a 49-member Water Policy Task Force that included competing water interests.

The task force was created to resolve disputes such as the lawsuit filed against the state by the Spear T Ranch, west of Bridgeport. Ranch owners claim the state did not protect Spear T's water rights.

The task force compromise builds on current water law, in which the State Department of Natural Resources regulates water in lakes, streams and rivers, and the regional natural resources districts oversee groundwater use.

The plan calls for the department and districts to work together in deciding whether demand for water in an area matches or exceeds the amount

available. Such reviews would be done annually.

The agencies then would jointly manage water use where water is fully appropriated or overappropriated. One such area, according to the task force, is the Platte River basin upstream from Elm Creek.

Disputes between agencies would be decided by mediation or, if that fails, by a newly established Interrelated Water Review Board.

Other provisions of LB 962 address water transfers and cancellation of surface-water rights.

Some senators criticized the cost of the proposal. The accompanying appropriations bill would put \$2.5 million of state funds into related activities next year and \$4.5 million in 2005-06.

A pending amendment would allow natural resources districts to fund their part of the policy by raising property tax levies by 1 cent per \$100 of assessed valuation.

Supreme Court examines irrigation rights

■ The lawsuit focuses on who has a higher priority — farmers who draw water from streams or those who pump from wells.

By PAUL HAMMEL

WORLD-HERALD BUREAU

LINCOLN — An inquisitive Nebraska Supreme Court took arguments Wednesday on a lawsuit that could completely reorder the water rights of irrigators across the state.

The lawsuit, brought by a Panhandle ranch situated on dried-up Pumpkin Creek, focuses on who has a higher priority to water — farmers who draw water from streams or those who pump groundwater — and how to resolve conflicts between the two forms of irrigation.

It is a high-stakes case involving the state's largest industry and about 9 million acres of irrigated cropland in Nebraska.

The arguments raised in the case, brought by the Spear T Ranch west of Bridgeport, Neb., helped prompt Gov. Mike Johanns to appoint a task force to amend state water law.

First-round debate on the task force's proposal, Legislative Bill 962, continued Wednesday in the Legislature.

As the legislative debate slowed to a crawl under stalling tactics by Omaha Sen. Ernie Chambers, Supreme Court judges peppered lawyers with questions about the Pumpkin Creek case, which was argued at

On Page B

Lawmakers set off a urban-rural conflict over funding a new water policy.

the University of Nebraska College of Law.

The case stems from a 2001 request by the Spear T Ranch to the State Claims Board for \$4 million in damages.

The ranch said the state failed to protect its legal rights, first filed in 1954, to withdraw creek water for irrigation. The creek went dry, the claim said, because the state did not curtail pumping of groundwater by center pivots that depleted the aquifer that sustained the stream.

The claim was rejected, and the ranch sued the state in 2002.

Last year, the ranch filed a second lawsuit against 18 upstream landowners asking them to stop pumping groundwater or pay \$4 million in damages to Spear T for its loss of income from crops and cattle.

Last June, District Court Judge Paul Empson of Chadron dismissed the suit, ruling that a 1996 law passed by the Legislature was set up to handle such disputes.

The appeal of that ruling was argued Wednesday before the

State Supreme Court.

The 1996 law, the Groundwater Management Act, attempted to bridge a gap in how groundwater and surface water are regulated.

Surface water users are highly regulated. They must file for a state water right, and, in times of drought, their ability to withdraw water can be reduced or eliminated, based on the age of their water right. The oldest rights have highest priority.

Groundwater irrigators, meanwhile, have enjoyed almost unlimited rights to pump water beneath their farms until recently. That's when drought conditions, dried-up streams and an explosion of well drilling prompted several regional natural resources districts to impose moratoriums on new wells.

Some districts, including the one governing Pumpkin Creek, also imposed limits on how much water groundwater irrigators could apply.

But Tom Oliver, the attorney for the Spear T Ranch, said the action was too little, too late, and did little to restore flows to the Pumpkin Creek.

"The fact is, the Legislature dropped the ball" in 1996, Oliver told the court. "There's no provision to protect our rights."

Plus, he said, surface water irrigators are politically outmanned when restrictions are adopted. Groundwater irrigated acres outnumber surface water acres by about 8-to-1, he said.

Three attorneys representing

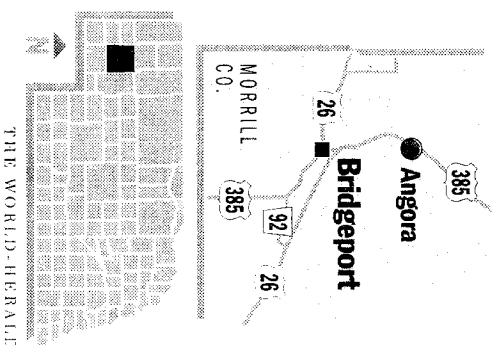


JEFF BRUNDY/THE WORLD-HERALD
Rex Nielsen, owner of the Spear T Ranch near Bridgeport, Neb., stands in the dry bed of Pumpkin Creek in 2001. His lawsuit contends that the state failed to protect his water rights by allowing upstream landowners to pump too much groundwater.

groundwater irrigators along Pumpkin Creek argued that the Legislature's 1996 groundwater management law set up a system to resolve conflicts between surface water and groundwater users.

"This case can be solved by three simple words: separation of powers," said attorney John Simmons of Scottsbluff.

The judges asked several questions about which irrigator would have priority rights to water, a surface water irrigator with an established water right or a groundwater irrigator who had no dated priority right.



THE WORLD-HERALD