

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: May 8, 2009

FROM: John Winkler, General Manager

- A. **INFORMATION/EDUCATION REPORT:** A copy of the I&E Report detailing Information and Education activities for the month of April, 2009, is attached for your review.
1. Christine Jacobsen, Educational Specialist, will be giving a report on P-MRNRD Educational Programs.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:**
1. **Workers Comp Experience Mod for FY 2010:** The District has received notification from the National Council on Compensation Insurance that the Papio-Missouri River NRD Workers Comp **experience mod for FY 2010 has been set at .77, the same as last year.** As a point of reference, a rating of 1.00 means that you are the average for companies in your category and you will pay 100% of the base premium for workers comp. A factor of .77 means that the District has earned a 23% credit on our base premium. **District employees are to be commended for practicing established safety rules and guidelines in our O&M facilities, job sites and offices.**
- 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 April, 2009. Please review this report and contact me if you have any questions.
- D. **CURRENT AND ON-GOING PROJECTS – P-MRNRD LEGAL COUNSEL:** Attached is a copy of the current and on-going projects for District Legal Counsel, Paul Peters, as of April 13, 2009. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** The April, 2009 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on May 15, 2009, at 10:00 a.m. at the NRC
- F. **LEGISLATIVE UPDATE:** The following information is attached for your information:
1. April 10, 2009 NARD Update
 2. April 17, 2009 NARD Update
 3. April 24, 2009 NARD Update
 4. May 1, 2009 NARD Update
 5. May 8, 2009 NARD Update

- G. **DNR'S FINAL DETERMINATION OF NOT FULLY APPROPRIATED FOR THE LOWER PLATTE RIVER BASIN:** The Nebraska DNR released its final determination based on its annual evaluation of hydrologically connected surface water and groundwater on April 8, 2009. The preliminary determination of fully appropriated was reversed in the final determination, due in part to the findings of the technical review of the annual evaluation performed by the affected NRD's, including the Papio-Missouri River NRD. Additionally, recent legislative changes have changed the requirements for NRD's for which a determination has been reversed. Brian Henkel, Groundwater Management Engineer, will be briefing the Board on May 14th. The presentation will consist of a brief description of the legislative changes and the resulting requirements for the Papio NRD.

H. **PROGRAM/PROJECT UPDATES**

1. Dam Safety (Requested by Director Lanphier)
2. Pigeon Jones Project (Requested by Director Japp)
3. Rain Garden Demo – Amanda Grint will brief the Board regarding the Rain Garden Demo project that will be located near the Natural Resources Center.

I. **NEWS CLIPS:**

- ✓ April 3, 2009, Omaha World Herald, Midlands Voices – Pedestrian bridge usage shows project not a waste
- ✓ April 6, 2009, Lincoln Journal Star editorial – Platte restrictions are inevitable
- ✓ April 6, 2009, Lincoln Journal Star article – Senators give first-round approval to bill to clean clogged rivers
- ✓ April 7, 2009, Douglas County Post Gazette, Legislative Word in the Twenty-Third, written by Senator Chris Langemeier – River basin situation underlines need for LB 483
- ✓ April 7, 2009, Blair Pilot-Tribune article – Japp wants NRD promise in writing
- ✓ April 10, 2009, Friday Message from Steve Chick – What Kind of Work Do we Do In and Around Omaha?
- ✓ April 10, 2009, Washington County Enterprise article – Owners not happy about dam plan
- ✓ April 11, 2009, Lincoln Journal Star article – Irrigation ban lifted, but limits will apply
- ✓ April 13, 2009, Blair Pilot-Tribune article – NRD head says eminent domain never threatened
- ✓ April 13, 2009, Omaha World Herald editorial – Well restrictions. Slow it down on the Platte
- ✓ April 15, 2009, Omaha World Herald article – Bike-path plans hit a rough patch. A few landowners don't want their property taken for a recreational trail linking Omaha and Lincoln
- ✓ April 17, 2009, Omaha World Herald article – Half-century of use has shrunk aquifer, report says
- ✓ April 17, 2009, Omaha World Herald editorial – Key Flood-Control Measure. Keep LB160 moving ahead
- ✓ April 28, 2009, Omaha World Herald article – New vote planned today on flood-control bill

- ✓ April 20, 2009, Lincoln Journal Star article – Republican River flows again
- ✓ April 28, 2009, Lincoln Journal Star article – NRD could use bond to solve flood problem
- ✓ April 29, 2009, Omaha World Herald article – 2nd time's the charm for flood-control bill
- ✓ April 29, 2009 Lincoln Journal Star editorial – Continue work to close trail gap
- ✓ April 30, 2009, Washington County Enterprise letter to the editor – LB 160 moving toward a solution we can live with, written by Kevin Propst
- ✓ May 2, 2009, Omaha World Herald editorial – Progress on NRD Bonding. New LB 160 is workable
- ✓ May 5, 2009, Omaha World Herald Midlands Voices, written by State Senator Beau McCoy – Revised Flood-control bill eases fears over tax hikes

/pt/Winkler/GM Reports/2009/May

April 2009

Information and Education Report

Information:

- Began Kerrey Bridge Public Service Campaign with WOWT. May, 2009 PSA partners are Bike Rack (WOWT) and Activate Omaha (KMTV)
- Met with Big Muddy Workshop to begin design of interpretive signs for Chalco Hills and Prairie View.
- Completed draft of redesigned web site.
- Continued work with PCWP
- Attended PRSA meetings
- Completed Spring SPECTRUM
- Assisted education staff with some programs
- Staffed Earth Day Omaha booth.
- Completed first draft of I&E budget
- Staffed booth at Cole Creek demo public meeting
- Continued work with other NRDs Information staff on update of Recreation Areas brochure.

Education:

- Co-sponsored Richard Louv/Susan Linn Event and had NRD/MORE Nature Booth at both days of event
- Continued planning MORE Nature Events (Forum, Workshops, Nature Nights, etc)
- Held 5 Nature Nights
 - Boys and Girls Club
 - Sandoz Elementary
 - Crescent Elementary
 - Franklin Elementary
 - Bryan Middle School
- Presented Butterflies and Ladybugs program to Benson West 3rd Graders = 37 students
- Presented Nature Hike and Frog/Turtle program to Washington Elementary 1st graders = 35 students
- Presented Owl Pellets program to Benson West 4th graders = 45 students
- Presented GPS program to Gross High School = 21 students
- Presented tree planting program to Blumfield Elementary 3rd graders = 45 students
- Staffed Booth/Firefly Activity at Week of the Young Child Kick Off (~1800 in attendance)
- Presented Nature Hike to Millard South Environmental Studies Class
- Presented Water Quality Program at NGPC Outdoor Expo at Two Rivers (2-day event) = 220 students
- Trained 12 pre-service teachers in PLT/WET/WILD/LEP at Creighton University
- Coordinated Earth Day Omaha Children's Tent and NRD Booth
- Participated in PF Leopold Education Project State Coordinator Conference Call
- Held MORE Nature Community Forum (over 55 city/state leaders in attendance)
- Presented GPS programs at St. Peter Claver School = 23 students
- Assisted with planning of State Envirothon
- Continued working with Jenny Hendricksen to get Raptor's at NRD Site
- Continued taking registrations and planning NRD Summer Camps

MORE

- Ordered NRD Rain Barrels for NRC
- Worked with Julie Anderson at OWH on an article about Nature Nights and the Community Forum
- Continued working on Outdoor Classroom Grants
- Coordinated Open House event on Cole Creek with Omaha By Design
- Managed MORE Nature Web Site/Community Calendar
- Staffed NRD booth at Union Pacific Earth Day
- Continued planning for Water Works 2009—presenters and participant packets, trees, schedules
- Met with Omaha Family Magazine to coordinate contract for next year.
- Had tree pick-up of 10,000 White Pine trees to area schools – all 10,000 ordered and picked up

Updated: April 13, 2009

**Current and On-Going Projects
P-MRNRD Legal Counsel**

★ = **Top Priority**

F = Future Work – No Assignment

N = New Assignment

O = Others Handling

W = Work in Progress

P = PFP's Portion Completed

- **Little Papio:** (Cleveland)
- **Big Papio:** (Cleveland)
 - ★ Whitted Creek easement form (W)
- **West Branch:** (Cleveland)
 - Land Exchange with Sarpy Co. (96th St.) (W)
- **Western Sarpy Dike:** (Cleveland)
- **Floodway Purchase Program:** (Grint)
 - Prepare Interlocal w/Waterloo for levee improvements (P)
 - Floodway Property purchase agreements as needed (F)
 - Review Amendment to Cole Creek Agreement w/Omaha (W)
 - Review PBS&J Professional Services Amendment (W)
- **Trail Projects:** (Bowen)
 - Western Douglas County Trail – purchase agreements, deeds, easements, etc. (F)
- **Missouri River Corridor Project:** (Becic)
 - Agreement for Omaha to maintain Missouri River Trail at N.P. Dodge North (P)
 - ★ Amendment to Bellevue Riverfront Development Agreement (N)

- **USDA PL 566 Projects, Silver Creek and Pigeon/Jones Watershed:** (Puls/Cleveland)
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - ✦ Review Papio W-2 Professional Services Contract w/HDR (P)
 - ✦ Prepare W-3 Purchase Agreement (N)
- **Papio Watershed Dam Sites:** (Grint/Petermann)
 - ✦ Review appraisals and prepare purchase agreements for WPRB-5 Properties (W)
 - ✦ WPRB-5 City of Papillion Interlocal Agreement (W)
- **Papio Creek Watershed Partnership (Stormwater):** (Grint)
 - ✦ Draft new 5-year Partnership Interlocal Agreement (N)
- **Rural Water Projects:** (Sklenar)
- **Elkhorn River Public Access Sites:** (Sklenar)
- **Other:**
 - Kennard Wastewater Closing (Grint) (F)
 - ✦ Glacier Creek Heritage appraisals/purchase agreement (Becic) (W)
 - ✦ Cinnamon Acres easement documents (Bowen) (P)
 - ✦ Radio system service agreement (Cleveland) (W)
 - ✦ Response to County Assessor – Real Estate tax on leased NRD lands (Cleveland) (N)
 - ✦ Blair Office Architect contract review (N)

MONTHLY UPDATE

APRIL 2009



A Subcommittee meeting was held on April 27th and a Partnership meeting was held on April 30th. Meeting minutes and other materials are updated regularly on the Partnership's website: www.papiopartnership.org.

Watershed Management Plan Update

Edits to the Stage IV Study Report are nearing completion. The report will be posted to the Partnership's website in May. This report represents several years of study in the Papillion Creek Watershed and provides the Partnership's recommendations for implementation of a watershed management plan.

Sustainable Cities-Kansas City Presentation

Kathy Homer and Dave Zimmerman of Tetra Tech gave a presentation to the Partnership at the April meeting. They discussed the issues facing Kansas City with their Combined Sewer Overflow (CSO) project. Specifically, Tetra Tech is assisting Kansas City with evaluating green solutions for stormwater peak flow reduction using an adaptive management approach. They will begin installing a pilot area, approximately 100 acres in area that will utilize BMPs such as bio-infiltration and permeable pavement for stormwater management. They will also monitor a control area that uses traditional storm sewers to compare the effectiveness of the green solutions. EPA chose Kansas City as a pilot city for this program and we look forward to seeing the results.



New Interlocal Agreement

The current Papillion Creek Watershed Partnership Interlocal Agreement expires June 30, 2009. The Partnership has worked over the last few months reviewing and discussing drafts of the agreement. Partners will be asked to take the final interlocal agreement along with the Watershed Management Plan, Implementation Plan and Revised Storm Water Policies to their agencies for approval in May or June. The Partnership plans to finalize the details of the Interlocal Agreement at the next Partnership meeting on May 15th.

Upcoming Events

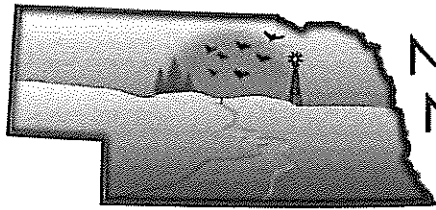
The City of Omaha and Douglas County have registered for a web seminar from the Center for Watershed Protection entitled "Municipal Pollution Prevention/Good Housekeeping." Partners are invited to attend the seminar at Douglas County Environmental Offices on May 14th at 1 pm. Please contact Nina Cudahy for more information.

Stormwater Legislation

LB160 which would provide bonding authority to the NRD for flood control projects, such as those in the Partnership's recommended Implementation Plan, has been advanced to final reading in the State Legislature.

Next Meeting: The next full Partnership meeting is scheduled for May 15th at 10:00AM at the NRD office.





Nebraska's Natural Resources Districts

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Protecting Lives • Protecting Property • Protecting the Future

April 10, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: April 10 NARD Update

NRD water management changes approved by Governor Heineman – Governor Dave Heineman signed LB 483e into law this week after Senators gave final approval to the bill on a 46-0 vote last Friday. The bill changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated. The final version of the bill would:

- Change the date for a request of re-evaluation of a basin from March 1 to July 1.
- Require natural resources districts that are in a situation where a status change has occurred from fully appropriated or preliminarily fully appropriated to not fully appropriated, to create and implement a policy for the prioritization and granting of water well permits for the four-year period following the change.
- Require moratoriums to stay in place until the districts developed rules and regulations to allow limited growth that would not reach a point to cause a fully appropriated determination.
- Require DNR to approve the NRD rules and regulations within 60 days of NRD adoption. If DNR fails to approve the regulations, NRDs would have to adopt rules and regulations to allow up to 2,500 irrigated acres growth or not more than 20 percent increase in historic irrigated acres within a hydrologically-connected area.
- Prohibit DNR from issuing any new appropriation for the four-year period following a status change that would result in a fully appropriated status based on the most recent evaluation.
- Prohibit DNR from granting more than 834 acres of new surface water appropriations for irrigation within each natural resources district affected by the status change.

Legislative Bill 483e is Senator Langemeier's Priority Bill for the 2009 session. It included the emergency clause so it became effective as soon as the Governor signed the bill.

Last week, the Department of Natural Resources reversed its preliminary decision that the lower Platte River is fully appropriated. After reviewing the analysis of the data by the NRDs in the basin, it was determined that an error was made in the modeling that over-stated the impacts of groundwater pumping. In essence, the average groundwater pumping was tripled which overstated the actual impact to the stream.

The NRDs involved in the area were happy to work with the Department of Natural Resources during this process and help produce this final decision that is based on the best scientific information available. The goal of the Natural Resources Districts all along has been to make sure Nebraska is using the most accurate, reliable and sound science possible in making decisions on Nebraska water policies. The NRDs are taking steps now to be ready to implement LB 483e to better manage economic growth and related water use in the area to keep the Lower Platte River from being fully appropriated in the near future. With the current actions taken by the NRDs, the basin can not become over-appropriated.

Riparian water right administration approved by Governor Heineman – Governor Dave Heineman signed LB 184 into law this week after the Legislature gave final approval on a 45-0 vote last week. The bill, sponsored by Senator Loudon, authorizes the Department of Natural Resources to administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. The bill does not mandate the department to do such. Further, the only surface water appropriations that may be closed for a riparian water right are appropriations held by persons who were parties to the lawsuit validating the riparian water right or appropriations with a priority date subsequent to the date of the court order.

Lien holder bill advances – Senators advanced **LB 477 to Final Reading** this week which changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill

clarifies in law that districts can certify irrigated acres and other beneficial uses of water. The bill then requires that participation in any financial incentive program and/or any transfer of certified acres or uses include similar evidence of the lien holder's agreement to allow the transfer.

Senator Carlson offered, and the Legislature adopted, **AM 991** to the Enrollment and Review Amendment (**ER8044**) on Select File which does the following:

1. Clarifies the definition of certified irrigated acres to mean the number of acres or portion of an acre that a natural resources district has approved for irrigation from ground water in accordance with law and with rules adopted by the district;
2. Clarifies the definition of certified water uses to mean the number of acres or portion of an acre that a natural resources district has approved for irrigation from ground water in accordance with law and with rules adopted by the district;
3. Require the reporting of water uses and irrigated acres by landowners and others with control over the water uses and irrigated acres for the purpose of certification by the district.
4. Outlines that determination of certified water uses or certified irrigated acres by a natural resources district shall not affect the allocations of ground water established by the district.
5. Clarifies the district may recover the cost of the title report and filing an instrument of transfer of the right to use ground water from the person seeking the transfer.
6. Clarifies that it is the responsibility of the person seeking the transfer to get the signatures of the lien holders.

Riparian Vegetation Management Task Force advanced – A bill introduced by Senator Carlson to extend the termination date for the Riparian Vegetation Management Task Force was advanced to Select File by the full Legislature this week. The Ag Committee amendment (**AM 641**) was adopted last week on a 40-2 vote, with Senators White and Wallman voting no. The committee amendment (**AM 641**) strikes the original provisions and becomes the bill. This amendment does the following:

- o Extends the existence and duties of the Riparian Management Task Force for four years, rather than just two years. Includes intent language to appropriate two million dollars annually for the vegetation management.
- o Clarifies the priority for grants that are consistent with any plans and priorities for riparian vegetation management established by the Riparian Management Task Force.
- o Includes a directive for the Director of Agriculture to apply for grants from the Environmental Trust Fund and the Natural Resources Conservation Service of the USDA prior to July 31, 2009.
- o Provides for a one-time transfer of \$500,000 from the Buffer Strip Incentive Cash Fund to the Noxious Weed and Invasive Species Assistance Fund.
- o Retains the emergency clause.

Senators White and Wallman lead efforts to oppose the bill and introduced two amendments that were withdrawn before a vote was taken on them. These amendments included:

- o Senator White introduced FA 25 which would provide that the cost of the program be divided according to the relative ownership of river frontage and the proportionate amount be charged to the owner of that land.
- o Senator Wallman introduced AM 963 which instructs the Director of Agriculture to collect a fee from each such landowner on a pro rata basis to match state funds appropriated under the bill.

Livestock Waste Management Act modifications advances -- The Legislature advanced LB 56 to Select File this week after adopting the Natural Resources Committee amendment (**AM 310**).

The original bill offers several changes to the permit system including: 1) Changes the standard for small operations to be subject to the inspection, construction and operating permit system. Small operations (less than 300 head cattle, 750 hogs, etc.) are exempt from permits but can be subject to a permit if there has been a discharge to water of the state. The proposal would have it apply only if an intentional or willful intent to discharge occurred. 2) Defines discharge violations to be those discovered after investigation to be caused intentionally or by willful negligence. 3) Establishes that if a permit-holder loses his/her permit for violations on one operation, the

revocation does not include any other person who is a relative, partner, member, shareholder, resident, parent company, subsidiary, or other affiliate of the permit holder. 4) Currently, a permit can be revoked for three non-permitted discharges from a facility, whereas the bill proposes to make it three discharge violations. The bill proposes to count those violations on a per facility basis, rather than the current per operator basis. In other words, the bill proposes that a large operator with several facilities could have many violations and still not come under the three strikes provision as long as no one of those facilities had three violations.

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

Electronic Voting Board bill advances – Senators advanced LB 361 to Final Reading this week, which allows entities created under the Interlocal Cooperation Act, the Joint Public Agency Act and the Municipal Cooperative Financing Act to utilize an electronic voting device to record roll call or votes of the governing body of such entities. Currently, only municipalities are authorized to utilize an electronic voting device. Two amendments were adapted to the bill to make further changes.

First, the Government Committee Amendment (**AM 552**) made the following changes on General File:

- Adds counties to the list of entities who are allowed to utilize electronic voting devices to satisfy the requirements of a roll call or vote.
- Adds the provisions of **LB 465**, which adds educational service units to the list of public entities which are allowed to hold public meetings by videoconferencing and telephone conference.
- Adds the provisions of **LB 639**, which allows a governing body of a risk management pool and the advisory committees of the governing body to hold more than half of their meetings by telephone conference if the governing body's quarterly meetings are held in person. Under current law, no more than one-half of the meetings in a calendar year held by governing body of a risk management pool or its advisory committees may be held by telephone conference call.

On **Select File**, Senator Avery offered **AM 966**, which was adopted to add learning communities to the list that can use electronic voting devices.

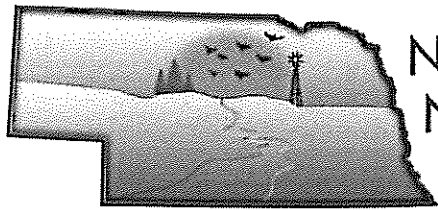
Pesticide Permits -- Last week, the Nebraska Environmental Quality Council voted to approve a proposal by the Department of Environmental Quality to establish a Clean Water Act permit for application of aquatic pesticides applied to or near state waters. The permit would call for applicators to follow pesticide label directions for pesticide applications and maintain records of applications for three years (requirements that are already in place under federal pesticide rules). Farm Bureau will develop a guidance document to explain the potential implications of the state permit for Nebraska agriculture producers.

On the same issue at the national level, EPA is considering an appeal of a court decision that has the potential to require farmers who apply pesticides to obtain a federal permit under the court's expanded interpretation of the federal Clean Water Act. The deadline is April 9 for EPA to petition the U.S. Court of Appeals Sixth Circuit for a rehearing of the issue. In January of this year, the court vacated a 2006 EPA rule which exempts certain pesticide applications from permit requirements of the Clean Water Act.

FFA Natural Resources Awards and Proficiency Award – At the 81st Annual Nebraska FFA Convention last week, Courtney Weatherby, Conestoga FFA Chapter, was the first place winner of the Outdoor Recreation Award, sponsored and presented by the Nebraska Association of Resources Districts. Second and third place finalists in this category included Angela Brichacek, Schuyler FFA Chapter and Cary Ryan, West Holt FFA Chapter. Natural Resources Awards were presented, also sponsored by the Nebraska Association of Resources Districts. Gold Emblem Certificates and plaques were awarded to the top ten chapters statewide in natural resources educational activities. Natural Resource Awards were presented to FFA chapters in Broken Bow, Central, Fairbury, Lewiston, Norris, Ord, Ravenna, Schuyler, Superior and Verdigre.

NARD Bill Summary Tracking Sheet										Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments			
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee				
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed			
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File				
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File				
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	Final Reading	AM348-Adopted			
LB 56	Modify Livestock Waste Management	Fischer	Speaker	Monitor	Natural Resources	1/28/2009	Select File	AM310-Adopted			
LB 98e	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	Select File	AM641-Adopted, FA25-Withdrawn, AM963-Withdrawn, ER8057 Pending			
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin	Opposed	Natural Resources	1/23/2009	General File	AM636-Pending			
LB 160	Bond Authority for PMNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File	AM735-Pending, MO23-Pending			
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker	Monitor	Revenue	2/6/2009	General File	Cornett name added, Carlson name withdrew, AM357-Pending			
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 46-0 with Emergency Clause			
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	FA2-Lost, FA3-Lost, AM60-Lost			
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Approved by Governor, 4/8/09	Passed 45-0			
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	General File				
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	General File				
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker	Monitor	Revenue	1/28/2009	General File	AM 712-Pending, AM 802 - Pending			
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	General File	AM681-Pending			
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker	Monitor	Natural Resources	1/30/2009	General File	AM749-Adopted, AM964-Pending			
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker	Opposed	Agriculture	2/10/2009	General File	Am354-Pending			
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/2/2009	General File				
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee				
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File				
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee				
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee				

NARD Bill Summary Tracking Sheet							Last Updated: 04/10/09		Page 2 of 2	
			Friend	Priority	Monitor	Revenue			IPP	
LB 336	Exempt municipal water from sales tax									
LB 361	Change roll call provisions under the Open Meetings Act		Avery	Government Committee	Monitor	Government, Military and Veterans Affairs		3/12/2009		Final Reading
LB 362	Change requirements for candidate filing forms		Avey		Monitor	Government, Military and Veterans Affairs		2/25/2009		Committee
LB 379e	Extend the scrap tire grant program		Haar		Support	Natural Resources		1/29/2009		Approved by Governor 3/18/09
LB 389	Change appointment provisions for the Climate Assessment Response Committee		Carlson		Monitor	Agriculture		2/3/2009		General File
LB 438	Prohibits instream appropriations in fully or over appropriated areas		Fischer		Support	Natural Resources		2/5/2009		Committee
LB 466	Eliminate excise tax on corn and grain sorghum		Wallman		Monitor	Revenue		3/12/2009		IPP
LB 477	Change provisions relating to water transfer permits		Carlson	Utter	Support w/ clarification	Natural Resources		2/5/2009		Select File
LB 480	Change budget limit and tax levy limitation provisions		Dierks		Support	Revenue		2/19/2009		Committee
LB 482	Change provisions of the NE GW Management and Protection Act		Langemeier		Monitor	Natural Resources		1/29/2009		Committee
LB 483e	Change well moratoriums		Langemeier	Langemeier	Support	Natural Resources		1/29/2009		Approved by Governor, 4/6/09
LB 486	Require certain governmental entities to identify themselves as such in their official name		Karpisek		Monitor	Government, Military and Veterans Affairs		3/5/2009		Committee
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state		Langemeier		Support	Natural Resources		2/27/2009		Committee
LB 520	Provide for an income tax credit for perpetual conservation easement donations		Hadley		Support	Revenue		2/6/2009		Committee
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.		Stuthman		Oppose	Natural Resources		2/20/2009		Committee
LB 565	Adopt the Woody Biomass Energy Act		Louden		Support	Natural Resources		2/4/2009		Committee
LB 577	Change provisions relating to improvement projects areas of NRDs.		Rogert		Oppose	Natural Resources		2/6/2009		IPP
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales		Carlson		Monitor	Agriculture		2/10/2009		Committee
LB 582	Create the NE Invasive Species Council		Dierks		Support w/ modifications	Natural Resources		3/4/2009		Committee
LB 624	Provide for energy efficiency loans for public buildings		Haar		Monitor	Natural Resources		2/4/2009		Committee
LB 626	Change prohibited activities for public officials and public employee's use of public resources		Karpisek	Speaker	Support	Government, Military and Veterans Affairs		3/4/2009		General File
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund		Mello		Monitor	Revenue		3/5/2009		Committee
LB 639	Change provisions to telephone conferencing for public meetings		Karpisek		Monitor	Government, Military and Veterans Affairs		2/19/2009		Committee
LB 643	Change and provide notice requirements of road construction near electric lines		Schitz		Monitor	Natural Resources		2/20/2009		Committee
LB 644	Adopt the Electronics Recycling Act		Mello		Monitor	Natural Resources		3/11/2009		Committee
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)		Christensen		Support	Natural Resources		2/26/2009		Committee
LB 656	Adopt the Health Care Accessibility and Affordability Act		Harms		Monitor	Health and Human Services		2/11/2009		Committee
LB 666	Changes to the Niobrara Scenic River Council		Langemeier		Support	Natural Resources		2/25/2009		Committee
LB 678	Change provisions relating to minutes of public meetings		Haar		Monitor	Government, Military and Veterans Affairs		2/19/2009		Committee
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties		Speaker Flood on behalf of the Governor	Christensen	Support	Revenue		3/11/2009		Committee



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April 17, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: April 17 NARD Update

Bonding bill debated – On Wednesday, senators debated LB 160 to allow the Papio-Missouri River NRD to finance and build flood control projects to protect lives and property in the district. Opponents of the projects continued to voice opposition to these life saving measures. Members of the Papio Valley Preservation Association, opponents of the bill, had to be restrained by the State Patrol from making lewd comments and jesters from the balcony of the Legislative Chamber during debate on the measure.

Several amendments were filed and Senators adjourned for the day before taking action on the remaining amendments and the bill. Senators did adopt the committee amendment, AM 735, and an amendment from Senator Rogert, AM 1005, before running out of time on Wednesday.

Senator Rogert's amendment, AM 1005, would require that proceeds to the bonds shall not be used to fund any project in any city or county which is party to an agreement under the Interlocal Cooperation Act, unless such city or county has adopted a storm water management plan approved by the board of directors of the natural resources district.

The committee amendments to the bill, AM 735, make several modifications, including:

- Allow county boards to disapprove of any reservoir exceeding 20 surface acres, if done within 90 days of notification of project by the NRD board of directors;
- Allow for bonding authority with a vote of the electorate for bonds exceeding one cent of the levy;
- Provide for a 2/3 vote of the NRD board to submit a bond issuance;
- Provide that bond proceeds not be used for metropolitan class city's combined sewer separation projects; and
- Provide that the bonding authority sunsets on December 31, 2019.

Senator Hadley from Kearney offered several amendments. His pending amendment, AM 1084, would require all bonds to be approved by a majority of registered voters of the districts, limited to 2 cents, and subject to, and includable in, the computation of other limitations upon the district's tax levy. Under current law for all other political subdivisions with bonding authority, when taken to a vote of the public, the approval only requires a majority of those voting and is not subject to levy limitations. Further, counties and school districts currently have a 5.2 cent levy authority for capitol construction and maintenance bonds that only requires the governing body majority vote -- no public vote is required.

The following motions/amendments were withdrawn before a vote was taken on them:

- AM 1043, offered by Senator Price, which would prohibit the NRD from using proceeds of bonds for more than three projects at one time.
- AM 1082, offered by Senator Hadley, included the same "approved by the majority of the registered voters" as is in AM 1084.
- MO 23, offered by Senator Rogert, would have indefinitely postponed the bill.

The bill is sponsored by Senator Tim Gay and was declared a Priority Bill by Senator John Nelson of Omaha. Senator Gay offered to work with the interested parties to resolve some of the issues before the bill is placed back on the agenda next week.

Dam construction bill advances – Working from consent calendar, Senators advanced LB 209 to Select File this week. Working from consent calendar allows non-controversial bills to be advanced if they can be explained and voted on within 15 minutes; beyond 15 minutes and the bill is taken off of the agenda. The bill changes the time frame from 6 months to 12 months after the approval of any application for water for irrigation, power, or other useful purpose by the department, to commence the excavation or construction of the project. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction. The bill is sponsored by Senator Langemeier.

Lien holder bill passes -- Senators gave final approval to LB 477 this week on a 49 to 0 vote. The bill changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill clarifies in law that districts can certify irrigated acres and other beneficial uses of water. The bill then requires that participation in any financial incentive program and/or any transfer of certified acres or uses include similar evidence of the lien holder's agreement to allow the transfer. The bill does the following:

1. Clarifies the definition of certified irrigated acres to mean the number of acres or portion of an acre that a natural resources district has approved for irrigation from ground water in accordance with law and with rules adopted by the district;
2. Clarifies the definition of certified water uses to mean the number of acres or portion of an acre that a natural resources district has approved for irrigation from ground water in accordance with law and with rules adopted by the district;
3. Requires the reporting of water uses and irrigated acres by landowners and others with control over the water uses and irrigated acres for the purpose of certification by the district;
4. Outlines that determination of certified water uses or certified irrigated acres by a natural resources district shall not affect the allocations of ground water established by the district;
5. Clarifies the district may recover the cost of the title report and filing an instrument of transfer of the right to use ground water from the person seeking the transfer; and
6. Clarifies that it is the responsibility of the person seeking the transfer to get the signatures of the lien holders.

The bill was sponsored by Senator Carlson and was Senator Utter's Priority Bill for the session.

Water accounting bill amendment – LB 54, a bill to assist NRDs in tracking depletions and gains resulting from new, expired or modified water uses in fully or over-appropriated areas, was moved from Final Reading back to Select File on a 42 to 0 vote. Sen. Langemeier then introduced an amendment (AM 1099) proposing that the department not be required to perform an annual evaluation for a river basin, sub-basin, or reach during the four years following a status change. Status change is what occurred for the lower Platte River this spring when DNR preliminarily declared the river fully appropriated and later reversed their decision. The four year time frame following a status change in this bill mirrors the time frame stipulated in LB 483 where a status change has occurred. The amendment passed on a 41 to 0 vote and the bill was advanced again to Final Reading. This bill was introduced and prioritized by Sen. Deb Fischer of Valentine.

The committee amendment (AM348) clarified some of the definitions and was adopted on General File on a 36-0 vote. The bill advanced to Select File on a 40-0 vote.

Electronic Voting Board bill passes – Senators gave final approval to LB 361 on a 48 to 0 vote this week, which allows entities created under the Interlocal Cooperation Act, the Joint Public Agency Act, and the Municipal Cooperative Financing Act to utilize an electronic voting device to record roll call or votes of the governing body of such entities. Currently, only municipalities are authorized to utilize an electronic voting device. Two amendments were adapted to the bill to make further changes.

First, the Government Committee Amendment (**AM 552**) made the following changes on General File:

- Adds counties to the list of entities who are allowed to utilize electronic voting devices to satisfy the requirements of a roll call or vote.
- Adds the provisions of **LB 465**, which adds educational service units to the list of public entities which are allowed to hold public meetings by videoconferencing and telephone conference.
- Adds the provisions of **LB 639**, which allows a governing body of a risk management pool and the advisory committees of the governing body to hold more than half of their meetings by telephone conference if the governing body's quarterly meetings are held in person. Under current law, no more than one-half of the meetings in a calendar year held by the governing body of a risk management pool or its advisory committees may be held by telephone conference call.

On **Select File**, Senator Avery offered **AM 966**, which was adopted to add learning communities to the list that can use electronic voting devices.

The bill was introduced by Senator Avery and was a Government Committee Priority Bill.

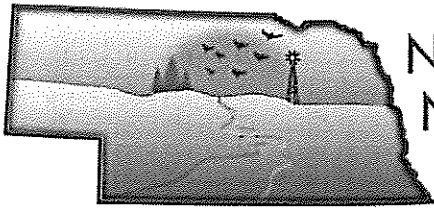
CRP Workshops -- The Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), and other state and local organizations have two public workshops scheduled April 22, 2009 and April 23, 2009 on expiring CRP contracts. These meetings will be held in the Nebraska Panhandle where most of the 150,000 plus Conservation Reserve Program (CRP) acres expire September 30, 2009. The meeting topic is "What are you going to do with those CRP acres when they expire"?

The meetings are intended to provide operators and owners their options and to stress good conservation practices as land uses change. Issues to be discussed include re-enrollment in continuous CRP, State Acres For Wildlife Enhancement (SAFE), field windbreaks, cross wind trap strips, development of haying or grazing land, EQIP/NRD program availability, conservation compliance requirements, conversion to cropland, and early land preparation.

The meeting locations are as follows: Wednesday, April 22, 2009, 9:00am – noon, Kimball Event Center 615 E 3rd St, Kimball, NE; Thursday, April 23, 2009, 9:00am – noon, Rushville American Legion, 206 Sprague, Rushville, NE.

NARD Bill Summary Tracking Sheet							Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee	
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	Final Reading	AM348-Adopted, AM1099-Adopted
LB 56	Modify Livestock Waste Management	Fischer	Speaker	Monitor	Natural Resources	1/28/2009	Select File	AM310-Adopted
LB 98e	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	Select File	AM641-Adopted, FA25-Withdrawn, AM963-Withdrawn, ER8057 Pending
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin	Opposed	Natural Resources	1/23/2009	General File	AM636-Pending
LB 160	Bond Authority for PMNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File	AM735-Adopted, MO23-Withdrawn, AM1043-Withdrawn, AM1005-Adopted, AM1082-Withdrawn, AM1084-Pending, FA28-Pending
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker	Monitor	Revenue	2/6/2009	Select File	Cornett name added, Carlson name withdrew, AM357-Adopted, ER8065-Pending
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 46-0 with Emergency Clause
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	FA2-Lost, FA3-Lost, AM60-Lost
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Approved by Governor, 4/8/09	Passed 45-0
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	Select File	
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	General File	
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker	Monitor	Revenue	1/28/2009	General File	AM 712-Pending, AM 802 - Pending
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	General File	AM681-Pending, Attorney General Opinion 09007 to Haas
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker	Monitor	Natural Resources	1/30/2009	General File	AM749-Adopted, AM864-Pending
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker	Opposed	Agriculture	2/10/2009	General File	Am354-Pending
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/2/2009	Select File	ER8059-Pending, AM1029-Pending
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee	
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee	

NARD Bill Summary Tracking Sheet										Page 2 of 2	
LB	Bill Number	Bill Description	Friend	Priority	Monitor	Revenue	Committee	Committee	Committee	Committee	Committee
LB 336	Exempt municipal water from sales tax				Monitor	Revenue	Government, Military and Veterans Affairs	Passed 48-0	AM552-Adopted, ER8036-Adopted, AM966 Adopted		
LB 361	Change roll call provisions under the Open Meetings Act		Avery		Monitor		Government, Military and Veterans Affairs	Passed 48-0	AM552-Adopted, ER8036-Adopted, AM966 Adopted		
LB 362	Change requirements for candidate filing forms		Avery		Monitor		Government, Military and Veterans Affairs	Approved by Governor 3/18/09	Committee		
LB 379e	Extend the scrap tire grant program		Haar		Support		Natural Resources	Passed 46-0 with Emergency Clause	Committee		
LB 389	Change appointment provisions for the Climate Assessment Response Committee		Carlson		Monitor		Agriculture	Select File	Am 355-Adopted		
LB 438	Prohibits instream appropriations in fully or over appropriated areas		Fischer		Support		Natural Resources	Committee			
LB 466	Eliminate excise tax on corn and grain sorghum		Wallman		Monitor		Revenue	Committee			
LB 477	Change provisions relating to water transfer permits		Carlson	Utter	Support w/ clarification		Natural Resources	Passed 48-0	AM481-Adopted, ER8044-Adopted, AM991-Adopted, ST9019		
LB 480	Change budget limit and tax levy limitation provisions		Dierts		Support		Revenue	Committee			
LB 482	Change provisions of the NE GW Management and Protection Act		Langemeier		Monitor		Natural Resources	Committee			
LB 483e	Change well moratoriums		Langemeier		Support		Natural Resources	Approved by Governor, 4/6/09	Passed 46-0 with Emergency Clause		
LB 486	Require certain governmental entities to identify themselves as such in their official name		Karpisek		Monitor		Government, Military and Veterans Affairs	Committee			
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state		Langemeier		Support		Natural Resources	Committee			
LB 520	Provide for an income tax credit for perpetual conservation easement donations		Hadley		Support		Revenue	Committee			
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDS.		Sluthman		Oppose		Natural Resources	Committee			
LB 565	Adopt the Woody Biomass Energy Act		Louden		Support		Natural Resources	Committee			
LB 577	Change provisions relating to improvement projects areas of NRDS.		Rogert		Oppose		Natural Resources	Committee			
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales		Carlson		Monitor		Agriculture	Committee			
LB 582	Create the NE Invasive Species Council		Dierts		Support w/ modifications		Natural Resources	Committee			
LB 624	Provide for energy efficiency loans for public buildings		Haar		Monitor		Natural Resources	Committee			
LB 626	Change prohibited activities for public officials and public employee's use of public resources		Karpisek	Speaker	Support		Government, Military and Veterans Affairs	Committee			
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund		Mello		Monitor		Revenue	General File	AM972-Pending		
LB 639	Change provisions to telephone conferencing for public meetings		Karpisek		Monitor		Government, Military and Veterans Affairs	Committee			
LB 643	Change and provide notice requirements of road construction near electric lines		Schilz		Monitor		Natural Resources	Committee			
LB 644	Adopt the Electronics Recycling Act		Mello		Monitor		Natural Resources	Committee			
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)		Christensen		Support		Natural Resources	Committee			
LB 656	Adopt the Health Care Accessibility and Affordability Act		Harms		Monitor		Health and Human Services	Committee	Amended into LB361		
LB 666	Changes to the Niobrara Scenic River Council		Langemeier		Support		Natural Resources	Committee			
LB 678	Change provisions relating to minutes of public meetings		Haar		Monitor		Natural Resources	Committee			
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties		Speaker Flood on behalf of the Governor	Christensen	Support		Revenue	Committee			



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April 24, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: April 24 NARD Update

NRD/DEQ Liaison -- Patrick O'Brien will join NARD as the NRD/DEQ Liaison on May 1. O'Brien has worked for the Nebraska Department of Environmental Quality for 19 years and brings a wealth of experience and knowledge to the NRDs on water quality and quantity programs. In his position with NARD, O'Brien will assist the NRDs with water management programs, water sampling, continuing education and certification programs. O'Brien and his wife, Kendra, have three children -- Sean, Jack and Ella, and reside in Hallam, NE. He is also actively involved with the community, including 14 years with the Hallam Volunteer Fire Department.

Arbor Day -- A Green Mountain Sugar Maple was planted on the Capitol lawn in Lincoln on Friday in a ceremony honoring Nebraska's "own" national holiday. Those in attendance included representatives from the NARD, Arbor Day Foundation, Re-Tree Nebraska, Nebraska Forest Service, Nebraska Environmental Trust, and the Statewide Arboretum.

Also attending was Nebraska's First Lady, Sally Ganem, and the 5th grade class of Elliott Elementary School. The Arbor Day Foundation tried something new this year by recruiting public and private tree organizations to display promotional materials in the Capitol Rotunda for the entire week. The NARD was among the organizations represented in the Rotunda. Clearly all of these efforts during the week of Arbor Day emphasize the importance of the role that all NRDs play by collectively planting up to one million trees across Nebraska each year.

Budget recommendations due next week -- The Legislature's Appropriations Committee will finish its work in the next few days and report a budget to the full legislature. Legislative rules call for the committee to report the budget bill to the full Legislature by the 70th day which this year will be Wednesday, April 29.

At a meeting Thursday afternoon, the Nebraska Economic Forecasting Advisory Board lowered the expected revenue that the state will receive during the next two and a half years by \$95 million. This reduced forecast is based primarily on a dramatic drop in income tax revenue this month, and more specifically, a drop in income from capital gains reported on income tax returns.

The committee must now adjust its proposed spending to meet the new estimate of available resources. Alternatives for the reduced revenues are more spending cuts and/or tapping further into the \$566 million cash reserve. The committee already planned to use about \$190 million from the reserve to balance the budget and raising taxes is very unlikely

Legislative Action

Riparian Vegetation Management Task Force advanced – A bill introduced by Senator Carlson to extend the termination date for the Riparian Vegetation Management Task Force was advanced to Final Reading by the full Legislature this week. The Ag Committee amendment (**AM 641**) was adopted on General File on a 40-2 vote, with Senators White and Wallman voting no. The committee amendment (**AM 641**) strikes the original provisions and becomes the bill. This amendment does the following:

- Extends the existence and duties of the Riparian Management Task Force for four years rather than just two years. Includes intent language to appropriate two million dollars annually for the vegetation management.
- Clarifies the priority for grants that are consistent with any plans and priorities for riparian vegetation management established by the Riparian Management Task Force.
- Includes a directive for the Director of Agriculture to apply for grants from the Environmental Trust Fund and the Natural Resources Conservation Service of the USDA prior to July 31, 2009.
- Provides for a one-time transfer of \$500,000 from the Buffer Strip Incentive Cash Fund to the Noxious Weed and Invasive Species Assistance Fund.
- Retains the emergency clause.

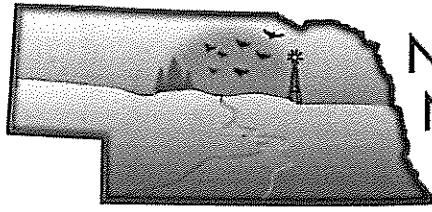
Livestock Waste Management Act modifications advance -- The Legislature advanced LB 56 to Final Reading this week after adopting FA 32 offered by Senator Dierks. The committee amendment originally increased the number of discharges, or strikes, from three to five that a producer must commit before being determined unsuited to hold a permit. This provision was changed back to "three" by FA 32.

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

The committee amendment (**AM 310**), adopted on General File, eliminates that the producer's discharge must be "willfully" committed before a discharge violation can be charged, leaving only that the discharge must be intentionally or negligently committed before a discharge violation, or "strike", can be assessed. The committee amendment originally increased the number of discharges, or strikes, from three to five that a producer must commit before being determined unsuited to hold a permit. This provision was changed back to "three" by FA 32, offered by Senator Dierks on Select File.

NARD Bill Summary Tracking Sheet							Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
LB 12	Increase NRDF	Langemeier		Support	Appropriations	3/9/2009	Committee	
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File	
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File	
LB 54	Integrated Water Management Procedures	Fischer	Fischer	Support	Natural Resources	1/28/2009	Final Reading	AM349-Adopted, AM1099-Adopted
LB 56	Modify Livestock Waste Management	Fischer	Speaker	Monitor	Natural Resources	1/28/2009	Final Reading	AM310-Adopted; FA 32 Adopted
LB 98e	Extend Riparian Vegetation Management	Carlson	Carlson	Support	Agriculture	2/17/2009	Final Reading	AM641-Adopted, FA25-Withdrawn, AM963-Withdrawn, ER8057 Adopted
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin	Opposed	Natural Resources	1/23/2009	General File	AM636-Pending
LB 160	Bond Authority for PMNRD	Gay	Nelson	Support	Natural Resources	1/23/2009	General File	AM735-Adopted, MO23-Withdrawn, AM1043-Withdrawn, AM1005-Adopted, AM1082-Withdrawn, AM1084-Pending, FA28-Pending
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker	Monitor	Revenue	2/6/2009	Final Reading	Cornett name added, Carlson name withdrew, AM357-Adopted, ER8065-Adopted
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 45-0 with Emergency Clause
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 45-2-2
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Approved by Governor, 4/8/09	Passed 45-0
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	Select File	
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue	3/12/2009	General File	
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker	Monitor	Revenue	1/28/2009	General File	AM 712-Pending, AM 802 - Pending
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education	3/9/2009	General File	AM681-Pending, Attorney General Opinion 09007 to Haar
LB 246	Reestablish the Blopower Steering Committee; to provide for a study	Dubas	Speaker	Monitor	Natural Resources	1/30/2009	General File	AM749-Adopted, AM984-Pending
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker	Opposed	Agriculture	2/10/2009	General File	Am354-Pending
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee	Monitor	General Affairs Committee	3/2/2009	Select File	ER8059-Pending, AM1029-Pending
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations	3/11/2009	Committee	
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	General File	
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations	DNR 3/9/09	Committee	
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations	2/23/2009	Committee	

NARD Bill Summary Tracking Sheet					Last Updated: 04/24/09		Page 2 of 2	
		Friend	Priority	Monitor	Revenue		IPP	
LB 336	Exempt municipal water from sales tax				Government, Military and Veterans Affairs	3/12/2009	Approved by Governor 3/22/09	
LB 361	Change roll call provisions under the Open Meetings Act	Avery	Government Committee	Monitor	Government, Military and Veterans Affairs	2/19/2009		Passed 48-0
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee	
LB 379e	Extend the scrap tire grant program	Haar					Approved by Governor 3/18/09	Passed 46-0 with Emergency Clause
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson		Support	Natural Resources	1/29/2009		AM 355-Adopted; ER 8077
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Monitor	Agriculture	2/3/2009	Select File	Pending
LB 466	Eliminate excise tax on corn and grain sorghum	Wallman		Support	Natural Resources	2/5/2009	Committee	
				Monitor	Revenue	3/12/2009	IPP	
LB 477	Change provisions relating to water transfer permits	Carlson	Utter	Support w/ clarification	Natural Resources	2/5/2009	Approved by Governor 3/22/09	Passed 49-0
LB 480	Change budget limit and tax levy limitation provisions	Dierks		Support	Revenue	2/19/2009	Committee	
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources	1/29/2009	Committee	
LB 483e	Change well moratoriums	Langemeier	Langemeier	Support	Natural Resources	1/29/2009	Approved by Governor, 4/6/09	Passed 46-0 with Emergency Clause
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs	3/5/2009	Committee	
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources	2/27/2009	Committee	
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue	2/6/2009	Committee	
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stulthman		Oppose	Natural Resources	2/20/2009	Committee	
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources	2/4/2009	Committee	
LB 577	Change provisions relating to improvement projects areas of NRDs.	Rogert		Oppose	Natural Resources	2/6/2009	IPP	
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture	2/10/2009	Committee	
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources	3/4/2009	Committee	
LB 624	Provide for energy efficiency loans for public buildings	Haar		Monitor	Natural Resources	2/4/2009	Committee	
LB 626	Change prohibited activities for public officials and public employee's use of public resources	Karpisek	Speaker	Support	Government, Military and Veterans Affairs	3/4/2009	General File	AM 972-Pending; AM 1034 - Pending
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Mello		Monitor	Revenue	3/5/2009	Committee	
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Amended into LB361
LB 643	Change and provide notice requirements of road construction near electric lines	Schitz		Monitor	Natural Resources	2/20/2009	Committee	
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources	3/11/2009	Committee	
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources	2/26/2009	Committee	
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services	2/11/2009	Committee	
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources	2/25/2009	Committee	
LB 678	Change provisions relating to minutes of public meetings	Haar		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties	Speaker Flood on behalf of the Governor	Christensen	Support	Revenue	3/11/2009	Committee	



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Protecting Lives • Protecting Property • Protecting the Future

May 1, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: May 1 NARD Update

Flood protection legislation advances – Senators advanced **LB 160** to Select File this week on a 31- 11 vote. The bill provides financing authority to the Papio-Missouri River NRD for flood protection and water quality programs. The Papio Creek Watershed is one of the most dangerous watersheds in the Midwest for potential loss of life and extensive property damage due to flash flooding. Near-flood events in early 2008 highlighted the need to take immediate action. Urban growth within the Papio Creek Watershed continuously increases the risks for significant, hazardous flooding and presents serious water quality problems.

The objectives of the bill include:

- Providing the necessary financing tool, at no cost to the State of Nebraska, to reduce the risk of catastrophic flooding and improve water quality in the Papio-Missouri River Natural Resource District;
- Protect public infrastructure and investments and private property of individual and business property owners and taxpayers within the district;
- Protect the lives, health and welfare of all residents living within the district;
- Reconstruct flood levees identified as deficient;
- Reduce the amount of property subject to costly federal flood insurance requirements; and
- Bring the district into compliance with the federal Clean Water Act.

The Natural Resources Committee amendment (**AM 735**), and an amendment from Senator Rogert (**AM 1005**) were incorporated to the bill before it was advanced to Select File.

Senator Rogert's amendment, **AM 1005**, would require that proceeds to the bonds shall not be used to fund any project in any city or county which is party to an agreement under the Interlocal Cooperation Act, unless such city or county has adopted a storm water management plan approved by the board of directors of the natural resources district.

The committee amendments to the bill, **AM 735**, make several modifications, including:

- Allows use of its **existing mill levy**, to finance flood protection and water quality enhancement projects through the issuance of bonds, requiring a two-thirds affirmative vote of the board members for the issuance of any bond and a public vote for any proposed bond levy exceeding 1 cent, all within the NRD's 4 ½ cents per 100 of assessed valuation levy limit
- Allow county boards to disapprove of any reservoir exceeding 20 surface acres, if done within 90 days of notification of project by the NRD board of directors;
- Provide that bond proceeds not be used for metropolitan class city's combined sewer separation projects; and
- Provide that the bonding authority sunsets on December 31, 2019.

Senator Hadley from Kearney offered several amendments, none of which were incorporated to the legislation. One of his amendments, **AM 1084**, would require all bonds to be approved by a majority of registered voters of the districts, limited to 2 cents, and subject to, and includable in, the computation of other limitations upon the district's tax levy. This amendment failed on an 18-18 vote.

Under current law for all other political subdivisions with bonding authority, when taken to a vote of the public, the approval only requires a majority of those voting and is not subject to levy limitations. Further, counties and school districts currently have a 5.2 cent levy authority for capitol construction and maintenance bonds that only requires the governing body majority vote -- no public vote is required.

Supreme Court hears Niobrara River water case -- The Nebraska Supreme Court heard arguments this week on a water case involving the water rights on the Niobrara River. The case began in 2007, when the Nebraska Public Power District made a call on the river for their full water right – something they have never done since gaining the right in the 1940's. This prompted action the Department of Natural Resources to order hundreds of farmers and ranchers to shut off their irrigation surface water rights to meet the call. This action was also the main reason the Niobrara River Basin was declared fully appropriated.

The irrigators that were shut down asked for a hearing to determine whether the order was properly issued. Prior to the hearing, the Director of the DNR issued an order concluding the DNR lacked subject matter jurisdiction over the proceeding and dismissed the case, primarily citing that the irrigators already had chosen a different route - through Boyd County District Court - to secure their water rights for the next 20 years.

In the legal action through Boyd County District Court, the irrigators had reached an agreement to pay NPPD 70 cents per acre-foot for the water for the next 20 years, totaling \$47,000. However, the question now is whether NPPD actually had maintained the water right over the years – one of the legal requirements to keep the right.

The state Department of Natural Resources has granted at least 440 appropriations since NPPD acquired its rights in 1942, and NPPD never made a call on the river for all the water. The irrigators argue that NPPD hasn't used its rights for more than 50 years, and may have forfeited them by failing to object to any of the applications of other water users. Under state law, the department has a duty to cancel rights not exercised.

If the high court agrees with irrigators, the case will go back to the state Department of Natural Resources.

The case before the state Supreme Court is entirely separate from one filed by other irrigators along the Niobrara, who won an 8th U.S. Circuit Court of Appeals ruling April 13. That court ruled that a U.S. district judge was wrong to dismiss their case, and gives those eight irrigators another chance to keep NPPD from taking the water rights.

There appears to be only one thing for certain in this case – the amount of money generated by NPPD for the water lease from the irrigators (\$47,000) probably will not cover the litigation expenses.

Appropriations bills advanced – The Appropriations committee finished their committee work and advanced the appropriations bills to General File. Floor debate is scheduled to begin Tuesday, May 5th when the legislature reconvenes after a 4-day weekend.

Based on the April revenue forecasts, the Committee proposed budget included in **LB 315** results in a \$208.3 million unobligated ending balance at the end of the FY10/FY11 Biennial Budget which is \$18.6 million above the minimum 3% reserve. This variance from the minimum reserve has fluctuated substantially over the past four months from the \$377 million shortfall projected prior to the session based on October revenue forecasts and a projected budget based on agency requests, to a \$36.4 million shortfall based on the Committee Preliminary budget, back to a \$374 million shortfall after the February 2009 revenue forecasts to over \$580 million shortfall when including the ARRA revenue impacts and April forecasts.

For natural resources programs, there is little change from the preliminary budget proposed by Governor Heineman. The changes for DNR in **LB 315** include:

- Increase personnel services limit to reduce reliance on contractual services for integrated management workload. The Appropriations Committee increased the agency personnel services limit by \$250,000 and includes the following intent language: "It is the intent of the Legislature that the Department of Natural Resources 1) examine the use of consultants to carry out integrated water management projects and studies and 2) hire additional staff when cost benefit analysis indicates that it is feasible to decrease the reliance upon consulting services used to carry out long-term integrated water management projects and studies."

- Reduction of estimated federal funding by \$100,000. The agency requested a lower federal fund expenditure authority, based upon projected funding levels.
- Soil & Water Conservation Fund, reduce General Fund allocation to by \$198,619 in each of the next two fiscal years. The Appropriations Committee recommendation reduces funding for this program by 7.4%. Funds allocated to this program are divided between natural resources districts, with the NRDs providing funding to individual property owners undertaking conservation practices.
- Water Management Fund, reduction of program funding by \$100,000 in each of the next two fiscal years. The Appropriations Committee recommendation reduces funding by 9.3%.

The budget can be found at <http://www.nebraskalegislature.gov/>. Click on the report "2009 Appropriations Committee Budget Report".

Programs available for rural & urban tree planting -- There are numerous cost-share programs available to help land owners plant trees and shrubs in rural and urban settings.

In rural areas, the most common programs offering technical and financial assistance are the Environmental Quality Incentives Program, Continuous Conservation Reserve Program, or natural resources district programs. Other examples that also offer tree and shrub cost-share assistance in rural areas include:

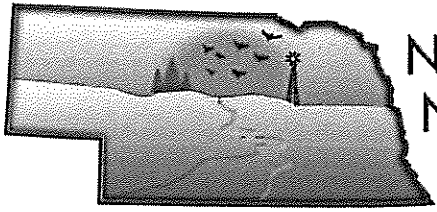
- Wetlands Reserve Program is administered by the Natural Resources Conservation Service. In some locations, planting hardwood trees and shrubs in the uplands near the actual wetland can diversify the landscape and offer additional wildlife habitat;
- Wildlife Habitat Incentives Program, also by NRCS, offers landowners payments for developing wildlife habitat, including pivot corners and irregular areas;
- Continuous Conservation Reserve Program offers cost share funds for planting riparian forest buffers. Trees planted along streams offer wildlife or aquatic habitat, and improve water quality by shading and cooling the water;
- Conservation Security Program, when it is announced by USDA, may also be an option for planting trees and shrubs; and
- Pheasants Forever and Quail Forever organizations have a "Corners for Wildlife" program for establishing permanent wildlife habitat in pivot corners.

In urban areas there are opportunities for communities or neighborhoods to plant more trees. The Nebraska Statewide Arboretum that administers funds for several tree planting programs. Check their website at <http://arboretum.unl.edu/>. The Arboretum also manages funds from the Nebraska Department of Roads for the Community Enhancement Program aimed at transportation corridors like streets, trails etc.

Another program funded by the Nebraska Department of Roads and administered by the Nebraska Forest Service, soon to be released, is called Shade our Streets for tree planting along streets. Many private foundations also fund tree planting projects and some are listed on the Nebraska Forest Service website at www.nfs.unl.edu/program-communityforestry.asp.

NARD Bill Summary Tracking Sheet										Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	Last Updated: 05/01/09		NARD POSITION	Committee	Hearing Date	Status	Amendments	
LB 12	Increase NRDF	Langemeier				Support	Appropriations	3/9/2009	Committee		
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A			N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed	
LB 42	Improvements to Rural Water Systems	Flood				Monitor	Natural Resources	1/21/2009	General File		
LB 43	Eliminate Interstate Water Rights Fund	Flood				Monitor	Natural Resources	1/21/2009	General File		
LB 54	Integrated Water Management Procedures	Fischer	Fischer			Support	Natural Resources	1/28/2009	Final Reading	AM348-Adopted, AM1099-Adopted	
LB 56	Modify Livestock Waste Management	Fischer	Speaker			Monitor	Natural Resources	1/28/2009	Final Reading	AM310-Adopted; FA 32 Adopted	
LB 98e	Extend Riparian Vegetation Management	Carlson	Carlson			Support	Agriculture	2/17/2009	Final Reading	AM641-Adopted, FA25-Withdrawn, AM963-Withdrawn, ER8057 Adopted	
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin			Opposed	Natural Resources	1/23/2009	General File	AM636-Pending	
LB 160	Bond Authority for PMNRD	Gay	Nelson			Support	Natural Resources	1/23/2009	Select File	AM735-Adopted, MO23-Withdrawn, AM1043-Withdrawn, AM1005-Adopted, AM1082-Withdrawn, AM1084-Failed, FA28-Withdrawn	
LB 162	Change provisions relating to contractor registration and income tax withholding	Cornett	Speaker			Monitor	Revenue	2/6/2009	Final Reading	Cornett name added, Carlson name withdrew, AM357-Adopted, ER8065-Adopted	
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee				Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 46-0 with Emergency Clause	
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee				Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 45-2-2	
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden				Support	Natural Resources	1/28/2009	Approved by Governor, 4/8/09	Passed 45-0	
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier				Support	Natural Resources	1/30/2009	Select File		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier				Support	Revenue	3/12/2009	General File		
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	Speaker			Monitor	Revenue	1/28/2009	General File	AM 712-Pending, AM 802 - Pending	
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams				Monitor	Education	3/9/2009	General File	AM681-Pending, Attorney General Opinion 09007 to Haar RW775-Adopted, AM964-Adopted	
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker			Monitor	Natural Resources	1/30/2009	Final Reading	Withdrawn; AM 1195 - Adopted; ER 8061 - Adopted	
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker			Opposed	Agriculture	2/10/2009	General File	Am354-Pending	
LB 286	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee			Monitor	General Affairs Committee	3/2/2009	Final Reading	ER8059-Adopted, AM1029-Adopted	
LB 289	Appropriate funds to the Game and Parks Commission	Christensen				Support	Appropriations	3/11/2009	Committee		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council				Monitor	Judiciary	2/4/2009	General File		
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor				Support	Appropriations	DNR 3/9/09	General File	AM 889 - Pending	
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor				Support	Appropriations	2/23/2009	Committee		

NARD Bill Summary Tracking Sheet										Page 2 of 2	
			Friend	Last Updated: 05/07/09							
				Priority	Monitor	Revenue	3/12/2009	IPP			
LB 336	Exempt municipal water from sales tax					Government, Military and Veterans Affairs	2/19/2009	Approved by Governor 3/22/09	Passed 48-0		
LB 361	Change roll call provisions under the Open Meetings Act		Avery	Government Committee	Monitor	Government, Military and Veterans Affairs	2/25/2009	Committee			
LB 362	Change requirements for candidate filing forms		Avery		Monitor	Natural Resources	1/29/2009	Approved by Governor 3/18/09	Passed 46-0 with Emergency Clause		
LB 379e	Extend the scrap tire grant program		Haar		Support	Agriculture	2/3/2009	Select File	AM 355-Adopted; ER 8077 Pending		
LB 389	Change appointment provisions for the Climate Assessment Response Committee		Carlson		Support	Natural Resources	2/5/2009	Committee			
LB 438	Prohibits instream appropriations in fully or over appropriated areas		Fischer		Monitor	Revenue	3/12/2009	IPP			
LB 466	Eliminate excise tax on corn and grain sorghum		Wallman		Support w/ clarification	Natural Resources	2/5/2009	Approved by Governor 3/22/09	Passed 49-0		
LB 477	Change provisions relating to water transfer permits		Carlson	Utter	Support	Revenue	2/19/2009	Committee			
LB 480	Change budget limit and tax levy limitation provisions		Dierks		Monitor	Natural Resources	1/29/2009	Committee			
LB 482	Change provisions of the NE GW Management and Protection Act		Langemeier		Support	Natural Resources	1/29/2009	Approved by Governor, 4/6/09	Passed 46-0 with Emergency Clause		
LB 483e	Change well moratoriums		Langemeier		Monitor	Natural Resources	3/5/2009	Committee			
LB 486	Require certain governmental entities to identify themselves as such in their official name		Karpisek		Support	Natural Resources	2/27/2009	Committee			
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state		Langemeier		Support	Revenue	2/6/2009	Committee			
LB 520	Provide for an income tax credit for perpetual conservation easement donations		Hadley		Oppose	Natural Resources	2/20/2009	Committee			
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.		Stufman		Support	Natural Resources	2/4/2009	Committee			
LB 565	Adopt the Woody Biomass Energy Act		Louden		Oppose	Natural Resources	2/6/2009	IPP			
LB 577	Change provisions relating to improvement projects areas of NRDs.		Rogert		Monitor	Agriculture	2/10/2009	Committee			
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales		Carlson		Support w/ modifications	Natural Resources	3/4/2009	Committee			
LB 582	Create the NE Invasive Species Council		Dierks		Monitor	Natural Resources	2/4/2009	Committee			
LB 624	Provide for energy efficiency loans for public buildings		Haar		Support	Government, Military and Veterans Affairs	3/4/2009	General File	AM 972-Pending; AM 1034 - Pending; AM 1256 - Pending		
LB 626	Change prohibited activities for public officials and public employee's use of public resources		Karpisek	Speaker	Monitor	Revenue	3/5/2009	Committee			
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund		Mello		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee	Amended into LB361		
LB 639	Change provisions to telephone conferencing for public meetings		Karpisek		Monitor	Natural Resources	2/20/2009	Committee			
LB 643	Change and provide notice requirements of road construction near electric lines		Schifz		Monitor	Natural Resources	3/11/2009	Committee			
LB 644	Adopt the Electronics Recycling Act		Mello		Support	Natural Resources	2/26/2009	Committee			
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)		Christensen		Monitor	Health and Human Services	2/11/2009	Committee			
LB 656	Adopt the Health Care Accessibility and Affordability Act		Harms		Support	Natural Resources	2/25/2009	Committee			
LB 666	Changes to the Niobrara Scenic River Council		Langemeier		Monitor	Government, Military and Veterans Affairs	2/19/2009	Committee			
LB 678	Change provisions relating to minutes of public meetings		Haar		Support	Revenue	3/11/2009	Committee			
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties		Speaker Flood on behalf of the Governor	Christensen	Support						



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May 8, 2009

TO: NARD Board, NRD Managers and Conservation Partners

FROM: Dean E. Edson, NARD Executive Director

RE: May 8 NARD Update

Alyssa Smola joins NARD – Alyssa Smola will join the Nebraska Association of Resources Districts as the Public Relations and Communications Director on May 18th. Smola graduates on May 9, 2009 from UNL with a Masters of Science Degree in Leadership Education with a minor in Management. She also holds a Bachelor of Science Degree in Agriculture Leadership with a minor in Natural Resources Economics from UNL. She is currently the Outreach Coordinator for the Agriculture, Leadership, Education and Communications program at the Nebraska Department of Agriculture. Over the past year, she has also served as a Teaching Assistant for two undergraduate classes at UNL. Her past professional experience includes service as the Nebraska Agriculture Youth Coordinator and a summer internship with the Platte County Extension Service. Alyssa grew up on an irrigated farm south of David City.

Ron Milner passes -- Ron Milner passed away Monday, May 4, 2009 at his home in Imperial at the age of 75 years. Ron was the manager of the Upper Republican NRD for 25 years, from 1972 until 1997. He was a URNRD board member from November 2005 until November 2006. Funeral services were Thursday, May 7, 2009 at the First United Methodist Church in Imperial. Ron is survived by his wife, Monna, son Jerry and daughters Becky, Linda and Debby. Memorials have been established to the American Legion Baseball Program and the American Legion Boys and Girls State Programs in Imperial and can be mailed to 1638 Grant St, Imperial, NE 69033.

He assisted the board with introducing the first rules and regulations for groundwater control for the NRD in 1978. Ron was always busy with water issues throughout the State and he was active in getting chemigation laws put into place for the State of Nebraska. Ron received a service award in 1997 from the State of Nebraska for his service to the Upper Republican NRD. According to family members, Ron felt his most honorable moment with the NRDs was when he was selected by the NARD to go to Washington DC to lay the wreath on the Tomb of the Unknown Soldier at Arlington National Cemetery.

Increased ground water levels across the Upper Big Blue NRD – The spring 2009 groundwater level measurements in the Upper Big Blue NRD show another gain of 2.6 feet from last spring. This follows a spring 2008 gain of 1.58 feet.

During April 2009, the NRD measured 508 observation wells throughout the district and then averaged the data of all these wells. Observation wells are measured in the spring of each year, allowing the water table to rebound from the previous irrigation season. The findings show that the spring 2009 average groundwater level is 5.80 feet above the “allocation trigger”.

The Upper Big Blue NRD's Observation Well Program includes a network of over 500 wells within the NRD that are measured each year to calculate average groundwater levels. Through the conservation efforts of groundwater users, and because of an extended period of above average rainfall in the 1980s and 1990s, the average groundwater level in the Upper Big Blue NRD rose significantly to a level in the year 2000 that was approximately seven feet higher than the 1961 level (baseline), and 14 feet higher than the low level of 1976 to 1981.

The district goal is to hold the average groundwater level to above the 1978 level. In 2007, the district average groundwater level reached the "reporting trigger" initiating groundwater users to report annual groundwater use to the district and to certify their irrigated acres. If the district average level falls below the 1978 level ("allocation trigger"), the use of flowmeters will be required and groundwater allocation will begin.

The Upper Big Blue NRD rules and regulations mandate that producers will be responsible for installing flowmeters on existing wells if the groundwater level hits the allocation trigger. When the allocation trigger is reached and producers and other users have not installed flowmeters by the next calendar year, then they will not be able to pump any amount of water until a flowmeter is installed. Since March 1, 2004, all new wells and replacement wells require a flowmeter.

Legislative Action – The following bills were given final approval by the Legislature.

LB 54: Water accounting bill passes – A bill to assist NRDs in tracking depletions and gains resulting from new, expired or modified water uses in fully or over-appropriated areas was given final approval by the Legislature on a 47-0-2 vote this week. The bill, **LB 54**, was introduced and prioritized by Sen. Deb Fischer of Valentine.

The bill allows procedures to be established that include:

- use of generally accepted methodologies based on the best available information;
- provide a methodology to estimate streamflow depletions and gains and provide information on gains as offsets to new uses;
- require the identification of means to be utilized so new uses will not have more than a de minimis effect on existing surface water or groundwater users;
- provide a procedure for sharing information between the Department of Natural Resources and the NRDs;
- identify water that could mitigate new uses; and
- provide a plan, after consulting with and providing an opportunity for public input from interested parties, for making water available for offset for economic development purposes.

The committee amendment (**AM348**) clarified some of the definitions and was adopted 36-0. The bill advanced to select file on a 40-0 vote.

On April 17th, the bill was moved from Final Reading back to Select File on a 42 to 0 vote. Sen. Langemeier then introduced an amendment (AM 1099) proposing that the department not be required to perform an annual evaluation for a river basin, sub-basin, or reach during the four years following a status change. Status change is what occurred for the lower Platte River this spring when DNR preliminarily declared the river fully appropriated and later reversed their decision. The four year time frame following a status change in this bill mirrors the time frame stipulated in LB

483 where a status change has occurred. The amendment passed on a 41 to 0 vote and the bill was advanced again to Final Reading.

The committee amendment (**AM348**) clarified some of the definitions and was adopted on General File on a 36-0 vote. The bill advanced to Select File on a 40-0 vote.

LB 56: Livestock Waste Management Act modifications -- The Legislature gave final approval to LB 56 on a 43-3-3 vote this week. The committee amendment originally increased the number of discharges, or strikes, from three to five that a producer must commit before being determined unsuited to hold a permit. This provision was changed back to "three" by FA 32 offered by Senator Dierks on Select File.

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

The committee amendment (**AM 310**), adopted on General File, eliminates that the producer's discharge must be "willfully" committed before a discharge violation can be charged, leaving only that the discharge must be intentionally or negligently committed before a discharge violation, or "strike", can be assessed. The committee amendment originally increased the number of discharges, or strikes, from three to five that a producer must commit before being determined unsuited to hold a permit. This provision was changed back to "three" by FA 32, offered by Senator Dierks on Select File.

The bill was introduced by Senator Deb Fischer of Valentine and was a Speaker Priority Bill.

LB 98e and LB 98Ae: Riparian Vegetation Management Task Force -- A bill introduced by Senator Carlson to extend the termination date for the Riparian Vegetation Management Task Force was given final approval by the full Legislature this week on a 45-0-4 vote. The Ag Committee amendment (**AM 641**) was adopted on General File on a 40-2 vote, with Senators White and Wallman voting no. The committee amendment (**AM 641**) strikes the original provisions and becomes the bill. This amendment does the following:

- Extends the existence and duties of the Riparian Management Task Force for four years rather than just two years. Includes intent language to appropriate two million dollars annually for the vegetation management.
- Clarifies the priority for grants that are consistent with any plans and priorities for riparian vegetation management established by the Riparian Management Task Force.

- Includes a directive for the Director of Agriculture to apply for grants from the Environmental Trust Fund and the Natural Resources Conservation Service of the USDA prior to July 31, 2009.
- Provides for a one-time transfer of \$500,000 from the Buffer Strip Incentive Cash Fund to the Noxious Weed and Invasive Species Assistance Fund.
- The related appropriations bill, **LB 98Ae**, appropriates \$2 million for FY 2009-10 and another \$2 million for FY 2010-11 to the Department of Agriculture to aid in carrying out the provisions of Legislative Bill 98.

Both **LB 98e** and **LB 98Ae** included the emergency clause so it will go into effect as soon as the Governor signs the bills.

LB 286e: Lottery proceeds distribution – A bill introduced by the General Affairs Committee, LB 286e, was given final approval by the Legislature this week on a 46-0-3 vote. The bill eliminates a July 1, 2009 sunset date in a provision of the State Lottery Act governing how funds are to be distributed to Lottery beneficiaries. The formula that remains will require that the dollar amount transferred to beneficiary funds shall equal the greater of (a) the dollar amount transferred to the funds in fiscal year 2002-03, which amounts to approximately \$20.2 million, or (b) any amount which constitutes at least twenty-two percent and no more than twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis. To the extent that funds are available, the Tax Commissioner and Lottery Director may authorize a transfer exceeding twenty-five percent of the dollar amount of the lottery tickets sold on an annualized basis. The bill included the emergency clause so it will go into effect as soon as the Governor signs the bill.

Legislative Action – the following bills advanced to Final Reading.

LB 209: Dam construction bill advances – Working from consent calendar, Senators advanced LB 209 to Final Reading this week. Working from consent calendar allows non-controversial bills to be advanced if they can be explained and voted on within 15 minutes; beyond 15 minutes and the bill is taken off of the agenda. The bill changes the time frame from 6 months to 12 months after the approval of any application for water for irrigation, power, or other useful purpose by the department, to commence the excavation or construction of the project. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction. The bill is sponsored by Senator Langemeier.

Budget Bills Advanced – Senators advanced the budget bills to Final Reading this week. Only one amendment was added to the committee recommendations to the mainline appropriations bill, LB 315. The amendment was offered by Senator LaVon Heidemann, Chair of the Appropriations Committee, and it made only slight adjustments in the funding levels based upon more recent information on funding needs.

The budget proposed by the Appropriations Committee would provide \$6.9 billion for state government operation and aid during the two-year period, an average annual spending growth rate of 1 percent. The revenue forecasts on which the budget is based project revenue growth reductions of 2.7 percent in fiscal year 2008-09 and the cumulative revenue growth over the three years that impact the upcoming biennium at 13 percent below the historical average. The committee's budget would result in a \$208.3 million balance at the end of the biennium - \$18.6 million above the minimum 3 percent reserve. The overall budget picture was improved by over \$500 million in federal stimulus funds.

Also advanced by voice vote to final reading were the remaining components of the budget package:

- LB 312 would appropriate funds for state senators' salaries;
- LB 313 would appropriate funds for constitutional officers' salaries;
- LB 314 would appropriate funds for capital construction;
- LB 318 would suspend certain depreciation charges assessed by the Department of Administrative Services;
- LB 414 would change Supreme Court judge salaries;
- LB 456 would transfer \$254.4 million from the state's cash reserve fund;
- LB 628 would provide for payment of claims against the state; and
- LB 629 would disapprove claims against the state.

Legislative Action – the following bills advanced to Select File.

LB 626: Change prohibited activities for public officials and public employee's use of public resources. A bill introduced by Senator Russ Karpicek of Wilber to change governance of public resources was advanced to Select File this week after a couple of amendments were incorporated into the bill. The bill would allow public officials and employees to use public resources that are considered incidental.

The committee amendment, AM 972, was adopted on a 35-6 vote and becomes the bill. The key components include:

- Any use of public resources by a public official or public employee which is incidental or de minimis will not constitute a violation of the sections in the Nebraska Political Accountability and Disclosure Act.
- A resource of government, including a vehicle, will not be considered a public resource and personal use will not be prohibited if the use for personal purposes is part of the public official's or public employee's compensation provided by a government body and the personal use of the resource is reported as compensation in accordance with the Internal Revenue Code and taxes are paid.
- If authorized by the contract or policy, the resource may be used whether or not the public official or public employee is engaged in the duties of his or her public office or public employment.
- A public official or public employee is not prohibited from using his or her personal cellular telephone, handheld device, or computer to access a wireless network for which access is provided to the public by a government body.

- Unless otherwise restricted by another agreement or contract, a public official or employee may use a telephone or computer under the control of a governmental body for emails and calls in certain circumstances, such as calling a teacher, doctor or family member. The communication will be kept to a minimum and not interfere with public business. A public official or public employee shall be responsible for reimbursement of charges that directly result from the communication.
- Allows a public employee under the direct supervision of a public official to respond to specific inquiries as to his or her opinion on a ballot question or to provide information in response to a request for information. Currently, only public officials are allowed to respond to specific inquiries regarding ballot questions.

Senator Karpisek offered **AM 1256** to the committee amendment which would prohibit public officials from using public resources to express their opinion on ballot issues. The amendment was adopted on a 42-0 vote. The bill was introduced in response to an August 2008 decision by the Nebraska Accountability and Disclosure Commission in which a city administrator was fined for sending an e-mail relating to a campaign event from his own computer at home, but it went through a server owned by the city.

Envirothon - The 2009 Nebraska Envirothon State Championship team hails from Ord High School. The members of the Ord Envirothon team are Aaron Kokes, Kris Hornickel, Amanda Duvall, Samantha Krikac and Debra Wray. Their coach/adviser is Dave Ference. Superior High School students were runners-up and Bellevue East High School finished in third place.

The weather was perfect for 12 high school Envirothon teams, including both regional and wildcard winners, that gathered at Ponca State Park Education Center on the Missouri River in northeast Nebraska to compete in the state competition held on May 2nd.

The Ord team is now invited to represent Nebraska at the Canon Envirothon and also receives a \$1000 scholarship offered by the Nebraska Envirothon. This year the Canon Envirothon will be held at the University of North Carolina at Asheville. The week long contest, August 2nd – 8th, involves testing, touring, learning sessions, and opportunities for students to meet other state champions. Over 50 teams from across the U.S. and Canada are expected to participate at this year's national competition.

The Nebraska Envirothon tests 5-student teams on their knowledge on seven different natural resources areas. Team winners of individual testing stations included the following:

- **Oral Presentation - Bellevue East 1**
- **Forestry - Norris**
- **Policy - Norris**
- **Range - Ord and Superior 1 (tie)**
- **Soils - Ord and Bellevue East 1 (tie)**
- **Aquatics - Bellevue East 1**
- **Wildlife – Superior 1**

NARD Bill Summary Tracking Sheet										Page 1 of 2
Bill or CA	Description	Sponsor(s)	Priority	Last Updated: 05/08/09		Committee	Hearing Date	Status	Amendments	
LB 12	Increase NRDF	Langemeier			NARD POSITION	Support	3/9/2009	Committee		
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A		N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed	
LB 42	Improvements to Rural Water Systems	Flood			Monitor	Natural Resources	1/21/2009	General File		
LB 43	Eliminate Interstate Water Rights Fund	Flood			Monitor	Natural Resources	1/21/2009	General File		
LB 54	Integrated Water Management Procedures	Fischer	Fischer		Support	Natural Resources	1/28/2009	Approved, sent to the Governor	Passed 47-0-2	
LB 56	Modify Livestock Waste Management	Fischer	Speaker		Monitor	Natural Resources	1/28/2009	Approved, sent to the Governor	Passed 43-3-3	
LB 98e & LB 98Ae	Extend Riparian Vegetation Management	Carlson	Carlson		Support	Agriculture	2/17/2009	Approved, sent to the Governor	Passed w/emergency clause 45-0-4, LB 98Ae passed w/emergency clause 46-0-3	
LB 134	Limit NRD Eminent Domain Authorities	Pankonin	Pankonin		Opposed	Natural Resources	1/23/2009	General File	AM636-Pending AM735-Adopted, MO23- Withdrawn, AM1043-Withdrawn, AM1005-Adopted, AM1082- Withdrawn, AM1084-Failed, FA28- Withdrawn, FA 35 Pending	
LB 160	Bond Authority for PMNRD	Gay	Nelson		Support	Natural Resources	1/23/2009	Select File		
LB 162	Change provisions relating to contractor registration and income tax withholding	Comett	Speaker		Monitor	Revenue	2/6/2009	Approved, sent to the Governor	Passed 45-2-2	
LB 179e	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee			Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 46-0 with emergency clause	
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee			Support	Natural Resources	1/21/2009	Approved by Governor, 2/12/09	Passed 45-2-2	
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden			Support	Natural Resources	1/28/2009	Approved by Governor, 4/8/09	Passed 45-0	
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier			Support	Natural Resources	1/30/2009	Final Reading		
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier			Support	Revenue	3/12/2009	General File		
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Comett	Speaker		Monitor	Revenue	1/28/2009	Select File	AM 712 - Adopted, AM 802 - Lost	
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams			Monitor	Education	3/9/2009	General File	AM681-Pending, Attorney General Opinion 09007 to Haar	
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	Speaker		Monitor	Natural Resources	1/30/2009	Final Reading	AM749-Adopted, AM954- Withdrawn; AM 1195 - Adopted; ER 8061 - Adopted	
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	Speaker		Opposed	Agriculture	2/10/2009	Select File	AM 354-Adopted	
LB 286e	Change the distribution of lottery funds	General Affairs Committee	General Affairs Committee		Monitor	General Affairs Committee	3/2/2009	Approved, sent to the Governor	Passed w/emergency clause 46-0-3	
LB 289	Appropriate funds to the Game and Parks Commission	Christensen			Support	Appropriations	3/11/2009	Committee		
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council			Monitor	Judiciary	2/4/2009	General File		
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor			Support	Appropriations	DNR 3/9/09	Final Reading	AM's 889 & 1290 - Adopted; ER 8122 - Adopted; AM's 1267 & 1286 - Withdrawn	
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor			Support	Appropriations	2/23/2009	Final Reading	AM's 890 & 1289 - Adopted; ER 8115 - Adopted	

NARD Bill Summary Tracking Sheet					Last Updated: 05/08/09		Page 2 of 2	
Bill Number	Bill Description	Friend	Priority	Monitor	Revenue	Committee	Approved by	Page
LB 336	Exempt municipal water from sales tax				Revenue		IPP	
LB 361	Change roll call provisions under the Open Meetings Act	Avery	Government Committee	Monitor	Government, Military and Veterans Affairs		Approved by Governor 3/22/09	Passed 48-0
LB 362	Change requirements for candidate filing forms	Avery		Monitor	Government, Military and Veterans Affairs		IPP	
LB 379e	Extend the scrap tire grant program	Haar		Support	Natural Resources		Approved by Governor 3/18/09	Passed 46-0 with Emergency Clause
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson		Monitor	Agriculture		Final Reading	AM 355-Adopted; ER 8077 Adopted
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Support	Natural Resources		Committee	
LB 466	Eliminate excise tax on corn and grain sorghum	Walflman		Monitor	Revenue		IPP	
LB 477	Change provisions relating to water transfer permits	Carlson	Utter	Support w/ clarification	Natural Resources		Approved by Governor 3/22/09	Passed 49-0
LB 480	Change budget limit and tax levy limitation provisions	Dierks		Support	Revenue		IPP	
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Monitor	Natural Resources		Committee	
LB 483e	Change well moratoriums	Langemeier	Langemeier	Support	Natural Resources		Approved by Governor, 4/6/09	Passed 46-0 with Emergency Clause
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek		Monitor	Government, Military and Veterans Affairs		Committee	
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier		Support	Natural Resources		Committee	
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Support	Revenue		Committee	
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stulthman		Oppose	Natural Resources		Committee	
LB 565	Adopt the Woody Biomass Energy Act	Louden		Support	Natural Resources		Committee	
LB 577	Change provisions relating to improvement projects areas of NRDs.	Rogert		Oppose	Natural Resources		IPP	
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Monitor	Agriculture		Committee	
LB 582	Create the NE Invasive Species Council	Dierks		Support w/ modifications	Natural Resources		Committee	
LB 624	Provide for energy efficiency loans for public buildings	Haar		Monitor	Natural Resources		Committee	
LB 626	Change prohibited activities for public officials and public employee's use of public resources	Karpisek	Speaker	Support	Government, Military and Veterans Affairs		Select File	AMs 972 & 1256 -Adopted; AM 1034 - Withdrawn; AM 1322 & ER 8124 Pending
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Mello		Monitor	Revenue		IPP	
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek		Monitor	Government, Military and Veterans Affairs		Committee	Amended into LB361
LB 643	Change and provide notice requirements of road construction near electric lines	Schitz		Monitor	Natural Resources		Committee	
LB 644	Adopt the Electronics Recycling Act	Mello		Monitor	Natural Resources		Committee	
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen		Support	Natural Resources		Committee	
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Monitor	Health and Human Services		Committee	
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Support	Natural Resources		Committee	
LB 678	Change provisions relating to minutes of public meetings	Haar		Monitor	Natural Resources		Committee	
LB 681	Provide for refund of unconstitutional taxes, assessments, and penalties	Speaker Flood on behalf of the Governor	Christensen	Support	Revenue		Committee	

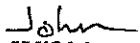


United States Department of the Interior APR 28 2009

U.S. GEOLOGICAL SURVEY
Water Resources Discipline
Nebraska Water Science Center
5231 South 19th Street
Lincoln, NE 68512-1271

April 24, 2009

John Winkler, General Manager
Papio-Missouri River Natural Resources District
8901 South 154
Omaha, NE 68138


Dear Mr. Winkler:

Thank you for your interest in the U.S. Geological Survey's (USGS) position on the Nebraska Department of Natural Resources' (NDNR) press release of March 30, 2009. There are a couple of corrections that I wanted to bring to the attention of the Natural Resource District's (NRDs) staff and directors.

First, the Phase 1 version of the Elkhorn-Loup Model was a preliminary model developed through a cooperative agreement with Nebraska Department of Natural Resources (NDNR) after early calculations indicated that the Elkhorn and Loup Basins appropriation status might be affected. The NDNR press release stated that the USGS was contracted to perform this work. The USGS does not perform contract work. We performed work under a Joint Funding Agreement with the NRDs and NDNR, in which all parties have entered into a collaborative effort of equals. USGS scientists authored the MODFLOW software used to develop the model, and the preliminary model was reviewed by USGS and by several parties, including the NRDs and the NDNR, before approval.

Second, we are concerned about the use of the term "erroneous" in the NDNR press release with respect to one of the methods used in the preliminary model. Brown and Caldwell also used this term in a review of NDNR use of the Phase 1 model. Given this concern, the Nebraska Water Science Center submitted the Phase 1 model to further review by Dennis Woodward and Geoff Delin, the USGS Central Region Water Discipline Coordinator and Groundwater Specialist, respectively. Their findings concluded that the approach used in the preliminary pumpage estimate calculation was both reasonable and scientifically defensible based on the available data. The uncertainties associated with any approach to estimate future pumpage are significant and it did at that time represent the "best scientific data, information and methodologies." Further, as written in the proposal, it should have been well understood by all parties that

Phase 1 was a preliminary model and that different and perhaps more accurate estimates could be expected in the Phase 2 modeling study.

What's gotten lost in the message is that this is a continuing process. The plans for Phase 2 are well underway, and it includes developing more accurate methods of estimating pumpage for the final model.

By way of this communication, I am reiterating the USGS policy of producing high quality and scientifically unbiased products. We also want the NRDs staff and directors to know that we will continue to strive to keep this process as transparent as possible and have offered to appear before the NRD Board of Directors to answer any questions regarding these recent developments.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert B. Swanson", with a long, sweeping horizontal line extending to the right.

Robert B. Swanson, Director
USGS Nebraska Water Science Center

Copy to : Jim Schneider, DNR
Rick Wilson, P.E., USGS
Steve Peterson, P.G., USGS

NEWS RELEASE

Nebraska Department of Natural Resources

301 Centennial Mall South - P.O. Box 94676 - Lincoln, Nebraska 68509-4676 - (402) 471-2363

FOR IMMEDIATE RELEASE
CONTACT

Monday, March 30, 2009, 9:30 a.m. CT
Jim Schneider (402) 471-3141

DNR: Lower Platte Declared Not Fully Appropriated *New Scientific Evidence Reverses Preliminary Decision*

(Lincoln, Neb.) Today, Director of the Nebraska Department of Natural Resources (DNR), Brian Dunnigan, announced that the final determination is that the Lower Platte River Basin is not fully appropriated. The basis for overturning the original preliminary determination was the presence of new evidence.

“After evaluating all of the testimony and information provided through the hearing process, including the discovery of an erroneous method used to develop the ground water model simulations for the preliminary determination, the Lower Platte River Basin is not fully appropriated at this time,” said Director Dunnigan. “I plan to issue the notice this week. This final decision is, as the law requires, based upon the best scientific data, information and methodologies available.”

The Ground Water Management and Protection Act requires DNR to annually evaluate the expected long-term availability of hydrologically connected water supplies for both existing and new surface water uses and ground water uses in each of the State’s river basins. State law also requires that determinations on whether river basins, subbasins, or reaches are fully appropriated must be based upon the best scientific data, information and methodologies available.

On December 16, 2008, Director Dunnigan issued the 2009 annual report which included a preliminary determination that the Lower Platte River was fully appropriated based upon the scientific data, information and methodologies available at that time. As required by law, DNR then scheduled public hearings to receive information on the extent of the area in which the surface water and ground water supplies are hydrologically connected, and whether the stays on new uses should be terminated.

In making the preliminary determination, DNR relied on the United States Geological Survey's federal government study contracted by the Department and local natural resources districts known as the Elkhorn Loup Model or ELM study. At that time, the ELM study was the most accurate science available for making such determinations. Following the preliminary determination, additional information was released to the Department and the natural resource districts. This information indicated that an erroneous method was used to calculate future ground water pumping under average climatic conditions. The erroneous method overestimated the amount of pumping, resulting in a greater estimate of the effect of average pumping on the Lower Platte River. The Department corrected the erroneous method and determined that the future effect of average pumping on the Lower Platte River would not currently cause the basin to be fully appropriated.

Dunnigan added, "The Department will continue to collaborate with the local NRDs and other interested parties to improve the science and methodologies used in making such determinations. Together, we will strive to assure existing users of a dependable water supply into the future."

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MIDLANDS VOICES

4-3-09

Pedestrian bridge usage shows project not a waste

BY DONALD GREER AND JOHN NOBLE

The writers are professors at the University of Nebraska at Omaha.

In the months leading up to the opening of the Bob Kerrey Pedestrian Bridge, it was clear to anyone reading *The World-Herald's* Public Pulse that there was some controversy over this federally funded project.

As *The World-Herald* pointed out in Dec. 31 news story, some area residents clearly considered the bridge to be frivolous "pork" and "a boondoggle." And we have seen one Web site identifying the bridge with the infamous Alaskan "bridge to nowhere" label.

But in the same article, *The World-Herald* named the Kerrey Bridge one of the top 10 area stories of 2008 and defended it, concluding that "it proves to be hugely popular on both sides of the Missouri River."

We agree with *The World-Herald* that the Kerrey Bridge has proved to be popular with the public. As occasional users of the bridge, we believe our observations are certainly consistent with the newspaper's conclusions. What is more, we need not rely on casual impressions to support our conclusion. We can back it up with hard evidence.

During October 2008, our student workers spent a total of 78.5 hours observing and recording entries to and exits from the Kerrey Bridge. These observation periods included weekdays and weekends, with morning, midday and afternoon hours.

A total of 14,650 people were counted, for an average entry/exit rate of 187 people per hour. About 60 percent of the observation times were on the Omaha side of the bridge, and the entry/exit rate was approximately 204 per hour on the Omaha side and 161 per hour on the Council Bluffs side.

Since these numbers represent both bridge entries and exits combined, it seems reasonable to

divide the observed user counts in half, leaving us with an average daytime rate of approximately 90 bridge users per hour.

The type of bridge use was also an interest. Our observations indicate that the Kerrey Pedestrian Bridge, its name notwithstanding, is not just a pedestrian area. Rather, it is very much a multiuse area. Although walking did account for 80 percent of

The Bob Kerrey Pedestrian Bridge is not just a pedestrian area. Rather, it is very much a multiuse area.

bridge usage, there were also substantial numbers of runners/joggers. In addition, 12 percent of users were bicyclists.

This mixed usage leads us to think about (1) what the bridge actually means to the various types of users, (2) the future of the bridge in years to come and (3) the possibility of user conflict.

It seems likely that most pedestrian users view the bridge as a destination in and of itself, i.e., a place to go to enjoy the view while getting some mild exercise. A good many of them almost certainly go up on the bridge and return without crossing over. This does not seem a trivial purpose at all, but it does go against the traditional view of a bridge as a means of transportation.

To bicyclists, on the other hand, we believe that the bridge has a different purpose. To them, the Kerrey Bridge almost certainly means enhanced access to new opportunities for active recreation and a vital connecting link between two still-develop-

ing municipal trail systems, both of which are enhanced by the bridge's presence. Given the current lack of bicycle-friendly routes on metro area streets, this is invaluable to the recreational cyclist.

As to the future, we suspect that bridge usage will evolve in response to surrounding community features and attractions.

Even if the novelty of the bridge wears off and its function as a destination attraction subsides somewhat, new commercial entertainment and park facilities on both sides (especially in Council Bluffs) are likely to sustain high levels of pedestrian usage. And developing connections to Boyer Chute National Wildlife Refuge via the Riverfront Trail give us no reason to expect bicycle usage to decline.

For all the good news, challenges almost certainly lie ahead for those in charge of Kerrey Bridge management.

Multiuse recreation settings frequently generate at least occasional user conflict, as witnessed locally by several episodes at Zorinsky Lake and elsewhere. We predict that occasional accidents will happen and disagreements will flare up as users with different needs and interests make use of a somewhat limited space. And there are bound to be concerns about graffiti (already appearing) and pet management and waste.

To minimize these types of issues, a more frequent police presence on the bridge is likely to be required. Improved signage and lane markers to direct traffic flow also might be a good idea.

As to sentiments that the Kerrey Bridge is a prime example of wasteful "pork" spending, we can only say that the numbers are in and they clearly suggest a hearty appetite for this dish among the local citizenry.

We do hope, though, that the chefs in charge will continue to refine their recipe.

Platte restrictions are inevitable

(Lincoln Journal Star Editorial, Monday, Apr 06, 2009)

The reversal by the Natural Resources Department last week puts off the ban for now.

But evidence produced during hearings across the state showed that the day is not far away when sound science will justify the ban state officials tried to put into effect.

Also on display was evidence that not everyone who opposes the ban will be satisfied to rely purely on science.

Opponents of the ban also employed emotional arguments about economic harm that would befall irrigators if further expansion of irrigation were blocked.

At a hearing in Fremont, for example, erstwhile politician Dave Nabity attempted to turn the hearing into a naked exercise of political power by calling for a show of opposition from the several hundred people in attendance.

When Nabity's attempt was rebuffed by the hearing officer, some of the opponents in the crowd yelled to let state officials know of their displeasure.

The reversal also gives Sen. Chris Langemeier of Schuyler an aura of prescience. Langemeier had introduced LB483 at the start of the legislative session as way of handling a surge of applications for new wells along the Platte if the preliminary ruling did not stand.

Opponents of the ban succeeded in identifying flaws in the initial methodology used by the state, such as inclusion of depletions from wells that were outside the hydrologically connected basin and overestimations of current groundwater pumping.

Losers in the reversal were conservationists, the Game and Parks Commission and the U.S. Fish and Wildlife Service, which said allowing further pumping from the Platte will put endangered species and other wildlife at risk.

Following the reversal, John Miyoshi of the Lower Platte North Natural Resources District in Wahoo said water officials and users now plan to promote more efficient irrigation practices in hopes of delaying a ban on further irrigation as long as possible.

That outcome would not be unwelcome.

But the win also could have a negative aspect.

If the victory emboldens the natural resources districts to use their taxing authority to fuel future battles on behalf of irrigators and other users against state officials who have the tough job of balancing the interests of all stakeholders — including the cities of Lincoln and Omaha and wildlife and recreation enthusiasts — that would bode ill for the future. Instead, irrigators should prepare for how they will adapt to a fully appropriated designation. It's only a matter of time.

Senators give first-round approval to bill to clean clogged rivers

By NANCY HICKS / Lincoln Journal Star

Monday, Apr 06, 2009 - 09:42:42 pm CDT

A 1911 law that requires landowners along riverbanks to keep their land clear of weeds and rubbish may be a relic of another era, according to Omaha Sen. Tom White.

But that doesn't mean landowners made wealthy from using the water for irrigation don't have a responsibility to help with the cleanup costs, White said during debate on a riverbank-related bill.

Senators gave first-round approval to the measure (LB98) that continues the \$2 million-a-year program to kill invasive vegetation clogging some rivers. The action came after White stopped his delaying tactics.

The program successfully has cleared vegetation along the Republican River over the past two years and has helped the state save millions of dollars in payments to Kansas, according to Sen. Tom Carlson of Holdrege, sponsor of the bill and creator of the river cleanup program. The cleanup program for vegetation such as Russian olive trees, phragmites and salt cedar trees would continue for another four years under Carlson's bill.

White objected to what he called a "bailout" of wealthy landowners who got rich in the first place using the water for irrigation and then wanted taxpayers to pay for cleaning up invasive river-clogging vegetation.

The attitude of the rich that they can push additional costs onto taxpayers is wrong, he said.

"If the state is going to step in when landowners fail to keep banks clean, why aren't you going to pay for the cost of mowing my yard?" White asked.

White backed off his argument that landowners along river banks should pay for the cleanup after learning that one senator had gotten in trouble cleaning up his bank.

Sen. Mark Christensen of Imperial said that when he tried to clear the family land on the Republican River, he was told by the U.S. Game and Wildlife Commission not to, because it would destroy wildlife habitat.

"The riverbed is ecologically sensitive," White said, and the government doesn't want landowners to kill fish with herbicides or destroy habitat for sandhill cranes. But the state needs "a new business strategy," something beyond simply "dumping costs off on taxpayer whenever we can," he said.

Carlson said he's not opposed to revisiting that 1911 law. But there are other interpretations, he said. The law may apply only to drainage ditches that flow into rivers, he suggested.

4-7-09
Post-
Gazette

River basin situation underlines need for LB 483

Obviously the big news in my corner of the capitol this past week was the Monday press conference held by Governor Heineman and Brian Dunnigan, the director of the Nebraska Department of Natural Resources, to announce that the preliminary determination that the Lower Platte River Basin was fully appropriated, would be reversed.

In mid-December, the Nebraska Department of Natural Resources (NDNR) made this determination and immediately put a moratorium on any new well development pending a series of hearings required to explain the decision and hear testimony regarding the issue. The NDNR was expected to make their final determination using the best scientific data in mid-April. Nine natural resource districts combined to hire an engineering consulting firm to examine the "science" used by the agency to make the determination. It was then found that the Department had relied on erroneous information in calculating their formula. When this information was presented at one of the hearings, to the credit of the NDNR, they re-examined their data and reversed the decision instead of calling the determination final which would have also made permanent the well moratorium.

The above sequence of events has been thoroughly covered in the media this past week and I am sure most of you have read or heard about this situation. I feel the correct path to take at this point is to look forward not backward and plot where we go from this point. We have known for quite some time that the Lower Platte River basin was under extreme pres-

Legislative Word in the Twenty-Third

by Senator Chris Langemeier



sure from a variety of sources. Irrigators are not the only heavy users. Industrial interests, urban sprawl, housing developments, parks and golf courses just to name a few, also use more than a few gallons of water for their daily operations. The list could go on but I think we got a clear warning from the NDNR that if we weren't using more water than could be adequately replaced at this time in the basin, we very well could be facing this same determination in the near future and you can bet the department will have sustainable science the next time.

It is for the above reason that I introduced LB 483 this session and prioritized it. It provides a reasonable, orderly approach to re-opening a basin for new well development if the NDNR declares a basin not fully appropriated after preliminarily saying the opposite. LB 483 will limit new irrigated acres in the basin over the next four years. I want to prevent the rush of new well permits now that the NDNR has backed off. This bill will also place a duty on the directors and boards of the various natural resource districts in the affected areas to establish rules and regulations for the granting of the

new permits and to try to assure orderly, responsible expansion of irrigated acres. I attached the emergency clause to this bill which means as soon as the bill is passed on Final Reading and signed by the Governor, it becomes law. LB 483 passed Final Reading this past Friday.

Something to ponder

I have been known to use the word "ponder" on occasion. According to Webster this means to carefully consider an idea. By the time many of you read this column, you will possibly be preparing for your Easter weekend celebrations that may include a church service. This past week the Legislature passed LB 430 from General to Select File which will add the ability to carry concealed weapons into churches in our communities and state. The bill is in response to a robbery that occurred in a Lincoln church this past winter and an incident in another state where a person walked down the aisle of the church and shot the pastor. The measure also will not allow cities or towns to overrule this measure locally. This bill appears headed for passage. Just something for you to ponder.

Japp wants NRD promise in writing

New board
member wants
no-dam pledge
put on paper

By Stephanie Ludwig
Reporter

Even though the Papillion Creek Watershed Partnership has stated that it has no intention of building dams in Washington County, some residents have their doubts.

That's why Arlington resident Scott Japp, who currently serves on the board of directors for the Papio-Missouri Natural Resources District, is trying to get that promise in writing.

Japp plans to make a motion at the next NRD board meeting on Thursday for the NRD to sign a contract with Washington County stating that it has no intention of building dams in the county without the approval of the Washington County Board.

The motion must first be made at an NRD subcommittee meeting on April 7. Japp requested a member of the Washington County Board attend the meetings.

"I think it would be beneficial that the Washington County supervisors sign an agreement with the Papio NRD so that they (the NRD) abide by what they said they were going to do," Japp said.

Japp said he brought up the motion at the NRD's last meeting. So far, the feedback he has gotten from other board members has been mixed.

While he hopes the motion would pass and a contract would be signed, Japp said he thinks it only has

"I think it would be beneficial that the Washington County supervisors sign an agreement with the Papio NRD so that they (the NRD) abide by what they said they were going to do."

—Scott Japp, NRD board member

a 50-50 chance. He views it more as a symbolic gesture to the NRD board to show how seriously Washington County opposes dams.

Japp also brought the same idea to the Burt County Board. That board voted in favor of signing a contract with the NRD to promise no dams as well.

Also discussed at the last county board meeting was an amendment to LB 160, a bill in the Nebraska Legislature that would authorize the issuance of flood protection and water quality enhancement bonds by NRDs. The new amendment makes it impossible for an NRD to build a dam larger than 20 acres without approval from a county board.

The amendment was added to the bill by the Natural Resources Committee, and is currently pending approval. The bill, introduced by Sen. Tim Gay of Papillion, was made a legislative priority bill by Sen. John Nelson of Lincoln.

In response to the amendment, the Washington County Board directed the county attorney's office to draft a working document to limit flood control projects that require eminent domain to 20 acres or less.

4-7-09

Papillon Tribune

Subject: FW: Friday Message

April 10, 2009

From: Chick, Steve - Lincoln, NE
Sent: Friday, April 10, 2009 10:05 AM
Subject: Friday Message April 10, 2009

To: All Employees and Conservation Partners

April 10, 2009

1. What Kind of Work Do We Do In and Around Omaha?
2. Wetlands Restoration is Clearly Evident near Tekamah
3. Upper Elkhorn wins State Quality Assurance Award
4. The Girls Scouts Embrace Soil Conservation
5. Lower Niobrara NRD NRCS Operations Review
6. Karen Ott's Update

1. What Kind of Work Do We Do In and Around Omaha? Those who are not familiar with conservation challenges within Omaha and its suburbs might question the need for an NRCS presence however spending a little time in the NRD presents a convincing case that the challenges are in many ways more unique and demanding than in rural areas. The sprawling development of Omaha and its suburbs have tremendously increased runoff into channelized watersheds resulting in constant erosion challenges. The pictures below from my visit this week tell the story.



District Conservationist Verlon Barnes and Field Engineer Chuck Leinen are standing in the channel of one of the terraces on the Bolling Bees/Bill Mann tile outlet terrace project in Sarpy County. This EQIP contract has been used to support construction of these 21,000 feet of terraces and 3000 feet of underground tile outlets. Many sloping crop fields that are still within the city create the need for traditional erosion control practices.

Continued -

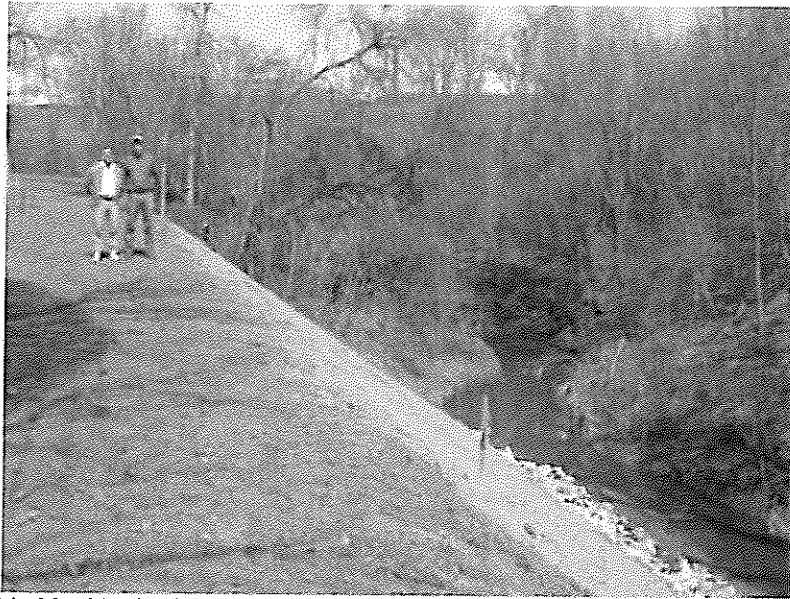


This is the finished product of the rehabilitation of Site 31 that was completed through an inter-local agreement with Papio-Missouri River NRD. Many PL566 flood control dams were built 50+ years ago for flood control on then rural watersheds. Development around these dams has resulted in them being reclassified as high hazard, so the NRCS Watershed Rehabilitation Program is being utilized by the Papio-Missouri River NRD to rehabilitate the dams to meet high hazard standards and extend the life for up to 100 years. Chuck Leinen and I are standing by the outlet structure.

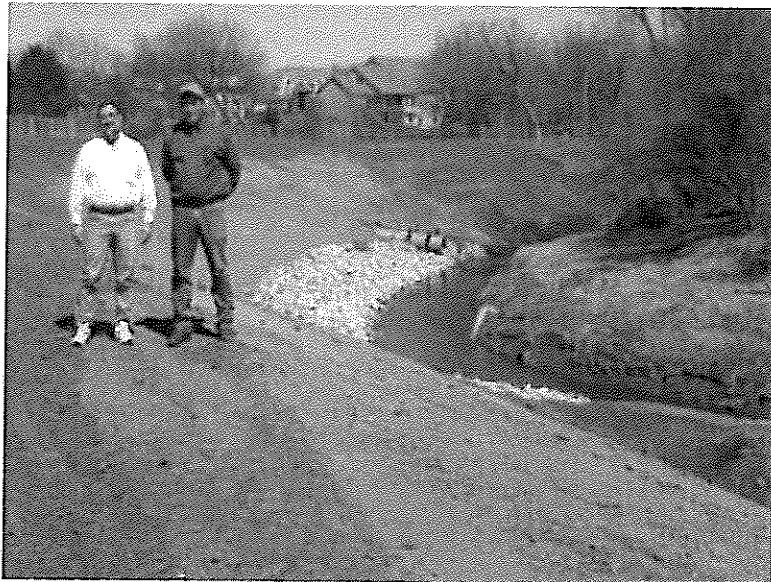


Site 32 was another of three rehab projects completed on this watershed. This picture shows Chuck Leinen (NRCS Field Engineer), Steve Chick, Cory Heitman (HDR) and landowner Ken Kuhlman. It is tough to see in this picture, but there are many ducks on water surface in the background. While flood control is the primary purpose dams like this one can create a great fish and wildlife recreation area even within the suburbs of Omaha. Engineering firms, earth moving contractors and concrete specialists are all integral players in completing these projects.

Continued



This Mockingbird Drive project within the city limits of Omaha is a great example of how the Papio-Missouri River NRD, NRCS and the City work together to stabilize erosion that threatens expensive homes within Omaha. Verlon and Chuck are standing on the finished embankment which is only 50 feet from homes along the creek.



Verlon and Chuck are standing on the restored bank of the Cambridge project in Omaha where an inter-local agreement with Papio-Missouri River NRD allowed us to use the Emergency Watershed Protection Program to do bank stabilization and add revetments to protect 7 residences.

Continued



This is the same site as directly above (the Cambridge project) after the damaging storm of June 2008 and before NRCS and the NRD did the repairs. It is obvious why the landowners are very pleased.

Enterprise

WASHINGTON COUNTY

FRIDAY, APRIL 10, 2009

BLAIR, NEBRASKA 68008 14 PAGES, TWO SECTIONS 75 CENTS

Owners not happy about dam plan

By Stephanie Ludwig
Reporter

Some of the stimulus package money will indeed be coming to the county, but that doesn't mean a local landowner is happy about it.

Sen. Ben Nelson's office announced Tuesday that the federal government will be covering about 65 percent of the cost of an upgrade to a small watershed dam southwest of Blair. The Papio-Missouri River Natural Resources District will cover the remaining 35 percent of the approximately \$1.5 million project.

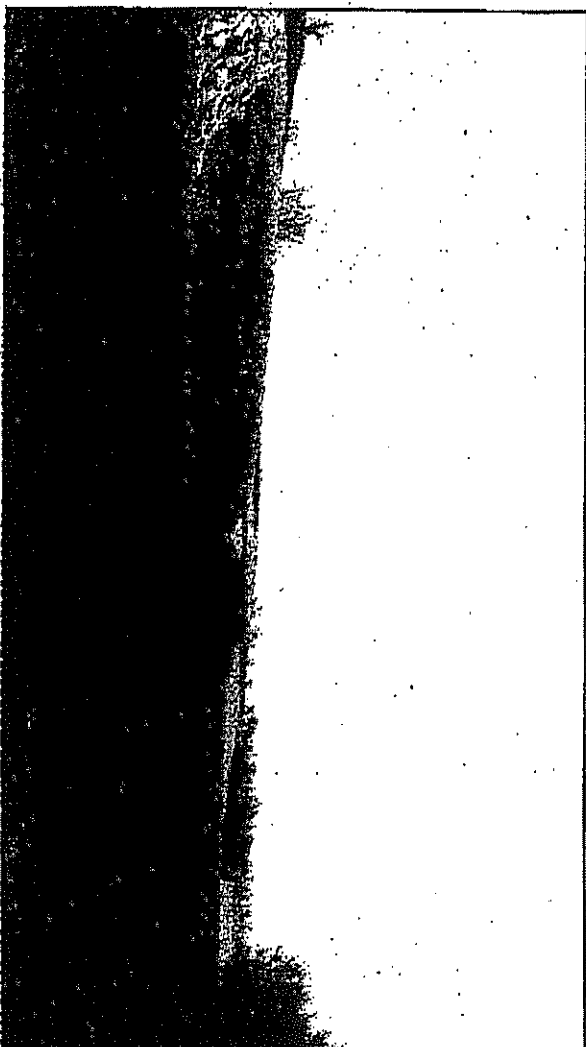
The dam is located on land owned by John and Mary Camden, east of Highway 30 and several miles outside

of Blair. Its waters, which drain from about 250 acres around the dam, flow into the Big Papio Creek.

The dam was built in 1983 and is a soil stabilization structure that was built to protect in the event of a 25-year flood event. NRD officials have said the upgrade project includes raising the height of the dam 10 feet and other improvements to improve its protection of downstream areas, such as Hwy 30.

But Scott Japp of Arlington, a member of the NRD board of directors, said the project will turn the current structure into a dam meant to withhold a 100-year

SEE DAM PAGE 3A



John and Mary Camden do not want the small dam on their property to be expanded. They say the dam has done its job since 1983. The Papio-Missouri River Natural Resources District plans to use federal stimulus funds to pay for 65 percent of the \$1.5 million project.

JOE BURNS/ENTERPRISE

Continued

Local

FRIDAY, APRIL 10, 2009

DAM: *'It's just kind of ridiculous'*

FROM PAGE 1
storm event. He said a flood detention pond would also be added.

"The present structure is intact. It has no defects," Japp said. "It performed up to standards and met its accomplishments."

Japp said the NRD had no plans to upgrade the dam until the Natural Resources Conservation Service, a federal organization under the U.S. Dept. of Agriculture, approached it and offered to pay for 65 percent of the project using federal stimulus money.

The project has not met with approval from the dam's landowners, John and Mary Camden. The current dam takes up six acres, but the upgraded project would require 12 acres of the Cam-

dens' land.

Mary Camden said the NRD has threatened to use eminent domain if she and her husband will not agree to the new dam. The current dam was already on the property when they purchased the land in the 1980s.

"They threatened if we don't do it willingly they'll do it one way or another," she said.

She agreed with Japp, saying the dam has never had any problems doing its job in the past. In fact, an emergency spillway built around the structure has never even been utilized as far as she knows, because there had never been enough overflow to warrant it.

The land around it is terraced and tiled, retain-

ing water separately from the dam.

"To spend this amount of money on something that's been doing the job since 1983," she said. "It's just kind of ridiculous."

Mary Camden said she and her husband cannot afford a lawsuit against the government for this but she thinks taxpayers should be aware of what their money is being spent on. She feels there are many other places in the county that a new dam could be built instead of upgrading the one on her property.

"There are so many more places that it can be put to better use," she said. "If they wanted to do something, why not dredge it back out? The tube is running fine, there's not a thing

wrong with it. There's no reason why it couldn't just be refurbished. It's just nonsense."

The dam, designated the Papillion Creek watershed site W-3, is the only structure in Nebraska receiving federal stimulus dollars through a program to rehabilitate aging dams.

The U.S. Dept. of Agriculture is giving nearly \$45 million to 11 states to upgrade or improve existing dams.

The federal program is designed to bring jobs to rural communities and improve deteriorating dams at risk to fail, threatening lives and property.

Other states receiving federal assistance include Oklahoma, Texas, Massachusetts, New York, Kansas and Missouri.

Irrigation ban lifted, but limits will apply

By ART HOVEY / Lincoln Journal Star
Saturday, Apr 11, 2009 - 12:16:55 am CDT

About as quickly as they got the registered letter Friday confirming that a ban on new irrigation had been lifted, those in charge at the local level began driving home the point that controls still exist in the Lower Platte River Basin.

John Miyoshi, general manager of the Lower Platte North Natural Resources District in Wahoo, was among those trying to dispel false notions. The door is not wide open, Miyoshi said.

"A lot of people were of the opinion that, once the state stay was removed, that they can continue to expand. And that is not the case."

The letter from Brian Dunnigan of the Nebraska Department of Natural Resources reversed a preliminary December decision in which he said the Lower Platte and its Loup and Elkhorn tributaries were fully appropriated and off limits to new water demands.

That provoked an outpouring of protest from irrigators at four public hearings that concluded in mid-March. On March 30, citing errors in computing water use in the basin, Dunnigan reversed his initial decision.

Confirmation that more water development would be allowed came at the end of a 30-day timetable for final action.

But Miyoshi and Dennis Schueth of the Upper Elkhorn NRD said that doesn't mean development without restraint.

In fact, Schueth cited a long list of options that his board of directors will consider later this month to limit additions to the approximately 4,000 wells and 460,000 irrigated acres already in place within their NRD's boundaries.

Applications for new irrigation wells are likely to be judged according to a points system that will reward farmers who agree, for example, to put water meters on new wells and install grassed waterways.

Point deductions are likely in situations where shelterbelts would need to be torn out to make way for center-pivots or if a new well is proposed in an area where there are high nitrate readings and high water tables.

"We're also stewards of the land," Schueth said in pointing to an alternative to first-come, first-served. "These items we're talking about need to be considered."

Miyoshi said his board will probably also put its imprint on local controls. Sloping land subject to erosion, for example, may not qualify for irrigation, even if it's part of an application received early in the application cycle.

The broader framework for limiting more water development in the Lower Platte area comes with the Legislature's passage of a proposal offered by state Sen. Chris Langemeier of Schuyler.

Continued

It caps how many irrigated acres can be added each year, over the next four years, in targeted areas in nine NRDs in the eastern end of the state, including the Lower Platte South in Lincoln.

Stan Staab, another NRD official from Norfolk, said that cap is needed. "This is obviously to counter the on-rush of drilling that we would get if it were wide open again," Staab said. "And that would happen, and it would happen rapidly across the whole basin."

Despite the water caps adopted by the Legislature, Dunnigan is still required to do an annual inventory of the state's river basins each year. That means the Lower Platte will be up for review again before Dec. 31.

A new ban, if enacted, would trump the Legislature's caps.

Staab doesn't intend for that to happen. "We will try to do our best at the Lower Elkhorn not to be fully appropriated," he said, "now or in the future."

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

4/13/2009 3:32:00 PM

NRD head says eminent domain never threatened

Stephanie Ludwig
Reporter

The Papio-Missouri River Natural Resources District wants to clarify a few things-namely, that they didn't threaten eminent domain to a local landowner.

Last week, the Enterprise reported that federal stimulus money was being used to upgrade a soil stabilizing dam on the property of John and Mary Camden southwest of Blair. The upgrade includes using six additional acres to build a larger dam, which the Camdens are not happy about.

Mary Camden said that her family was told "if we don't do it willingly they'll do it one way or another."

John Winkler, general manager of the Papio-Missouri NRD, said that he does not think any of his staff ever threatened the Camdens with eminent domain.

"No one has ever threatened that," he said. "That's not how we operate."

Winkler said he has questioned members of his staff and others, and no one has indicated that they said anything to the Camdens concerning eminent domain. He said that perhaps the Camdens interpreted a comment to mean eminent domain, which is a process the government can use to take private land for public use.

The dam on the Camdens' property also is in good condition, and has performed its function well, another point of contention with the Camdens. They have questioned why such a costly upgrade needs to take place when the current dam works just fine.

Winkler said the improvements will be made to meet with state laws, many of which have changed since the dam was built.

"The upgrade is not to change the function of the dam, which the NRD and NRCS [Natural Resource Conservation Service] agree has been doing its job. The purpose of the project is to upgrade the structure to meet current dam safety standards," the NRD said in a statement. "It is a public health and safety issue."

According to the NRD, the rehabilitation and upgrade of the dam must adhere to strict state and federal design guidelines to meet the safety standards.

"We're stuck between a rock and a hard place. We have to improve it because the state says we have to, and we can't take it out," Winkler said. "We're not trying to force this, we're just required to do it by law."

A flood detention pond was also reported to be built at the structure, but the NRD said that is incorrect. It has been working with NRCS on the project since 2005.

WELL RESTRICTIONS

Slow it down on the Platte

Quietly and without fuss, Nebraska state senators anticipated a problem, devised a solution, passed legislation and received Gov. Dave Heineman's support. The lower Platte River and Nebraskans who depend on its water will be the better for it.

Brian Dunnigan, director of the Nebraska Department of Natural Resources, signed a final order last week that declares the lower Platte basin not yet totally appropriated. His agency did warn, however, that the river and its tributaries were within a whisker of being fully claimed. That means nearly all of the water in the system is being used by someone — irrigators, municipalities or other consumers.

Dunnigan's department issued a preliminary ruling several months ago that said the river had no more water for new users and was, indeed, fully allocated. But natural resources districts along the Platte disputed the state agency's calculations and, after reconsideration, Dunnigan withdrew the declaration.

A similar situation occurred in the Republican River valley about 10 years ago. In that instance, Kansas had charged that Nebraskans were using more of the river's water than they were entitled to under a 1943 interstate compact. A lawsuit filed with the U.S. Supreme Court led to a negotiated agreement; Nebraska state officials promised to leave sufficient water in the Republican where it crossed into Kansas to meet the compact requirement.

During the years of uncertainty while negotiations were ongoing, irrigators in the Republican basin were not idle. They correctly foresaw the coming of water restrictions and many hastened to drill new wells before a moratorium could stop them. Such action was legal and in the farmers' individual self-interests, but the increase in drilling complicated the situation and made resolution of the interstate argument more difficult. The disagreement with Kansas is still unsettled.

Legislative Bill 483, shepherded to passage by its sponsor, State Sen. Chris Langemeier, chairman of the Natural Resources Committee, anticipates a similar problem on the Platte and prevents it.

The law allows the DNR to continue to ban nearly all well drilling in the area hydrologically connected to a fully appropriated river basin. But the new law goes one important step further.

owh 4-13-09

It also halts well-drilling in river basins where a "status change" has occurred, that is, where the DNR has declared a basin fully appropriated but then changed its ruling because of additional evidence.

This approach very neatly puts a stop to any repetition of the frenzied well-drilling that occurred on the Republican in the years before any moratoriums were in place. The stay is not total; for instance, existing wells can be replaced if necessary. But the new holes are not permitted to provide more water than the well they replace, meaning the impact on the Platte would be the same.

In addition, the NRDs involved will have to set rules on granting new well permits; any new wells would not be allowed to affect the total river flow.

LB 483 prevents what amounts to a run on the Platte's water by anyone wanting to get ahead of new regulation. It doesn't mean there will be more water in the river. But, thanks to Langemeier and other lawmakers, it should ensure that there won't be any less.

Bike-path plans hit a rough patch

■ A few landowners don't want their property taken for a recreational trail linking Omaha and Lincoln.

By PAUL HAMMEL

WORLD-HERALD STAFF WRITER

MURDOCK, Neb.—As country roads go, the narrow, limestone byway known as 334th Street is about as nondescript as they come.

It bounces north and south over the rolling hills of Cass County, bypassing the small farm town of Murdock and eventually turning to blacktop before hooking up with Nebraska Highway 66, just west of Platte River State Park.

Traffic is scant — just a few farmers and a few commuters, driving off in the dust to jobs in Omaha and Lincoln.

But in recent months, 334th Street has taken on a whole new significance.

A 10-mile stretch has been selected as the missing link in a 25-year effort to build a hike-bike trail that connects Nebraska's two largest cities.

But what bicyclists see as a recreational dream, residents along the road see as a nightmare, one in which a government agency forces them to sell their land — in one case, a strip across a front lawn — for a path they think should be routed elsewhere.

"We're not against trails — my daughter has ridden in BRAN," said local farmer Jim Panska of the Bike Ride Across Nebraska. "It's the taking of private property for these trails."

The fight has found its way to See Trail: Page 2

Trail: Lawmakers to debate curbs on NRDs taking private land

Continued from Page 1
the halls of the Nebraska Legislature, where senators will, possibly as soon as today, debate a measure to rein in the powers of natural resources districts to condemn land for recreational projects.

The Legislature needs to deal with the issue, a Cass County official said, because there are 20 landowners along 334th Street who don't want to sell property and years of court battles stand in the way of completing the trail between Omaha and Lincoln.

"You should not condemn land for recreation projects," said Dave Nielsen of Weeping Water, Neb., who stands in the unique position of being a member of the Cass County Board, which has twice voted against the 334th Street route, and a member of the Lower Platte South Natural Resources District, which voted to make the street the route.

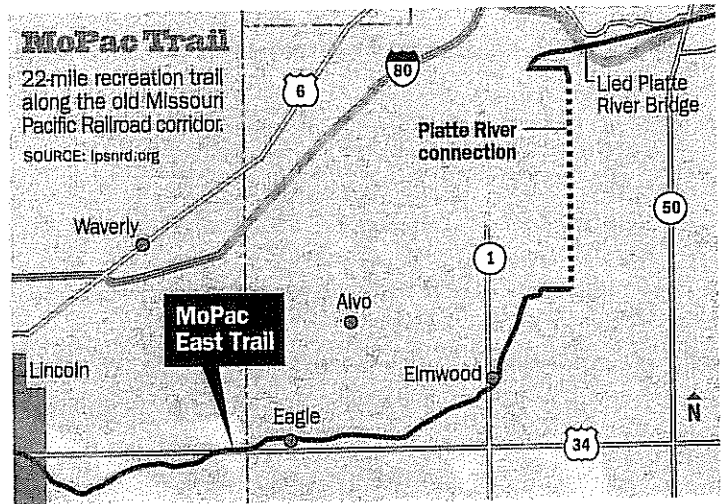
The Trail of Two Cities first was proposed back in 1984, but the planned route, an abandoned Rock Island Railroad line, was sold to adjacent landowners.

The trail moved forward anyway, steadily moving east from Lincoln on the abandoned Missouri Pacific line, and south-

westward from Omaha to Springfield, and on to a renovated railroad bridge across the Platte River at South Bend, Neb.

The final hurdle is a 10-mile segment in Cass County, from South Bend to just east of the small hamlet of Wabash, Neb. It is the only significant segment of the 55-mile-long trail that crosses private land rather than abandoned railroad rights of way.

In February, after spending \$160,000 on consultants and holding a series of public hear-



MATT HANEY/THE WORLD-HERALD

ings, the Lincoln-based Lower Platte South NRD picked the 334th Street route.

Purchase of the estimated 29 acres of privately owned land for the 10-foot wide limestone path was to begin this year. Construction, expected to cost about \$1.4 million in NRD funds, was to begin in 2010, said Glenn Johnson, the general manager of the Lower Platte NRD.

Johnson said the route was the safest of several studied, and the one that crossed the fewest farm and acreage driveways.

He said that the power of eminent domain has been used only twice to complete recreational trail projects in Nebraska, and is an important tool in cases where just a few people won't agree to sell their land.

He pointed out that about \$9 million has been invested so far in the Omaha-to-Lincoln trail.

"What's a public agency to do? Abandon a project or go to eminent domain?" Johnson asked.

Seventy people have signed a "Coalition for Responsible Trails" petition opposing the 334th Street route. Opponents like Nielsen and Panska maintain that there are better routes that would take less private land.

Both said that the Cass County Board is willing to look at siting the trail along Nebraska Highway 1, where it could proceed to South Bend via 310th Street — a blacktop county road that ends at the Round the Bend Steakhouse.

Such an alternate route could be built mostly within the existing road right of way, the two opponents said. Johnson, the NRD official, disputed that, saying the 16 to 20 feet needed for such trails would extend beyond the

road ditch.

State Sen. Dave Pankonin of Louisville, who represents the area, said he is hoping to break the impasse that pits the local residents and County Board against the NRD.

Right now, Pankonin said, the NRD "can trump anyone else" because it holds the power to condemn land for trail projects.

Legislative Bill 134, his priority bill, would force the NRD to consider alternatives. In addition, an NRD could use eminent domain for recreational projects, like a bike trail, only by obtaining the permission of the State Legislature.

That, according to Johnson, the NRD official, would be a cumbersome and time-consuming process for a rarely used power.

Commonly, Johnson said, rural residents complain that trails will bring vandalism and trespassers, but those problems rarely materialize.

"Moving over to another corridor," he said, "you just have a new set of landowners who have the same issues as this set of landowners."

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Published Friday April 17, 2009

Half-century of use has shrunk aquifer, report says

BY DAVID HENDEE
WORLD-HERALD STAFF WRITER

The High Plains Aquifer, the sea of fresh water under the Great Plains, is about 9 percent smaller since irrigators and cities started tapping it in about 1950, according to a new report issued this week.

The total amount of drainable water in the aquifer in 2007 was about 2.9 billion acre-feet, a decline of about 270 million acre-feet since the middle of the last century, the U.S. Geological Survey said in a report updating its data on changes in the level of the aquifer.

An acre-foot of water is equivalent to the volume of water that would cover one acre to a depth of 1 foot.

Nebraska wells in the aquifer experienced water-level changes ranging from a rise of 84 feet to a decline of 71 feet during the nearly six-decade period, said geological survey hydrologist Virginia McGuire in Lincoln.

A Texas well showed a decline of 234 feet during the period.

In Nebraska, the aquifer's average water level declined by one foot from 1950 through 2007. There was a decline of 1.2 inches from 2005 to 2006 and a decline of 2.4 inches from 2006 to 2007.

The High Plains Aquifer, also popularly known as the Ogallala Aquifer, is a nationally important water resource that underlies about 174,000 square miles in parts of eight western states - Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas and Wyoming.

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

KEY FLOOD-CONTROL MEASURE

Keep LB 160 moving ahead

Flooding waits for no man — or woman, or Nebraska lawmaker. The only way to avoid the destruction, injuries and, sometimes, deaths that come with a major flood is to plan, build and get ahead of it before it happens.

State senators are considering Legislative Bill 160, which would allow the Papio-Missouri River Natural Resources District to sell bonds to pay for flood-control projects. The NRD is a partner in the Papillion Creek Watershed partnership, which includes 13 other governments in the area.

Some senators are concerned, for instance, that if LB 160 passes and one NRD is given bonding power, other NRDs will soon seek the same. Such a "slippery-slope" concern can be legitimate in some instances. But in this situation, that argument doesn't come close to outweighing the vital need to pass this bill.

Other senators want voters to have a say on any general obligation bond proposal from the NRD, and such a provision may well pass. The important point, in any case, is that senators should work to see that this overall package of legislation, crafted through extensive negotiations, reaches final approval.

As the nation saw in Cedar Rapids, Iowa, last year and, to an extent, in Fargo, N.D., just a month ago, an unprepared community is a community at the mercy of the weather. As Omaha and the areas around it have grown, the flood-control system has struggled to keep up. So far, it has handled the downpours and flash floods the area gets every year. But no Fargo-like rains have yet challenged the area.

The effects of such a flood in the Papio Creek watershed are hard to imagine. That is why the partnership has plans that involve dam construction, low-impact runoff control and other features. That is why the Papio NRD needs bonding authority.

LB 160 is a sensible package that has emerged after years of stalemate — the encouraging product after many false starts and short-circuited efforts, an achievement of hard work and compromise. It is a sensitive balance of interests, an attempt to respect all viewpoints while still doing the job.

Senators should always scrutinize any committee proposal, but if senators tinker too freely with LB 160, the whole thing could come crashing down.

The floor debate over this bill sometimes wandered to include complaints about problems and objections to the actions of other NRDs across the state. But LB 160 deals with only one NRD — and the Papio NRD's board and management has proven trustworthy and careful with tax money.

LB 160 is a major legislative accomplishment with the potential to benefit hundreds of thousands of Omaha metropolitan area residents. No Legislature before this one has been able to put together such a worthwhile compromise. This measure deserves the thoughtful debate and fair hearing it has been receiving — then it should be enacted.

4-28-09

OW 14

New vote planned today on flood-control bill

WORLD-HERALD BUREAU

LINCOLN — As sometimes happens in the Nebraska Legislature, what appeared dead one day is resurrected another.

Another vote will be taken today on whether to advance a bill that would allow bond financing for flood-control measures in the Omaha area.

The resurrection, ordered by Speaker of the Legislature Mike Flood, came after a strange se-

quence of events Monday that led Legislative Bill 160 to fall one vote short of advancing, 24-12.

The bill's sponsor, State Sen. Tim Gay of Papillion, was in the act of asking for a roll-call vote on the bill — a maneuver used to gather up another vote — when the presiding officer of the Legislature, Lt. Gov. Rick Sheehy, ordered that the vote be recorded.

Apparently, Sheehy didn't

hear Gay's request, which Flood labeled an "inadvertent miscommunication."

LB 160 is being sought by the Papio-Missouri River Natural Resources District so it can embark on a \$134 million flood-control project for the troubled Papillion Creek basin.

—Paul Hammel

Republican River flows again

By NANCY HICKS / Lincoln Journal Star
Monday, Apr 20, 2009 - 12:17:26 am CDT

The Russian olive trees crowding the Republican River west of Benkelman were so thick you couldn't see the river from the air.

But last spring, several agencies sheared the overgrown trees, carted them away and sprayed the stumps, said Tim Smith with the Southwest Weed Management Area.

Now, less than a year later, the water flow has increased and ducks, waterfowl, and beavers returned, he said.

[View Slideshow](#)

The Republican River west of Benkelman was clogged with Russian olive trees as shown in a Sept. 30, 2007 photograph.

"I don't think anyone had any idea how much those trees were actually consuming," he said.

The Western Republican Riparian Improvement Project is part of a 2-year-old program to get rid of invasive trees and plants that are choking Nebraska rivers. A bill (LB08) that would continue the program for another four years has gained first-round passage.

During its first two years, the program focused much of the money on the Republican River, where an agreement with Kansas required the state to send water from the Harlan Reservoir into Kansas.

"It's all about getting water to Kansas," said Mitch Coffin of the Nebraska Department of Agriculture.

The vegetation removal saved an estimated 60,000 acre feet of water from the Colorado border to the Kansas border, said Sen. Tom Carlson of Holdrege, father of the program and sponsor of the continuation bill.

But some money went to clean up parts of the Central Platte and the North Platte rivers, where sandbars that used to be bare in the summer were choked with phragmites, along with cottonwoods and willows, said Coffin.

The money went to five programs over the two years and was used to spray 8,795 acres of vegetation on about 181 miles of river channel and in lake beds, Coffin said.

There was selective tree removal on 1,913 acres, logjams removed on 52 miles of river, and 24 miles of high sand bars were deep disked.

Reach Nancy Hicks at 473-7250 or nhicks@journalstar.com.

Hard to Believe wrote on April 20, 2009 5:52 am:

"It is hard for me to believe that the state government has actually done something that was both smart and good. Amazing. Good job for a change, whoever you are. "

NRD could use bond to solve flood problem

By NANCY HICKS / Lincoln Journal Star
Tuesday, Apr 28, 2009 - 07:22:39 pm CDT

What a difference a roll call vote makes.

On Monday, a bill that would allow the Papio Natural Resources District to use bonds to finance some projects failed to get first-round approval on a 24-12 electronic board vote, with 12 senators present but not voting.

On Tuesday, Sen. Tim Gay of Papillion asked for a roll call vote on that same bill (LB160). Senators gave the bill 31-11 first-round approval on that vote.

The controversial bill gives bonding power to a natural resources district for the first time.

It would allow the Omaha-area natural resources district to help solve potentially serious flash flooding issues.

Bond money may also be used for projects intended to clean run-off water, including small reservoirs that collect water, filter it naturally and turn into a wetland, said John Winkler, general manager of the Papio NRD.

The bill allows only the six-county Papio NRD in eastern Nebraska to use bonds, but it opens the door for other NRDs to seek the bonding authority in the future, senators noted.

The measure does not require a vote of citizens in the Papio District, which includes Burt, Thurston, Dakota, Washington, Douglas and Sarpy counties. However it does require a super majority, two-thirds vote of the NRD district board of directors. It also allows a county board to block use of bonds for larger projects by passing a resolution.

The bill also limits the NRD to using 1 cent of its property tax levy to pay for the bonds. That would allow for a \$150 million, 20-year bond, Winkler said.

The NRD could use more than 1 cent of its levy to finance a bond, but that would require approval of voters.

The limitations on the authority, including the 1-cent limit and the county board override, "puts safeguards in place" to take the place of voter approval, said Sen. Kathy Campbell of Lincoln.

This is not a property tax increase, said Gay. It allows the NRD to use 1 cent of its existing levy to pay for bonds, he said. *Reach Nancy Hicks at 473-7250 or nhicks@journalstar.com.*

2nd time's the charm for flood-control bill

4-29-09

owh

BY PAUL HAMMEL
WORLD-HERALD BUREAU

LINCOLN — A legislative "do over" Tuesday resulted in 31-11 first-round approval of a bill that would allow bond financing for flood-control measures in the Omaha area.

A second vote was ordered after a miscommunication Monday involving State Sen. Tim Gay of Papillion, the bill's sponsor, and Lt. Gov. Rich Sheehy, the presiding officer of the Legislature.

Gay's Legislative Bill 160 failed to advance Monday by one vote, 24-12. Sheehy failed to hear Gay's request for a roll-call, a procedural move to round up another vote.

The bill is being sought by the Papio-Missouri Natural Resources District so it can begin a \$134 million project to control the Papillion Creek and its tributaries.

The bill is the result of several years of studies and negotiations between those seeking the additional flood protection and Wash-

ington County landowners, who fear any plan will involve taking their land.

Under Gay's bill, a county board could veto any planned flood-control dam larger than 20 acres. The Papio NRD has said it plans to use 1 cent of its existing property tax levy — a cent already devoted to flood-control projects — to pay off a sizable bond over 20 years.

Under the bill, a two-thirds vote of the NRD board would be needed to approve a bond issue using 1 cent or less of the levy.

Opponents, who included Bellevue Sen. Scott Price, complained that the bill eventually would translate into a property tax increase for residents of the Papio NRD's six counties.

Gay said his bill would allow the Papio NRD to immediately take the first steps to address a serious flood threat. NRD officials said private development fees, paid on new construction, would pay about a third of the cost of paying off a bond issue.

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Lincoln Journal Star Editorial

Continue work to close trail gap

Wednesday, Apr 29, 2009 - 12:20:09 am CDT

For years bicyclists and hikers have dreamed of a trail that would connect Omaha and Lincoln.

Most of the trail is complete, including a bridge across the Platte River built with the help of private donations.

But there is still a gap of almost 10 miles. Most of the proposed route to close the gap is along a county road. To complete the trail about 20 landowners will need to sell narrow strips of land to broaden the existing right of way. The trail would be about 10 feet wide.

Negotiations have not gone well. Some property owners are resisting efforts to close the sale.

Now property owners have turned to the Legislature in hopes that state senators will strip natural resource districts of the power to take land by use of eminent domain.

There's little doubt that property owners can find some sympathy in the general public. The power of eminent domain should be used sparingly.

There's also little doubt that trails are popular, despite the contention of property owners that they are little used. And they become more popular with the passage of time. They often also become more attractive as trees grow to shade the corridor.

In other parts of the state, opposition to trails gradually melted away once people became accustomed to their presence. Fears of vandalism and trespassing proved to be overblown. The village of Brainard, for example, requested that the Oak Creek Trail be extended to reach the Butler County town. Officials there said the trail would be a "definite asset to the community."

As originally written, LB 134 would simply take away the authority natural resource districts now have to acquire land for trails by eminent domain. A pending amendment would allow land to be taken for trails only after a vote of the Legislature.

The Legislature should consider its options carefully. About \$9 million already has been invested in public and private dollars.

One reason is that the elected members of natural resource districts have exercised their authority responsibly. In only two cases have NRDs acquired land for trails by eminent domain, according to NRD officials.

Reportedly, state senators are considering other options, such as establishing a mediation process, for ending the impasse.

Those options are worthy of exploration.

Completion of the trail would create a wonderful new recreational opportunity for all Nebraskans. It would be a shame to see the dream that some have worked on for

25 years wiped out by a mid-trail change in the rules just before the last leg is done.

Wash City Enterprise
4-30-09

Letters

LB 160 moving toward a solution we can live with

To the editor,

LB 160, a bill that would give the Papio-Missouri River Natural Resource District limited bonding authority for purposes of flood control and water quality enhancement, advanced to second round debate Wednesday, after assurances from several senators, including the bill's sponsor, as well as the Papio NRD, that serious consideration will be given to an amendment to require zoning restrictions on floodplain construction.

As it now stands, LB 160 gives the Papio NRD bonding authority, but with many restrictions. First, only one cent of the NRD's levy may be used to service

the bond debt. Additionally, projects using bonding must be approved by each county where projects are proposed. Douglas County will be attempting to amend this provision to ensure that it has the right of approval in areas where it shares zoning jurisdiction with the City of Omaha.

The legislation also attempts to prevent the NRD's abuse of eminent domain. Further amendments will be sought to clarify those eminent domain provisions. Moreover, Senator Rogert of Tekamah, successfully sought an amendment on General File to require, as a precondition to issuance of the bonds, that projects are built only in cities and

counties that have adopted a water management plan, which requires low impact development measures, zoning restrictions and that one-third of the costs of all projects be paid for by private developers.

In essence, the bill prohibits construction of dams formerly proposed in Washington County.

LB 160, as amended, contains substantial concessions by the NRD to address concerns about taxes needed to service the bond debt, use of bond funds and exercise of eminent domain.

We are disappointed with the NRD getting bonding, but the NRD has made concessions that have convinced the Legislature that

the bill should advance. We still have work to do on Select File, but have assurances from several lawmakers, and the Papio NRD, that we can tighten up the zoning restrictions and build in meaningful controls over the NRD's exercise of eminent domain.

We will continue the fight until the people of Washington and rural Douglas counties can live with the bill.

Kevin Propst

*Government affairs
chairman
Papio Valley Preservation
Alliance*

FOR MORE INFORMATION CONTACT: Kevin Propst, (402) 616-1323.

New LB 160 is workable

The word for Legislative Bill 160 as amended and advanced by Nebraska lawmakers is "workable." Not ideal, but workable.

The legislation would allow the Papio-Missouri River Natural Resources District to sell bonds for flood-control projects. It would mean the agency could update and improve flood protection in the Papio Creek watershed using varying techniques, such as smaller dams and low-impact controls.

Years of legislative debate on the issue had, until now, resulted in stalemate. LB 160 as introduced by Sen. Tim Gay was the product of intense negotiation and considerable compromise. There was the danger that even this moderate bill could have been axed if its balance of interests were upset.

There are changes, certainly, from the original. For instance, the NRD would be able to dedicate only 1 cent of its levy to bonds; the original figure was 2 cents. When the district does issue bonds, they would be paid off using its existing levy, unlike school bond issues, which require additional tax dollars.

County boards would be able to prevent the NRD from carrying out large dam projects in their zoning jurisdiction, which responds to concerns raised by Washington County residents and officials.

If the NRD wants to apply 2 cents of its levy to pay for bonds, it must ask voters for approval. Lawmakers also inserted a provision requiring a two-thirds vote of the NRD board to issue bonds. Certainly, NRD managers should have to convince most of their own board of a bond issue's benefits.

The legislation would sunset in 2019; lawmakers could extend that if appropriate. That should give the NRD plenty of time to begin its flood-control work and demonstrate to lawmakers that the bonding authority is being used wisely.

Gay is to be commended for his skilled management of this legislation and the floor debate surrounding it. Kudos also extend to the Natural Resources Committee and its chairman, Sen. Chris Langemeier, for their handling of the bill, helping shape it into a form acceptable to a majority of senators.

If lawmakers proceed as they have so far, with thoughtful arguments and a temperate tone, LB 160 should move to final approval. The measure would then deserve the signature of Gov. Dave Heineman.

Hundreds of thousands of Omaha-area residents who would be directly or indirectly affected by flooding are depending on this positive step forward.

MIDLANDS VOICES 5-5-09

Revised flood-control bill eases fears over tax hikes

The writer, of Omaha, is a Nebraska state senator representing District 39.

BY BEAU MCCOY

Being a father of three young children is at times similar to serving as a Nebraska state senator. Both roles involve solving disputes between opposing parties.

While the Legislature deals with issues more complex than cutting perfectly equal slices of chocolate cake, the ability to find compromise between passionately opposed groups is essential. This session, Legislative Bill 160 stands out as the prime example of the necessity to foster compromise.

LB 160 is a proposal that would allow the Papio-Missouri River Natural Resources District to finance bonds to build flood-management projects.

When introduced, this bill was met with a great deal of skepticism from many residents of District 39, including myself.

In fact, when LB 160 first crossed my desk, I immediately thought of LB 880, a bill that attempted to do the same thing last year. As a legislative candidate in 2008, I campaigned against LB 880 and unrestrained bonding authority for NRDs as a backdoor attempt to raise property taxes.

It is not without irony that I voted in support of LB 160. To be clear, my vote was not due to a conversion to the concept of unrestrained

NRD bonding authority. The legislation as amended this session was worthy of support because it is drastically different than what was proposed in January.

Let me highlight key aspects of the legislation.

Ignoring LB 160 and hoping it would simply go away was not an option. Sen. Gail Kopplin introduced LB 880 last year, and LB 160 has been prioritized by Sen. John Nelson. To overlook the issue would have been naive and ignore the fact that many legislators would continue to propose the bill year after year, with a legitimate cause. Sen. Tim Gay introduced this bill to address the federal government substantially expanding the size of the flood plain in the Papio NRD. This designation demonstrates the risk that thousands of my constituents live and work in. Floods that occurred last year in Iowa caused more than \$7 billion in damage. There is sympathy to the argument that it is best to prevent such a natural disaster rather than be reactive.

The Natural Resources Committee, of which I am a member, offered an amendment that outlines as many as five safeguards to prevent abuse of power by NRDs. My greatest concern with this bill was that authorizing bonds for a \$134 million floodcontrol project by the Papio NRD would amount to tax increases for my constituents.

I have grave concerns with the high tax burden shouldered by Nebraska's families, and that's one reason why I oppose higher taxes. The revenue source for NRDs is the property tax. Currently, the Papio NRD tax levy sits at 3.3 cents per \$100 of taxable valuation, which is 1.2 cents below the 4.5-cent maximum.

Papio NRD Chairman Jim Thompson and General Manager John Winkler have assured me that current revenue sources can be used to finance bonding projects. Currently, one cent within the current levy is placed in a reserve fund; the NRD could use that one cent to finance bonds for these projects. Increasing taxes is unnecessary.

While the Papio NRD currently has no need to raise taxes, it is right for residents and officeholders such as myself to remain vigilant for the future. That is why the Legislature acted correctly in approving a provision requiring a vote of the people should the NRD attempt to increase taxes beyond that one cent.

A concern I have heard is that the Omaha area will dominate any vote. Two additional safeguards approved by the Legislature address that problem. First, a two-thirds supermajority of the NRD board must approve any large-scale project. This gives greater clout to rural members of the board. Second, any individual county board may veto a bond financed project.

Even with these protections, a \$134 million project demands safeguards that ensure the NRD is held accountable. That is why a 20-year sunset provision was included. This eliminates the possibility of a never-ending project.

I maintain my opposition to unrestrained NRD bonding authorizing and to any tax increase. LB 160, as amended, does not conflict with these principles and offers the opportunity to prevent flooding from destroying life and property in my district.

To overlook the issue would have been naive and ignore the fact that

many legislators would propose the bill year after year.