

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: October 5, 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 September, 2009, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:**
1. Attached is a letter from Jill Kuhel, Transportation Planner, Planning and Project Development, Nebraska Department of Roads thanking the District for submitting a letter of support for the NE Department of Roads' Transportation Investment Generating Economic Recover grant application. Ms. Kuhel noted that "It was a pleasure working with **Gerry Bowen!**"
 2. Congratulations to **Master Sergeant Jean F. Tait** who is retiring from the U.S. Air Force after 28 years of services. Retirement ceremony was held on October 3, 2009 at Offutt AFB at the Patriot Club (see attached picture). The official retirement date is December 1, 2009. Thank you, Jean, for your dedicated service.
- 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 September, 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 October 5, 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 September, 2009 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on October 22, 2009, at 10:00 a.m. at the NRC
- F. **NEWS CLIPS:**
- ✓ September 10, 2009, Omaha World Herald article – Massive mulcher meshes conservation with ingenuity

- ✓ September 10, 2009, Omaha World Herald Letter to the Editor, written by Park Blaine – Keep us rolling down the river
- ✓ September 14, 2009, Omaha World Herald article – Water festival visitors soak up clean-earth tips. Rainwater carries harmful chemicals into storm sewers and streams, but there are ways to minimize pollution.
- ✓ September 15, 2009, Omaha World Herald article – Award-winning bridge anything but ordinary
- ✓ September 16, 2009, Dakota County Star article – Nebraska Environmental Trust gives boost to Creek project.
- ✓ September 18, 2009, Omaha World Herald editorial – Furthermore
- ✓ September 20, 2009, Omaha World Herald editorial – Strains build on Big Mac
- ✓ September 22, 2009, Omaha World Herald article – Trails leads to review of NRD powers. Some question the districts' need for eminent domain.
- ✓ September 24, 2009, Omaha World Herald article – 'Green' effort to make creek easy on eyes. A state-of-the-art rehabilitation project is under way for a portion of erosion-plagued Whitted Creek in Bellevue.
- ✓ September 30, 2009, Omaha World Herald editorial – NRD Authority – A difficult path.
- ✓ September 30, 2009, Omaha World Herald Midlands Voices, written by Ron Cacek, GM of North Platte NRD, McConaughy water issues require incremental steps
- ✓ September 30, 2009, Omaha World Herald editorial – Master Conservationist Awards – Stewardship and vision.
- ✓ October 4, 2009, Omaha World Herald article – Water issues: Can NRDs get the job done? Starting Monday, legislators to weigh merits of state control vs. local oversight

September 2009

Information and Education Report

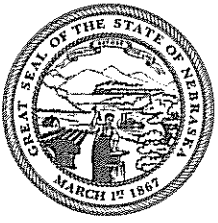
Information:

- Continued working on web site update
- Continued work on river access brochure
- Organized Press Conference on Whitted Creek Project
- Developed "Friends of the NRD" list
- Attended NARD Annual Conference
- Continued work on Fact Sheet template
- Finalized scripts and organized video taping of "Waterways" PSAs for 2010
- Continued work on Fall 2009 SPECTRUM
- Continued work on Recreation Area signs

Education:

- Continued working on MOREnature.info web site update
- Set up demo for Water Quality Open
- Weekly presentations at Sandoz Elementary
- MORE Nature Meeting
- Started planning for Earth Partnership workshop Summer 2010
- Assisted with PSA shoot
- Nature Hike for Millard South Environmental Studies Class—15 students
- Held Nature Night at OPS Yates Native School
- Contracted with Family Spectrum Magazine for 7 months of ads, editorials, and radio time
- Worked with Minden PF Chapter on Youth Event
- Started planning for LEP National Meeting to be held in Omaha March 2010
- Updated Cultivation Newsletter and mailing list—printed and mailed to teachers throughout the District
- Worked with Omaha South on Outdoor Classroom and OPS 150 Anniversary Celebration
- Continued working on State permit to house Raptors at NRC
- Continued promotion for Go! Play Adventure, and planning for 2nd printing
- Set up MORE Nature Facebook Page
- Provided pictures to NARD for slide show
- Millard South GPS program with 16 AP Geography students
- Attended media training with Leslie, Kline, and Lukas
- Millard West macroinvertebrate program = 20 high school students
- GPS teacher training with Building a Presence for Science group – included teachers from District 66, Bellevue, Millard, Papillion-La Vista, Fort Calhoun, Elkhorn, and Ralston
- World O! Water festival – approximately 3,500 attendees – helped to plan, set up, and tear down festival as well as assist with the NRD kids booth and nature hikes

- Mission Middle School geocaching program = 10 students
- PLT and WET curriculum workshop with 22 College of St. Mary's students
- Logan-Fontenelle Middle School geocaching program = 21 students
- Lewis & Clark Middle School geocaching program = 18 students
- Millard West geocaching program = 20 high school students
- Garden Bug program with Hillrise Elementary 2nd grade students = 70 students
- Attended NARD Conference in Kearney-Statewide I&E meeting/Assisted with live auction
- Millard South Interview project
- Papillion-La Vista South geocaching program at Walnut Creek = 14 science club students
- Updated GPS slideshow
- Continued planning of Envirothon training session in February 2010
- Kid's Fact sheets--Finalized and formatted for Papio NRD website



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF ROADS

Monty W. Fredrickson, P.E., Director - State Engineer
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.transportation.nebraska.gov

September 24, 2009

Mr. John Winkler
Papio-Missouri River Natural Resources District
8901 S. 154th Street
Omaha, NE 68138-3621

SEP 28 2009

Re: TIGER Grant

Dear Mr. Winkler:

The Nebraska Department of Roads' Transportation Investment Generating Economic Recovery (TIGER) grant applications have been submitted. Your willingness to submit a letter of support was vital to the success of the application. Thank you for taking the time to write a thoughtful letter. It was a pleasure working with Gerry Bowen!

The selection process will be completed prior to February 17, 2010. Information on the TIGER grants we submitted can be found at <http://www.transportation.nebraska.gov/TIGER/>.

Thank you again for your letter of support!

Sincerely,

Jill M. Kuhel
Transportation Planner II
Planning and Project Development
Nebraska Department of Roads
1400 Highway 2
PO Box 94759
Lincoln, NE 68509-4759
jill.kuhel@nebraska.gov
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Updated: October 5, 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 (P)
- **West Branch:** (Cleveland)
 - Land Exchange with Sarpy Co. (96th St.) (W)
 - ☼ Interlocal Agreement w/Papillion, Sarpy County, etc on W. Papio levee/bridge Improvements (P)
- **Western Sarpy Dike:** (Cleveland)
- **Floodway Purchase Program:** (Grint)
 - Review Floodway Purchase title work & prepare PAs for King Lake properties (W)
 - Floodway Property purchase agreements as needed (F)
- **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)

- **USDA PL 566 Projects, Silver Creek and Pigeon/Jones Watershed:** (Puls/Cleveland)

- Pigeon/Jones Creek Site Easements – as needed (F)
- ★ Papio W-3 Eminent Domain (Camden) (N)

- **Papio Watershed Dam Sites:** (Grint/Petermann)

- Interlocal Agreement with City of Omaha for DS 15 A (F)
- ★ Purchase Agreements and closing documents for WP5 (W)
- ★ Interlocal Agreement w/City of Omaha for ZB#1 (N)

- **Papio Creek Watershed Partnership (Stormwater):** (Grint)

- **Rural Water Projects:** (Sklenar)

- **Elkhorn River Public Access Sites:** (Sklenar)

- **Other:**

- Kennard Wastewater Closing (Grint) (F)
- ★ Glacier Creek-Heritage purchase agreement & interlocal w/UNO (Becic) (W)
- Cinnamon Acres easement documents (Bowen) (P)
- Radio system service agreement (Cleveland) (W)
- ★ Review of Interlocal Agreements w/Omaha on Carter Lake (Bowen) (W)
- ★ Review agreement with UNO on Davis Prairie Data Shack Project (Henkel) (N)

MONTHLY UPDATE

September 2009



A Partnership meeting was held on September 24th. Meeting minutes and other materials are updated regularly on the Partnership's website: www.papiopartnership.org.

New Interlocal Agreement

All participating communities have now passed the New Partnership Interlocal Agreement. The next step is to now make sure each community has adopted necessary ordinances to enforce the provisions of the new agreement. The new ordinances will address no net increase in stormwater peak discharges for the two year storm event and the collection of Watershed fees. The City of Omaha has already drafted and adopted their ordinance. Their ordinance has been given to the rest of the communities to use as a template. The goal is to have each community adopt the ordinances by January 1, 2010.

Floodplain Ordinances

The Letter of Final Determination from FEMA for the updated flood maps for West Papillion Creek is expected in early November. The maps will become effective six months after the date of the letter. The communities must adopt the new maps through an ordinance before the effective date. A draft ordinance has been put together to start the process of developing the ordinance for each community. The new maps were mapped to show future, full build-out conditions of the watershed rather than the 500-year floodplain. The new ordinance will allow communities to regulate to the future floodplain, to help alleviate future flooding problems. The new ordinance will also include language to allow communities to regulate to "Best Available Data." This will allow them to use newer studies as they become available, even if they are not shown on a current FEMA map.

Community Rating System

Through the National Flood Insurance Program, communities can apply to the Community Rating System (CRS) to get discounted rates on flood insurance for the policy holders in their jurisdiction. The application to the CRS program details each community's floodplain management efforts and

assigns points based on 18 activity categories including mapping and regulation, flood preparedness, and flood damage reduction activities. Because Nebraska state regulations are more stringent than federal regulations, a number of points are automatically assigned to all communities in Nebraska. Also, the adoption of the PCWP's Watershed Management Plan gives a number of points. Currently, the City of Papillion, the City of Omaha, and Sarpy County are in the process of applying for the CRS. The application is extensive, but it may be possible to streamline some of the submittal information to make the application process easier for each community. Based on conversations with FEMA, it appears the City of Papillion may qualify for a Class 7 discount, which will reduce flood insurance premiums by 15 percent.

Post Construction and Stormwater Ordinance Workshop

October 8th from 8am – noon, a Post Construction Stormwater Workshop will be held at the Scott Conference Center. This workshop will build on last year's workshop which introduced the new stormwater ordinance to control the first half inch of stormwater runoff. There will be several case studies presented by the engineers who designed the post construction measures. The guidance documents for PCSMP plan submittals can be found on the Partnership website at www.papiopartnership.org and www.omahastormwater.org.

Upcoming Events

Mark your calendars for the annual Sediment and Erosion Control Seminar. The event will be held on February 3rd from 8am to noon at the Holiday Inn Central on 72nd & Grover.

Next Meeting: The next full Partnership meeting is scheduled for October 22nd at 10:00 AM at the NRD office.



9-10-09

Massive mulcher meshes conservation with ingenuity

This editorial appeared recently in the *Scottsbluff Star-Herald*.

Part of what makes a story interesting to the press is whether it's unusual. Readers like to hear about stuff that's uncommon, especially if they see it for themselves and wonder what's going on.

So when people saw a 24-ton piece of machinery chewing up vegetation on Platte River sandbars near Fremont, it was only natural that a reporter would go out and ask some questions.

A report in the *Omaha World-Herald* says the forestry-grade mulcher was brought from South Dakota to clear trees, brush and reeds that had grown up on the sandbars during a

decade of drought, raising fears of ice jams next spring. Although we don't see many of them out here, ice jams are a major concern in flatland areas because the water that builds up behind them can cause flooding and damage homes.

A secondary concern is that the vegetation requires a lot of water, which it drains from the river. We're more familiar with that issue out here, where invasive species such as saltcedar and Russian olive tap into the groundwater and deplete stream flows. In the area near Fremont, the concern is over cottonwoods and willows, but the principle is the same.

But a third reason caught our attention: John Winkler, general manager of the Papio-Missouri

River Natural Resources District, said the brushy sandbars also prevent endangered species, such as the piping plover and least tern, from nesting. "Those birds want to nest on clean sandbars," Winkler said.

There was a time when spring floods sent a lot of water down the Platte, which then spread across its broad, braided channel and scoured the river bottom clean. Pioneers told of a river a mile wide and a foot deep, where it was virtually impossible to cross with a wagon. The birds, the theory goes, are endangered because those conditions no longer exist.

One of the cures put in place to aid in their recovery is establishment of a mandatory "environmental account" in Lake

McConaughy. Up to 200,000

acre-feet of water in the account is stored until it's needed downstream to address threatened and endangered species issues.

The environmental account is considered a key part of the Platte River Cooperative Agreement, which will govern future uses of the river and have a major impact on agriculture and the state's economy.

It includes a Recovery Implementation Program to address the needs of four threatened and endangered species, including the terns and plovers, by re-timing or adding 130,000 to 150,000 acre-feet of water per

year in a way that modifies the downstream habitat. Some of the water comes from Pathfinder Dam in Wyoming, where much

of the North Platte Valley's surface irrigation water originates.

The mulcher isn't cheap. The Papio NRD contributed \$200,000 to the cause, while the Lower Platte North and Lower Platte South NRDs added \$20,000 apiece to clear up to 500 acres.

Before that, helicopters sprayed the unwanted trees and reeds with hundreds of gallons of environmentally friendly herbicide at a cost of about \$120,000, to kill the stuff before the mulcher chewed it up. Eventually, it will be plowed under to become part of the soil or washed away as harmless debris.

But one way of looking at it is that the Papio project is doing with diesel fuel what the so-called environmental account

hopes to do with water.

If using machinery to clean sandbars is acceptable to prevent ice jams, it ought to be acceptable to create habitat for endangered species. The Platte isn't the same river that it was a century ago, and trying to recreate its historic floods won't change that.

It's important to do right by the birds. But if ingenuity and a piece of heavy machinery can create the habitat they require, it makes sense to conserve Nebraska's valuable water. Call it an "economic account."

This editorial does not necessarily reflect the editorial position of *The World-Herald*.

Keep us rolling down the river

I'd like to thank the Papio-Missouri River Natural Resources District for finishing the Elkhorn Crossing access, even though it took too long (almost two seasons).

Kudos on progress toward local recreational activities with canoeing at Elkhorn Crossing and access at West Maple Road and West Dodge Road. How about an access at Q Street next?

How do we keep the Elkhorn River beautiful when so few understand the need to "pack it in and pack it out"?

Just a small amount of litter will ruin the view as we float down the river.

9-10-09

Park Blaine, Omaha

Water festival visitors soak up clean-earth tips

Rainwater carries harmful chemicals into storm sewers and streams. But there are ways to minimize pollution.

(OWH, 9-14-09)

BY KEVIN COLE

WORLD-HERALD STAFF WRITER

Rain, rain, go away — but please do so in an environmentally sound manner.

The World O! Water Festival at the Chalco Hills Recreation Area at Wehrspann Lake on Sunday gave about 3,500 visitors plenty of ideas for dealing with storm water. Children and their parents learned about rain gardens, rain barrels, flood plains, sewer systems and more.

The City of Omaha, Keep Omaha Beautiful and the Papillion Creek Watershed Partnership collaborated on the festival for the fifth straight year. The festival featured 55 exhibits, free food, games and canoe rides.

Jim Kee, who monitors water quality for the City of Omaha, said the aim of the festival is to “raise awareness about storm water runoff” that damages lakes and streams.

“If you look at the huge amounts of storm water that go directly into our lakes and streams you see that it often carries large amounts of pollutants along with it,” Kee said.

Steve Rodie, a professor of agronomy and horticulture at the University of Nebraska at Lincoln, manned a popular exhibit — a functioning rain garden.

Much of the Omaha area has the right mixture of sand and soil to support these gardens, Rodie said. He suggested that property owners visit www.water.unl.edu to learn how to start one.

In a rain garden, water travels through elongated downspouts and is funneled to a holding pond that is populated with clumps of native flowers and grasses.

Rain water that typically would wash into sewers along with fertilizers, pesticides, driveway oils and other chemicals is held in the pool, or rain garden, until it can drain into the ground.

“The less water our sewer system has to handle, the more green our environment,” Rodie said.

Rain gardens are relatively easy to maintain, save mowing time and add beauty to neighborhoods.

“People will be surprised by the butterflies, birds and other wildlife that they attract,” Rodie said.

A related exhibit that captured the attention of festival visitors was the Cole Creek Project. The project consists of bioretention gardens along about a half mile of the creek between Sorensen Parkway and Hartman Avenue.

The gardens are designed to capture and cleanse storm water before it enters Cole Creek.

La Vista resident Amy Bragg said that the large exhibits were impressive but that she and her 6-year-old daughter, Grace Khayatia, may have learned the most from one of the simplest exhibits, “Under the Sink.”

It explained how many everyday household products, when improperly disposed of, negatively affect streams and lakes.

“I never realized that things like furniture polish could have such a bad effect on our earth and water,” Bragg said. “It really makes me think about what I have under my sink and me being more careful about how I get rid of them.”

Bragg learned that a site for disposing of household hazardous wastes has been established at 4001 S. 120th St. for residents of Sarpy and Douglas County.

Award-winning bridge anything but ordinary

BY TIM ROHWER

WORLD-HERALD NEWS SERVICE

One day this past spring, Council Bluffs Parks Director Larry Foster was walking on the Bob Kerrey Pedestrian Bridge when a couple approached him.

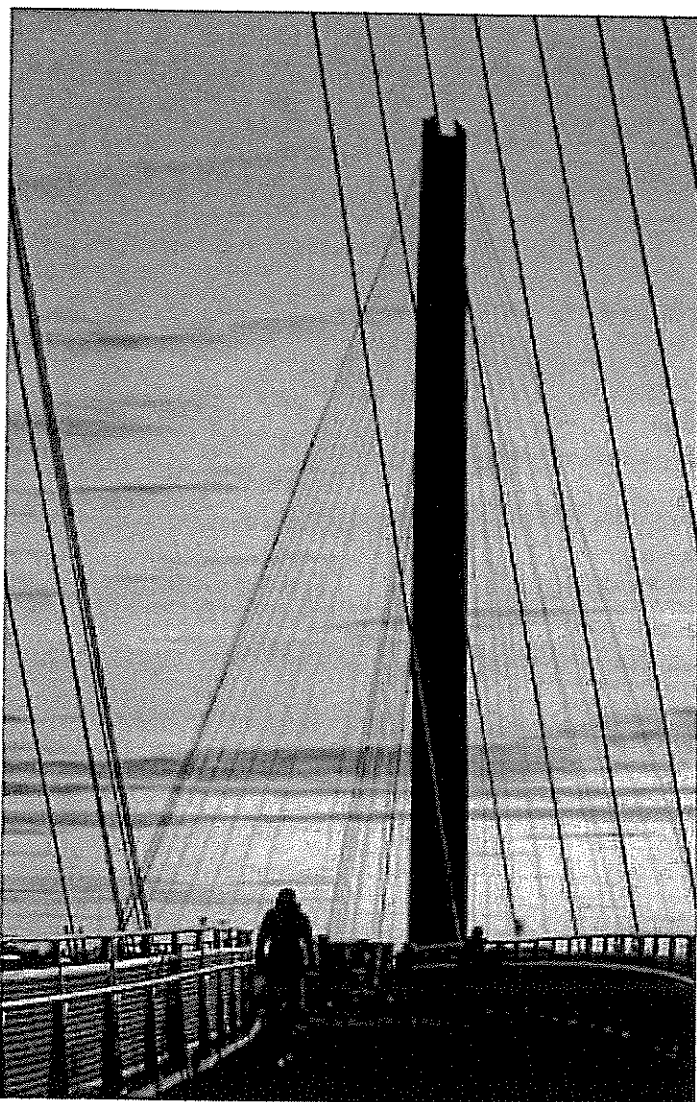
"I was one of those naysayers about the bridge," the man told Foster. "I was wrong. My wife and I come down here two or three times a week; and our son and daughter-in-law and their family are coming in this weekend, and this will be the first place they will visit with us." It's been almost a year since the pedestrian bridge opened, and it is making a name for itself both locally and nationally.

The bridge this week was awarded "Project of the Year" by the American Public Works Association.

The bridge won in the structures category for projects built in the \$5 million to \$25 million price range, Foster said.

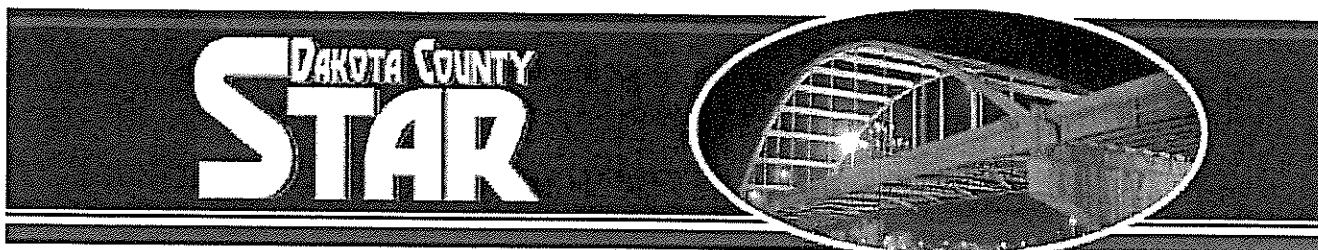
Its unique design was a factor in the selection, said Foster, who represented the Omaha-Council Bluffs area at the awards ceremony Monday night in Columbus, Ohio.

"The one thing I don't think people anticipated was the bridge becoming a destination spot on its own," Foster said. "It's not just a connector between the two communities, and it's more than just a beautiful place to show off. It's becoming its own destination."



MATT MILLER/THE WORLD-HERALD

Almost a year after opening, the Bob Kerrey Pedestrian Bridge this week was named a "Project of the Year" by the American Public Works Association.



Wednesday, September 16, 2009

Nebraska Environmental Trust gives boost to Creek project

Jolene Stevens
Reporter

Wednesday, September 16, 2009

"We've had lots of input from citizens both within and outside the watershed area from the very beginning of the Pigeon Creek project," said Ralph Puls, land/water coordinator, Papio-Missouri River, DNR, Omaha. "It's really helpful when you compare notes on a plan working with individuals such as these and the number of different agencies that have been involved."

"You're able to come to some conclusions you wouldn't have been able to were you working on it as a separate agency or organization," Puls said. "This cooperation has existed from the beginning of the project when the plans were first developed and have continued, and I expect will do so into the future. Everyone has had something to offer so it's a real collaborative effort."

Kelly Fravel, field office program assistant, DNR, Dakota City, agreed as she explained the plans for a public meeting at 6:30 p.m. Sept. 23 at the DNR's Dakota City office to "review" the recently completed community-based Pigeon Creek watershed management plan "focusing" on water quality.

Fravel among those attending an informal dinner for DNR representatives, those involved with the Pigeon Creek project and local governmental representatives Thursday evening at the Vince Krampfer farm, Dakota City, said she and others throughout the area are excited about the \$9,973,334 project.

"The Watershed Advisory Committee (WAC) made up of citizens from the Hubbard area and our Technical Advisory Team (TAT) including staff members of NRD, NRCS, Nebraska Department of Environmental Quality (NDEQ) and other entities have been have been working on the plan since April," Fravel said.

"We're on target with our project dates, and we want to share the completed plan, the result of everyone working side by side, with the public as we move forward," Fravel said. "We expect to see the project completed in 2012-2013."

Land acquisition for the project Fravel said should be completed by the end of this year or the first of next year with primary construction expected to begin in the fall of 2010 or "at the very latest", spring 2011.

Funding for the project Fravel said has come from a variety of sources the latest being the \$977,000 announced Thursday evening. The Nebraska Resources Development Fund has contributed 65 percent of the project cost or \$6,482,667, the Papio-Missouri River NRD, \$3,805,000; Dakota County, \$300,000 (or 50 percent of local road improvement costs, whichever is the lesser amount); and the Nebraska Game & Parks Commission, \$825,000. Additional funding yet "to be determined" for the project is also expected to be forthcoming from Nebraska's DEQ.

The overall Pigeon Creek project includes the Site 15 dam and reservoir consisting of 200 surface acres of main reservoir area and 28 surface acres of sediment basins. The project's planned recreational area consists of an additional 228 surface acres of water and 595 acres of park land.

FURTHERMORE (OWH Editorial, 9-18-09)

Drought. Thirsty fields waiting for irrigation water that doesn't come. Upstream water user takes too much, angering downstream water user. Upstream hydroelectric dams and reservoirs are low and not releasing enough water. Broken promises. Accusations. Coordinated water policy needed. But, however much it might sound like it, this is not about Nebraska, Kansas and Colorado. The rivers are the Tigris and Euphrates, the nations are Turkey, Syria and Iraq, and the problem is, at its heart, the same.

The most striking difference, perhaps, is that the three nations are more likely to shoot at each other than sue.

Strains build on Big Mac

(OWH Editorial, 9-20-09)

Lake McConaughy carries a big load for all Nebraskans. It provides drinking water and electricity. It's a recreation asset as well as an aid to economic development. It's a key factor for irrigation and flowing water to maintain crucial wildlife habitat downstream.

But the strain is showing. In 2004, the lake hit an all-time low since it filled in 1949. It fell nearly as far again in 2006. At present, it remains only half full. "This may be the new reality," warned a representative of the utility that owns and manages Big Mac.

Tim Anderson spoke for Central Nebraska Public Power and Irrigation District, which holds a water right in the North Platte River, which fills McConaughy. The utility has watched, virtually helpless, while a combination of man-made and nature-created problems sucked the lake down toward the dregs.

Nature is a harsh mistress whose cycles and furies are unpredictable, uncontrollable and implacable.

When severe drought hits, water managers such as Central can only conserve what they have, distribute the lake's meager gifts judiciously and hope. When it doesn't rain, when the snowpack in the Rockies, which feeds McConaughy, is below average for years in a row, there are few choices.

The man-made problems, however, can be grappled with — if state elected officials and water managers are willing.

Surface water is generally well regulated in Nebraska. Water rights held by irrigators and others go back as far as the 19th century in some instances.

But for the most part, surface water isn't what's shorting Big Mac.

As far back as October 1940, Federal Reclamation Commissioner John C. Page warned Nebraskans that they must control the use of groundwater "before it is too late." Page's sound admonition was ignored for more than 50 years.

It was only in the 1990s that the Nebraska Legislature actually began to wrestle with the proliferation of underground wells pumping an unknown amount of water to irrigate crops. Gradually, laboriously, legislation emerged that firmly tied underground and surface water together. The two are hydrologically connected; when underground water is overused, it lowers the surface water level.

To settle a dispute with Kansas over water in the Republican River, for instance, state officials and irrigators are coming to grips with the fact that it may be necessary to strictly limit the output of a number of underground wells in the basin. That option — discussed last Thursday by state water regulators during a meeting in Holdrege — would be a painful solution to an impossible quandary.

Lake McConaughy's problems are upstream and akin to the Republican dilemma.

Two Wyoming reservoirs, built since McConaughy was filled, do have an impact on the amount of water in the North Platte. But the real problem, Central officials say, is the more than 2,600 irrigation wells between the lake and the state line. Central commissioned a study that concluded the wells remove more than 123,000 acrefeet of water a year, the equivalent of five feet of water depth. An acre-foot of water covers an acre of land one foot deep, about 336,000 gallons.

If Big Mac had had that water the past five years, Central suggested, the NRD would have been able to deliver full quotient to its irrigators, rather than about 50 percent less. The district also would have made an additional \$1.5 million annually from its power plants.

The North Platte Natural Resources District, responsible for controlling groundwater use, has limited its irrigators, too, but they still received far more than downstream Central customers.

A Scotts Bluff County District Court ruled against a Central lawsuit over a water allocation by the NRD. That case is pending in the Nebraska Court of Appeals and, before it is settled, will almost certainly go to the state Supreme Court.

The dispute raises several questions. Should such significant water conflicts, which potentially affect the entire state, be left to the courts? Should every water user who believes upstream interests are unfairly consuming water have to file an individual lawsuit?

Finally, and perhaps most significantly, how should the state's water laws be modified to ensure that the NRDs fulfill their duties not only to their irrigators but also to downstream water users and all state residents?

Sen. Chris Langemeier and his Natural Resources Committee need to consider the proper options for the Legislature. Until the lines of responsibility and enforcement are clarified, the only recourse for downstream water users will remain the courts.

Trail leads to review of

NRD powers

Some question the
districts' need for
eminent domain.

By PAUL HAMMEL
WORLD-HERALD BUREAU

WEEPING WATER, Neb. — Completing the last segment of a long-planned hike-bike trail to connect Omaha and Lincoln now appears back on track.

But something else was clear after a four-hour public hearing here Monday — a strong sentiment to pare back the powers of the state's natural resources districts to complete such trails using eminent domain.

Several speakers, including at least three state senators, criticized what they said was a lack of communication and collaboration with Cass County officials by the Lower Platte South Natural Resources District while planning a recreational trail linking Wabash, Neb., to a hike-bike bridge that spans the Platte River at South Bend, Neb.

The 10-mile segment is the last needed to complete a trail, first envisioned in 1984, to link the state's two largest cities.

The project hit a snag a year ago when Cass County landown-

See Trail: Page 2

Trail: Districts' eminent domain power is questioned

Continued from Page 1

ers erupted in anger over the NRD's proposed route for the trail, along a remote limestone-rock road — and the possibility that the NRD could take their land via eminent domain.

Such eminent domain power is more common in the construction of roads or electric transmission lines, when a governmental entity seizes private property from an unwilling seller, at a fair-market price, for the public good.

Natural resources districts, run by locally elected boards, also have that power, although they have used it only twice in the state since the districts were created in 1972.

About 120 people attended an interim hearing Monday held by the Legislature's Natural Resources Committee on eminent domain and NRDs.

Many testified that they didn't think recreational trails were a public necessity requiring the "hammer" of taking private land from unwilling sellers.

Some said a "hobby" like bicy-

cling down a trail shouldn't come with the power to take land.

"We question if a bike trail or recreation park should be treated in the same manner as a flood-control project," said Waverly farmer Steve Althouse, who testified on behalf of the Nebraska Farm Bureau Federation.

But others supported the work of the NRDs, saying that eminent domain powers are used rarely, and only when there's no other choice in completing a project. They defended hike-bike trails as safe places for exercise that increase property values and boost rural economic development.

Dale Nielsen, a teacher at East Butler High School, said the Oak Creek Trail that runs from Valparaiso to Brainard has increased business at cafes and attracted visitors from Lincoln.

Concerns expressed by landowners, Nielsen said, never materialized, and overall, the limestone trail on an old railroad bed has been of tremendous benefit.

During the public hearing, officials with the Cass County Board and Lower Platte South NRD said

communications could have been better while planning the trail.

Dave Nielsen of Weeping Water, a member of both the NRD board and the Cass County Board, complained that a Cass County Citizen Advisory Council set up by the NRD was steered away from recommending alternative routes to the gravel 334th Street picked by the NRD.

Monday, however, officials with the NRD and County Board said they're now focused on a new route for the trail, initially suggested by the County Board. It would parallel Nebraska Highway 1 north from Elmwood and link with an access road to Murdock. It would then continue straight north along an asphalt county road to the Platte River hike-bike bridge at South Bend, passing the popular Round Bend Steakhouse.

Glenn Johnson, general manager of the Lower Platte South NRD, said finalizing that route could come as soon as the end of the year.

But State Sen. Dave Pankonin of Louisville, who asked for the

interim study on eminent domain, said even if the trail route is resolved, he plans to introduce legislation next year to "force" the NRDs to better collaborate with local officials.

"It's clear we had a breakdown here," Pankonin said, adding that a more formal process in state law is needed.

Two other state senators at the hearing, Chris Langemeier of Schuyler, chairman of the Natural Resources Committee, and Beau McCoy of Omaha, faulted the NRD for not making more attempts to work with landowners and the County Board.

Johnson, of the NRD, said there was more communication than was evident Monday. He added that two Cass County officials the NRD had been working with — a County Board member and the highway superintendent — left county employment midway through the planning process.

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9-24-09

'Green' effort to make creek easy on eyes

By LEIA BAEZ-MENDOZA
WORLD-HERALD STAFF WRITER

A creek that has been an eyesore for Bellevue residents in the Stonegate and Village Green neighborhoods will soon become a local amenity.

The Whitted Creek Rehabilitation Project, which will improve a 3,000-foot portion of the creek near 25th Street and

A state-of-the-art rehabilitation project is under way for a portion of erosion-plagued Whitted Creek in Bellevue.

Capehart Road, is expected to be finished in November.

"I am stoked," said Tom Arnot, whose home backs up to the creek. "It's going to be beautiful."

Arnot will no longer have to watch dirt from the banks cave into the creek after heavy rains. He said he's looking forward to having a "majestic" view in his backyard rather than a danger-

ous erosion problem.

Marlin Petermann, assistant general manager of the Papio-Missouri River Natural Resources District, said the project will protect an adjacent flood control levee, as well as stabilize the channel bed and stream banks to prevent additional erosion.

"In order to conserve our

See Whitted Creek: Page 2

Whitted Creek: Project has \$1.5 million price tag

Continued from Page 1

natural resources, we have to let nature do its thing," he said. "We have to work with nature rather than against it."

Petermann said the project also will improve water quality in the creek and encourage wildlife to return. He said it's the

NRD's first creek project to use "the green approach."

Emily Holtzclaw, a project manager with CH2M Hill and the project's design engineer, is using live plant materials and environmentally friendly materials such as biodegradable fabric to stabilize the stream banks.

"It's really a state-of the-art

method," Petermann said.

The project, which cost about \$1.5 million, is being funded by the NRD and by grants from the Nebraska Environmental Trust and Nebraska Department of Environmental Quality. Some of those funds are from the U.S. Environmental Protection Agency.

Holtzclaw said the finishing

touches on the project will come this fall, when trees and shrubs are planted.

"We are excited to see it working out so well," Petermann said. "It's like wine. This is something that will improve with age."

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NRD AUTHORITY

A difficult path

Nebraska's natural resources districts, which have crucial responsibilities for wise use of land and resources, have long trod a challenging path. Their plans can unavoidably draw criticism from citizens.

Consider a hearing that the state Legislature's Judiciary Committee held in 2006. The topic was eminent domain.

One might have thought that the testifiers would have focused on urban land-use issues. Instead, most of the comments centered on rural areas and various local battles around the state involving the collision between NRD proposals and landowner opposition.

In the end, the Legislature approved, and Gov.

Dave Heineman signed, legislation that prohibited agricultural land from being seized through eminent domain. The measure also stated that agricultural property cannot be designated as "blighted" by local governments and therefore cannot be subject to condemnation.

Consider, too, a hearing that state lawmakers held last week. The meeting focused on how the Lower Platte South NRD handled its plan for the final segment of a hiking-biking trail linking Omaha and Lincoln.

Months ago, floor debate during the legislative session gave a good sampling of the controversy surrounding the specific path chosen in Cass County by the NRD. At the recent hearing, each side — the NRD for its part, the NRD's critics for theirs — gave somewhat differing descriptions of the situation.

Regardless of the specifics, the bottom line from the meeting is that several respected Nebraska lawmakers with an interest in NRDs — Sens. Chris Langemeier and Dave Pankonin — are indicating that they intend to support compelling NRDs to cooperate more with local officials. Such a step seems inevitable. The Cass County dispute drew considerable attention in the Legislature this year.

The important thing is that lawmakers strike the needed balance between ensuring cooperation and providing sensible discretion to these important elected Nebraska entities.

McConaughy water issues require incremental steps

B Y R O N C A C E K

The writer is general manager of the North Platte Natural Resources District.

Western Nebraska residents and water users have withstood for months an adverse publicity campaign fueled by the welloiled Central Nebraska Public Power and Irrigation District public relations machine.

This has included several spins and even deceptive statements designed to incite Nebraskans against the North Platte Natural Resources District and place the blame for Lake McConaughy's lower levels on groundwater use in western Nebraska.

A Sept. 20 World-Herald editorial, "Strains build on Big Mac," was a prime example.

Nature plays the primary role in dictating water levels in both Lake McConaughy and storage reservoirs in Wyoming, which ultimately feed the Platte River Basin. But the Central district seeks to eliminate the risk that nature places upon all of us for the purpose of keeping Lake McConaughy full.

While a full lake is favorable, it should not be done at the sole expense of Panhandle water users, resulting in disastrous social and economic welfare consequences to the populations of five western Nebraska counties.

The editorial correctly notes that man-made problems can be "grappled with." That was the purpose of Legislative Bill 962, enacted in 2004 by the Legislature.

The joint Department of Natural Resources/North Platte NRD Integrated Management Plan, effective Sept. 14, was developed using a consultation and collaboration process with stakeholders from the North Platte NRD and downstream Platte River Basin water users, including the Central district.

Among other things, this IMP contains a commitment by the North Platte NRD to limit all groundwater irrigation use in the overappropriated portion of the

district to a 14 acre-inch annual allocation, starting with the 2010 irrigation season. The Pumpkin Creek Basin is currently limited to a 12 acre-inch annual allocation.

In addition, the North Platte NRD enacted a moratorium on the drilling of new irrigation wells in 2002, prior to the moratorium implemented in 2004 by LB 962. Central's customers were able to drill new irrigation wells long after 2002.

A basin-wide plan, also using the consultation and collaboration process, has been adopted by the DNR and the five overappropriated Platte River Basin NRDs to address integrated water management. The plan includes a process to identify and address disputes from water users within the basin.

The Legislature, in 46-715 and related statutes, contemplated that restoring the overappropriated basin to a fully appropriated status will take time — thus the reason for inclusion of provisions for an incremental approach, first setting goals to offset stream depletions caused by uses initiated after July 1, 1997.

Thereafter, if necessary, with further scientific study and analysis, NRDs in the Platte River Basin will strive to return to an equilibrium designated as fully appropriated status.

The study specifically commissioned by Central (which estimated a 123,000 acre-feet annual depletion) has not been peer-reviewed or critically analyzed. Under LB 962, the Integrated Management Plan and basin-wide plan processes require ongoing review and study to arrive at scientifically sound conclusions before the need for appropriate regulatory actions is considered.

The editorial equates the Central district's depletion estimate to "the equivalent of five feet of water depth." We presume this is related to the depth of water in the lake.

The editorial then states that "if Big Mac had had that water the past five years, Central suggested, the NRD would have been able to deliver full quotient to its irrigators, rather than about 50 percent less." That statement is erroneous, as the NRD does not deliver groundwater usage but instead regulates it.

Commencing next year, the Central district will be delivering about 15 inches to its customers. This delivery is in addition to the average annual rainfall of 23.5 inches in Central's service area and unregulated pumping by approximately 60 percent of the irrigation customers served by the Central district.

Central's customers also are allowed to acquire additional surface water from other Central customers willing to transfer their surface water for a year. Central's irrigators have been successful in producing and achieving excellent yields even during drought years.

Meanwhile, Panhandle irrigators operate on limited surface water deliveries, the aforementioned groundwater allocations and an average annual rainfall of 16.5 inches.

The statement that the irrigators in the North Platte NRD "still receive far more than downstream Central customers" is simply not true. Use of Central's rhetoric, including such an outlandish claim, without verification of the facts is grossly misleading to all Nebraska residents.

We recognize that there is very little, if anything, we can do about drought and the cycles of nature, except to plan, conserve and make the best use of our limited resources. The North Platte NRD has been and will continue to do just that under the legislative requirements for all NRDs while protecting the economic and social well-being of our district's residents.

While a full lake is favorable, it should not be done at the sole expense of Panhandle water users, resulting in disastrous social and economic welfare consequences.

MASTER CONSERVATIONIST AWARDS

Stewardship and vision

Listen to western Nebraska rancher Rod Christen. He offers sound observations about how to promote a healthy balance between mankind's uses and nature's needs.

"The grass is our conservation tool," he says.

"Nothing conserves, harvests and stores energy better than grass. If you manage cattle properly, you can enhance the grass and make it thicker."

Listen to Stan Pilcher, another western Nebraska rancher.

Many Omaha-area readers may mistakenly think of Nebraska's rural grasslands as a giant, monotonous expanse lacking ecological diversity. But Pilcher, who's leading an impressive effort to reduce the infestation from invasive red cedar trees, points out the remarkable variation in the ecological landscape, if it's kept healthy.

"When you look at it (the terrain) now, though, you see deciduous trees replacing the cedars," he says, referring to land reclaimed from the invasive trees. "Instead of being just a monoculture of cedars, my gosh, there's five or six different shrubs, forbs, several grass species and flowering plants, too. The diversity out there now in the vegetation is unbelievable."

These Nebraskans were among those saluted with annual Master Conservationist Awards, sponsored by The World-Herald and the University of Nebraska.

Here are the award winners for this year, who were honored this week at the Nebraska Association of Resources Districts meeting in Kearney: — Lynn and Marlene Myers, Lewellen.

— Thorval and Artis Hansen, Carsen Lake Ranch, Burwell.

— Don and Ruby Arduser, Laurel.

— Stan and Marilyn Pilcher, Curtis.

— Rod and Amy Christen, Steinauer.

— Serenity Garden Club, Scottsbluff.

All of these winners, plus the runners-up, demonstrate a level of personal commitment and an environmental wisdom that deserve applause from all Nebraskans, rural and urban alike.

The foresight, skill and stewardship of these Nebraskans are examples of the ingredients for a balanced ecology and a sustainable future for the state.

Water issues: Can NRDs get the job done?

Starting Monday, legislators to weigh merits of state control vs. local oversight

BY P AUL HAMMEL
WORLD-HERALD BUREAU

LINCOLN — When it comes to property taxes, Nebraska's 23 natural resources districts are relative nibblers. They consumed less than 2 percent of the state's total property tax bite in 2008.

But when it comes to water disputes, the NRDs are at the front lines, determining how irrigators and other water users should comply to keep Nebraska out of legal hot water.

Now the ability of the NRDs and their locally elected boards to make politically tough decisions on water and other controversial subjects is coming under scrutiny like never before.

The Legislature's Natural Resources Committee is holding a series of hearings, starting Monday in Valentine, to determine whether the NRDs ought to be restructured and whether greater state oversight of local decisions is needed.

The hearings represent potentially the biggest threat to the NRDs since they were created in 1972.

The local boards can levy property taxes for soil erosion and flood control projects, to regulate groundwater use and, more recently, to oversee construction of recreation trails.

Some say the NRDs have been slow to respond to water problems, leaving the state vulnerable to potential multimillion-dollar court judgments, as in the case of the fight with Kansas over flows in the Republican River.

They say it would be better if the state made the decisions to shut down irrigation wells rather than rely on local citizens to, in effect, vote to reduce their neighbors' incomes.

"We think that (greater) state oversight needs to be in place," said Tim Anderson of the Central Nebraska Public Power and Irrigation District. "If I was on an NRD board, I'd have a hard time telling my neighbor that instead of getting 16 inches of water (for irrigation), you get only 4."

State Sen. Beau McCoy of Omaha, who requested the study of NRDs, said water will be among the biggest issues of the next decade.

McCoy said Nebraska needs to determine if these local districts are the best and most efficient way to regulate water in the state, the nation's leader in groundwater irrigation.

"Clearly, some changes need to occur so we don't have the same situation with Kansas if we get several dry years in a row," McCoy said.

Defenders of NRDs say local control is a hallmark of government in Nebraska.

Dean Edson, executive director of the Nebraska Association of Resources Districts, said the three NRDs in the Republican River valley have made tough decisions in ordering groundwater irrigators to dramatically reduce their pumping.

"I would call that backbone," Edson said.

But, he added, state law also requires NRDs to avoid harming the "economic viability" of their areas. That makes it difficult to take drastic actions, like shutting off irrigation wells, that could sap the vitality of rural areas.

"If that's the decision the state wants us to make, then state law needs to be changed," Edson said.

Right now, the state is walking a tightrope made of dollar bills in the Republican River valley.

In order to comply with an arbitrator's ruling on the Kansas dispute, the three NRDs in the Republican valley need to adopt new rules to restrict irrigation during drought years.

The old adage "whiskey is for drinking and water is for fighting" comes to mind when it comes to shutting down irrigation wells. Such a move would mean decreased incomes for farmers and ranchers and economic woes for the area towns and cities.

Gov. Dave Heineman and state water officials provided a stern blueprint last month of how to come into compliance: shut off irrigation wells within a couple of miles of the Republican River during water-short years to maintain river flows to Kansas.

Heineman declined to say whether he supports changing the powers of the NRDs. He said he was optimistic that the three NRDs in the Republican valley would have a plan by December to bring Nebraska into compliance.

"I'm confident they're going to get it done," Heineman said.

Nebraska is the only state to have natural resources districts. The NRDs levy property taxes within their

boundaries, which generally follow the watershed boundaries of rivers like the Platte, Papio, Loup, Niobrara and Republican.

Prior to the creation of NRDs, the state had 154 political entities that dealt with soil erosion and water conservation.

When it comes to efficiency, Edson said, only a "dictatorship" would be better. He noted that NRDs were the only subdivision of government to reduce their property tax requirements in 2008.

Sen. Chris Langemeier of Schuyler is chairman of the Natural Resources Committee and also served two terms on the Lower Platte North NRD board.

The NRDs in the Republican valley, Langemeier said, were willing to place a moratorium on the drilling of new irrigation wells in 1998 — but they were advised not to by state officials who felt Nebraska would prevail in its water dispute with Kansas.

Had the moratorium been enacted, hundreds of new wells would not have been drilled, and the decision now to require wells to shut down in water-short years would be much easier, officials said.

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