



**PERSONNEL, LEGISLATIVE AND
PUBLIC AFFAIRS
SUBCOMMITTEE MEETING
September 7, 2004
6:00 p.m.
AGENDA**

Personnel, Legislative and Public Affairs Subcommittee:

Barb Nichols, Chairperson
Dick Connealy, Vice Chairperson
Fred Conley

Alternate Members: Rich Jansen
Rich Tesar

Staff Liaison: Emmett Egr
Christine Jacobsen

1. Meeting Called to Order – Chairperson Nichols
2. Quorum Call
3. Adoption of Agenda
4. Proof of Publication of Meeting Notice
5. Review and Recommendation(s) on Resolutions to be Considered at the NARD Annual Conference – Steve Oltmans
 - 2004-1 Change in Water Well Decommissioning Fund Allocation Procedure, Submitted by the Lower Loup
 - 2004 -2 Amendments to Water Well Standards and Contractors' NRD Licensing Act (46-1201 to 46-1241), Submitted by the Middle Republican NRD
 - 2004-3 Authorize Water Use Fees, Submitted by the Upper Republican NRD
 - 2004-4 Annual Limits on Per Diem Payments to Board Members, Submitted by North Plate NRD
 - 2004-5 Utilize fees for Scrap Tire Grants, Submitted by Lower Elkhorn NRD
6. Report on Legislative Hearing (held at NRC August 31, 2004) – Steve Oltmans
 - LR 278 Interim study to develop solutions to keep downstream improvements from being located in potentially hazardous locations downstream of existing dams.
 - LR 404 Interim study to review the issue of storm runoff requirements as required by the federal Clean Water Act.
7. Other Items of Interest
8. Adjourn

Change in Water Well Decommissioning Fund Allocation Procedure
Submitted by the Lower Loup NRD

WHEREAS, the Water Well Decommissioning Fund was enacted by the Nebraska Legislature in 1994 for the purpose of accelerating the decommissioning of illegal wells in the State of Nebraska to protect ground-water from contamination, and;

WHEREAS, said legislation specifically requires the Department of Natural Resources to allocate available funds by contractual agreement with natural resources districts each fiscal year, based on a percentage of the number of illegal water wells decommissioned in each participating natural resources district, in relation to the total number of water wells decommissioned in the state during the previous fiscal year, and;

WHEREAS, natural resources districts can experience annual highs and lows in the participation of their water well decommissioning cost-share programs for a variety of reasons, thus creating highs and lows in future allocations, and;

WHEREAS, the use of a previous three years running average, rather than the single previous year total of water wells decommissioned, would buffer the highs and lows in annual funds received by districts, increasing efficiency and continuity of districts water well decommissioning cost-share programs;

NOW, THEREFORE BE IT RESOLVED that the Nebraska Association of Resources Districts seek legislation to amend state statute (46-1404) to allow the Department of Natural Resources to allocate Water Well Decommissioning Funds based on a participating district's previous three years running total of water wells decommissioned.

NOW, THEREFORE BE IT FURTHER RESOLVED to allow the Department of Natural Resources to make exceptions to this rule for newly participating districts until such time as they establish a three year running total so they will not be unduly penalized from utilizing the fund.

Amendments to Water Well Standards and Contractors' Licensing Act
(46-1201 to 46-1241)

Submitted by the Middle Republican NRD

Whereas, according to NRRS 46-1209 and 46-1210, statutes allow a landowner to install or repair pumps and pumping equipment and to decommission a driven sandpoint well which is on land owned by him or her and used by him or her for farming, ranching, or agriculture purposes or as his or her place of abode; and

Whereas, according to NRRS 46-1213 and 46-1214 allow a landowner to drill or a water well or decommission a driven sandpoint well which is on land owned by him or her and used by him or her for farming, ranching, or agriculture purposes or as his or her place of abode and,

Whereas, according to NRRS 46-1207.1 an illegal well does not include a well constructed by an individual on land owned by him or her and used by him or her for farming, ranching, or agriculture purposes or as his or her place of abode and,

Whereas, according to NRRS 46-1229 any person desiring to engage in the construction of water wells, the installation of pumps and pumping equipment or the decommissioning of water wells shall apply for and demonstrate professional competence to obtain a license,

Whereas, according to NRRS 46-1233.01 except as provided in section 46-1233, no water well shall be opened or the seal broken by any person unless the opening or the breaking of the seal is carried out by a certified water well monitoring technician, a natural resources ground water technician or the operator of a public water system,

NOW THEREFORE BE IT RESOLVED that the NARD work with the legislature, the Water Well Standards and Contractors' Licensing Board and other parties as needed to enact legislative changes to limit performance of certain actions relating to water wells to licensed or certified personnel. Specifically limit the authority to construct a water well, to install or to repair a pump which is installed in a potable water well or a non-potable water well that pumps more than 50 gallons per minute or to decommission a driven sandpoint well which is on land owned by him or her and used by him or her for farming ranching or agricultural purposes or as his or her place of abode.

Authorize Water Use Fees
Submitted by the Upper Republican NRD

WHEREAS, there is a need to reduce groundwater use either through reduced allocation per acre or by reducing the number of irrigated acres within the Natural Resource Districts of the State of Nebraska that have been designated by the Nebraska Department of Natural Resources as either fully or over appropriated or are regulating groundwater use under implementation of a compact; and

WHEREAS, the Legislature of the State of Nebraska recognized in LB-962 that to facilitate optimum beneficial use of water by the people of Nebraska there is need for authorizing the levying and collection of fees and assessments on persons who withdraw or otherwise use or benefit from intentional underground water storage; and

WHEREAS, the Nebraska Groundwater Management and Protection Act 46-739.9b authorizes the establishment and implementation of financial or other incentive programs; and

WHEREAS, the Federal CREP program may not retire enough irrigated acres either initially or long-term to sufficiently reduce groundwater withdrawal to an acceptable level; and

WHEREAS, reducing per acre allocation alone may result in greater economic impact upon both affected individuals and local economies than would a voluntary acre retirement program; and

WHEREAS, there is a need to retire as many as twenty thousand acres in the Upper Republican Natural Resource District long-term; and

WHEREAS, there will be a need to retire additional acres in Water Short Years under the Republican River Compact.

NOW THEREFORE,

1. Natural Resource Districts of the State of Nebraska shall be authorized to charge a usage fee to groundwater users within areas designated by the Nebraska Department of Natural Resources as being either fully or over appropriated or within groundwater management areas affected by a compact settlement, excluding municipal or domestic uses.

2. This usage fee is in addition to the 1 cent per hundred dollars of assessed valuation authorized in LB-962 to fund NRD District's responsibilities under the Groundwater Management and Protection Act.

3. Funds from any groundwater usage fees shall only be used to fund programs aimed at reducing groundwater withdrawal within the Natural Resource District or within any qualifying river basin located at least in part within the boundaries of the Natural Resource District.

4. A Natural Resource District shall neither impose an annual usage fee greater than 10 dollars per irrigated acre, nor set the fee such that the NRD will raise more than 5 million dollars in any given year.

5. Funds from any groundwater usage fees shall be managed only by the collecting Natural Resource District and shall only be available for use in implementing and administrating ground water management programs developed to reduce groundwater withdrawals.

Annual Limits on Per Diem Payments to Board Members
Submitted by North Platte NRD

WHEREAS, state statute (Section 2-3218) establishes a limit of \$2,800 per year on the amount of per diem payment that board members of natural resources districts may receive for attending board meetings and engaging in other matters concerning the district;

WHEREAS, the duties and responsibilities of natural resources districts have increased in recent years due to numerous factors, including new legislation, new federal, state and local programs, increased concern over Nebraska's natural resources, and various local issues;

WHEREAS, due to this increase in responsibilities, many board members devote additional time every year to attending meetings and otherwise engaging in NRD business;

WHEREAS, many board members suffer financial hardship if they are not fairly compensated for time spent on NRD business;

WHEREAS, the prospect of financial hardship will discourage dedicated and qualified citizens from serving on natural resources district boards,

NOW THEREFORE BE IT RESOLVED that the Nebraska Association of Resources Districts seek or support legislation to amend Section 2-3218 of the Nebraska Statutes to raise the annual limit on per diem for natural resources districts directors to \$3,600 per calendar year.

Utilize fees for Scrap Tire Grants
Submitted by Lower Elkhorn NRD

WHEREAS, worn out automobile tires that are discarded or stored in large numbers pose a number of threats to our environment and our health, including uncontrollable fires, harboring vermin, and breeding areas for disease carrying insects, such as mosquitoes carrying the West Nile Virus, and

WHEREAS, Nebraska Legislature recognizing these threats in 2001 created the Scrap Tire Reduction and Recycling Incentive Fund which provides funding for grant programs as incentives to clean up old tire piles, and to recycle these tires for beneficial purposes, and

WHEREAS, grant funds were insufficient to cover the scrap tire collections carried out by three RC&Ds throughout northeast Nebraska in 2004, indicating the large quantity of tires that remain to be recycled,

WHEREAS, the Nebraska Department of Environmental Quality (NDEQ) receives a \$1 disposal fee for each new tire purchased in Nebraska, which raises in excess of \$1.5 million annually, and by statute the first \$1 million of this fund is currently utilized for the statewide Scrap Tire Recycling Grants, and

WHEREAS, the remainder of the Tire Disposal Fees may also be used for Scrap Tire Recycling Grants at the discretion of NDEQ, however, these fees are not currently being totally allocated for the grants, and now

THEREFORE, BE IT RESOLVED that the NARD request that NDEQ utilize the entire amount of Tire Disposal Fees for the Scrap Tire Recycling Grants, for which the fees were intended.

2

NINETY-EIGHTH LEGISLATURE

3

SECOND SESSION

4

LEGISLATIVE RESOLUTION 278

5 Introduced by Schrock, 38

6 PURPOSE: The Department of Natural Resources has jurisdiction over
7 all dams in high hazard locations regardless of size or storage
8 capacity and all other dams having a height of 25 feet or more or
9 having a storage capacity of 50 acre-feet or more. The department
10 insures that all jurisdictional dams are designed properly, taking
11 into account downstream improvements which may directly impact on
12 the assigned hazard classification of the dam and issues storage
13 and use permits as appropriate. Nebraska has over 2,000 permitted
14 dams built to the appropriate hazard classification at the time of
15 construction with approximately 1,700 low-hazard dams, 250
16 significant hazard dams, and 100 high hazard dams. The
17 construction of certain improvements, such as houses, businesses,
18 roads, etc., downstream of existing dams can result in an upgrade
19 of the hazard classification by the department if those
20 improvements are in the area that would be flooded (breach
21 inundation area) should the dam fail. Upgrading of the hazard
22 classification by the department will result in an order to the
23 owner of the dam requiring the owner of the dam to take "necessary
24 action" to correct deficiencies and defects in order that the dam
25 be operated and maintained in a safe condition. The Natural
26 Resources Committee of the Legislature should study this issue in

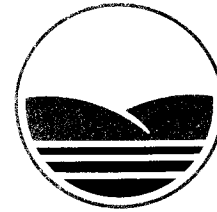
1 conjunction with the department, natural resources districts, the
2 Nebraska Association of County Officials, the League of
3 Municipalities, and others to develop a solution to keep downstream
4 improvements from being located in potentially hazardous locations
5 downstream of existing dams.

6 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE
7 NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

8 1. That the Natural Resources Committee of the
9 Legislature shall be designated to conduct an interim study to
10 carry out the purposes of this resolution.

11 2. That the committee shall upon the conclusion of its
12 study make a report of its findings, together with its
13 recommendations, to the Legislative Council or Legislature.

PAPIO-MISSOURI RIVER



NATURAL RESOURCES DISTRICT

TO: Natural Resources Committee
FROM: Marlin J. Petermann, Assistant General Manager
SUBJECT: Testimony concerning LR 278
DATE: August 31, 2004

8901 S. 154TH ST.
OMAHA, NE 68138-3621
(402) 444-6222
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Papio-Missouri River Natural Resources District testimony concerning LR 278 – Development Below Non-High Hazard Dams before the Nebraska Legislature’s Natural Resources Committee hearing on August 31, 2004:

- As a result of constructing dams, an area downstream of each structure is considered hazardous due to the unlikely, but potential breach of the dam. This is of particular concern for dams not constructed to High Hazard (Class “C”) Standards.
- In order to provide effective flood and erosion control for the area, the Papio-Missouri River NRD has constructed, owns, inspects and maintains nearly 70 dams.
- Out of these 70 dams, only 6 have been constructed to high-hazard standards.
- As an example, three dams (S-27, S-31, S-32) in Sarpy County south of Hwy 370 were built in the early 1970’s by the USDA, Soil Conservation Service. Development has since occurred below these dams. As a result they are currently being studied by the Natural Resources Conservation Service for potential rehabilitation to bring them to high hazard standards. Engineering costs alone are expected to exceed \$500,000.
- Private dam owners have also been affected by development occurring downstream. For instance, a local homeowners association in Washington County, NE which owns the dam known as Lake Arrowhead is currently facing a mandate from the Nebraska Department of Natural Resources (NDNR) to update their structure to high-hazard standards due to the construction of a subdivision and homes directly downstream. Anticipated construction costs alone for this upgrade are approximately \$120,000.
- After much discussion with other NRDs, state and federal agencies, it seems that basic solutions to this problem fall into two categories. Either
 1. continue to upgrade or remove the dams after their hazard classification changes, or
 2. prevent development from taking place downstream of the dam
- Obviously, from a dam owner’s standpoint, it would be preferable to prevent habitable structures from being placed in the breach inundation area. Possible ways to accomplish this include:
 1. Obtaining land rights, i.e. easements, from landowners downstream to prevent development within the flood hazard area, or
 2. Establish a zoning overlay district, which would restrict and/or prevent development within the flood hazard area.
- After considering these potential solutions, the most practical and cost effective, from an owner perspective, would seem to be to institute a zoning overlay district.
- The NRD/NARD encourages the Committee to have NDNR, along with other state and local stakeholder agencies, study these potential solutions along with their economic, environmental, and legal impacts and bring a report back to the Legislature for consideration.

NINETY-EIGHTH LEGISLATURE

SECOND SESSION

LEGISLATIVE RESOLUTION 404

Introduced by Natural Resources Committee:

1 Schrock, 38, Chairperson; Friend, 10; Hudkins, 21;
2 Jones, 43; Kremer, 34; Louden, 49; Stuhr, 24

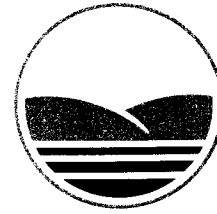
3 PURPOSE: The purpose of this study is to review the issue of storm
4 runoff requirements as required by the federal Clean Water Act, 33
5 U.S.C. 1251 et seq. and possible funding mechanisms for such
6 programs.

7 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE
8 NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

9 1. That the Natural Resources Committee of the
10 Legislature shall be designated to conduct an interim study to
11 carry out the purposes of this resolution.

12 2. That the committee shall upon the conclusion of its
13 study make a report of its findings, together with its
14 recommendations, to the Legislative Council or Legislature.

PAPIO-MISSOURI RIVER



NATURAL
RESOURCES
DISTRICT

August 31, 2004

Chairman Schrock and members of the Natural Resources Committee

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www.papionrd.org

My name is Steve Oltmans and I am the General Manager of the Papio-Missouri River NRD.

The NRD is here today to request legislative assistance in financing storm water programs and projects, whatever form that financing assistance may take.

This NRD previously supported LB 32, last session's version of the storm water bill, and the NRD is here today because this NRD's Directors are seriously considering a storm water program that would provide very-badly-needed flood protection for the metropolitan area in the Papio Watershed. However, that program needs a new financing mode if it is to be successful.

Under this new NRD storm water program, the NRD would work cooperatively with local developers and others to construct flood control dams at those sites that originally were part of the Corps of Engineers' 1970's Papio Lakes and Tributaries Project, and that are still feasible.

The NRD is seriously considering this program because the NRD has no choice but to do so. The locations that are required for the flood control dam sites soon will be developed for residential, commercial and industrial purposes, and such developments will extinguish the best opportunities to provide Papio Watershed flood protection that the metropolitan area will ever have. The metropolitan area has no time to waste.

The legislature has given the NRDs authority and responsibility over flood control. The metropolitan area now looks to the NRD to provide that flood control, among the many other services that the NRD is expected to perform.

Fortunately, the NRD has been able to provide most of its other services on a pay as you go basis within its annual property tax budget, but for the large sums of money that the contemplated Papio Watershed flood control program will require, the NRD needs a source of revenue, like a storm water utility fee, to fund a part of those costs.

The NRD also needs authority to issue general obligation bonds enabling it to construct the necessary dams at the best sites while they still are available, and spread some of the costs over future property tax levies. The NRD is preparing for the introduction of a bill to provide such general obligation bonding authority, if such authority is not made a part of the storm water legislation.

In closing, it is the view of many that, using one financing method or another, or a combination of financing methods, the Papio Watershed flood control dams must be constructed, and must be constructed now and in the next few years, before it is too late and the sites are gone.

The NRD has proved that it is capable of undertaking such a program. If the Legislature will provide a way for the NRD to raise enough money to finance the NRD's share of the costs, the needed flood protection can be provided.

Thank you.

Following is the language needed for the NRD's to have general obligation bonding authority. This language could be a part of another bill, or could be a free-standing bill:

Sec. 1. In addition to other powers authorized by law, the board of directors of a natural resources district encompassing a city of the metropolitan class may issue negotiable bonds and refunding bonds of the district, entitled flood control project bonds, with terms as determined appropriate by the board of directors, payable from an annual levy upon the taxable value of all taxable property in the district not exceeding ___ cents on each one hundred dollars and not subject to levy limitations specified elsewhere in state statutes, the proceeds of such

bonds to be used to finance rights-of-way and construction costs for flood control dam and reservoir projects within the district. Any funds raised from such special levy shall be placed in a separate sinking fund and shall be used for retirement of such bonds. For the purpose of making partial payments as rights-of-way acquisition and construction progresses, the board of directors may issue warrants having terms as determined appropriate by the board of directors, payable from the proceeds of such negotiable bonds or from such special annual levy. The board of directors may agree to pay fees to fiscal agents in connection with the placement of such warrants or bonds of the district. Such warrants and bonds shall be subject to the same conditions as provided by Section 2-3254.07ⁱ for improvement project area bonds.

ⁱ The text of Section 2-3254.07, cited above, is as follows:

“2-3254.07. Improvement project; issuance of warrants or bonds; conditions.

The following conditions shall apply when the board issues warrants or improvement project area bonds to fund the special benefit portion of a project:

(1) Neither the members of the board nor any person executing the warrants or bonds shall be liable personally thereon by reason of their issuance;

(2) The warrants or bonds shall be a debt of the district only and shall state this on their face;

(3) Warrants and bonds of the district are declared to be issued for an essential public and governmental purpose and to be public instruments, and together with interest and income thereon, shall be exempt from all taxes;

(4) Bonds shall be authorized by a majority vote of the board which shall determine the manner and place of their execution. The bonds may be issued in one or more series and shall bear such a date, be payable upon demand or mature at such a time, bear interest at such a rate, be in such a denomination, be in such form, be payable at such a place, and be subject to redemption prior to maturity upon such a term and with such notice, as the board may direct; and

(5) Bonds and warrants issued pursuant to sections 2-3252 and 2-3254.01 to 2-3254.07 may be sold in any manner and for such price as the board of directors may determine.

Legislature of Nebraska
Ninety xxxxxx Legislature
xxxxx Session
Legislative Bill

Introduced by

Read first time

Committee:

A BILL

FOR AN ACT relating to storm water drainage; to amend sections 18-501 through 18-505 and sections 18-507 through 18-510, Reissue Revised States of Nebraska, and by adding new sections to authorize storm water management programs for cities, counties, and natural resources districts as prescribed; to change provisions relating to sewer system charges and fees; to provide powers; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 18-501, Reissue Revised Statutes of Nebraska, is amended to read:

18-501. (1) Any city or village in this state is hereby authorized to own, construct, equip, and operate, either within or without the corporate limits of such municipality, a sewerage system, ~~including any storm sewer system,~~ including the natural drainage components of such system, or combination storm and

sanitary sewer system, and plant or plants for the treatment, purification, storage, and disposal in a sanitary manner of the liquid and solid wastes, sewage, ~~and~~ night soil, and storm water of such municipality or to extend or improve any existing storm or sanitary sewer system or combination storm and sanitary sewer system, or to establish storm water management programs.

(2) Any city or village shall have authority to acquire by gift, grant, purchase, or condemnation necessary lands therefor, either within or without the corporate limits of such municipality.

(3) For the purpose of owning, operating, constructing, maintaining, and equipping such sewage disposal plant and sewerage system, including any storm sewer system or combination storm and sanitary sewer system, referred to in subsections (1), (2), and (4) of this section, or improving or extending such existing system, any city or village is authorized and empowered to make a special levy of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within any such municipality. The proceeds of the tax may be used for any of the purposes enumerated in this section and for no other purpose.

(4) In the event the present or proposed sewage disposal system or storm sewer system of any city or village does not comply with the provisions of any other law relating to sewer systems, sewage disposal, or water pollution, such city or village shall levy each year a tax of seven cents on each one hundred dollars of

taxable valuation for such purpose until sufficient funds are available for the financing of a system in compliance with law. In the event any city or village is otherwise raising funds for such purpose, equivalent to such a levy, it shall not be required, in addition thereto, to make such levy.

Section 2. Section 18-502, Reissue Revised Statutes of Nebraska, is amended to read:

18-502. For the purpose of owning, operating, constructing, and equipping such sewage disposal plant or sewerage system, including any storm sewer system, or improving or extending such existing system, or establishing storm water management programs and improvements, a municipality may issue revenue bonds therefor. Such revenue bonds, as provided in this section, shall not impose any general liability upon the municipality but shall be secured only by the revenue as hereinafter provided of such utility. Such revenue bonds shall be sold for not less than par and bear interest at a rate set by the city council. The amount of such revenue bonds, either issued or outstanding, shall not be included in computing the maximum amount of bonds which the said municipality may be authorized to issue under its charter or any statute of this state.

Section 3. Section 18-503, Reissue Revised Statutes of Nebraska, is amended to read:

18-503. The governing body of such municipality may make all necessary rules and regulations governing the use, operation,

and control thereof of a disposal plant and sewerage system, including any storm sewer system pursuant to section 18-501. The governing body may establish just and equitable rates or charges to be paid to it for the use of such disposal plant and sewerage system, including any storm sewer system, by each person, firm or corporation whose premises are served thereby. If the ~~service~~ use charge so established is not paid when due, such sum may be recovered by the municipality in a civil action, or it may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other municipal taxes are certified, assessed, collected and returned. Charges to be paid for the use of a storm sewer system shall be proportionate to the storm water contribution of the premises served and based upon sound engineering principles, as determined by the municipality, and may include allowances or adjustments for impervious land surfaces, land uses, and credits for storm water quantity and quality best management practices. A municipality also may establish a system for exemption from storm water charges for user properties exempt from property taxes under §§ 77-202.

Section 4. Section 18-504, Reissue Revised Statutes of Nebraska, is amended to read:

18-504. (1) Revenue bonds which are issued, as provided in section 18-502, shall not be a general obligation of the municipality, but shall be paid only out of the revenue received from the ~~service~~ use charges as provided in section 18-503.

(2) If a ~~service~~ use rate is charged, as a part of the revenue, as provided in subsection (1) of this section, to be paid as herein provided, such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for the payment of the interest on said bonds, and the principal thereof at maturity.

(3) It shall be the duty of the governing body of the municipality to charge rates for the ~~service~~ use of the sewerage system, including any storm sewer system, as referred to in subsection (1) of this section, which shall be sufficient, at all times, to pay the cost of operation and maintenance thereof, and to pay the principal of and interest upon all revenue bonds issued, under the provisions of section 18-502, to pay the cost of development, establishment and implementation of storm water management programs, and to carry out any covenants that may be provided in the ordinance authorizing the issuance of any such bonds.

(4) The holders of any of the revenue bonds or any of the coupons of any revenue bonds, issued under subsection (1) of this section, in any civil action, mandamus, or other proceeding may enforce and compel the performance of all duties required by this section and the covenants made by the municipality in the ordinance providing for the issuance of such bonds, including the making and collecting of sufficient rates or charges for the specified purposes and for the proper application of the income therefrom.

Section 5. Section 18-505, Reissue Revised Statutes of Nebraska, is amended to read:

18-505. For the purpose of providing for such sewage disposal plant and sewerage system, including any storm sewer system, or improving or extending such existing system, any such municipality may also enter into a contract with any corporation organized under or authorized by the laws of this state to engage in the business herein mentioned, to receive and treat in the manner hereinbefore mentioned, the sewage, ~~and~~ night soil, or storm water thereof, and to construct, and provide the facilities and services as hereinbefore described. Such contract may also authorize the corporation to charge the owners of the premises served such a ~~service~~ use rate therefor as the governing body of such municipality may determine to be just and reasonable, or the municipality may contract to pay the said corporation a flat rate for such service, and pay therefor out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract, or assess the owners of the property served a reasonable charge therefor to be collected as hereinbefore provided and paid into a fund to be used to defray such contract charges.

Section 6. Section 18-507, Reissue Revised Statutes of Nebraska, is amended to read:

18-507. Whenever the governing body of any city or village shall have ordered the installation of a sewerage system and sewage disposal plant or the improvement or extension of an

existing system, including any storm sewer system, the fact that such order was issued shall be recited in the official minutes of the governing body. The said body shall thereupon require that plans and specifications be prepared of such sewerage system and sewage disposal plant, including any storm sewer system, or such improvement or extension. Upon approval of such plans, the governing body shall thereupon advertise for sealed bids for the construction of said improvements once a week for three weeks in a legal paper published in or of general circulation within said municipality, and the contract shall be awarded to the lowest responsible bidder.

Section 7. Section 18-508, Reissue Revised Statutes of Nebraska, is amended to read:

18-508. The owner of any sewerage system or sewage disposal plant, including any storm sewer system, provided for in sections 18-501 to 18-507, or the municipality, is hereby authorized to extend the same beyond the limits of the city or village which it serves, under the same conditions as nearly as may be as within such corporate limits and to charge to users of its services reasonable and fair rates consistent with those charged or which might be charged within such corporate limits and consistent with the expense of extending and maintaining the same for the users thereof outside such corporate limits at a fair return to the owner thereof. The mayor and city council of any city or the board of trustees of any village shall have authority to enter into

contracts with users of such sewerage system; PROVIDED, no contract shall call for furnishing of such service for a period in excess of twenty years.

Section 8. Section 18-509, Reissue Revised Statutes of Nebraska, is amended to read:

18-509. (1) The mayor and city council of any city or the board of trustees of any village, in addition to other sources of revenue available to the city or village, may by ordinance set up a rental or use charge, to be collected from users of any system of sewerage, including any storm sewer system, and provide methods for collection thereof. The charges shall be charged to each property served by the sewerage system or storm sewer system, shall be a lien upon the property served, and may be collected either from the owner or the person, firm, or corporation requesting the service. Charges to be paid for the use of a storm sewer system shall be proportionate to the storm water contribution of the premises served and based upon sound engineering principles, as determined by the municipality, and may include allowances or adjustments for impervious land surfaces, land uses, and credits for storm water quantity and quality best management practices. A municipality also may establish a system for exemption from storm water charges for user properties exempt from property taxes under §§ 77-202.

(2) All money raised from the charges, referred to in subsection (1) of this section, shall be used for maintenance or

operation of the existing system, for payment of principal and interest on bonds issued as is provided for in section 17-925, 18-502, 18-506, or 19-1305, or to create a reserve fund for the purpose of future maintenance or construction of a new sewer system for the city or village or to develop, establish, and implement storm water management programs. Any funds raised from this charge shall be placed in a separate fund and not be used for any other purpose or diverted to any other fund.

Section 9. Section 18-510, Reissue Revised Statutes of Nebraska, is amended to read:

18-510. The terms sewage system, sewerage system, storm sewer system, and disposal plant or plants as used herein are defined to mean and include any system or works above or below ground which has for its purpose any or all of the following: The removal, discharge, conduction, carrying, treatment, purification, storage, or disposal of the liquid and solid waste, and night soil, and storm water of a municipality. It is intended that sections 18-501 to 18-512 may be employed in connection with sewage projects which do not include the erection or enlargement of a sewage disposal plant.

Section 10. Adding a new section: The provisions of §§ 18-501 through 18-512 which authorize a municipality to establish use charges based upon impervious land surface and land uses for the use of a storm sewer system and the development, establishment and implementation of storm water management programs shall be

applicable only to cities of the metropolitan, primary or first class which are required by federal law to develop, establish and implement storm water management programs and secure a National Pollution Discharge Elimination System (NPDES) storm water discharge permit.

Section 11. Adding a new section: A county, by resolution of its county board, may establish storm water management areas and implement storm water management programs within the county. For the purpose of funding the cost of capital improvements and paying the operational and maintenance costs of a county storm water management program in a storm water management area, a county, encompassing a city of the primary or metropolitan class, a county encompassing a city of the first class that is required by federal law to have a storm water management program, or a county that is required by federal law to have its own storm water management program, by resolution of its county board, may adopt a system of storm water management charges to be charged against real property in such storm water management area, and may issue revenue bonds or refunding bonds payable from the proceeds of such charges, all upon such terms as the county board, by resolution, determines reasonable. Such charges shall be designed to be proportionate to the storm water run-off contribution of such real property and based upon sound engineering principles that may include factors such as impervious surface area and land uses. Such charges shall be collected in the same manner as ad valorem taxes

or in such other manner as the county board determines appropriate, and shall not be deemed to be special benefit assessments. The county board shall provide an appeals process for aggrieved parties. A county shall not impose storm water management charges against real property that is being charged with storm water management charges by a city of the primary or metropolitan class or by a city of the first class that is required by federal law to have a storm water management program. Any funds raised from the charges authorized by this section shall be placed in a separate fund and not be used for any purpose other than for storm water management programs.

Section 12. Adding a new section: A natural resources district, by resolution of its board of directors, may establish storm water management areas and implement storm water management programs within the district. For the purpose of funding the cost of capital improvements and paying the operational and maintenance costs of a district storm water management program in a storm water management area, a natural resources district encompassing a city of the primary or metropolitan class, or encompassing a city of the first class or county that is required by federal law to have a storm water management program, by resolution of its board of directors, may adopt a system of storm water management charges to be charged against real property in such storm water management area, and may issue revenue bonds or refunding bonds payable from the proceeds of such charges, all upon such terms as the board of

directors, by resolution, determines reasonable. Such charges shall be designed to be proportionate to the storm water run-off contribution of such real property and based upon sound engineering principles that may include factors such as impervious surface area and land uses. Such charges shall be collected in the same manner as ad valorem taxes or in such other manner as determined appropriate by the board of directors, and shall not be deemed to be special benefit assessments. The board of directors shall provide an appeals process for aggrieved parties. A district shall not impose storm water management charges against real property that is being charged with storm water management charges by a city of the metropolitan or primary class, by a city of the first class that is required by federal law to have a storm water management program, or by a county encompassing any such city or that is required by federal law to have a storm water management program. Any funds raised from the charges authorized by this section shall be placed in a separate fund and not be used for any purpose other than for storm water management programs.

Section 13. Adding a new section: Agricultural property, as defined in § 77-1359 shall be exempt from the imposition of charges for storm water management programs when such charges are based upon impervious land surfaces and land uses as authorized herein.

Section 14. If any section of this act or any part of any section is declared invalid or unconstitutional, the

declaration shall not affect the validity or constitutionality of the remaining portions.

Section 15. Original sections 18-501 through 18-505 and sections 18-507 through 18-510, Reissue Revised Statutes of Nebraska are repealed.

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To: Steven G. Oltmans, General Manager
Papio-Missouri River Natural Resources District

Date: July 20, 2004

Subject: Papio Watershed flood control dam and reservoir general obligation bond
draft legislation

Following is a first draft of the legislation you requested:

Sec. 1. In addition to other powers authorized by law, the board of directors of a natural resources district encompassing a city of the metropolitan class may issue negotiable bonds and refunding bonds of the district, entitled flood control project bonds, with terms as determined appropriate by the board of directors, payable from an annual levy upon the taxable value of all taxable property in the district not exceeding ___ cents on each one hundred dollars and not subject to levy limitations specified elsewhere in state statutes, the proceeds of such bonds to be used to pay rights-of-way and construction costs for flood control dam and reservoir projects within the district. Any funds raised from such special levy shall be placed in a separate sinking fund and shall be used for retirement of such bonds. For the purpose of making partial payments as rights-of-way acquisition and construction progresses, the board of directors may issue warrants having terms as determined appropriate by the board of directors, payable from the proceeds of such negotiable bonds or from such special annual levy. The board of directors may agree to pay fees to fiscal agents in connection with the placement of such warrants

or bonds of the district. Such warrants and bonds shall be subject to the same conditions as provided by Section 2-3254.07¹ for improvement project area bonds.

Sec. 2. Such a district may enter into cost-sharing agreements with landowners, developers and other cooperators in connection with such dam and reservoir projects, such agreements to contain such terms and conditions as the board of directors, after a public hearing, determines reasonable and in the public interest.

Sec. 3. In such a district's acquisition of rights-of-way for flood control dam and reservoir projects, the amount of any increase in the fair market value of a landowner's remainder resulting from the proximity of the reservoir, or resulting from the landowner's retention of direct access to the reservoir for recreational purposes or retention of other benefit not enjoyed by the public at-large, shall offset severance damages in such amount due to the landowner from the acquisition of such rights-of-way.

Sec. 4. The board of directors may determine that offsetting benefits retained by landowners are only incidental, and that such flood control dam and reservoir are of general benefit to a district and may be carried out with any funds of the district.

¹ The text of Section 2-3254.07, cited above, is as follows:

"2-3254.07. Improvement project; issuance of warrants or bonds; conditions.

The following conditions shall apply when the board issues warrants or improvement project area bonds to fund the special benefit portion of a project:

(1) Neither the members of the board nor any person executing the warrants or bonds shall be liable personally thereon by reason of their issuance;

(2) The warrants or bonds shall be a debt of the district only and shall state this on their face;

(3) Warrants and bonds of the district are declared to be issued for an essential public and governmental purpose and to be public instruments, and together with interest and income thereon, shall be exempt from all taxes;

(4) Bonds shall be authorized by a majority vote of the board which shall determine the manner and place of their execution. The bonds may be issued in one or more series and shall bear such a date, be payable upon demand or mature at such a time, bear interest at such a rate, be in such a denomination, be in such form, be payable at such a place, and be subject to redemption prior to maturity upon such a term and with such notice, as the board may direct; and

(5) Bonds and warrants issued pursuant to sections 2-3252 and 2-3254.01 to 2-3254.07 may be sold in any manner and for such price as the board of directors may determine.