



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: April 7 NARD UPDATE

Session Nearing the Close – The 2006 60-day working session is scheduled to end on Thursday, April 13th. The tentative schedule was to end on April 12th, but lawmakers missed a day in late March due to a blizzard. Thus, the “snow day” was added back to use the full 60 days allowed under the Nebraska Constitution. There are four working days left in the session.

McConaughy Refilling Without Extensive Groundwater Regulations – Reports from federal regulators indicate the snow-pack in the upper North Platte River in Wyoming is at 110 percent of average. Federal, state and local water officials are estimating that much snow-pack means Panhandle surface-water irrigators will get a full supply this year from the Wyoming reservoirs on the North Platte basin. Further the same officials estimate that McConaughy could be back to normal in just two years if wetter seasons continue. That would be four years after lake levels bottomed out - two years faster than it took McConaughy to recover after its previous historic low in 1956 which was prior to groundwater irrigation development. For several years, CNPPID and others have claimed the groundwater irrigators have caused the depletion, while at the same time draining the lake to provide full surface water allocations every year except for one. The integrated management plans for groundwater regulations are not in place as of yet and probably will not be for two more years, about the time Big Mac is estimated to be full. This makes one wonder whether the 6-year drought has more impact on the level of the lake than groundwater use in the basin.

Requiring Public Access on Private Lands – Earlier this week, senators gave first round approval of the Judiciary Committee’s second Priority Bill, LB 1113, that included 11 legislative bills. Of these, 10 deal with criminal codes and other related legal matters. However, the committee also included LB 784 requiring private lands that have received NRD cost-share for water projects are open to public access. Members of the committee were lead to believe that the NRDs had approved the compromise language brought to them. However, that is not the case. The NRDs are trying to work out some language that will work, but want to make sure the existing and adjoining landowners are protected from trespass. It was brought to the attention of several lawmakers that the bill is designed to stop NRD flood control structures.

Thus, Senator Schrock filed 9 amendments to the bill as follows: 1) AM 3114 – Strike sections 13-18. 2) AM 3138 – Authorize General Obligation Bonds for Metropolitan districts to finance flood control projects and an additional 2-cent levy to pay the bonds. 3) AM 3120 – Alternative language from the PMNRD to address the public access issue. 4) AM 3117 – Increases the size of the minimum flood control project from 150 acres to 250 acres. 5) AM 3115 – Requires a contract between the developer(s) and the NRD to include language to require public access at NRD designated access points. 6) AM 3119 – No public access would be required when the NRDs portion of the cost is only for flood control. 7) AM 3118 – Requires that access points to the project to not interfere with the right of protection against trespass of the private property owners. 8) AM 3135 – Strikes sections 13-18 and inserts new language to create the Flood Control and Recreation Project Funding Task Force to look a several issues, including, but not limited to, financing, public access, protection of private property rights. 9) AM 3116 – Strikes the new language requiring the cities to also require recreation access.

Monday’s agenda does not include LB 1113, which leaves only three days in the session to resolve the issue.

LB 1226 & 1226 A Sent to Final Reading – Senators advanced LB 1226 and LB 1226 A to Final Reading this week after debating six amendments. Senator LeRoy Loudon offered an amendment to remove the new NRD levy authority (Originally LB 971) but it only received 3 votes. Senator Langemeier offered another amendment to put into statute that no general funds could be used for stormwater and DNR water programs after 2008, but it only received 11 votes.

There were two amendments, rather technical in nature, that were adopted. The first was to exempt the uranium mine wells from integrated management laws since they are under tight regulation already and there is little, if any consumption use in

the process. The second was to codify the language in LB 1226 to the language in LB 508 that has already been approved by the Governor. Since LB 508 had already been approved by the Governor, the old statutes in LB 1226 needed to mirror those changes.

Two other amendments were offered but later withdrew before a vote as follows: 1) Conservation easements from Beutler that lost on the general file debate and 2) Eliminate the engineering requirement for the DNR Director by Senator Kremer. Senator Chambers promised to filibuster LB 1226 if Senator Kremer took his amendment to a vote.

Several bills are included in LB 1226 as follows: 1) LB 1081 -- Allow limited right of entry to weed control authorities to carry out the projects targeting specific weeds; 2) LB 971 -- Increasing the NRD levy authority in fully and over-appropriated river basins for water management authorities; 3) LB 1097 -- Establish a \$2.5 million/year Stormwater Management Plan Program grant programs for municipalities; 4) LB 933 -- Provide a limited exemption for municipal and industrial water users in fully and over-appropriated basins, and 5) LB 805 -- Create an oversight program under the Natural Resources Commission to allocate \$2.5 million/year to the commission as cost-share with NRD for water management activities. Local NRDs would need to match at least 20 percent.

Also advanced to Final Reading was LB 1226A, to appropriate \$2.5 million/year for NRD water management programs to be managed by the Natural Resources Commission and \$2.5 million/year for Stormwater Programs to be managed by the Department of Environmental Quality.

LR 259 CA, Increase Funding to Compulsive Gamblers – A constitutional amendment, LR 259 CA, to double the amount of lottery proceeds that go to the Compulsive Gamblers Assistance Fund was approved on Final Reading this week 38-2-9, and will be on the November 2006 ballot. An amendment was again offered on Select File to provide the Nebraska Environmental Trust with exclusive authority to oversee the at least 90 percent of the portion of the funds going to NETF, but it failed on a 23-11 vote. If LR 259 CA is approved by the voters in November, \$1 million will go the Compulsive Gamblers Assistance Fund and the NETF will forgo an additional \$240,000 annually to compulsive gambling assistance. In 2004, Nebraska voters approved changes to the distribution of the lottery proceeds, granting \$2 million to the Nebraska State Fair, \$500,000 to compulsive gambling, and the balance of the net proceeds (about \$15-20 million) to be split between education and the NETF. The NETF gave up almost \$1 million in annual funding to the Nebraska State Fair, in turn to be recognized in the Nebraska Constitution.

LB 898, Open Meetings Law Approved – Lawmakers gave final approval on a 41-0-8 vote this week to open meeting law changes. After the compromise amendment was adopted on Select File, the final version includes five changes to open meetings laws: 1) Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting; 2) Motions to close a public meeting must include the subject matter and the reason necessitating the closed session shall be identified in the motion; 3) If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session; 4) Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information, and 5) Attendees who don't object when the meeting is closed can later challenge the closing in court.

Ground Water Investigations at Feedlots: NDEQ is working with cattle producers at nine locations in eight different counties to document the impact of those facilities on ground water quality. The feedlots are in Box Butte, Brown, Buffalo, Cuming, Kearney, Lincoln, Merrick (two locations), and Phelps Counties. Past ground water monitoring has indicated that these operations have had an impact on levels of ammonia, nitrate, or chloride in the shallow ground water, however no public or private drinking water supplies have been affected. Over the next several months NDEQ will be working with the producers as they identify the extent of the impact as well as what measures can be implemented to address the problem. NDEQ will also be meeting with the Nebraska Cattlemen to discuss ongoing efforts to address ground water concerns at livestock facilities.

Appropriations Bill and Vetoes – Governor Heineman vetoed \$22 million from the budget bill, LB 1060, most from the Health and Human Services provisions. The only veto relating to natural resources was about \$23,000 for additional DNR personnel insurance costs. The Appropriations Committee only recommended restoring funding to HHS Public Health Aid and Qualified Health Centers, which was successful 41-0-8.