



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: February 10 NARD UPDATE

From the “Did you Know” File – When state senators were doing research on the eliminating the engineering degree requirement for the Director of Natural Resources, they came across an interesting fact that the Director of the Department of Roads, who is also the State Engineer, does not have to be an engineer. Rather the statute treats the State Engineer position like a CEO of a company and allows that individual to hire the staff necessary to do the task. Supporters of eliminating the engineering requirement for the Director of Natural Resources have argued that the Governor should be able to select any individual that is competent for the position without being limited to an individual with an electrical or industrial engineering degree.

Natural Resources Committee Priority Bill – The Natural Resources Committee selected LB 933 as its second priority bill. Each committee is allowed to pick two priority bills for this session. The committee’s first priority bill is LB 975, a livestock waste bill, which is on Select File.

The proposal of LB 933 includes: 1) Eases the restriction of use of specific cost indexes for adjustments to the cost of building development fund projects; 2) Corrections to dates, notifications, filings for surface water transfers and adjudications; 3) Clarification to public notices and hearings on review of instream flow rights; 3) Eliminates the reference to the Water Task Force finishing it’s work by a date certain and allows it to continue to function as authorized by the Legislature; 4) Imposes a 60-day time frame for water well contractors to submit notices to DNR of installations and modifications to wells; 5) Requires municipalities to also notify the affected NRDs and adjoining landowners when they decide not to use a previously determined tract of land for a wellfield; 6) Adds irrigation efficiency and conservation of groundwater to the list of best management practices; and 7) Provides an exemption for municipalities from allocation restrictions imposed after November 1, 2005. The committee amendment to LB 933 also includes provisions of **LB 805**, a bill to create the Interrelated Water Management Plan Program to facilitate and fund projects. The program will function as a grant program and be administered by the Nebraska Natural Resources Commission and funds administered by the Department of Natural Resources. The commission will develop the guidelines and limitations for grant requests. A minimum of 20% local matching funds is required. Creating this program fixes a structural problem with appropriations to water management funds. Funds have been created in the past but did not have a program associated with it. The committee will add this language to another bill this session.

New Funding Bill for Water Programs – Senator Schrock introduced LB 933A , which proposes an appropriation of \$5 million/year toward water management programs for FY05-06 and FY06-07. This is similar language as LB 1077, which is before the Appropriations Committee. By introducing an “A Bill”, Senator Schrock can get the issue before the Legislature by following LB 933, which makes several changes to water management statutes. State senators will still have to support the funding levels at each round of debate. The definition of an "A Bill" is a bill to appropriate funds to finance another bill bearing the same number.

Hearings this Week – *Several NRD Managers provided testimony before the Legislature this week as follows:*

LB 1226 -- Stan Staab, Lower Elkhorn NRD Manager, Ron Bishop, Central Platte NRD Manager, John Miyoshi, Lower Platte North NRD Manager and Clint Johannes, Director, Lower Platte North NRD, provided testimony in support of LB 1226, which changes provisions relating to instream appropriations, ground water, and management areas. The concepts included the bill was supported by Nebraska Farm Bureau and the League of Municipalities. Letters of support were offered by the Upper Big Blue NRD and Upper Elkhorn NRD. Several groups testified in opposition to the bill, but

would not object to a few of the items in the bill if language could be worked out. NARD is working with the interested parties on language to address concerns raised. No action has been taken on the bill. Here is a summary of the bill:

- First, the bill requires water for instream flow to be in the public interest if the flow rate is available 85 percent of the time. This is a similar standard to water rights granted for other purposes. Changes made with LB 962 in 2004 now allow natural resource districts to manage for instream flows. Flow rights granted that are only there 20 percent of the time would be difficult, if not impossible, to manage for as all other water uses could be shut down and still not make the flows available 85-100 percent of the time.
- Second, the bill would allow natural resources districts to request the Department of Natural Resources to call for a stay on issuance of surface water rights in an area, basin, sub basin or reach of a ground water management area of an NRD if they have one or more of the following controls (1) Allocations, (2) Reduction in irrigated acres, (3) Limit or prevent expansion of irrigated acres. or (4) Imposed a moratorium on well drilling
- Third, the bill would require the data used in reports from the department on determinations of a basins fully appropriated status to ensure that the conclusions and results contained in the report are accurate to a reasonable degree of scientific certainty.
- Fourth, the bill clarifies that an evaluation be done rather than a determination of the department on existing uses to determine fully appropriated status. It also eliminates the term "reasonably foreseeable future" and replaces it with a specific 10-year time frame for the evaluation period. Again the evaluation results would have to ensure that all results and conclusions be verified and are accurate to a reasonable degree of certainty.
- Fifth, the proposal would require the department to notice districts by certified mail of determinations made. Existing law just states the districts will be noticed but does not outline a procedure.
- Sixth, the bill clarifies that well permits existing prior to a determination could be completed but would be subject to conditions imposed by the district. Further, wells would have to be completed within the existing one-year time frame allowed under the permit (46-738)
- Finally, water not hydrologically connected would be exempt from regulation unless required by a compact or the local natural district chooses to add all users within the district boundary to the management plan. The bill also clarifies that an area water use would be subject to only one management plan.

LB 848 - John Thorburn, manager of the Tri-Basin NRD, presented testimony in support of LB 848, which mandates ethanol fuel in Nebraska. No action has been taken on the bill.

Hearings Next Week

Monday, February 13, 2006

General Affairs, Committee Room 1510, 1:30 p.m.

LR 259CA – Constitutional amendment to change distribution of state lottery funds

Wednesday, February 15, 2006

Judiciary, Committee Room 1113, 1:30 p.m.

LB 799 – Place restrictions on the use of eminent domain

LB 910 – Provide restrictions on the use of eminent domain

LB 924 – Change provisions of the Community Development Law and restrict the use of eminent domain

LB 1252 – Change eminent domain procedures

Natural Resources Committee, Room 1525, 1:30 p.m.

LB 1225 – Change provisions relating to hydrologically connect water

Thursday, February 16, 2006

Natural Resources, Committee Room 1525, 1:30 p.m.

LB 938 – Provide for personal notice and recording of wellhead protection area boundaries and controls

LB 1076 – Change the Nebraska Environmental Trust Board membership