

Another record year for sales of conservation trees

Almost 400,000 conservation trees and shrubs are being planted this spring in the North Platte NRD.

The NRD has received seedlings from nurseries and has begun planting, according to Roy Lyles, Soil Conservation Coordinator at the NRD. It has been a great tree planting season so far, he said, with several timely rain and snow storms providing needed moisture in many areas.

The North Platte NRD sold about 394,000 trees for this spring's planting season. The NRD is planting a portion of those, but the majority are being planted by contractors and landowners. Most of the trees in stock have been sold, but there were a small number remaining available as of late April, mostly cedars, junipers and shrubs.

The strong interest in planting trees and shrubs has been boosted by federal programs such as the Continuous Conservation Reserve Program (CCRP), a voluntary USDA program that provides annual payments, cost-share and incentive payments to reimburse program participants for up to 90 percent of their costs to establish certain high-priority, long-term, resource-conserving practices on eligible land.

Once planting has been completed, it is time to start planning for next year. Anybody who wants to plant conservation trees in 2005 should contact the NRD this summer or fall to plan and prepare a planting site and order trees, according to Lyles.



NPNRD employees, such as technician Mike Donley, have been busy unloading shipments of seedlings from nurseries and storing them in the NRD tree coolers.

Jackson of the North Platte NRD. "There's also an opportunity for education and community involvement for the volunteers. Local citizens can help, and with minimal effort can gather vital data about local storms not available from any other source."

Each participant will receive a new, high-quality backyard rain gauge and reporting forms. The goal is to establish at least one volunteer in every township throughout the NRD. After volunteers are selected, the NRD will provide a brief training session. The data will supplement information already provided by the National Weather Service and will improve daily decision-making information for agriculture, industry, home water use, utility providers, insurance companies, resource managers and educators.

Precipitation reports from volunteers will be transmitted via the internet or telephone to the Nebraska Department of Natural Resources each day. NeRain information will be updated daily and available for public access on the World Wide Web at <http://dnrdata.dnr.state.ne.us/NeRAIN>.

To volunteer, contact Greg Jackson at the North Platte NRD at 308-436-7111.

Meter maintenance for Pumpkin Creek Basin

The North Platte Natural Resources District is contracting with a Grand Island firm to perform the flow meter reading, service and repair in Pumpkin Creek Basin Groundwater Management Sub-Area. The board voted in February to contract with Tri City Meters for three years.

The contract calls for Tri City to read and inspect each flow meter in Pumpkin Creek Basin once a year. In addition, one-third of the meters will be serviced each year.

During the inspection process a meter is inspected for moisture, lubricated, checked for excessive wear to the bearings or unusual wear, debris or broken blades on the impeller; reinstalled, aligned and sealed with a lead seal. Saddle gaskets will be replaced if necessary, and the correction operation of the totalizer will be verified. The North Platte NRD will pay for reading, inspection and service.

When meters malfunction, the owner may have repairs performed by a qualified service person of their own choosing, or have Tri City perform the work. The NRD will be responsible for labor costs and landowners for parts.

Crews from Tri-City Meters might be in Pumpkin Creek Basin this spring to locate all flow meters and perform the maintenance work on some of the meters, according to Ron Cacek, general manager of the North Platte NRD.

Stock wells a priority for cost share

In response to drought-related hardships felt by livestock producers, the North Platte NRD Board of Directors has voted to give replacement of livestock wells a high priority in the NRD's Conservation Cost-Share Program.

The board voted in April to accept applications for range livestock wells for the limited funds that remain in the Fiscal Year 2004 Cost-Share budget. Program guidelines provide a cost-share rate of 50 percent for wells, pipeline and stock tanks.

To apply for the funds, a landowner (or a tenant with power of attorney) should contact the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) service centers in Scottsbluff, Harrisburg, Bridgeport or Oshkosh. Applications must be approved by the NPNRD board before the work can proceed.

Flow meter funds still available

The North Platte NRD has cost-share funding available for landowners who want to install flow meters.

The flow-meter cost-share funds originate from a different source than the other conservation practices funded by the District Cost-Share Program. As long as this money is available, cost-share applications will be funded, and the priorities established for other cost-share practices do not apply to flow meters.

Irrigators are not required to use flow meters in most areas of the North Platte Valley. Exceptions are the Lisco-Oshkosh-Lewellen Groundwater Management Sub-Area and the Pumpkin Creek Basin Groundwater Management Sub-Area. However, flow meters are always a useful management tool for irrigators. Flow meters give irrigators several advantages in managing water:

- They indicate whether an irrigation system is operating the way it is supposed to be.
- They provide information vital to good management, such as how much water has been applied, to avoid over-watering or under-watering.

To apply, contact an USDA Service Center in Scottsbluff, Bridgeport, Harrisburg or Oshkosh. Applications must be approved by the NPNRD Board before the flow meters are purchased or installed.

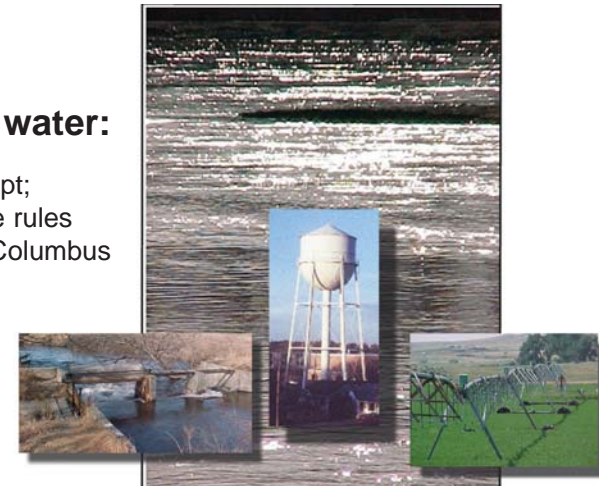


Integrated management of water:

North Platte NRD considers the concept; Meanwhile, new law would change the rules for the Platte River from Wyoming to Columbus

What is integrated management?

In Nebraska, surface water and ground water are governed by two separate legal doctrines. Yet in many river basins, surface water in the river or stream is hydrologically connected to water under the ground. Use of ground or surface water may affect the availability of water for others. Integrated management recognizes this connection.



Surface water: First in time, first in right

What is surface water? The water in the state's natural streams or lakes.

Who can use it? Any person who wishes to divert and use the waters of a natural stream or lake must first get a permit or water right from the Department of Natural Resources. Currently, there is a moratorium on surface water appropriations for the entire Platte River Basin upstream of the Loup River (near Columbus), as well as the Niobrara River above Box Butte Reservoir, the White-Hat Basin, Lodgepole Creek, and the Republican River Basin.

Who regulates it? The Nebraska Department of Natural Resources has jurisdiction over all matters pertaining to surface water, rights for storage, irrigation, power, manufacturing, instream flows and other beneficial uses. This includes the distribution of available supply during times of water shortages and adjudication of established water rights.

Are there limits on the use? Holders of water rights must use the water in accordance with the provisions written on the permit. Failure to so use the water will result in the Department conducting a hearing to cancel or annul the permit. Irrigators are limited to diverting certain amount of stream flow for each acre of irrigated land allowed by their permit.

What happens in times of shortage? DNR orders owners of the most recent water rights to stop using water, until there is enough water for the remaining users. Those with the oldest water rights are shut off last.

Ground water: Share and share alike

What is groundwater? Water which occurs in or moves, seeps, filters or per-

colates through ground under the surface of the land.

Who regulates it? Nebraska is divided into 23 natural resources districts (NRDs). A natural resources district may regulate the use of groundwater within its boundaries subject to state statute.

Who can use it? Statute says, "Every landowner shall be entitled to a reasonable and beneficial use of the ground water underlying his or her land subject to (the state's groundwater laws) and the correlative rights of other landowners when the ground water supply is insufficient for all users." Historically, all that was necessary was for a landowner to obtain a permit to drill a well from the NRD; register the well with the Department of Natural Resources once it has been drilled; and then began using it. The state or an NRD can order that the use of any well be stopped if the well is illegal (if it violates state laws or rules and regulations of the state or the local NRD.) In some areas of the state, natural resources districts have established temporary or permanent moratoriums on permits to drill new wells. These include the entire Platte Basin upstream from Columbus, the Upper-Niobrara-White Basin, the Republican Basin.

Are there limits on the use? Only where limits have been established by the local NRD, or in some cases by interstate agreements governing the use of water in a river basin. To regulate the use of groundwater, an NRD must establish a groundwater management area. Management areas may be established to reduce or eliminate problems with groundwater quality or groundwater quantity, or conflicts between surface water appropriators and groundwater users.

What happens in times of shortage? If an NRD has established a groundwater management area, it may implement regulatory controls provided by state statute, including allocation, reduction in irrigated acres, or rotation, or other methods.

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However, any control must apply equally to all groundwater users, whether their well is one year old or 50 years old.

Integrated Management: Shared authority

Since 1996, Nebraska water law has recognized that groundwater and surface water are sometimes hydro-

logically connected, even though they may be governed by different statutes.

When conflicts arise as a result of demands on connected surface water and ground water, the law authorizes establishment of a joint action plan. A joint action plan is developed jointly by the local NRD, which is responsible for regulation of groundwater, and the Department of Natural Resources, which is responsible

for regulation of surface water.

In 2002, the North Platte NRD initiated the process of developing a joint action plan for integrated management. In 2004 the Legislature passed, and the governor signed, Legislative Bill 962, a major reform of the water law that would affect the North Platte NRD's process. This is described in more detail below.

Integrated Management: Why the NRD initiated the process

Legislative Bill 962 became state law in mid-April. It will mandate the development of integrated management plans in much of the Platte River Basin, including parts or all of the North Platte NRD.

But the North Platte NRD began considering an integrated management plan in 2002, more than 18 months before the new law took effect.

At that time, existing law provided for establishment of integrated management in areas where the use of hydrologically connected groundwater and surface water resources was contributing to, or was likely to, contribute to, conflicts between groundwater users and surface water appropriators, disputes over interstate compacts, or decrees, or difficulties fulfilling formal state contracts.

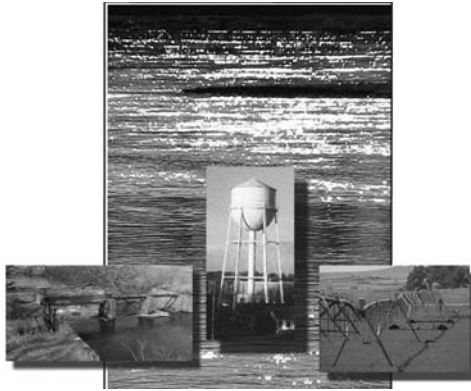
In much of the North Platte Valley, there is a direct connection between groundwater and surface water. Seepage from irrigation canals helps recharge underground aquifers. This groundwater eventually empties back into tributaries or to the North Platte River itself. But this hydrologic system can get out of balance if there is less recharge from canals, or if there is more pumping of underground water. Partly because of the drought, both have occurred in the past few years.

In some areas, wells appear to be intercepting groundwater before it reaches a stream. The result: declining water tables, lower stream flows or dry stream beds, and less water for surface water irrigation.

The NRD received numerous reports from constituents indicating conflicts or potential conflicts between water users.

Beginning in early 2002, the NRD received dozens of reports from people who reported running out of water. Rural home owners' wells are pumping air. Ranchers have to drill new wells so their cattle can drink. Streams that once flowed through farms are just a trickle, or have gone dry. In a few cases, high-capacity, deep irrigation wells have begun pumping air.

Subsequent to the board's initial action, in 2003, the NRD received complaints from landowners along Dry



and Wet Spotted Tail Creek north of Mitchell about declining stream flows. Some of the landowners were unable to use water rights to irrigate out of Dry Spotted Tail. The landowners felt that the declining stream flows were the result of center pivot irrigation development near the creek.

Also in early 2003, the NRD heard complaints from landowners in northern Morrill County, who reported that wet meadows and lakes were going dry, and problems were being experienced with some wells. The landowners felt that the problems were the result of center pivot development in the area.

The Process So Far:

September 5, 2002: The NRD sent a letter to the Department or Natural Resources requesting that the Department, along with affected appropriators and surface water sponsors, consult with the District and conduct studies and a hearing on the preparation of a joint action plan for the integrated management of hydrologi-

cally connected ground water and surface water in the NPNRD.

November 1, 2002: DNR Director Roger K. Patterson responded in a letter indicating his preliminary determination that there is a reason to believe that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to conflicts between ground water users and surface water appropriators.

November 1, 2002: NPNRD, following a public hearing, adopted a temporary suspension of the drilling of new wells over 50 gallons per minutes until November 1, 2005.

November 2002 – February 2004: DNR, in cooperation with the NRD and other agencies, conducted a study to determine the causes of the conflicts and the extent of the area affected. On February 27, 2004, the Director issued the written report entitled "A Report of Preliminary Findings from a Study of

Hydrologically Connected Ground and Surface Water and its Contribution to Conflicts between Ground Water Users and Surface Water Appropriators in the North Platte Natural Resources District." The report contained the following preliminary findings (which have since been declared final):

- In most years numerous surface water appropriators in the North Platte Natural Resources District are regulated or shut off because of insufficient flow in the North Platte River and its tributaries.

- In 1993, the Department of Water Resources placed a moratorium on issuing new surface water permits in the North Platte River Basin because of insufficient unappropriated water.

- The ground water aquifers throughout the North Platte Natural Resources District are hydrologically connected to the North Platte River and its tributaries.

- Current uses of that hydrologically connected ground water are causing depletions to stream flows of the North Platte River and/or its tributaries and any increase in consumptive use of water in these aquifers will cause further depletions to stream flows of the North Platte River and/or its tributaries.

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- Any such increased depletion will further decrease already over appropriated stream flows and cause additional conflicts between surface water appropriators and ground water users, both within the North Platte Natural Resources District and downstream of the District.

- The use of hydrologically connected ground water and surface water resources in the NPNRD, excluding the area along Pumpkin Creek because it is already within an integrated management area, is contributing to and in the reasonably foreseeable future is likely to continue to contribute to conflicts between ground water users and surface water appropriators and that conflicts between ground water users and surface water appropriators could be eliminated or reduced through the exercise of the authority of subsection (5) of Section 46-656.28 of the Nebraska Revised Statutes.

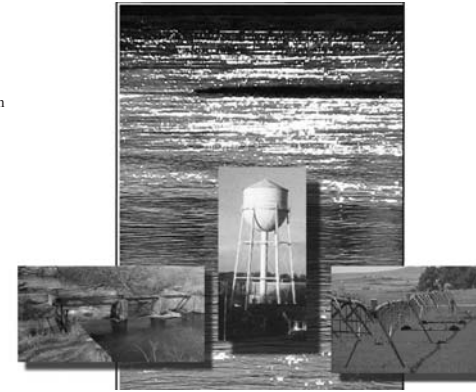
March 18, 2004: DNR conducted a public hearing on the study's findings at Scottsbluff. All those present at the hearing were given an opportunity to testify.

March 26, 2004: In a letter to NPNRD board chairman Jim Olson, the DNR's Patterson wrote, "I have considered all the testimony and other evidence presented at that hearing and have concluded that no further studies or investigations need to be conducted by me or on my behalf at this time. No changes have been made in the February 27, 2004 report and the preliminary findings and conclusion in that report are now considered final. In my opinion, it is therefore appropriate for our department and your district to proceed with the joint planning process authorized by Section 46.656-28."

What's Next

Within 90 days of the hearing (by June 16, 2004), the NRD board of directors is required to adopt an order deciding whether or not to proceed with the process.

Meanwhile, the NRD board plans to continue to meet with DNR representatives and a 14-member stakeholders group representing groundwater irrigators, surface water irrigators, industries, livestock feeders, municipalities,



counties, environmental, economic development, the financial segment, and Sand Hills ranchers.

The stakeholders, NRD and DNR have met six times since the fall of 2003 to formulate goals and objectives for a potential integrated management plan. The group also has discussed management alternatives, and a potential timetable for an integrated management plan.

Legislative Bill 962 changes the rules

With the passage of Legislative Bill 962 and its signature by the governor on April 15, the statutory procedure for establishing integrated management areas will change.

The main change is the implementation of a proactive process in which the Director of Natural Resources will review data from all river basins and determine annually which river basins are fully appropriated or over-appropriated.

Under the new law, both fully and over-appropriated basins must have moratoriums. This would mean no new surface water rights, no construction of new wells, no increase in irrigated acres.

Under the new law, the North Platte NRD will be considered fully appropriated because it is involved in an

active planning process under current law for integrated management. As such, the law requires that the NPNRD and DNR will prepare a Joint Action Plan. If the NPNRD and DNR disagree, the dispute goes to an Interrelated Water Review Board established by the new law to resolve disagreements.

By September 15, 2004, the Director of Natural Resources will have to designate any over appropriated basin, sub-basin or reach in the state. By definition in the bill, the Platte River upstream of Elm Creek will be considered over-appropriated. An over-appropriated basin is one where the extent of development is not sustainable over the long term. In other words, the already permitted uses are in excess of what can be supported by the water supply over the long term.

At the time of designation, the Director will have to determine what portions of the basin have hydrologically connected resources for which the integrated management plan will need to be developed.

It is not yet known whether all of the North Platte NRD or just a portion of it will fall into the over-appropriated category.

By statute, a key goal of each integrated management plan will be to balance all hydrologically connected groundwater and surface water for the purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety and welfare of the basin can be achieved and maintained for both the near term and the long term.

In the over-appropriated portions of the basin, the goal will have to be to restore, in an incremental manner, that basin to the fully appropriated status.

Because the Platte Basin upstream of Elm Creek involves several NRDs in addition to the North Platte NRD, an overall basin-wide plan will also have to be developed in cooperation with all NRDs and the department.

Working with the stakeholders and DNR staff, the North Platte NRD Board has begun drafting a tentative goal for a joint action plan and a rough outline of what such a plan might look like. As drafted, the tentative goal and outline would comply with provisions of the new law.

However, much work remains to be done before a final plan would be prepared.

Resources

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