

The Communicator

Published by The Central Nebraska Public Power and Irrigation District

Central, senators work on board representation bill

Sen. Matt Williams of Gothenburg (Dist. 36 of the Nebraska Legislature) introduced LB1136 during the current Legislative session on behalf of The Central Nebraska Public Power and Irrigation District.

LB1136 is a bill to prescribe when an interest in a contract is prohibited and eliminate a prohibition against such interest by a public power and irrigation district board member. More to the point, the bill will permit members of a public power and irrigation district's board to represent the interests of their constituents when it comes to discussing and providing input on matters related to standard form water service agreements and lot leases at District-owned property near Johnson Lake and Lake McConaughy.

To better understand the bill's intent, background on the issue is necessary.

About two years ago, during the process of discussing the terms of lot leases for homes/cabins at lakes owned by Central, an inquiry was made by a third party as to whether or not two

members of Central's board of directors who own homes at Johnson Lake could participate in discussions about the leases, and vote in favor of, or against, the final lease agreement.

The two members of the board with leases at the lake did participate in discussions about the lease proposal – after all, they were elected to their positions largely because of the fact that they owned homes at the lake and would represent their constituents' best interests, as well as those of the District – but they abstained from voting on the final long-term lease. As advised, they also sent letters to the Nebraska Accountability and Disclosure Commission (NADC) detailing their potential conflict of interest in the matter.

As the issue evolved, the ability of other members of the board who are irrigation customers to discuss and vote upon annual irrigation delivery rates was also called into question. Central sought an advisory opinion from the NADC which concluded that board members "... who have

present or prospective water service agreements with the District may not participate in discussions and voting on standard form water service agreements."

Again, the members were elected by their constituents precisely because they are irrigation customers and, as such, understand the issues related to the District's irrigation operations. In short, they were elected to represent their constituents' best interests.

The prohibition of voting on – or even discussing matters related to lot lease agreements or water service agreements -- seems on its face to disenfranchise the very voters who elected the board members to their positions. Further, constraints on the ability of individuals from voting on, or discussing, matters related to leases and/or water service agreements places an obstacle to attracting potential board members in the future.

Central understands the NADC's position; its members followed the letter of the law to interpret the current statute. However, Central does

****NOTICE****

In order to do our part in reducing the spread of COVID-19, all Central offices are closed to the public at this time. Central employees will not be conducting face-to-face meetings until further notice. However, preparations continue for irrigation season, our hydroelectric facilities continue to generate power ... and, of course, district lakes remain a great place for outdoor recreation with your family.

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not believe the intent of the statute was to absolutely prohibit irrigation customers or lease holders from serving on Central's board, or discussing and voting upon standard form agreements. Indeed, Central has for almost 80 years had board members who were irrigation customers and, since the more recent implementation of lake lot leases, board members who are cabin-owners at District lakes. Their ability to bring that knowledge and perspective to the board has proven invaluable over the years in discussions that pertain to those leases and/or water service agreements.

The bill would have the following effects:

First, the bill amends a section in the Nebraska Accountability and Disclosure Act so that it also applies to entities formed under Chapter 70 laws, which contains statutes related to the formation and operation of public power utilities. Members of Central's board could have an interest in a con-

tract with the district. They would still be required to disclose a potential conflict of interest to the NADC and abstain from voting on the agreements in question. They would, however, be free to discuss and provide input to their fellow board members about said agreements, thus allowing them to more properly represent constituents who elected them to the board.

Second, the bill repeals a portion of statute to eliminate the prohibition against a member of certain boards from having an interest in a contract with the governmental entity. This is an unusual provision rooted in events which took place more than 80 years ago. It would also eliminate the current possibility that board members with lease agreements or water service agreements could be removed from the board.

The bill will have no effect on other irrigation districts where, in most cases, only those individuals who are irrigation customers and/or landown-

ers are able to vote for candidates for boards of directors or serve on those irrigation districts' board of directors.

LB1136 had the support of the NADC at the bill's hearing in February. Greg Heiden and DeDe Petersen, representing irrigation customers and cabin-owner, respectively, also testified in support of the bill, which was unanimously voted out of committee for floor debate. It was subsequently amended into LB1055 as part of a package of bills prioritized by the Government, Military and Veterans Affairs Committee. LB1055 was placed on select file without opposition on March 9 and was scheduled for advancement to final reading when the Legislature took an extended recess on March 16 because of COVID-19 virus concerns.

Central extends its thanks to Sen. Williams for sponsoring the bill and to Sen. Tom Brewer and his committee for including it in a package of bills with a priority designation.

Central staff working to prepare for irrigation season



A Central equipment operator uses an excavator to lay rock along the side of the Phelps Canal.

Following one of the wettest years on record in 2019, Central's irrigation crew has been hard at work trying to complete repair work and maintenance on the canal system before the



Central employees work to install a new pipe and conduit for a road crossing near Loomis.

first water makes its way down the irrigation canals in the coming weeks.

Winter projects have included numerous miles of bank stabilization and rehabilitation, installation of pipelines and new road crossings. Both the patrolmen and the equipment operators work together in less than ideal winter weather conditions to get things rehabbed and ready for the next irrigation season.

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*Published by The Central Nebraska Public Power and Irrigation District
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Holdrege, NE 68949-0740
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On the Lakefront

Good news for lakeside cabin owners! The U.S. Army Corps of Engineers has recently determined that maintenance, repairs, and improvements to existing shoreline protection projects can now be covered under a Corps “nationwide” permit. The nationwide permit process allows for certain activities to proceed, provided that the general or specific conditions for the general permit are met. The Corps review of this matter came about in large part as a result of Central’s decision to stop issuing permits on behalf of the Corps beginning in 2020.

Based on our discussions with the Corps, it is our understanding that for shoreline work covered by the nationwide permit, rip-rap placement on Central’s lakes would no longer be subject to some of the detailed sizing requirements that has been such a burden to Central’s tenants in recent years.

According to the Corps, the nationwide permit should apply in all locations where shoreline protection was in place prior to the passage of the Clean Water Act in 1972. Prior ap-

proval and confirmation from the Corps on whether or not the nationwide permit applies, and any conditions of work under the permit, is still required before any work begins.

The Corps can be contacted regarding nationwide and other Clean Water Act permits at:

U.S. Army Corps of Engineers
Nebraska Regulatory Office
8901 South 154th St.
Omaha, NE 68138-3635
(402) 896-0896
<https://www.nwo.usace.army.mil/>

Additionally, tenants and others planning to do shoreline work on Central’s lakes are reminded that they are required to contact Central before any work begins, and Central will continue to issue its own permits for purposes of ensuring compliance with Federal Energy Regulatory Commission requirements, which are separate from and in addition to any Corps requirements.

If you have questions about the permitting process, or if you need a

permit from Central, please contact the Senior Land Administrator, Luke Ritz, at Central’s office in Gothenburg at (308) 537-3582.



Cabin Owner/Water Users One-Day Tour Dates

Friday, July 17

Friday, August 7

Friday, August 21

Tours leave from Johnson Lake EMS Building at 7 a.m., and return around 5 p.m. Lunch at Ole’s Big Game Steakhouse and transportation provided.

Contact Holly Rahmann at hrahmann@cnppid.com or (308) 995-3560 for reservations.

Land Administrator	Project subject matter	Contact Info
DeAnna Bartruff	Dwelling and related construction. i.e. house and garage construction	Office: (308) 995-3563 Cell: (308) 991-5565 dbartruff@cnppid.com
Dustin Ehlers	Shoreline & water access facilities. i.e. docks, near shoreline patios, routes of access to the shoreline	Office: (308) 537-3582 Cell: (308) 991-9778 dehlers@cnppid.com
Luke Ritz	Erosion control structures. i.e. Shoreline protection and retaining walls	Office: (308) 537-3582 Cell: (308) 529-0009 lritz@cnppid.com
Matt Ostergard	Tree removal & trimming permits.	Office: (308) 537-3582 Cell: (308) 529-7544 mostergard@cnppid.com

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New faces and recent retirements at CNPPID

The past year has brought many changes at Central's offices. There has been some shifting and restructuring of positions throughout each office, making the work flow

smoother. We're excited to have some new faces joining our team.

In the Bertrand office, Jay Johnson is a new equipment operator and Ross Winheim is an irrigation service specialist. Winheim will be on patrol route 18 & 19 on the E67 system southeast of Johnson Lake. Jeff Wilken, who was previously on those routes, will be taking over patrol 12 northwest of Bertrand.

Tony Bendorf, who was previously working in the Bertrand office, will now be working from Holdrege cov-



Jay Johnson

Ross Winheim

Steven Sander

ering patrol 32 between Funk and Minden. New employee Steven Sander will be covering patrol route 24 north of Holdrege. New equipment operator Justin Dodson will begin his employment in Holdrege on March 30.

These new hires have come on staff following the retirement of some key members of Central's irrigation staff, who have served the district for decades.

From the Bertrand office, Steve Winheim retired after 40 years of service.

From the Holdrege office, John Skallberg retired after 40 years of service, and Al Rager retired after 34 years of service.

Conservation director Marcia Trompke recently retired after 19 years of service to the district. Ber-

trand employee Dusty Way has moved into an Irrigation Operations and Maintenance Assistant Supervisor position, and will take on Trompke's responsibilities.

<http://www.cnppid.com>

On the Web

With irrigation and recreation season fast approaching, visit (and "like") our Facebook page at www.facebook.com/cnppid to keep tabs on the latest news and updates from the Central District.