

# IN THE LOUP

## State Supreme Court Finds in Favor of LLNRD

The Nebraska Supreme Court recently confirmed the authority of a natural resources district to impose groundwater management requirements and levy penalties on a landowner. The Supreme Court said the Lower Loup Natural Resources District had authority to impose sanctions on Robert J. Prokop of Wilber, who owns land in Nance County.

NRD General Manager Russell Callan said that Prokop failed to provide annual reports required in the LLNRD's Groundwater Management Area 28 in 2015 and 2016. That area is south of the Loup River from just east of Palmer to south of Columbus

and is under additional management requirements due to high nitrate levels in groundwater. The annual reports allow LLNRD to see that goals relating to groundwater quality and quantity are met.

At their June 29, 2017, meeting, the LLNRD Board voted to suspend Mr. Prokop's irrigation on land within the Phase III management area. The Board also required that Prokop submit the annual reports for 2015 and 2016, and submit annual reports on a timely basis for all subsequent crop years.

Prokop appealed to the District Court which found in favor of the LLNRD, but

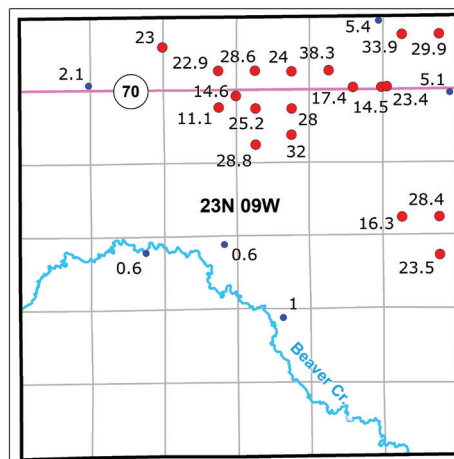
modified the penalty from a 4-year suspension to 1 year. Prokop then appealed to the Nebraska Supreme Court.

While the Supreme Court agreed the LLNRD could restrict the ability to irrigate, it upheld the District Court's authority to modify the penalty imposed. Callan said, "The Lower Loup NRD takes its role in the management of groundwater quality and quantity seriously." He said, "The Supreme Court decision affirms that the NRD can make decisions and impose penalties to ensure quality groundwater is available for future generations."

## Wheeler County Nitrate Levels Are Concern

High nitrate readings in a Wheeler County township could result in the creation of the Lower Loup NRD's first water quality sub-area.

Nitrate readings of up to 38.3 parts per million in Township 23 North, Range 9 West would create a Phase II management area in that township. Phase II management would include a requirement for flow meters on irrigation wells, certification classes for all nitrogen applicators, no fall or winter fertilizer applications on sandy soils, annual soil and water samples, and annual reporting. The Lower Loup NRD Board of Directors is



*Wheeler Co. T 23 N, R 9 W: red dots are wells with nitrate levels higher than the federal limit.*

expected to consider creating a Phase II sub-area at their June 27, 2019, meeting.

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# Board Approves Groundwater Rule Changes

New groundwater management rules governing both water quality and quantity have been approved for the Lower Loup Natural Resources District. NRD General Manager Russell Callan said the Board gave unanimous approval to the new rules following a public hearing during their monthly board meeting on April 25th, including a new regulation which allows the LLNRD to create water quantity or quality sub-areas.

Callan said the LLNRD directors okayed the rule that said boundaries for a sub-area could be based on county, township, or any other

political subdivision boundary. The boundary could also be based on a geographical boundary or any boundary deemed necessary by the LLNRD. Callan said the rule would allow water management to focus on more specific areas if needed, rather than the current multi-county water quality or quantity areas employed by the District.

Callan said that other new rules would outline requirements for flow meters, water use and accounting for community, industrial or commercial entities. Another change to the regulations outlines the District's access to wells and

flow meters. Following notification to the landowner by NRD personnel, those staff members may access private property to inspect or repair equipment.

There was no public testimony regarding the new rules. Written testimony from the Nebraska Department of Natural Resources and the Nebraska Department of Environmental Quality were part of the record.

The Lower Loup NRD Groundwater Rules and Regulations are available on the LLNRD web site, [www.llnrd.org](http://www.llnrd.org).

# John Coffey Joins Lower Loup NRD Board



*John Coffey*

The Lower Loup NRD Board's newest member is John Coffey of Columbus. Coffey was elected to the Subdistrict 10 seat following last November's election.

Coffey is a Platte County farmer and Columbus resident. The LLNRD's Subdistrict 10 includes most of the northwest portion of the city of

Columbus. Coffey will serve a four-year term.

There are 21 members on the Lower Loup Natural Resources District Board of Directors, two from each of ten subdistricts and one at-large. One seat from each subdistrict is up for election every two years.

# Watershed Project Wins Planning Award

The Lower Loup Natural Resources District's "South Loup River Watershed Management Plan" is the winner of the Environmental Planning Award by the Nebraska Chapter of the American Planning Association. NRD Assistant General Manager Tylr Naprstek said that the



LLNRD developed a stakeholders group representing a variety of interests in the watershed, from agribusiness to community representatives and

others affected by the water issues. He said those stakeholders helped guide the process of developing potential remedies to the problems. Water quality and quantity issues are concerns in the South Loup River Watershed.



# A Message From The Manager

The spring/summer recreation season is upon us again and the Lower Loup Natural Resources District hopes you will get out to enjoy the outdoor recreational opportunities around the District. The two camping areas managed by the NRD are Davis Creek Recreation Area south of North Loup and Pibel Lake Recreation Area in south-central Wheeler County.

The dam at Pibel Lake Recreation Area is scheduled to have the auxiliary outlet tubes replaced. These tubes are located on the east end of the dam. In 2016, the outlet end of the tubes was replaced and the plunge pool below the structure was reconstructed.

While that work was going on, it was discovered that the rest of the

tubes and the inlet structure needed to be replaced. The LLNRD Board of Directors decided to replace the remaining tubes in order to assure the dam's security and to guarantee that it will be around for a long time.

During this construction phase, there will be a period of time when the road across the dam will be closed to allow for the construction. The recreation area will remain open for your use and we hope you get a chance to visit the area. Water levels will be lowered during the construction, but we think you will still find good fishing at the lake.

The replacement process is scheduled to start following the Memorial Day holiday weekend and is expected to be completed by the first part of August. We apologize for



*LLNRD General Manager  
Russell Callan*

any inconvenience the construction work causes and hope that you and your family enjoy the 2019 recreation season.

## Infrared Photos Used to Monitor District

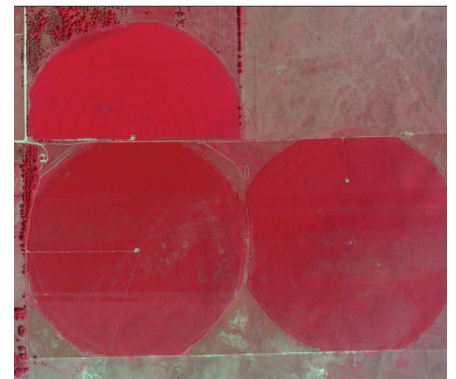
Aerial infrared photography has been a tool used by the Lower Loup NRD for a variety of purposes.

Since 2008, the photography, which utilizes specialized cameras to track active chlorophyll in the plants, has been collected via low-flying aircraft in late summer, when water stress impact is at its greatest. During that time, due to the presence of irrigated and non-irrigated land, it is easier to differentiate between live, active growing plants and dormant or water-stressed vegetation.

The more intense the red shading, the more likely irrigation has taken place on a property. The NRD has

used this tool to survey irrigated fields and to uncover irrigation on non-certified acres. The high resolution images provide detail on individual fields such as soil type, topography, and irrigation coverage patterns.

With high resolution imagery, District personnel can also conduct reasonable measurements such as measuring an entire pivot and locating pivot tire tracks within a field. The imagery can be switched to a setting for traditional photography to create detailed maps for a single location or a region of the NRD.



*Aerial infrared photography shows a contrast in chlorophyll levels in plants in irrigated and dryland fields. The LLNRD takes new photos on an annual basis.*



2620 Airport Drive  
Ord, Nebraska 68862

Phone: 308-728-3221  
Fax: 308-728-5669  
E-mail: larrys@llnrd.org  
www.llnrd.org

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Nebraska's NRDs . . .  
Protecting Lives, Protecting  
Property, Protecting the Future.

\*\*\*\*\*ECRWSEDDM\*\*\*\*  
POSTAL PATRON

## LLNRD Receives Environmental Trust Grant

The Lower Loup Natural Resources District will receive \$25,000 from the Nebraska Environmental Trust for the "Integrated Management Data Acquisition Program." The Trust Board announced funding for the project at its meeting on April 4, 2019, in Lincoln.

This is the first year of the award with a potential for 2nd and 3rd year funding totaling \$25,000 and \$25,000, respectively. The project is one of the 117 projects receiving \$19,501,444 in grant awards from the Nebraska Environmental Trust this year. Of these, 85 were new applications and 32 are carry-over projects.

The Lower Loup Natural Resources District (LLNRD) applied for financial

assistance from the Nebraska Environmental Trust to install flow meters on municipal, commercial, industrial, and livestock wells, as well as additional irrigation systems. With the passing of the voluntary Integrated Management Plan (IMP) by the LLNRD and the Nebraska Department of Natural Resources, several goals were identified and approved to help monitor and protect the water supply in the future.



The first goal is to develop and maintain a comprehensive inventory of the locations and sources of the District's current and future water

supplies, water uses and outflows. Flow meters will allow the NRD to accurately quantify various water uses to acquire data for the water budget, which is a primary objective of the IMP.

The NRD plans to administer a cost-share program that will combine Environmental Trust funds with matching funds from LLNRD to fund the purchase of 75 flow meters over the next 3 years. These high-capacity wells are unmetered and would provide beneficial data to the District for the water budget.

The Nebraska Legislature created the Nebraska Environmental Trust in 1992, providing over \$305 million in grants to over 2,200 projects in the state.