**For Release Wednesday, January 26, 2022**

**Capitol View**

***Commentary by J.L. Schmidt***

**Statehouse Correspondent; Nebraska Press Association**

**A Wannabe Tourist Attraction and a Sure Battle Over Water Rights**

 Like many Nebraskans, I’ve been to Lake Okoboji in Iowa, which is why I must smile about a special legislative committee’s proposal to build a lake in Eastern Nebraska to rival that lake.

The Legislature’s Statewide Tourism and Recreational Water Access and Resource Sustainability (STAR WARS) special committee says the Nebraska version would span 4,000 acres, reach 30 feet or so deep, and stretch 7 miles. It would be dredged near the Platte River in a location roughly equidistant from Omaha and Lincoln.

Okoboji was created by the Wisconsin Glacier 14,000 years ago and has a maximum depth of 136 feet, which makes it the deepest natural lake in Iowa. Subterranean springs help provide the cool, clear, blue water of Iowa’s most popular lake, one of three such lakes on the North American continent.

The city of Okoboji was established in 1859, before Nebraska was even a state. There is a rich history of ballrooms and early rock and roll roots – think “the day the music died” – that is still a large draw. Buddy Holly, Ritchie Valens and The Big Bopper died in a plane crash in the area in 1959 and Don McLean memorialized it in the song *American Pie.*

While the idea of damming the Platte to create a lake along what is now the Interstate 80 corridor has come up every so often in Nebraska, the earliest push was in 1896. But the area lacks tourist-oriented history that would be any more of a draw than Lincoln and Omaha offer. Current proposals would not dam the river.

Speaking of history, Governor Pete Ricketts wants to use $500 million from the bill to implement a plan to take more water from the South Platte River by building a canal in northeast Colorado under terms of the 99-year-old South Platte River Compact. That 1923 agreement says Nebraska is entitled to a specific amount of water from the river between April 1 and October 15 and a different amount during the non-irrigation season.

**For Release Wednesday, January 26, 2022 – Page 2**

Ricketts said he is concerned that pending water projects in Colorado will diminish that flow. Colorado officials say the list of projects is already 5 years old and far from planning or construction. The specific canal in question was started and abandoned decades ago.

The question of starting it up again could result in a costly and lengthy court battle. Even if Nebraska won, it’s unclear how much extra water it would yield because the South Platte has demands that exceed its capacity. The cost and time involved could make the proposal much less attractive.

Colorado Governor Jared Polis told the Denver Post the Nebraska plan seems to “reflect a misunderstanding of Colorado’s locally driven water planning process.” He also pledged

to protect and “aggressively assert” the state’s existing water rights.

Colorado is meeting all its water obligations to Nebraska, said state Engineer Kevin Rein. During the irrigation season, April 1 to Oct. 15, the South Platte must flow at 120 cubic feet per second into Nebraska. That flow is measured at a water gate in Julesburg, just south of the Nebraska-Colorado border, Rein said.

Should flows dry below that threshold, Colorado officials must curtail water use in certain areas for water rights holders whose rights were established after 1897, Rein said. But Colorado has no additional obligation to increase flows.

The issue is likely to wind up in court and could even be heard before the U.S. Supreme Court. That was the ultimate solution in the 1949 North Platte River Compact which guarantees a specific amount of water that must be supplied to the Panhandle’s four inland lakes: Big and Little Lake Alice; Winters Creek and Lake Minatare.

I was in the Nebraska Supreme Court decades ago when former Nebraska Governor Robert Crosby argued the case before it went to a special master appointed by the U.S. Supreme Court. The boxes of legal documents dwarfed the attorney and gave weight to the seriousness of water issues, and this was a much newer compact agreement.

**For Release Wednesday, January 26, 2022 – Page 3**

Bottom line here: Don’t be gassing up the boat for the Eastern Nebraska Okoboji wannabee any time soon; and don’t be making plans to go fishing in Nebraska’s “new” canal in Colorado for at least a decade or two, if then.

-30-

*J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for more than 20 years.*