

AGENDA – January 9, 2007

The Middle Republican NRD Board of Directors will hold their regular meeting in room 213 of McMillan Hall, McCook Community College Campus, in McCook Nebraska on January 9, 2007 at 1:30 P.M.

Regular Meeting:

1. Meeting called to order.
 - a. Verify quorum
 - b. Excused absences
 - c. Verify oaths of office for newly elected board members
 - d. Election of Board Officers

2. Circulate agenda and roster
 - a. Items added since mailing

3. OFFICIAL NOTICE OF THIS MEETING WAS PUBLISHED IN THE NORTH PLATTE TELEGRAPH AND THE MCCOOK DAILY GAZETTE AND WAS POSTED IN THE NRD OFFICE AND ON THE DISTRICT WEBSITE AT WWW.MRNRD.ORG. AS A COURTESY IT WAS ALSO PROVIDED TO LOCAL RADIO STATIONS.

4. Approve minutes for the December regular board meeting, variance hearing and December 15th Special Board meeting.

5. Open Hearing for Variance Request - NONE REQUESTED

6. Close Hearing

7. Consider Variance Requests

8. Legal Matters
 - a. Case status

9. Financial Actions
 - a. Approve Financial Report for December 2006

10. Open Forum – The public may comment on agenda items or items not listed on the agenda. For concerns expressed that are not relative to an item on the agenda, you are informed that no action can be taken on your comments. Guests should also note the location of a current copy of the statutes dealing with public meetings.

11. Reports – Agencies, Associations, Others
 - a. NRCS – 1) Dist. Cons. Report

- b. NARD – 1) Report-Moore 2) Legislative Conf. Jan.23,24
3) Voting delegate/alternate
- c. NACD – Newsletters
- d. NNRC –
- e. Information & Education – Gall
1) Status of Grants 2) Enviroscape purchase 3) Envirothon
4) March 1 water conference 5) Legislative Conf. Meals
- f. NE Republican River Management Districts Association
1) Next meeting January 12, 2007
- g. Other Agencies or Associations
1) RC&D - Roger Stockton
- h. Legislation – Committee Chairs

12. Ground Water Management

- a. Ground Water Management Area
1) Well permits 2) Surface water reports 3) Meter repairs, readings
and inspections 4) Incentive Programs Report 5) Transfer requests
- b. Ground Water Quality Management Area
- c. Other Ground Water Activity

13. Programs

- a. WILD
- b. Buffer Strips
- c. Livestock Waste Control Applications – Southwest Feeders expansion
- d. Conservation Management Funds- LCP/NSWCP
Approve Applications
- e. Watersheds
- f. Complaints
- g. Chemigation
- h. Tree Planting

14. General Operations

- a. Personnel – Kim Smith resignation
- b. Sales and Rental Equipment
- c. Bylaws, Personnel Policy, General Policy-Consider approval

Adjourn

Next regular meeting date –February 13, 2007 at 1:30 P. M. at the NRD office in Curtis, Nebraska.

IMPORTANT DATES:

| | |
|----------------|--------------------------------|
| January 12 | NeRRMDA – McCook |
| January 15 | Office Closed |
| January 23, 24 | Legislative Conference |
| February 13 | Board Meeting |
| February 19 | Office Closed |
| March 1 | Southwest Nebraska Water Conf. |

MIDDLE REPUBLICAN NRD

ATTENDANCE ROSTER

Jan 9 2007

| NAME | ADDRESS | DESIRE TO SPEAK | AGENDA ITEM NUMBER |
|-----------------|--------------|-----------------|--------------------|
| Kara Gall | Curtis | | |
| Rick Spencer | Culbertson | | |
| Jerry Mustion | Culbertson | | |
| Marty Schurr | Maywood | | |
| Benjie Loomis | Maywood | | |
| Brad Edgerton | Cambridge | | |
| Kim Smith | Curtis | | |
| Mark Sugelman | Maywood | | |
| Dori Roberts | McCook | | |
| Ralph Scott | McCook | | |
| Roger Starbuck | Arapahoe | | |
| Rex Wilson | McCook | | |
| Walt Kelly | STOCKTON, KS | | |
| Brad Johnson | Hart, Mo, | | |
| Scott More | Bartley NE | | |
| Joe Anderjaska | Hayes Center | | |
| Brad Randel | Indiana | | |
| Dan Nelson | Moorefield | | |
| Stan Moore | Bartley | | |
| Kevin Fornoff | Hayes Center | | |
| Robert Merrigan | Curtis | | |
| Dan Smith | Wallace | | |
| JOSH FRIESE | | | |

MINUTES
Middle Republican Natural Resources District
Board of Directors Meeting
December 12, 2006
Curtis, Nebraska

Board Members Present: Joe Anderjaska, Duane Dodson, Kevin Fornoff, Dennis Hoyt, Gayle Haag, Jerry Mustion, Mike Peters, Don Roberts, Rick Spencer

Board Members Absent: Stan Moore

NRD Staff: Dan Smith, Robert Merrigan, Kara Gall, Christy Peterson, Kim Smith

NRCS Staff: Doug Whisenhunt, Ben Hardin

Others: Dan Nelsen, Brad Randel, Chad Taylor, Darrol Eichman, Mark Billinger, Josh Friesen, Brad Johnson, Marty Schurr, Benjie Loomis, Tom Baker, Mark Christensen, Dean Edson, Ron Johnson

Information Mailed to Directors:

| | |
|------------------------------------|--------------------------------|
| Agenda | Variance Hearing Agenda |
| November Minutes | Budget Comparison |
| November Financial Report | NACD E-notes for Dec 5, 2006 |
| Variance Hearing Minutes | NACD E-notes for Nov 21, 2006 |
| Board Retreat Agenda | Information & Education Report |
| NARD Legislative Conference Agenda | EQIP Special Initiative Acres |
| Well Permit | "By the People" Report |
| Draft Bylaws | Draft General Policy |
| Draft Personnel Policy | |

Information Distributed at Meeting:

| | |
|---|-----------------------------------|
| Cost Share Summary | Reservoir Report |
| Washington D.C. Agenda | Meter Reading Report |
| "Some of State's NRDs are Being Held 'Captive'" article | |
| Variance Request | EEO/Civil Rights handout-OUTREACH |
| Lee Morse Retirement Announcement | NRCS Budget Proposals |
| NRCS Outreach | |

REGULAR MEETING

The regular monthly board meeting was called to order by Chairman Haag at 1:40 p.m. The agenda and roster were circulated to those present.

Items added to the agenda: 12a5) Transfer request-Baker Corp., 14e) Board Meeting Location

Notice of the regular monthly meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office** and on the **District website at www.mrnrd.org**. As a courtesy it was also announced on **local radio stations**.

The minutes for the November 14, 2006 regular board meeting and public hearing were presented.

◆ A motion was made by Fornoff and second by Dodson to approve the minutes for the November regular board meeting and public hearing as presented.

Ayes -7 Nays -0 Abstain-Anderjaska, Peters Motion carried

TRANSFER REQUESTS

The transfer request was previously considered. This new transfer permit is being considered by DNR. Previous water reductions have not been credited to industrial use for Trenton Ethanol plant.

- ◆ A motion was made by Anderjaska and second by Fornoff to acknowledge that the current use at the Trenton Ethanol plant is from a previous retirement of acres certified to Baker Corp. These previously certified acres may not be transferred or otherwise be used, other than the current industrial use, in the future.

Ayes-9 Nays-0 Motion carried

FINANCIAL ACTIONS

The financial report for November was presented. A copy of this report is on file with the minutes. Smith reviewed the report. The County Treasurer's balance was \$47,929.50. Budget comparison was reviewed. The audit report was handed out at the November meeting.

- ◆ A motion was made by Fornoff and second by Anderjaska to approve the November financial report as presented.

Ayes - 9 Nays - 0 Motion carried

Meeting was recessed at 1:58 p.m. for variance hearing.

Meeting was reconvened at 2:29 p.m.

VARIANCE REQUEST

- ◆ A motion was made by Fornoff and second by Hoyt to approve 3 well permits upon change of ownership of the property, and to decommission existing wells as a condition of drilling the new wells.

Ayes - 9 Nays - 0 Motion carried

AUDIT

Smith reviewed the audit.

- ◆ A motion was made by Hoyt and second by Peters to approve the 2006 Audit as presented.

Ayes - 9 Nays - 0 Motion carried

OPEN FORUM

Chad Taylor, NGPC of Cambridge, works with invasive species removal. Some of the species being offered by the tree program are contributing to the numbers of invasive species that landowners and producers are trying to control. Chad would like to encourage the board members and NRD employees to reevaluate the trees on the tree program. He is not suggesting that we remove red cedar but possibly Russian olive. Don Roberts asked what he would suggest we add to the list to replace the cedars in windbreaks. Chad said he was not sure but would do the research if we decided to readdress the tree list.

Mark Billinger, DWR in Kansas, is attending meetings in the 3 NRDs and was present at this meeting.

NRCS REPORT

Whisenhunt reported on NRCS activities. Applications are currently being taken for 2007 EQIP. There is no matching incentive this year. The new ranking program does not allow for

any extra conditions. Invasive species removal is going to allow more range contracts. Ranking is weighted so that all invasive removal applications will be funded. PRS goals are being readdressed by the state/national office to be able to set goals for the next year.

CRP has been seeded and payments are being processed.

Burn schools are being scheduled for this spring. One will be held in McCook in April. There may also be schools in Osceola and Chadron.

Budget does not look very good for the NRCS. There are currently 2 proposals being considered. The proposed budget from the House will cause NRCS to lose 17 positions and have no money for operations. The version from the Senate will allow NRCS to keep those 17 positions.

EEO/Civil Rights handout-OUTREACH was circulated.

NARD

Tentative agenda for the legislative conference was mailed to directors. Anderjaska, Haag, Spencer, Dan Nelsen, Benji Loomis, Marty Schurr, and Josh Friesen all expressed interest in attending the conference. Information for the Washington DC trip was circulated.

Discussion was held concerning the new Flexible Benefit Plan. There are 3 components. The Directors need to name an administrator for the plan.

- ◆ A motion was made by Anderjaska and second by Hoyt to name Mid America Benefits as Administrator of the Flexible Benefit Plan.

Ayes-9 Nays-0 Motion carried

NACD

The NACD e-notes for November 21, 2006 and December 5, 2006 were mailed to the Directors.

INFORMATION & EDUCATION

The Information & Education report was mailed to the Directors.

No change in the status of the grants. Reimbursement for CIG grant has been received. Meter list is being reviewed by McCook Power.

NPAIT scholarship application information is in the packet.

The Water Conference is scheduled for March 1.

Burning allotted funds to the NRD's to be used exclusively for education (approximately \$3000). Kara would like to use \$1000 of this money to purchase an Enviroscope game for 7th grade education.

- ◆ A motion was made by Fornoff and second by Anderjaska to purchase the Enviroscope game for approximately \$1000.

Ayes – 8 Nays – 0 Abstain-Mustion Motion carried

NE REPUBLICAN RIVER MANAGEMENT DISTRICTS ASSOCIATION

Smith reported that the next Association meeting will take place January 12, 2007 in McCook, date and time to be announced.

OTHER AGENCIES AND ASSOCIATIONS

The agenda for the December 15, 2006 retreat was mailed to Directors. Board members attending will be Anderjaska, Spencer, and Fornoff.

HOYT left the meeting at 3:20.

WELL PERMITS

A report on well permits was handed out. Smith reviewed the report. No change from last month.

SURFACE WATER REPORTS

Smith reviewed the reservoir reports.

METER REPAIRS, READINGS, AND INSPECTIONS

Smith reviewed the meter report in the packets.

Discussion was held on the number of wells per county. Questions on how the different programs will affect the numbers. Dan explained that CREP will not affect the number of active wells, only EQIP 2 will make the well status inactive.

OTHER GROUND WATER ACTIVITY

Article from the Grand Island Newspaper was discussed.

Discussion was held concerning the show on NE public television. Not all of the information was accurate. For example, numbers from DNR were wrong, and there was no information on the moratoriums and the process involved.

LIVESTOCK WASTE CONTROL APPLICATIONS

Merrigan reviewed an application from Nebraska Pork Partners. The application is for a farrowing facility in Frontier County, east of Stockville. They are looking to improve their existing operation, not add on to it.

- ◆ A motion was made by Peters and second by Fornoff to accept the livestock waste control application.

Ayes – 8 Nays – 0 Motion carried

CONSERVATION MANAGEMENT FUNDS

Smith reviewed the cost-share summary report.

- ◆ A motion was made by Roberts and second by Dodson to approve all applications as presented.

Ayes – 8 Nays – 0 Motion carried

A copy of this report is on file with the minutes.

TREE PLANTING

Merrigan reported that he ordered semi load of mulch.

BYLAWS, PERSONNEL POLICY, GENERAL POLICY

A draft copy of the bylaws, personnel policy and general policy were mailed to Directors for their review. All proposed changes are in red print. Smith reviewed the corrections. The new flexible spending plan was added to the personnel policy. The general policy was updated to reflect current policy. Smith recommended that everyone take the policies home for review. We will re-address this issue in January.

OATHS OF OFFICE AND REORGANIZATION IN JANUARY

Smith reminded the new directors that they will need to complete an oath of office prior to the

January meeting. New officers will be elected at this meeting also.

CHANGE IN THE LOCATION OF THE MEETINGS

Discussion was held concerning meeting locations. Anderjaska indicated that Curtis is too small and the meetings at the fairgrounds in McCook are hard to hear. The McCook Community College has meeting rooms that will seat anywhere from 15 to 100 people. Sue Shaner at MPCC would be more than happy to give us a tour on Friday morning. Discussion was held concerning who might be available to take the tour.

LEGAL MATTERS

- ◆ A motion was made by Roberts and second by Fornoff to go into Executive Session at 3:50 p.m. for the purpose of discussing strategy concerning case number CI-02-648. Newly elected board members were asked to stay.

Ayes-8 Nays-0 Motion carried
John Schroeder was invited to speak and arrived at 4:02.

- ◆ A motion was made by Roberts and second by Fornoff to come out of executive session at 5 p.m.

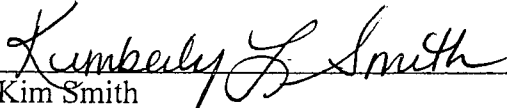
Ayes-8 Nays-0 Motion carried.

- ◆ A motion was made by Roberts and second by Fornoff to authorize Jon Schroeder to make a settlement offer to Scott Merrill of Merrill Land Co. This offer will allow the construction of 2 wells to serve certified acres in the NE 1/4 of sec 30 T9 R34 and in the SE 1/4 of 19 T9 R34 in Lincoln County Nebraska. These wells will provide water to acres already certified and will not result in increased allocation or increased acres.

Ayes-7 Nays-0 Abstain-Anderjaska Motion carried.

Chairman Haag adjourned the meeting at 5:01 p.m.

The next meeting will be Tuesday, January 9, 2007 at 1:30 p.m. at the Red Willow County Fairgrounds in McCook, Nebraska.


Kim Smith
Recorder

MINUTES
Middle Republican Natural Resources District
Variance Public Hearing
December 12, 2006
Curtis, Nebraska

Board Members Present: Joe Anderjaska, Duane Dodson, Kevin Fornoff, Dennis Hoyt, Gayle Haag, Jerry Mustion, Mike Peters, Don Roberts, Rick Spencer

Board Members Absent: Stan Moore

NRD Staff: Dan Smith, Robert Merrigan, Kara Gall, Christy Peterson, Kim Smith

NRCS Staff: Doug Whisenhunt, Ben Hardin

Those presenting testimony: Ron Johnson, PEI Lincoln Ethanol

PUBLIC HEARING

Chairman Haag called the public hearing to order at 2:00 p.m. The agenda and roster were circulated to those present.

OFFICIAL NOTICE OF THIS MEETING WAS PUBLISHED IN THE **NORTH PLATTE TELEGRAPH** AND THE **MCCOOK DAILY GAZETTE** AND WAS POSTED AT THE **MRNRD OFFICE** AND ON THE **DISTRICT WEBSITE AT WWW.MRNRD.ORG**. AS A COURTESY IT WAS ALSO PROVIDED TO LOCAL RADIO STATIONS.

STATEMENT OF PURPOSE

The purpose of this hearing is to receive testimony for a variance from the District's Ground Water Management Area Rules and Regulations.

TESTIMONY

Smith reviewed the variance request. The request is for 3 Well Permits for 3 separate wells, south of the highway between Dickens and Wallace. This location would be north of the Red Willow Creek. This area shows 10 to 11 feet of decline since 1974.

Ron Johnson, representative for PEI Lincoln Ethanol, presented testimony concerning the variance requests. These wells will be for the new ethanol plant. Capacity is 3 to 5 gallons of water per gallon of ethanol-700 gallons per minute (230 for process water makeup-470 cooling tower) will be needed. 94 gallons discharge stream (non contact water),

The 3 existing wells are being tested. At least one well will be capped and the other two may be used.


The wells will be rotated to keep them active. One other shallow well will be needed for potable water needs. This well will only be 25 gallons per minute.

13% is sent back out-1100 ac ft of use, 200 of that returned to the system. Over 400 ac ft of existing uses will be retired.

Current ownership of this property is Murray Farms and Hasenauer. PEI is requesting approval of the new wells. The existing wells will need to be abandoned if not used later. The approval would need to be contingent upon sale of property. Drastic areas of sharp decline may need to be readdressed in the future.

There would be no way to keep current monitoring well. Discussion was held on whether or not there is another well nearby to monitor or if another one can be changed

Chairman Haag closed the hearing at 2:27 p.m.



Kim Smith
Recorder

MINUTES
Middle Republican Natural Resources District
Board of Directors Special Meeting
December 15, 2006
McCook, Nebraska

Board Members Present: Joe Anderjaska, Kevin Fornoff, Dennis Hoyt, Gayle Haag, Jerry Mustion, Stan Moore, Don Roberts, Rick Spencer

New Directors: Marty Schurr, Josh Friesen, Benjie Loomis, and Dan Nelsen

Board Members Absent: Duane Dodson, Mike Peters

NRD Staff: Dan Smith, Robert Merrigan, Kara Gall, and Christy Peterson

Others: Governor Heineman, Ann Bleed, other representatives of DNR, Senators- Tom Baker, Mark Christensen, Tom Hansen, and Tom Carlson, representatives of Upper Republican, Lower Republican, and Tri-Basin NRDs, and members of the public

Information Distributed at Meeting:

Agenda

REGULAR MEETING

The special board meeting was called to order by Chairman Haag at 10:06 a.m. The agenda was circulated to those present.

Notice of the special monthly meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted in the **NRD office** and on the **District website at www.mrnrd.org**. As a courtesy it was also announced on **local radio stations**.


Dan Smith presented opening remarks. Discussion was held with Governor Heineman and Ann Bleed, DNR concerning water issues. Senators Tom Baker, Mark Christensen, Tom Hansen, and Tom Carlson were all given an opportunity to address the group.

Meeting was recessed at 11:55 a.m. for lunch.

Meeting was reconvened at 1:10 p.m.

Further discussion was held with Governor Heineman and Ann Bleed. Questions were taken from the public.

Chairman Haag adjourned the meeting at 1:59 p.m.


Christy Peterson
Secretary

Permit to Construct
Summary
January 3, 2007

| | # of Apps | Completed | Open | EXP/CNX Suspended | Replacement |
|---------------------|-----------|-----------|------|----------------------|-------------|
| FY 97-98 (SPA only) | 44 | 34 | 0 | 10 | 0 |
| FY 99 | 53 | 46 | 0 | 7 | 6 |
| FY 2000 | 42 | 32 | 0 | 10 | 7 |
| FY 2001 | 71 | 56 | 0 | 15 | 14 |
| FY 2002 | 111 | 100 | 0 | 11 | 18 |
| FY 2003 | 51 | 38 | 0 | 13 | 38 |
| FY 2004 | 8 | 8 | 0 | 0 | 6 |
| FY 2005 | 10 | 6 | 4 | 0 | 7 |
| FY 2006 | 7 | 1 | 6 | 0 | 3 |

FY 05-06

| | | | | | |
|---------------------|----|------------|----------|---------------|---------------|
| City of McCook | RW | SW 36-3-30 | done | Replacement | NEW Municipal |
| City of McCook | RW | SW 36-3-30 | done | New Municipal | |
| Verl Jurgens | FR | SE 30-8-24 | Complete | Replacement | |
| Russ Williams | FR | SE 23-7-25 | Complete | Replacement | |
| George Seward | HA | NW 23-7-35 | | Replacement | |
| Village of Stratton | HI | NE 10-3-35 | | Test Well | |
| Clara Grabenstein | FR | NW 8-8-27 | | Industrial | |
| Clifford Randel | RW | SW 19-4-28 | Complete | Replacement | |
| Betty McKillip | HA | SE 30-6-32 | Complete | Replacement | |
| Village of Stratton | HI | NE 10-3-35 | | Replacement | |

FY06-07

| | | | | | |
|---------------|----|------------|----------|----------------------|--|
| Jack O'Brien | LI | SW 31-9-33 | Complete | Replacement | |
| Baker Corp. | HI | SW 1-3-33 | | New Industrial | |
| George Seward | HA | NW 13-8-35 | | Transfer Replacement | |
| Donald Olson | RW | NW 27-3-30 | | Replacement | |
| BIC | RW | NW 8-4-26 | | NEW Muni | |
| BIC | RW | SW 5-4-26 | | NEW Muni | |
| BIC | RW | NE 1-4-27 | | NEW Muni | |
| PEI Ethanol | LI | | | {Pending | |
| PEI Ethanol | LI | | | {Ownership | |
| PEI Ethanol | LI | | | {Confirmation | |

Governor Heineman, welcome to McCook.

On behalf of the 44 elected board members representing the natural resource districts and the issues of the 65,000 people in the Republican Basin here in the heart of the 3rd Congressional District, we welcome the opportunity for an open, honest and fair discussion of the issues and concerns over water management in the Basin. The nearly 1.3 million irrigated acres in the basin represent about 15% of the irrigated agriculture in Nebraska.

Ground water management started in the Republican Basin. The control area approved in the Upper Republican NRD in the late 70's was the first in the state and was only possible as a result of the efforts of all the NRDs working with the legislature to develop statutes that would allow us to manage ground water. The first Ground Water Management Plan was approved for the Middle Republican NRD in the early 80's. The first Special Protection Area in the state dealing with water quality issues was in the Lower Republican NRD and the second SPA was in the Middle Republican NRD. Integrated management also started in the Republican Basin. The NRDs began working with DWR in 1993 and 1994 to refine the well registration database and to better identify the ground water irrigated acres that were considered in compact accounting at that time. The 4 NRDs and the 4 Irrigation Districts also started meeting at this time in an effort to understand each others issues and abilities to address water concerns. DWR provided technical support and guidance along the way. This group began discussing integrated management issues a full two years before statutes were even on the books. We formed first as an informal coalition and later formally organized under the interlocal agreement statutes. The Republican River Management Districts Association continues to work in the basin on information and educational efforts and supports or endorses many NRD activities.

Governor Nelson and later Governor Johanns appointed Republican River Basin Councils. NRD and irrigation district board members, basin legislators and representatives from cities, counties, recreational interests, public power, banking and agri-business were represented on these councils. These groups met to explore and discuss management possibilities.

Within 30 days after the passage of LB 108 in 1996 all four NRDs in the Republican Basin made requests for a determination from the Department of Water Resources. A preliminary determination was made in September of 1996. In this preliminary determination it was noted that conflicts between the use of ground water and surface water were an issue for the Republican River Compact. The Upper Republican NRD responded with a district wide moratorium on new irrigation wells and irrigated acres, in March of 1997. The LB 108 process was delayed by the fact that funding for studies necessary to make a final determination had not been provided by the legislature. While we waited for funding to be approved, the management districts were able to get a grant of over \$800,000 from the environmental trust and we started our own studies contracting for a model with the USGS. Before the studies or the model could be completed, Kansas sued Nebraska. The only time ground water management has been slowed in the basin

was in 1998 when at the request of the State of Nebraska, the 4 NRDs asked DWR to stop the LB108 process while the lawsuit was ongoing. This process was on hold from May of 1998 till December of 2002. In the summer of 2001 the Middle Republican NRD proposed ground water controls and at a hearing held for consideration of those controls testimony was provided from DNR in opposition to the proposed rules.

When settlement seemed possible in 2002, the NRDs once again took action with the Middle Republican adopting a temporary suspension in the drilling of wells in June and the Lower Republican adopting theirs in December. Following the final settlement of the lawsuit in the summer of 2003, a final determination was made and the LB 108 process for joint action plans was reinitiated. For the Next six months we worked on a basin plan and our individual joint action plans. As it became evident that the LB 108 process would be replaced by the proactive concept of LB 962, emphasis shifted to developing integrated management plans instead of joint action plans. All four NRDs were declared fully appropriated in July of 2004 and by the fall of 2004 hearings had been held and the first Integrated Management Plan in the state was adopted by the Middle Republican NRD and the Department of Natural Resources. IMPs for the Lower and Upper Republican NRD followed. The TriBasin NRD with fewer restrictions under the compact settlement adopted a joint action plan prior to the passage of LB 962.

During the campaign and more recently in presentations the Governor has referred to water as the issue of the decade. For the NRDs in the Republican Basin, we are already in our second and third decades of management and for many producers it is the issue of a lifetime. Many of our family farms are in the third and fourth generations. Our producers worry if it will be possible for their sons and daughter to stay on the farm. The regulations adopted by the NRDs and the state have stopped all new irrigation development and placed restrictions on the amount of water that can be pumped. Our uses are certified and metered. We have worked with the state on many concepts including incentive programs and surface water buyouts.

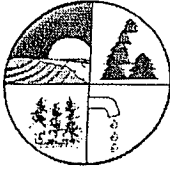
You have endorsed economic development, particularly ethanol plants, and we have seen a great deal of interest in ethanol in this area in spite of our restrictions. We struggle to find water for this development that does not impact the system more than the economic benefit that comes with this development. In general, the economic development we have seen is value added to the farm economy and is supported by our IMPs. There have been both positive and negative impacts associated with the controls adopted by the NRDs. Many producers have learned to irrigate with less water and have increased their bottom line. But our reservoirs are still not full and surface water irrigation districts do not have a full supply. Ground water use has surely had an impact on this system but it is not the only cause of the problems. Conservation measures, riparian vegetation and the drought have all contributed to the problem. Ground water controls have been adopted and will have a long term beneficial impact. Pumping in the basin in 2005 was only 1/3rd of what it was in 2002, yet the overuse as recorded in compact accounting has been reported each year in 2003, 2004 and 2005. Nebraska's compact allocation for 2005 was the lowest in history, yet impacts from pumping exceeded this allocation by less than 10%. Most of the 42,000 acre feet overused in 2005 was represented by about 30,000

acre feet in evaporation from the reservoirs. This use benefited no one. It was lost to the system. Preliminary numbers would indicate that pumping for 2006 will be higher than last year by about 15% but still less than our base allocations that were approved in the IMPs. NRDs have taken the steps, within our authorities, with the concurrence of the State of Nebraska to address this situation. We continue to work with producers so that they have a better understanding of the issues and what can be done to solve the problems. The controls available to NRDs are somewhat limited and were basically unchanged when LB 962 was adopted.

We still struggle in trying to help others understand that we have been active in the basin and that given time our controls will have a positive benefit. The recent program about water on NET would lead people to think that nothing has ever happened in the basin. Information provided to the panel was biased. The panel believed that 800 new wells were drilled in the basin after the summer of 1998. In 1998 the official position of the state of Nebraska was that ground water did not apply to the compact and that Nebraska would win the lawsuit. By the time the settlement was approved, the three Republican NRDs had moratoriums in place. Many of the new wells that went into the Lower Republican NRD were in an area where a moratorium was not required or in the Blue River portion of that district. 800 wells have been registered but many of those were existing wells that had not been registered before and many were replacement wells. We had no authority for conjunctive management until 1996 and we were asked by the state not to use that authority in 1998. Even the moratorium authority referenced on the program was limited to specific situations by the statutes at that time. When given the opportunity and within the authorities provided by the statutes, the Republican River Basin NRDs have always taken the necessary action. Statements are being made about the current efforts of the basin NRDs. We have heard it said that we do not want to change our Integrated Management Plans. Why would we? Our IMPs say we will assist the state of Nebraska in maintaining compliance with the compact. Is that what we should change? Should we change these plans to where we are no longer working with the state? Does that mean we are doing nothing? It does not. My district has made two revisions to our rules and regulations this year, but we haven't changed our IMP. Lack of understanding and misinformation may be our downfall. We cannot get our story told if we are being misrepresented by those who are supposed to be working with us. DNR must work closer with the NRDs, the Governors office and the Legislature. The NRDs must make sure that DNR, the Governors office and the Legislature know what's going on. We feel communication has been limited and it must be open, honest and fair.

The Governor has indicated that we all need to work together to find a solution to this problem. As NRDs, we will continue to seek solutions to this problem. No one group, agency or district alone will solve this problem. No one group, agency or district should be expected to solve this problem on their own. No single solution will be found. No single entity will implement the solutions that are discovered. It is only working together that progress will be made.

Daniel L. Smith, Manager
Middle Republican Natural Resources District



220 Center Ave.
PO Box 81
Curtis, NE 69025

Phone: 800 -873-5613
Fax: 308 -367-4285
Email: kgall@mrrnd.org

Middle Republican Natural Resources District

January 4, 2007

An Open Letter To All Concerned About Nebraska Water Issues:

I am Dan Smith, the General Manager of the Middle Republican Natural Resource District. The four Natural Resources Districts (NRDs) that cover the Republican River Basin have been the focus of much of Nebraska's water issues for several years. In fact, these four NRDs have been actively engaged in proactive water management for more than 30 years.

Recently we invited Governor Dave Heineman, Nebraska Department of Natural Resources (DNR) Interim Director Ann Bleed, the board members of the Republican River Basin NRDs, the surface water irrigation district board members and the general public to a meeting in McCook, Nebraska to discuss the dire situation Nebraska must address regarding water issues. This meeting was very informative, instructive and revealing to many individuals present in the following areas: 1) Previous management actions taken by NRDs; 2) Current management activities by NRDs; 3) Examples of what may be required of irrigators in the Republican River Basin in the future and the economic consequences; and, 4) Actions Governor Heineman is willing to take on behalf of the State of Nebraska to meet our State's obligations with Kansas.

I felt it was important – as the Manager of the Middle Republican NRD – to make sure everyone who attended the meeting had the same understanding of Nebraska's predicament, an accurate history of previous actions taken, and an agreement on what was said, what was offered, and what was promised. I am proposing, in this letter, to set down a record of understanding in a letter to all Nebraskans of the above. I welcome input, corrections and comments as we move forward together to address this issue that today may be critical to only a few parts of our state, but in the very near future, will be critical to all Nebraskans, whether they live in Scottsbluff or Omaha, Norfolk or McCook.

Where we are and how we got here.

It has been said that water is the "issue of the decade" for Nebraska. Water has been the "issue of a lifetime" for the residents of the Republican River Valley. Water is what makes life, farming, livestock, and even our communities possible. Without it, life here doesn't exist. Groundwater management in Nebraska started in the Republican Basin, and NRDs in

the Republican Basin are already in our second and third decades of responsible water management.

The statewide perception that the Republican River basin over-developed in the years since the lawsuit with Kansas is influencing the debate over who should “pay” to solve the problem. As NRDs, we struggle in trying to help others understand that we have been active in the basin and that given time, our controls will have a positive benefit. We cannot get our story told if we are being misrepresented by those who are supposed to be working with us.

One common misconception is that 800 new wells were drilled in the basin after the summer of 1998. The actual number was much less, since most of these wells were replacement wells or existing unregistered wells. While these unregistered wells were not on the state’s database, their uses were available through accounting methods used by the Farm Service Agency (FSA). In other words, the wells weren’t known, but the acres were. Simply registering them did not represent any new development.

When given the opportunity and within the authorities provided by the statutes, the Republican River Basin NRDs have always taken the necessary action. Within 30 days after the passage of LB 108 in 1996 all four NRDs in the Republican Basin made requests for a determination from the Department of Water Resources (DWR). A preliminary determination was made in September of 1996. In this preliminary determination it was noted that conflicts between the use of ground water and surface water were an issue for the Republican River Compact. The Upper Republican NRD responded with a district wide moratorium on new irrigation wells and irrigated acres, in March of 1997. The LB 108 process was delayed by the fact that funding for studies necessary to make a final determination had not been provided by the legislature. While we waited for funding to be approved, the management districts procured over \$800,000 through a grant from the environmental trust to start our own studies contracting for a model with the U.S. Geological Service (USGS). Before the studies or the model could be completed, Kansas sued Nebraska.

The only time ground water management has been slowed in the basin was in 1998 when, *at the request of the State of Nebraska*, the 4 NRDs asked DWR to stop the LB108 process while the lawsuit was ongoing. We were not comfortable doing that, but we obliged the State’s request to do our part to help out. This process was on hold from May of 1998 until December of 2002. In the summer of 2001 the Middle Republican NRD proposed ground water controls and at a hearing held for consideration of those controls testimony was provided from DNR in opposition to the proposed rules. In 2002, both the Middle and Lower Republican NRDs adopted moratoriums on new development to correspond with the existing moratorium in the Upper Republican NRD.

Irrigation has been blamed entirely for the water shortage to Kansas, yet there are many factors determining how much water Kansas receives each year. Of the estimated 42,000 acre feet overused in 2005, 30,000 acre feet were lost to evaporation from reservoirs, a use that benefited no one, but still shows up in compact accounting. In addition, two-thirds of stream flow in the Republican basin comes from runoff, which has been reduced due to

terracing of fields and other necessary conservation measures. According to Ann Bleed, Director of DNR, some estimates show that as much as 75 percent of the streamflow depletion results from conservation measures. The ongoing drought compounds the situation and these two conditions alone are significant reasons why Kansas is not getting the water it is obligated.

Where we go from here.

Ann Bleed presented a plan at the December 15, 2006 meeting that she felt would get the basin back in compliance with the Republican River Compact within five years. She recommended the following, which represents a 15 percent pumping reduction in upland areas and a 50 percent reduction in quick response areas: For upland wells, allocations of: 11.38" in the Upper Republican NRD; 9" in the Middle Republican NRD; and, 9.6" in the Lower Republican NRD. For quick response areas, allocations of: 2.8" – 5.7" in the Upper Republican NRD; 2.7" – 5.3" in the Middle Republican NRD; and, 2.4" – 4.8" in the Lower Republican NRD.

This plan proposed compliance within five years; however, compliance must be achieved by the end of 2007. Governor Heineman said if Nebraska continues to make good faith efforts, he is willing to go to Kansas and ask them to be good neighbors. His words and efforts are appreciated by the Republican River NRDs.

Troubling in all of this, however, is the fact that the allocations agreed to in 2004 by the NRDs and DNR were set at a level that should have maintained compliance with the settlement. The amount of these allocations was established by DNR using the accounting model. Our producers are to be commended for doing their part in conserving water; in some districts, average use was reduced by 30% or more. But now we are being told by DNR that our existing allocations, which DNR both established and agreed upon, need to be drastically reduced in order to achieve compliance.

We are concerned on two points: 1) That the formula being used to measure water allocations for this lawsuit settlement are flawed and are not giving Nebraska irrigators appropriate credit for groundwater savings; and, 2) That the Nebraska DNR does not really know what needs to be done in order to bring Nebraska into compliance. We hesitate to subject the irrigators in the Republican Basin to such drastic reductions – and the entire region to such economic hardship – based on a guess or an assumption that may not be accurate or true. As stated previously, water is the "issue of a lifetime" for the people of the Republican Basin, and we do not want to play games with this entire region.

Governor Heineman said at the December 15 meeting that Nebraska needs to achieve a balanced and sustainable framework for using the water it has available. We agree. Controversy remains, however, about how to achieve such a sustainable framework without jeopardizing the economic sustainability of the region. The Integrated Management Plans (IMP) of the basin, jointly written by the NRDs and DNR, have a goal to sustain a balance between water uses and water supplies so that the economic viability, social and

environmental health, safety, and welfare of the Republican River Basin can be achieved and maintained for both the near term and the long term.

No one in the basin is arguing that consumptive use is not a factor in the current situation; however, drastic reductions in allocations will likely take a heavy toll on the region's economy. At the December 15 meeting, members of the public spoke out about the economic impact of existing programs such as CREP, and expressed concern about how further allocation reduction might impact small communities. State Senator-elect Tom Hansen (District 42) said that the communities in the basin are fragile, and if you take two inches of water out of the picture, then you take farmers, teachers and Coops out of the picture. Jasper Fanning, manager for the Upper Republican NRD, said, "The economic model of the basin is much more fragile than the hydrologic system."

Republican Basin NRDs don't expect the state to fund all solutions in their entirety, but the NRDs alone can't solve the problem. Estimates for how much money would be required to get into compliance range from \$5 million to \$15 million per year for 10 years. These funds could be used to reimburse Nebraska irrigators for their losses due to reducing water consumption for crop production. Taxing authority for the Republican Basin NRDs is limited, and one penny levied across the basin does not raise even a half-million dollars per year.

The Governor said that funding for water management programs will be critical to the success of LB 962 and assured NRDs that the need for such funding would be reflected in his budget proposal come January. He will propose establishing a Water Cash Fund to begin setting aside money needed to fund these water challenges. He also said he was prepared to propose setting aside General Fund dollars to get the cash fund started. We applaud these efforts and the Governor's recognition that this is a state problem and not just a regional problem.

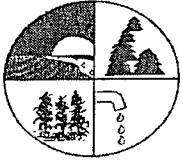
All agencies represented at the December 15 meeting agreed that no single solution would be found and no single entity alone would be able to solve this problem through implementation of regulations. It is only working together that progress will be made.

I welcome your comments regarding this document so our open and forthright discussion on this issue can continue. Time is important since our new Legislature begins a session where water will be one of the most serious issues debated.

Sincerely,



Daniel L. Smith
General Manager
Middle Republican NRD



220 Center Ave.
 PO Box 81
 Curtis, NE 69025

Phone: 800-873-5613 or
 308-367-4281
 Fax: 308-367-4285
 Email: cpeterson@mnrnd.org

Middle Republican Natural Resources District

*Local Conservation Program
 Water Meters*

08-Jan-07

Total Certified Acres

Quick Response Acres

| County | CertifiedAcres | No of Wells |
|------------|----------------|-------------|
| Frontier | 74132.00 | 619 |
| County | CertifiedAcres | No of Wells |
| Hayes | 67993.60 | 481 |
| County | CertifiedAcres | No of Wells |
| Hitchcock | 38839.15 | 528 |
| County | CertifiedAcres | No of Wells |
| Lincoln | 76467.10 | 524 |
| County | CertifiedAcres | No of Wells |
| Red Willow | 55765.50 | 882 |

| County | Certified Acres | No. of Wells |
|-------------|-----------------|------------------|
| Frontier | 24479.7 | 245 |
| County | Certified Acres | No. of Wells |
| Hayes | 16003.6 | 149 |
| County | Certified Acres | No. of Wells |
| Hitchcock | 24068.1 | 379 |
| County | Certified Acres | No. of Wells |
| Lincoln | 7702.3 | 57 |
| County | Certified Acres | No. of Wells |
| Red Willow | 35972.0 | 597 |
| Total Acres | 108225.70 | Total Wells 1427 |

Total Acres 313197.35 Total Wells 3034

Platte Area Acres

| County | Certified Acres | No. of Wells |
|-------------|-----------------|-----------------|
| Frontier | 838.2 | 4 |
| County | Certified Acres | No. of Wells |
| Lincoln | 2549.5 | 14 |
| Total Acres | 3387.70 | Total Wells: 18 |

Usage by County

| CountyID | UseID | Water Usage | IrrigatedAcres | # of Meters | Average Use: |
|------------|------------|-------------|----------------|-------------|--------------|
| Frontier | Irrigation | 73455.02 | 9185.2 | 65 | 8.00 |
| Hayes | Irrigation | 680868.44 | 66772.8 | 476 | 10.20 |
| Hitchcock | Irrigation | 317499.23 | 33274.0 | 519 | 9.54 |
| Lincoln | Irrigation | 512350.91 | 44909.4 | 313 | 11.41 |
| Red Willow | Irrigation | 16887.47 | 1755.0 | 21 | 9.62 |

AverageUse: 10.27

Bleed to head Natural Resources Department

By ART HOVEY / Lincoln Journal Star
Wednesday, Jan 03, 2007 - 08:43:13 pm CST

Ann Bleed, Dave Heineman's interim choice to head Nebraska's Department of Natural Resources in mid-2005, is now his permanent choice.

"What I found, after opening up the process, is what I suspected all along," the governor said during a Wednesday press conference.

He called the 18-year veteran from state water policy ranks, "the most experienced, the most knowledgeable, the most prepared to serve as director of the Department of Natural Resources."

As recently as late November, Heineman was regarding Bleed as no more than a solid possibility for permanent status. She was considering outside offers, and at least one outside observer of the growing tension over water issues, was suggesting she wasn't Heineman's first choice.

But despite that assessment from Mike Jess of the University of Nebraska-Lincoln's Water Center, she emerged Wednesday from a search process that attracted only five applicants before a Dec. 19 deadline.

If there were lingering reservations from Bleed about having to compete with outside prospects, she wasn't admitting to them during the press conference.

"I'm eager to do the job, no matter how I got it, as long as it was a fair and open process," she said. "And I think that's what the governor has provided."

She said, "It makes me feel even more empowered" to know that she was chosen over others who sought the job.

Heineman was quick to agree. "This does empower Ann. Now it's very clear that she's in charge on a full-time basis. I have full confidence in her."

A strong two-way relationship between the governor and his top water official could be helpful at a time when water issues loom large in the legislative session and tighter regulation of the state's irrigation future seems assured.

Heineman will elaborate next week on his plans for creating a state water fund to cover some of the cost of addressing big water problems and solutions.

Among them are a multi-year drought, a legal dispute with Kansas over Republican River water, and a recently signed cooperative agreement with Colorado and Wyoming for managing the North Platte, South Platte and Platte rivers.

Those and other indications of a finite water future are attracting increasing attention, not just from irrigators, but also from municipalities and a much broader array of water interest groups.

Are these the toughest troubles since Bleed joined state government 18 years ago?

"I would say yes," she replied, "that these are the most difficult and challenging times we've had to face, between drought and the new regulations we're trying to implement."

Passage of LB962 in 2004 is a major benchmark of recent regulation. It allows state government to reach beyond surface water issues to declare areas fully or over-appropriated.

That has meant moratoriums on new irrigation wells in central and western parts of the state and a mandate for natural resources districts, when so designated, to achieve sustainable water use through integrated management plans.

"I think the bottom line is that, when surface water and ground water are hydrologically connected, it is one resource," Bleed said. "And, to the extent that you deplete one, you deplete the other. And it works both ways."

Dave Aiken, a water policy specialist at the University of Nebraska-Lincoln, said one advantage of opening up the Natural Resources job to outside applicants was to make Bleed critics "put up or shut up" in suggesting whom they regarded as a better choice.

As far as Aiken is concerned, they didn't come up with any reasonable alternatives. "It looks like now it's shut-up time."

Blead appointed Brian Dunnigan, a 20-year veteran of her department, as deputy director Wednesday.

Blead's selection drew positive reaction from numerous members of the Governor's Water Policy Task Force, including Gene Glock of Rising City and John Turnbull of York.

But Glock and Turnbull both acknowledged that Bleed also has her detractors. Most might be from groundwater circles and one factor is a so-called 10-50 rule that sets boundaries for areas where groundwater pumping is regarded as a substantial influence in depleting rivers, streams and reservoirs.

With that in mind, said Glock, "I'd be quite sure there are going to be some people in the state who are not overjoyed."

Dean Edson, executive director of the Nebraska Association of Resource Districts, umbrella group for the state's 23 NRDs, was among those to speak out against 10-50 — a probable 10 percent depletion in rivers and streams from 50 years of irrigation pumping — in 2005.

More recently, Edson said he thinks some of the problems it might have caused have been resolved.

Edson closed out another kind of perspective on the approaching Bleed era with a rueful laugh.

"If you're a problem solver and you enjoy that, the job can be pretty rewarding," he said, "because there are plenty of problems to solve."

Reach Art Hovey at 523-4949 or at ahovey@alltel.net.

© 2002-2006, Lincoln Journal Star and JournalStar.com.
All rights reserved.

Print Page

Tentative Agenda
Monday January 22, 2007

1:00 - 4:00 p.m. NRD Managers Meeting, Lower Platte South NRD
Meeting is open to NARD Executive and Legislative Committees

NARD Executive and Legislative Committee to meet immediately following the managers meeting, Lower Platte South NRD

1:00 NRD Staff Information and Education Meeting, Embassy Suites – Lincoln

Tuesday January 23, 2007 ~ Embassy Suites – Lincoln

7:30 a.m. NARD Fiscal Planning & Budget Committee Breakfast Meeting
NARD Program and Planning Committee Breakfast Meeting

8:00 Registration desk opens

9:00 Opening Remarks, Dave Heineman, Governor

9:15 Nebraska Water Issues, Ann Bleed, DNR Interim Director

10:00 Framing Legislative Issues and Discussion of Proposed Legislation of Interest

12:00 p.m. Luncheon

1:30 Caucus

3:00 Action on Proposed Legislation

5:30 – 7:00 Reception with Senators

7:00 Dinner on your own with your Senator(s)

Wednesday January 24, 2007 ~ Embassy Suites – Lincoln

7:30 a.m. NARD and NRD Staff Information & Education Committee Breakfast Meeting

8:00 Registration desk opens

8:30 – 11:55 Concurrent Sessions (tentative):
Irrigation Efficiency
Public Relations
Storm Water 101

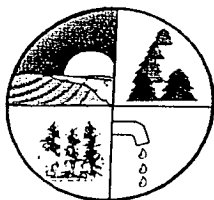
Certifying Irrigation Acres
Flood Plan and Storm Water
Director Responsibilities

Platte River CA
Water for the West
Conflict of Interest, Accountability and Disclosure

Republican River Overview
Overview of Ground Water and Surface Water
Invasive Species

12:00 p.m. Luncheon

1:30 NARD Board of Directors Meeting
Natural Resources Commission Meeting
Pallid Sturgeon Study Group Meeting
Nebraska Flood Plan and Storm Water Meeting



220 Center Ave.
PO Box 81
Curtis, NE 69025

Phone: 800-873-5613
Fax: 308-367-4285
Email: dsmith@mnrnd.org

Middle Republican Natural Resources District

January 9, 2007

Ann Bleed, Director
Dept. of Natural Resources
PO Box 94676
Lincoln NE 68509-4676

Dear Ann,

We want to assure you that the Middle Republican Natural Resources District will continue, as it has done in the past, to work with your agency to try to develop solutions that will assist in maintaining compliance with the Republican River Compact. Our actions in doing so are based on the Integrated Management Plan, which states that we are to "assist the State of Nebraska, in cooperation with the other basin Natural Resource Districts, in maintaining compliance with the Republican River Compact".

As we work together to achieve this goal, an open exchange of information will be critical to the decision making process. We feel that such an exchange has not taken place in the past. The following are some outstanding questions we must have answered before we can proceed with an extensive discussion of future actions:

- In September of 2005, the Middle Republican Natural Resources District sent a letter to DNR requesting information, data and administrative policy. No response or acknowledgement of this request was made. We must know what actions have taken place in the past and the impact of those actions. We will also need the best estimate of the impact of any future agreed-upon actions.
- We remain unclear as to what actions have been taken by the state, and the subsequent impact of those actions. We know there was a surface water buyout last year but have not received any information that would quantify the benefit from that buyout. The settlement requires that the Department have "water short year administration measures" and that a report of those measures be filed. What were those actions?
- We are conducting a study that will determine the feasibility of transfers. We have requested basic information from DNR with regard to the transfer process and the logistics involved in initiating transfers. Once again, no such information has been provided. We feel the State needs to take action and should be the lead with regard to transfers and augmentation. Only if the State has the lead can these flows be protected.

Any benefit from an action taken by the NRDs above a reservoir could be lost after it goes into storage.

In addition to the unanswered questions above, we foresee needing the following information as we move forward:

- We are in the process of beginning a project looking at vegetation control in the riparian area, which may help quantify the benefit from such actions. How will these benefits be credited to Nebraska? Is there a downside to such a project?
- We would also like to better understand the modeling process with regard to actions directed towards Quick Response Wells. We will need computer runs that compare any actions with regard to quick response, alluvial and stream cell wells. If there is no measurable difference in regulation of stream cell wells compared to quick response wells, then a smaller area should be regulated.
- A recent proposal suggested some significant reductions. What was the basis of this proposal? The percentages and inches to be allocated are related to what base information? It was said in McCook that these reductions would bring about compliance in 5 years, yet compliance must come by the end of next year. Will these reductions make up for the existing overuse or will they just bring Nebraska's yearly use into compliance with our yearly allocation? You stated in McCook that the proposal you gave had been put together in the last two days. We would have thought that with over a year on the job you could have spent more than two days on a proposal.

We want to do our part to assist the State. Open exchange of information must take place. Proposals must be based on information available to *both parties* involved in the Integrated Management Plans. We spent over a year working with DNR to put these plans together. We were led to believe that we had taken the actions that were necessary. Now Republican Basin NRDs are being told that more regulation must be enacted. Now we are being told that we haven't done enough when we remain the only ones to enact regulations.

It is our opinion that, with few exceptions, the only management actions that have taken place in the basin have been initiated by the NRDs. We have allocated funds and personnel to nearly every program in the basin in the last three years. We have taken the lead when our charge was to assist. To design any future actions requires the cooperation of the department and the State in the sharing of critical information. As we meet over the next few weeks, we hope that scenarios can be developed that will allow all of us to achieve compliance without placing the burden on any single party.

Sincerely,



Daniel L. Smith, Manager

Cc: Honorable Governor Dave Heineman
Dean Edson, Nebraska Association of Resource Districts

Nebraska's Natural Resource Districts are following the State of Nebraska's recommendations to get the Republican River Basin in compliance. Following is a brief summary of what the NRDs have already done, what the NRDs are doing now, and some questions that must be answered before moving ahead with large-scale irrigation reductions in the region.

PREVIOUS ACTION STEPS

- a. In 2004, allocations recommended by the State of Nebraska were adopted by the NRDs to keep Nebraska in compliance with the Kansas lawsuit settlement agreement. Allocations ranged from 11" to 13.5 inches for groundwater irrigators in the basin.
- b. All groundwater irrigated acres were certified in the basin. Irrigated acre records were close to the estimates by state and local officials. However, county property tax records were corrected to reflect actual irrigated land. Landowners were asked to verify whether the federal, state and NRD estimates were correct for irrigated acres or the property tax records were correct. In some counties a 20 percent increase in irrigated land was added to the tax base because some of the irrigated Ag land previously had been incorrectly taxed as dryland. This correction increased the tax base, but did not change to any significant degree the actual amount of irrigated acres.
- c. Worked with producers, agribusiness, state agencies, federal agencies and UN-L to use less irrigation water than the allocation and keep producers in the 3rd Congressional District profitable.
- d. Worked with all interested parties to come up with additional water savings.
- e. Treated citizens in the 3rd Congressional District with honesty, openness and respect to explore any feasible alternatives to reduce water use.
- f. Working hard to promote the federal Conservation Reserve Enhancement Program (CREP), the Environmental Quality Incentive Program (EQIP) and other conservations programs to convert irrigated land to dryland or wildlife habitat in the basin.

2005 RESULTS

- a. In 2005, producers in the basin used 30% less water than the allocation recommended by the State of Nebraska to keep us in compliance.
- b. This reduced pumping by over 300,000 acre-feet of water in the Basin. To give you some perspective on how much water was conserved, this would fill the water tower at the York I-80 exit 130,400 times.

- c. Unfortunately, Nebraska received credit for only 4,000 acre-feet of the 300,000 acre-feet savings due to the flawed formula in the Kansas lawsuit settlement. Thus, we filled the York Water Tower 128,660 times without receiving any credit for it. The credit amounts to a 1.33% credit for the amount of water saved and would equate to only filling the York Water Tower 1,740 times.
- d. Citizens of the basin were told by the State of Nebraska that they must reduce pumping so that a 42,000 acre-feet credit is provided to Kansas.
- e. If the State of Nebraska numbers are correct and there is a linear correlation, we would have needed to reduce pumping by an estimated three million acre-feet in 2005. There are only 1.3 million acres in the basin, so mathematically it is not possible to provide the water promised to Kansas by reducing groundwater usage alone.
- f. Nebraska's NRDs want to make sure we are providing Nebraskans a benefit for the cost of regulation. In economic terms, the difference between irrigated land and dryland rent is about \$100/acre. To assign a dollar benefit to the state for the 4,000 acre-feet credit in 2005, it would be a \$400,000 value of water (4,000 acre-ft * \$100/acre-ft). The cost of implementing and enforcing these allocation regulations on groundwater users in the Republican River Basin was more than \$400,000. The cost of other NRD cost-share or water savings programs would be in addition to what was spent on enforcing the regulations.
- g. Most of the 42,000 acre feet overused in 2005 were represented by about 30,000 acre feet in evaporation from the reservoirs. This "use" through evaporation benefited no one. It was lost to the system.
- h. For CREP, landowners have applied to enroll over 40,000 acres in the program. This wildlife habitat program takes irrigated land out of production. No official estimate from the State of Nebraska on the benefit to the compact as of yet for these acres. Local NRD property tax dollars are being used to the maximum amount for this program.
- i. Using limited local property tax dollars for federal matching requirements on EQIP. No official estimate from the State of Nebraska on the benefit to the compact as of yet.
- j. Pumping in the basin was reduced by two-thirds from 2002 to 2005, yet the overuse as reported in the compact accounting has gone up each year in 2003, 2004, 2005.
- k. Nebraska compact allocation for 2005 was the lowest in history.
- l. We have asked the State of Nebraska for other options and are still waiting for suggestions that will result in getting Nebraska in compliance. In addition, NRDs are restricted by state law from instituting regulations on irrigation that would create "an adverse economic impact" on a local area.

2006 RESULTS – Preliminary

- a. Worked with the State of Nebraska to purchase surface water in the Basin to release to Kansas. Added local NRD property tax dollars to make the programs work.
- b. Preliminary numbers on irrigation indicate a 15-20% reduction in pumping below the allocations set by the State of Nebraska. This could result in a 150,000 to 200,000 acre-foot reduction in pumping. Based on 2005 credit provided, we are not optimistic about receiving proper credit for these accomplishments.
- c. Continued to promote EQIP and CREP. Additional acres signed up, but no estimate of credit toward compact compliance.
- d. The NRDs are working with other interested parties on programs that would remove high water-use invasive plant species from the rivers and tributaries that could increase water flows to Kansas.
- e. Continue to work with local producers on ways to save water.
- f. Representatives from the Kansas Department of Water Resources are attending local NRD meetings.
- g. Details of Governor Heineman's proposals are being considered and legal and appropriate ways to implement those proposals are being developed.

SUMMARY

- a. The NRDs want to develop solutions for the Basin and have been anxiously waiting recommendations from the State of Nebraska for short-term and long-term solutions for the local citizens.
- b. We hope the State of Nebraska would offer a partnership with local citizens and the local NRD to develop solutions to the issues.
- c. Pumping in the basin was reduced by two-thirds from 2002 to 2005 yet the overuse as reported in the compact accounting has gone up each year in 2003, 2004, 2005.
- d. The significant benefits of reduced pumping appear to only have long-term benefits, if any at all, but the NRDs are not aware of the exact credit calculated by the State of Nebraska.
- e. Reducing pumping provides limited short-term benefits.
- f. Four items NRDs cannot control may have greater impact on compact compliance. These are: 1) Drought; 2) Surface water storage and use; 3) Conservation practices designed for water quality purposes; and, 4) Dryland farming practices. We are anxious to hear from State of Nebraska officials how we can address these issues.

- g. Our view – and please tell us how we’re wrong – is that reducing pumping and irrigated acres alone will not allow Nebraska to meet our obligation to Kansas because of what appears to be a flawed formula in the lawsuit settlement. The related economic impact of reducing irrigated acres (affecting the entire rural economy, as well as hurting the local government’s property tax base as a result of lowering property tax valuations on farmland from irrigated to dryland valuations) will be crippling.
- h. Representatives from the Kansas Department of Water Resources are attending local NRD meetings, however, Nebraska officials do not usually attend.
- i. Because of the NRD property tax levy limits, we can not generate enough local dollars to pay for all of the short-term and long-term problems.
- j. The above listed items are why we have been saying that the State will needs to come up with at least some money to possibly pay Kansas and help the Nebraska citizens of the basin deal with compliance issues.
- k. The only time ground water regulation has been slowed in the basin was at the request of the State of Nebraska in 1998, when the four Republican River NRDs were asked to stop additional regulations under the authority provided by LB108 while the Kansas lawsuit was ongoing. This tied the hands of NRDs which wanted to consider all controls available including well drilling moratoriums, but could not do such under the direction from Nebraska. This process was on hold from May of 1998 until December of 2002. In the summer of 2001 the Middle Republican NRD proposed ground water controls and at a hearing held for consideration of those controls testimony was provided from DNR opposing the proposed rules.
- l. Details of Governor Heineman’s proposals are being considered and legal and appropriate ways to implement those proposals are being developed.

Fro More information, contact:

Jasper Fanning, Upper Republican NRD in Imperial
308.882.5173

Dan Smith, Middle Republican NRD in Curtis
308.367.4281

Mike Clements, Lower Republican NRD in Alma
308.928.2182

John Thorburn, Tri-Basin NRD in Holdrege
308.995.6688

Dean Edson, NARD in Lincoln
402.471.7674

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL

Introduced by

Read first time

Committee:

A BILL

1 FOR AN ACT relating to water; to state intent; to provide for
2 a basin administration committee; to define terms; to
3 provide powers and duties; to provide for a tax levy;
4 to provide for interbasin transfers; to provide duties
5 for the Governor, natural resources districts, and the
6 Department of Natural Resources; and to provide for
7 legislative approval of certain agreements as prescribed.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The Legislature finds that:

2 (a) The federal government has created programs that
3 encourage conservation. While these programs have many benefits,
4 one of the consequences of increased conservation practices is a
5 decrease in runoff to the rivers of the state and a resulting
6 decrease in stream flow;

7 (b) The federal government should provide financial
8 assistance to compensate for the depletion to the stream flow
9 caused by federal conservation programs; and

10 (c) The Legislature recognizes that, if there is a
11 significant change in the value of land or water, the resources
12 allowed to the river basins will need to be adjusted.

13 (2) It is the intent of the Legislature that:

14 (a) The State of Nebraska should take fiscal
15 responsibility for consumptive uses which are greater than the
16 allocation allowed by the Final Settlement Stipulations of the
17 Republican River Basin Settlement Agreement with the State of
18 Kansas prior to December 31, 2010; and

19 (b) In order to accomplish that intent, the Republican
20 River basin will be managed by a basinwide authority comprised
21 of the principal stakeholders in the river basin. The basinwide
22 authority shall have the power to quantify responsibility
23 and assign responsibility to regulatory entities, to conduct
24 basinwide activities such as vegetation management, water supply
25 augmentation, and irrigation acreage retirement programs that
26 benefit the entire basin, and to provide incentives to responsibly
27 use both surface water and ground water irrigation.

1 Sec. 2. For purposes of sections 1 to 17 of this act:

2 (1) Allocation means an amount of water to which an
3 eligible natural resources district or the department can restrict
4 an individual user or permitholder;

5 (2) Allowance means the amount of beneficial consumptive
6 use to which the basin administration committee may restrict a
7 regulatory agency;

8 (3) Balanced water budget means the amount of water
9 necessary to keep a river basin in compliance with the interstate
10 compact;

11 (4) Basin administration committee means the committee
12 created pursuant to section 3 of this act;

13 (5) Beneficial consumptive use means use by which the
14 water supply of a river basin is consumed through the activities of
15 man and includes water consumed by evaporation from any reservoir,
16 canal, ditch, or irrigated area;

17 (6) Computed beneficial consumptive use means the
18 streamflow depletion resulting from the activities of man as
19 listed in the definition of computed beneficial consumptive use in
20 Section II Accounting Procedures of the Republican River Compact
21 Administration;

22 (7) Conservation practices that reduce streamflow means
23 terraces, grassed waterways, retention ponds, and dams;

24 (8) Department means the Department of Natural Resources;

25 (9) Eligible natural resources district means the Upper
26 Republican Natural Resources District, the Middle Republican
27 Natural Resources District, the Lower Republican Natural Resources

1 District, and the Tribasin Natural Resources District; and

2 (10) Interstate compact means the Final Settlement
3 Stipulations of the Republican River Basin Settlement Agreement.

4 Sec. 3. Any river basin which as of July 1, 2007, is
5 subject to the interstate compact shall be subject to regulation
6 by a basin administration committee. The basin administration
7 committee shall have the following members:

8 (1) One representative from each eligible natural
9 resources district in the river basin which has at least fifty
10 thousand irrigated acres within the basin, appointed by the board
11 of directors of the natural resources district;

12 (2) The Director of Natural Resources;

13 (3) A representative of surface irrigation districts
14 within the river basin who is either a landowner with at least
15 two hundred acres irrigated by surface water or an employee of
16 an irrigation district within the river basin. Such representative
17 shall be chosen by caucus; and

18 (4) A representative of municipalities within the river
19 basin having a population of at least one thousand five hundred
20 inhabitants who is either an employee of one of such municipalities
21 or an employee of an economic development organization of which one
22 of such municipalities is a member. Such representative shall be
23 chosen by caucus.

24 A basin administration committee may take basinwide
25 actions upon the vote of a majority of the members of the
26 committee. Meetings of a basin administration committee shall be
27 subject to the Open Meetings Act.

1 Sec. 4. The basin administration committee shall:

2 (1) Formulate a balanced water budget and perform
3 activities that result in basinwide compliance with the interstate
4 compact;

5 (2) Formulate and manage a financial budget that will
6 result in basinwide compliance with the interstate compact;

7 (3) Assign water allowances to each regulatory agency
8 within the river basin; and

9 (4) Prior to receiving any funds or taking any action,
10 receive approval for the annual balanced water budget and annual
11 balanced financial budget from the boards of directors of a
12 majority of the eligible natural resources districts.

13 Sec. 5. The basin administration committee may:

14 (1) Annually levy a tax not to exceed ten cents per
15 one hundred dollars of taxable valuation of property subject to
16 the levy within the river basin. Funds resulting from such levy
17 shall be matched by funds from the state's General Fund at a rate
18 of three General Fund dollars for each dollar generated by the
19 tax levy provided for in this subdivision, up to a maximum of
20 nine million dollars in 2010 adjusted dollars. Such matching funds
21 shall be appropriated to the basin administration committee for
22 management;

23 (2) Supplement and augment river basin water supplies;

24 (3) Manage vegetation;

25 (4) Implement irrigation acreage retirement programs.

26 Prior to the implementation of any irrigation acreage retirement
27 program, the basin administration committee shall conduct and

1 publish an economic impact study showing the cost to each county in
2 which irrigation retirement would occur;

3 (5) Provide incentives to responsibly manage surface
4 water and ground water irrigation;

5 (6) Purchase surface water rights, on either an annual or
6 a permanent basis;

7 (7) Apply for and hold water permits;

8 (8) Develop and manage a basinwide water bank;

9 (9) Contract with private entities or individuals for
10 services; and

11 (10) Spend not more than five percent annually of the
12 funds available from the levy described in subdivision (1) of this
13 section for administration expenses of the committee.

14 Preference shall be given to supplementing and augmenting
15 river basin water supplies and managing vegetation.

16 Sec. 6. The cumulative results of actions undertaken by
17 the basin administration committee pursuant to sections 4 and 5 of
18 this act shall result in compliance with the interstate compact.
19 The basin administration committee shall publish an annual report,
20 identifying and documenting the expected benefits of each such
21 action over a one-year period, a five-year period, a ten-year
22 period, a twenty-five-year period, and a fifty-year period from the
23 date of implementation.

24 Sec. 7. The basin administration committee shall
25 formulate a plan of action within its financial budget which shall
26 result in compliance with the interstate compact according to
27 projections by the accepted ground water model for the river basin.

1 The plan of action shall be submitted to the board of directors of
2 each eligible natural resources district for approval and shall be
3 made available to the department and to the public.

4 Sec. 8. Within thirty days after a formal request from
5 the basin administration committee, the department shall provide
6 technical support to the basin administration committee, provide
7 computer modeling results, and honor all data requests. The
8 department shall provide up to fifty computer simulation runs
9 each year to the basin administration committee at no cost to the
10 committee. Additional computer simulation runs shall be provided
11 to the basin administration committee at a mutually agreeable cost
12 not to exceed five hundred dollars per computer simulation run. If
13 the department fails to provide the requested data within the time
14 frame requested by the basin administration committee, the basin
15 administration committee may have the data compiled by another
16 entity with costs to be paid by the department.

17 Sec. 9. The department shall provide annual river basin
18 depletion forecasts for dry, average, and wet years. The depletion
19 forecast shall provide estimates for depletions caused by ground
20 water pumping within the alluvial basin, within one mile, two
21 miles, and five miles of the center of any flowing tributary or
22 stream; for ground water wells not included in such one-mile,
23 two-mile, and five-mile ranges; for any surface water diversions;
24 for reductions in the virgin water supply caused by conservation;
25 and for reductions in the virgin water supply caused by vegetation.
26 The annual forecasts shall provide one-year, two-year, five-year,
27 ten-year, twenty-five-year, and fifty-year projections.

1 Sec. 10. (1) In addition to the matching funds provided
2 pursuant to section 5 of this act, the Legislature shall
3 for FY2008-09 appropriate ten million dollars to the basin
4 administration committee to implement activities required or
5 permitted under sections 4 and 5 of this act.

6 (2) For each calendar year in which the Elwood Reservoir
7 is above seventy-five percent of capacity for at least six months
8 of such year, the Legislature shall appropriate to the Central
9 Nebraska Public Power and Irrigation District forty thousand
10 dollars when the reservoir is at least thirty-three percent
11 full and an additional fifty dollars per acre-foot in excess
12 of thirty-three percent capacity.

13 Sec. 11. The State of Nebraska shall be financially
14 responsible for all consumptive uses exceeding the interstate
15 compact through December 31, 2010. On and after January 1,
16 2011, four-fifths of the costs of basin administration committee
17 programs, up to the maximum allowed pursuant to sections 5 and
18 10 of this act, associated with keeping the river basin in
19 compliance with the interstate compact shall be paid by the State
20 of Nebraska and one-fifth of such costs shall be paid by the basin
21 administration committee.

22 Sec. 12. On and after the effective date of this act,
23 the department and the state shall include a representative of
24 the basin administration committee in negotiations, planning, and
25 creation of future interstate compacts and agreements, as well as
26 meetings and negotiations regarding the interstate compact defined
27 in section 2 of this act.

1 Sec. 13. Beginning January 1, 2011, failure of the river
2 basin to remain in compliance with the interstate compact, as
3 determined by the Republican River Compact Administration, shall
4 result in review and revision of basin administration committee
5 plans by [XXX agency].

6 Sec. 14. (1) Ground water or surface water may be
7 transferred from one river basin to another if the conditions of
8 this section are met.

9 (2) A person seeking a permit to transfer surface water
10 from one river basin to another shall follow the procedures
11 established in sections 46-288 and 46-289.

12 (3) A person seeking a permit to transfer ground water
13 from one river basin to another shall apply to the natural
14 resources district from which the water would be transferred. The
15 district shall provide forms for such application. Each application
16 shall be accompanied by a review fee of one thousand dollars. The
17 district shall consider the following in determining whether to
18 grant the permit:

19 (a) The water can be physically transferred;

20 (b) The applicant can demonstrate financial and
21 engineering capacity to transfer the water;

22 (c) The river basin from which the water would be
23 transferred does not have an increase in modeled consumptive use
24 due to the transfer;

25 (d) The quantity of water to be transferred is specified;

26 (e) The conditions under which the water will be
27 transferred, the period of the transfer, and the parties involved

1 in the transfer are specified;

2 (f) The water will be used for beneficial purposes;

3 (g) The transferring party has the legal right, through
4 leases or purchases, to make such transfer;

5 (h) The transfer will not cause more economic damage to
6 the river basin from which the water will be transferred than it
7 will provide economic benefit to the river basin to which the water
8 will be transferred;

9 (i) The environmental impact on the river basin from
10 which the water will be transferred does not cause a reduction in
11 water available to endangered species or downstream communities;
12 and

13 (j) Hydrologic, economic, and environmental impact
14 studies are submitted with the transfer request.

15 (4) The natural resources district shall hold a hearing
16 on any transfer permit request filed under subsection (3) of
17 this section within sixty days after the date the application is
18 filed and shall vote to grant or deny the permit within sixty
19 days after such hearing. The transfer permit shall be granted if
20 the conditions of such subsection are met. If the conditions of
21 such subsection are not met, the natural resources district shall
22 provide written notice to the applicant within sixty days after the
23 date of the vote to deny such request. Such notice shall include
24 the reason for such denial. The transfer shall be deemed granted if
25 the natural resources district fails to act on the request within
26 the time limits provided in this section.

27 Sec. 15. The Governor, in cooperation with the Attorney

1 General, shall seek financial compensation from the federal
2 government for the effects of conservation programs on streamflow
3 in areas involving the federal government via an interstate compact
4 or agreement and in areas that do not involve an interstate compact
5 or agreement.

6 Sec. 16. On and after the effective date of this act,
7 the department shall not install any new conservation practice that
8 reduces streamflow, and any employee of the department working on
9 such practices shall on and after such date be assigned to work on
10 adding water to the rivers of Nebraska and ensuring compliance with
11 interstate compacts and agreements.

12 Sec. 17. (1) The State of Nebraska shall submit any
13 interstate compact or agreement relating to the water of the state
14 which purports to bind the state to any action to the Legislature
15 for approval prior to implementation of the provisions of the
16 interstate compact or agreement.

17 (2) The State of Nebraska shall submit any agreement with
18 a foreign nation relating to the waters of the state which purports
19 to bind the State of Nebraska to any action to the Legislature for
20 approval prior to its implementation.