

DRAFT for Discussion Purposes Only

This DRAFT has not been approved by any irrigation district or natural resources district.

- Accretions to the stream may be used to offset depletions to the stream
 - Any accretions to the stream developed as a result of programs funded by the State, such as State-funded CREP and EQIP programs or other surface water or ground water use buyout programs or augmentation projects will be used to offset any overuse by the State. When Nebraska's CBCU does not exceed the CAS and the State is in Compliance with the Republican River Compact, accretions to the stream resulting from State funded programs will be used to offset depletions by surface water users if streamflow is too low to allow surface water users to use their full allowable depletion. Otherwise, accretions from State-funded programs will be used to offset depletions for surface water users and ground water users in each NRD according to the percentages established to distribute the allowable depletions.
 - Any streamflow accretions developed through programs funded by an NRD, may be used to offset depletions by the NRD funding the program.
 - Any streamflow accretions developed through programs funded by a surface water user may be used to offset the depletions caused by that surface water user.
- By January 1 of 2008 and each year thereafter the DNR in consultation with the NRDs shall forecast the maximum amount of water that may be available from streamflow for beneficial consumptive use for the next year in order to comply with the Republican River Compact.
- Compliance with the Integrated Management Plan will be based on a five year running average as in the Republican River Compact and, in water-short-years, a two or three year running average, depending of which is controlling for Compact compliance.

At the end of each year the DNR will estimate the previous years Allocation and CBCU for surface water users and each NRD and determine whether the surface water users or an NRD exceeded its allotted supply or was under its Allotted supply. Any unused allotted water may be carried over for use in the subsequent years. Any over use of water must be offset in subsequent years so that the five year running average CBCU is less than the allotted supply for the five years or if it is a water short year, the two or three year CBCU is less than the two or three year allotted supply.

Regulatory Actions

Administration of Ground Water

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- The regulations used to administer ground water use will be determined by the local Natural Resources Districts and the DNR in accordance with Neb. Rev. Stat. § 46-715. In accordance with Neb. Rev. Stat. § 46-739, the plan shall include regulations that together with other augmentation or voluntary reduction incentive programs, will assure that depletions to the stream from ground water pumping does not exceed the depletions allotted to the NRD so that each NRD is assuming their share of the responsibility to keep Nebraska is in compliance with the Republican River Compact. Neither the individual NRD or the DNR will require the integrated management plan to be amended solely for the purpose of changing the responsibility of water users within the NRD based on the failure of another basin NRD to implement or enforce an integrated management plan to meet their share of the responsibility to keep Nebraska in compliance with the Republican River Compact.

After taking into account any augmentation plans or reductions in beneficial consumptive use achieved through basinwide incentive programs, make such additional reductions in ground water use in water short years as are necessary to achieve a reduction in beneficial consumptive use in the NRD in an amount proportionate to the total reduction in consumptive sue that is needed in Nebraska above Guide Rock in such years.

Administration of Surface Water

- The State will administer surface water diversions first in time first in right, but will not allow the total depletions to stream flow from surface water use to exceed the stream flow depletions allotted to surface water use for each five-year period to stay within Compact compliance.

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New Average and Drought Scenario Model Runs

Two new modeling scenarios have been developed in response to comments from the NRD's. The first is an average conditions scenario, which uses the long term average precipitation for each of the compact rainfall gages, and repeats this average value every year for forty years. The second is a dry-year scenario, which uses the 35th percentile precipitation (or the precipitation that is 15 percentage points below the average) from each of the compact gages, and repeats this value every year for forty years. The pumping values used in these scenarios are the current NRD allocations, and the acres used are the current NRD certified acres. This results in an average pumping of ~12.5 inches per irrigated acre. Additional model runs were completed for each scenario with even inch reductions in pumping from the allocation amounts.

In order to have a benchmark for comparison, estimates of the NE Compact allocation in the future was made for the average and dry-year conditions. This was accomplished through a regression equation which relates gaged flow (Hardy + Cortland Canal annual flows) in the basin to the Compact Computed Water Supply (CWS). The median and 35th percentile flow for the period of record were adjusted downward to account for the observed trend in the data and future reductions in baseflow due to the lag effect, and these values were used to calculate a projected CWS. These values for the year 2012 are ~425 thousand acre-feet (kAF) for the average condition and ~363 kAF for the drought condition. Assuming the Nebraska Compact allocation would equal 55% of these totals (which equals the average portion NE has received in the recent past), the 2012 projected NE Compact allocations are ~234 kAF under average conditions and ~200 kAF under drought conditions.

The future imported water supply was assumed to be equal to 10 kAF, and the future reservoir evaporation charged to NE was assumed to be 25 kAF per year. The values were added to and subtracted from the above allocation numbers, respectively, to come up with values for total allowable use by NE. These values were then allotted to surface water and groundwater users based on the average split of consumptive use during 1998-2002. The result was an allotted depletion for surface water users in 2012 of ~60 kAF during average conditions and ~51 kAF during drought conditions. Note that these values do not include the reservoir evaporation that was already taken out, this is strictly the actual consumptive use of water in the canals and on the fields. The remainder, ~159 kAF during average conditions or ~134 kAF during drought conditions, is the projected allotment of depletions for groundwater users in 2012.

These values can then be compared to the modeled depletions for these two scenarios. Under average conditions, with users pumping their full, current allocation, groundwater depletions in the basin will be ~174 kAF, or ~15 kAF more than the projected groundwater allotment. Under dry-year conditions, with users pumping their full, current allocation, groundwater depletions in the basin will be around 162 kAF, or 32 kAF more than the projected groundwater allotment. Reduced pumping runs indicated that pumping would need to be restricted to a level ~5 inches below the current allocations in order to achieve a balance under average conditions. Furthermore, groundwater pumping would

need to be restricted to a level ~9 inches below the current allocations in order to achieve a balance under dry-year conditions. These reductions translate to basin wide average allocations of ~3-4 inches under dry-year conditions, or ~7-8 inches under average conditions.

Surface water leasing or other augmentation plans may be implemented to increase the groundwater allotment, thus allowing for an increase in these recommended allocations. However, in order to offset the lag effect, total allocations should not exceed a level 1 to 2 inches below the current allocations. In other words, even though the allocations may be higher than those indicated above if the NRDs offset depletions in other ways, they should not be allowed to increase to the current levels.

COPY

INTERLOCAL COOPERATION AGREEMENT

This Agreement is entered into by and between the following natural resources districts ("NRDs" or "Parties"):

Upper Republican Natural Resources District
Middle Republican Natural Resources District
Lower Republican Natural Resources District

Each of these NRDs is a political subdivision of, and is situated in, the State of Nebraska.

IT IS AGREED by and between the Parties hereto, each acknowledging the receipt of good, adequate, and valuable consideration, as follows:

1. AUTHORITY: This Agreement is made and entered into by the Parties pursuant to the authority conferred upon each under the Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801 through 13-827 (the "Interlocal Act").
2. REPUBLICAN RIVER BASIN COALITION: The Parties hereby create the Republican River Basin Coalition (the "RRBC"). The RRBC shall be governed by the terms of this Agreement and shall be the instrument through which and by which the Parties pursue the purposes described herein. The RRBC shall be an entity separate and distinct from the respective Parties hereto, and no Party hereto is the agent, employee or representative of the RRBC or any other Party. The Parties hereto agree that contracts entered into, obligations undertaken, and liabilities incurred by the RRBC shall be the separate contracts, obligations and liabilities of the RRBC, and not the contracts, obligations or liabilities of the respective Parties. The RRBC shall constitute a separate body corporate and politic of the State of Nebraska exercising public powers and acting on behalf of the Parties hereto.
3. PURPOSE: The RRBC shall provide the authority, resources, services, studies, and facilities needed for the representation of the interests of the Parties in proceedings before all agencies, tribunals, courts, and any administrative, legislative, executive, or judicial bodies concerning or affecting the NRDs' actions, decisions, and policies to regulate/manage water to ensure the State of Nebraska remains in compliance with the Republican River Compact, 2A NEB. REV. STAT. APP. § 1-106 (1995). The RRBC shall specifically act within the authorities granted by LB 701, One Hundredth Legislature, First Session ("LB 701"), and other authority so granted by the Nebraska Unicameral and laws of Nebraska. This Agreement shall provide the organizational and administrative structure, and enumeration of the powers, privileges and authority of the financial cooperative effort and the RRBC. The powers, privileges and authorities of the RRBC shall not exceed those powers, privileges or authorities exercised, or capable of being exercised, by each of the Parties, nor shall they be used in a manner that is in violation of any of the Parties' public purposes.
4. BOARD OF DIRECTORS: The affairs, actions and conduct of the business of the RRBC shall be by a Board of Directors ("Board"). Each member of the Board shall be entitled to one vote, and the majority of the votes cast on any issue shall determine the issue, except where a unanimous vote shall be specifically required by this Agreement or by-laws adopted by the Board. A unanimous vote shall be required before the issuance of any bonds for

the acquisition of water rights. The Board shall be composed of a voting member from each Party (designated herein as a "Director") and one other person if so desired by each Party. Only a Director shall be allowed to cast a vote and each Party shall have but one vote. Each Director and any designated alternate shall be duly and properly appointed by the respective governing bodies of each of the separate and individual Parties, but it shall not be required that any Director of the RRBC so appointed, be a publicly elected member of the governing body of any Party. Each Director shall serve at the pleasure of his or her respective organization. Any vacancy which occurs in the Board shall be filled within 60 days through the appointment of a replacement by the represented Party. The Board shall select from their membership a Chairman, Vice Chairman, and Secretary/Treasurer. The Board shall exercise authority over the RRBC in accordance with applicable laws and shall set the policy, delegating executive, supervisory and organizational authority to its officers and committees. Meetings of the Board shall be conducted at least annually and at such other frequent times as may be required by the business of the RRBC. A majority, *i.e.*, two (2) Directors shall constitute a quorum for the transaction of business.

5. CHAIRMAN, VICE CHAIRMAN, AND SECRETARY/TREASURER: The Chairman shall preside at all the meetings of the Board, shall decide all questions of order, with advice of the Board appoint the members to all committees except the executive committee, be an ex-officio member of all committees, and have such general powers and duties of supervision and management as shall be necessary and germane or required for the execution and prosecution of the affairs of the RRBC. The Vice Chairman shall serve in the absence of the Chairman and in the Chairman's absence, shall have all of the powers and duties of the Chairman, and shall have such other powers and duties as the Chairman or Directors shall from time to time delegate to the Vice Chairman. The Secretary/Treasurer to the Board shall keep minutes of all meetings conducted by the RRBC, and shall be the keeper of the records of the RRBC. The Secretary/Treasurer shall prepare and submit in writing a monthly report of the state of the finances of the RRBC and pay RRBC money only upon authorization signed by the Chairman or, in the absence of the Chairman, by the Vice Chairman. Payment of all accounts after authorization shall be made on check signed by the Secretary/Treasurer. The Secretary/Treasurer shall serve without bond. In addition to the foregoing, the officers shall have such other and additional duties, powers, privileges and authority as the Board may, in by-laws or otherwise, determine appropriate or necessary, and by Board action delegate or direct.

6. COMMITTEES: The Board or the Chairman shall have the power to establish such committees as may be necessary, appropriate or beneficial to the conduct of the affairs of the RRBC. Such committees shall have such powers, duties and authorities as shall be delegated to it by the Board, which powers, duties, and authorities shall not be inconsistent with or exceed those powers and duties granted to the RRBC under this Agreement. The Board and the Chairman are authorized to designate from its members an executive committee which shall consist of the RRBC'S Chairman, Vice Chairman, Secretary/Treasurer and the Chairmen of the various committees established by the Board, which executive committee shall have and may exercise only such powers and authorities as are delegated to it by the Board. The designation of any committees and the delegation thereto of authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed by this Agreement, nor shall the Board delegate to any committee the authority to set policy or to make expenditures on behalf of the

RRBC. Any committee established by the Chairman shall be approved by the Board at its next meeting.

7. POWERS: The RRBC shall have all the powers, privileges and authority exercised or capable of being exercised by each of the individual and separate Parties to achieve the purposes of the RRBC as set forth in this Agreement. Such powers, privileges and authority shall include, but not be limited to, the power, privilege and authority to:

- (a) Sue and be sued.
- (b) Have a seal and alter the same at pleasure or to dispense with the necessity thereof.
- (c) Receive and accept donations, gifts, grants, bequests, appropriations or other contributions or assistance in monies, services, materials or otherwise from the United States or any of its agencies, from the state or any of its agencies or political subdivisions, or from any persons, and to use or expend all such contributions in carrying out its operations.
- (d) Establish advisory groups by appointing individuals from among the Parties and pay necessary and proper expenses of such groups as the Board shall determine, and dissolve such groups.
- (e) Employ such persons as are necessary to carry out the purposes of the RRBC and this Agreement and to pay the necessary and proper expenses of said persons.
- (f) Adopt and promulgate rules and regulations to carry out the purposes of the RRBC and this Agreement.
- (g) Establish such committees as are necessary to carry out the purposes of the RRBC and this Agreement and to pay the necessary and proper expenses of such committees.
- (h) Make and execute contracts, leases, easements and other instruments necessary or convenient to the exercise of its powers.
- (i) Make, amend and repeal by-laws, rules and regulations to carry out and effectuate its powers and purposes, which by-laws, rules and regulations shall not be inconsistent with the Interlocal Cooperation Act or this Agreement.
- (j) Borrow money, make and issue negotiable bonds, bond anticipation notes, refunding bonds and notes (collectively, the "Indebtedness"), all in accordance with the Interlocal Act and LB 701 and any amendments to either of said acts, and to secure the payment of such Indebtedness or any part thereof by a pledge of and grant of a security interest in any or all of the RRBC's assets (including bonds and payments of principal and interest on such bonds issued to the RRBC by any of the Parties) or net revenues and any other funds or property which the RRBC has a right to, or may hereafter have the right to pledge for such purposes.

(k) Provide in the proceedings authorizing such Indebtedness for remedies upon default in the payment of principal and interest on any Indebtedness, including, but not limited to, the appointment of a trustee to represent the holders of such Indebtedness and the appointment of a receiver to the RRBC's property, such trustee and receiver to have the powers and duties provided for in the proceedings authorizing such obligations.

(l) Allocate funds raised by the RRBC from the proceeds of any Indebtedness to the Parties or to the RRBC for the purposes of effecting river-flow enhancement projects authorized by LB 701.

8. FINANCES AND BUDGET: Annually or at such other frequent intervals as the Board may determine, each of the Parties hereto shall contribute such funds as are necessary to conduct the day-to-day operations of the RRBC. Each NRD shall make an initial contribution of \$3,000.00. This initial contribution shall be deposited in an account in the name of the RRBC, at a bank insured by the FDIC, and selected by the Board.

If Indebtedness is issued by the RRBC, each of the NRDs shall levy and collect such taxes or other charges as are necessary to ensure timely repayment of such RRBC Indebtedness, including but not limited to taxes and charges needed to make payments of principal and interest on any bonds issued by such NRD to the RRBC to support such RRBC Indebtedness. Each NRD shall be responsible on a proportional basis relative to the total amount required for Indebtedness repayment according to the following percentages: The Upper Republican Natural Resources District shall be responsible for 44% of the total revenue needs; Middle Republican Natural Resources District shall be responsible for 30% of the total revenue needs; and the Lower Republican Natural Resources District shall be responsible for 26% of the total revenue needs. Funds collected by the RRBC for repayment of any Indebtedness may be deposited in a trust account or such other account, different from that identified in the first paragraph of this section, as may be required by agreement or permitted by law.

Annually, beginning no more than 30 days after the formation of the RRBC and commencement of business, and continuing each year thereafter during the existence of the RRBC, the Board shall establish and adopt a budget for the prosecution and completion of the work undertaken by the RRBC.

Concurrently with the establishment of the budget each year, the Board of the RRBC shall consult with each Party regarding their ability to contribute such funds as are necessary to conduct the operations and to pursue the purposes of the RRBC. Upon completion of the budget, the Board shall determine the assessment to be submitted by each Party and shall thereafter assess each of such Parties for said amount. Each Party shall have 60 days after receipt of notice from the RRBC that an assessment is due to contribute its share of the funds required under the terms of the assessment.

9. WITHDRAWAL: No Party may withdraw while the RRBC has any outstanding Indebtedness. Any Party may withdraw from this Agreement and from representation on the RRBC, at any time while no Indebtedness of the RRBC is outstanding, upon written notification to the Chairman of the RRBC. Such withdrawal shall be effective upon receipt of the written notification. Any Party withdrawing from the Agreement and from representation shall be

entitled to immediately secure its own representation. Following withdrawal, the withdrawn NRD shall no longer be a Party, and the withdrawn NRD shall not be bound by this Agreement, except that (a) the withdrawn NRD shall not be entitled to any refund of any contribution or assessment previously paid to the efforts of the RRBC, and (b) the withdrawn NRD shall remain liable for its share of any costs properly approved and incurred by the RRBC through the effective date and time of withdrawal. Such share shall be determined in accordance with the allocation for the assessment of Parties outlined in Section 8 above as of the date of the withdrawal notice. The Parties agree that a withdrawn NRD shall not be liable or responsible for any costs, obligations or liabilities incurred by the RRBC after such NRD's withdrawal. In the event of such withdrawal, the RRBC shall make such adjustments as are necessary to the composition of its Board, and its future budgets and finances as are necessary to accommodate and continue the operation of the RRBC in the absence of such withdrawing NRD.

10. PARTIAL AND COMPLETE TERMINATION: This Agreement may not be terminated while any Indebtedness is outstanding. If and when there is no Indebtedness of the RRBC outstanding, this Agreement and the RRBC created hereby, shall be terminated upon the earlier of the completion of its purposes and objects described herein or upon the vote of two-thirds of the then constituted Board for the complete or partial termination of the RRBC and this Agreement. At such time as two-thirds of the Board shall vote to terminate the RRBC and the Agreement in accordance with the terms of this Section 10, all outstanding obligations of the RRBC shall be paid, all property acquired by the RRBC shall be disposed of by distribution of the same to the remaining Parties as represented on the Board and all unused funds and appropriations shall be returned to the then-remaining Parties as represented on the Board in such proportion as represented by the proportionate share payable by each NRD under the second paragraph of Section 8 of this Agreement (including as such proportionate shares may have been modified in the event of the withdrawal of a Party under the terms of Section 9 of this Agreement or a change in membership under Section 12 of this Agreement).

11. AMENDMENT AND MODIFICATION: As and to the extent that any Indebtedness is outstanding, the prohibitions of Sections 9 and 10 of this Agreement on withdrawal of any Party and on partial or complete termination of this Agreement may not be amended or modified. For all other matters this Agreement may be amended or modified upon the approval of modifications by all Parties.

12. CHANGE IN MEMBERSHIP: This Agreement may be amended or modified to increase its membership upon approval by two-thirds vote of the members of the Board. Any new members shall be required to have the written approval of its governing body, and shall have admission to membership in the RRBC as a Party hereto, approved by a duly adopted resolution of its governing body. In the event of any increase in the membership, the proportionate shares set forth in the second paragraph of Section 8 of this Agreement shall be modified, provided, that no such modification shall alter the obligations of any Party on any bonds issued by such party to the RRBC to support Indebtedness incurred by the RRBC and outstanding as of the time of the increase in membership.

13. APPROVAL: This Agreement shall be effective and the RRBC established hereby shall come into existence as soon as the governing bodies of the respective Parties hereto shall have adopted resolutions approving and authorizing the execution of this Agreement and

the establishment of the RRBC described herein at a duly called public meeting. Counterparts of this Agreement shall be executed and delivered by each of the Parties to all of the other Parties. Executed originals shall be placed on file at an office designated by the Board.

14. ADDITIONAL AND FURTHER CONTRACTS FOR SUPPORT AND MUTUAL ASSISTANCE: The RRBC is authorized and empowered to seek and obtain contracts, agreements and other arrangements whereby the RRBC shall receive support and assistance for the purpose of pursuing its objects and purposes from such other entities as RRBC from time to time shall determine necessary or appropriate, including, but not limited to, for-profit and non-profit organizations, and all other persons as defined by NEB. REV. STAT. § 49-801(16), provided, however, such contract shall not exceed any authority or powers delegated to the RRBC by the Parties and such contract shall not give rise to, nor create any ability of any such third parties to participate in the management or operation of the RRBC, and provided further that upon a majority vote of the Board, any person or entity providing support and mutual assistance may be allowed to appoint, for such period of time as the Board shall determine, a representative to the Board, which representative shall be a non-voting, ex-officio member of the Board, but which representative shall be entitled to attend all meetings of the Board and to be appointed to such committees and attend such committee meetings as the Board shall determine.

15. INTEGRATION: This Agreement contains the entire agreement of the Parties. No representations were made or relied upon by any party other than those expressly set forth herein. All prior and contemporaneous negotiations, discussions, memos and other writing are merged and incorporated herein, it being the intention of the Parties that this be a final and full expression of their agreement. No agent, employee or other representative of any Party hereto is empowered to alter any of the terms herein unless such alteration is done in writing and signed by all Parties hereto.

16. ASSIGNMENT: No Party hereto may assign its rights under this Agreement.

17. NOT FOR PROFIT: It is expressly acknowledged and agreed that the RRBC is a public body and is to be operated not for profit, and no profit or dividend will inure to the benefit of any individual.

IN WITNESS WHEREOF, the Parties have signed and executed this agreement on the dates shown next to their respective signatures as follows.

Upper Republican Natural Resources District

By Jasper Fanning

Date 5-23-07

Middle Republican Natural Resources District

By Carrie L. Smith

Date 22 May 07

Lower Republican Natural Resources District

By Michael Clements

Date 6-1-07

DOCS/795622.2

RESOLUTION: 163-07-1

BE IT RESOLVED by the Board of the Middle Republican Natural Resources District as follows:

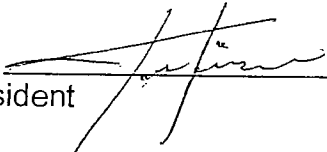
Section 1. The Board hereby determines that it is advisable and necessary for the District to cooperate with the Lower Republican Natural Resources District and the Upper Republican Natural Resources District by entering into an Interlocal Cooperation Act Agreement relating to the formation of a joint entity under the Nebraska Interlocal Cooperation Act to be named the Republican River Basin Coalition; that the purposes of such Coalition shall be to provide a means for funding costs of river-flow enhancement projects through borrowings on behalf of member parties and to provide the authority, resources, services, studies, and facilities needed for the representation of the interests of the Parties in proceedings before all agencies, tribunals, courts, and any administrative, legislative, executive, or judicial bodies concerning or affecting the Natural Resource Districts' actions, decisions, and policies to regulate/manage water to ensure the State of Nebraska remains in compliance with the Republican River Compact, 2A NEB. REV. STAT. APP. § 1 106 (1995); that the Coalition shall specifically act within the authorities granted by LB 701, One Hundredth Legislature, First Session ("LB 701"), and other authority so conveyed by the Nebraska Unicameral and laws of Nebraska; that an Interlocal Cooperation Act Agreement for such purpose has been prepared and submitted for approval by the Board; and that it is advisable and necessary that said Agreement be approved and its execution be authorized.

Section 2. The District shall enter into an Interlocal Agreement creating the Republican River Basin Coalition with the Lower Republican Natural Resources District and the Upper Republican Natural Resources District, and the President or Vice President and Secretary of the Board be and they are hereby authorized to execute on behalf of the District said Interlocal Agreement in substantially the form presented but with any changes as such officers shall deem appropriate for and on behalf of the District.

Section 3. This resolution shall be in full force and take effect from and after adoption as provided by law.

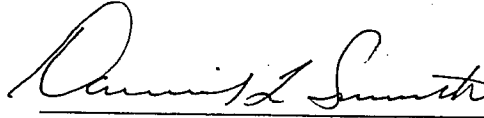
Adopted this 12th day of June, 2007

MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT

By: 

President

ATTEST:



Secretary *Manager*

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