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to supplement these controls. These controls, along with any applicable supplemental programs, shall be consistent with the goals and objectives of this plan and be sufficient to meet the compliance standards set forth below, ensure that the state will remain in compliance with the Republican River Compact, and protect the ground water users whose water wells are dependent on recharge from the river or stream and the surface water appropriators on such river or stream from streamflow depletion caused by surface and ground water uses begun after on July 16, 2004, the date the river basin was designated as fully appropriated, in accordance with Neb. Rev. Stat. §§ 46-720 and 46-713-46-715, If it is determined by NDNR and the MRNRD, that all of the Districts in the Basin meet their proportional share of responsibility, but Nebraska is nonetheless out of compliance with the FSS, any further reductions in net depletions necessary, shall be achieved by the Districts, as the District deems appropriate, based on the same proportions as contained in the 1998-2002 baseline depletion percentages.

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The Rules and Regulations – Ground Water Management Area in the Middle Republican Natural Resources District contains the controls required by the FSS and other controls needed for the effective administration of a ground water management subarea for integrated management. The actions proposed by the FSS were rules and regulations for transfers, meters, and certification of acres. In addition, a well drilling moratorium and a ban on the increase of irrigated acres were also implemented. The compliance standard and management activities listed below will be or have been implemented to achieve and maintain Compact compliance.

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Amendments dealing with the requirements of Neb. Rev. Stat. §46-715(3)(b), and §46-715(3)(c) shall have the concurrence of NDNR. The MRNRD may otherwise amend these regulations without the approval of the NDNR so long as the compliance standards listed below are met.

If the compliance standards listed below, including consideration of the averages as described in Section VII.A.3.b, are not met, the MRNRD, with the assistance of NDNR, shall formulate adequate rules and regulations, acceptable to NDNR, to meet the Compliance Standards. The revisions to the rules and regulations shall be such that the compliance standards will be achieved within two years from the determination that the compliance standards were exceeded if the State of Nebraska is within compliance with the FSS, or within one year of the determination that the compliance standards have been exceeded and the State of Nebraska is not within compliance with the FSS.

The Determination of whether the MRNRD is in compliance with the compliance standards shall be made in conjunction with the regular annual meeting of the RRCA and shall be based on each year's annual Compact accounting.

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A. Compliance Standards

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1. PURPOSE. These Compliance Standards are established by NDNR and MRNRD to assess whether the course of action taken by the MRNRD, with the intention of providing a proportionate share of assistance to the State, is sufficient for the State to maintain compliance with the FSS and the Compact. The action taken by the MRNRD shall be evaluated in connection with the action taken by the other Districts in the Republican River Basin and any other relevant considerations, including the information and data provided by NDNR and past action by the District.

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2. DURATION. These Compliance Standards shall be used by the MRNRD commencing January 1, 2008 through January 1, 2013. During this period, the NDNR and MRNRD shall examine the sufficiency and effectiveness of the Compliance Standards to determine if amendments or revisions are necessary to ensure the State's compliance with the FSS and the Compact. Nothing contained herein shall prohibit or preclude any amendment or revision, at anytime, by the NDNR and MRNRD, when such action is necessary. Further, nothing contained in this subsection shall be construed as eliminating the review of the provisions of this IMP as allowed by Neb. Rev. Stat. §46-715.

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3. STANDARDS. The MRNRD shall adopt and implement rules and regulations which shall meet the requirements of both the following compliance standards:

a. Provide for a twenty percent (20%) reduction in pumping from the 98-02 pumping volume using a combination of regulation and supplemental programs so that the average ground water pumping volume is no greater than 247,580 acre-feet over the long term.

i. If precipitation is lower than average for any given year, the ground water pumping volume for that year may be above 247,580 acre-feet.

ii. If incentive or supplemental programs are implemented so that on average stream flow is increased, the ground water pumping volume may be increased above the 247,580 acre feet in proportion to that increased amount of streamflow as determined by the Republican River Compact Administration Ground Water Model (RRCAGWM).

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b. The District's net depletions shall average no greater than thirty percent (30%) of the State of Nebraska's allowable ground water depletions as accounted by the RRCAGWM. The average shall be computed using the annual allowable annual ground water depletion for the same years as are used to determine the averages for Nebraska's compliance with the FSS.

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B. OTHER CONTROLS AND MANAGEMENT ACTIVITIES

- A. Maintain a moratorium on new uses with the exceptions noted in the FSS.
- B. Limit or prevent the expansion of irrigation uses.
- C. Maintain requirement for metering of all uses according to MRNRD standards.
- D. Provide for transfers according to District standards.
- E. The MRNRD shall provide NDNR with copies of District actions taken on variances and consult with NDNR to minimize or eliminate any impact, relating to Compact compliance, that may arise as a result of a variance granted by the District.
- F. NDNR will consult with the MRNRD when considering applications for permits under the Municipal and Rural Domestic Ground Water Transfers Permit Act, the Industrial Ground Water Regulatory Act or other such permitting actions by the NDNR that will have an impact on water supplies of the Republican River Basin.
- G. The MRNRD will work with NDNR to achieve the maximum amount of benefit in the accounting of leased or purchased water under the authority of River Flow Enhancement projects or in similar projects.
- H. The MRNRD and the NDNR recognize that the required reductions in water consumption could be accomplished by means other than those adopted in this IMP. The IMP and associated controls may need to be amended in the future to implement any such revisions.

IX. SURFACE WATER CONTROLS - Department of Natural Resources

The authority for the surface water component of this integrated management plan is Neb. Rev. Stat. §46-715 and §46-716. The surface water controls that will be continued and/or begun by the NDNR are as follows:

- A. NDNR will do the following additional surface water administration as required by the FSS:
 - 1. To provide for regulation of natural flow between Harlan County Lake and Superior-Courtland Diversion Dam, Nebraska will recognize a priority date of February 26, 1948, for Kansas Bostwick Irrigation District, the same priority date as the priority date held by the Nebraska Bostwick Irrigation District's Courtland Canal water right.

2. When water is needed for diversion at Guide Rock and the projected or actual irrigation supply is less than 130,000 acre-feet of storage available for use from Harlan County Lake as determined by the Bureau of Reclamation using the methodology described in Harlan County Lake Operation Consensus Plan attached as Appendix K to the FSS, Nebraska will close junior, and require compliance with senior, natural flow diversions of surface water between Harlan County Lake and Guide Rock.
 3. Nebraska will protect storage water released from Harlan County Lake for delivery at Guide Rock from surface water diversions.
 4. Nebraska, in concert with Kansas and in collaboration with the United States, and in the manner described in Appendix L to the FSS, will take actions to minimize the bypass flows at Superior-Courtland Diversion Dam.
- B. Metering of all surface water diversions at the point of diversion from the stream will continue to be required. For surface water canals that are not part of a Bureau of Reclamation project, farm turnouts also will be required to be metered by the start of the 2005 irrigation season. All meters shall have a totalizer and shall meet NDNR standards for installation, accuracy and maintenance. All appropriators will be monitored closely to ensure that neither the rate of diversion nor the annual amount diverted exceeds that allowed by the applicable permit or by statute.
- C. The NDNR's moratorium on the issuance of new surface water permits was made formal by Order of the Director dated July 14, 2004, and will be continued. Exceptions may be granted to the extent permitted by statute or to allow issuance of permits for existing reservoirs that currently do not now have such permits. Such reservoirs are limited to those identified through the FSS required inventory of over fifteen (15) acre-feet capacity reservoirs.
- D. All proposed transfers of surface water rights shall be subject to the criteria for such transfers as found in Neb. Rev. Stat. §§46-290 to 46-294.04 and related NDNR rules or the criteria found in Neb. Rev. Stat. §§46-2,120 to 46-2,130 and related NDNR rules.
- E. The NDNR completed the adjudication process for individual appropriators in the Republican River Basin upstream of Guide Rock in 2004. The results of that adjudication provided up-to-date records of the number and location of acres irrigated with surface water by such appropriators. Those records will be used by the NDNR to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The NDNR also will be proactive in initiating subsequent adjudications whenever

information available to the NDNR indicates the need for adjudication as outlined by state statutes..

- F. At this time, due to the already limited availability of surface water supplies, the NDNR will not require that surface water appropriators apply or utilize additional conservation measures or that they be subject to other new restrictions on surface water use, except as may be necessary to meet the goals and objectives of this plan and to maintain compliance with the Compact. However, the NDNR reserves the right to request, in the future, that this IMP be modified to require any such additional measures. In the event such a request is made, the NDNR will "allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days, unless extended by the NDNR, to identify the conservation measures to be applied or utilized, to develop a schedule for such application and utilization, and to comment on any other proposed restrictions." Neb. Rev. Stat. §46-716(2).

X. AUGMENTATION AND INCENTIVE PROGRAMS

The MRNRD and NDNR, alone or in cooperation with other parties, intend to establish and implement financial or other incentive programs to reduce beneficial consumptive use of water within the MRNRD. As a condition for participation in an incentive program, water users or landowners may be required to enter into and perform such agreements or covenants concerning the use of land or water as are necessary to produce the benefits for which the incentive program is established.

Such incentive programs may include any program authorized by state law and/or Federal programs such as the Conservation Reserve Enhancement Program (CREP) and Environmental Quality Incentives Program (EQIP) operated by the U.S. Department of Agriculture.

Projects that have a net effect of reducing consumptive use or increasing streamflow can originate from many sources. The MRNRD will initiate these types of projects when possible and participate in projects sponsored by other groups within our capabilities.

The MRNRD, through the Republican River Basin Coalition, intends to establish and implement river flow enhancement projects using the authorities available to the MRNRD by the enactment of LB 701 in 2007.

| Any reductions in depletions to streamflow generated through supplemental programs, including acreage retirement or other incentive programs undertaken through programs available throughout the Republican River Basin with the use of funds distributed by the State of Nebraska or the United States Government

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will be accounted as credits to the entire Republican River Basin and not to any District, regardless of the location or other conditions of the acreage included in the program or of the location of the effect of such water savings on the river system. Any reductions in depletions to streamflow resulting from any such basin-wide programs shall be considered in the calculation of each District's compliance with the 98-02 depletion percentages.

However, should any District establish, fund, and implement its own such conservation program, available only for acreage within such District, the accounting of credit for the resulting water savings shall be given exclusively to that District. Also, with agreement of the Districts involved, the benefits from a supplemental program may be allocated to each District based upon their share of the cost of the program.

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XI. REPORTING REQUIREMENTS

The MRNRD and the NDNR will make all documents, reports, records, computer runs or other calculations or material necessary to determine compliance with the Compact available to each other, regardless of whether such documents are available under the Nebraska Public Records Act or otherwise, unless such materials are identified as confidential under Nebraska statutes or by a ruling of a court of competent jurisdiction. Specifically, and without limitation, the MRNRD agrees to continue to provide GIS coverage maps of all lands irrigated and to meter, record and provide to the NDNR its ground water usage records in a manner consistent with the requirements of the Republican River Compact Accounting Procedures; the NDNR agrees to provide to the MRNRD all reports and records of the other Districts necessary to determine their compliance with reductions, in accordance with procedures described above, as well as all documentation and reports utilized by the NDNR to determine the Basin's virgin water supplies and Nebraska's compliance with the Compact. In the event any materials are withheld by either NDNR or MRNRD under a claim of statutory confidentiality, the party withholding such materials shall describe the contents of the materials and reasons for the denial in accordance with Neb. Rev. Stat. § 84-712.04.

XII. PLAN TO GATHER AND EVALUATE DATA

Compact accounting and data exchanges among the states shall be done annually in accordance with the Final Settlement Stipulation, dated December 15, 2002, including the Republican River Compact Administration (RRCA) Accounting Procedures and Reporting Requirements which are contained in Appendix C thereof. An annual report of the RRCA is published each year. Ongoing programs and new studies or other projects may become a source of information that can be used to evaluate the effectiveness of controls adopted by the MRNRD and the NDNR. This accounting and the forecast in accordance with Neb. Rev. Stat. § 46-715(5) will increase understanding and test the validity of the conclusions and information upon which this plan is based.

XIII. INFORMATION CONSIDERED

Information used in the preparation and to be used in the implementation of this integrated management plan can be found in the simulation runs of the Republican River Compact Administration Ground Water Model, the data tables of the Final Settlement Stipulation for the Republican River Compact, Chapters 2 and 3 of the 1994 Middle Republican NRD Ground Water Management Plan and additional data on file with the District and the NDNR of Natural Resources.

Republican River Basin Coalition

Release Date: Immediate

Contact: Traci J. Witthuhn
(308) 928-2182

Coalition Payments Stalled, Not Stopped

Republican River Basin Coalition Continues To Pursue Financing

A Monday meeting of the Republican River Basin Coalition left members looking for alternate means of funding to repay irrigators that gave up water rights in 2007.

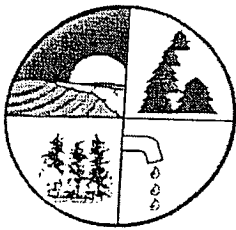
Al Eveland of Ameritas Financial addressed the association regarding the status of \$9,000,000 in bonds meant to repay irrigators within the Republican River Basin. According to Eveland, bonds could not be authorized without a certificate of non-litigation; meaning that a lawsuit filed by the Friends of the River challenging the NRD's ability to levy property taxes will stall funding. Though the coalition could not act upon Resolution No. 302-07, which would issue the Coalition's River Flow Enhancement Revenue Bonds, Series 2007, in a principal amount not to exceed \$9,000,000, Eveland reviewed the draft with the coalition, noting bond structure, language of the bond and flow of funds.

NRD managers noted that, though this hurdle may slow payment, the organization is currently in search of other avenues of finance. Options being explored to obtain funding to pay back irrigators include collaboration with the Department of Natural Resources and the State of Nebraska. For the time being, Resolution No. 302-07 has been tabled indefinitely.

In 2007, the Republican River Basin Coalition, which includes the Upper, Middle and Lower Republican Natural Resources Districts, leased surface water from the Frenchman-Cambridge, Frenchman Valley and Riverside Irrigation Districts in order to minimize the economic impact of more restrictive regulations. Water purchased in these agreements was protected by the Department of Natural Resources and sent downriver to the Harlan County Reservoir. State law LB 701 gave the NRDs the ability to levy both property taxes and a new occupation tax in order to pay for the water leased by these agreements.

In other business:

- Elected organizational officers as such: Dan Smith, Chairman; Jasper Fanning, Vice Chairman; Nelson Trambly, Treasurer.
- Approved Bylaws of the Republican River Basin Coalition.
- Discussed financial accounts of the organization.



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

Memo

DATE: October 23, 2007
TO: Board of Directors
FROM: Dan Smith
RE: Lawsuit

This is the Friends of the River filing. They are asking for an original action before the Supreme Court. That could take from a few days to a few weeks to be decided. The Supreme Court could decide to hear the case or say it should have been filed in district court.

The second part is for a judgment on the constitutionality of just the property tax portion of LB 701. It also includes an injunction against the imposition and collection of that tax.

I have not received a notice yet. My first knowledge of the filing came from the World Herald. Dave Hendee forwarded these copies to me.

I have included some recommended comments from our attorney. We should be careful about what we say and should probably offer no comments to most questions. Just use care when talking about this suit.

I'll let you know more when I can.

IN THE SUPREME COURT OF THE STATE OF NEBRASKA
Case No. _____

ANGUS GAREY, TOM KIPLINGER,
CLAUDE CAPPEL, ROBERT AMBROSEK,
ROBERT ANDERSON, LARRY DURNER,
KENNY FRASIER, DAN FUNK,
and STEVE WHIPPLE,
Petitioners,

vs.

NEBRASKA DEPARTMENT OF NATURAL
RESOURCES; ANN BLEED, in her official
capacity as DIRECTOR of the Nebraska
Department of Natural Resources; UPPER
REPUBLICAN NATURAL RESOURCES
DISTRICT; LOWER REPUBLICAN
NATURAL RESOURCES DISTRICT;
MIDDLE REPUBLICAN NATURAL
RESOURCES DISTRICT; SCOTT OLSON,
SCOTT HOGELAND and JERRY FRIESE,
In their official capacities as Members of the
Board of Equalization of Dundy County,
Nebraska; TONY LUTZ, in his official
capacity as County Clerk of Dundy County,
Nebraska; JOANNA NIBLACK, in her
official capacity as County Assessor of
Dundy County, Nebraska; PENNY DENNY,
in her official capacity as County Treasurer
of Dundy County, Nebraska; BRADFORD
HOCK, RONALD WERTZ and SCOTT
McDONALD, in their official capacities as
Members of the Board of Equalization of
Hitchcock County, Nebraska; MARGARET
POLLMAN, in her official capacity as
County Clerk of Hitchcock County,
Nebraska; JUDY McDONALD, in her
official capacity as County Assessor of

**APPLICATION
TO FILE
ORIGINAL ACTION**

Hitchcock County, Nebraska; LINDA COOK, in her official capacity as County Treasurer of Hitchcock County, Nebraska; EARL MCNUTT, LEIGH HOYT and STEVE DOWNER, in their official capacities as Members of the Board of Equalization of Red Willow County, Nebraska; PAULETTA GERVER, in her official capacity as County Clerk of Red Willow County, Nebraska; SANDRA KOTSCHWAR, in her official capacity as County Assessor of Red Willow County, Nebraska; MARLEEN GARCIA, in her official capacity as County Treasurer of Red Willow County, Nebraska; ROBERT JACK, STEVEN HALL and KEVIN OWENS, in their official capacities as Members of the Board of Equalization of Frontier County, Nebraska; DARLA WALTHER, in her official capacity as County Clerk of Frontier County, Nebraska; REGINA ANDRYESKI, in her official capacity as County Assessor of Frontier County, Nebraska; JUDY HOSICK, in her official capacity as County Treasurer of Frontier County, Nebraska; CLINTON OLMSTED, BILL LEWIS and DON TEGTMAN, in their official capacities as Members of the Board of Equalization of Furnas County, Nebraska; KENNIS McCLELLAND, in his official capacity as County Clerk of Furnas County, Nebraska; MELODY CRAWFORD, in her official capacity as County Assessor of Furnas County, Nebraska; SHERYL COX, in her official capacity as County Treasurer of Furnas County, Nebraska; ROBERT LUEKING, DOUGLAS HORWART, PATTY REBMAN, RUBY HARDIN, KENNETH BANTAM, LONNY HANNA and RODNEY METZGER, in their official capacities as Members of the Board of Equalization of Harlan County, Nebraska; SHIRLEY BAILEY, in her official capacity as County Clerk of Harlan County, Nebraska; PAM MEISENBACH, in her official capacity as County Assessor of Hitchcock County, Nebraska; DIANE GROTFELD, in her official capacity as County Treasurer of Harlan County, Nebraska.

Respondents.

COME NOW the Petitioners, Robert Ambrosek, Robert Anderson, Claude Cappel, Larry Durner, Kenny Frasier, Dan Funk, Angus Garey, Tom Kiplinger, and Steve Whipple, by and

through their attorneys, Knudsen, Berkheimer, Richardson & Endacott, LLP, and move this Court pursuant to Rule 15 of the Supreme Court Rules of Practice and Procedure for leave to commence an original action in this Court:

1. This action is a civil action in which the State is a party through the State of Nebraska Department of Natural Resources and Ann Bleed, Commissioner of the Department of Natural Resources, as required by Neb. Rev. Stat. § 24-204.
2. This action seeks a declaration that L.B. 701 as adopted by the 100th Legislature, First Session, effective May 1, 2007 (hereinafter "LB 701") is unconstitutional on its face and as applied. LB 701 improperly imposes a property tax for state purposes, which is expressly prohibited by Art. VIII, Sec. 1A of the Nebraska Constitution. LB 701 also authorizes taxation of only Republican River basin taxpayers to meet the Compact obligation of the entire State, and Nebraskans who do not live within the basin are not required to pay LB 701's property tax to meet the State of Nebraska's Compact obligation. LB 701 therefore results in an unconstitutional commutation of taxes to any and all Nebraskans owning real property which is not within the three Defendant Republican River basin natural resource districts, in violation of Art. VIII, Sec. 4 of the Nebraska Constitution. Finally LB701 authorizes real property taxes to be imposed only by natural resources districts that are subject to river compacts between three or more states and which include at least one irrigation district. LB 701 thereby effectively exempts all Nebraska property owners who do not own real estate within such a district from the taxes it authorizes. LB 701 therefore:
(1) creates a closed class consisting of the three Defendant Natural Resource Districts, to which it grants the privilege to tax property within their districts, and (2) creates a closed class of Nebraska property owners who are exempt from such taxation. By granting these

privileges to the closed classes it creates, the property tax provisions of LB 701 are unconstitutional special legislation in violation of Nebraska Constitution, Art. III, Sec. 18.

3. The Respondent Natural Resource Districts and Counties have already taken steps to levy the taxes authorized by LB701 and those taxes will have a material and substantive impact on the residents in the Republican River Basin including the Plaintiffs. LB 701 will impact property taxation in thirteen counties within the State and those tax payers will bear an unfair burden in paying for an obligation which is properly a burden to be borne by the State and the residents of all 93 counties of Nebraska.
4. Resolution of the constitutionality of LB701 by original action in this Court will eliminate the necessity of duplicate actions in multiple counties all addressing the identical constitutional issues pled in the attached Petition.
5. This action involves a matter of statewide concern. If the Respondents in this action are permitted to implement the provisions of LB 701 it will have a material and substantial negative impact on similarly situated property owners and taxpayers in the Republican River Basin.
6. Counsel for the Petitioners do not believe that resolution of these matters will require lengthy discovery procedures or a lengthy trial, but that most if not all of the facts surrounding this litigation would be undisputed and subject to legal determination by this Court.

WHEREFORE, Petitioners pray for an Order of this Court granting them leave to file the attached verified Petition as an original action in this Court in accordance with the authority granted in Neb. Rev. Stat. § 24-204.

ANGUS GAREY, TOM KIPLINGER,
CLAUDE CAPPEL, ROBERT AMBROSEK,
ROBERT ANDERSON, LARRY DURNER,
KENNY FRASIER, DAN FUNK,
and STEVE WHIPPLE,
Claimants,

By: KNUDSEN, BERKHEIMER,
RICHARDSON & ENDACOTT, LLP
3800 VerMaas Place, Suite 200
Lincoln, Nebraska 68502
(402) 475-7011

By: _____
Rodney M. Confer - #10753
rconfer@knudsenlaw.com
One of Said Attorneys

IN THE SUPREME COURT OF THE STATE OF NEBRASKA
Case No. _____

ANGUS GAREY, TOM KIPLINGER,
CLAUDE CAPPEL, ROBERT AMBROSEK,
ROBERT ANDERSON, LARRY DURNER,
KENNY FRASIER, DAN FUNK,
and STEVE WHIPPLE,
Petitioners

vs.

NEBRASKA DEPARTMENT OF NATURAL
RESOURCES; ANN BLEED, in her official
capacity as DIRECTOR of the Nebraska
Department of Natural Resources; UPPER
REPUBLICAN NATURAL RESOURCES
DISTRICT; LOWER REPUBLICAN
NATURAL RESOURCES DISTRICT;
MIDDLE REPUBLICAN NATURAL
RESOURCES DISTRICT; SCOTT OLSON,
SCOTT HOGELAND and JERRY FRIESE,
In their official capacities as Members of the
Board of Equalization of Dundy County,
Nebraska; TONY LUTZ, in his official
capacity as County Clerk of Dundy County,
Nebraska; JOANNA NIBLACK, in her
official capacity as County Assessor of
Dundy County, Nebraska; PENNY DENNY,
in her official capacity as County Treasurer
of Dundy County, Nebraska; BRADFORD
HOCK, RONALD WERTZ and SCOTT
McDONALD, in their official capacities as
Members of the Board of Equalization of
Hitchcock County, Nebraska; MARGARET
POLLMAN, in her official capacity as
County Clerk of Hitchcock County,
Nebraska; JUDY McDONALD, in her
official capacity as County Assessor of
Hitchcock County, Nebraska;

**PETITION FOR
DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

LINDA COOK, in her official capacity as County Treasurer of Hitchcock County, Nebraska; EARL MCNUTT, LEIGH HOYT and STEVE DOWNER, in their official capacities as Members of the Board of Equalization of Red Willow County, Nebraska; PAULETTA GERVER, in her official capacity as County Clerk of Red Willow County, Nebraska; SANDRA KOTSCHWAR, in her official capacity as County Assessor of Red Willow County, Nebraska; MARLEEN GARCIA, in her official capacity as County Treasurer of Red Willow County, Nebraska; ROBERT JACK, STEVEN HALL and KEVIN OWENS, in their official capacities as Members of the Board of Equalization of Frontier County, Nebraska; DARLA WALTHER, in her official capacity as County Clerk of Frontier County, Nebraska; REGINA ANDRYESKI, in her official capacity as County Assessor of Frontier County, Nebraska; JUDY HOSICK, in her official capacity as County Treasurer of Frontier County, Nebraska; CLINTON OLMSTED, BILL LEWIS and DON TEGTMAN, in their official capacities as Members of the Board of Equalization of Furnas County, Nebraska; KENNIS McCLELLAND, in his official capacity as County Clerk of Furnas County, Nebraska; MELODY CRAWFORD, in her official capacity as County Assessor of Furnas County, Nebraska; SHERYL COX, in her official capacity as County Treasurer of Furnas County, Nebraska; ROBERT LUEKING, DOUGLAS HORWART, PATTY REBMAN, RUBY HARDIN, KENNETH BANTAM, LONNY HANNA and RODNEY METZGER, in their official capacities as Members of the Board of Equalization of Harlan County, Nebraska; SHIRLEY BAILEY, in her official capacity as County Clerk of Harlan County, Nebraska; PAM MEISENBACH, in her official capacity as County Assessor of Hitchcock County, Nebraska; DIANE GROTFELD, in her official capacity as County Treasurer of Harlan County, Nebraska.

Respondents.

COME NOW the Petitioners, Robert Ambrosek, Robert Anderson, Claude Cappel, Larry Durner, Kenny Frasier, Dan Funk, Angus Garey, Tom Kiplinger, and Steve Whipple, by and through their attorneys, Knudsen, Berkheimer, Richardson & Endacott, LLP, and for their cause of action against Respondents, and each of them, state and allege as follows:

I. PETITIONER TAXPAYERS

1. Petitioners Robert Ambrosek and Kenny Frasier are residents and taxpayers of the Upper Republican Natural Resources District and of the State of Nebraska, who own real estate in Dundy County, Nebraska. In September of 2007, the Upper Republican Natural Resources District adopted a mill levy authorized by Legislative Bill 701, 100th Legislature, First Session, effective May 1, 2007 (hereinafter "LB 701"), which would result in taxation of the real property owned by these Petitioners within the Upper Republican Natural Resources District.
2. Petitioners Claude Cappel, Larry Durner, Dan Funk, Angus Garey and Tom Kiplinger are residents and taxpayers in the Middle Republican Natural Resources District and of the State of Nebraska, and Petitioner Steve Whipple is a taxpayer within the district. Petitioners Claude Cappel and Tom Kiplinger own real estate in Red Willow and Hitchcock Counties in Nebraska, Petitioners Dan Funk and Angus Garey own real estate in Red Willow County, Nebraska, and Petitioners Larry Durner and Steve Whipple own real estate in Frontier County, Nebraska. On September 11, 2007, the Middle Republican Natural Resources district adopted a mill levy authorized by LB 701, which will result in taxation of the aforementioned real property owned by these Petitioners within the Middle Republican Natural Resources District.

3. Petitioner Robert Anderson and Steve Whipple are residents and taxpayer in the Lower Republican Natural Resources District and the State of Nebraska. Petitioner Robert Anderson owns real estate in Furnas and Harlan Counties in Nebraska, and Petitioner Steve Whipple owns real estate in Furnas County. On September 13, 2007, the Lower Republican Natural Resources District adopted a mill levy authorized by LB 701, which will result in taxation of the aforementioned real property owned by these Petitioners within the Lower Republican Natural Resources District.

II. RESPONDENTS NEBRASKA DEPARTMENT OF NATURAL RESOURCES AND DIRECTOR OF THE NEBRASKA DEPARTMENT OF NATURAL RESOURCES

4. Respondent Nebraska Department of Natural Resources is an Administrative Department of the State of Nebraska and the official agency of the State in connection with water resources development, with general authority over all matters pertaining to water rights. Respondent Ann Bleed is the duly appointed Director of the Department of Natural Resources and is the official charged with the responsibility of administering public water supplies within the State of Nebraska, and is charged with the responsibility of administering the Republican River Compact, 2A Neb. Rev. Stat. § 1-106 (Reissue 1995) (hereinafter "Compact"), on behalf of the State of Nebraska.

III. RESPONDENT REPUBLICAN RIVER BASIN NATURAL RESOURCES DISTRICTS

5. Respondent Upper Republican Natural Resources District is a political subdivision of the State of Nebraska, created by the State of Nebraska, with one of its purposes being the regulation of ground water within its District, consisting of Chase, Dundy and Perkins Counties in Nebraska.

6. Respondent Middle Republican Natural Resources District is a political subdivision of the State of Nebraska created by the State of Nebraska, with one of its purposes being the regulation of ground water within its District, consisting of portions of Frontier and Lincoln Counties and all of Hayes, Hitchcock and Red Willow Counties in Nebraska.
7. Respondent Lower Republican Natural Resources District is a political subdivision of the State of Nebraska created by the State of Nebraska, with one of its purposes being the regulation of ground water within its District, consisting of portions of Webster and Nuckolls Counties and all of Furnas, Harlan and Franklin Counties in Nebraska.

III. RESPONDENT COUNTY OFFICIALS

8. Respondents Scott Olson, Scott Hogeland and Jerry Friese are the Board of Equalization of Dundy County, Nebraska; Respondent Tony Lutz is the County Clerk of Dundy County; Respondent Joanna Niblack is the County Assessor of Dundy County; and Respondent Penny Denny is the County Treasurer of Dundy County, Nebraska. These persons are made parties Respondent in their official capacities herein because they are charged under Nebraska law with responsibilities of imposing and collecting property taxes in Dundy County that are levied by the Upper Republican Natural Resources District.
9. Respondents Bradford Hock, Ronald Wertz and Scott McDonald are the Board of Equalization of Hitchcock County; Nebraska, Respondent Margaret Pollman is the County Clerk of Hitchcock County; Respondent Judy McDonald is the County Assessor of Hitchcock County; and Respondent Linda Cook is the County Treasurer of Hitchcock County, Nebraska. These persons are made parties Respondent in their official capacities herein because they are charged under Nebraska law with responsibilities of imposing

and collecting property taxes in Hitchcock County that are levied by the Middle Republican Natural Resources District.

10. Respondents Earl McNutt, Leigh Hoyt and Steve Downer are the Board of Equalization of Red Willow County, Nebraska; Respondent Pauletta Gerver is the County Clerk of Red Willow County; Respondent Sandra Kotschwar is the County Assessor of Red Willow County; and Respondent Marleen Garcia is the County Treasurer of Red Willow County, Nebraska. These persons are made parties Respondent in their official capacities herein because they are charged under Nebraska law with responsibilities of imposing and collecting property taxes in Red Willow County that are levied by the Middle Republican Natural Resources District.
11. Respondents Robert Jack, Steven Hall and Kevin Owens are the Board of Equalization of Frontier County, Nebraska; Respondent Darla Walther is the County Clerk of Frontier County; Respondent Regina Andryeski is the County Assessor of Frontier County; and Respondent Judy Hosick is the County Treasurer of Frontier County, Nebraska. These persons are made parties Respondent in their official capacities herein because they are charged under Nebraska law with responsibilities of imposing and collecting property taxes in Frontier County that are levied by the Middle Republican Natural Resources District.
12. Respondents Clinton Olmsted, Bill Lewis and Don Tegtman are the Board of Equalization of Furnas County, Nebraska; Respondent Kennis McClelland is the County Clerk of Furnas County; Respondent Melody Crawford is the County Assessor of Furnas County; and Respondent Sheryl Cox is the County Treasurer of Furnas County, Nebraska. These persons are made parties Respondent in their official capacities herein

because they are charged under Nebraska law with responsibilities of imposing and collecting property taxes in Furnas County that are levied by the Lower Republican Natural Resources District.

13. Respondents Robert Lueking, Douglas Horwart, Patty Rebman, Ruby Hardin, Kenneth Bantam, Lonny Hanna and Rodney Metzger are the Board of Equalization of Harlan County, Nebraska; Respondent Shirley Bailey is the County Clerk of Harlan County; Respondent Pam Meisenbach is the County Assessor of Harlan County; and Respondent Diane Grotfeld is the County Treasurer of Harlan County, Nebraska. These persons are made parties Respondent in their official capacities herein because they are charged under Nebraska law with responsibilities of imposing and collecting property taxes in Harlan County that are levied by the Lower Republican Natural Resources District.

IV. ORIGINAL JURISDICTION AND BASIS OF PETITIONERS' ACTION

14. This action is brought as an original action in this Court pursuant to Article V, Section 2 of the Constitution of the State of Nebraska and the provisions of Neb. Rev. Stat. § 24-204.

15. This is an action for declaratory judgment pursuant to the Nebraska Uniform Declaratory Judgment Act, Neb. Rev. Stat. § 25-21,149 et seq. to determine a question of actual controversy between the parties and for a determination of the constitutionality and enforceability of the property tax authorized by LB 701, and also seeking a permanent injunction to enjoin the imposition and collection of that tax.

2
Property Tax
+ 33
bond

V. LEGISLATIVE BILL 701

16. The State of Nebraska enacted LB 701 effective May 1, 2007, purporting to amend Neb. Rev. Stat. §§2-3201 et seq., to authorize the Upper Republican Natural Resources District, the Middle Republican Natural Resources District, and the Lower Republican Natural Resources District power and authority to levy real property taxes for the lease or purchase of surface water use rights as a means of meeting the State of Nebraska's obligation to comply with the Compact.
17. As one of the parties to the Republican River Compact, the State of Nebraska has the obligation to comply with that Compact, and the burden of the State's Compact obligations are a responsibility imposed on the State and shared by all Nebraska citizens, not exclusively those residing in the vicinity of the Republican River. By enacting LB 701, the State of Nebraska has attempted to avoid its responsibility for compliance with the Compact and to impose a portion of the economic responsibility for fulfilling Nebraska's Compact duties exclusively upon the citizens of Nebraska who own real property within the Republican River basin, to the exclusion of, and for the economic benefit of, taxpayers in the rest of the State.
18. Residents of southwestern and south central Nebraska in the Republican River basin will bear the primary economic burden of the State of Nebraska's Compact compliance through reduced availability of water for use in irrigation and consequent effects on the agricultural economy in the Republican River basin, which effects will be magnified in the Republican River Basin and felt beyond their impact on agricultural producers because of the economic multiplier effect. Republican River basin real property owners are not also required to assume the additional unconstitutional property tax burdens of

complying with the State of Nebraska's Compact obligations, to the exclusion of other Nebraskans, as purportedly authorized by LB 701.

19. On its face and as construed and applied, the sections of LB 701 pertaining to the assessment and collection of real estate taxes, and any actions of Respondents in purporting to enforce and implement those sections with regard to Petitioners and others similarly situated, are invalid, unconstitutional, unlawful, unenforceable and violative of Petitioners' constitutional rights and interests.

VI. UNCONSTITUTIONAL PROPERTY TAX FOR STATE PURPOSE

20. According to the preamble and language of LB 701, its legislative history, and public comments of the Upper, Middle and Lower Republican Natural Resources Districts, the purpose of the real property taxes authorized by LB 701 is to assist the State of Nebraska in complying with Nebraska's obligation to Kansas under the Republican River Compact.

21. The real property taxes that the Upper, Middle, and Lower Republican Natural Resources District have levied under LB 701 for the purpose of meeting Nebraska's Republican River Compact obligations is therefore a "property tax for state purposes" that is expressly prohibited by Art. VIII, Sec. 1A of the Nebraska Constitution.

VII. UNCONSTITUTIONAL COMMUTATION OF TAXES

22. LB 701 authorizes only natural resources districts within the Republican River basin to levy property taxes on real property within their districts to meet Nebraska's obligations to Kansas under the Republican River Compact. Although the Compact is the State of Nebraska's obligation, and neither Republican River natural resources districts nor

residents or owners of real property within the Republican River Basin are parties to or obligated under the terms of the Compact, LB 701 authorizes taxation of only Republican River basin taxpayers to meet the Compact obligation of the entire State, and Nebraskans who do not live within the basin are not required to pay LB 701's property tax to meet the State of Nebraska's Compact obligation. LB 701 therefore results in an unconstitutional commutation of taxes to any and all Nebraskans owning real property which is not within the three Respondent natural resource districts, in violation of Art. VIII, Sec. 4 of the Nebraska Constitution.

VIII. UNCONSTITUTIONAL SPECIAL LEGISLATION

23. LB 701 authorizes real property taxes to be imposed only by natural resources districts that are subject to river compacts between three or more states and which include at least one irrigation district. LB 701 thereby effectively exempts all Nebraska property owners who do not own real estate within such a district from the taxes it authorizes. LB 701 therefore: (1) creates a closed class consisting of the three Respondent natural resource districts, to which it grants the privilege to tax property within their districts, and (2) creates a closed class of Nebraska property owners who are exempt from such taxation. By granting these privileges to the closed classes it creates, the property tax provisions of LB 701 are unconstitutional special legislation in violation of Nebraska Constitution, Art. III, Sec. 18.

IX. PETITIONERS' UNSUCCESSFUL PAST DEMANDS FOR REDRESS

24. In letters dated September 13, 2007, Petitioners demanded that the boards of directors of the Upper Republican Natural Resources District, the Lower Republican Natural Resources District, and the Middle Republican Natural Resources District, vote to not

proceed with the levy of the unconstitutional real property tax authorized by LB 701; setting forth the reasons the taxes were unconstitutional and illegal. Despite Petitioners' demands, all three Respondent natural resources districts have continued to seek to levy the unconstitutional taxes authorized by LB 701. True and correct copies of Petitioners' demands on the Respondent districts are attached hereto as Exhibits 1, 2 and 3 to the Petition, and incorporated herein by reference.

X. NO ADEQUATE REMEDY AT LAW

25. Petitioners have no adequate remedy at law to prevent Respondents' imposition and collection of the unconstitutional property taxes authorized by the State of Nebraska by LB 701.

WHEREFORE, Petitioners pray for:

1. A temporary restraining order and a temporary injunction restraining and preventing Respondents from implementing the property taxes authorized by LB 701 until a permanent injunction is entered by this Court after trial of the issues herein;
2. A determination and judgment by this Court that the property tax provisions of LB 701 violate the Nebraska Constitution, and entry of a declaratory judgment to that effect;
3. A permanent injunction preventing and prohibiting enforcement and implementation of the unconstitutional real property taxes authorized by LB 701;
4. An award of Petitioners' attorneys' fees under Neb. Rev. Stat. § 24-201.1;

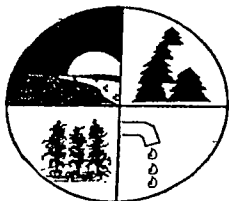
5. Such other and further relief as the Court deems just and equitable under the circumstances and an award of costs of this action.

ANGUS GAREY, TOM KIPLINGER,
CLAUDE CAPPEL, ROBERT AMBROSEK,
ROBERT ANDERSON, LARRY DURNER,
KENNY FRASIER, DAN FUNK,
and STEVE WHIPPLE,
Claimants,

By: KNUDSEN, BERKHEIMER,
RICHARDSON & ENDACOTT, LLP
3800 VerMaas Place, Suite 200
Lincoln, Nebraska 68502
(402) 475-7011

By: _____
Rodney M. Confer - #10753
rconfer@knudsenlaw.com
One of Said Attorneys

DOCUMENT 14



Cost-Share Summary

November 12, 2007

NSWCP FY-2006-07

Funds Remaining \$13,203.68
 Open Applications 4 for \$8,520.55

NSWCP FY-2007-08

CO District	%	# of Apps	Funds Available	Funds Used	Funds Remaining	Percent Used
NC19	10%	0	\$0.00	\$0.00	\$0.00	#DIV/0!
Frontier	25%	10	\$25,391.51	\$30,631.98	-\$5,240.47	120.64%
Hayes	19%	3	\$19,297.55	\$9,853.67	\$9,443.88	51.06%
Hitchcock	19%	10	\$19,297.55	\$28,306.55	-\$9,009.00	146.68%
Lincoln	18%	4	\$18,281.89	\$11,628.00	\$6,653.89	63.60%
Red Willow	19%	3	\$19,297.55	\$7,155.53	\$12,142.02	37.08%
Funds Available			\$101,566.03	Completed	9 for	\$23,126.77
Funds Obligated			\$87,575.73	Open	21 for	\$64,448.96
Funds Remaining			\$13,990.30	Cancelled	2	

Local Conservation Program

		Available	Used	Remaining	Used
Frontier	20%	5 \$21,480.00	\$1,604.91	\$19,875.09	7.47%
Hayes	20%	2 \$21,480.00	\$695.60	\$20,784.40	3.24%
Hitchcock	20%	1 \$21,480.00	\$900.00	\$20,580.00	4.19%
Lincoln	20%	1 \$21,480.00	\$300.00	\$21,180.00	1.40%
Red Willow	20%	6 \$21,480.00	\$1,866.54	\$19,613.46	8.69%
Funds Available		\$107,400.00	Completed	11 for	\$3,567.05
Funds Obligated		\$5,367.05	Open	6 for	\$2,400.00
Funds Remaining		\$102,032.95	Cancelled	0	

of Apps

Carryover	2	\$600.00
Trees	0	\$0.00
Well Sealing	16	\$5,189.27

New Applications

Name	County	Practice	Costshare	Program	
				LCP	NSWCP
Ristine	LI	Seal Well	\$300.00	YES	0
Ross	HI	IWM pipeline	\$3,430.00	0	YES
Springer	RW	Seal Well	\$300.00	YES	0
Duckworth	FR	Seal Well	\$300.00	YES	0

NEBRASKA-KANSAS AREA OFFICE - MONTHLY RESERVOIR REPORT

OPERATIONS DATA AT THE END OF OCTOBER 2007

Reservoir	Current Reservoir Conditions				Top of Dead Pool		Top of Inactive		Top of Conservation		Top of Flood Pool	
	Elevation	Total Storage	Active Storage	Area (acres)	Elevation	Capacity (AF)	Elevation	Capacity (AF)	Elevation	Capacity (AF)	Elevation	Capacity (AF)
BONNY	3648.57	8,093	5,959	817	3635.5	1,418	3638.0	2,134	3672.0	41,340	3710.0	170,160
SWANSON	2735.21	45,851	33,421	3053	2710.0	2,118	2720.0	12,430	2752.0	112,214	2773.0	246,291
ENDERS	3092.83	17,067	8,119	961	3080.0	7,516	3082.4	8,948	3112.3	42,910	3127.0	72,958
HUGH BUTLER	2574.07	24,849	15,928	1308	2552.0	5,185	2558.0	8,921	2581.8	36,224	2604.9	85,070
HARRY STRUNK	2365.45	33,470	25,573	1780	2335.0	3,408	2343.0	7,897	2366.1	34,647	2386.2	87,361
KEITH SEBELIUS	2287.95	9,613	5,620	912	2275.0	1,636	2280.4	3,993	2304.3	34,510	2331.4	133,740
HARLAN COUNTY	1940.47	248,111	130,012	11916	1885.0	0	1927.0	118,099	1945.73	314,111	1973.5	814,111
LOVEWELL	1580.93	30,888	19,244	2735	1562.07	1,674	1571.7	11,644	1582.6	35,666	1595.3	86,131
KIRWIN	1707.98	23,663	15,148	1863	1693.0	4,969	1697.0	8,515	1729.25	98,154	1757.3	313,290
WEBSTER	1870.32	17,786	13,555	1669	1855.5	1,256	1860.0	4,231	1892.45	76,157	1923.7	259,510
CEDAR BLUFF	2128.48	87,445	58,871	4053	2090.0	4,402	2107.8	28,574	2144.0	172,452	2166.0	364,342
WACONDA	1448.38	141,551	115,314	8900	1407.8	248	1428.0	26,237	1455.6	219,420	1488.3	942,408
BOX BUTTE	3981.74	4,608	1,364	531	3969.0	640	3979.0	3,244	4007.0	31,060	No Flood Pool	No Flood Pool
MERRITT	2940.60	52,724	48,062	2235	2875.0	774	2896.0	4,662	2946.0	66,726	No Flood Pool	No Flood Pool
CALAMUS	2236.15	91,220	66,574	4107	2185.0	817	2213.3	24,646	2244.0	127,400	No Flood Pool	No Flood Pool
DAVIS CREEK	2050.10	10,100	9,928	527	1998.5	76	2003.0	172	2076.0	31,158	No Flood Pool	No Flood Pool

Computed Inflow for October 2007

Reservoir	Computed Inflow (AF)	Avg. Daily Inflow (cfs)	Computed Outflow (AF)	Avg. Daily Outflow (cfs)	Total Evap (AF)	Change (AF)	Precipitation at NKAO Dams for October 2007					
							Total (in)	Normal	Percent Normal	Total Year	Normal Year	Percent Normal
BONNY	584	10	430	7	343	-189	0.42	1.06	40	13.98	16.17	86
SWANSON	0	0	61	1	1167	-1,228	0.70	1.29	54	19.86	18.70	106
ENDERS	96	2	307	5	413	-624	0.48	1.23	39	24.31	17.86	136
HUGH BUTLER	152	2	246	4	419	-513	0.74	1.30	57	21.34	18.40	116
HARRY STRUNK	2,351	38	62	1	455	1,834	0.68	1.29	53	26.31	19.33	136
KEITH SEBELIUS	355	6	66	1	321	-32	3.14	1.71	184	23.10	23.09	100
HARLAN COUNTY	5,355	87	0	0	4,165	1,190	2.18	1.43	152	25.39	21.55	118
LOVEWELL	2,043	33	12	0	683	1,348	3.05	1.91	160	29.67	25.56	116
KIRWIN	402	7	0	0	514	-112	2.98	1.61	185	28.15	21.99	128
WEBSTER	0	0	0	0	622	-622	1.18	1.49	79	27.46	22.05	125
CEDAR BLUFF	0	0	0	0	1,468	-1,468	0.81	1.28	63	19.00	19.69	96
WACONDA	7,418	121	545	9	2,835	4,038	2.57	1.90	135	24.11	23.55	102
BOX BUTTE	757	12	36	1	131	590	1.01	0.91	111	12.38	16.21	76
MERRITT	14,846	241	1,537	25	585	12,724	3.61	1.19	303	25.77	19.29	134
CALAMUS	21,586	351	10,819	176	531	10,236	4.86	1.63	298	34.64	22.69	153
DAVIS CREEK	289	5	218	7	150	-79	3.11	1.53	203	31.75	22.97	138

