

# STATE OF NEBRASKA



DEPARTMENT OF NATURAL RESOURCES  
Roger K. Patterson  
Director

March 26, 2003

IN REPLY REFER TO:

Mike Johanns  
Governor

Walter Knehans  
Board President  
Bostwick Irrigation District in Nebraska  
P.O. Box 446  
Red Cloud, NE 68970-0446

Dear Mr. Knehans:

Your letter of January 22 requests that the Department administer the natural stream flows in the Republican River in accordance with the District's water rights and federal contract (No. 009D6B0121) and for the benefit of water users in the Bostwick Irrigation District in Nebraska. As you know, on December 15, 2002, the States of Nebraska, Colorado and Kansas filed a Final Settlement Stipulation settling the interstate litigation over the Republican River Compact before the U. S. Supreme Court. The Special Master appointed by the court is in the process of submitting his report requesting that the court approve the settlement. Although the U. S. Supreme Court has not yet ruled on the Settlement, we are optimistic that they will do so in the near future. For this reason, the Department is moving forward to administer Republican River water rights in accordance with the terms of the settlement.

Section V. A. 2. of the Final Settlement Stipulation states that 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, Nebraska will close junior, and require compliance with senior, natural flow diversions of surface water between Harlan County Lake and Guide Rock. Appendix L of the Final Settlement Stipulation (see attachment) is a description of how this water administration is to be implemented. This year the expected water supply is projected to be well below 130,000 acre-feet. Therefore the Department will be closing junior rights and restricting senior water rights to their permitted diversion rate when water is needed for direct diversion at Guide Rock.

Finally, the Department is currently adjudicating water rights in the Republican Basin. The adjudication will eliminate unused water rights from our books, which will allow for a more efficient and timely administration of the remaining rights.

Walter Knehans  
March 26, 2003  
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If you have any questions regarding the Departments plans to administer for your water right,  
please do not hesitate to ask.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger K. Patterson". The signature is fluid and cursive, with a large initial "R" and "P".

Roger K. Patterson  
Director

asb  
Enclosure  
cc: Fred Ore

Appendix L  
Implementation of Additional Water Administration  
Under Subsections V.A.2. and V.A.4

When the projected or actual irrigation supply is less than 130,000 acre-feet as determined by Subsection V.A.2. of the Stipulation, Nebraska will continue to limit diversions by senior permit holders to their permitted diversion rate in accordance with Nebraska law. In addition, if water is needed for direct diversions at Guide Rock, Nebraska will close all natural flow permit diversions of surface water junior to February 26, 1948, on the tributaries to and on the Main Stem of the Republican River between Harlan County Lake and Guide Rock unless a significant runoff event is occurring and is expected to produce runoff in excess of the useable diversion at the Superior-Courtland Diversion Dam or water can not be diverted due to an unusual operational problem. In such cases, Nebraska will notify the U.S. Bureau of Reclamation and Managers of Kansas Bostwick Irrigation District and Nebraska Bostwick Irrigation District that junior permits will be allowed to divert up to a specified flow rate not to exceed the average daily flow of water that would otherwise pass the Superior-Courtland Diversion Dam during the time of the event. If requested, the parties will promptly exchange information and attempt to resolve any concerns. At the end of the period specified in Nebraska's notice, Nebraska will again close all juniors unless conditions warrant an additional notice of Nebraska's intent to allow some junior permits to divert.

As indicated in Subsection V.A.4. of the Stipulation, Kansas and Nebraska agree to work with the U. S. Bureau of Reclamation to minimize the bypass flows at the Superior-Courtland Diversion Dam. If any party believes good faith efforts have not been made to minimize the bypass flows, it shall notify the other parties and a joint determination shall be made on action to implement V A 4.