

Middle Republican NRD -- Dan Smith
October 11, 2007

Interrelated Water Review Board

46-719 (1)

Governor has 45 days to appoint and convene the board from the day he is notified of the need to resolve a dispute.

NNRC has 20 days after request from the Governor for the list of nominees. I am assuming that the Commission would have to approve the list at a meeting that has been advertised. Something in the procedures should address what to do when a person asks to recues himself and how that name would be replaced. Also nothing is said about whether the Governor has to use that list or if he can ask for more names.

I think the commission should have a short list with 10 people who would be willing to serve. They could add to this with commission members without a conflict in the area of question.

(b) Says the board shall be subject to the Open Meeting Act. This section is a little confusing. How do you advertise a "meeting" that may last for several days.

46-719 (2) FIRST IMP

Board has 45 days after they have convened to hear from all parties. After the board selects the proposals to consider they have 45 days to schedule a hearing. I don't see a time frame between these two 45 day periods. It could take a long time to agree on what should go to hearing. Are all the board's deliberations under the open meetings law? It also says the IWRB adopts the plan. Do they adopt it on behalf of the NRD and the DRN or does the NRD and the DNR adopt the plan also?

46-719 (3) AMENDMENT TO EXISTING IMP

I maintain that 46-715 is silent with regard to an amendment of an IMP for a fully appropriated basin. The IWRB shall resolve the dispute, whatever that means. Can the IWRB say say no amendments are needed, or must one of the parties prevail? Once again the IWRB adopts the modifications to the plan, if applicable. This language implies that change may not be required. Same open meetings law questions.

46-719 (4) IMPLEMENTATION ISSUE

Procedure here allows the IWRB to make no decision, require that the parties modify its approach or that one of the parties has not acted in good faith. The IWRB can reassign jurisdiction of any portion of the plan or controls with no hearing or action other than a vote of the IWRB. I can't imagine this ever happening without a significant court challenge. It is possible that the IWRB could assign some surface water authority to the NRD and would we have the option of saying no?

46-719 (5) After a period of one year a parties jurisdiction can be reinstated.

APPEAL

Administrative Procedures Act or Open Meetings Act?

I would assume that orders issued by the IWRB would fall under the APA. Decisions made by the IWRB would fall under the provisions of the Open Meeting Act.

CREP Updated Water Use Contract Approvals February 2007

CREP CRP-1 Contracts Approved by FSA

	Contracts	Acres
Total Both Basins	<u>456.00</u>	<u>44,185.33</u>
Republican Basin:	<u>325.00</u>	<u>35,145.86</u>
Groundwater Only	211.00	25,165.04
Groundwater and/or Surface Water	114.00	9,980.82
Platte Basin:	<u>131.00</u>	<u>9,039.47</u>
Below Lake McConaughy	<u>36.00</u>	<u>2,429.37</u>
Groundwater Only	20.00	1,508.37
Groundwater and/or Surface Water	16.00	921.00
Above Lake McConaughy	<u>95.00</u>	<u>6,610.10</u>
Groundwater Only	16.00	1,610.10
Groundwater and/or Surface Water	79.00	5,000.00
NDNR Cost-Share Payments to Date		\$1,115,976

EQIP Programs Summary Status February 2007

		<u>ACRES</u>
Republican EQIP - 4-year program		
Total Program Acres		<u>10,000.00</u>
Current Contracts		9,905.00
Applications		--
NDNR Cost-Share Payments to Date	approx.	\$1,000,000

		<u>ACRES</u>
Republican EQIP - permanent relinquishment		
Total Program Acres		<u>2,652.00</u>
NRCS Contracts Signed		2,652.00
NDNR Cost-Share Payments to Date		--

		<u>ACRES</u>
Pumpkin Creek - permanent relinquishment		
Total Program Acres		<u>2,576.00</u>
NRCS Contracts Signed		2,576.00
NDNR Cost-Share Payments to Date		\$121,170

Estimated Irrigated Acres in the Republican River Basin in Nebraska
Within 2005 Republican River Ground Water Model Area
 Nebraska Department of Natural Resources, February 2007

	Irrigated Acres Within the Republican Basin	Irrigated Acres Outside the Republican Basin	Total
Lower Republican NRD	260,267	9,775	270,042
Middle Republican NRD	237,927	2,003	239,930
Tri-Basin NRD	193,917	259,718	453,636
Upper Republican NRD	463,820	12,343	476,163
Subtotal	1,155,931	283,840	1,439,771
Central Platte NRD	0	53,733	53,733
Little Blue NRD	1,197	72,766	73,964
South Platte NRD	0	2,777	2,777
Twin Platte NRD	13,617	129,846	143,463
Subtotal	14,814	259,122	273,936
Total	1,170,745	542,962	1,713,707

Notes:

1. Irrigated acres includes irrigation from surface water and ground water; surface water irrigation is a small fraction of the total.
2. The ground water model uses certified acres as input in the Upper Republican NRD and acreage from the National Agricultural Statistics Service elsewhere.

Summary of Registered Irrigation Wells in the Republican River Basin in Nebraska
Within 2005 Republican River Ground Water Model Area
 Nebraska Department of Natural Resources; Registrations as of Late February 2007

	Registered Irrigation Wells Within the Republican Basin	Registered Irrigation Wells Outside the Republican Basin (and in Modeled Area)	Total
Lower Republican NRD	3,808	110	3,918
Middle Republican NRD	3,327	18	3,345
Tri-Basin NRD	1,626	3,428	5,054
Upper Republican NRD	3,363	79	3,442
Subtotal	12,124	3,635	15,759
Little Blue NRD	29	957	986
Twin Platte NRD	142	1,722	1,864
Subtotal	171	2,679	2,850
Total	12,295	6,314	18,609

For information related to this table please contact Jim Williams at jwilliams@dnr.ne.gov or (402) 471 - 1026.

Republican River Basin Canals

<u>District</u>	<u>Canal</u>	<u>Storage Source</u>	<u>Natural Flow Source</u>	<u>Communities effected</u>	<u>Permitted Acres</u>
Pioneer Irrigation District	Haigler Canal	None	North Fork Republican River	Haigler	1899.6
Frenchman Valley Irrigation District	Culbertson Canal	Enders Reservoir	Frenchman Creek	Culbertson	9292.4
H and RW Irrigation District	Culbertson extension Canal	Enders Reservoir	Frenchman Creek	Culbertson, McCook	11915
Riverside Irrigation Company	Riverside Canal	None	Frenchman Creek	Culbertson	672.1
Frenchman Cambridge Irrigation District	Meeker-Driftwood Canal	Swanson Reservoir	Republican River	Trenton, Culbertson, McCook	16854.8
Frenchman Cambridge Irrigation District	Red Willow Canal	Hugh Butler Reservoir	Red Willow Creek	Indianola, Bartley, Cambridge	4797.3
Frenchman Cambridge Irrigation District	Bartley Canal	Swanson and Hugh Butler Reservoirs	Republican River	Bartley, Cambridge	6353
Frenchman Cambridge Irrigation District	Cambridge Canal	Harry Strunk, Hugh Butler, Swanson Reservoirs	Republican River	Cambridge, Holbrook, Arapahoe, Edison, Oxford, Orleans and Alma	17663.9
Bostwick Irrigation District	Naponee Canal	Harlan County Reservoir	Republican River	Naponee, Bloomington, Franklin	1650
Bostwick Irrigation District	Franklin Canal	Harlan County Reservoir	Republican River	Naponee, Bloomington, Franklin, Riverton, Red Cloud	10920
Bostwick Irrigation District	Franklin Pump Canal	Harlan County Reservoir	Republican River	Franklin, Riverton	2090
Bostwick Irrigation District	Superior Canal	Harlan County Reservoir	Republican River	Guide Rock, Superior	5840
Bostwick Irrigation District	Courtland Canal	Harlan County Reservoir	Republican River	Guide Rock, Superior	1946
				Total	91894.1

To: Jeanne Glenn

From: Ann Bleed

Re: Benefits and Costs of Surface Water Leasing

Reducing ground water pumping reduces the consumptive use of water in the basin, but, due to the inertia of the ground water system, has little impact on stream flows until several year after the reductions or later, depending on the distance of the well from the river. Reducing surface water diversions and releasing stored water from reservoirs not only reduces consumptive use from irrigating crops and from the evaporation of water from the reservoir, but also has an immediate impact on stream flow. Another year of leasing surface water would bring us closer to Compact compliance and help to assure Kansas that Nebraska is serious about Compact compliance. Therefore the DNR and the NRDs are again considering leasing water from the surface water irrigation districts.

Unfortunately, due to low stream flows, there is not an abundance of surface water available for lease. Surface water diversions themselves in 2005 were 57% than the average diversions between 1998 and 2002. Also, until last week, we did not expect there to be any significant water supply in either the Swanson or Harlan County Reservoirs. Recent snows and rain have raised the expected supply of water in Harlan County Reservoir from zero to 20,200 acre feet. The potential for additional natural flow for Bostwick Irrigation District has also increased.

The following table shows the costs and benefits of the water leases the State purchased last year. The Middle Republican Natural Resources District paid \$50,000 of the purchase of the Riverside Irrigation District water.

2006 Irrigation District	Water Available AF	Cost	\$/AF Cost	Benefit AF	\$/AF benefit
Frenchman Valley	6,400	\$ 400,000	\$ 63	3,672	\$ 108.93
Riverside	2,000	\$ 100,000	\$ 50	1,256	\$ 79.62
Bostwick	15,118	\$ 3,000,000	\$ 198	17,762	\$ 168.90
Total/Average	23,518	\$ 3,500,000	\$ 104	22,690	\$ 154.25

This year we are discussing possible leases with all of the above districts plus the Frenchman Cambridge Irrigation District, which will have 26,000 acre feet of storage available. We expect the water available from the Riverside and Frenchman Valley

Irrigation Districts to be about the same this year as last. At this point we do not know exactly how much water would be available from the Nebraska Bostwick Irrigation District, but with the recent rains and snow it could be from 20,000 to 30,000 acre feet. All districts except Bostwick Irrigation District have already expressed an interest in leasing their water. We have initiated discussions with the Bostwick Board, but they have not yet indicated whether they are willing to consider a lease.

I have made it absolutely clear to all the irrigation districts that DNR does not have funding available to pay for these leases. However, the NRDs have indicated they are interested in trying to raise funds for at least some of these leases. I therefore agreed to assist in negotiating a potential water lease. Given the price of corn, the costs to lease this water will probably be higher than last year. Initial bids by the irrigation districts are as shown in the table below. The Bostwick Irrigation District bid is shown in yellow because they have not yet provided a bid.

The use of the Frenchman Cambridge Irrigation District water will depend on obtaining permission to change the location of use from the U. S. Bureau of Reclamation. This will involve an assessment under the National Environmental Protection Act (NEPA). The Bureau of Reclamation office in Grand Island is currently assisting the state in obtaining the necessary approvals from Washington. The use of the Bostwick water would require the willingness of Kansas Bostwick Irrigation District to use the water. This was not a problem last year.

2007	Water Available AF	Cost	\$/AF Cost	Benefit AF	\$/AF benefit
					\$
Frenchman Valley	6,400	\$ 640,000	\$ 100	3,672	174
					\$
Riverside	2,000	\$ 120,000	\$ 60	1,256	96
					\$
Bostwick	15,000	\$ 3,000,000	\$ 200	17,762	169
Frenchman					\$
Cambridge	26,000	\$ 10,400,000	\$ 400	11,960	870
					\$
Total/Average		\$ 14,160,000		29,722	476

Compliance with the Republican River Compact in Water-Short Years requires that Nebraska's average Computed Beneficial Consumptive Use (CBCU) be less than its two year running average Allocated supply. Although the final computations for the years 2005 and 2006 are not completed, even with the surface water lease, we are expecting our CBCU will be greater than our Allocation by a total for the two years of around 58,000 acre feet. Given expected stream flows for 2007, we expect next year's Allocation for Nebraska will also be very low and thus another year of leasing would be extremely helpful in trying to achieve Compact compliance. Unless stream flows unexpectedly

improve significantly, however, the lease will not keep Nebraska's CBCU under its Allocation.

If the State decides to move forward with any surface water leases, we will have to move quickly. Planting season is about to begin and therefore we will need to provide an answer to the districts before the end of March. Last year we were able to confirm a deal pending final approval of the budget by the legislature and the governing based on the stated intention of the Governor and the appropriations committee to approve funds for the lease. The districts were not paid until July. The districts understand that we would have to have a similar type of agreement this year.