

Beutler: Some irrigators could double dip

BY KEVIN O'HANLON / The Associated Press
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Some irrigators who sold their surface water rights to the state to satisfy an agreement with Kansas could take groundwater to make up the difference, a state lawmaker said Wednesday.

Members of the Nebraska Bostwick Irrigation District voted last week to sell their 2006 water allotment to the state — which will send it down the Republican River to Kansas — for about \$2.5 million. The vote could help Nebraska avoid or reduce a possible multimillion-dollar penalty for violating a water-use agreement with Kansas.

The Bostwick deal “includes nothing that would prevent these irrigators from using their entire groundwater allocation to make up for their lost surface water,” said Sen. Chris Beutler of Lincoln in a letter to the state attorney general’s office.

“In short, the state would pay for the surface water, but the Bostwick irrigators with certified groundwater acres would simply make up for the lost surface water by using more groundwater,” he said. “The irrigators would get paid for their surface water, proceed to irrigate with groundwater, and then earn as much money as they would have using surface water in whole or in part.”

There are about 23,000 acres in the Bostwick district. Of those, about 13,000 are “co-mingled,” meaning they rely on both surface and groundwater.

Mike Clements, manager of the Lower Republican Natural Resources District, said it is possible that some irrigators have wells that would allow them to make up the difference in the water they sold.

But he said he did not know how many have such capacity

“A lot of those wells are very low capacity,” he said. “They were put into to supplement their surface water” supplies.

The state of Nebraska will pay Bostwick landowners the equivalent of about \$125 per qualified acre.

Additional state money might be needed to pay farmers not to irrigate land in other areas.

“In accordance with the agreement, the Nebraska taxpayer will pay the Bostwick irrigators \$2.5 million to alleviate the water shortages to Kansas, and the Bostwick irrigators can turn around and create a bigger problem by irrigating ... solely with groundwater,” Beutler said.

The Bostwick initiative is one of several efforts launched by the state to find enough water to balance the books with Kansas before compliance with the compact is measured later this year.

A compact signed in 1943 allocated the annual water supply in the Republican basin. Nebraska gets 49 percent, Kansas gets 40 percent and Colorado gets 11 percent.

But Nebraska has been using more than its share.

Kansas filed a lawsuit in 1998 accusing Nebraska of allowing irrigators to divert more than their legal share of the river’s water.

Kansas argued that Nebraska breached the compact by allowing the proliferation and use of thousands of wells connected to the river and its tributaries along the state’s southern border.

Nebraska argued that groundwater use was not regulated by the compact, which also was signed by Colorado, because it was signed before deep-well irrigation was used in the river basin.

The U.S. Supreme Court later approved the settlement of the dispute.

Assistant Attorney General Dave Cookson said he sees things differently than Beutler.

"The state is buying water from the Bostwick Irrigation District because it ... gives us an immediate boost in our efforts to meet our compact obligations," Cookson said. "We are paying a fair market price for the water. If the state didn't buy the water, the irrigation district was going to keep it in the reservoir. Either way, the folks who also have wells would not have seen a change in their allocation from the NRD."

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