

CHAPTER 6 INTEGRATED MANAGEMENT PLAN

**INTEGRATED MANAGEMENT PLAN
Jointly Developed by the
DEPARTMENT OF NATURAL RESOURCES
And the
MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT**

AUTHORITY

This integrated management plan was prepared by the Board of Directors of the Middle Republican Natural Resources District (MRNRD) and the Nebraska Department of Natural Resources (NDNR) in accordance with Sections 46-715, 46-716, 46-717, and 46-720, R.S.Supp., 2004.

BACKGROUND

In 1943 the States of Colorado, Kansas and Nebraska entered into the Republican River Compact (hereinafter the Compact) with the approval of Congress. The Compact provides for the equitable apportionment of the "virgin water supply" of the Republican River Basin. Following several years of dispute about Nebraska's consumptive use of water within the basin, Kansas filed an original action in the United States Supreme Court against the states of Nebraska and Colorado in 1998. After several rulings by the Court and it's Special Master and several months of negotiation, all three states entered into a comprehensive Settlement Agreement. That Agreement was approved by the Court on May 19, 2003 and the Special Master's final report approving the Joint Groundwater Model developed by all three states for use in computing stream flow depletions resulting from groundwater use was submitted to the Court on September 17, 2003.

In July, 1996, the MRNRD and the other three Natural Resources Districts in the Republican River Basin, pursuant to then Section 46-656.28 of the Nebraska statutes, initiated a joint action planning process with the Department of Water Resources (DWR), the predecessor agency to NDNR. In accordance with that process, DWR first made a preliminary determination in 1996 that "there was reason to believe that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over the Republican River Compact." When the studies required by Section 46-656.28 had been completed, NDNR issued its conclusions on May 20, 2003 in the form of a report entitled: "Republican River Basin, Report of Preliminary Findings." Those conclusions included the following determination:

Pursuant to Section 46-656.28 and the preliminary findings in this report, the Department determines that present and future Compact disputes arising out of

-24-
in Platte
water ~~has~~ budget
Sustain a viable
ecosystem & condensed
to find to get a water budget

continue moratorium
make sure include protecting
7/5 (c)(3) existing uses
transfer rules
reporting requirements

the use of hydrologically connected ground water and surface water resources in the Republican River Basin can be eliminated or reduced through the adoption of a joint action plan.

Following four hearings on that report, NDNR made final the preliminary conclusions in the report and the four basin Natural Resources Districts were so informed. The MRNRD and the other three Districts each then adopted orders to proceed with developing a joint action plan for integrated management of hydrologically connected surface water and ground water resources in the basin; preparation of a joint action plan for the MRNRD began soon thereafter.

The 2004 Nebraska Legislature adopted LB962 in April of 2004 and it was signed by Governor Johanns on April 15, 2004 and became operative on July 16, 2004. That bill repealed Section 46-656.28 and replaced it with legislation providing for a revised process for addressing hydrologically connected surface water and ground water resources. In order to avoid the need to begin anew the integrated management planning processes that had been commenced but not completed under Section 46-656.28, LB962 provided for the transition of those ongoing planning processes into the newly enacted process codified now as Sections 46-713 to 46-719, R.S. Supp., 2004. The MRNRD and NDNR agreed that preparation of a joint action plan had not been completed prior to July 16, 2004; therefore, subsection (3) of what is codified as Section 46-720, R.S. Supp., 2004, governs that transition. Completion of this plan proceeded under the new process and this plan has been adopted in accordance with Section 46-718, R.S. Supp., 2004.

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GOALS AND OBJECTIVES

Pursuant to Section 46-715, R.S. Supp., 2004, the goals and objectives of an integrated management plan must have as a purpose "sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the Republican River Basin can be achieved and maintained for both the near term and the long term". The following goals and objectives are adopted by the MRNRD and the NDNR to achieve that purpose:

Goals:

1. To ensure compliance with the Republican River Compact as adopted in 1943 and as implemented in accordance with the settlement approved by the United States Supreme Court on May 19, 2003.
2. Ensure that ground water and surface water users within the MRNRD assume their share of the responsibility to keep Nebraska in compliance with the Republican River Compact. Neither the MRNRD or NDNR will require the integrated management plan to be amended solely for the purpose of changing the responsibility of water users

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within the MRNRD based on the failure of the other basin NRDs 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.

3. Provide that MRNRD's share of that responsibility be distributed in an equitable manner and, by minimizing to the extent possible, adverse economic, social and environmental consequences.
4. To sustain a balance between water uses and water supplies within the District so that the economic viability, social and environmental health, safety, and welfare of the District can be achieved and maintained for both the near and long term.

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Objectives:

1. With limited exceptions, prevent the initiation of new or expanded uses of water that increase Nebraska's computed beneficial consumptive use of water within the MRNRD.
2. Ensure that administration of surface water appropriations in the Basin is in accordance with the Compact and in full compliance with Nebraska law.
3. Reduce existing ground water use within the MRNRD by the amount necessary to achieve compliance with the RRCA five year rolling average as computed through use of the RRCA Ground Water Model.
4. After taking into account any reduction in beneficial consumptive use achieved through basinwide incentive programs, make such additional reductions in ground water use as are necessary to achieve a reduction in beneficial consumptive use in the MRNRD in an amount proportionate to the total reduction in consumptive use that is needed in Nebraska.
5. Cause the required reductions in water use to be achieved through a combination of regulatory and incentive programs designed to reduce beneficial consumptive use, relying to the extent available funds allow, on incentive programs that are made available to as many MRNRD water users as possible.
6. The MRNRD and the NDNR will investigate or explore methods to manage the impact of vegetative growth on streamflow.

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MAP - see map 1.

The area subject to this integrated management plan is the geographic area within the boundaries of the Middle Republican Natural Resources District.

GROUND WATER CONTROLS

The ground water controls are:

1. New ground water well construction permits will not be issued except for replacement wells, public water system wells, industrial wells, back-up wells (as defined by the NRD) and wells for which a variance has been issued.

2. No additional ground water irrigated acres will be allowed unless the additional consumptive use is offset. Increases in consumptive uses from municipalities and industries will either be offset by the NRD or by the entity in accordance with 46-740.

3. Ground water users proposing to consumptively use more than 25 million gallons per year will be required to apply to the District for a large user permit. When evaluating a large user permit application, the District shall consider:

a. The nature of the proposed use and whether it is a beneficial use of ground water;

b. The availability to the applicant of alternative sources of surface or ground water;

c. Any negative effect of the proposed withdrawal on ground water supplies needed to meet present or reasonable future demands for water in the area of the proposed withdrawal, to comply with the Republican River Compact;

d. Any negative effect of the proposed withdrawal on surface water supplies needed to meet present or reasonable future demands within the state, to comply with the Republican River Compact;

e. Any adverse environmental effect of the proposed withdrawal of ground water;

f. The cumulative effect of the proposed withdrawal relative to the matters listed in c-e of this section when considered in conjunction with all other withdrawals subject to this section; and

g. Any other factors consistent with the purposes of this section that the Department deems relevant to protect the health, safety, and welfare of the state and its citizens.

4.

2. Flow meters are required on all regulated ground water wells.

3. The District will be required to report the following information to DNR by January 15th of each year:

4. All regulated ground water uses are required to be certified.

5. Transfers of ground water, certified acres, or allocations or changes in use are required to be permitted by the NRD and if applicable, DNR.

6. Ground water will be allocated in amounts necessary to achieve compliance with the Republican River Compact within the 5 year rolling average.

7. Incentive programs will be used to reduce beneficial consumptive use.

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Deleted: The ground water controls that will be adopted and implemented by the Middle Republican Natural Resources District are those found in Chapters 1 through 5 Rules and Regulations – Ground Water Management Area in the Middle Republican Natural Resources District

SURFACE WATER CONTROLS - Department of Natural Resources

The surface water controls are;

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1. NDNR will do the following additional surface water administration as required by the Settlement Agreement:
 - 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.
 - 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 Settlement Agreement, Nebraska will close junior, and require compliance with senior, natural flow diversions of surface water between Harlan County Lake and Guide Rock.
 - Nebraska will protect storage water released from Harlan County Lake for delivery at Guide Rock from surface water diversions.
 - Nebraska, in concert with Kansas and in collaboration with the United States, and in the manner described in Appendix L to the Settlement Agreement, will take actions to minimize the bypass flows at Superior-Courtland Diversion Dam.
2. 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 Department 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.
3. The Department's moratorium on the issuance of new surface water permits was made formal by order of the Director dated July 15, 2004 and will be continued. Exceptions may be granted to the extent permitted by Section 46-714(3) or to allow issuance of permits for existing reservoirs that currently do not now have such permits. Such reservoirs may be identified through the Settlement required inventory of over 15 acre-feet reservoirs or otherwise.

4. All proposed transfers of surface water rights shall be subject to the revised criteria for such transfers as found in Sections 46-290 to 46-294.04 or the criteria found in Sections 46-2,120 to 46-2,130.
5. The Department completed the adjudication process for the individual appropriators in the Republican River Basin in 2004. The results of that adjudication provide 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 Department to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The Department also will be proactive in initiating subsequent adjudications whenever information available to the Department indicates that there are water rights that are not being used and for which no known sufficient cause for such non-use exists.
6. At this time, due to the already limited availability of surface water supplies, the Department 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. However, the Department reserves the right to request, in the future, that this integrated management plan be modified to require any such additional measures. In the event such a request is made, the Department 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 Department, 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." (46-716(2))

INCENTIVE PROGRAMS

The MRNRD and NDNR 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.

INFORMATION CONSIDERED

Effective
January 1, 2005

Middle Republican NRD

Adopted
November 9, 2004

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 Department of Natural Resources.

Map 1. Management Area Boundaries

Map 2. Critical Unit

Table 1. Municipal Allocation

Table 2. Livestock operation allocations