

Andrea Kessler

From: Steve Gaul [sgaul@dnr.state.ne.us]
Sent: Friday, May 21, 2004 2:25 PM
To: akessler@dnr.state.ne.us
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Subject: Sending Out Draft Notes for May 14 Republican River Meeting



Republican River
Planning Meet...



ATT00003.txt

Andrea -

Attached are notes for the May 14 Republican River Planning Meeting. These have been reviewed by Chris Moore as well as Mike Thompson. There are also hard copy attachments handed out at the meeting that I am putting in your mailbox. There is a list of about 16 people that Ann e-mailed the notes to last time. I will separately forward that e-mail so you have a list of names. Those 16 people may be all that receive this and I would appreciate having you forward it to them with any changes Roger may have. However, if Ann has had you mail hard copies to other people in the past, you may need to do that. I will be out of the office until next Thursday, so it may be good to get these out before I return. Other than the e-mail I am forwarding you, I am not sure how Ann handled this in the past.

Steve

Republican River Planning Meeting
May 14, 2004
Cambridge Community Center

Attendance

<u>NAME</u>	<u>AFFILIATION</u>
Brad Edgerton	DNR
Brad Lendeen	Tri-Basin NRD
Ray Winz	Tri-Basin NRD
Dan Smith	MRNRD
Gayle Haag	MRNRD
Stan Moore	MRNRD
Kevin Fornoff	MRNRD
Wayne Madsen	MRNRD
Kelly Wertz	MRNRD
Jerry Kotschwar	FU Irrigation District
Kenny Owens	URNRD
Ed Schrock	Nebraska Legislature
Terry Martin	URNRD
Greg Pelster	URNRD
Dean Large	URNRD
Tom Terryberry	URNRD
Bob Hipple	URNRD
Bryan Lubeck	LRNRD
Nelson F. Trambly	LRNRD
Mike Clements	LRNRD
Roger Kolbet	H-RW Irrigation District
Kenneth Albert	FU Irrigation District
Ralph Best	FCID
Roy Patterson	FCID
Don Felz	FU Irrigation District
Clarence Jankovits Jr.	FU Irrigation District
Justin Lavene	Attorney General's Office
Roger K. Patterson	DNR
Dave Cookson	Attorney General's Office
Chris Moore	CDR
Steve Ronshaugen	U.S. Bureau of Reclamation
Marv Swanda	U.S. Bureau of Reclamation
Mike Delka	Bostwick Irrigation District
Steve Gaul	DNR
Marcia Trompke	CNPPID?
Phyllis Johnson	Tri-Basin NRD
Bob Bettger	Rep. Osborne's Office

Mike Thompson
Jason Kunkel
Bob Merrigan

NDNR
URNRD
MRNRD

Notes From Meeting

Chris Moore opened the meeting by indicating that the goals of the meeting were to update parties on activities, exchange information, and coordinate activities. This was followed by individual NRD activity updates.

MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT UPDATE

The Middle Republican NRD representatives distributed a handout detailing general concerns and questions regarding an integrated management plan (attached). One concern dealt with the pumping and associated irrigated acres used in the model. Others related to state funding for incentive programs and differences between districts.

There were a variety of questions and comments concerning the District's presentation, including:

- There were questions about penalties for non-compliers. Responses indicated that a charge was not expected. Rather there would be a combination of reduction in allocation and restrictions on future use. It was noted that there are legal constraints on violation of cease and desist orders. One person asked whether the penalty would be on the order of about 2 or three times the amount overused.
- It was noted that if the cap was set at 320,000 acre feet and there was a 90% allocation that would leave them at 2002 levels.
- There were questions about whether some acres could be locked out in terms of history of use. In response it was noted that if 10 acres are to be set aside, they don't have to be the same 10 acres every year.

UPPER REPUBLICAN NATURAL RESOURCES DISTRICT UPDATE

The Upper Republican NRD presented a detailed settlement compliance proposal, including scenarios (attached). The proposal presented separate plans for a long term approach for normal or above normal precipitation periods (Plan A), and a plan for water short year administration (Plan B). The long term approach:

- Uses voluntary temporary and permanent retirement of acres to reduce pumpage
- Has a pumpage reduction goal of 5% of 531,000 acre feet moving toward a 10% reduction.
- Has a variety of funding options including charges and fees for landowners under some options.

It was noted that the first water short year is likely to be the most difficult. The water short year plan presents a variety of proposals, including:

- Reducing pumping by 10% by allocating to 90% or less of certified acres or reducing the allocation for those years to 12.5 inches and reducing the pumpage in the Quick Response Well Areas by 50%
- Possibly supporting a program of well pumping to augment storage in Harlan County Reservoir in year 5 of the accounting period
- If this is not enough, regulating the Quick Response Wells as necessary.

The presentation and discussion added some of the following points:

- Plan A is preferred, but there may not be enough funding at first and there may be a need to use Plan B until funds are available.
- There is a need to develop funds for match. Compensation may be difficult without a funding source.
- There is an allocation behind the scenarios presented.
- Isolated areas that have a deep aquifer or difficult pumping conditions are more likely to have more carryover than other areas.
- LB 962 doesn't adequately address the compensation issue.
- There was a discussion on whether landowners could legally challenge pumping fees. Some participants indicated they were hearing - maybe yes, maybe no. A legal counsel indicated that he believed the law already provides for this. LB 962 allows incentive programs and set allocations and this puts them together.
- It was indicated that for implementation this could be put into effect for 2005.
- The program can be set up flexibly, to be changed in a given year.
- In water short years it would be possible to say a certain amount of water is available and once it is sold, no more would be available.
- One person asked what would keep water from being sold outside of the area under this plan. One response indicated that the economic cost of moving water uphill would be enough to stop many potential buyers. Another indicated that if the water is to help comply with dry year provisions, there would be legal problems if it was sold for use elsewhere.
- One participant noted that putting a tax on people who use large quantities of water would be a precedent and would be noticed outside of the Republican Basin.
- Another said they liked the idea of a means to accumulate funds, but don't want to sell what we don't have.
- It was noted that we can't have everyone in their basin buying above their allocation, but that we also need to have others willing to sell part of their allocation.
- It was noted that this proposal provides additional funds to get into other programs that allow retirement of acres such as the CREP.

LOWER REPUBLICAN NATURAL RESOURCES DISTRICT UPDATE

The Lower Republican NRD representatives distributed a very brief handout on their views concerning the Joint Action Plan (attached). Discussion included the following:

- It was reported that the NRD had hired a new legal counsel two weeks ago, that she was getting up to speed, and that they didn't have anything to bring to the table at this time.
- After talking with the attorney they believed that they should have something in a 30 to 45 day timeframe.
- The NRD has had three meetings lately and answered many questions.
- There was an indication of surprise at the support that the public is showing for the District, but also surprise at the number of people who don't know how bad things are.
- One participant indicated that he believed the process would result in about 780 pivots and \$38 million in personal property going unused. He believed the state should pick up some of the tab on this. He said the local area could tolerate a small percentage, but not 1/3 of it.

TWO ISSUES FOR FURTHER DISCUSSION

Two issues receiving further discussion were: 1) How to optimize use of Conservation Reserve Enhancement Program (CREP) funds and other federal grant programs, and 2) How to improve dry year water levels in Harlan County Reservoir.

CREP

- There was concern over whether local match would have to come entirely from the NRDs, or whether wildlife groups, the Game and Parks Commission or other state sources might be able to supply some of the match needed for CREP and other federal programs. It was indicated that the state would provide some assistance.
- It was noted that the Soil and Water Conservation Program could offset part of the local match and that this type of activity would be a legitimate use of LB 962 incentive funds.
- It was noted that the Conservation Reserve Program was now allowing more haying and grazing.
- One participant indicated that under CREP landowners would need to continue paying at irrigated land tax levels. Another participant asked if it would be possible to give landowners an incentive to keep land in dryland after the CREP contract was completed. One person indicated that the CREP proposals would come out the week of June 14 to 18 and would need to be done by October.

HARLAN COUNTY DRY YEAR WATER LEVELS

- This idea began receiving consideration when Colorado asked whether they could pump into the stream in years when they were over their allocated use levels.
- Under this concept, if Harlan was about to hit a trigger, we could pump into a stream. It would count against us on a five year trigger, but only when taken out of the reservoir. This type of averaging could help smooth things out.
- Wells could be anywhere that water would physically end up in Harlan County Reservoir. This would be below other reservoirs, but above Harlan.
- Water counts against us under the Compact if it is placed on land of two acres or more. Pumping a well into a stream is not a depletion in and of itself. Storage pulled out of Harlan and used in Nebraska counts against Nebraska.
- It was asked whether Patterson should look into this and the consensus seemed to be that he should.

FUTURE ACTIVITIES – GENERAL DISCUSSION

- The Upper Republican NRD and the Middle Republican NRD indicated that they will flesh out their plans and then have hearings by maybe July.
- It was noted that while what is on the table doesn't appear to close out those District's share of the dry year piece, it is good and it couldn't be said that it wouldn't work by the time of the meetings.
- One participant indicated that the Derrel Martin figures being used in the process were subject to question. He said that Martin had assumed that 25% of alluvial wells were not used and that sounded very high to him. Another participant indicated that Martin's figures with 15% and 25% levels would be used until better figures are developed.
- Another participant indicated a concern that if too many wells are retired upfront the compound effect on the five year average may cause concerns about overshooting the target.
- There was some discussion of cloud seeding. One participant indicated that southwest Kansas embraces cloud seeding, but northwest Kansas does not.
- A Water Policy Task Force member indicated that he would be interested in any concepts or legislation the group could present to the Task Force. It was suggested that the group send someone to the next Water Policy Task Force meeting to make a presentation.
- The meeting adjourned at 1:25 p.m.