

undated material
in G. W. W. author

III. Existing Development

A. Moratorium on New Wells

1. Except as provided below, the States hereby adopt a prohibition on the construction of all new Wells in the Basin upstream of Guide Rock, Nebraska (hereinafter "Moratorium"). The Moratorium may be modified, in whole or in part, by the RRCA if it determines that new information demonstrates that additional groundwater development in all or any part of the Basin that is subject to the Moratorium would not cause any State to consume more than its Allocations from the available Virgin Water Supply as calculated pursuant to Section IV of this Stipulation. New information shall mean results from the RRCA Groundwater Model or any other appropriate information. Attached hereto in Appendix E, are such laws, rules and regulations in Nebraska concerning the prohibition on construction of new Wells in the Basin.
2. Nothing in this Stipulation, and specifically this Subsection III.A., shall extend the Moratorium or create an additional Moratorium in any of the States in any other river basin or in any other groundwater supply located outside of the Basin.
3. Notwithstanding the provision in Subsection III.A.1. of this Stipulation permitting the RRCA to modify the prohibition on construction of new Wells, the States will not increase the level of development of Wells as of July 1, 2002 in the following Designated Drainage Basins, subject to the exceptions set forth in Subsection III.B.1-2.:

North Fork of the Republican River in Colorado
Arikaree River
South Fork of the Republican River
Buffalo Creek
Rock Creek

That portion of the North Fork and Main Stem of the Republican River in Nebraska that lies upstream of Trenton Dam.

Any of the States may seek to amend this provision of this Stipulation by making application to the Court upon any change in conditions making modification of this Subsection III.A.3. necessary or appropriate.

B. Exceptions to Moratorium on New Wells

1. The Moratorium shall not apply to the following:
 - a. Any and all Wells in the Basin located within the current boundaries of the following Natural Resource Districts in Nebraska:.....
 - c. Test holes;
 - d. Dewatering Wells with an intended use of one year or less;
 - e. Wells designed and constructed to pump fifty gallons per minute or less, provided that no two or more Wells that pump fifty gallons per minute or less may be connected or otherwise combined to serve a single project such that the collective pumping would exceed fifty gallons per minute;
 - f. Wells designed and constructed to pump 15 Acre-feet per year or less, provided that no two or more Wells that pump 15 Acre-feet per year or less may be connected or otherwise combined to serve a single project such that the collective pumping would exceed 15 Acre-feet per year;
 - g. Replacement Wells, subject to all limitations or permit conditions on the existing Well, or in the absence of any limitation or permit condition only if the Beneficial Consumptive Use of water from

the new Well is no greater than the Historic Consumptive Use of water from the Well it is to replace. Nebraska will calculate Historic Consumptive Use in the manner proposed in Appendix F. Nebraska shall not change its proposed method of calculating Historic Consumptive Use before providing notice to the RRCA;

- h. Wells necessary to alleviate an emergency situation involving the provision of water for human consumption or public health and safety;
- i. Wells to which a right or permit is transferred in accordance with state law, provided however, that the new Well:
 - (i) consumes no more water than the Historic Consumptive Use of water under the right or permit that is being transferred; and
 - (ii) is not a transfer of a right or permit that would cause an increased stream depletion upstream of Trenton Dam.

Nebraska will calculate Historic Consumptive Use in the manner proposed in Appendix F. Nebraska shall not change its proposed method of calculating Historic Consumptive Use before providing notice to the RRCA;

- j. Wells for expansion of municipal and industrial uses. Any new Wells for these purposes shall be counted against the State's Allocation and, to the extent a State is consuming its full Allocation, other uses shall be reduced to stay within the State's Allocation; and
- k. Wells acquired or constructed by a State for the sole purpose of offsetting stream depletions in

order to comply with its Compact Allocations. Provided that, such Wells shall not cause any new net depletion to stream flow either annually or long-term. The determination of net depletions from these Wells will be computed by the RRCA Groundwater Model and included in the State's Computed Beneficial Consumptive Use. Augmentation plans and related accounting procedures submitted under this Subsection III.B.1.k. shall be approved by the RRCA prior to implementation.