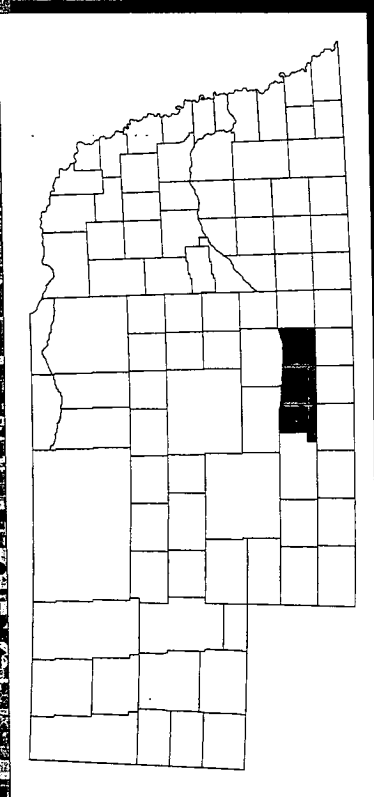


Tri-Basin Natural Resources District

Fully appropriated and overappropriated surface water areas and associated hydrologically connected areas determined by the Department of Natural Resources as of July 1, 2008



	Overappropriated Surface Water Order dated September 15, 2004
	Geographic area where surface water is hydrologically connected to ground water for overappropriated determination.
	Fully Appropriated Surface Water Order dated April 21, 2006
	Geographic area where surface water is hydrologically connected to ground water for fully appropriated determination.
	Tri-Basin Natural Resources District Boundary
	County Boundaries
	River Basin Boundaries



Map produced by Daniel Kloch - August 2008

2007 Aerial Photography

Tri-Basin IMP Legal Questions Meeting
August 25 Meeting Notes
Draft 9/2/08

Meeting Topics

Coordination of Activities between Basins / Imported Water
Potential to Postpone Selected Decisions
Internal Approach to Plan Development

Coordination of Activities Between Basins / Imported Water

Andersen distributed a map of respective FA and OA surface water portions of TBNRD and HCAs; areas outside the RR surface water basin are included, allowing TBNRD to regulate groundwater outside the surface water basin for its purpose.

Compact Computation: $NE \text{ Allocation} - \text{"Other"} \text{ NRD Depletion} + \text{Imported Water Supply Credit} - SW \text{ Depletions} = \text{Allowable Groundwater Depletions}$ divided between (4) NRDs. It was noted that (100%) allowable depletions calculation now distributes only between 3 NRD; altering J.A.P. formula will distribute to TBNRD as well.

There was extensive discussion related to groundwater depletions, offsets and credits. Points included discussion that groundwater seeps into Republican Basin through many NRDs, originates in many NRDs, and that ownership status is subject to future physical manipulation and legal uncertainties. The Department will not, at this time, take a position on who owns the mound. But we can say that "credit" for Compact purposes belongs only to the state.

Tri-Basin NRD must make up its depletion to Republican River under Compact. Conclusion was that how they regulate between Basins to do that is NRD prerogative. The same is true of depletions to the Platte.

Potential to Postpone Selected Decisions

Decision was made to move forward with Platte portion of the plan in the near term but that Republican details can be delayed for up to a specified period so long as compact settlement provisions are met. What that period must be will need to be selected so that action is not delayed indefinitely. Some mention that this might allow some flexibility in schedule discussed on August 19.

Placeholder language will need to be inserted into the final IMP to state that Republican will be revisited within specified timeframe along with reiteration of the expectation for reductions of consumptive use in the district equal to its depletions to the river and whatever quantification is available at that time.

Internal Approach to Plan Development

Discussion was that an outline of the plan is needed and enough detail that DNR can provide information on requirements and for any requests for direction. However, concerns were expressed about infringing on areas of NRD decision. Some discussion of Kurtz and Zayac potentially providing outline material

It was noted that an Internal Tri-Basin meeting the next week could be used to decide on Powerpoint presentations and best approach to educating NRD and schedule.

FYI - Potential Schedule discussed in August 19 Meeting:

September

October – 2 Tech Meetings – Discuss Letter

November – Tech Meeting / All Basin Forecasting / 1st Draft

December - 2nd Draft

January - 3rd Draft

February

March

April - Drafted - publication ready

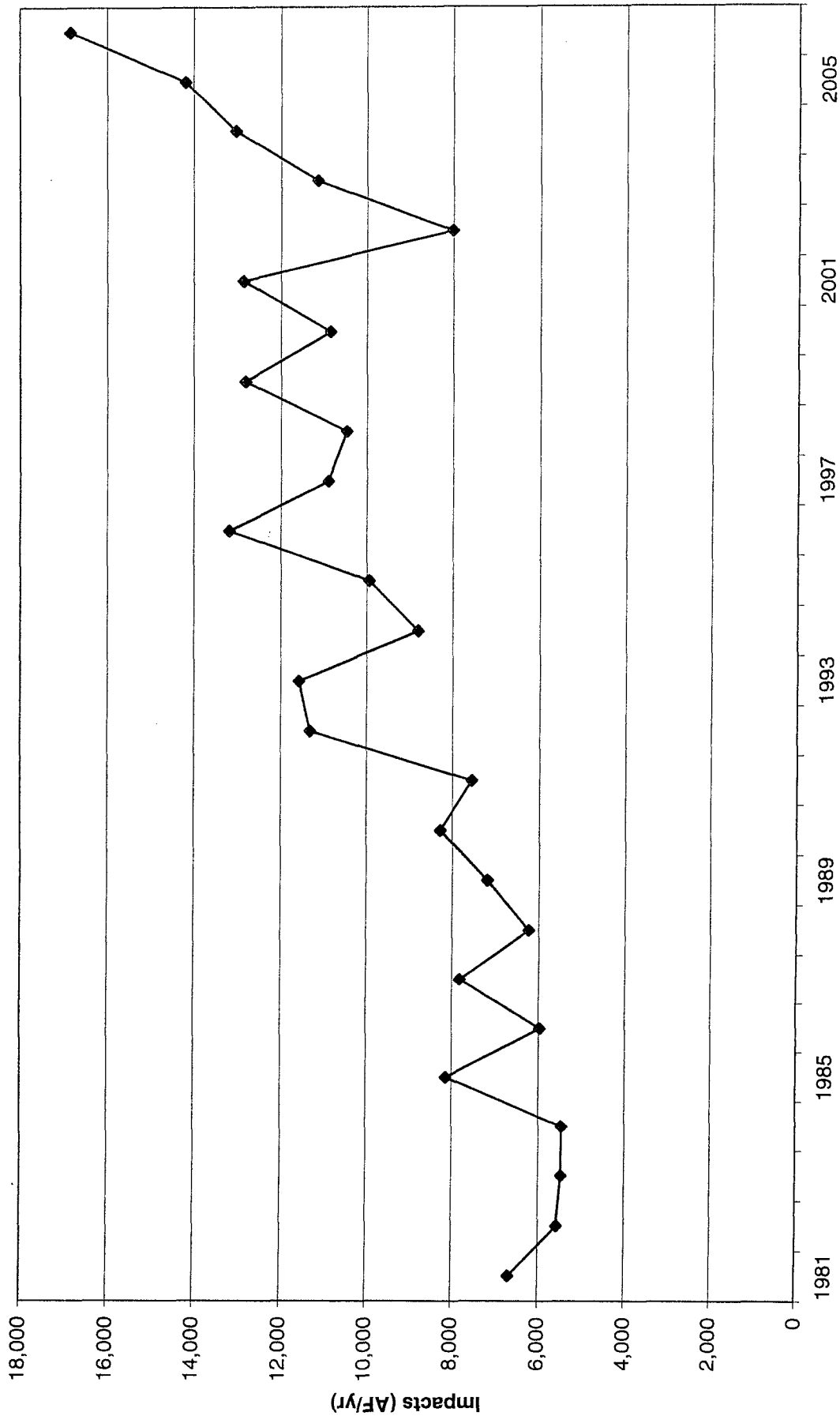
Note: Additional flexibility may now be available in this schedule due to the tentative finding that decisions on some details related to the Republican portion of the plan may be subject to postponement for a limited period of time. Additional discussion on this point may be needed at the September 5 internal meeting on the Tri-Basin IMP.

Attending August 25 Meeting

Dunnigan, Andersen, Thompson, Zayac, Gaul, France, Theis, Kurtz, Schellpeper, Hallum, Schneider

Draft-Provisional Data

Republican River Stream Impacts due to Pumping in the TBNRD



**POTENTIAL DISCUSSION ITEMS
INTERNAL MEETING ON TRI-BASIN IMP
Tuesday August 19, 2008**

Platte/General

- 1. Discuss IMP in Relation to OA Basin Plan**
- 2. Discuss Elwood Reservoir and Central's Induced Recharge Permit**
- 3. How to explain the type of detail that will be required in rules and regs**

Republican

- 4. General Discussion of What is Needed in Republican Portion of Tri-Basin IMP**
- 5. Discussion of Points/Methods Regarding How to Explain Compact Compliance Needs to NRD - (Jim has laid out some of the basics below – the question is how to best explain to audiences)**
 - I. How to explain how mound is credited in compact**

Republican River Compact compliance is based on depletion to stream flow.

 - a. Impacts due to the mound and due to groundwater pumping are estimated with the RRCA groundwater model.*
 - b. The entire Tri-Basin NRD is included in the modeled area—every well in the TBNRD impacts Nebraska compliance with the Compact*
 - c. The issue is usage of Virgin Water Supply, not Imported Water Supply.*
 - d. One layman's explanation – they are already using more than we get credit for – therefore their usage can't go up*
 - II. How to explain technically and compact wise why 81-85 water levels don't work and why we need something different**

The water levels are an indication of a stress that is changed, and do not directly relate to stream flow depletion

 - a. The rise in water levels is indicative of a minor increase in stress. We get a credit for increased stream flow due to the stress.*
 - b. The mound credit should not decrease during dry years, but we find that with current accounting it decreases greatly. We are*

working to change this, but for now we must use current Accounting procedures.

- c. As long as there is recharge from the mound, the IWS Credit will be positive—no matter how much is pumped. Therefore, this is not a realistic criteria.*
- d. Virgin Water Supply consumption is equal or greater (perhaps double) than the Imported Water Supply credit in the TBNRD. Reducing pumping so that VWS depletion is equal or less than IWS Credit would place an unrealistic harsh requirement on the TBNRD.*

III Finally, there are a couple of other points:

- a. This is in line with the 3 primary NRDs*
- b. All the water is water of the state, and does not belong to the TBNRD*
- c. The water is a water right of the CNPPID.*
- d. The presence of the imported water is important, but secondary to stream flow depletion with regard to compact compliance. The IMP should address the primary compliance criteria, accounting for future scenarios and possibilities.*

Other

6. Discuss Schedule for Future IMP Activity

Published Thursday August 14, 2008

Tri-Basin NRD board sets up land and water bank

BY LORI POTTER
THE KEARNEY HUB

ELWOOD, Neb. — The Tri-Basin Natural Resources District took its first major step toward establishing an accounting system for certified irrigated acres and water-saving measures in a vote Tuesday by its board of directors.

The board approved a motion by Director Ray Winz of Holdrege to establish a land and water bank and to have the Planning Committee write rules and regulations for board approval.

Grand Island-based Central Platte NRD established Nebraska's first water bank and has aggressively pursued purchases of conservation easements on Platte Basin properties upstream from Elm Creek. The easements allow irrigation to be retired and Central Platte NRD to bank credits for the reduced effects on the river.

The three-state Platte River Recovery Implementation Program — which operates in Nebraska, Colorado and Wyoming — now has funds to acquire land along the river as wildlife habitat and conservation easements.

Tri-Basin General Manager John Thorburn said the land-water bank matter has become more immediate for his district because Platte program officials are looking at a conservation easement in Gosper County and the NRD wants the water credit.

The state and Platte Basin NRDs have obligations to reduce water use to a level that allows the area west of Elm Creek to move from overappropriated status to fully appropriated. Water credits also are needed in fully appropriated areas east of Elm Creek as offsets for new water uses so a balance of water supplies and uses is maintained.

Certified acres can be moved from county to county, but only within the same river basin. Tri-Basin includes parts of the Platte, Republican and Little Blue basins.

Transfers can't be made into areas that already have water supply problems, such as the overappropriated Platte Basin west of Elm Creek, and cannot be made from one NRD to another.

Contact the Omaha World-Herald newsroom

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February 19, 2008

Ms. Tina Kurtz
NE Department of Natural Resources
POB 94676
Lincoln NE 68509-4676

Dear Tina:

The Tri-Basin NRD Board of Directors would like to schedule a meeting with DNR representatives and district stakeholders to discuss the current draft of the district IMP (enclosed). I know it will be difficult to find a date that will work for all stakeholders, so, at a minimum, we need to find a date that works for both of us. Here are some dates that I have open: 2/26, 2/27, 3/10, 3/14, 3/25 and 3/27. Here is what we hope to accomplish during this meeting:

1. Comprehensive DNR review of the current IMP draft or an alternative IMP draft; and
2. Discussion and resolution of unresolved issues and/or known points of disagreement over IMP content.

Following are what we see as unresolved issues/disagreements:

1. Whether Tri-Basin needs to do a joint IMP for the Republican Basin portion of the district. While the NRD board firmly believes that we had a completed joint action plan agreed to under LB 108 rules, we are willing to set aside this dispute if the goal (help the state maintain Rep. Basin compact compliance by maintaining groundwater levels in the Republican basin and relevant portions of the Platte basin within the district at levels equal to or in excess of 1981-85 average groundwater levels) and objectives of a joint IMP are the same as we believe we agreed to previously in the joint action plan. We are also willing to consider additional comparative measurements of the effectiveness of our integrated water management plans and regulations, such as maintaining a positive balance between consumption of Rep. Basin water supplies and imported water contributions.
2. Whether Tri-Basin and DNR both need to include our relevant rules and regulations as part of the joint IMP, or whether we simply identify relevant controls for plan implementation. We believe that it is sufficient for both parties to identify controls that will be used to carry out integrated water management plans, and we believe that state statutes support this view. Tri-Basin has not been presented with a written position paper from DNR explaining the department's position on this issue.
3. What mechanisms and processes are acceptable to DNR to offset post- July 1, 1997 depletions to streamflows in the overappropriated portion of the Platte. Our preferred mechanism would be to provide intentional groundwater recharge water at Elwood Reservoir in amounts sufficient to offset depletions from our district. By the nature of its location and hydrology, an intentional recharge project at Elwood Reservoir would benefit Republican tributaries as well as the Platte. Clearly, CNPPID is the key to making this project a viable offset option for the district. Discussions about how to implement such a project are ongoing with CNPPID. We would appreciate the department's support for this proposal.

To be more specific about Platte OA Basin offset obligations, Tri-Basin sees our objective as working toward offsetting the amount of water depleting streamflows of the Platte and its tributaries due to groundwater irrigation development within our district after July 1, 1997. This amount, specified in Table 6 of the current draft (11/26/07) of a COHYST report by Dick Luckey, needs to be adjusted to account for the district's obligation to replace only

depletions to streamflows that affect existing surface water rights or groundwater wells dependent on recharge from streamflows, rather than depletions to all streamflows at all times.

According to the previously mentioned COHYST report, depletions to all streamflows due to post-1997 groundwater uses west of Highway 183 assignable to Tri-Basin NRD will reach 1500 acre-feet by 2018. DNR technical assistance will be needed to adjust that number to the appropriate level to satisfy our IMP obligation.

4. Details of the Platte basin-wide IMP are still being worked out, so there may be some additions that need to be made to the district integrated management plan to make it consistent with that basin-wide plan. I don't think that process is far enough along for us to be able to clearly anticipate what all those changes may be, but it is probably worth spending a little time to review our plan and identify any known inconsistencies or needed additions.

In conclusion, please respond ASAP by selecting which, if any of the above-listed dates you will be available to meet with Tri-Basin directors and stakeholders to discuss how to make progress on our IMP. I would also appreciate receiving a written response from you or other staff at DNR, as appropriate, to the issues I have presented above, as well as your comments and revisions to the enclosed IMP draft, that I can share with directors and stakeholders before we hold this meeting. Please call or email if you have questions, or would like to discuss these matters in greater detail.

Sincerely,

John Thorburn
General Manager

Cc: TBNRD Directors
Ms. Ann Bleed, Director, NE Department of Natural Resources
Don Blankenau, NRD Legal Counsel
Jeff Cox, NRD Legal Counsel



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E. XXXXXXXXXX
Acting Director

August 5, 2008

IN REPLY TO:

John Thorburn, Manager
Tri-Basin Natural Resources District
Phelps County Ag Center
1308 Second Street
Holdrege, NE 68949-2803

RE: Integrated Management Plan

Dear John,

The Department has reviewed the latest draft of the joint TBNRD-DNR Integrated Management Plan and your letter to Tina Kurtz dated February 19, 2008 regarding unresolved issues and points of disagreement about the Plan. Thank you for the letter and for identifying the issues that need to be worked out so that we can move forward on the IMP. We are as anxious as you to arrive at an understanding on how to proceed and appreciate the difficulty of writing a single plan to cover three river basins. We think this is best accomplished by accounting for stream depletions rather than focusing on maintaining groundwater levels.



When Roger Patterson sent the July 13, 2004 letter that became the Joint Action Plan, the Department did not have a clear understanding of how the groundwater mound created by CNPPID's Platte River surface water irrigation project, affected compliance with the Republican River Compact. At that time, the groundwater model was very new and the Department had completed only one year of accounting under the Final Settlement Stipulation. Today, we know more about using the Republican River Compact Administration (RRCA) groundwater model to estimate consumptive use of groundwater and the imported water supply. With this knowledge, we have come to realize that the appropriate strategy for ensuring compliance is to control depletions to stream flow. While maintaining ground water elevations at or above the average levels for the years 1981 through 1985 may be an additional desirable goal, the water levels will not directly relate to compact compliance. Since the most important goals for the TBNRD-DNR IMP are to comply with the Republican River Compact and the Platte River Recovery and Implementation Plan (PRRIP), the Department believes the IMP should limit depletions by managing consumptive use.

We think that consumptive use of groundwater in the TBNRD should not create depletions to the Republican River and tributaries exceeding the average annual volume of depletions from those uses for the years 1998-2002. This baseline may need to be adjusted as Compact allocations

admin-directors/dunnigan/2008

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DNR 013296

Mr. John Thorburn, Manager

August 5, 2008

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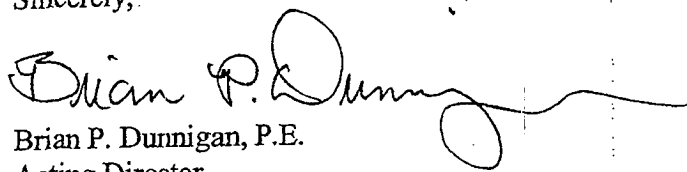
warrant. In the Platte basin portion of the TBNRD, we will work with you to find the level of consumptive use that maintains a balance between water supply and demand.

We understand that until the overappropriated basin-wide IMP is finished, it is not possible to be specific about all of the requirements that will need to be included in the TBNRD-DNR IMP. Hopefully, the OA Plan will be finished this fall. We also know that we need to do additional analysis to account for depletions that are not required to be offset. We look forward to working with you on this.

The Department is willing to accept a variety of mechanisms and processes to provide the offsets required to comply with the PRRIP and Neb. Rev. Stat. Section 46-715. We will work with you to identify a range of options and assist in whatever way we can. We cannot, however, express favor or make a commitment to support issuing a storage permit to CNPPID for Elwood Reservoir since the Department is the agency that will have to issue the permit and, therefore, must remain neutral and detached. I am sure that you are aware that any project that results in a transbasin diversion from the Platte River to the Republican River will undoubtedly face opposition and close scrutiny. Since there is no guarantee that the Elwood Reservoir storage project will ever be approved, the Department cannot agree to rely solely on that project as a means of offsetting depletions. Similarly, the IMP should not assume that CNPPID's surface water project will remain as it is or that the mound will be recharged in the future as it has in the past. The IMP must be able to achieve its goals even if CNPPID alters its operation.

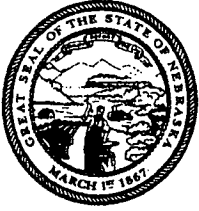
Finally, the Department does not require that the TBNRD Groundwater Management Area rules be included in the IMP. However, because the IMP must contain enough detail about how the controls chosen will be implemented to provide explanation to the public and accountability to the Department, it is generally easier just to include the entire set of regulations rather than edit and rewrite them for the IMP. However, if you would prefer not to include the regulations, then we will work with you to identify the regulations that implement the controls and go to the heart of the joint plan. These are the regulations that cannot be changed without the Department's agreement if the IMP is to remain a joint plan.

Sincerely,



Brian P. Dunnigan, P.E.
Acting Director

STATE OF NEBRASKA



DEPARTMENT OF NATURAL RESOURCES
Roger K. Patterson
Director

August 5, 2004

IN REPLY REFER TO:

Mike Johanns
Governor

Bradley Lundeen, Chair
Tri-Basin Natural Resources District
1308 Second Street
Holdrege, NE 68949

Dear Mr. Lundeen:

This letter is in reference to the motion adopted by your board on July 13, 2004, related to the proposed joint action management plan for the Republican River Basin portion of the Tri-Basin NRD in accordance with Section 46-656.28, R.S., Supp., 2000, as amended, in effect prior to July 16, 2004. The Department agrees to accept this motion as stated in your letter of July 14, 2004: "The key objective of the Plan is to maintain, at sufficient levels to offset depletions to the Republican River caused by ground water pumping within the Tri Basin NRD, the Republican River Compact credit that Nebraska receives because of discharges from the "ground water mound" to the surface water supplies in the Republican River Basin. To achieve this objective, the Tri Basin NRD will utilize the ground water management authorities available to it to maintain the water levels in its portion of that "ground water mound" at or above the average water levels for the years 1981 through 1985."

In accordance with the provisions of Nebraska Statute 47-720 (LB 962, Section 60), which went into effect on July 16, 2004, this joint action management plan will need to be reviewed by the TBNRD and the Department for compliance with the requirements of an integrated management plan under the new law. Once this review has taken place and the DNR and the TBNRD have agreed on the new management plan, the TBNRD will need to work with the Department to develop rules and regulations necessary for the implementation of the integrated management plan.

Since the TBNRD did not have a temporary suspension in effect on July 16 and because we have both reached the conclusion that preparation of a joint action plan under previous law was completed before July 16, no stays on the development of ground water wells or on new irrigated acres were imposed as a result of the operative date of LB962. Except to the extent that the Department includes portions of the Republican River Basin in the hydrologically connected area for the soon to be declared overappropriated portion of the Platte River Basin or until the board decides itself to institute restrictions on the expansion of irrigated acres and/or the construction of new wells through their existing ground water management area regulations, no limitations

Bradley Lundeen

August 5, 2004

Page 2

will be put in place until the adoption of the completed integrated management plan and associated rules and regulations.

We look forward to continuing the integrated management planning and implementation process with your staff and board.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger K. Patterson". The signature is fluid and cursive, with the first name "Roger" and last name "Patterson" clearly distinguishable.

Roger K. Patterson

Director

tk