

DRAFT 2/24/03

*Report to the Nebraska Water Policy Task Force Executive Committee
on the*

**FEBRUARY 14, 2003 JOINT MEETING OF THE FUNDING SUBCOMMITTEE
AND THE PLAN CRITERIA/ADDRESSING IMPACTS SUBCOMMITTEE**

- A joint meeting of the *Funding Subcommittee* and the *Plan Criteria/Addressing Impacts Subcommittee* took place February 14, 2003 at the Twin Platte NRD offices in North Platte. Attending were: Ron Bishop, Don Kraus, Dan Smith, Claude Cappel, Art Brownlee, Steve Gaul and Roger Patterson. Participating via conference call were Brian Barels, Dave Sands, Tom Schwarz and Jay Rempe. Written input was received from Gene Glock and Mike Drain.
- Several key policy questions were identified regarding funding needs for compensation. These included:
 - 1) *Do we go beyond compact requirements and try to address other rights? If so, at what point does the clock start running?*
 - 2) *Do we pay for past damage and go forward, or just go forward?*
 - 3) *Should we identify the date at which a basin became fully appropriated and just go forward from there?*
 - 4) *Do we limit ourselves to groundwater impacts, or should we also address impacts such as conservation?*
- Overall, the solutions discussed most favorably involved three types of funding:
 - 1) *State appropriation or other state funding (probably to the Interrelated Water Management Fund for study related components),*
 - 2) *Nebraska Environmental Trust Funds (on a competitive basis only) or other grants, and*
 - 3) *Local NRD funding (probably supplemented through some lid modification such as provided by LB642).*

The Funding would be used for:

- 1) *Data collection/studies,*
- 2) *Monitoring/implementation*
- 3) *Mitigation/compensation for future and/or past development impacts (may take a funding source not identified above).*

The needed funding levels varied greatly depending upon the type of mitigation/compensation policy selected. However, they might range in the \$2 million to \$12 million annual range with much of that being needed for mitigation. Additional effort is needed to further develop the needed figures.

- There was discussion about whether the task force should identify actual methods of state funding, or leave that to the Unicameral and Governor. It was suggested that talking about the amount of funding needed was appropriate, but that addressing methods was getting the cart before the horse. It was agreed that the topic should be addressed in a meeting with Senators Schrock and Stuhr.

- It was noted that if an incentive program were used, it would take about 1 to 1½ million dollars per year in mitigation/compensation funding to bring the Republican Basin into compliance with the terms of the compact settlement. However, that doesn't deal with in-state irrigators that may have been damaged in the past or who may be damaged in the future. (Nebraska needs about 30,000 acre-feet of reduction in water use in one year out of every 3. If a payment of \$100 per acre is required on those acres one year out of 3, it comes to about \$1 million per year).
- It was noted that under some interpretations of full compensation the amounts needed could become quite large and effectively "break the bank". For example, if groundwater depletions have reduced average annual availability of needed surface water by 50,000 acre-feet above Lake McConaughy and 25,000 acre-feet below Lake McConaughy, then at \$100 per acre-foot there would be an average annual cost of \$7½ million. This does not include financial impacts to hydropower or the Gerald Gentleman operation. One difficulty in these types of estimates is that to some degree many of the landowners who have or had the surface water rights also have groundwater wells. In the Republican Basin about 80% of the surface water irrigated acres also have wells.
- If compensation is offered only for future depletions or for wells drilled after a basin is fully appropriated, financial costs could be significantly lower.
- Compensation to a surface water user could conceivably consist of supplying an alternate source of water, i.e. water augmentation projects, leased water rights, water right retirement, compensation based on the cost of replacement water, regulation or drilling a well if it does not affect basin sustainability. This might be especially true in a few smaller basins. In some areas groundwater the well might pump would be allocated and the new wells would need to be figured into the allocation.
- It was noted that the Interrelated Water Management Fund currently provides a method for funding studies related to interrelated water issues and would only need an appropriation. Other DNR programs receive funding on a continuing baseline basis and it was noted that the Unicameral could decide to treat this one in a similar manner.
- *It was suggested that when the NRDs and DNR are doing the actual plans for a basin, they should make a first cut at a mitigation plan. Individual landowners could then have the opportunity to petition for changes after presenting evidence regarding adverse impacts.*
- There was discussion about whether mitigation/compensation funds needed to come from a different source than data collection/study and monitoring/implementation funds.

- After some discussion it was decided that compensation should not be provided for conservation impacts to surface water flows. However, it was noted that those impacts would need to be carefully identified and distinguished from groundwater use impacts.
- A written submission from subcommittee member Gene Glock indicated the difficulty of addressing fund raising and expressed his preference for the per capita tax.
- Don Kraus provided written information brainstormed by Mike Drain illustrating the types of activities that would need to occur and be funded in most types of mitigation activity. That material is *attached*.
- It was recognized that this is a significant issue. It was the 5th task assigned to the Task Force (addressing inequities between surface water and groundwater users) and deserves careful consideration). It was suggested that a separate subcommittee be created specifically to deal with the compensation/remedy/mitigation idea. (The current Plan Criteria/ Addressing Impacts Subcommittee is charged *“to develop proposals to determine what are the criteria of a good integrative solution. In doing so they are to address the concerns of individuals already impacted, but do so in a way that minimizes cost to the others”*. The work of this new subcommittee would need to be carefully distinguished from that charge.

ATTACHMENT

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1. Identify hydrologically connected wells & associated acres
2. Estimate consumption of wells/acres
3. Estimate streamflow impacts of GW consumption
 - a. Volume
 - b. Timing (i.e. Dry year/normal; variability within a year)
 - c. Location
4. Identify volume, timing, location of senior surface water uses (Irrigation, Municipal Power, Storage reservoir)
5. Calculate SW interference
 - a. Compare 3 & 4
 - b. Where GW impacts 3 and interferes with 4 an interference occurs
6. Identify alternatives for mitigation
 - a. Water
 1. Contract with irrigators who have storage in reservoirs (i.e. Pathfinder, Glendo, Lake McConaughy and others)
 2. Contract with natural flow water right holders
 3. Construction of new mitigation projects
 - b. Compensation
7. If mitigation is not chosen, then regulation of wells