

DRAFT
INTEGRATED MANAGEMENT PLAN
Jointly Developed by the
DEPARTMENT OF NATURAL RESOURCES
and the
UPPER REPUBLICAN NATURAL RESOURCES DISTRICT

AUTHORITY

This integrated management plan was prepared by the Board of Directors of the Upper Republican Natural Resources District (URNRD) 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

On April 11, 2003, effective May 8, 2003, URNRD, pursuant to applicable statutory rulemaking procedures and Section 46-656.25, R.R.S. 1998, adopted the *State of Nebraska Upper Republican Natural Resources District Amendments to Rules and Regulations for Ground Water Control – Order No. 26* and the *Upper Republican Natural Resources District Technical Manual of Policies and Procedures TM-26* (the “URNRD Rules” or “the Rules”). In the regular meeting, on July 6, 2004, URNRD voted to extend Order #26 until September 1, 2005. Rule 9A of the Rules provides for a basic allocation of ground water to certified irrigated acres within the URNRD of 72.5 acre inches for the 5 year period between January 1, 2003 and December 31, 2007, an annualized allocation of 14.5 acre inches. Since their adoption, the Rules have prohibited additional allocations for ground water use and additional well permits, except under limited circumstances. In addition, among other things, the Rules continued and recodified the URNRD’s practice of allowing ground water users to carry forward the unused portion of their allocation, together with any remaining unused portions of allocations from previous years, into succeeding allocation periods and permitted the URNRD to approve pooling contracts, both in accordance with the URNRD Rules.

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 Ground Water Model developed by all three states for use in computing stream flow depletions resulting from ground water use was submitted to the Court on September 17, 2003.

Both prior and subsequent to the approval of the Settlement Agreement, NDNR conducted and participated in several meetings with URNRD, many of them public meetings. During the course of those meetings NDNR explained that, in order for the State of Nebraska to achieve and maintain compliance with the terms of the Settlement Agreement, it would be necessary to continue the moratorium on new surface water appropriations and to reduce ground water pumping. The initial reduction in ground water pumping would be 1) a five (5) percent reduction of pumping based on the 1998-2002 average pumping in the URNRD, and 2) further reductions in ground water pumping needed to comply with the Compact in water short years, to be accomplished to the extent possible through the use of water conservation incentive programs. Ground water within the Republican River Basin is regulated by four Natural Resource Districts: URNRD, the Middle Republican Natural Resources District (the "Middle"), the Lower Republican Natural Resources District (the "Lower") and the Tri-Basin Natural Resources District ("Tri-Basin") (collectively hereinafter the "Districts"). Similar discussions were held between NDNR and each of the Districts regarding the need to accurately measure actual ground water pumpage and surface water diversions throughout the Basin, for Tri-Basin to maintain at sufficient levels to offset depletions to the Republican River caused by ground water pumping in 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, and for each of the Districts, other than Tri-Basin, to reduce its ground water pumping as described above for URNRD.

Prior to the Settlement, the wells within the URNRD were metered while the wells in the Middle and Lower were not. In order to estimate pumping in these Districts, other methods had to be used. Using the Republican River ground water model, NDNR has determined the following pumping volumes for the period 1998-2002: 531,763 acre-feet for URNRD, 309,479 acre-feet for the Middle and 242,289 acre-feet for the Lower.

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 river basin ... can be achieved and maintained for both the near term and the long term". The following goals

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and objectives are adopted by the URNRD and the NDNR to achieve that purpose:

Goals:

1. To assist the State of Nebraska, in cooperation with the other Districts, in maintaining compliance with the Republican River Compact as adopted in 1943 and as implemented in accordance with the Settlement Agreement approved by the United States Supreme Court on May 19, 2003; and
2. To ensure that ground water and surface water users within the URNRD assume their share, but only their share of the responsibility to keep Nebraska in compliance with the Republican River Compact. Neither the URNRD nor NDNR will require the Integrated Management Plan (IMP) to be amended for the purpose of changing the responsibility of water users within the URNRD based on the failure of other Districts to adopt, implement or enforce IMPs adequate to meet their proportionate share of the responsibility to keep Nebraska in compliance with the Republican River Compact.
3. To provide that URNRD's share of that responsibility be distributed within the URNRD in an equitable manner and to minimize, to the extent possible, adverse economic, social and environmental consequences.

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 URNRD;
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 URNRD by five (5) percent from the baseline of use that was established by utilizing 1998 to 2002 ground water pumping estimates and the associated streamflow depletions 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 in water short years as are necessary

to achieve a reduction in beneficial consumptive use in the URNRD in an amount proportionate to the total reduction in consumptive use required by the Settlement Agreement in Nebraska above Guide Rock in such years;

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 on incentive programs available to as many URNRD water users as possible; and
6. For the URNRD and NDNR to investigate and explore methods to manage the impact of vegetative growth on streamflow.

MAP - see map 1.

The area subject to this IMP is the geographic area within the boundaries of the Upper Republican Natural Resources District.

GROUND WATER REGULATION

The authority for the ground water component of this IMP is Section 46-715 and Section 46-739, R.S. Supp., 2004. The ground water controls to be adopted and implemented by URNRD are those found in the URNRD Revised Rules. All of the following is a placeholder pending the joint agreement on the rules and regs.

1. The reductions provided in the URNRD Revised Rules for ground water pumping from the current annualized 14.5 acre-inches to 13.5 acre-inches are based upon NDNR's calculation that such reductions are expected to provide an overall five (5) percent reduction in average annual ground water pumping in the URNRD from the 1998-2002 baseline. NDNR has made similar calculations to predict that the IMPs adopted by the other Districts and approved by NDNR will also achieve a five (5) percent reduction in average annual ground water pumping within those Districts.
2. If it is determined that all of the Districts are in compliance with their IMPs, and Nebraska is not in compliance with the Compact, any additional reductions will be required for all Districts in proportion to the 1998-2002 baseline.
3. The URNRD may accomplish the requested reduction by any legal means available to it. Thus, if the URNRD can demonstrate that its required reduction will be accomplished by means other than the reduction in the annualized pumpage allocation or by a lesser pumpage reduction coupled with other means, the IMP and associated rules will need to be amended to implement those adjustments.
4. With the benefit of experience, it may be determined that either less or more than the five (5) percent reduction in ground water pumping in combination

with additional water short year reductions is required for Nebraska to meet its obligations under the Compact. In the event it is determined that the five (5) percent reduction must increase to achieve Nebraska's compliance, or that a lesser reduction is needed to meet URNRD's proportionate share of Nebraska's obligation, NDNR and the URNRD will amend the IMP and its Rules accordingly.

5. PLACEHOLDER - Accounting of credits for retired acres. Basinwide conservation incentive programs will be accounted against statewide obligation. Any conservation incentive programs or other programs that reduce consumptive use of streamflow funded and carried out solely by the NRD, the NRD is given credit.

6. URNRD and NDNR will make all documents, reports, records, computer runs or other calculations or material necessary to determine compliance with the Compact available to each other, unless such materials are rendered confidential by Nebraska Statutes or Court Rules, regardless of whether such documents are available under the Nebraska Public Records Act or otherwise. Specifically, and without limitation, URNRD agrees to continue to meter, record and provide to NDNR its ground water usage records; NDNR agrees to provide URNRD all reports and records of the other Districts necessary to determine their compliance with reductions in accordance with the formula described above, as well as all documentation and reports utilized by NDNR to determine Republican River Basin's virgin water supplies and Nebraska's compliance with the Compact.

SURFACE WATER CONTROLS - Department of Natural Resources

The authority for the surface water component of this integrated management plan is Section 46-715 and Section 46-716 R.S. Supp., 2004. The surface water controls that will be continued and/or begun by the NDNR are as follows:

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 [or "are"] required to install a NDNR approved measuring device by the start of the 2005 irrigation season. All measuring devices 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 by the Department 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 URNRD and NDNR intend to establish and implement financial or other incentive programs to reduce beneficial consumptive use of water within the URNRD. 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

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, URNRD's Rules and additional data on file with the URNRD or NDNR.

[Reference the rules for what is to be considered in the development of the IMP.]