
May 20, 2003

Surface Water Appropriator in the Republican River Basin

In 1998 the State of Kansas filed an action against the State of Nebraska in the United States Supreme Court alleging that Nebraska was violating the 1943 Republican River Compact. The State of Colorado was soon added as a party and a Special Master was appointed by the Court to try the case. Negotiations to resolve that litigation commenced in 2001 and were successfully concluded in late 2002. On May 19, 2003, the United States Supreme Court approved that settlement. As a result, each of the three states now has clearly defined responsibilities concerning use of both surface water and hydrologically connected ground water in that state's portion of the Republican River Basin.

Even before Kansas filed the litigation, the four Nebraska natural resources districts (NRDS) in the Republican River Basin requested that our department work with them and with affected appropriators and surface water project sponsors to prepare a joint action plan for the integrated management of hydrologically connected ground water and surface water. Soon after that request was received in 1996, my predecessor made a preliminary determination that there was reason to believe that the use of hydrologically connected ground water and surface water resources was contributing to disputes over the Republican River Compact. Studies to better understand the relationship between ground water and surface water in the basin were begun immediately but were suspended in 1998 after Kansas initiated the litigation.

Work on the studies resumed in 2002 and a report has been completed. The final report acknowledges the responsibilities Nebraska now has under the Court approved settlement and confirms the preliminary determination made in 1996. The report is available on the Department of Natural Resources (DNR) website or a copy may be obtained from DNR by contacting us at the address or phone number on this letterhead or Brad Edgerton, Cambridge Office, 622 Patterson Street, Cambridge, Nebraska 69022, (308)697-3730. The use of hydrologically connected ground water and surface water in the Republican River Basin will need to be managed more aggressively if the state is to stay in compliance with the settlement and prevent Republican River compact disputes in the future.

Subsection (3) of Section 46-656.25 of the Nebraska Revised Statutes provides that when such a report is completed, I am to consult with the affected surface water appropriators and the NRDs within the area affected by the disputes. That is the reason for sending you this letter.

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I will soon set a time and place for hearings to consider the report, hear any relevant evidence, and secure testimony on whether a joint action plan for the integrated management of surface and ground water in the basin should be prepared by the department and by the affected NRDs. The purpose of the joint action plan would be to describe how the State and the NRDs will jointly ensure that Nebraska complies with the terms of the Court approved settlement. Because four NRDs were involved in initiating the joint action planning process in 1996, we have tentatively scheduled a hearing in each NRD. The proposed dates, times and locations for those hearings are as follows:

June 24, 9 a.m. – Imperial

June 24, 3 p.m. – McCook

June 25, 9 a.m. – Alma

June 25, 2 p.m. – Holdrege

If you have comments relative to the date, time or location for one or more of the hearings, please provide those to me no later than May 30, 2003.

Before the hearings are held, notice will be published in the newspapers of general circulation in the area involved at least once each week for three consecutive weeks. I encourage you to watch for the published notices as any of the dates, times, and/or locations given above could change. The notice will also provide a general description of the areas that will be considered for inclusion in a management area so that the joint action plan, if and when completed, can be implemented. You are encouraged to attend one or more of the hearings and to present your thoughts about whether the NRDs and our department should prepare a joint action plan.

Sincerely,

Roger K. Patterson
Director

pjb