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This DRAFT has not been approved by any irrigation district or natural resources district.

A Proposed Plan to Keep Nebraska in Compliance with The Republican River Compact

Jointly Developed by Republican River Natural Resources Districts and
The Nebraska Department of Natural Resources
3/2/3022/07

Introduction: Nebraska has been challenged to stay in compliance with the terms of the Republican River Compact and the *Kansas v Nebraska* lawsuit settlement because of the severe drought that has plagued southwest Nebraska since 2000. The state and basin Natural Resources Districts (NRDs) have completed all the tasks called for in the lawsuit settlement, including establishing a moratorium on development of new wells, limiting and certifying all irrigated cropland and regulating diversions of surface water below Harlan County Dam to protect streamflows for Kansas Bostwick Irrigation District. In spite of these regulatory actions and the voluntary efforts of basin residents to conserve irrigation water and enroll over 50,000 irrigated acres in conservation programs like CREP and EQIP, Nebraska is still in danger of being unable to maintain compliance with its legal obligations to the State of Kansas.

Drought has diminished streamflows, drastically reducing Nebraska's allocation of Republican River water. Nebraska's allocation of Republican River water supplies set consecutive record lows in 2004 and 2005. Preliminary data indicate that it is likely to remain at record low levels in 2006. The Nebraska Department of Natural Resources (DNR) and Republican Basin NRDs are committed to work together to insure that Nebraska remains in compliance with the compact. NRDs recognize that they have roles to play in both implementation and financing compact compliance programs. The NRDs and DNR also recognize that additional regulation of water users ~~will~~may be necessary to achieve the goal of maintaining compact compliance.

Maintaining compact compliance will be costly. Republican Basin NRDs are near or at their levy limits, so they are unable to raise additional funds unless they are given additional taxing authority. Governor Heineman has proposed creation of a Water Resources Cash Fund to provide state money to assist local government with water resources management. Increases in both state and local funding will be critical to insure Nebraska's continued compliance with the interstate compact. Following are lists of regulatory and voluntary actions that can be taken over the next six years to maintain compact compliance.

Plan Goal: *The State of Nebraska and Republican Basin Natural Resources Districts will work together to reach a sustainable balance between water use in Nebraska's portion of the Republican River Basin and the amount of water allocated to Nebraska by the Republican River Compact by the year 2012.*

2007 Plan objectives

Legislative Actions

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- Ask the legislature to allow Republican Basin NRDs to:
 1. Extend the 3 cent levy (from LB 1226) for five years
 2. Assess an additional levy and/or fees.

The total amount of funds derived from local sources should be capped annually at no more than 1/3 of 1% of the total district's valuation. This funding would be used for activities that would enable the State to comply with the Compact.

- Request that the state match local funds at a rate of 80 State/ 20 local for five years during the transition period until Nebraska reaches a sustainable balance between allocations and consumptive use so that we are able to insure consistent compliance with the Compact.
- This combination of state and local funds will be used to:
 1. Reduce existing groundwater and surface water uses.
 2. Construction of augmentation projects that import water or retime the use of water in the basin;
 3. Manage vegetation to increase channel capacity and reduce non-beneficial consumptive use of water;
 4. Implement other water management activities that will enable the DNR and or the NRDs to achieve the goals of an Integrated Management Plan or Ground Water Management Plan.

Regulatory Actions

- Republican Basin NRDs and DNR will continue to enforce existing moratoriums on new water uses and limits on groundwater pumping.

Voluntary Actions

- Continue and expand projects to control vegetation in the Republican River and tributary stream channels. (\$750,000)
- Continue and expand programs to inform and educate landowners about irrigation best management practices and encourage additional water conservation. (\$50,000)

2008-2012 Plan objectives

Legislative Actions

Guidelines for Planning Actions

Every year the DNR will determine the amount of water that can be depleted from the stream by surface water and ground water users and still achieve and maintain a balance between the State's Allocation and Computed Beneficial Consumptive Use (CBCU) so that the State can be in compliance with the Republican River Compact. This determination will be an estimate of the level of depletion that can be allowed in the next year. For future planning purposes, the DNR will also make estimates of the allowable depletion over the next three years, and the next 12 years.

As part of the revision to the Republican River Basin's integrated management plans the DNR and Republican River NRDs in consultation with the Republican River Basin

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irrigation districts, power districts, municipalities and other stakeholders, will determine what percentage of Nebraska's expected Allocation can be depleted by surface water users and ground water users. In setting the allowable surface water depletions, there will be consideration of changes in surface water runoff as well as changes in baseflow. The depletions from ground water uses shall be distributed to the Upper Republican NRD, Middle Republican NRD and Lower Republican NRD based on each NRD's percentage of the total depletions to stream flow that occurred for the 1998-2002. Currently these percentages are set as:

LRNRD = 26%

MRNRD = 30%

URNRD = 44%

However, these estimates will be reviewed to insure fairness of the distribution among the NRDs using several modeling scenarios and the metered pumping data.

The Tri-Basin NRD will not be assigned an allowable depletion and will have no requirement to live within an allowable depletion as long as the Imported Water Supply as computed by the Republican River Compact Administration Model is greater than or equal to zero. If however, the Imported Water Supply (Not Imported Water Supply Credit) becomes less than zero, the percentage allocations will be recalculated the the Tri-Basin NRD will be treated the same as the other three NRDs.

Any accretions to the stream developed as a result of program's funded by the State, such as State funded CREP and EQIP programs or other surface water or ground water use buyout programs or augmentation projects will be used to offset any overuse by the State. When Nebraska's CBCU does not exceed the CAS and the State is in Compliance with the Republican River Compact, accretions to the stream resulting from State funded programs will be used to offset depletions by surface water users if streamflow is to low to allow surface water users to use their full allowable depletion. Otherwise, accretions from State funded programs will be used to offset depletions for surface water users and ground water users in each NRD according to the percentages established to distribute the allowable depletions.

Any streamflow accretions developed through programs funded by an NRD, to offset depletions by the NRD funding the program. If the accretion is the result of a program developed by a surface water users, the accretion may be used to offset the depletions caused by that surface water user.

At the end of each year the DNR will estimate the previous years Allocation and CBCU for surface water users and each NRD and determine whether the surface water users or an NRD exceeded or was under its Allocation. Any saved water can be carried forward for use the next year up to a limit of ?? Any depletions resulting from an overuse of water will be subtracted from the next year's percentage of allowable depletions. (For

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2008, these calculations will be based on each NRDs percentage of Allocation and their CBCU for the years 2003 to 2007.

Compliance with the Integrated Management Plan will be based on a five year running average as in the Republican River Compact and, in water-short-years, a two or three year running average, depending of which is controlling for Compact compliance.

The above estimates of allowable depletions will of necessity be based on the State's estimate of Nebraska's expected allocation and an assessment of the expected climatic and hydrologic conditions. The actual allocated supplies and CBCU will not be known until after the official Compact calculations are completed. Any over or under estimates by the State will be applied to next year's estimated Allocations and distributed among all users in accordance with the above percentages.

Regulatory Actions

Administration of Ground Water

I. The regulations used to administer ground water use will be determined by the local Natural Resources Districts. In accordance with Neb. Rev. Stat. § 46-739, each NRD will establish regulations that together with other augmentation or voluntary reduction incentive programs, will assure that depletions to the stream from ground water pumping does not exceed the NRD's allowable depletion.

II. The NRDs will establish allocations for the next three year period based on any necessary reductions. After three years, an assessment of the water supplies and expected Allocation will be revised and adjustments to the allocations will be made to insure that the State maintains an acceptable balance between Allocations and CBCU. These allocations will remain in place until the next three-year allocation period, however, if water supplies are higher than expected during the three year allocation period from 2008-2011, the NRD Board may elect to raise the allocations.

III. For subsequent allocation periods, the allocations may be raised on lowered, depending on the expected availability of water supplies.

Administration of Surface Water

I. The State will administer surface water diversions first in time first in right, but will not allow the total depletions to exceed the water allocated to surface water use to stay within Compact compliance. The allowable depletions may vary from year to year based

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on available surface water supplies but on average over time the amount pumped per acre will be set to a level comparable to the ground water allocations in the same area.

Voluntary Actions