

# Implementation of LB 701

Since LB 701's passage, the three Republican River NRDs have negotiated and finalized agreements with the Frenchman Valley Irrigation District, Riverside Canal Irrigation Company, and Frenchman Cambridge Irrigation District to lease surface water supplies for 2007. The NRDs expect to lease 36,000 acre-feet for a total cost of \$8,551,000. The leases will help Nebraska comply with the compact by sending the water down the river to Kansas and reducing Nebraska's consumptive use.



Photo courtesy of Nebraska DNR

## People canoe down the Republican River.

NRD board will decide the level of property taxes or irrigation fees that will be assessed. Decisions will likely be forthcoming at board meetings this summer or early fall. The taxes and irrigation fees would be paid during the next property tax payment cycle beginning in January 2008.

The Nebraska Department of Natural Resources has also reached an agreement with the Nebraska Bostwick Irrigation District to lease surface water. Currently the district takes stored water from Harlan County Lake and natural flows from the Republican River to fulfill farmer irrigation contracts. Over the last number of years neither district has received its full supply of water. Under the deal, Nebraska Bostwick will lease 12,500 acre feet of storage water in Harlan County Reservoir and 5,000 acre feet of natural flow to the state. The state will provide compensation of about \$5.7 million in return.

The NRDs and DNR believe the surface water leases, combined with ongoing programs like allocations, CREP and EQIP will result in the state using less than its allocated supply in 2007. Nebraska may also be able to reduce its over use accumulated since 2003.



Nebraska Farm Bureau Federation  
P.O. Box 80299  
Lincoln, NE 68501-0299

# Nebraska Farm Bureau®

## REPUBLICAN RIVER BASIN NEWSLETTER

June 2007

www.nrb.org

Vol. 1 Issue No. 1

### FB Launches Republican Update Newsletter

The Nebraska Legislature recently passed water legislation focused primarily on Republican River Compact compliance. Through the course of the Legislature's debate, NRB received several inquiries from members in regard to the legislation, the compact with Kansas, litigation with Kansas, the 2002 settlement, NRD activities and possible compact compliance activities.

In response, NRB decided to launch this newsletter to answer some of the questions members in the Republican Basin might have and provide information. This edition contains information on the Republican Compact, the 2002 settlement, and LB 701. Please contact the Nebraska Farm Bureau Federation, Government Relations Department with any comments, suggestions or inquiries at 402-421-4447.

### Legislature Passes LB 701

The legislature recently passed and the governor signed LB 701. The bill, introduced and prioritized by Sen. Mark Christensen of Imperial, was largely crafted to provide the Republican Basin Natural Resources Districts (NRDs) and the Nebraska Department of Natural Resources (DNR) with additional resources and tools to work toward compliance with the Republican River Compact. The key components of LB 701 related to the Republican Basin include:

1. NRDs in the Republican Basin are provided the authority to lease or acquire surface and groundwater rights, engage in vegetation management and augment stream flows, and are provided the authority to issue bonds to pay for these activities. Funding for repayment of the bonds could come from property taxes (up to 10 cents/\$100 value) and fees on irrigated acres (up to \$10/acre).

2. A 13-member Riparian Vegetation Task Force will be created, consisting of representatives of the governor, state agencies, NRDs, state forester, university, Nebraska

Weed Control Association, surface water projects in over and fully appropriated basins, and a riparian landowner from each of the state's Congressional districts. The task force is to develop and prioritize vegetation management goals for the state and analyze the costs of vegetation removal or treatment options. The bill appropriated \$2 million a year for vegetation management programs in the Republican and Platte Basins.

3. A Water Resources Cash Fund was established and the legislature appropriated \$2.7 million in general funds per year to the fund. An appropriation of \$3 million in general funds was also included, to be used by DNR for the purpose of leasing water from the Nebraska Bostwick Irrigation District. A checkoff on corn and sorghum in 2012 through 2019 and then funneled to the Water Resources Cash Fund.

A copy of LB 701 can be found on the legislature's web site at [www.nebraska.gov](http://www.nebraska.gov).



The Republican River.

# Republican River Basin Compact

The Republican River Compact, signed in 1943 by Nebraska, Kansas and Colorado, allocates the annual water supply (virgin water supply) of the Republican River: 11 percent to Colorado, 49 percent to Nebraska and 40 percent to Kansas. The amount of water allocated to each state under the compact varies annually depending on stream flows in the main stem of the Republican River and its tributaries. Each state is entitled to consume its allocated supply. Nebraska must insure that its consumptive use of water does not exceed the state's allocated supply to comply with the Compact Administrators, consisting of the state engineers from Colorado and Kansas and the director of DNR in Nebraska. Ann Bleed, the current director of DNR, is Nebraska's representative to the compact. The compact administration meets once a year to certify allocations and each state's consumptive use. The accounting works a year in arrears - for example, in August 2007, the compact administration will meet to certify the supply and usage and determine compliance for 2006.

## NEBRASKA'S OFFICIAL COMPACT NUMBERS

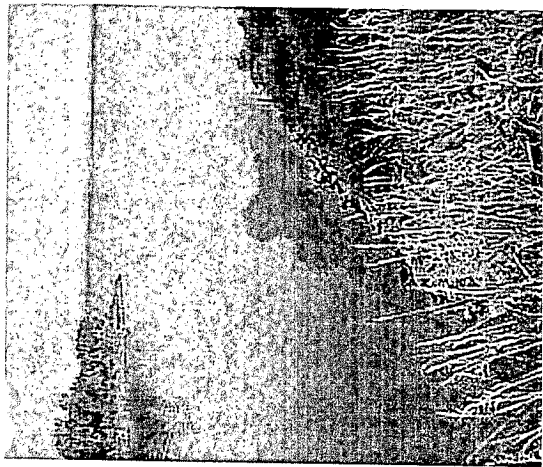
| YEAR | ALLOCATION | CONS. USE | IMPORT | NET     |
|------|------------|-----------|--------|---------|
| 1995 | 332,550    | 295,880   | 17,902 | 54,172  |
| 1996 | 377,300    | 278,900   | 24,394 | 122,794 |
| 1997 | 337,700    | 315,680   | 16,454 | 38,454  |
| 1998 | 315,410    | 297,750   | 17,677 | 35,377  |
| 1999 | 299,050    | 302,890   | 18,444 | 14,604  |
| 2000 | 291,920    | 296,530   | 18,656 | 14,046  |
| 2001 | 299,380    | 292,320   | 18,242 | 25,302  |
| 2002 | 236,550    | 265,910   | 13,996 | 15,364  |
| 2003 | 227,580    | 262,780   | 9,780  | 25,420  |
| 2004 | 205,630    | 252,650   | 10,380 | 36,640  |
| 2005 | 198,940    | 252,690   | 11,965 | 41,785  |
| 2006 | ?          | ?         | ?      | ?       |

\*Cons. Use = Nebraska's computed consumptive use  
 \*\*Import = imported water credit (Platte mound seepage)  
 \*\*\*Net = (Allocation + Import) - Cons. Use; negative number indicates overuse

Photo and numbers provided by DNR

# Republican River Basin Settlement

In 1998, the State of Kansas filed suit before the United States Supreme Court, charging Nebraska had violated the 1943 compact. Kansas alleged Nebraska violated the compact "by allowing the proliferation and use of thousands of wells hydraulically connected to the Republican River and its tributaries." The court referred the matter to a special master who made several rulings in the case, the most important of which found the Republican River Compact restricts the consumption of groundwater to the extent the consumption depletes stream flow.



Harlan County Lake is Nebraska's second largest lake.

After this and other rulings, Nebraska, Kansas, Colorado and the federal government began meeting to negotiate a settlement. The negotiations culminated in the settlement agreement reached in December 2002 and approved by the governors and attorney generals of all three states.

The settlement did not change the original compact or the percentages of water supply allocated to each state. The settlement provided that the Republican River Compact Administration would continue to administer the compact. It is the responsibility of the Engineer-

ing Committee of the compact to use the procedures agreed to in the settlement to determine "computed virgin water supply" and each state's allocation and "beneficial consumptive use." Surface water use and groundwater use that is determined to deplete stream flow are combined as part of each state's consumptive use.

Compliance with the compact under the settlement is computed on a five-year rolling average, except in water-short years when a two- or three-year average is used. Nebraska receives credit for water imported via the groundwater mound created by the Central Nebraska Public Power and Irrigation District project. Other provisions for water-short years dictate the location of water to be delivered to Kansas and how water will be administered above Harlan County Lake. A dispute resolution process in the settlement is to be used before any state can return to court.

A complete summary of the settlement agreement can be found on the Nebraska Department of Natural Resources web site at [www.dnr.state.ne.us](http://www.dnr.state.ne.us).

## HOW HAVE THE RECENT RAINFALLS HELPED?

Recent rainfall will help Nebraska meet its obligations under the compact in several ways.

First, recent rains have increased flows into Kansas below Harlan County. The increased flows increase the virgin water supply, thus increasing Nebraska's allocation. Moreover, because the allocation is not being used by Nebraska, it makes it easier for the state's consumptive use to stay within the allocation.

Second, rains have increased flows in Cortland Canal, which also increases the virgin water supply. Greater flows in Cortland Canal mean more

flows into Lovewell and Milford Reservoirs in Kansas, the result being both reservoirs are now in flood stage-making it more difficult for Kansas to show it is being harmed.

Finally, the rains have increased inflows into Harlan County Lake. Increased storage in Harlan County means more water available for release to Kansas Bostwick Irrigation District, a greater virgin water supply, and a greater likelihood of getting out from under administration in the water-short years.

Water-short years administration is triggered by lake levels in Harlan County Lake.