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DEPARTMENT OF
NATURAL RESOURCES

Order No. 2003-02
Tri-Basin Natural Resources District
Decision to Proceed with Development
of a
Joint Action Plan for Integrated Management
Pursuant to Section 46-656.28, R.S.Supp., 2002

COPY

Findings of Fact

1. On August 14, 1996, the Tri-Basin Natural Resources District (hereinafter called the TBNRD), pursuant to Section 46-656.28(1), Nebraska Revised Statutes, wrote to the Nebraska Department of Water Resources, the predecessor agency to the Nebraska Department of Natural Resources (hereinafter called NDNR), requesting that the TBNRD, the NDNR and affected surface water project sponsors consult and that a hearing be held to receive testimony and evidence concerning the preparation of a joint action plan for the integrated management of hydrologically connected groundwater and surface water in the TBNRD.
2. Pursuant to Section 46-656.28(2) the then Nebraska Director of Water Resources made a preliminary determination on September 6, 1996 that there was reason to believe that the use of hydrologically connected ground water and surface water resources was contributing to a dispute over the Republican River Compact.
3. Thereafter, the NDNR, in cooperation with other appropriate state agencies, the TBNRD, and other natural resources districts in the Republican River Basin, conducted and coordinated studies necessary to determine the causes of such conflicts and/or disputes and the extent of the area affected.
4. The NDNR completed such studies and the Director of Natural Resources (hereinafter called the Director) issued a written report containing the Director's preliminary findings and conclusion as a result of such studies and a review of information otherwise available

to the DNR. That report is entitled "Republican River Basin-Report of Preliminary Findings" and is dated May 20, 2003.

5. The Director's conclusion from that report is stated in relevant part as follows:

"The dispute over the Republican River Compact in Kansas v. Nebraska, No. 126 Original, includes the issue to what extent the use of hydrologically connected groundwater and surface water resources in the Republican River Basin should be accounted for under the Compact. The geographic area affected by this dispute is the Republican River Basin as those boundaries are defined by the Republican River Compact and as that definition has been interpreted by the States of Kansas, Nebraska, and Colorado. A map of the Basin boundaries is attached

As described above, to resolve the dispute, implement and comply with the Compact and the United States Supreme Court approved settlement agreement, the Department and the Republican River Natural Resources Districts will need to develop a joint integrated management plan to administer, regulate and manage the use of hydrologically connected ground water and surface water resources in the Republican River Basin. Failure to implement and comply with the Compact and the United States Supreme Court approved settlement agreement will result in future disputes over the Compact.

For purposes of Compact compliance, the extent of hydrologic connectivity will be determined by the RRCA Groundwater Model. The Department and the Republican River Natural Resources Districts may use the RRCA Groundwater Model and such other analytical and technical tools as necessary to develop a joint integrated management plan that provides for compliance with the Compact and the United States Supreme Court approved settlement agreement.

Pursuant to 46-656.28 and the preliminary findings in this report, the Department determines that present and future Compact disputes arising out of the use of

hydrologically connected ground water and surface water resources in the Republican River Basin can be eliminated or reduced through the adoption of a joint action plan.”

6. Within thirty days after completion of the Director’s report, the Director consulted with the TBNRD and the surface water appropriators in the area affected and scheduled a public hearing to consider the report, hear other relevant evidence and secure testimony on whether a joint action plan should be prepared.
7. Notice of the hearing was published in several newspapers within and outside the Republican River Basin. Within the TBNRD, that notice was published once each week for three consecutive weeks in the Holdrege Daily Citizen, the Bertrand Herald, the Elwood Bulletin, and the Minden Courier between and including the dates of May 28 and June 12, 2003; that notice provided the following general description of the geographic areas to be considered for inclusion in the management areas if the Director and the four Republican River NRDs prepare and implement joint action plans.

“...all of the Nebraska land area which lies within the Republican River Basin and is also within the Upper Republican Natural Resources District, the Middle Republican Natural Resources District, the Lower Republican Natural Resources District, and the Tri-Basin Natural Resources District.”

8. The public hearing in the TBNRD was held in Holdrege on June 25, 2003. All interested persons were allowed to testify and offer evidence relevant to the purpose of the hearing.
9. In a July 21, 2003 letter to the Chairperson of the Board of Directors of the TBNRD the Director stated as follows:

“I have considered all the testimony and other evidence presented at [the June 25] hearing and the hearings in the other three NRDs involved and have concluded that no further studies or investigations need to be conducted by me or on my

behalf at this time. No changes have been made in the May 20, 2003 report and the preliminary findings and conclusions in that report are now considered final. In my opinion, it is therefore appropriate for our department and your district to proceed with the joint planning process authorized by Section 46-656.28."

10. The Board of Directors of the TBNRD has reviewed and considered the Director's report entitled "Republican River Basin-Report of Preliminary Findings." -

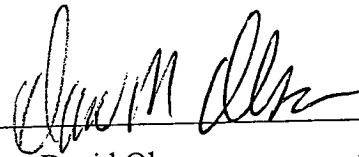
Conclusions

1. The Board of Directors of the TBNRD hereby determines that the TBNRD should proceed to develop, in concert with the Director of Natural Resources, a joint action plan for integrated management of hydrologically connected groundwater and surface water in all portions of the TBNRD that are within the boundaries of the Republican River Basin as those boundaries are shown on the river basin map which is incorporated herein as Attachment A.
2. The objective of taking such action is to develop a joint action plan that, if and when implemented, will mitigate or eliminate future disputes over the Republican River Compact to the extent such disputes otherwise would result from use of hydrologically connected groundwater and surface water in the TBNRD.

Ordered this the 12th day of August, 2003 at a regular meeting of the TBNRD in Loomis, Nebraska.


Bradley Lundeen

Chairman, TBNRD



David Olsen

Secretary, TBNRD



Figure 1

