

Testimony
GWMA & IMP
October 6, 2004

My name is Daniel L. Smith; I am the Manager of the Middle Republican Natural Resources District. The proposed rules that are presented for your consideration represent a consensus of opinion between the Middle Republican NRD and the Department of Natural Resources. This process was started in 1996 when we asked the Department of Water Resources to make a determination as to whether the use of hydrologically connected ground water and surface water was causing conflicts with the Republican River Compact. In September of 1996, the Director of DWR, Mike Jess made a preliminary determination that there were conflicts and based on that determination studies were initiated in 1997. Before a final determination could be made, Kansas filed its' lawsuit against Nebraska. At the request of the state, the joint action plan process was put on hold until the lawsuit could be resolved. Prior to the filing of the lawsuit and based upon our Ground Water Management Plan the NRD held a hearing and adopted rules and regulations for a Ground Water Management Area in July of 1998. This area required the metering of wells, reports from users, a permit process for new wells and increased spacing between wells. These rules were revised in 1999, 2000 and 2003 when we added the requirement to certify irrigated acres.

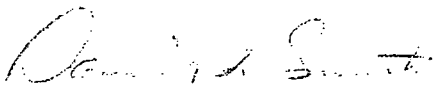
In May of 2002, by filing another request with the State, we restarted joint action plan process, adopted our temporary suspension in June of 2002 and began discussing the control structure for the joint action plan. In December of 2002 the state announced that a negotiated settlement had been reached with Kansas. The Department of Natural Resources made its final determination with regard to conflicts in June of 2003 and in August of that year we adopted an order to proceed, in concert with the Department of Natural Resources, to develop a joint action plan. Over the following year we reviewed the information provided by the state, looked at the use scenarios developed by the model and tried to gather enough information from the Department and other sources to develop the structure of our rules and regulations. Informational meetings were held in June of 2004 to gather input from residents of the district. These proposed rules and regulations are the completion of that process. Following the passage of LB 962 in April of 2004 and its effective date of July 16, 2004 this process has changed only slightly in that it is now referred to as an Integrated Management Plan.

While the old LB 108 process and the new LB 962 process provides the district with many controls to choose from and would normally allow for a more orderly process toward ground water management, the settlement of the lawsuit established an urgency to implement management before Nebraska was out of compliance with the settlement. The TriBasin NRD adopted its Joint Action Plan before July 16th, the Upper Republican continues to explore the changes needed to their existing Management Area, the Lower Republican is certifying acres, continuing with the metering program and developing their Integrated Management Plan and the Middle Republican is proposing these revisions to our current Management Area with the inclusion of the Integrated Management Plan.

This proposed revision replaces the stays imposed by LB 962 with a moratorium on new uses, further identifies the certification of uses, establishes an allocation for irrigation of 39 inches for the next three years and establishes a procedure to impose additional restrictions in the event of a water short year in 2006 or later. Transfers were added to the list of tools available to the district by LB 962, and guidelines for transfers are included in this revision. The Integrated Management Plan in chapter six identifies the goals of the plan and the objectives needed to meet those goals. The primary purpose of these rules is to ensure that Nebraska maintains compliance with the Republican River Compact. The secondary purpose is to address those ground water quantity concerns identified in our Ground Water Management Plan. The controls proposed achieve both of these needs.

I think it is safe to say that not one of us wants to be in the position we find ourselves at this time. I don't think anyone would say that management is not needed, but we always hoped it could be structured to phase in the restrictions and to prevent the concerns that exist about the impacts to the economy. Incentive programs such as CREP and EQIP can help significantly. By providing landowners willing to set aside irrigated acres with per acre payments in long and short term programs, irrigation water can be saved and consumptive use can be decreased. Funding from the state is necessary to make these programs work. I don't think any of us are naïve enough to think that the controls adopted by the district can reverse 4 or 5 years of drought. While we can move in the right direction, only Mother Nature can fix the situation we are in now. With a little help from timely rains, the Integrated Management Plan of this district and the Plans of other districts in the basin can keep us from getting as far behind as we are now. We cannot assume that this plan will be the only action we need to take. We must continue to look for ways to save water and still grow economically viable crops. We need to explore ways to supplement the water supply, determine the most efficient way to use the water and work to mitigate situations such as the trees and other vegetation that use the water before we can put it to beneficial use. We need to continue improving the data reporting so that uses in the district and the basin are actual instead of estimated.

I am proud of the actions of this board and their commitment to finding the best solution to this situation. I know we can continue to press the issues with DNR and develop a management concept that allows for the most efficient and beneficial use of the water supplies of the basin.



Daniel L. Smith

9-26-2004

Middle Republican N.R.D.

I am absolutely against the proposal put forth by the middle republican N.R.D. Board. There should be no inches per acre restriction. If the state of Nebraska or the middle republican natural resources district knew that over use of water was a problem in the tri state compact, drilling of new wells should have been limited or curtailed 15 years ago. It is irresponsible for the state of Nebraska and or the N.R.D. to continue issuing drilling permits and irrigation well registrations.

Now that the depletion of river water and aquifer water is a problem the only viable solution is for the N.R.D. and or the state of Nebraska to buy back enough irrigation wells and acres to bring usage back in line with Nebraska's share of the tri state compact guide lines.

In my opinion there are plenty of irrigators that would be willing to sell back wells and or irrigated acres. Only state and federal money should be used for this one time buy out with this land being ineligible to be irrigated again.

It is wrong for the middle republican N.R.D. and state of Nebraska to tell irrigated farmers in the republican river basin they will be limited on the amount of water used and to continue development of land for irrigation to the North and East of this area.

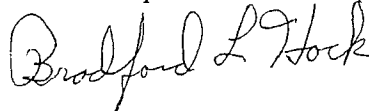
I as an irrigated former have monetary obligations to meet and a family to support. If this N.R.D. limits the water I can use it is obligated to pay monetary damages for loss of production, reduced real estate values and mental anguish.

I do not understand why this N.R.D. and the state of Nebraska have not followed procedures and guidelines for commissioning an economic impact study and environmental impact study with public hearing for each. To me this is a blatant disregard for the citizens of southwest Nebraska.

I am including a photocopy of an article that appeared in "The Desert Sun" that outlines a plan to pay farmers for temporary use of irrigation water. Payment is made to the landowner and farmers for their water. Not the water of the state or city.

Only in the state of Nebraska is the attempt made to take property [such as water] by state and or local governments without due process and compensation.

The testimony of---- Bradford L. Hock
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Plan pays farmers to give irrigation water to cities

By TIM MOLLOY
THE ASSOCIATED PRESS

LOS ANGELES — The Metropolitan Water District approved an agreement Tuesday in which Riverside and Imperial county farmers would be paid to take land out of production so irrigation water could be diverted to urban users in Southern California coastal communities.

The 35-year agreement, which will have a startup cost of \$100 million, calls for farmers in the Palo Verde Irrigation District to receive steady payments for rotating their crops and making the water from the Colorado River available to 18 million customers from Ventura County to the Mexican border.

The agreement with the

100,000-acre Palo Verde district could involve up to 111,000 acre-foot of water annually. One acre-foot is enough to serve two single-family homes for a year.

The deal follows a 75-year agreement reached last year in which Imperial Valley farmers will eventually sell 200,000 acre-foot of water a year to San Diego — the biggest water transfer of its kind in U.S. history.

The plan will give farmers an economic incentive to stop planting on some of their land, allowing soil to recover and become more fertile, said Dennis Underwood, the MWD's vice president of Colorado River resources.

"Here you have an opportunity to provide a guaranteed revenue stream to the farmer that, along

with these land management practices, will lead to more productivity for him and the community," Underwood said. "You have a way of helping stabilize the reliability of both the agricultural and the urban areas."

The MWD's costs will be passed on to customers who use the water, Underwood said.

Farmers have historically fought plans to give their water to distant urban areas, but found that the plan would allow them to earn more from their water than they could from growing crops.

The plan also allows them to keep their water rights.

"They are selling water, but they are maintaining the rights to the water," said Ed Smith, general manager of the Palo Verde

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"They are selling water, but they are maintaining the rights to the water," said Ed Smith, general manager of the Palo Verde

Irrigation District. "Long term they have control of the water. It's like renting a car instead of buying. We still hold the title."

He said the deal would also ensure the farmers a profit on the portion of land they set aside each year.

"They will be making money on a percentage of their land, which will enable them to handle the normal risks that go with farming on the other portion of their land," he said.

Under the plan, the approximately 80 farmers in the district will receive a one-time payment of \$3,170 an acre for up to 29 percent of their irrigated acreage. They will also receive \$602 an acre annually for the land kept fallow. Farmers must put at least 7 per-

cent of their acreage into the program, but can't go above 29 percent. They must rotate the acreage left fallow at least every five years.

Phil Baker, a second-generation farmer who lives near Blythe, said he'd earn only \$100 to \$200 an acre by growing wheat, alfalfa, or cotton on the land he'll set aside far less than the water payment.

"The only reservation that anybody has really is the time set on it, 35 years. That's a long time to tie up anything," he said. "I think it is a good deal. It's just a long time."

The \$602 payment will go up 2.5 percent a year for the first 10 years, then be adjusted annually based on the federal government's Consumer Price Index, Underwood said.

WATER EQUIVALENTS TABLE

1 Cubic foot.....	7.48 gallons	62.4 lbs of water
1 Acre-foot.....	43,560 cubic feet	325,851 gallons
An acre-foot of water covers 1 acre of land 1 foot deep		
1 cubic foot per second (cfs).....	448.8 gallons per minute	
For 24 hours.....	646,272 gallons per day	
For 30 days.....	1,984 acre-feet	
For 1 year.....	59.5 acre-feet	
1 million gallons.....	724 acre-feet	
1 million gallons per day (mgd).....	3.07 acre-feet	
1,000 gallons per minute (gpm).....	1,121 acre feet per year	
1,000 gpm.....	2.23 cfs	
\$.10 per 1,000 gallons.....	4.42 acre-feet per day	
An acre-foot supplies a family of 5 for 1 year		
An acre-foot irrigates 1/2 acre of corn in most areas of Nebraska		

Nebraska Department of Natural Resources

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

DNR has broad responsibilities in the areas of groundwater, surface water, floodplain management, dam safety, natural resources planning and the development and storage of Nebraska natural resources related data. The department also administers several state funds used to help conserve, protect, manage and develop Nebraska's natural resources.

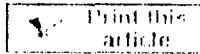
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Jerry Mustion Testimony

The number of farmers that will be adversely affected by this decision of the NRD numbers 12,000. According to an economic impact study that was done, the area under these water regulations will take a 32.5 million dollar annual hit. The reason for such a hit is that according to Mike Clements the lower republic district manager: every inch of irrigation water equals a boost in yield of about 13 bushels an acre. Therefore if a pivot irrigator uses an average of 22' an acre and a gravity flow irrigator uses 32' the impact of each is as follows: if irrigating farmers are limited to 12 in. of water that equals a reduction of 130 bushels per acre. At \$2.25 per bushel that is a \$292.50 an acre loss. An average farm size is around 1,000 acres; now, with 12,000 farmers being impacted the total annual hit will be \$35,100,000 on southwest Nebraska. In an area that thrives on the agricultural economy this is a devastating blow. Even worse is that this is not a one-year impact this is a year after year impact. The impact of this will not just be felt by the farmers, this has far reaching implications. The businesses that rely on farmers will also be devastated. Farmers will buy less fertilizer, less chemicals, less electricity, less equipment, less new vehicles, and an all around smaller tax base on both property and sales. All of the area small businesses are going to feel this decision; they will have to compensate by either hiring fewer employees or by raising prices on other consumers or worst of all closing their doors. With less job opportunity in the area we will see young families move out of the area and that means less kids in our schools. This also translates to a lower number of kids in our schools and that means less state aid for our rural schools. The schools will have to raise the money by raising local taxes.

We need to look at the big picture before we take this monumental step. We are literally taking food out of families mouths without a fight. Another example of a community standing up for their rights that we need to follow is that of Boyd County. Boyd County fought the state over putting a nuclear waste facility in their back yard and they won and that was a lone county, we are several counties bowing down before the state. I ask that you please think these issues over before you take this step/



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August 26, 2004

Proposals worrying irrigators

BY CHRIS CLAYTON

WORLD-HERALD STAFF WRITER

CAMBRIDGE, Neb. - Farmers in the Republican River basin are becoming more organized in opposition to water management proposals for the basin that would tighten controls over irrigation.

Todd Watson of Edison, Neb., and a handful of other farmers have spent a lot of time examining the potential impact they and their communities could face with the rationing of water that is about to take place in the basin.

They don't like the way the restrictions are being painted in a recent economic study, so they put together a meeting to talk things over.

"Water restrictions will have an impact, and that's what we're trying to show at this meeting," Watson said.

An estimated 700 people filled the bleachers Wednesday night at the Cambridge School District gymnasium for a water meeting put together by businesses, farmers and banks scattered from Imperial to Alma. The overriding theme of the meeting was that there will be water controls, but no one should just accept the situation easily.

"There's a lot of worry," said Ernie Hulinsky, vice president of South Central State Bank in Oxford. "What we want is some economic aid in some fashion. We just need to find cooperation in all of the districts and communities."

For much of the year, the boards of the Upper, Middle and Lower Republican Natural Resources Districts have been negotiating with state officials over individual water management plans for each district that would control groundwater irrigation.

Such plans are needed to comply with a court settlement between Nebraska and Kansas, which sued Nebraska in 1998 claiming that Nebraskans took too much water out of the Republican River, violating a compact between the two states dating back to 1943.

If Nebraska can't get the 12,000 or so farmers who irrigate in the basin to control their taps, Kansas officials have threatened to sue again and demand financial compensation.

A preliminary economic study developed by the University of Nebraska-Lincoln indicated that there would be little economic impact if water controls were tightened and some irrigated acres were taken out of production. The study cited a worst-case scenario of a \$32.5 million annual hit for the region. Area farmers, officials and advocates for groundwater irrigators say the study is flawed.

"The waters are anything but calm down here," said Mike Clements, general manager of the Lower Republican NRD. "We feel those numbers are understated."

Steve Smith, director of the Imperial-based WaterClaim, criticized the UNL study, saying it took in communities not in the Republican River basin when assessing figures such as employment. Smith also is critical of suggestions to convert up to 100,000 acres to government conservation programs. That would take farmers out of production and bring less buying power to communities, he said.

"It's not just an irrigation issue, it's an entire community," he said. "Western Nebraska is based on irrigation. Without irrigation, we don't continue."

Proposals from the state would call for reducing irrigation up to 40 percent in the Lower Republican district, which in turn would put a serious dent in farmers' yields. Farmers now using an average of 14.5 inches of water per acre could be cut back to 8 inches.

"It seems like the burden of complying with this settlement is placed on the people in these three districts," Clements said. "We feel the State of Nebraska needs to help us out on this."

Each inch of irrigation boosts yields about 13 bushels an acre, so losing 6.5 inches of water per acre could cut a farmers' yield

http://www.omaha.com/toolbox/story_printer.php?u_id=1185559&u_brow=Internet+Expl... 8/26/2004

more than 13,500 bushels on a 160-acre pivot.

The natural resources districts have gone back and forth with state officials on proposals. Earlier this month, the Upper Republican district held a special meeting and decided to back away from a proposed agreement, citing concerns that the board did not have enough assurances from state officials that farmers would not be asked for more controls if the Middle and Lower Republican farmers were not complying with the settlement.

The Middle Republican district has approved a plan that would cap water at 13 inches an acre for a three-year period, but there will be hearings on the plan this fall. The problem with the plan is that if everybody used a full allocation of water, it would still be too much.

The Lower Republican district's board still has questions and hasn't crafted a plan. The board is looking at hiring its own geologist to examine the state's work. The Upper and Lower Republican districts also have hired attorneys from Wyoming who have worked on water issues in the past, including cases in Nebraska.

Meanwhile, farmers like Jason Kunkel have to wait and see what the final impact will be.

Kunkel, 24, came back to the family farm along Frenchman Creek in Chase County, six miles from the Colorado state line. His family homesteaded the farm in 1886. Like all Upper Republican farmers, the Kunkels have already been on water restrictions since the 1970s, but now they face more.

"My worry is they are going to keep coming back asking for more every three to five years once we've made another commitment," Kunkel said.

Contact the Omaha World-Herald newsroom

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Your plan is unacceptable
I agree with
comments at the
hearing made by:

Steve Smith

Jerry Morson

Mike Cox

Marty Scheer

Benjamin

and others.

Benjamin Deaver