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BUREAU OF RECLAMATION
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Nebraska-Kansas Area Office
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AUG 30 2007

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DEPARTMENT OF
NATURAL RESOURCES

Middle Republican Natural Resources District
220 Center Avenue
Curtis, NE 69025

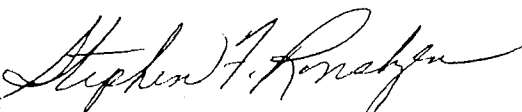
Subject: Written Statement of the Bureau of Reclamation – Middle Republican Natural Resources District (MRNRD) Public Hearing

Dear Sir:

Enclosed is the written statement of the Bureau of Reclamation, Nebraska-Kansas Area Office submitted for the public hearing records as conducted by the MRNRD regarding the proposed rules and regulations for the Ground Water Management Area for the MRNRD. Specific comments concerning the draft Rules and Regulations are included as part of the above-referenced testimony.

Thank you for the opportunity to provide comments to your proposed rules and regulations. If you have any questions, please contact me at the above address or telephone 308-389-5301.

Sincerely,

Acting For 
Aaron M. Thompson
Area Manager

Enclosure

cc: Ann Bleed, Director
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DEPARTMENT OF
NATURAL RESOURCES

**Statement of the Bureau of Reclamation
Nebraska-Kansas Area Office
Aaron M. Thompson, Area Manager**

**Regarding Proposed Rules and Regulations for the Ground Water Management
Area for the Middle Republican Natural Resources District**

August 30, 2007

EXPERTISE

This statement was prepared by Bureau of Reclamation (Reclamation) personnel having extensive experience with the hydrology of the Republican River and the construction and operation of Reclamation and Corps of Engineers projects in the basin. This experience also includes considerable involvement with the Republican River Compact (Compact) calculations and the 1998 Compact litigation and 2002 settlement.

RECENT HISTORY

The original Compact, signed in 1942, was negotiated and drafted with the knowledge that significant federal water resource development was being planned for the basin. After Congress approved the Compact in 1943, it authorized a system of federal water development and management projects in the Republican River Basin as part of the Missouri River Basin Development Program (Flood Control Act of 1944). These Federal projects were designed to fit within the terms of the Compact and to insure that the water developed and used by these projects in each of the three states was in compliance with the state's Compact allocations. Construction of these projects commenced in 1945 and was generally completed in 1964.

On May 26, 1998, after several years of disagreement among the three states concerning the Compact accounting, Kansas withdrew from the discussions and filed a complaint with the United States Supreme Court (Court). Kansas alleged that the use of groundwater wells had resulted in the appropriation by the State of Nebraska of more than its allocated equitable share of the waters of the Republican River. The Court accepted the case in 1999. In 2000 the Special Master, appointed by the Court, recommended to the Court that the Republican River Compact restricts a compacting State's consumption of groundwater to the extent the consumption depletes stream flow in the Republican River Basin. The Court agreed. After further briefings and rulings by

the Special Master, the Special Master allowed settlement discussions to be initiated separate from the Court action. The Special Master established a time-frame for completion of settlement discussions and settlement was reached and approved by the Court in May 2003. The settlement established general terms governing the settlement, Compact accounting, and additional administration requirements.

COMPACT RULES AND CALCULATIONS

Changes to the Compact accounting calculations resulting from the 2003 Settlement Stipulation included the accounting of all groundwater depletions and averaging the states' consumptive use and its Compact allocation over a period of years. The handling of reservoir storage was also changed such that water stored in federal reservoirs is not counted as part of the basin water supply until it is released from the reservoir. Water released from Federal reservoirs becomes Compact water subject to allocation only after it is either diverted or flows by a Compact gage. Attempting to deliver stored water to Kansas as a means of making up for Compact deficits does not result in a one for one return to Nebraska. Any stored water that is released is first counted as a new supply that is subject to Compact allocation. Water released from reservoirs in Nebraska becomes Compact supply and is allocated accordingly.

Each irrigation district's historical use of storage water results in a greater increase in Nebraska's allocation than the increase in consumptive use resulting from the irrigation district's diversion. This results in a net positive contribution to Compact compliance for Nebraska. Because of the current imbalance of groundwater use in the basin, groundwater depletions result in a deficit for Nebraska. Due to the continued high level of groundwater use in Nebraska, long-term surface water supplies continue to decline. Unless groundwater use is reduced surface water flows and reservoir storage will be reduced.

CURRENT CONDITIONS

In 2001, the Compact's total surface water supply was 311,368 acre-feet. The Compact's surface water supply for the 2002-2006 has only averaged 147,600 acre-feet. During the 2002-2006 period, Nebraska overused its allocation in each of these years. Nebraska is currently using about 75% of the total water being used in the basin while it is allocated about 56% of the total Compact supply. This has created the present deficit of about 40,000 acre-feet annually. Nebraska groundwater depletion is over 80% of the total groundwater depletion in the Basin. Although this year has been a much better water supply year improving storage and streamflows, water short conditions will return in the future.

CONCERNS

Reclamation is very concerned with Nebraska's failure to meet Compact compliance since Compact compliance accounting was reinitiated in 2003. Extensive groundwater use in the basin has negatively impacted the water supply for the Federal projects as well as resulting in serious overuse of water by Nebraska. Nebraska's use of groundwater has significantly changed the way water use is occurring in the Basin. According to the first four years of accounting calculations, Nebraska has accumulated a deficit or overuse of its allocation that will be extremely difficult to make up. Since Nebraska's groundwater depletion is significantly out of balance with Compact allocations, these groundwater uses and depletions must be further restricted to allow for a balance between use and supply as well as to realize Compact compliance.

It is our understanding the Proposed Rules and Regulations for the Ground Water Management Area for the Middle Republican Natural Resources District is an important part of the development of the Integrated Management Plan (IMP). According to NE Stat. 46-715, the IMP should include clear goals and objectives with the purpose of sustaining the balance between water uses and water supplies. Reclamation is very concerned with this balance in the Basin as it relates to surface water supplies for existing surface water uses.

Reclamation is fully supportive of the Federal projects and the water users served by these projects. These projects should continue to operate as planned and authorized. Continued operation of these projects requires the protection of existing water rights and restoration of inflows to the reservoirs.

REALITY

It is obvious to Reclamation that use of available storage water from the Federal projects by irrigation districts is beneficial to Nebraska's Compact compliance. Continuing to allow pumping at the allocation levels proposed by this NRD will only further reduce streamflow resulting in a reduction in the quantity of stored water available to supply surface water users. Reducing groundwater depletions will gradually allow the streamflows to recover and result in improved chances for future Compact compliance. Storage water use during normal operations by the irrigation districts improves the chances of Compact compliance as this increases the total Compact supply allocated to Nebraska. In addition the existing plan for surface water did not include restrictions to surface water use due to its already limited supply. Taking into account that the surface water supply has decreased significantly due to the continued high levels of groundwater use, it is not equitable to impose further surface water restrictions.

COMPACT ADMINISTRATION

The hydrologists and others associated with the Compact Administration have stated that significant reduction in groundwater depletions is necessary for Nebraska to come into long-term compliance with the Compact. Colorado is in the process of making significant reductions in its groundwater use to meet its Compact compliance. Reclamation agrees that long-term Compact compliance can be achieved through significant reductions in groundwater use in Nebraska and Colorado.

EXPECTATIONS

The Bureau of Reclamation expects the water rights associated with the Federal multipurpose projects that were authorized in the Republican River Basin be protected by Nebraska Department of Natural Resources and the Natural Resource Districts. Reclamation expects to continue to operate the Federal projects for their authorized purposes. Reclamation does not believe that the allocations proposed by the Middle Republican Natural Resource District will assist Nebraska in meeting its Compact Compliance. Reclamation also requests action by the NRD and the State of Nebraska to place further and sufficient restriction on groundwater pumping that will allow streamflows to recover and allow Nebraska to achieve Compact compliance.

SPECIFIC COMMENTS

Article 3-1.10 Approving of additional allocations does not help in achieving long-term compact compliance. This should be eliminated.

Article 4-7.4 Reductions may need to be made at much higher levels to achieve long-term compliance.

Article 5.2.11 Transfer of use should be based on offsetting compact compliance instead of offsetting use.

Article 5-3.7.1 Base allocation of 12 inches is unacceptable. A lower allocation is needed to allow Nebraska to be in compliance with the Compact on a long term basis and to allow groundwater supplies to recover.

Article 5-3.7.3.1 Bonus allocations are unacceptable.

Article 5-3.11.1 Combining surface water and groundwater use is unacceptable. If surface water supplies were sufficient to provide adequate water, supplemental wells would not be necessary. If this rule or regulation was implemented, numerous administration problems could be expected.

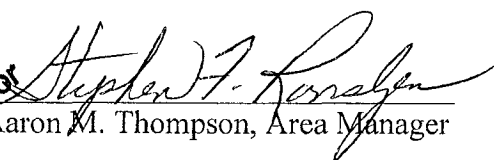
Article 5-3.11.2 Same comment as Article 5-3.11.1.

Conclusion and Final Statement

Due to the reduced streamflow in the MRNRD, surface irrigators and their water rights have been adversely affected by receiving water supplies that are less than expected from the Federal projects. The reduced water deliveries have reduced the economic benefits provided by the projects. Other impacts associated with reduced streamflows include a reduction in reservoir levels in the MRNRD which reduces the recreational and fish and wildlife benefits associated with these projects.

I would like to note that Chapter 6, Integrated Management Plan of the Proposed Rules and Regulations states the goals and objectives of an integrated management plan must have as a purpose "sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the Republican River Basin can be achieved and maintained for both the near term and the long term". Sustained surface water inflows to the Federal reservoirs provide not only irrigation benefits, but also significant recreation and fish and wildlife benefits to the area. I would like to again note the water right priority dates associated with the Federal projects are prior to the dates that the majority of the groundwater development occurred. Therefore, in areas of groundwater-surface water interaction, I would request that specific consideration be given to surface water supplies for the Federal projects when establishing long-term and water-short year groundwater allocations.

In conclusion, Reclamation is fully supportive of the Federal projects and the water users served by these projects. These projects should continue to operate as planned and authorized. Continued operation of these projects requires the protection of existing water rights and restoration of inflows to the reservoirs.

Acting For 
Aaron M. Thompson, Area Manager