



Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
Ann Bleed
Director

August 2, 2007



IN REPLY TO:

Mr. Ken Knox, Acting State Engineer
Colorado Division of Water Resources
1313 Sherman St., Rm. 818
Denver, CO 80203

Subject: Transmittal of 45th Annual Report for the Year 2005
Republican River Compact Administration

Dear Mr. Knox:

Enclosed are three copies of the above-referenced report, signed by David Barfield and Ann Bleed. Please sign the reports, return one copy to my attention, and forward one copy to Mr. Barfield. I am enclosing a self-addressed envelope for your convenience.

If you have any questions please contact me at (402) 471 - 1026.

Sincerely,

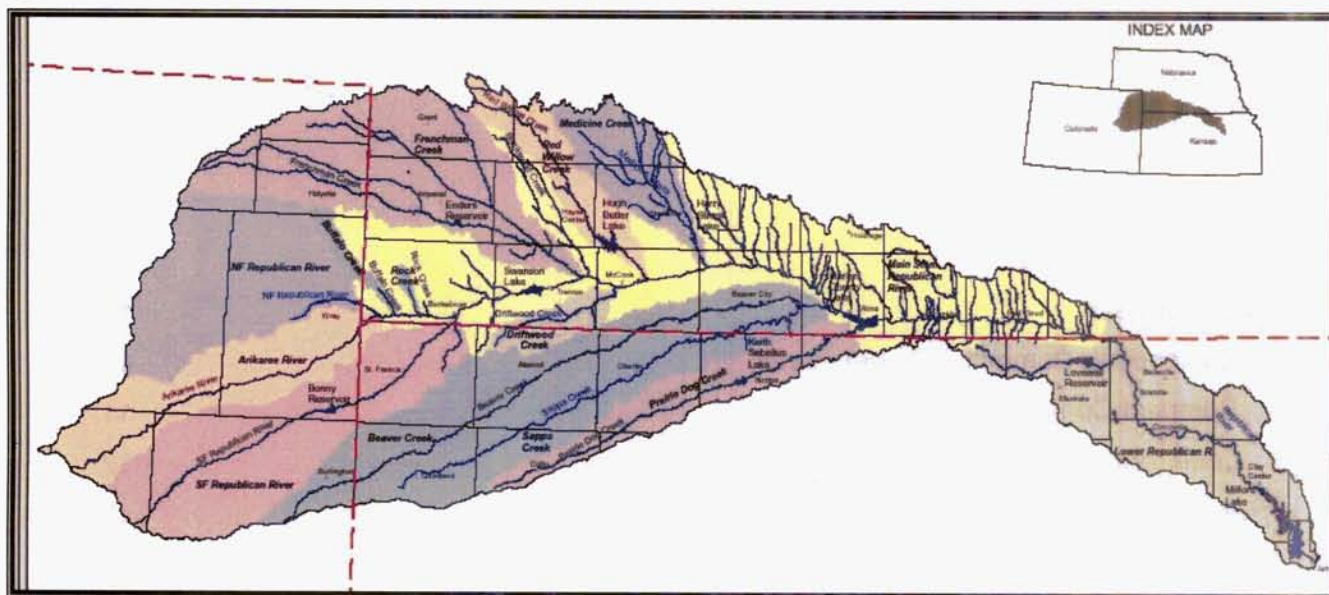
James R. Williams, P.E., CFM
Republican River Coordinator

Enclosures

planning & assistance/williams

REPUBLICAN RIVER COMPACT ADMINISTRATION FORTY-FIFTH ANNUAL REPORT

FOR THE YEAR 2005



Phillipsburg, Kansas

August 10, 2006

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46th ANNUAL MEETING REPUBLICAN RIVER COMPACT ADMINISTRATION

Minutes

In lieu of a transcript, the Republican River Compact Administration (Administration) meeting was taped. An electronic copy in MP3 format of the audio tape is available to each of the states. Below is a summary of the meeting.

Introductions

The 46th Annual Meeting was called to order by Chairman David L. Pope of Kansas at 9:00 a.m., August 10, 2006, at the McDill "Huck" Boyd Community Center in Phillipsburg, Kansas. Chairman Pope welcomed everyone in attendance. Each commissioner introduced their staff in attendance and individuals introduced themselves. Those in attendance as recorded on the attendance sheets, or by introduction, are listed in the attached exhibit.

Approval of Agenda

A motion to approve the agenda was made by Commissioner Bleed, seconded by Commissioner Simpson and was approved as proposed:

1. Introductions
2. Modification and Adoption of Agenda
3. Approval of Previous Annual Meeting Minutes
4. Report of Chairman & Commissioners' Reports
 - a. Kansas
 - b. Colorado
 - c. Nebraska
5. Federal Reports
 - a. Bureau of Reclamation
 - b. Corps of Engineers
 - c. Geological Survey
6. Committee Reports
 - a. Engineering Committee
 - b. Conservation Committee
7. Unfinished Business
 - a. Amended regulations of the Administration
8. New Business and Assignments to the Compact's Committees
 - a. Harlan County Evaporation Split
 - b. Engineering Committee Assignments
 - c. Compact Compliance
9. Remarks from the Public
10. Future Meeting Arrangements
11. Adjournment

Approval of 44th Annual Report and Minutes

Commissioner Bleed moved to approve the Minutes of 45th Annual Meeting for publication in the 44th Annual Report; the motion was seconded by Commissioner Simpson and approved unanimously.

Report of the Chairman from Kansas

Chairman Pope gave the report for Kansas.

The weather continues to be hot and dry in Kansas making it very difficult to meet the needs of users. Kansas has experienced unprecedented administration due to low water supplies throughout the state.

Legislative highlights related to water and related areas of interest include enacting a program to retire water rights, the Water Rights Transition Program (Water TAP). The State Conservation Commission can enter into agreements with water right owners in targeted areas designated by the Division of Water Resources (DWR) and the groundwater management districts (GMDs). The legislature established two priority areas for this program including the Prairie Dog Creek in the Republican River basin. Permanent transition to non-irrigation use to reduce total historic use is the purpose of the program. The first year of a five year pilot program was appropriated \$1.1 million.

Another possible voluntary incentive based program for reducing water use is a Conservation Reserve Enhancement Program (CREP). A proposal was sent to the Farm Security Agency during the week of the annual meeting. The area targeted is along the Arkansas River from the Stateline to Great Bend, Kansas. The Legislature appropriated \$5 million for this program, though more is needed.

For the third year, the Kansas Department of Wildlife and Parks has entered into an agreement with Almena Irrigation District restricting District withdrawals when the Sebelius Reservoir level drops below a certain elevation.. A long-term agreement is being considered. DWR will be involved to insure it is accompanied by a reduction in consumptive use and to insure Kansas' continued compliance with the Compact because Prairie Dog Creek is one of our heavily used tributaries.

In Northwest Kansas, Kansas has required all non-domestic, large-capacity wells to be metered using totalizing flow meters in Northwest Kansas Groundwater Management District No. 4. This applies to Ogallala wells in the GMD. Kansas had several years ago required alluvial wells and locally connected Ogallala wells in the Republican River basin to be metered.

Working with NRCS, Kansas has assisted the EQIP program to transition from improved irrigation efficiency to an incentive program to discontinue irrigation. Targeted areas for EQIP include alluvial areas of Prairie Dog, Beaver and Sappa Creeks.

Report of the Commissioner from Colorado

Commissioner Simpson provided the report for Colorado.

Statewide, Colorado is in a drought. Colorado is seeing streamflows comparable to 2002. At Wray, precipitation amounted to 21 inches, which is above the normal precipitation of 17 inches. At Burlington, precipitation was right at the average at 16 inches. Yet streamflows did not reflect the average precipitation. Colorado's adjusted allocation was 25,040 acre-feet, Colorado consumed 35,460 acre-feet so it was out of compliance; however, the average allocation is 54,000 acre-feet. Perhaps Colorado will return to that average allocation and be in compliance.

The Republican River Water Conservation District Board assessed \$5.50 per irrigated acre, which raises in excess of \$3 million per year. Colorado's CREP program was approved and

signed this spring. Signup began in June and 24,000 acres out of the target of 30,000 acres had signed up. Under EQIP, Colorado retired another 6,400 acres. Total dry-up this year is approaching more than 30,000 acres of a total of 600,000 irrigated acres. The District has worked to help with compact compliance with interruptible water supply agreements and short-term agreements with surface water rights. The District provided greater incentives to irrigated land within one mile of stream, a lesser incentive within 1 to 3 miles from the stream, and further out, an even lesser incentive.

As reported last year, The Pioneer Irrigation District and other senior ditches had petitioned the Colorado Groundwater Commission to un-designate the Northern High Plains Groundwater Basin, which was designated in 1967. A hearing was held in May by the Commission to hear a motion to dismiss by the objectors to that petition and the Commission did dismiss the petition. An appeal was filed in District Court to consider the motion to dismiss as that is the next step in the process. The District Court could remand the motion back to the Commission or, if it upholds the dismissal, an appeal by Pioneer litigants to the Colorado Supreme Court is expected to be filed.

There was not any significant legislation to report. Colorado was very fortunate about the rebound in the economy. DWR received 11.5 additional staff with 4.5 in the South Platte and 7 in the Rio Grande Basin to assist in the administration of wells. In the South Platte, Colorado has shutdown about 2000 wells because of insufficient augmentation water and in the Rio Grande Basin it has implemented a stringent metering program on high capacity wells.

Report of the Commissioner from Nebraska

Commissioner Ann Bleed provided the report for Nebraska.

Commissioner Bleed reported that Nebraska is also in a statewide drought. In the Republican River basin. This is the eighth year of drought so the folks in the basin are struggling. The water supply is very low.

There was no major legislative action this year in the unicameral. There was some cleanup legislation on the Integrated Management program passed in 2004. Ten Natural Resources Districts (NRDs) have been declared totally appropriated requiring the preparation of Integrated Management Plans, which must be completed in 3 to 5 years. Two other NRDs have initiated their own temporary suspension of wells and are discussing water management planning in their districts.

Legislation did enhance funding of \$1.2 million dollars and 3 new positions for technical assistance to do studies concerning integrated management planning. Other money from the legislature included \$2.5 million for integrated management program to fund NRD technical assistance. NRDs will be applying for grants in August.

Nebraska did use CREP for the retirement of irrigated acres for 10 to 15 years. Nebraska was the first in the country to use CREP for this purpose. Nebraska is hosting the National CREP conference. Under CREP, Nebraska had a goal of retiring 100,000 acres in the Platte and the Republican with an emphasis on alluvial wells. Currently there are 39,000 acres signed up in the Republican River and 14,000 acres in the Platte. Nebraska is hopeful for more signups this summer.

EQIP in Republican River basin is working with NRCS to do a permanent retirement of irrigated acres. The cost is \$100 per acre per year for three years. Funding from NRDs is providing another \$375 per acre one-time payment targeted acres for permanent retirement. Nebraska is anticipating more than the 2,400 acre goal originally envisioned based on the money which is available.

\$2.5 million was used to pay Nebraska Bostwick Irrigation District to forgo using water from Harlan County Lake and providing it to Kansas, amounting to about 10,000 acre-feet plus natural flows below the lake. Kenny Nelson of Kansas Bostwick Irrigation District reported that this and natural flow provided close to 4 inches per acre in the upper district, though not as much as he hoped. Frenchman Valley Irrigation District received \$ 400,000 to forgo the use of 8,000 acre-feet and Riverside received \$100,000 to forgo the use of roughly 2,000 acre-feet of natural flow. Some of these funds came from a State appropriation, some from a previous EQIP program, but some of the funds came from the Middle Republican NRD.

Nebraska has an election coming up in November. Commissioner Bleed understands that the Governor, if re-elected, will appoint a new Director of the Department of Natural Resources.

The following Natural Resources Districts (NRDs) had the following reports:

1. Jasper Fanning, Manager of the Upper Republican River NRD, reported that the NRD has had allocations since 1978. Last year, their allocation was 13 ½ inches. Reported use for 2005 was a couple inches less than the allocation. The Legislature granted additional authority to the NRD to levy a 3-mill tax levy. In the NRD draft budget, the 3-mill levy would assist with EQIP to retire acres and other programs such as CREP. This could further reduce their consumptive use.
2. Dan Smith, Manager of the Middle Republican NRD, reported that the NRD has a moratorium on new wells, a stay on new acres, and a certified acres program. The NRD had a 3-year allocation of 39 inches. The average usage was 8.78 inches in 2005. EQIP funding from the Federal government and state to assist in retiring 2,600 acres from irrigation is available for this fiscal year. 5,400 acres among 62 enrollees have signed up for this program. A fact sheet was provided at the meeting.
3. Mike Clements, Manager of the Lower Republican NRD, provided a fact sheet at the meeting. The NRD implemented its Integrated Management Plan on June 24, 2005. The allocation is 36 inches for 3 years west of US Highway 183 and 33 inches for 3 years east of US Highway 183. In 2003, average water use was greater than 13 inches; in 2004 it dropped to 11.24 inches; and in 2005 the use was 7.74 inches. In 2005, the producers pumped 33% below their allocations. The Twin Valley Weed Management Area raised \$90,000 to spray 450 acres of salt cedar in Harlan County Lake beginning on August 23, 2006. In conjunction with the Southwest Nebraska RC&D, Middle Republican NRD and the Upper Republican NRD, the NRD has applied for a \$150,000 grant to monitor the impact of riparian management in three separate one-mile stretches of the Republican River. The NRD pledged \$110,000 in cooperation with NRCS, DNR and other NRDs to make available \$1,722,000 for permanent irrigation easements. At \$675 per acre, approximately 2,551 acres will be retired. The NRD enrolled 6000 acres in the 2005 EQIP at \$250 per acre. The Lower Republican NRD had 7,538 acres enrolled in CREP contracts at this time.
4. John Thornburn, Manager of the Tri-Basin NRD, reported that the NRD did not have a well moratorium, but irrigated acres were now required to be certified. This is tied to the property tax assessments. There are 189,677 acres certified in the Republican River portion of districts. Meters were required by December 2005 on all

wells that pump more than 15 acre-feet. Average actual water use for 2005 was 11 ½ inches per acre. The NRD has an ongoing program for drilling observation wells. Now, they have 43 observation wells with data loggers for twice daily recordings. The NRD has a priority in controlling invasive species, salt cedar, olive, etc.

5. Brad Edgerton of the DNR Field Office, Cambridge, Nebraska, reported that water administration during the 2005 season was an abbreviated version of historic administration. Culbertson Canal began diverting natural flows on Frenchman Creek on March 29, 2005. All diversions upstream were regulated to their legal limit. Superior Canal began diverting the natural flow from the Republican River on June 6, 2005 during a time of sufficient flows. Storage releases from Harry Strunk Reservoir began June 19th and was protected in transit to the Cambridge Diversion dam. From June 25th to August 23rd, all permits between Harlan County Dam and Guide Rock Diversion dam junior to February 28th, 1948 were closed. In 2005, there were no withdrawals from Harlan County Lake. All surface water sites were inspected for compliance. In October, water use reports were sent out to users to be returned in December. While response continues to get better, the Department is looking to stiffen the penalties for not reporting.

For 2006, the administration has been similar to 2005. Two reservoirs made releases, Hugh Butler Reservoir to Bartley Canal and Harlan County Reservoir to Kansas Bostwick Irrigation District.

Frenchman Valley Irrigation District elected to not to divert for the first time since 1890; Superior Canal did not divert for the first time since the completion of the project; and Riverside Canal Company did not divert after negotiations with the state.

On July 12th, water administration for below Guide Rock resulted in permits upstream junior to August 26, 1940 being closed for a brief time.

Report by the U. S. Bureau of Reclamation

The U.S. Bureau of Reclamation (BOR) report was given by Alice Johns. Ms. Johns discussed the Managing for Excellence program to better meet the needs of the states. She provided a website, www.usbr.gov, for the 41 action points and to make comments.

Nebraska Bostwick Irrigation District replaced 10.8 miles of laterals with buried pipe. The BOR is working with the Kansas Department of Agriculture to install remote monitoring equipment in the Kansas Lower Republican Basin. In 2006 Nebraska Bostwick Irrigation District will replace 3.6 miles of laterals with buried pipe.

Ms. Johns reported that the Republican River Basin was in the 8th year of drought. Under the 2025 Program, funding was provided to Nebraska Bostwick Irrigation District, Kansas Division of Water Resources and Kansas Bostwick Irrigation District.

Emergency Drought Relief funding, which expired in 1991, has been extended to 2010. Requests from both Nebraska and Kansas have been received. The requests included Water Conservation projects, such as irrigation ditch projects, that replace open ditches with closed pipes and demonstration projects on limited irrigation.

The BOR has completed the appraisal study for the Lower Republican River basin. A proposal for a feasibility study had been made. An appraisal study on Frenchman Valley

was conducted. The BOR also provided funding for GIS mapping assistance on Prairie Dog Creek and the Lower Republican River.

Marv Swanda of the McCook office of the BOR reported on the 2005 operations and presented a written report. Even though the precipitation varied from 98 percent of normal at Harlan County Dam to 113 percent of normal at Red Willow Dam, inflows remained low.

Bonny Reservoir started the more than 17 feet below top of conservation. Inflow was 7,353 acre-feet with below normal inflows recorded in every month. 89 acre-feet was released to bypass inflows to the Hale Ditch. Bonny Reservoir ended at a historic low, 19 feet below conservation.

Enders Reservoir began 26 feet below top of conservation. The annual inflow, 4,649 was the lowest ever recorded. No water was released from Enders and it ended the year 26.1 feet below top of conservation.

Swanson Reservoir started the year at 22.5 feet below conservation and had the third lowest inflow ever recorded. Hugh Butler began 12.2 feet below conservation and had the lowest inflow ever recorded. Harry Strunk reached top of conservation pool on June 7th. No releases were made from Swanson or Hugh Butler for the year.

Keith Sebelius Lake began 17.9 feet below full with an annual inflow of 4,555 acre-feet. Kansas Department of Wildlife and Parks and Almena Irrigation District entered into a Memorandum of Agreement that provided for no irrigation releases in 2005.

Harlan County Lake was at a historically low level, 20.3 feet below top of conservation. Inflow totaled 53,682 acre-feet. A water short year determination was made and no irrigation releases were made during 2005.

At Lovewell, the Corps of Engineers allowed a deviation which allowed BOR to store 1.6 feet into the flood pool for irrigation purposes.

Norton Dam had some concerns related to seepage through the left abutment foundation. Design of a filter drain system is scheduled for completion in 2006 with construction beginning in 2007; hopefully it will be done by July.

On Enders Dam a small depression was discovered near the stilling basin in August, 2004. The risk assessment and analysis is to be completed in 2006.

On Red Willow Dam, during inspection of the dewatered stilling basin in July of 2005 a small amount of fine sand was discovered. A stability analysis indicated instability of the basin if the drains were grouted or plugged.

Report by the U. S. Army Corps of Engineer

Alan Tool of the Kansas City District of the Corps of Engineers provided a report on its 2005 activities.

The Corps study regarding Harlan County Dam safety indicates the spillway gates are not strong enough, the lake does not meet new flood event standards, and 3 out of 30 concrete sections in the spillway are failing. The report should be released in early 2007. In the meantime, an interim operation plan is in effect.

An operation deviation was approved for Lovewell Reservoir to allow storage 1.6 feet into the flood control pool. The Corps and the BOR are working for an amendment to the operations manual to make this deviation permanent.

In Milford Reservoir, a five percent deviation into the flood control pool was authorized. After October 1st, there may be more releases for navigation. The navigation season has been shortened.

Using the computer model, Riverware, the BOR is working on routing surface water on the Kansas River and a portion of the tributaries. During Fiscal Year 2006, they are modeling the economics. In Fiscal Year 2007, they are examining environmental data collection.

Report by the U. S. Geological Survey

Phil Soenksen, provided copies of PowerPoint presentation in which he presented the status of the USGS stream gaging program. The water resources data is available on the Web at <http://waterdata.usgs.gov/>. He presented information regarding how the data gets from the field to the Web. They periodically make discharge measurements, nine to ten times a year, to update rating curves. Bar graphs for gage stations in the Republican River were provided. A summary report for 2005 of the various sites and their funding was presented. Two sites that are either funded by the Corps or partially funded are not being funded by the Corps in 2007. Two sites showed record low annual flows, South Fork Republican at Benkelman and Republican River at Guide Rock.

Jim Putnam presented the status of the Kansas stream gaging program and presented a handout summary for 2005. The first table shows Kansas stations and their funding sources. Kansas experienced record low streamflows at the Republican River at Hardy, Beaver Creek at Luddell, on the lower Republican River at Concordia and Clay Center. A graph of annual discharges at Hardy was provided showing the low in 2005 and the high in 1951. Mr. Putnam compared the data from 2000 to 2006 to documented drought periods in Kansas, showing that 2000 to 2006 are the most severe years of these droughts. USGS probably made more extra flow measurements than in past years because of especially low flows.

Engineering Committee Report

David Barfield of Kansas presented the report of the Engineering Committee and provided copies of the report, which is attached. The Engineering Report and accounting spreadsheet will be posted on the web at www.republicanrivercompact.org. The Committee received four assignments for this year.

The first assignment was the task of writing a "user's manual" for compact accounting. That task was not completed, though a draft outline had been prepared by Kansas and discussed by the Committee. The Committee is recommending that the Administration assign this task for the next year.

The second assignment was to do the Compact accounting for the year 2005. Due to a disagreement noted below, the Engineering Committee developed two different sets of accounting for 2005. The handout includes selected tables from the accounting spreadsheet. The annual accounting is part of a multiyear test for compliance. Since this is the third year in the five-year compliance test, the Committee spent some time reviewing and implementing the multiyear compliance test. The 2005 groundwater model has been reviewed by the Committee and the run is final.

Kansas revised its procedures to account for two wells which pump in Nebraska but are used in Kansas. The revision accounts for the consumptive use from these wells to be assigned to Kansas.

The Committee was unable to resolve one issue. Nebraska contends that the Stipulation requires that only evaporation for non-Federal dams above Harlan County Lake be included. Kansas contends that for accounting purposes the evaporation (consumptive use) is on all non-Federal basin dams. As a consequence, the Committee has submitted in its report with two accountings: one including the non-Federal reservoir evaporation below Harlan County Lake and one without that evaporation. The Committee requests the Administration determine which of the two accountings should be considered in the final accounting.

The third assignment was for the Engineering Committee to produce a comprehensive scope of work for an irrigation return flows study. Each of the states uses different methods and/or values for irrigation return flows. Kansas believes that a more common method for determining return flows should be considered. For example, Nebraska has assumed a constant 20% return flow percentage. With the recent changes in NRD regulations such as allocations, system efficiencies that may have been adequately represented by 20% in the past are changing, and a more appropriate method or value should be considered. The Committee recommends continued discussion on the matter for possible resolution.

The fourth assignment was to prepare a regulation regarding the approval of new permits for pumping of water in one state for use in another state. Kansas provided a draft for consideration. The Committee considered its basic role to be one of facilitating discussion between the attorneys. While good progress was made the issue is not resolved. The Committee recommends that a legal committee be created to finish this regulation.

During the Engineering Committee work sessions other issues were raised. Last year, the Committee brought to the Administration the issue concerning the Harlan County Lake evaporation split when no release was made to a state. The Committee recommended that the average percentages from the previous three years when releases were being made be used. The Commissioners accepted the Engineering report with accounting done in this manner for 2004, but failed to adopt the procedure formally as an update to the accounting procedures. Ken Knox prepared a revision dated July 27, 2005, to implement this procedure. The Committee recommends that the Administration adopt the procedures formally.

Another issue that does not appear to be addressed in the accounting procedures for the Harlan County Lake evaporation split is the case when only one state takes water released from the reservoir, as happened in 2006. This is not an issue that requires resolution for 2005 accounting, but will need to be resolved for 2006. The Committee recommends it be assigned to resolve this issue by November 15th. so if the Committee fails to resolve this issue, other means of resolution can be pursued before the 2006 accounting is performed.

For 2005, Colorado discovered some inaccuracies in its data resulting in 3,000 acres of land being changed from an irrigated to non-irrigated designation. With the retiring of lands in Colorado and Nebraska currently and in Kansas in the near future through CREP and other programs, a discussion of the type of documentation needed for this retirement of acreage is needed. The Committee recommends it be assigned the task of how to document acreage

that is retired and to add those requirements to the accounting procedures and/or user's manual.

In addition to the above recommendations, the Committee recommends that Principia Mathematica be retained for another year to run the groundwater model and maintain the website.

Commissioner Bleed moved to accept the Engineering Committee Report which includes two sets of accountings dependent on the non-Federal reservoir evaporation below Harlan County Lake. Commissioner Simpson seconded the motion. The motion passed.

Commissioner Bleed moved to formally accept the language on total net evaporation on Harlan County Lake that should be inserted in paragraph 3 on page 23 of Appendix C of the Final Stipulation. The language was read. Commissioner Simpson seconded the motion. Chairman Pope clarified that the rule adopting the accounting procedures would not be changed, but the version of the accounting procedures would be amended. The motion passed.

Conservation Committee Report

Scott Guenther of the BOR provided the second annual status report on the impacts of the conservation practices of non-Federal reservoirs and land terraces study. The study is designed in two components: data collection and water balance modeling. The data collection component is divided into three elements: the inventory of non-Federal reservoirs, the inventory of land terraces, and collection of data from ponds and terraces. The States have provided an inventory of the reservoirs and will in the next year conduct field work to develop area-capacity tables. The data collected on 32 ponds will continue by the states. The terrace inventory has been developed into a GIS inventory in Nebraska, is being developed in Kansas by the BOR and later will be done in Colorado.

BOR has entered into agreements with Derrell Martin of University of Nebraska – Lincoln and Jim Koelliker of Kansas State University. UNL will be doing most of the data collection, while Dr. Koelliker will be working on updating the water balance model for use. In 2007, it is planned that two test runs will be done on Prairie Dog Creek in Kansas and Medicine Creek in Nebraska.

At the last annual meeting, the Conservation Committee requested the Compact Administration send a letter to the Natural Resources Conservation Service for assistance in assessing terrace condition. As a result, a pilot study was completed by the Conservation Committee and NRCS to look at two counties in each Kansas and Nebraska to field verify up to 10 terraces and their condition in each basin. The pilot study is done but a review of its results is still pending. A plan on conducting a full study of all the basins on terrace conditions should result after that review.

Expenditures are on target with about 40% of the funds expended. The field work has lagged a little in getting all the monitoring equipment in the field, but overall the study is moving forward at a reasonable pace. At this time, the Conservation Committee does not need any action by the Compact Administration.

Unfinished Business

Chairman Pope reported that during the work session and the previous annual meeting a discussion occurred regarding the process for approval of new permits when water is withdrawn from one state and transported in to another state and used. As a result, Kansas

drafted the proposed regulation last year and provided a revision based on comments with this year's meeting notice. During the work session and informal discussion, the States asked their attorneys to caucus and discuss this item. The Engineering Committee recommended the establishment of a legal committee. He then asked Lee Rolfs for a report of the caucus.

Lee Rolfs, attorney for the Kansas Department of Agriculture, summarized the discussion of the *ad hoc* legal group of the regulation. The primary focus of the discussion was that both the Compact and Settlement Stipulation requires the use of water to be counted as use in the state in which it is used. The past Nebraska Commissioner had stated that it is not fair for one state to grant a permit to pump water in their state without the consent of the state in which the use occurs.

The *ad hoc* group failed to resolve differences in the form of the agreement. The basic concept of cooperation of the states in this matter is not in disagreement, it is the form of the action conducted by the Administration that is undetermined. Through a productive discussion, another avenue was offered. Kansas will prepare a draft resolution, much shorter than the proposed regulation, for Republican River Compact Administration approval. The form of the agreement is not decided. The concept is to require the state issuing the permit to pump water to condition its permit to require the Administration to approve the permit before it is valid. The plan is to draft and circulate it. The work is to be completed by November 15th. If the matter is not resolved by then, it would move on to alternate dispute resolution.

On the second matter, the legal group decided to exchange confidential letters or briefs regarding whether accounting procedures concerning non-Federal evaporation below Harlan County Lake conflict with the Settlement Stipulation. The confidentiality is required because the letters or briefs may contain material information that was provided during settlement negotiations that are under court order not to be discussed in public. The November 15th time limit was presented for resolution of this matter, also.

Commissioner Simpson moved to form an *ad hoc* legal committee to address the two issues stated and to cease existence upon resolution of those issues by November 15th. Commissioner Bleed seconded the Motion. The Motion passed.

Commissioner Simpson appointed Pete Ampe to the committee. Commissioner Bleed appointed Pam Andersen. Chairman Pope appointed Lee Rolfs.

New Business

Engineering Committee Assignments

Commissioner Bleed moved to assign the Engineering Committee the assignments as presented in the Committee's report. Commissioner Simpson seconded the Motion. The Motion passed.¹

¹ *The Engineering Committee assignments recommended in the report are:*

1. *Complete the user's manual for accounting procedures and provide a resolution for its adoption.*
2. *Complete the accounting for 2006 using the preliminary information provided by April 15, 2007 and the final exchange by July 15, 2007.*
3. *Continue to work to resolve different recharge and return flow methods.*
4. *By November 15, 2006, develop a resolution regarding the Harlan County Lake evaporation split when only one state takes a release.*
5. *Add documentation requirements of acreage retirement to the user's manual.*
6. *Retain Principia Mathematica to perform maintenance of the groundwater model.*

Compact Compliance

Chairman Pope noted that Kansas does appreciate the progress by Colorado and Nebraska toward compliance. A lot of effort in time and money has been put forth. 2005 is the completion of the third year of the five-year compliance period and the first year of the two-year water short compliance period. It is apparent that there still is a problem. Consumptive use still exceeds allocations. In the last three years, consumptive use has exceeded allocations by 104,000 acre-feet for Nebraska and 34,000 acre-feet for Colorado.

Kansas is concerned about the trends showing in these years. There is progress being made, but the numbers don't show a lot of change. In 2005, the first year of the two-year test, there is approximately 43,000 acre-feet of use in excess of allocation above Guide Rock. A lot of reduction in consumptive use must occur by the end of 2006 to make this up.

Kansas has reported approximately 40,000 to 50,000 acre-feet of beneficial consumptive use per year for the last three years. Kansas allocations have been significantly higher; however, the water has not been physically available. Compact allocations should not be confused with availability of real water.

Kansas Bostwick Irrigation District above Lovewell reservoir received about 7 inches in 2004, less than an inch in 2005 and three to four inches in 2006. Obviously, Kansas Bostwick has not had a full supply of water.

Downstream of Hardy there are numerous surface and groundwater users affected with the river virtually dry. At Concordia and Clay Center, the river has been extremely low also. This has meant a large number of surface water users and groundwater pumpers are heavily regulated.

Chairman Pope said the Settlement Stipulation was drafted to deal with the very real concern about shortages which had occurred in the past and the expectation that things would be better. The Stipulation dealt with both wet and water short years. Kansas believes the Settlement Stipulation recognized drought and that the Compact was predicated on shared shortages. Excess uses in the upper part of the basin affect the lower users. Kansas has just wanted its water. The message is that while we are not at the end of the compliance period, time is not on our side. The settlement recognized that change took time by looking at multiyear compliance. Nebraska advised Kansas as to the steps it would take to address the water short issues in April. A second letter about what steps were implemented was due from Nebraska in July. Kansas would like the second letter. Chairman Pope urged serious attention by Colorado and Nebraska toward Compact compliance.

Commissioner Bleed stated that Nebraska shared Kansas' concerns. Their actions this year indicate Nebraska's desire to comply. Governor Heinemann, despite fiscal cuts, encouraged the funding of the buy-outs of water and cooperation with NRCS. Nebraska continues to be willing to address the issue as best it can.

Commissioner Simpson reported that Colorado is evaluating the benefit of the CREP program on long-term deletions. The Republican River Groundwater Model is being

used to determine those benefits as well as impacts of programs like EQIP. Colorado is looking at areas, particularly the North Fork Republican which has surface flow, on regulating surface users and wells within three miles. Colorado is doing what it can, short of praying for rain. Colorado is well within its average allocation of the compact, but, due to the drought, is not in compliance.

Letter on Lower Republican River Feasibility Study

Commissioner Bleed drafted a letter in response to the discussion during the work session. The letter is to the congressional delegation of each state regarding the need to pass and fund HR 4750. The draft letter was read. A revised letter is to be prepared and routed to the other commissioners for signature.

Commissioner Simpson moved that the Republican River Compact Administration to send the letter. Chairman Pope seconded the Motion. The Motion passed.

Remarks from the Public

There were no remarks from the public.

Future Meeting Arrangements

Chairman Pope reported that the next meeting would be hosted by Kansas in the lower Republican River basin in the Junction City, Kansas area. A specific date was selected for August 9, 2007 and the working session scheduled for the prior day.

Commissioner Bleed moved that the Administration approve extending the meeting date to beyond the July and suspend the rules to hold the meeting in August. The motion was seconded by Commissioner Simpson. The motion passed.

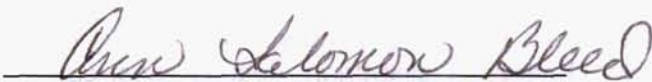
Chairman Pope noted upon consultation with counsel that the regulations of the Administration require written consent by the states to hold the meeting beyond July.

Adjournment

Commissioner Bleed moved to adjourn, and was seconded by Commissioner Simpson. The Motion passed. The meeting adjourned at 12:30 p.m.



David W. Barfield, Acting Chief Engineer,
for David L. Pope, Kansas Commissioner (Chairman)



Ann Salomon Bleed, Nebraska Commissioner

Ken Knox, Acting State Engineer,
for Hal D. Simpson, Colorado Commissioner

Exhibits

Engineering Committee Report
Bureau of Reclamation Report
U. S. Geological Survey Reports
Brad Edgerton, Nebraska DNR, Report