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**Attachments:** [Strategy.doc](#)

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I made some changes to Steve's version.

Marv

## REPUBLICAN RIVER RECLAMATION STRATEGY

**PURPOSE OF PAPER:** Provide a strategic plan for Reclamation to follow for issues involving the Republican River Compact Lawsuit Settlement Implementation, Republican River Basin – Nebraska, Kansas, and Colorado

**CURRENT STATUS:** Nebraska's compliance with the Republican River Compact is measured with a 5-year average starting in 2003 through 2007., and during water short years, a two year average (first two year average started in 2005). A water short year is designated when Harlan County Lake has less than 119,000 af available for irrigation. This is likely the second year with the water short designation. In an effort to comply with the Republican River Compact Settlement, Nebraska through its Department of Natural Resources (State) entered into negotiations to purchase and/or lease surface water supplies from irrigation districts in the Republican River Basin for the 2006 irrigation season.

Agreements have been negotiated to allow the Bostwick Irrigation District and the Frenchman Valley Irrigation District in Nebraska to sell and/or lease a portion of their water supply to the State to help the State achieve compact compliance. Acceptance of both agreements is subject to appropriation of funds by the State for one-time payments to each District (funds have been appropriated and become available July 1, 2006). The affected districts held two meetings in March with irrigators to share details of the agreements and to address concerns. Irrigators present at both meetings voted overwhelmingly in favor of accepting the State's agreement.

These water agreements would assist Nebraska with achieving compliance with the Republican River Compact Settlement. However, a sizeable reduction in consumptive use or greater than normal runoff must occur during 2006 and 2007 in order for Nebraska to become 100 percent compliant with the compact. (It is estimated that Nebraska has over used their compact allocation by 100,000 acre feet or more by the end of calendar year 2005).

**BACKGROUND:** : On May 26, 1998, Kansas filed a petition with the U.S. Supreme Court complaining Nebraska was using more than its share of the water of the Republican River. On November 15, 1999, the Supreme Court appointed a Special Master for the case. Because all major water development structures in the Republican River Basin were constructed by the Bureau of Reclamation and the Corps of Engineers, the United States was allowed to participate as an *amicus curiae*. In December 2001, the Special Master granted a stay to allow the parties time to attempt to negotiate a settlement. A final settlement agreement was signed by the governors and attorney generals and filed with the Special Master on December 16, 2002. The settlement provides a moratorium on new groundwater wells, special rules for administration of water during water-short years, protection of storage releases, minimized flood flow effects on the accounting, recognition by Nebraska of a 1948 priority date for the Kansas-Bostwick Irrigation District, inclusion of the impacts of groundwater pumping from tableland wells in the

accounting, accounting for all reservoirs 15 acre-feet and larger within the river basin and joint participation in a study to determine the impact of farm ponds and land terracing on the water supply of the basin, recognition of the Consensus Plan. The agreement complies with the provisions of the long-term water supply contracts recently negotiated between Reclamation and five irrigation districts in the basin.

The waters of the Republican River Basin are allocated to the States of Colorado, Kansas and Nebraska through the Republican River Compact approved by Congress in 1943. Federal reservoirs have been built on the main stem and many of the main tributaries of the river. The Compact addresses the annual volume allocated and the annual consumptive use. However, for irrigation or other uses, timing and availability of the flows are very critical. Water that is annually accounted for under the Compact may not be available when needed due to existing system limitations.

In accordance with the Final Settlement Stipulation, “The States agree to pursue in good faith, and in collaboration with the United States, system improvements in the Basin, including measures to improve the ability to utilize the water supply below Hardy, Nebraska on the main stem.” The Feasibility Study, if authorized by Congress (legislation introduced in 2006), is intended to assist in fulfilling this provision of the settlement stipulation.

**POSITION OF INTERESTED PARTIES:** Compliance with the Final Settlement Stipulations resides with the states involved.

**RECLAMATIONS POSITION/ROLE:** Reclamation will continue to support the states in their efforts insofar as these efforts comply with Reclamation law, and the provisions of the long term water supply contracts between the Districts and Reclamation. The states of Nebraska and Kansas should continue working together to fully comply with all aspects of the Final Settlement Stipulations. Reclamation should support every effort to restore surface water inflows to the federal reservoirs to ensure project viability. Reclamation has no ownership in creating the over allocation issue between the states and shall remain neutral in discussions with the state but should work closely with the Natural Resource Districts within the auspices of laws and regulations.

Issues that can be addressed now should be prioritized to effectively and efficiently use the federal funding. All land records should be evaluated to ensure they are correct and up to date, and analysis of recently enacted Water Task Force legislation in Nebraska as it relates to Reclamation project water rights should be undertaken to ensure the government knows the legal standing. Completion of these items will ensure that Reclamation is in a good position to move forward in the future. Note: This last paragraph seems confusing to me. Marv