United States Department of the Interior
BUREAU OF RECLAMATION
Great Plains Region
Nebraska-Kansas Area Office
P.O. Box 1607
Grand Island, Nebraska 68802-1607

IN REPLY REFER TO:

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SEP 3 0 2010

Mr. Brian Dunnigan, P.E.
Director, Nebraska Department of
Natural Resources
P.O. Box 94676
Lincoln, NE 68509-4676

Subject: Questions and Concerns Related to the Proposed Republican River Basin Integrated Management Plans (IMPs)

Dear Mr. Dunnigan:

Thank you for your August 23, 2010 response which makes progress towards addressing Reclamation's questions and concerns related to the recently revised IMPs which were outlined in our July 27, 2010 correspondence to you, Mr. Dan Smith, and Mr. Jasper Fanning. Reclamation wants to completely understand the proposed IMPs and appreciates your patience as we request clarification in the areas that are not completely clear to us.

Our meeting in Grand Island on July 30, 2010 was helpful in better understanding the IMPs, but after reading your response to our questions and further reviewing the IMPs we continue to have a number of questions and significant concerns. To help clarify our understanding of how the IMPs limit ground water use, we prepared the following statement summarizing what we heard in the July 30 meeting.

We understand that the IMPs require a minimum 20 percent reduction in ground water pumping, along with an additional five percent reduction by 2015, from the 1998-2002 baseline pumping levels. In addition, ground water use will be limited to an amount that will not exceed Nebraska's Allowable Ground Water Depletion. Nebraska's Allowable Ground Water Depletion is defined as the maximum level of depletions to stream flow from ground water pumping within Nebraska's portion of the Republican River Compact area that can occur in a given year without exceeding Nebraska's Compact allocation. The Allowable Ground Water limit is calculated as shown below:

> Allowable Ground Water Depletion = Nebraska's Compact Allocation + Imported Water Supply –Nebraska's Surface Water Computed Beneficial Consumptive Use (CBCU) – Other Natural Resource District (NRD) CBCU

We understand this to mean that the limit on ground water use will vary from year to year as necessary to stay within the Allowable Ground Water Depletion amount for each

year. The IMPs require the NRDs to adjust their ground water pumping allocations or take other appropriate actions to ensure they stay within their share of the Allowable Ground Water Depletion amount. Surface water use is not limited by the IMPs except in Compact Call years when it may be necessary for the Nebraska Department of Natural Resources (DNR) to place a call and curtail some or all surface water use as required in that year to meet Compact compliance. Surface water use is limited, as in the past, by the available surface water under each user's water right and their contractual right to available stored water.

We also understood from the July 30 meeting that you believe the limit placed on the NRDs to stay within their proportional share of the Allowable Ground Water Depletion will make it highly improbable that Compact Calls will be necessary once the IMPs are implemented. We further understood that in Compact Call years, NRD management actions and controls will be implemented to make up for any expected shortfall in the Compact balance prior to curtailing surface water use. This will include completely curtailing ground water use in the Rapid Response Area. We understood surface water will only be administered in the Compact Call years when all available NRD management actions and controls would not be sufficient to supply the expected shortfall.

We would appreciate your careful review of the above statement along with your concurrence or, if needed, any additional clarification to our understanding of the IMPs.

In addition, after reviewing your August 23, 2010 response along with the adopted IMPs, we still have a number of questions and concerns that we request you address in further detail. A few specific ones are listed below:

- It was our understanding from reading the IMPs that during "Compact Call" years, a Compact Call will be made that essentially curtails all surface water use. You replied that the IMPs do not "essentially curtail all surface water use" during a Compact Call. This appears to contradict the IMPs. On page 11 of the MRNRD IMP it states:

  > "A 'Compact Call' will result in DNR issuing closing notices on all natural flow and storage permits in the basin until such time as DNR in consultation with the MRNRD and other basin NRDs, determines that yearly administration is no longer needed to ensure Compact compliance, pursuant to Section X."

  While we understand the Compact Call may not be on for the entire irrigation season and it would not affect the use of water stored prior to the call, it does appear that for at least a portion of the season all surface water use of natural flow (including the storage of natural flow) will be curtailed. Can you help clarify what you meant by the IMPs do not essentially curtail all surface water use during a Compact Call?

It would be helpful if you could provide us with some examples of situations where a call on the river curtailing surface water use would be necessary even after exhausting all NRD management actions including the complete shutoff of wells in the Rapid Response Area. Also, if Nebraska is not in compliance with the Compact, can there be any situations when the NRDs are allowed to exceed their share of allowable ground water depletions?

- In your response to our August 23, 2010 letter, you stated that Nebraska will not compensate any water users that may be forced to curtail or limit their use of water to meet Nebraska's Compact allocation. It was our understanding that it is the intent of the NRDs to provide compensation to water users that are required to forgo water use to allow the State to comply with the Compact. We strongly believe that any surface water users, who are shut off by a Compact Call while hydrologicially-connected ground water wells are allowed to pump, should be fairly compensated for their loss. If a funding method and source for such compensation is found, then will DNR and the NRD's commit to compensate all surface water users that are shutoff during a Compact Call?

- In our view, if the IMPs require a bypass of inflow through Harlan County Lake (HCL), then the intent and purpose of the Consensus Plan (agreement between Reclamation and the Corps of Engineers) is affected. This bypass would alter the intent and procedures as indentified in the Final Settlement Stipulation, which would require approval by the Republican River Compact Administration. Please explain in detail why you believe that the Consensus Plan would not be altered.

In addition to the above questions, we continue to be concerned that the IMPs do not adequately address the need for long-term sustainability of both the surface water and ground water supply and the need for equity. To meet Compact compliance on a long-term basis, it is essential that the IMPs be designed to provide sustainability. The need for equity between users is also a critical element. Allowing ground water users, who developed their use subsequent to the investment and construction of the Federal projects to continue to use water during a Compact Call while the senior surface water users are shut off, without just compensation, does not result in equity.

Finally, please provide us with the spreadsheets and supporting data used to produce the PowerPoint charts and slides presented at the Forecast Meeting in November 2009 and during our discussions at our July 30 meeting. Specifically, we would like to review the spreadsheets that produced the IMP evaluation of the 1999-2008 historic data. In addition, please provide any model runs, model run summaries, or data that show the expected trend for base stream flow levels as declining, stabilizing, or increasing based on the recent IMP controls that were put in place.

We appreciate your consideration and response to our questions. It is our hope that your response will serve to clarify our understanding of the IMPs and address any other

IMP specifics or assumptions for which we need additional explanation. We look forward to further discussions and working with you and your staff on these matters as we continue to review the IMPs and other related materials. We may have additional questions in the future. If you have any questions, please contact me at 308-389-5300.

Sincerely,

AARON M. THOMPSON

Aaron M. Thompson
Area Manager

cc: Jasper Fanning, Manager, Upper Republican NRD
Dan Smith, Manager, Middle Republican NRD
Mike Clements, Lower Republican NRD
Col. Anthony Hofmann, District Commander, Corps of Engineers, Kansas City District
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