

**EXHIBIT B
TO
THOMPSON TOUHY REQUEST**

No. 126, Original



In The
Supreme Court of the United States



STATE OF KANSAS,

Plaintiff,

v.

STATE OF NEBRASKA

and

STATE OF COLORADO,

Defendants.



BEFORE THE OFFICE OF THE SPECIAL MASTER



**NOTICE OF DEPOSITION OF MR. AARON THOMPSON
AND SUBPOENA DUCES TECUM**

The State of Nebraska hereby gives notice that it will take the deposition of Mr. Aaron Thompson, before a court reporter, at the Nebraska Attorney General's Office, 1221 N Street, Suite 601, Lincoln, Nebraska, on January 24, 2012 at 9:00 a.m through 5:00 p.m.

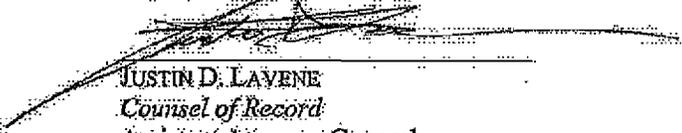
The State of Nebraska hereby requests that Mr. Thompson bring to his deposition any supplemental materials, information, data, model runs, studies, reports, electronic and other communications, maps, GIS information and data, or any other tangible things not previously produced but which are responsive to the Subpoena to Produce Documents issued to Mr. Thompson by the State of Nebraska on September 1, 2011.

In addition, the State of Nebraska requests that Mr. Thompson bring all other materials foundational to the testimony that Mr. Thompson will provide for the State of Kansas, as listed in Kansas' filing in this action dated November 18, 2011. The Case Management Plan for this action is attached hereto as Exhibit A. The provisions of Rule 45(c) and (d) of the Federal Rules of Civil Procedure are attached hereto as Exhibit B, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure. This Subpoena is issued pursuant to Fed. R. Civ. P. 45(a)(3)(B) by Justin D. Lavene, Counsel of Record for the State of Nebraska, Nebraska Attorney General's Office, 2115 State Capitol, Lincoln, Nebraska, 68509.

Respectfully submitted this 9th day of December, 2011.

STATE OF NEBRASKA,

JON C. BRUNING
Attorney General of Nebraska
DAVID D. COOKSON
Deputy Attorney General



JUSTIN D. LAVENE
Counsel of Record
Assistant Attorney General
Post Office Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
justin.lavene@nebraska.gov

DONALD G. BLANKENAU
THOMAS R. WILMOTH
Special Assistant Attorneys General
BLANKENAU WILMOTH LLP
206 South 13th Street, Suite 1425
Lincoln, Nebraska 68508-2002
(402) 475-7080
don@acualawyers.com
tom@acualawyers.com

Attorneys for State of Nebraska

No. 126, Original

In The
Supreme Court of the United States

◆
STATE OF KANSAS,

Plaintiff,

v.

STATE OF NEBRASKA

and

STATE OF COLORADO,

Defendants.

◆
CERTIFICATE OF SERVICE

I, Justin D. Lavene, counsel for the State of Nebraska in the above-captioned matter, hereby certify that on December 9, 2011, the original and one copy of NOTICE OF DEPOSITION OF AARON THOMPSON AND SUBPOENA DUCES TECUM were e-mailed and/or mailed to the non-party deponent and all parties as indicated in Appendix A of the Case Management Plan dated April 28, 2011.

I further certify that on the same date, this Certificate of Service was distributed to the parties listed below as specified in Appendix A of the Case Management Plan:

Hon. William J. Kayatta, Jr.
Special Master
PIERCE ATWOOD LLP
One Monument Square
Portland, ME 04101
eumland@PierceAtwood.com

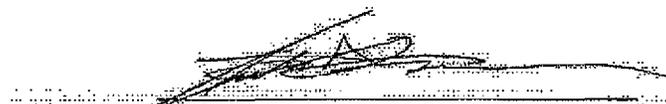
Peter J. Ampe
Counsel of Record
First Assistant Attorney General
Autumn L. Bernhardt
Assistant Attorney General
Federal & Interstate Water Unit
Natural Resources & Environment Section
1525 Sherman Street, 7th Floor
Denver, CO 80203
peter.ampe@state.co.us
autumn.bernhardt@state.co.us

John B. Draper
Counsel of Record
MONTGOMERY & ANDREWS, P.A.
P.O. Box 2307
Santa Fe, NM 87504-2307
jdraper@montand.com

David B. Verrilli, Jr.
Counsel of Record
Acting Solicitor General
Department of Justice
Washington, DC 20530-0001
supremecitbriefs@usdoj.gov
james.dubois@usdoj.gov

Derek Schmidt
Attorney General
State of Kansas
120 SW 10th Street
Topeka, KS 66612
John.Campbell@ksag.org
Jeff.Chanay@ksag.org
Chris.Grunewald@ksag.org
Burke.Griggs@kda.ks.gov

Aaron Thompson, Area Manager
Bureau of Reclamation
Nebraska-Kansas Area Office
Federal Building, 203 West 2nd Street
Grand Island NE 68801-5907

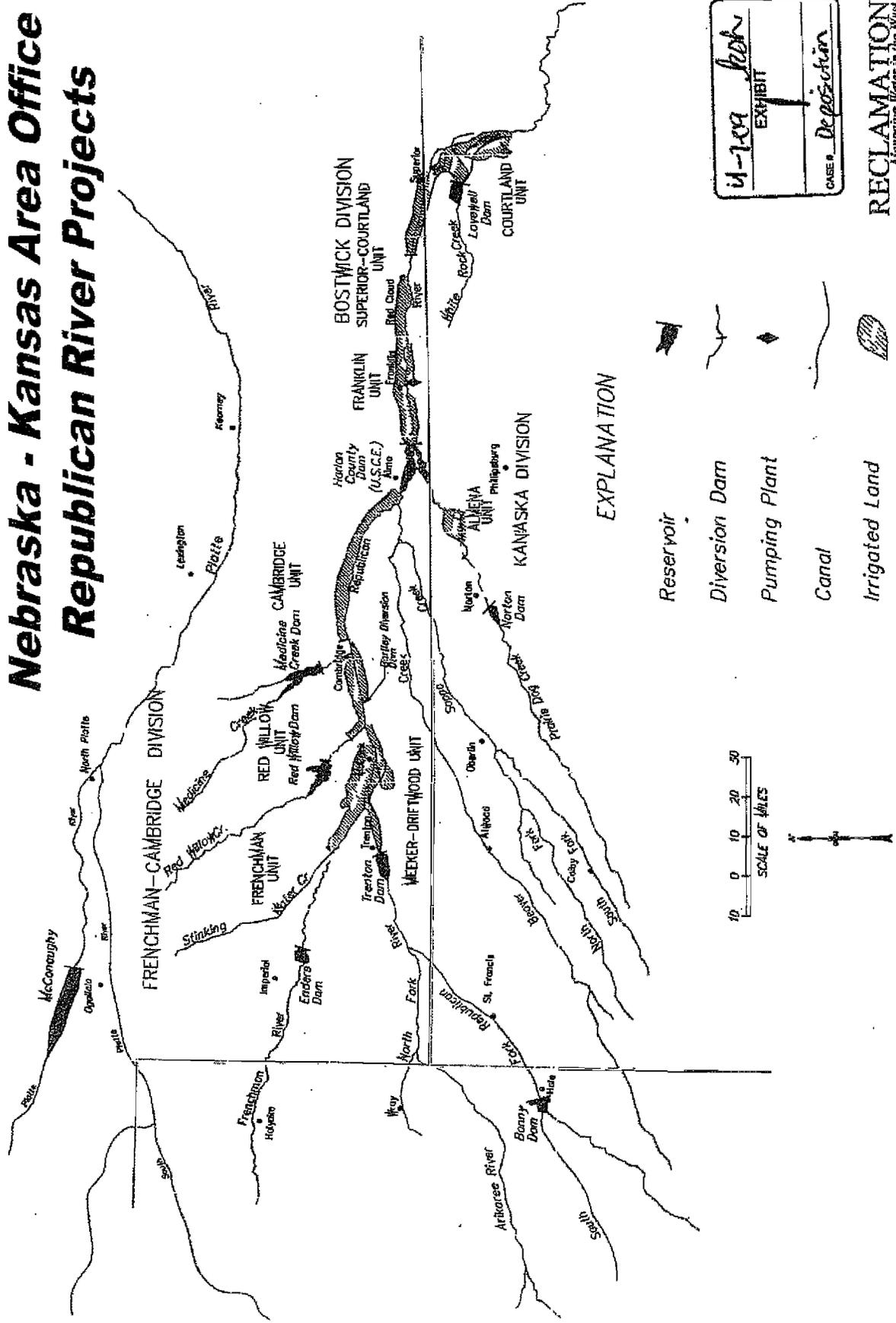


Justin D. Lavene
Counsel of Record

**EXHIBIT C
TO
THOMPSON TOUHY REQUEST**

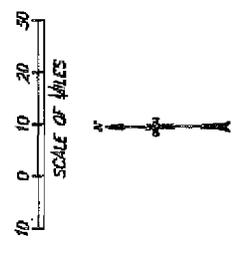
EXHIBIT B

Nebraska - Kansas Area Office Republican River Projects



EXPLANATION

- Reservoir
- Diversion Dam
- Pumping Plant
- Canal
- Irrigated Land



4-109 *Book*
EXHIBIT
CASE # *Deposition*

RECLAMATION
Managing Water in the West

Republican River Basin
Reclamation Projects
2/27/2008 NK-410

KAN. EXHIBIT 76
Kan. v. Neb & Colo. No. 126, Orig.
Arbitration Initiated 10/21/08

UUNarrative Response to Q. 1, 8, & 10:

**RECLAMATION STATEMENT ON
CONCERNS WITH PROJECT VIABILITY
IN THE REPUBLICAN RIVER BASIN**

March 4, 2009

Bureau of Reclamation Involvement and Major Interests in the Republican River Basin

The devastating effects of a severe drought in much of the western United States during the 1930s was a major contributor to the states' strong interest in seeking Federally assisted water development in the Basin. During the late 1930s when the U. S. Bureau of Reclamation (Reclamation) was initially investigating the water projects in the Basin, we believed the first step to Federal water development was negotiation of a compact between Nebraska, Kansas and Colorado allocating water equitably between the states. This was needed to prevent conflict between the states and to insure long term project feasibility, protecting the large Federal investment. Reclamation requested that the states enter into negotiations to complete this necessary step. Reclamation stated in a 1940 Reconnaissance Report on the Basin (Project Investigation Report No. 41): "To avoid expensive litigation as a result of possible conflicting uses of water in the various states, further developments for irrigation should be preceded by a three-state compact or similar agreement on use of water." The negotiations for this compact were entered into by the three states and the Compact was signed by the states and the representative of the United States on December 31, 1942. Ratification of the Republican River Compact (Compact) by the States and the U.S. Congress followed in 1943. Although the United States was not one of the original parties to the Compact, Reclamation actively participated in the negotiating process by providing technical data and assistance to the States. Reclamation assisted the states in the Compact negotiations by preparing hydrology analysis for the Basin and sharing Reclamation's preliminary water development plans with each of the states.

Once the Compact was finalized, this water allocation laid the framework for the final planning and design of a system of Federal reservoir and irrigation projects that would assist each of the states in developing their allocated share of the Republican River. Reclamation believed that by acquiring necessary state water rights and designing its projects within each state's allocated share of the water, the water supply for these Federal projects would be protected against later water development. Between the late 1940s and 1960s seven Federal dams and reservoirs were constructed in the Basin above the Nebraska-Kansas stateline. Six of these are Reclamation projects and one is a Corps of Engineers project. Six irrigation districts were also developed which presently receive irrigation water from these reservoirs. Reclamation entered into repayment or water service contracts with each of the irrigation districts to provide for repayment of the irrigation portion of construction and their associated operation, maintenance, and

replacement (OM&R) costs for these projects. This was done with the expectation that the irrigation districts would be able to repay their share of the project costs.

Construction costs associated with the Republican River Basin Reclamation projects totaled more than \$233,000,000. Of the total construction costs, \$139,000,000 was allocated to irrigation and subject to reimbursement to the Federal government. The remaining construction costs were allocated to non-reimbursable public benefits such as flood control, fish and wildlife, and recreation. In accordance with Reclamation law, irrigation districts are responsible for repayment of the total construction costs allocated to irrigation, subject to their ability to repay these costs. In cases where it is determined that irrigation districts lack the ability to repay their share of the total construction costs allocated to irrigation, the remaining construction costs are included in the rates charged for the purchase of hydropower generated at Federal facilities in the Missouri River basin. This is known as "aid-to-irrigation". Of the approximate \$139,000,000 irrigation construction costs, about \$39,000,000 will have been repaid by districts, leaving approximately \$100,000,000 to be repaid by Federal power users. These costs do not include the future revenues received from the associated OM&R costs for these projects. The reduced water supply also has effects to the local and State economies as a result of lower crop yields and decreased recreational opportunities. These types of effects are not quantified in the above mentioned impacts.

The total active conservation storage content in the seven Federal reservoirs is 480,051 acre-feet and the total project irrigated acreage served by the Federal projects is 137,594 acres. The City of Norton, Kansas also receives municipal and industrial water from Keith Sebelius Lake, a Reclamation reservoir in Kansas located on Prairie Dog Creek. The Federal projects also provide significant fish and wildlife, recreation and flood control benefits. Each of the Federal projects was granted state water rights and water use by these projects is an integral part of the river system and the Compact allocation of water for each state.

History of Inflows and Water Deliveries at Federal Projects

Our records show that surface water flows in the Basin began to decline significantly in the late 1960s right at the time groundwater development in the Basin was expanding at a rapid rate. The following table provides a comparison of reservoir inflows over progressive periods of time. The column labeled "DPR" refers to the expected reservoir inflows contained in the Definite Plan Reports (DPR), prepared for project planning purposes in the 1950s. The remaining columns show the average decade inflow for each decade between 1956 and 2005. Inflows have steadily declined since the projects were first planned to a level that is generally less than 40 percent of the DPR inflow. The DPR inflows were based on the historic records existing at the time the reports were prepared with adjustments for anticipated future upstream depletions. Significant irrigation development from groundwater wells was not anticipated at that time. Historic monthly inflow records for each of the reservoirs are included in folder Q.1. Graphs displaying reservoir inflow versus annual precipitation and well development are also included in this folder. These graphs indicate that the decline in inflow is not a result of a change in

the average precipitation amounts. The decline in inflow does, however, correlate closely with the increase of irrigation well development.

Federal Reservoir Average Annual Inflow - Acre-Feet

	DPR AVERAGE	1956-1965	1966-1975	1976-1985	1986-1995	1996-2005
BONNY (Armel Unit) Percentage of DPR	30,800	35,500 116%	23,500 76%	17,200 56%	16,600 54%	10,300 33%
ENDERS (F-C Division) Percentage of DPR	56,100	58,600 103%	48,700 88%	29,200 53%	20,600 37%	11,800 21%
SWANSON (F-C Division) Percentage of DPR	115,300	121,100 105%	82,900 72%	67,100 58%	58,700 51%	32,300 28%
HUGH BUTLER (F-C Division) Percentage of DPR	19,300	22,200 115%	23,800 122%	19,500 101%	17,400 90%	13,300 69%
HARRY STRUNK (F-C Division) Percentage of DPR	56,800	58,700 103%	51,400 90%	42,300 74%	40,900 72%	35,500 63%
NORTON (Almena Unit) Percentage of DPR	26,600	20,400 77%	11,100 42%	4,500 17%	8,200 31%	9,900 37%
HARLAN COUNTY (Boswick Division) Percentage of DPR	359,000	368,800 103%	246,200 69%	165,600 46%	159,400 44%	134,100 37%

Reduced surface water supplies have caused project water deliveries, throughout the Basin, to decline. Groundwater development and other activities in the Basin directly impact the water supply for the canals associated with the Federal projects. The following table shows the planned full service canal deliveries to the farm included in the DPRs versus actual average canal deliveries to the farm for several ten year time periods. This table shows a consistent, progressive decline in water deliveries to irrigated farms served by these canals.

	Average Water Deliveries to the Farm -Inches/Acre				DPR Full Supply
	1966-1975	1976-1985	1986-1995	1996-2005	
Frenchman-Cambridge Division					
CULBERTSON CANAL	17.2	9.7	6.2	4.5	18.0
CULBERTSON EXTENSION	14.6	7.9	5.1	2.7	18.0
MEEKER-DRFTWOOD CANAL	16.6	13.5	12.4	7.1	18.0
RED WILLOW CANAL	13.7	12.7	12.5	7.1	18.0
CAMBRIDGE CANAL	13.1	12.7	11.4	8.6	18.0
BARTLEY CANAL	15.9	13.6	10.7	6.1	18.0
Almena Unit					
ALMENA CANAL	9.6	1.3	1.7	3.4	18.0
Bostwick Division					
FRANKLIN CANAL	13.9	12.4	10.3	8.3	18.0
NAPONEE CANAL	15.6	13.2	9.7	7.7	18.0
FRANKLIN PUMP CANAL	11.9	11.3	9.7	8.1	18.0
SUPERIOR CANAL	14.8	13.2	10.0	9.2	18.0
COURTLAND CANAL (NE)	10.5	9.6	7.5	6.0	18.0
COURTLAND CANAL (KS)	10.5	11.0	6.9	10.5	18.0

An increase in groundwater wells in the basin, for irrigation development, became particularly evident during the 1960s and 1970s. Between 1960 and 1980 over 8,000 new wells were developed in Nebraska within 12 miles of a major stream in the Basin above Hardy, Nebraska (source: Nebraska Department of Natural Resources (DNR) well database). This time frame corresponds closely with a noticeable decline in base flows throughout the Basin providing evidence that there is a significant aquifer-streamflow interaction. Subsequently, significant declines in groundwater levels have continued to occur in the upper Republican River (Source: USGS). Reclamation believes, based on this data, that groundwater mining is occurring in the basin and that without a significant reduction in groundwater pumping, the water supply for Reclamation's projects in the Basin will continue to decline. This is further supported in the report prepared by HDR Consultants in June 2006 entitled "Hydrologic Trends and Correlations in the Republican River Basin in Nebraska."

The reduced water supply available to the Reclamation irrigation districts (districts) has significantly impacted the districts' ability to repay their share of the Reclamation project costs in the Republican River basin. During the districts' contract renewal, in the mid 1990s, the irrigators' ability to repay the Federal project costs was carefully reviewed and adjustments in cost allocations were made consistent with current policy. These adjustments were primarily a result of the depleted water supply. In testimony preparation, Reclamation recently evaluated the reduced revenue to the Federal Government caused by the depleted water supply. From the execution of the new

contracts to date, the reduced revenue to the Federal Government has been approximately \$5,000,000.

Nebraska Republican Basin Natural Resources Districts' Integrated Management Plans (IMPs) and The Protection of Reclamation's Major Interest in the Basin

Under Nebraska State law (LB 962), the Natural Resources Districts (NRDs) and DNR are required to develop Integrated Management Plans (IMPs) for integrating the management of the surface and groundwater supply for streams that are designated as fully appropriated. While the IMPs prepared jointly by the NRDs in the Basin and DNR are an important first step in controlling groundwater depletions, we do not believe that the groundwater pumping allocations provided in the current plans are sufficient to prevent groundwater mining in the basin. Reclamation has provided written testimony at each of the IMP hearings held in the Basin outlining our concerns including our concern that the plans do not permit equity among water users as they still favor groundwater users over surface water use. A copy of each of the written testimonies provided at the hearings is included in Folder Q 9. Our experience leads us to believe that sustained Compact compliance requires addressing groundwater mining in the basin. It is our position that ground water consumptive use must be reduced to allow base flows to recover to a level that will allow both Colorado and Nebraska to consistently comply with the Compact.

The Federal storage projects provide significant benefits; storing water during higher runoff periods and then releasing this stored water to help augment low river flow conditions. This stored water helps satisfy project irrigation requirements and enhances river flows for other downstream needs. During 2006, 2007 and 2008 the state of Nebraska and the Republican River Basin Coalition entered into agreements with Reclamation and some of its irrigation districts to purchase portions of the districts' water supply. This purchased water was used to help Nebraska in their effort to comply with the Compact.

Groundwater pumping and other upstream uses are progressively depleting reservoir inflow. Without additional limits and controls on groundwater pumps; irrigation deliveries and other important project benefits will continue to decline, irrigators' ability to repay the federal investment will be reduced, and Reclamation's ability to make stored water available to assist Nebraska with Compact compliance will be very limited.



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:
NK-100
WTR-4.11 FV

NOV - 1 2007

BUREAU OF RECLAMATION NEBRASKA-KANSAS PROJECTS McCook, Nebraska		
11-7-07 Date Received		
Code	Index	Action
400		
410		
Action Completed By:		
Initials		Date

Upper Republican Natural Resources District
PO Box 1140
Imperial, NE 69033

Subject: Written Testimony, Upper Republican Natural Resources District (URNRD)
Public Hearing

Dear Sir:

Enclosed is the written testimony of the Bureau of Reclamation, Nebraska-Kansas Area Office submitted for the public hearing records as conducted by the URNRD regarding the proposed modifications of the integrated management plan and amendments to controls pertaining to Groundwater Control in the URNRD. Specific comments concerning the draft integrated management plan are included as part of the above-referenced testimony.

Thank you for the opportunity to provide testimony and comments to your proposed integrated management plan. If you have any questions, please contact me at the above address or telephone 308-389-5300.

Sincerely,

Aaron M. Thompson
Area Manager

Enclosure

KAN. EXHIBIT 78
Kan. v. Neb & Colo. No. 126, Orig.
Arbitration Initiated 10/21/08

cc: Ann Bleed, Director
Nebraska Department of Natural Resources
P. O. Box 94676
Lincoln, NE 68509-4676

Lee Orton, Attorney at Law
1233 Lincoln Mall, Suite 201
Lincoln, NE 68508

Mike Delka, Manager
Bostwick Irrigation District in Nebraska
P.O. Box 446
Red Cloud, NE 68970-0446

Roy Patterson, Superintendent
Frenchman-Cambridge Irrigation District
P.O. Box 116
Cambridge, NE 69022

Don Felker, Manager
Frenchman-Valley and H&RW Irrigation Districts
P.O. Box 297
Culbertson, NE 69024
w/enclosure to all

cc: GP-1000 (Mike Ryan)
GP-4600 (Gordon Aycock)
NK-100 (Judy O'Sullivan)
NK-300 (Mike Kube)
~~NK-400 (Mary Swanda)~~
w/enclosure to all

WBR:SFRonshaugen:treichert:10/31/07:308-989-5304
TransmittalLtrWRittenTestimonyURNRD10302007.doc

WTR-4.11 FV

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

**Regarding Proposed Integrated Management Plan for the
Upper Republican Natural Resources District**

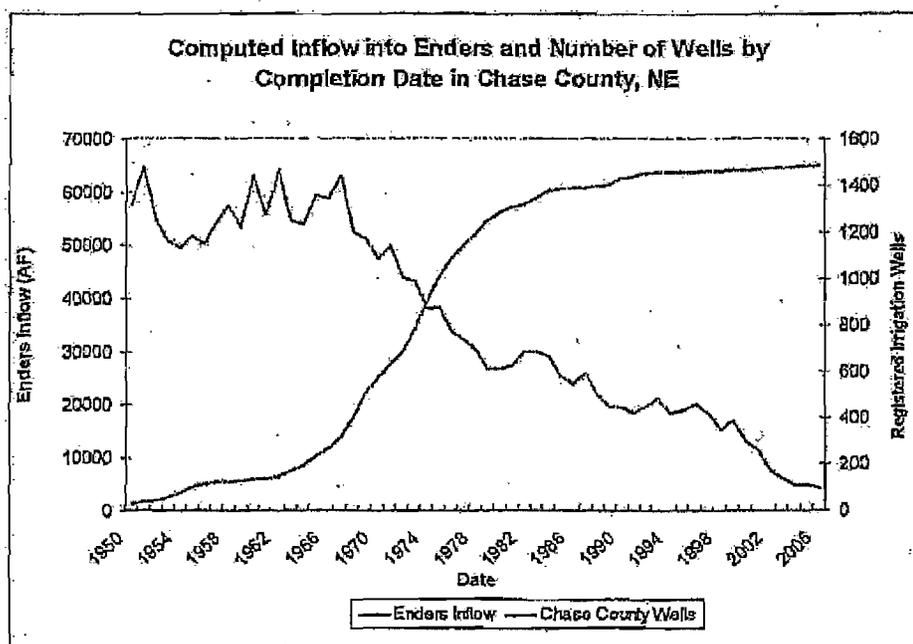
November 1, 2007

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. The natural flow rights associated with the Federal projects have priority dates that vary from 1890 to 1954 and numerous small rights with later priority dates. An increase in groundwater wells in the Basin, for irrigation development, became particularly evident in the late 1960's. The following graph shows the increase in the number of wells over time which corresponds closely with a noticeable decline in inflow to Enders Reservoir.



On May 26, 1998, Kansas 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. In 2000 the Supreme Court ruled 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. A Stipulated Settlement was reached and approved by the Court in May 2003. This Stipulated Settlement established general terms governing the settlement, Compact accounting, and additional administration requirements.

In 2007, the NRD Coalition signed agreements with several Irrigation Districts to lease portions of their water supplies to assist with Nebraska's Compact Compliance. Due to current pending litigation it is uncertain when payment may be made to these Irrigation Districts. This uncertainty could negatively affect the future working relationships of all parties involved, including this agency.

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 accounting procedure relating to 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. Water released from reservoirs in Nebraska becomes Compact supply and is allocated accordingly. As a result, the release of stored water for diversion and use by Nebraska irrigation districts is beneficial to Nebraska's Compact compliance. This release of stored water increases Nebraska's Compact allocation by an amount that exceeds the resulting consumptive use assigned to Nebraska. This results in a net positive contribution to Nebraska's Compact compliance. On the other hand, pumping of groundwater in Nebraska results in an increase to Nebraska's allocation that is less than the increase in consumptive use that results from the groundwater use. Because of the current imbalance of groundwater use in the basin, groundwater depletions have resulted in significant Compact compliance deficits for Nebraska.

CURRENT CONDITIONS

For the 1998-2002 baseline period, Nebraska's total allocation averaged 288,000 acre-feet/year. Since official Compact accounting began in 2003 through 2006, Nebraska's allocation has averaged 205,000 acre-feet and Nebraska's use has averaged 250,000 acre-feet, each year resulting in computed beneficial consumptive use exceeding the allocation. This deficit follows the reduction in surface water supplies in the basin. 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 deficits ranging

from about 25,000 to 40,000 acre-feet annually since Compact Settlement accounting was initiated.

CONCERNS

Reclamation is very concerned with Nebraska's failure to meet Compact compliance since Compact compliance accounting was reinitiated in 2003. Reclamation is even more concerned about the continuing depletion of inflows to the Federal reservoirs (namely Enders Reservoir and Swanson Lake). Federal projects were constructed based on the concept that project surface water rights would be protected. It needs to be noted that Enders Reservoir has experienced the most severe reduction in inflows of all Federal reservoirs in the Republican River Basin in Nebraska. Prior to construction of Trenton and Enders Dams, a Definite Plan Report (DPR) was prepared by Reclamation for Congress. The following table shows the average flows that were included in the DPR compared to the actual flows experienced since 1956. The table depicts the historic decline of inflows since the projects were first developed. Of specific concern is the inflow decline over the last 20 year period. This decline cannot be attributed to a decline in precipitation. The average precipitation of Republican River Compact Administration precipitation stations for the 1986-2005 period was 20.98 inches, which is 103% above the 1918-2005 average.

RESERVOIR INFLOW COMPARISONS - Acre-Feet

RESERVOIR	DPR AVERAGE	20 Yr AVERAGE 1956-1975	20 Yr. AVERAGE 1986-2005	5 Yr. AVERAGE 2001-2005	ACTUAL 2006
SWANSON	115,300	102,000	45,000	17,700	12,000
ENDERS	55,100	52,600	16,200	6,800	4,200
TOTALS	170,400	154,600	61,200	24,500	16,200
Percentage of DPR		91%	36%	14%	10%

Reduced surface water supplies have caused project water deliveries, throughout the Basin, to decline over the last 40 years. Activities in the URNRD directly impact the water supply for several canals associated with Federal projects in the Basin. Declines in return flows from these canals have reduced supplies to downstream Federal projects. The following table indicates the canal deliveries for several time periods showing a progressive decline in water deliveries to the farms.

WATER DELIVERIES - INCHES/ACRE

	CULBERTSON CANAL	CULBERTSON EXTENSION CANAL	MEEKER- DRIFTWOOD CANAL	BARTLEY CANAL
1966-1975	16.8	14.6	16.8	15.9
1976-1985	13.5	7.9	13.5	13.6
1986-1995	12.4	5.1	12.4	10.7
1996-2005	7.1	2.7	7.1	5.1
2006	0.0*	0.0	0.0	4.9
2007	0.0*	0.0	0.0	0.0

* No storage water delivered; natural flow sold to DNR and NRD's.

Under Legislative Findings, Nebraska Statute 46-703, "The Legislature further finds: (1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state; (2) Hydrologically connected ground water and surface water may need to be managed differently from unconnected ground water and surface water in order to permit equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies; . . . (4) The Legislature recognizes that ground water use or surface water use in one natural resources district may have adverse affects on water supplies in another district or in an adjoining state. The Legislature intends and expects that each natural resources district within which water use is causing external impacts will accept responsibility for ground water management in accordance with the Nebraska Ground Water Management and Protection Act in the same manner and to the same extent as if the impacts were contained within that district; . . ."

According to NE Stat. 46-715, the Integrated Management Plan (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. Based on indications from model runs that provide inflow values for Enders Reservoir, streamflows will continue to decline even with 20% reduction in pumping and average hydrologic conditions.

REALITY

Republican River Compact overall allocations for Republican River waters are Nebraska 49.0%, Kansas 39.7% and Colorado 11.3%. Nebraska groundwater pumping is currently causing over 80% of the depletion to the streamflows in the Basin. As long as the

groundwater depletion is at this or near this percentage level, significant surface water will be needed to offset Nebraska's groundwater depletion and to achieve Compact Compliance. The deficit offset is likely to be as much as 60,000 to 75,000 acre-feet per year.

It is obvious to Reclamation that the 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 current levels or even a 20% reduced levels 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 to maintain long term 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.

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. Although Colorado has been slow to act it now appears that they are in the process of making significant reductions in its groundwater use to achieve Compact compliance. Reclamation agrees that long-term Compact compliance can only be achieved through significant reductions in groundwater use in Nebraska and Colorado.

EXPECTATIONS

The Bureau of Reclamation expects the water rights associated with the authorized Federal multipurpose projects that were 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. With the exception of wet periods, Reclamation does not believe that the IMP proposed by the URNRD and DNR will result in Nebraska meeting long-term Compact Compliance. Reclamation requests action by the NRDs and the State of Nebraska to place further and sufficient restriction on groundwater pumping that will allow streamflows to recover, provide equity among water users, and assist Nebraska in achieving Compact compliance.

SPECIFIC COMMENTS

1. Reclamation believes that any waters that appear as streamflow is subject to storage and surface water use in accordance with Nebraska surface water statutes.
2. It's not clear how credits and benefits from streamflow augmentation projects will be calculated.

3. Proposed IMP does not address improving long-term surface water flows nor make up existing deficits. Improved surface water flows will be needed to achieve long-term compliance.
4. Reclamation has not seen data for other areas but the data for Enders indicated that inflows will continue to decline with average pumping reductions of 20%, therefore the long-term surface water supplies will be unavailable for use or augmentation. Other reservoir inflows are likely to be similar.
5. The URNRD's current pumping volumes are near 20% reduction from the 98-02 baseline volumes discussed in the IMP. Reductions may need to be higher to improve surface water supplies and achieve long-term compliance. Nebraska has been out of compliance since 2003 and surface water supplies have continued to decline.
6. It is difficult to understand the URNRD's practice of allowing carryover to future years of any unused allocation when there are pumping limits associated with the proposed plan.
7. Under B, Objectives #4 - How would the additional reductions be determined when the accounting computations are not available until after the year is over? What reductions would be required when not in a water short year designation but Nebraska is out of compliance with the Compact?
8. 1st Paragraph Ground Water Controls - Reclamation believes that basin-wide reductions must be made to obtain long-term compliance. Reductions in quick-response areas may be effective for short-term compliance help.

CONCLUSION AND FINAL STATEMENT

Due to the reduced streamflow in the URNRD, surface irrigators and their water rights have been adversely affected by receiving inadequate water supplies far less than what was expected from the Federal projects. The reduced water deliveries have significantly reduced the economic benefits provided by the projects. Other impacts associated with reduced streamflows result in reduced reservoir levels which negatively impacts the recreational and fish and wildlife benefits associated with these projects.

I would like to note that Paragraph IV of the 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.

Of grave concern is goal number 5 as stated in the draft IMP. Goal number 5 states "Reserve any streamflow available from regulation, incentive programs, and purchased or leased surface water required to maintain compact compliance from any use that would negate the benefit of such regulations or programs." The Federal reservoirs and surface

water irrigators have a severely diminished water supply. The interpretation that has to be assumed from Goal number 5 is there never will be an improved, restored surface water supply. This is not consistent with Nebraska Statute 46-703 and is not acceptable to Reclamation. It needs to be noted that the most senior water rights in the basin are the surface water rights that are currently not being provided "equity among water users" and with Goal number 5, will not be in the future.

In conclusion, Reclamation is fully supportive of the Federal projects and 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. Reclamation requests action by the NRDs and the State of Nebraska to protect and restore streamflows and inflows to the reservoirs, provide equity among water users, and assist Nebraska to achieve Compact compliance.



Aaron M. Thompson, Area Manager



United States Department of the Interior

BUREAU OF RECLAMATION
Nebraska Kansas Area Office
McCook Field Office
1706 West 3rd Street
McCook, NE 69001



IN REPLY REFER TO:

NK-100
WTR-4.11

Department of Natural Resources
301 Centennial Mall South
P.O. Box 94676
Lincoln, NE 68509-4676

Subject: Written Testimony, Middle Republican Natural Resources District (MRNRD)
Public Hearing

Dear Sir:

Enclosed is the written testimony of the Bureau of Reclamation, Nebraska-Kansas Area Office, submitted for the public hearing records as conducted by the MRNRD regarding the proposed Integrated Management Plan (IMP) for the MRNRD and the Nebraska Department of Natural Resources. Specific comments concerning the draft IMP are included as part of the above referenced testimony.

Thank you for the opportunity to provide testimony. If you have any questions, please contact me at the above address or telephone 308-389-5300.

Sincerely,

Aaron M. Thompson
Area Manager

Enclosure

cc: Ann Bleed, Director
Nebraska Department of Natural Resources
P.O. Box 94676
Lincoln, NE 68509-4676

Continued on next page.

KAN. EXHIBIT 79
Kan. v. Neb & Colo. No. 126, Orig.
Arbitration Initiated 10/21/08

Subject: Written Testimony, Middle Republican Natural Resources District (MRNRD)
Public Hearing

cc: Continued from previous page..

Kenneth Nelson, Chairman
Irrigation Project Reauthorization Council
P.O. Box 165
Courtland, KS 66939-0165

Lee Orton, Attorney at Law
1233 Lincoln Mall, Suite 201
Lincoln, NE 68508

Mike Delka, Manager
Bostwick Irrigation District in Nebraska
P.O. Box 446
Red Cloud, NE 68970-0446

Roy Patterson, Superintendent
Frenchman-Cambridge Irrigation District
P.O. Box 116
Cambridge, NE 69022

Don Felker, Manager
Frenchman-Valley and H&RW Irrigation Districts
P.O. Box 297
Culbertson, NE 69024

bc: GP-1000 (Mike Ryan)
GP-4600 (Gordon Aycock/Scott Guenther)
NK-100 (Steve Ronshaugen)
NK-200 (Judy O'Sullivan)
NK-300 (Mike Kube)
NK-400 (Marv Swanda)
w/enclosure to all

WBR:AThompson:lconway:01-08-2008:308-389-5300:NK-100
M:Marv Swanda\1-08-2008MRNRD Cover Letter.doc

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

Regarding Proposed Integrated Management Plan for the
Middle Republican Natural Resources District

January 8, 2008

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 2003 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. The natural flow rights associated with the Federal projects have priority dates that vary from 1890 to 1954 and numerous small rights with later priority dates. An increase in groundwater wells in the Basin, for irrigation development, became particularly evident in the late 1960's. The development of these wells has significantly impacted the water supply for the Federal projects.

On May 26, 1998, Kansas 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. In 2000 the Supreme Court ruled 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. A Stipulated Settlement was reached and approved by the Court in May 2003. This Stipulated Settlement established general terms governing the settlement, Compact accounting, and additional administration requirements.

In 2007, the NRD Coalition signed agreements with several irrigation districts to lease portions of their water supplies to assist with Nebraska's Compact Compliance. Due to current pending litigation it is uncertain when or if payment will be made to these irrigation districts. This uncertainty could negatively affect the irrigation districts and Reclamation's willingness to enter into similar agreements in the future.

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 accounting procedure relating to reservoir storage was also changed such that water stored in Federal reservoirs is not counted as part of the basin Computed Water Supply (CWS) until it is released from the reservoir. Water released from Federal reservoirs becomes CWS subject to allocation, only after it is either diverted for use or flows by a Compact gage. This CWS, is allocated among the three states according to the terms of the Compact. Since Nebraska receives the largest allocation of the CWS, the release of stored water for diversion and use by Nebraska irrigation districts is generally beneficial to Nebraska's Compact compliance. This release of stored water increases Nebraska's Compact allocation by an amount that exceeds the resulting consumptive use assigned to Nebraska. This results in a net positive contribution to Nebraska's Compact compliance. On the other hand, pumping of groundwater in Nebraska results in an increase to Nebraska's allocation that is less than the increase in consumptive use that results from the groundwater use. Because of the large percentage of basin groundwater used by Nebraska, these groundwater depletions have resulted in significant Compact compliance deficits for Nebraska.

CURRENT CONDITIONS

For the 1998-2002 baseline period, Nebraska's total annual allocation averaged 288,000 acre-feet/year. The Compact accounting for 2003 through 2006, show Nebraska's annual allocation has averaged 205,000 acre-feet and Nebraska's annual use has averaged 250,000 acre-feet, resulting in Nebraska's computed beneficial consumptive use exceeding its allocation. This deficit corresponds with the reduction in surface water supplies in the basin. Nebraska is currently using about 75% of the total water being used in the basin while it is allocated only about 56% of the total CWS. This has created the deficits ranging from about 25,000 to 40,000 acre-feet annually since Compact Settlement accounting was initiated.

CONCERNS

Reclamation is very concerned with Nebraska's failure to meet Compact compliance. Reclamation is even more concerned about the continuing depletion of inflows to the Federal reservoirs. Federal projects were constructed based on the concept that project surface water rights would be protected. Prior to construction of the Federal Dams, a Definite Plan Report (DPR) was prepared by Reclamation. The following table shows the average flows that were included in the DPR compared to the actual flows experienced since 1956. The table depicts the historic decline of inflows since the projects were first developed. Of specific concern is the inflow decline over the last 20 year period. This decline cannot be attributed to a decline in precipitation. The average precipitation occurring at the Republican River Compact Administration precipitation

stations for the 1986-2005 period was 20.98 inches, which is 103% of the 1918-2005 average.

RESERVOIR INFLOW COMPARISONS - Acre-Feet

RESERVOIR	DPR AVERAGE	20 Yr. AVERAGE 1956-1975	20 Yr. AVERAGE 1986-2005	5 Yr. AVERAGE 2001-2005	ACTUAL 2006
SWANSON	115,300	102,000	45,000	17,700	12,000
HUGH BUTLER	19,300	22,900	15,300	10,600	8,500
HARRY STRUNK	56,800	55,600	38,200	31,300	27,000
HARLAN COUNTY	359,000	309,000	146,700	67,100	30,000
TOTALS	550,400	489,500	245,200	126,700	77,500
Percentage of DPR		89%	45%	23%	14%

Reduced surface water supplies have caused project water deliveries, throughout the Basin, to decline over the last 40 years. Activities in the MRNRD directly impact the water supply for several canals associated with Federal projects in the Basin. Declines of return flows from these canals has reduced supplies to downstream Federal projects. The following table indicates the canal deliveries for several time periods showing a progressive decline in water deliveries to the farms.

WATER DELIVERIES - INCHES/ACRE

	CULBERTSON CANAL	CULBERTSON EXTENSION CANAL	MBECKER- DRIFTWOOD CANAL	RED WILLOW CANAL	BARTLEY CANAL
1966-1975	16.8	14.6	16.8	13.7	15.9
1976-1985	13.5	7.9	13.5	12.7	13.6
1986-1995	12.4	5.1	12.4	12.5	10.7
1996-2005	7.1	2.7	7.1	7.1	6.1
2006	0.0*	0.0	0.0	0.0	4.9
2007	0.0*	0.0	0.0	0.0	0.0

* No storage water delivered; natural flow sold to DNR and NRD's.

Under Legislative Findings, Nebraska Statute 46-703, "The Legislature further finds: (1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state; (2) Hydrologically connected ground water and surface water may need to be

managed differently from unconnected ground water and surface water in order to permit equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies; . . . (4) The Legislature recognizes that ground water use or surface water use in one natural resources district may have adverse affects on water supplies in another district or in an adjoining state. The Legislature intends and expects that each natural resources district within which water use is causing external impacts will accept responsibility for ground water management in accordance with the Nebraska Ground Water Management and Protection Act in the same manner and to the same extent as if the impacts were contained within that district; . . ."

According to NE Stat. 46-715, the Integrated Management Plan (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.

REALITY

Republican River Compact overall allocations for Republican River waters are Nebraska 49.0%, Kansas 39.7% and Colorado 11.3%. Nebraska groundwater pumping is currently causing over 80% of the depletion to the streamflows in the Basin. As long as the groundwater depletion is at this at or near this percentage level, significant surface water will be needed to offset Nebraska's groundwater depletion and to achieve Compact Compliance. The deficit offset is likely to be as much as 60,000 to 75,000 acre-feet per year.

It is obvious to Reclamation that the 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 current levels or even a 20% reduced levels 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 of maintaining long term compliance. Storage water use during normal operations by the irrigation districts improves the chances of Compact compliance as this increases the total CWS allocated to Nebraska by more than the accounted consumptive use charged to Nebraska.

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. Although Colorado has been slow to act it now appears that they are in the process of making significant reductions in its groundwater use to achieve Compact compliance. Reclamation agrees that long-term Compact compliance can only be achieved through significant reductions in groundwater use in Nebraska and Colorado.

EXPECTATIONS

The Bureau of Reclamation expects the water rights associated with the authorized Federal multipurpose projects located 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. With the exception of wet periods, Reclamation does not believe that the IMP proposed by the MRNRD and DNR will result in Nebraska meeting long-term Compact Compliance. Reclamation requests action by the NRDs and the State of Nebraska to place further and sufficient restriction on groundwater pumping that will allow streamflows to recover, provide equity among water users, and assist Nebraska in achieving Compact compliance.

SPECIFIC COMMENTS

1. Reclamation believes that any waters that appear as streamflow is subject to storage and surface water use in accordance with Nebraska surface water statutes and existing water rights.
2. It's not clear how credits and benefits from streamflow augmentation projects will be calculated.
3. Proposed IMP does not address the need to improve long-term surface water flows, make up existing deficits or provides for long term compact compliance. Improved surface water flows will be needed to achieve long-term compliance.
4. Reclamation has not seen data for other reservoirs in the Republican River Basin but the data for Enders Reservoir indicated that inflows will continue to decline even with an average pumping reduction of 20%. As a result long-term surface water supplies will continue to decline eventually reaching a point where they are unavailable for use or to provide augmentation. Other reservoir inflows are likely to decline in a similar manner.
5. The MRNRD's goal to achieve an average 20% reduction in the pumping volume from the 98-02 baseline volumes is discussed in the IMP. Reductions need to be higher to improve surface water supplies and achieve long-term compliance. Nebraska has been out of compliance since 2003 and surface water supplies have continued to decline.
6. It is difficult to understand the MRNRD's practice of allowing carryover to future years of any unused allocation when there are pumping limits associated with the proposed plan.
7. Under B, Objectives #5 - How would the additional reductions be determined when the accounting computations are not available until after the year is over? What reductions would be required when not in a water short year designation but Nebraska is out of compliance with the Compact?
8. 1st Paragraph Ground Water Controls— Reclamation believes that basin-wide reductions must be made to obtain long-term compliance. Reductions in quick-response areas may be effective to help with short-term compliance but this will not provide long-term compliance.

CONCLUSION AND FINAL STATEMENT

Due to the reduced streamflow in the MRNRD, surface irrigators and their water rights have been adversely affected by receiving inadequate water supplies far less than what was expected from the Federal projects. The reduced water deliveries have significantly reduced the economic benefits provided by the projects. Another impact associated with reduced streamflows is reduced reservoir levels which negatively impacts the recreational and fish and wildlife benefits associated with these projects.

I would like to note that Paragraph V of the Integrated Management Plan 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 are essential to provide not only irrigation benefits, but also significant recreation and fish and wildlife benefits to the area.

Of grave concern is goal number 4 as stated in the draft IMP. Goal number 4 states: "Reserve any streamflow available from regulation or supplemental programs, enacted or implemented to maintain compact compliance from any use that would negate the benefit of such regulations or programs." The Federal reservoirs and surface water irrigators have a severely diminished water supply. The interpretation that has to be assumed from Goal number 4 is that there never will be an improved, restored surface water supply. This is not consistent with Nebraska Statute 46-703 and is not acceptable to Reclamation. It needs to be noted that the most senior water rights in the basin are the surface water rights that are currently not being provided "equity among water users" and with Goal number 4, will not be in the future.

In conclusion, Reclamation is fully supportive of the Federal projects and these projects continuing 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. Reclamation requests action by the NRDs and the State of Nebraska to protect and restore streamflows and inflows to the reservoirs, provide equity among water users, and assist Nebraska to achieve Compact compliance.



Aaron M. Thompson, Area Manager



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

BUREAU OF RECLAMATION NEBRASKA-KANSAS PROJECTS McCook, Nebraska		
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470.0		
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Action Completed By: <i>[Signature]</i>		
<i>RO</i>		<i>1-23-08</i>
Initials		Date

IN REPLY REFER TO:

NK-100
WTR-4.00

JAN 15 2008

Lower Republican Natural Resources District
706 2nd Street
Alma, NE 68920

Subject: Written Testimony, Lower Republican Natural Resources District (LRNRD)
Public Hearing

Dear Sir:

Enclosed is the written testimony of the Bureau of Reclamation, Nebraska-Kansas Area Office submitted for the public hearing records as conducted by the LRNRD regarding the proposed Integrated Management Plan (IMP) for the LRNRD and the Nebraska Department of Natural Resources. Specific comments concerning the draft IMP are included as part of the above-referenced testimony.

Thank you for the opportunity to provide testimony. If you have any questions, please contact me at the above address or telephone 308-389-5300.

Sincerely,

[Signature]
Aaron M. Thompson
Area Manager

Acting For

Enclosure

cc: Ann Bleed, Director
Nebraska Department of Natural Resources
P. O. Box 94676
Lincoln, NE 68509-4676

Lee Orton, Attorney at Law
1233 Lincoln Mall, Suite 201
Lincoln, NE 68508

Mike Delka, Manager
Bostwick Irrigation District in Nebraska
P.O. Box 446
Red Cloud, NE 68970-0446

Roy Patterson, Superintendent
Frenchman-Cambridge Irrigation District
P.O. Box 116
Cambridge, NE 69022

Don Felker, Manager
Frenchman-Valley and H&RW Irrigation Districts
P.O. Box 297
Culbertson, NE 69024
w/enclosure to all

bc: GP-1000 (Mike Ryan)
GP-4600 (Gordon Aycack/Scott Guenther)
NK-200 (Judy O'Sullivan)
NK-300 (Mike Kube)
NK-400 (Mary Swanda)
w/enclosure to all

WBR:SFRonshaugen:treichert:1/15/08:308-389-5304
TransmittalLtrWRittenTestimonyLRNRD1152008.doc WTR-4.00

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

**Regarding the Lower Republican Natural Resources District Ground Water
Management Rules and Regulations and Integrated Management Plan**

January 15, 2008

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 2003 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. The natural flow rights associated with the Federal projects have priority dates that vary from 1890 to 1954 and numerous small rights with later priority dates. An increase in groundwater wells in the Basin, for irrigation development, became particularly evident in the late 1960's. The development of these wells has significantly impacted the water supply for the Federal projects.

On May 26, 1998, Kansas 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. In 2000 the Supreme Court ruled 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. A Stipulated Settlement was reached and approved by the Court in May 2003. This Stipulated Settlement established general terms governing the settlement, Compact accounting, and additional administration requirements.

In 2007, the NRD Coalition signed agreements with several irrigation districts to lease portions of their water supplies to assist with Nebraska's Compact Compliance. Due to current pending litigation it is uncertain when or if payment will be made to these irrigation districts. This uncertainty could negatively affect the irrigation districts and Reclamation's willingness to enter into similar agreements in the future.

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 accounting procedure relating to reservoir storage was also changed such that water stored in Federal reservoirs is not counted as part of the basin Computed Water Supply (CWS) until it is released from the reservoir. Water released from Federal reservoirs becomes CWS subject to allocation, only after it is either diverted for use or flows by a Compact gage. This CWS is allocated among the three states according to the terms of the Compact. Since Nebraska receives the largest allocation of the CWS, the release of stored water for diversion and use by Nebraska irrigation districts is generally beneficial to Nebraska's Compact compliance. This release of stored water from Reclamation projects increases Nebraska's Compact allocation by an amount that exceeds the resulting consumptive use assigned to Nebraska. This results in a net positive contribution to Nebraska's Compact compliance. On the other hand, pumping of groundwater in Nebraska results in an increase to Nebraska's allocation that is less than the increase in consumptive use that results from the groundwater use. Because of the large percentage of basin groundwater used by Nebraska, these groundwater depletions have resulted in significant Compact compliance deficits for Nebraska.

CURRENT CONDITIONS

For the 1998-2002 baseline period, Nebraska's total annual allocation averaged 288,000 acre-feet/year. The Compact accounting for 2003 through 2006, show Nebraska's annual allocation has averaged 205,000 acre-feet and Nebraska's annual use has averaged 250,000 acre-feet, resulting in Nebraska's computed beneficial consumptive use exceeding its allocation. This deficit corresponds with the reduction in surface water supplies in the basin. Nebraska is currently using about 75% of the total water being used in the basin while it is allocated only about 56% of the total CWS. This has created the deficits ranging from about 25,000 to 40,000 acre-feet annually since Compact Settlement accounting was initiated.

CONCERNS

Reclamation is very concerned with Nebraska's failure to meet Compact compliance. Reclamation is even more concerned about the continuing depletion of inflows to the Federal reservoirs. Federal projects were constructed based on the concept that project surface water rights would be protected. Prior to construction of the Federal Dams, a Definite Plan Report (DPR) was prepared by Reclamation. The following table shows the average flows that were included in the DPR compared to the actual flows experienced since 1956. The table depicts the historic decline of inflows since the projects were first developed. Of specific concern is the inflow decline over the last 20 year period. This decline cannot be attributed to a decline in precipitation. The average precipitation occurring at the Republican River Compact Administration precipitation

stations for the 1986-2005 period was 20.98 inches, which is 103% of the 1918-2005 average. The only Federal reservoir located in the LRNRD is Harlan County Lake.

RESERVOIR INFLOW COMPARISONS -- Acre-Feet

RESERVOIR	DPR AVERAGE	20 Yr. AVERAGE 1986-2005	7 Yr. AVERAGE 2001-2007
SWANSON	115,300	45,000	17,500
ENDERS	55,100	16,200	7,400
HUGH BUTLER	19,300	15,300	11,600
HARRY STRUNK	56,800	38,200	35,900
HARLAN COUNTY	359,000	146,700	80,600
TOTALS	605,500	261,400	153,000
Percentage of DPR		43%	25%

Activities in the LRNRD directly impact the water supply for several canals associated with Federal projects in the Basin. Reduced surface water supplies have caused project water deliveries, throughout the Basin, to decline over the last 40 years. Water deliveries have been far below the levels that were expected when the projects were planned. The following table indicates the canal deliveries for several time periods showing a progressive decline in water deliveries to the farms. It should be noted that the lands within Bostwick Irrigation District in Nebraska have not received storage water from Harlan County Lake since 2003. Project lands on the Cambridge Canal of the Frenchman-Cambridge Irrigation District and within the Kansas Bostwick Irrigation District have also experienced declines in water deliveries.

WATER DELIVERIES -- INCHES/ACRE

	FRANKLIN CANAL	NAPONEE CANAL	FRANKLIN PUMP CANAL	SUPERIOR CANAL	COURTLAND CANAL (NE)	COURTLAND CANAL (KS)
1966-1975	13.9	15.8	11.9	14.8	10.5	10.5
1976-1985	12.4	13.2	11.3	13.2	9.6	11.0
1986-1995	10.3	9.7	9.7	10.0	7.5	8.9
1996-2005	8.3	7.7	8.1	9.2	8.0	10.5
2006-2007	0.0*	0.0*	0.0*	0.0*	0.0*	6.3

* Limited water supply -- water purchased by State of Nebraska.

Under Legislative Findings, Nebraska Statute 46-703, "The Legislature further finds: (1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state; (2) Hydrologically connected ground water and surface water may need to be managed differently from unconnected ground water and surface water in order to permit equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies; . . . (4) The Legislature recognizes that ground water use or surface water use in one natural resources district may have adverse affects on water supplies in another district or in an adjoining state. The Legislature intends and expects that each natural resources district within which water use is causing external impacts will accept responsibility for ground water management in accordance with the Nebraska Ground Water Management and Protection Act in the same manner and to the same extent as if the impacts were contained within that district; . . ."

According to NE Stat. 46-715, the Integrated Management Plan (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.

REALITY

Republican River Compact overall allocations for Republican River waters are Nebraska 49.0%, Kansas 39.7% and Colorado 11.3%. Nebraska groundwater pumping is currently causing over 80% of the depletion to the streamflows in the Basin. As long as the groundwater depletion is at this or near this percentage level, significant surface water will be needed to offset Nebraska's groundwater depletion and to achieve Compact Compliance.

It is obvious to Reclamation that the use of available storage water from the Federal projects by irrigation districts is beneficial to Nebraska's Compact compliance. Basin wide pumping at the current levels or even at the proposed reduced levels 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 of maintaining long term compliance. Storage water use during normal operations by the irrigation districts improves the chances of Compact compliance as this increases the total CWS allocated to Nebraska by more than the accounted consumptive use charged to Nebraska.

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. Reclamation agrees that long-term Compact compliance can only be achieved through significant basin wide reductions in groundwater use.

EXPECTATIONS

The Bureau of Reclamation expects the water rights associated with the authorized Federal multipurpose projects located in the Republican River Basin, be protected by Nebraska Department of Natural Resources and the Natural Resources Districts. Reclamation expects to continue to operate the Federal projects for their authorized purposes. With the exception of wet periods, Reclamation does not believe that the IMP's proposed by the Natural Resources Districts and DNR will result in Nebraska meeting long-term Compact Compliance. Reclamation requests action by the NRDs and the State of Nebraska to place further and sufficient restriction on groundwater pumping that will allow streamflows to recover, provide equity among water users, and assist Nebraska in achieving Compact compliance.

SPECIFIC COMMENTS

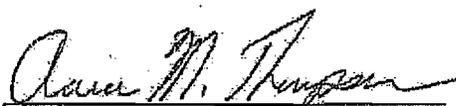
1. It is not clear how credits and benefits from streamflow augmentation projects will be calculated.
2. Proposed IMP does not address the need to improve long-term surface water flows, make up existing deficits or provides for long term compact compliance. Improved surface water flows will be needed to achieve long-term compliance.
3. Reclamation has not seen data for other reservoirs in the Republican River Basin, but the data for Enders Reservoir indicated that inflows will continue to decline even with pumping reductions at the proposed levels. As a result, long-term surface water supplies will continue to decline eventually reaching a point where they are unavailable for use or to provide augmentation. Other reservoir inflows are likely to decline in a similar manner.
4. Reductions may need to be higher to improve surface water supplies and achieve long-term compliance. Nebraska has been out of compliance since 2003 and surface water supplies have continued to decline.
5. It is difficult to understand the LRNRD's practice of allowing carryover to future years of any unused allocation when there are pumping limits associated with the proposed plan. This could allow an additional 2 to 3 inches to the 9 inch allocation. 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.

CONCLUSION AND FINAL STATEMENT

Due to the reduced streamflow in the LRNRD, surface irrigators and their water rights have been adversely affected by receiving inadequate water supplies far less than what was expected from the Federal projects. It needs to be noted that the most senior water rights in the basin are the surface water rights that are currently not being provided equity among water users. This is not consistent with Nebraska Statute 46-703 and is not acceptable to Reclamation. The reduced water deliveries have significantly reduced the economic benefits provided by the projects.

Another impact associated with reduced streamflows is reduced reservoir levels which negatively impact the recreational and fish and wildlife benefits associated with these projects. I would like to note that goal number 3 of the Integrated Management Plan states "To sustain a balance between water uses and water supplies within the District so that the economic viability, social and environmental health, safety, and welfare of the District can be achieved and maintained for both the near term and the long term." Sustained surface water inflows to the Federal reservoirs are essential to provide not only irrigation benefits, but also significant recreation and fish and wildlife benefits to the area. Reclamation is encouraged by the LRNRD's efforts to reduce groundwater pumping within their District.

In conclusion, Reclamation is fully supportive of the Federal projects and these projects continuing 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. Reclamation requests action by the NRDs and the State of Nebraska to protect and restore streamflows and inflows to the reservoirs, provide equity among water users, and assist Nebraska to achieve Compact compliance.


Aaron M. Thompson, Area Manager

7-159GB (9-8)
Bureau of Reclamation



IN REPLY REFER TO
NK-100
WTR-4.00 RR

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

JAN 10 2008

Mr. Justin D. Lavene
Assistant Attorney General
Office of the Attorney General
2115 State Capitol
Lincoln, NE - 68509

Subject: Republican River Surface Water Purchases

Dear Mr. Lavene:

The following information is being provided in response to your request at the October 4, 2007, meeting concerning the process and authorities that may be available to allow the Republican River Natural Resource Districts (NRDs) or the Nebraska Department of Natural Resources (DNR) to purchase Reclamation project water to aid in Compact compliance by the State of Nebraska.

Based on a review of Reclamation policy and project authorities, a temporary sale or lease of project surface water may be made by the irrigation districts and Reclamation to the DNR or NRDs for the purpose of increasing streamflow below Guide Rock Diversion Dam to aid in Compact compliance by the State of Nebraska. Reclamation approval would be required for any such arrangements. This process requires that our Districts are not harmed. There are a number of details concerning the contracting, environmental clearance, and approval processes that would need to be worked through. Enclosed for your information is a copy of Reclamation Manual Policy WTR PO2 - Voluntary Transfers of Project Water.

The contracting, environmental, and approval process is estimated to be less than six months for a one-year temporary transfer involving less than 10,000 acre-feet of project water. Transfers that involve more than 10,000 acre-feet will require additional time for development of contract terms and conditions, environmental clearance, and approval delegation from the Commissioner's Office. It needs to be noted that the timing and source of the surface water to be transferred could make a significant difference in the environmental impacts as well as the effects to other projects, and other project purposes. The environmental clearance document would address these issues.

The following additional information is provided to confirm our position and understanding of the other surface water purchase issues discussed at the October 4, 2007, meeting in Lincoln:

OFFICIAL FILE COPY		
DATE	PERSON	CODE
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1/8	Hughson	Sandy
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Classification		
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Folder ID:		

KAN. EXHIBIT 82
Kan. v. Neb & Colo. No. 126, Orig.
Arbitration Initiated 10/21/08

1. Natural flow rights associated with the Frenchman Valley Irrigation District and Riverside Irrigation District are not Reclamation project water rights. Because of this, the water supply associated with these water rights is available for contracting directly from the respective districts (subject to mutual agreement between district and DNR/NRD) for aiding the State of Nebraska in achieving Compact compliance, whether used on Kansas Bostwick Irrigation District lands or as by-pass flows at Guide Rock.
2. The project water associated with Reclamation projects in Nebraska is available for lease or purchase on a temporary basis as accomplished in 2006 and 2007. Under this arrangement, the water purchased or leased from the respective districts (subject to mutual agreement between Reclamation, irrigation district(s), and DNR/NRD) for aiding the State of Nebraska in achieving Compact compliance would be limited for use only on the Kansas Bostwick Irrigation District lands. Limiting the use of the water to Kansas Bostwick Irrigation District lands significantly reduces the contracting, environmental, and approval process.
3. Any agreement for the purchase of Reclamation project water must be reached with all districts impacted by the planned purchase, with appropriate details shared with the State of Kansas as previously discussed.

It is important that you understand that Reclamation remains concerned that the State of Nebraska and the NRDs provide for "sustaining a balance between water uses and water supplies." We believe that protection and restoration of streamflows and inflows into the Federal reservoirs by reducing groundwater use is essential for equity among all water users, and to ensure that Nebraska achieve long-term Compact compliance. Purchase or lease of surface water should only be considered as a temporary aid in achieving Compact compliance during years of extreme water supply shortage. Reclamation is concerned if water is provided by Reclamation Districts in 2008, how will they be compensated given that they have not been fully reimbursed for the supplies provided in 2007?

If you have any questions, please contact me at 308-389-5300.

Sincerely,

AARON M. THOMPSON

Aaron M. Thompson
Area Manager

Enclosure

cc: Ms. Ann Bleed
Director of Natural Resources
PO Box 94676
Lincoln, NE 68509-4676

Lee Orton, Attorney
1233 Lincoln Mall, Suite 201
Lincoln, NE 68508

Don Blankenau, Attorney
206 South 13th Street, Suite 1400
Lincoln, NE 68508

Mike Clements, Manager
Lower Republican Natural Resources District
P.O. Box 618
Alma, NE 68920

Jasper Fanning, Manager
Upper Republican Natural Resources District
PO Box 1140
Imperial, NE 69033

Dan Smith, Manager
Middle Republican Natural Resources District
PO Box 81
Curtis, NE 69025
(All with enclosure)

bc: GP-3100 (LSmith)
GP-4800 (GAYcock, SGuenthner)
NK-100 (SHughson)
NK-300 (MKuba)
NK-400 (MSwanda)
(All with enclosure)

WBR:SFRonshaugen:treichert:1/8/08:308-389-5304
Lavene Request for Info.doc WTR 4.00

WTR.P02

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Policy

Subject: Voluntary Transfers of Project Water

Purpose: Provides for transfers of project water in accordance with State and Federal law and supplements and expands upon the December 16, 1988, *Principles Governing Voluntary Water Transactions That Involve or Affect Facilities Owned or Operated by the Department of the Interior*, issued by the Assistant Secretary - Water and Science.

Authority: Reclamation Act of 1902, and acts amendatory thereof and supplementary thereto.

Contact: Office of Policy, D-5000

1. **Introduction.** The Assistant Secretary - Water and Science approved *Principles Governing Voluntary Water Transactions That Involve or Affect Facilities Owned or Operated by the Department of the Interior* (the *1988 Principles*) dated December 16, 1988. The *1988 Principles* pertain, among other things, to transfers of project water involving projects owned by Reclamation. Within the framework provided by the *1988 Principles*, Reclamation has been, and continues to be, supportive of voluntary transfers and conversions of project water in accordance with State and Federal law from existing to new users and/or uses. This policy statement supplements and expands upon the *1988 Principles* insofar as those principles pertain to transfers of project water.
2. **Applicability.**
 - A. The *1988 Principles* and these policies apply to all transfers of project water except to the extent that such transfers are governed by legislation specific to a project and any rules and regulations, or other Reclamation guidance, promulgated pursuant to such legislation (e.g., transfers of project water made pursuant to the Central Valley Project Improvement Act and sales of water in the Colorado-Big Thompson Project). Furthermore, to the extent that a water service, repayment, or other type of contract in existence as of the date of these policies already governs the terms and conditions under which a project contractor and the end users thereof may make transfers of project water (e.g., existing provisions of Central Arizona Project contracts and provisions in existing contracts which allow for sub-contracts), then the following policies will apply only to the extent that the contract does not address matters covered by one or more of these policies. Finally, these policies will not supplant rules and guidelines for state water banks in existence as of the date of these policies. Generally speaking, proposals which satisfy the *1988 Principles* and the implementing policies set forth herein will be approved by Reclamation.
 - B. In addition, the *1988 Principles* and these policies will be applied by Reclamation when resolving situations in which transfers of project water have occurred

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inappropriately without Reclamation's prior approval; resulting in unauthorized users and/or uses of project water. Furthermore, Reclamation will apply these principles and policies to legislatively and judicially authorized or directed transfers of project water to the extent that such authorizations or directives leave Reclamation with the discretion to determine the terms of its approval of a transfer of project water.

- C. The level of Reclamation requirements will be evaluated on a case-by-case basis or as specified by contract. When appropriate, additional Regional guidance may be developed to supplement these policies and guidelines to address particular local circumstances.

3. **Definitions.** For the purposes of this policy:

- A. **Reclamation Project** means any project acquired or constructed pursuant to the authority of the Reclamation Act of 1902,¹ and all acts amendatory thereof and supplementary thereto. The term does not include projects constructed pursuant to the authority of the Small Reclamation Projects Act, as amended,² or to the Reclamation Wastewater and Groundwater Study and Facilities Act, as amended.³
- B. **WCUA Project** means any project acquired or constructed pursuant to the Water Conservation and Utilization Act of 1939, as amended (WCUA),⁴ and pursuant to the authority of the Interior Department Appropriation Act, 1940.⁵
- C. **Project** means both Reclamation projects and WCUA projects.
- D. **Project Water** means surface or ground water, including project return flows, which is pumped, diverted, and/or stored:
- (1) Based upon the exercise of water rights which have been appropriated or acquired by the United States or others, or which have been decreed, permitted, certificated, licensed, or otherwise granted to the United States or others, for a Reclamation project or a WCUA project, or
 - (2) Based upon a withdrawal or reservation of water from appropriation by the United States for a Reclamation project or a WCUA project, or

¹Act of June 17, 1902, ch. 1093, 32 Stat. 389.

²43 U.S.C. 422a.

³Title 16, P.L. 102-575.

⁴Act of Aug. 11, 1939, ch. 717, 53 Stat. 1418; 16 U.S.C. 590y-590z-10.

⁵Act of May 10, 1939, ch. 119, 53 Stat. 695, 719.

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- (3) In accordance with section 215 of the Reclamation Reform Act of 1982 (43 U.S.C. 390oo), or
 - (4) Based upon an act of Congress which allocated or apportioned water to a Reclamation project or a WCUA project.
- E. **Project Contractor** means any individual or entity which has a repayment or water service contract or other agreement with the United States that provides for the use of project water by such individual or entity.
- F. **End User** is an individual or entity which receives project water from a project contractor.
- G. **Change in the Type of Use** means a change from the historical beneficial use to which project water has been put to a different beneficial use, with project water being considered to have been changed from an existing irrigation use to another type of use only if the project water involved is no longer used to irrigate crops or any other vegetation or becomes a chemically treated, potable water supply.
- H. **Transfer of Project Water or Transfer** means:
- (1) Any transaction in which a project contractor leases or sells, on a temporary or permanent basis, all or a portion of the project water to which the project contractor is entitled:
 - (a) To another project contractor or other individual or entity which is located outside of the selling or leasing project contractor's boundaries (or, if the selling or leasing project contractor is an individual or entity which does not have legal boundaries, then outside of a project's service area), whether or not there is a change in the type of use of the project water involved, or
 - (b) To any individual or entity which is located within the selling or leasing project contractor's legal boundaries (or, if the selling or leasing project contractor is an individual or entity which does not have legal boundaries, then within a project's service area), when there is a change in the type of use of the project water involved.
 - (2) Any transaction in which an end user leases or sells, on a temporary or permanent basis, all or a portion of the project water to which the end user is entitled;

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- (a) To an individual or entity located outside of the legal boundaries of the project contractor within which the selling or leasing end user is located, whether or not there is a change in the type of use of the project water involved, or
 - (b) To an individual or entity which is located within the legal boundaries of the project contractor within which the selling or leasing end user is located, when there is a change in the type of use of the project water involved.
- (3) Any situation in which there is a change in the type of use, on a temporary or permanent basis, made of project water even though the change is effected without a lease or sale of project water from a project contractor and/or end user to another individual or entity (i.e., it is the project contractor and/or end user itself which continues to use project water, but converts it from the existing use to a new use).⁶

A "transfer of project water" is not synonymous with, and may or may not involve, a "change of water rights" or a "transfer of water rights" within the meaning of the applicable state's water laws. Whether or not any given transfer of project water will require a "change of water rights" or a "transfer of water rights" pursuant to a state's water laws and procedures will depend, among other things, upon the decreed or permitted place of use and type of use of project water rights as compared to the place of use and type of use to be made of project water as the result of a proposed transfer. Determinations in this regard will need to be made on a case-by-case basis, considering the facts of each case and the water laws of the pertinent state.

4. **Objectives Which Reclamation Seeks to Achieve.** Reclamation's overall objective is to facilitate voluntary transfers of project water between willing parties in a timely and economical manner pursuant to State and Federal law and in such a way that the Federal government is in no lesser financial position than it would have been had a transfer not occurred. In addition, Reclamation will, in such situations as it deems appropriate, encourage parties to undertake voluntary transfers of project water. However, Reclamation will not compel transfers unless so required by legislative directive or judicial decision.
5. **Policies.** Regardless of whether or not Reclamation owns the water rights for a project, and, when it does, regardless of the nature of Reclamation's ownership interest in such

⁶ Accordingly, when a project contractor or end user is itself the one who continues to use untreated, raw project water which is converted from the irrigation of commercial crops to the irrigation of other vegetation (including, but not limited to, lawns and ornamental shrubbery used in residential and commercial landscaping; gardens; golf courses, parks, and other developed recreational facilities, commercial nurseries, and pasture for animals raised only for personal pleasure and use), then such a conversion is not a "change in the type of use" of project water and is, therefore, not a "transfer of project water" subject to this policy.

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water rights, Reclamation has an interest in and legal responsibilities with respect to transfers of project water and the resulting uses of project water by virtue of: (i) Federal statutes which require that anyone receiving project water must have a contract with the Secretary of the Interior, (ii) Reclamation's obligations to ensure that uses of project water are in accordance with a project's individually authorized purposes or other generally authorized purposes, (iii) contracts which Reclamation has with existing project contractors, and (iv) Federal ownership of facilities. To effect these interests and legal responsibilities, proposed transfers of project water must be in accordance with the *1988 Principles* and the following policies.

- A. **Authorized Project Purposes.** A change in the type of use of project water may be made only if the new use is an authorized project purpose or is within the scope of the Sale of Water for Miscellaneous Purposes Act of 1920 (43 U.S.C. 521) or other applicable statute.
- B. **Reclamation Approval Requirements.** Transfers of project water will require Reclamation's approval, unless already provided for by statute, judicial decision, or a water service, repayment, or other form of contract in existence as of the date of these policies. Regardless of Reclamation's approval authority, either the transferrer or transferee, or sometimes both, depending upon the relevant circumstances, must have a contract with Reclamation for the delivery of project water. In addition, further implementing agreements may be required.
- C. **Protection of Project Purposes and Project Contractors.** Subject to compliance with, and evaluation of, analysis prepared pursuant to paragraph 5D, Reclamation will approve proposals for the transfer of project water as long as project purposes and operations and Reclamation's contractual obligations to others are protected. In addition to its public involvement procedures, when Reclamation receives a proposal to transfer project water it will, as appropriate, notify, consult with, and take into account the views of the other project contractors which receive project water from, and of any other entities which have assumed responsibility for the operation and maintenance of, the project involved before reaching a decision concerning such proposal.
- D. **Compliance With Federal Law.** In addition to complying with the Federal laws and contracts applicable to project service from the project involved, transfers of project water must also be in accordance with all other applicable Federal laws, including, but not limited to the National Environmental Policy Act and the Endangered Species Act, and must not impair the Secretary of the Interior's trust obligations to Native Americans.

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- E. **Compliance With State and Other Laws.** Transfers of project water must comply with all applicable State, Tribal, and local laws, including, but not limited to, those concerning the appropriation, diversion, storage, and use of water and changes of water rights.
- F. **Pricing of Project Water by Sellers and Lessors.** To the extent permitted by law, the seller or lessor of project water (either a project contractor or an end user) will be allowed to establish the price at which it will sell or lease project water to a buyer or lessee, with the proceeds of such sale or lease to be retained by the selling or leasing project contractor or end user.
- G. **Charges Payable to Reclamation for Transferred Project Water.** The individual or entity which will have a repayment or water service contract or other agreement with the United States for the use of project water after it has been transferred will be responsible for paying appropriate charges to Reclamation for the transferred project water.
- (1) At a minimum, the charges fixed by Reclamation for transferred project water will ensure that the Federal Government will be in no lesser financial position than it would have been had a transfer not occurred.
 - (2) When a transfer of project water involves a change in the type of use from irrigation to a different beneficial use, and the capital costs allocable to a project's irrigation purpose have not been repaid, subsidies associated with the provision of project water for irrigation purposes will not follow the transferred project water. Charges payable to Reclamation for transferred project water will be consistent with the new use to which the transferred water is put. On projects where contractual obligations for the repayment of construction costs allocable to irrigation purposes have been fulfilled, charges payable to Reclamation for the transferred project water will be negotiable. In either situation, Reclamation will not attempt to recapture the value of past subsidies in setting charges for transferred project water.
- H. **Disposition of Revenues Received by Reclamation.** Revenues received by Reclamation from the charges established pursuant to paragraph G above will be credited in accordance with the provisions of the authority under which the contract for the transfer of project water is made and the applicable policies in effect at the time.
- I. **Reallocation of Construction Costs.** It is not necessary to consider reallocation of project construction costs for short-term or temporary transfers of project water. Cost reallocation should only be considered if the transfer is permanent and then only on a

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case-by-case basis and in consultation with the Solicitor's Office and the Office of Policy.

- J. **Term of Contracts.** The term (i.e., duration) of contracts or assignments for the transfer of project water will be in accordance with the then applicable laws and policies on the terms of contracts, but the period should not exceed the remaining term of the repayment, water service, or other form of contract which is the source of the project water being transferred.

long-term agreement would need to identify the sources and uses planned for the purchased or leased water. This is needed for Reclamation to determine a basis and authority for the agreement, to allow for inclusion of irrigation districts associated with the contracting action, and to allow for the development of an appropriate environmental document. For instance, agreements limiting the use of purchased or leased water to that of irrigation of Reclamation project lands in Kansas has been previously accomplished with minimal time and costs involved in environmental clearance. Other planned uses, such as in-stream flow below Guide Rock, will require a more involved environmental evaluation. Please note it is a Reclamation requirement that the use planned for the purchased or leased water be a beneficial use under existing State statutes.

3. Any long-term agreement that involves the purchase of surface water for use in supplying additional water to Kansas will involve Harlan County Lake. The accounting, storage, and releases of water at Harlan County Lake require close coordination, consultation, and approval by the Corps of Engineers.

4. At this time, we believe that the term of a long-term agreement should not exceed five years. This would be consistent with a number of water management concepts in the Republican River basin that are also based on a five-year term. This is the base term established for Final Settlement Stipulation water use accounting in the basin, and it is also the term of the current revisions to the Integrated Management Plans recently adopted in the basin.

Reclamation believes the most likely available sources of supply of Reclamation project water to be purchased or leased on an annual basis under a long-term agreement are Harry Strunk Lake and Harlan County Lake. The upstream reservoirs simply do not currently have sufficient inflow to be a reliable source for planned, annual purchases under a long-term purchase agreement. Reclamation believes purchase or lease of Harlan County Lake storage water for release downstream will result in the need for additional reservoir inflow, prior to the next irrigation season, to avoid a subsequent "Water Short Year Administration" designation.

If you have any questions, or need additional information, please contact me at telephone 308-389-5300.

Sincerely,

AARON M. THOMPSON
Aaron M. Thompson
Area Manager

Enclosure

- cc: Dick Wolfe, PE, State Engineer, State of Colorado, Division of Water Resources,
1313 Sherman Street, Suite 818, Denver, CO 80203
David Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of
Agriculture, 109 SW 9th Street, 2nd Floor, Topeka, KS 66612-1280
Brian P. Dunnigan, P.E., Acting Director, Nebraska Department of Natural Resources,
PO Box 94676, Lincoln, NE 68509-4676
Colonel Roger Wilson, Jr., Corps of Engineers, Kansas City District, 700 Federal Building,
Room 844, 601 East 12th Street, Kansas City, MO 64106
(Each with enclosure)
- bc: GP-1000 (Mike Ryan)
GP-4500 (Gordon Aycock)
GP-3100 (Lynnette Smith)
Sollitor's Office (John Chaffin)
NK-400 (Marv Swanda)
(Each with enclosure)

Summary of Reclamation Process for General Contracting Actions
Prepared by Great Plains Region

1. Initiate Action
 - A. Contractor's Request - should identify issues
 - B. Review issues internally
 - (1) Water Rights
 - (2) Environmental Studies
 - (3) Field Office
 - (4) Solicitor
 - (5) Meet with Contractor - clarify issues
 - (6) Provide for notice in Federal register
2. Reclamation prepare internal documents
 - A. Review Authority
 - B. Review Delegations of Authority
 - C. Prepare request delegation of authority
 - D. Initiate National Environmental Policy Act, Endangered Species Act, Fish & Wildlife Coordination Act and National Historic Preservations Act
3. Preliminary Studies
 - A. Vary greatly depending on action.
 - B. New or renewal contracts may require
 - (1) Needs analysis
 - (2) Groundwater Studies
 - (3) Land Classification
4. Contract Negotiations
 - A. Following approval by Commissioner of Reclamation
 - B. Draft contract
 - C. Review internally including Field Solicitor
 - D. Submit draft contract to contractor before negotiation
 - E. Public Participation
 - (1) Federal Register Notice or include in the listing entitled "Quarterly Tabulation of Pending Contract Actions"
 - (2) Announce meeting in local press release at least a week in advance of Negotiations
 - (3) Provide copy of draft contract to interested parties requesting a copy
 - F. Prepare Meeting reports
 - G. Finalize draft contract

5. Complete Environmental Review and Documentation
 - A. NEPA, ESA, FWCA and NHPA
 - B. Initiate environmental documentation as soon as possible
 - C. Determine what actions are needed and prepare analysis
 - D. If required, coordinate with Fish and Wildlife Service
 - E. Consult with State Historic Preservation Officer on NHPA
 - F. Complete environmental documentation

6. Contract Approval
 - A. Submit contract to contractor for approval
 - B. Announce availability of contract for public review and comment for a period of 60 days