

From: [Marvin Swanda](#)
To: [Alice Johns](#); [Stephen Ronshaugen](#)
Subject: Compact Bill Rinne 0121
Date: Friday, December 09, 2011 10:48:52 PM
Attachments: [CompactB.doc](#)
Importance: High

** High Priority **

My suggestions.

BUREAU OF RECLAMATION

BRIEFING FOR: Deputy Commissioner William Rinne **DATE:** January 21, 2006

PUPOSE OF PAPER: Nebraska (NE) Compliance with the Republican River Compact: potential for challenge to Federal contracts and operations; and opportunity.

CURRENT STATUS: Compliance with Republican River compact is measured by a 5-year average, starting in 2003. Projected consumptive use for NE exceeds their allocation by a total of about 100,000 acre-feet for 2003 through 2005. Consumptive use as compared to allocation, for 2006 and 2007, must make up this difference for NE to comply. Starting in 2005, water-short year (two-year average) accounting also comes into effect if the projected irrigation supply from Harlan County Lake is less than 119,000 acre-feet in two consecutive years. The supply from Harlan County Lake, reported by Reclamation to the three states, was 4,700 acre-feet in 2005, and is projected to be 15,689 acre-feet in 2006. Reclamation continues to honor its contracts with districts and if districts wish to assist NE, to work with them and with NE to see what can be done and how we can help. Two districts are currently discussing proposals but they fall short of NE's anticipated need. NE is running out of time. Project surface water supplies are the only places for NE to get substantially more water for KS near term. Help is needed to avert conflict.

BACKGROUND: On May 26, 1998, Kansas filed a petition with the U.S. Supreme Court complaining that NE was using more than its share of the water of the Republican River. The United States participated as *amicus curiae*. A stay was granted to negotiate a settlement, and a final settlement agreement was filed with the Special Master on December 16, 2002. The settlement accounting includes impacts of groundwater pumping. On May 19, 2003 the U.S. Supreme Court filed a decree approving the Final Settlement Stipulation. In water-short years like 2006, Nebraska advises the other states and the United States by April 30 of measures Nebraska plans for that year and their anticipated water yield. Surface water is administered by the NE Department of Natural Resources under the prior appropriation doctrine, and ground water is administered by Natural Resources Districts under the correlative rights doctrine. Nebraska in 2005 adopted integrated management plans (IMPs) for surface and groundwater in the Republican basin to meet compact requirements. Reclamation testified at hearings indicating impacts to our Projects coinciding with increases in groundwater pumping. Current IMPs include groundwater allocations and incentive programs but lack measures to sustain a balance of surface and groundwater per LB962. NRDs recently sent a letter to the Governor to work to develop plan revisions for drought-year conditions if needed. They now recognize the necessity of surface water in water-short years and support incentive programs for surface water users.

RECOMMENDATION: Continue to offer assistance to irrigation districts and states, comply with state water laws and honor our contracts. If conflict between the Federal and State laws should arise, work with legal counsel to respond. Coordinate with the Corps on actions to assist, including approval of deviations to allow storage in flood pools at Harry Strunk Lake and Lovewell Reservoir. Look for solutions that address interests, avoid 3rd party impacts, and comply with law and applicable policy. Additional legal and policy help is needed now for flexible and timely assistance to the states and districts while avoiding bad precedent.

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