

From: [Swanda, Marvin R](#)
To: [Scott, Craig D](#)
Subject: FW: Frechman-Cambridge Petition on Over appropriation
Date: Friday, May 01, 2009 3:21:07 PM

From: JOHN.CHAFFIN@sol.doi.gov [<mailto:JOHN.CHAFFIN@sol.doi.gov>]
Sent: Friday, May 01, 2009 3:32 PM
To: Thompson, Aaron M; Swanda, Marvin R; Aycock, Gordon L; Erger, Patrick J
Subject: Frechman-Cambridge Petition on Over appropriation

Gentlemen:

I have reviewed the DNR denial of the F-CID petition for review of whether the Republican River Basin is fully appropriated or over appropriated. Very disappointing. In the back of my mind, I remember someone talking about a slight of hand by the legislature to get something out on the street to placate the agitators, but in reality was very limited in scope. The ORDER addresses whether an "interstate cooperative agreement" and an "interstate water compact" are synonymous and concludes that it was not the intent of the legislature for the terms to be interchangeable. I note that LB 962 uses the term "interstate water compact or decree or other formal state compact or agreement." That language can be used to support the conclusion of the DNR. It is very disappointing that DNR does not give some examples. The DNR Order appears to state the review provisions of a rather large statute only apply to the portion of the Platte. Without a deeper review into the legislative history and into the administrative law of Nebraska on arbitrary or capricious rulings, I can't say that the ruling is improper.

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