

From: [Swanda, Marvin R](#)
To: [Aycock, Gordon L](#)
Subject: Fw: IMP testimony
Date: Friday, June 04, 2010 4:07:46 PM
Attachments: [image003.jpg](#)
[The Reality of a water short year.docx](#)
[Testimony for IMPs rev 4.docx](#)

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Subject: IMP testimony

Attached is a draft of FCID's Testimony for the URNRD
I will need to modify it for the MRNRD.
Please provide comments.
I have also attached a water short year scenario and how I think it could play out.
This is not fiction.

Aaron and Marv,
I revised the scenario based on the 246 K AF in the IMP.
This makes it even more plausible.

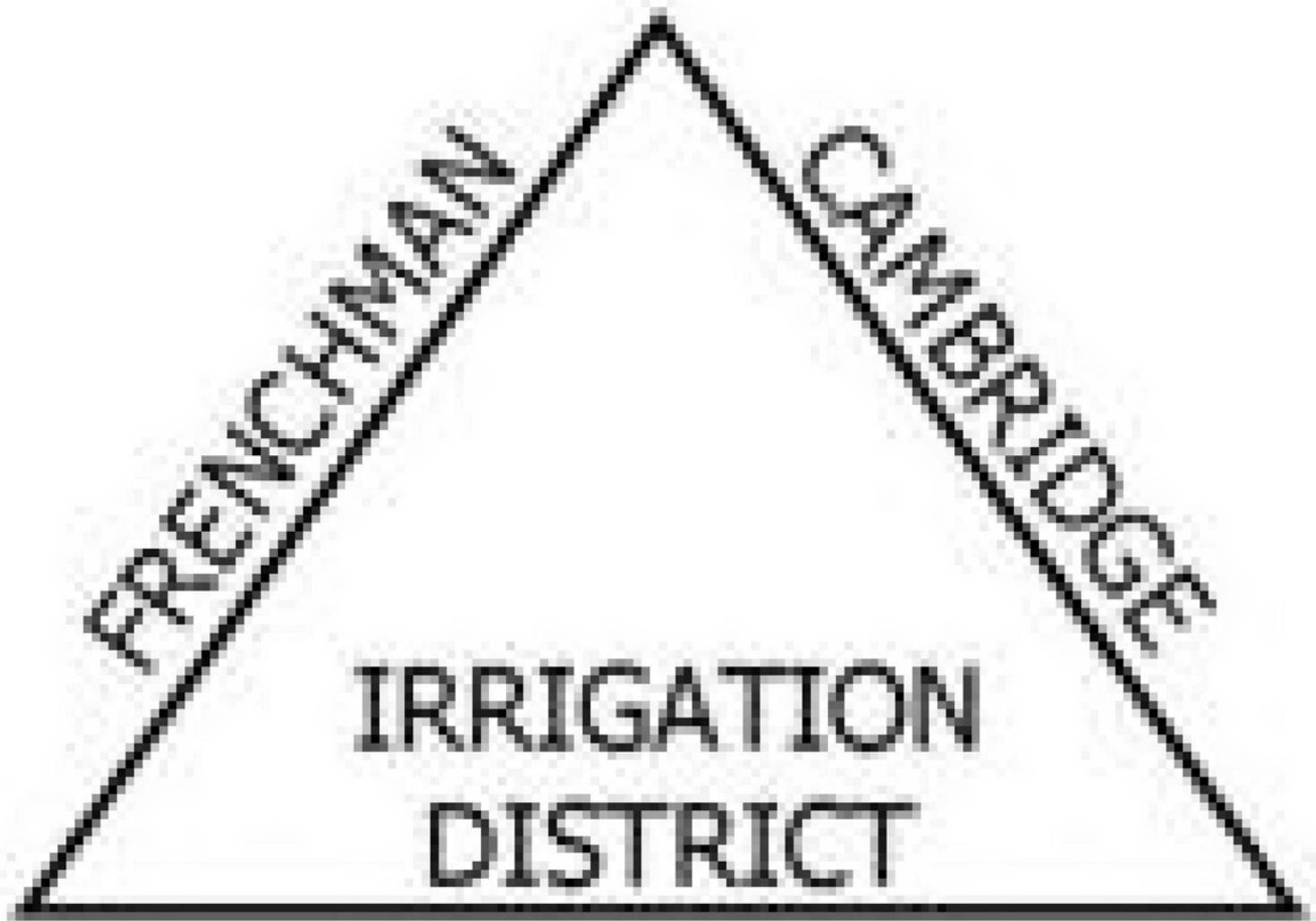
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Director Dunnigan and members of the Board of Directors for the URNRD, Thank you for the opportunity to offer comments on the Integrated Management plan that the Department and the NRD put before the water users and citizens of the Basin. I am here to offer comments on behalf of the Board of Directors for FCID.

This plan does have some potential to avoid most short term compact violations; however we do question the ability of Nebraska to comply in the long term.

As far as eliminating or reducing future conflicts between water users in the Basin this plan does nothing to address this and will more than likely only intensify the internal disputes among users? These disputes will cost money and valuable staff time for all parties involved. And more importantly will demonstrate to Kansas and the U.S. Supreme Court that Nebraska's water policies and integrated management is flawed and inept.

The core issues that needs resolved before this IMP can be successful is a clear understanding of whose responsible and to what degree. Dividing the water supply 44%, 30% and 26% between the 3 NRDs then requiring surface water appropriations to provide 51%(115,606 surface water acres) of the total (225,606) acres curtailed compared to the URNRDs 10% shut down is simply unacceptable.

Some of the short comings are with the goals and objectives.

1. Objectives #2: *Ensure administration of surface water appropriations in the Basin is in accordance with the Compact and Nebraska law and the surface water controls of this IMP;*

To my knowledge I don't believe there are any Federal laws within the Compact that requires Nebraska administer surface water in a particular manner; unless you are referring to the sub-basin allocations. Or perhaps you have this compact confused with other compacts around the United States. Mr. Dunnigan, I would recommend striking "the Compact and" from Objective number two.

2. Objectives #3: *Reduce existing ground water use within the URNRD by 20 from the 1998 – 2002 baseline pumping volumes under average precipitation conditions so that, when combined with stream flow augmentation and incentive programs, the URNRD's ground water depletions are maintained within 44% of Nebraska's allowable ground water depletions as computed through the use of the RRCA ground water model;*

This Objective really hammers home my argument that these IMPs cannot be successful! First pumping volume that occurred in 1998 – 2002 represents depletions to the stream sometime in the future. The true measure of success should be calculated by the water diverted from the stream due to ground water pumping. The depletions that occurred in the base-line period more than likely are from pumping that occurred during the 1980s; this is the level of pumping that should be considered for the base-line. Cut backs from this level may actually accomplish some of the goals and objects.

Objective # 3 really says: the URNRD will fail unless we have augmentation within the Lower Republican NRD and surface leases with Frenchman Cambridge and Bostwick. Without the ability to buy a quick fix downstream the URNRD doesn't have a chance to comply with the IMP.

The allowable ground water depletions is the allocation left after all the surface water consumptive use is accounted for, yet Nebraska says we have to reduce surface water depletions totally so the allowable GW depletions are at the maximum level in water short years. And only then will the NRDs have a chance to comply with the IMPs and Nebraska can comply with the compact. I am sure Kansas and the U.S. Supreme Court can come to the same conclusion.

3. Goal #4 is required by statutes, and is incorrectly stated in this IMP.

This goal requires the NRD to protect all existing users, both surface and GW from new depletions that occur after the Basin was preliminarily determined to be fully appropriated; this date would be May 20, 2003. Your current narrative sets the date as July 16, 2004 which is the date of the final determination.

The estimated amount of stream flow diverted from the stream in the URNRD from GW pumping was approximately 73,000 AF at the time of the preliminary determination. Therefore diversions in excess of 73,000 AF between the years 2003 and 2009 violate goal number 4. I see nothing in this IMP that addresses this issue or even come close to achieving this goal ever.

The original IMP signed in 2005 required a 5% reduction in pumping to offset these anticipated depletions, we now know this was grossly under estimated and even have tried a 20% reductions in more recent years with still no success in stopping the steady increase in stream depletions.

To quote the State engineer from Kansas: "groundwater storage depletions are simply streamflow depletions waiting to happen"

I think most everyone in this room will agree with that statement.

4. Surface water Controls:

- a. 46-716 (d) say the State can adopt reasonable restrictions on surface water use which are consistent with the intent of section 46-715. I don't think the intent of 46-715 was to shut down Federal projects and bankrupt political sub-divisions. The surface water controls the state proposed are far from "reasonable" and should not be adopted.

Conclusion: its obvious Nebraska is desperate to comply with the compact and is willing to do just about anything to convince Kansas this can be achieved. The URNRD is equally desperate to keep pumping the aquifer like there is no tomorrow. However, until Nebraska accepts the fact that this basin is way over developed and implements a plan to aggressively retire acres our fate will more than likely be decided by a Court. I have to ask would Frenchman Cambridge water users be better off with State regulations or would we be better with Federal regulations.

Thank you

The Reality of “A water Short Year.”

Harlan County Lake is below the 246,000 Acre-feet needed to avoid the water short year trigger set by DNR's IMPs.

Last year's balance at Guide Rock was slightly negative and DNR just forecasted the upcoming year to be negative.

Jan. 1, DNR informed the NRD that Water Short Year Administration will be in effect. Wells owners in the 10-2 area are notified. “No pumping permitted”

Closing notices are sent to Reclamation to begin by-passing inflows.

Natural permit holders are notified that no diversion will be permitted.

On Jan 1st Harry Strunk has 25,000 AF and is at 72%; 16,000 AF in storage is available for Irrigation.

Swanson has 44,000 AF and is at 39%; 23,000 AF in storage available for Irrigation.

Hugh Butler has 14,000 and is at 38%; 8,800 AF in Storage available for Irrigation.

Enders is at 11,000 AF; with 2000 AF available for Irrigation.

Harlan County is at 236,000 AF and is at 76% full; 72,000 AF is available for Irrigation between Nebraska and Kansas Bostwick.

Frenchman Cambridge and Bostwick Nebraska Board of Directors decide to Irrigate with the storage water knowing that all the wells in the alluvial are off and every acre under Bostwick and Frenchman Cambridge will call for storage water.

The 22, 500 Acres under Bostwick call for 21,000 AF and deliver 6 inches per acre.

All 16,000 AF from Harry stunk is released; all 23,000 AF from Swanson and 8,800 AF from Hugh Butler. All 45,600 acres of FCID are irrigated applying 6 inches per acre and using all the storage water. Historically only about 50% to 60% of the acres called for surface water.

All the Natural Flow is passed through Harlan County Reservoir with most of the by-pass occurring January thru June. Kansas Bostwick has no opportunity to use the natural flow and calls for an additional 21,000 AF of storage water from Harlan County Reservoir.

Harlan County started at 239,000 AF. No natural flow was stored since Dec. 31,

The 30,000 evaporation for the year lowers the Reservoir to 209,000 AF.

Nebraska Bostwick calls for 21,000 AF for the 22,500 acres leaving Harlan County Reservoir with 188,000 AF

Kansas Bostwick takes 23,000 AF leaving 165,000

In December DNR looks at Harlan County Lake and finds 889 AF available for Irrigation.

They look upstream and find only 2,000 AF in Enders Reservoir available for Irrigation.

The two year balance at Guide Rock is positive by 20,000 Acre-Feet. The Call is lifted on Jan 1st and all Reservoirs begin storing water again. The inflow into Harlan County is 100 CFS as the first year of well curtailment only produced a small return. By June 30th 36,200 AF has arrived at Harlan County Lake; 25,000 AF goes towards evaporation leaving 11,200 AF to split between Nebraska and Kansas Bostwick.

Reclamation declares a water short year for the Compact. The two year balance is positive so all the wells are back on. Frenchman Cambridge and Bostwick decide not to irrigate because the Reservoirs can only provide approximately 3 inches per acre, these acres are now irrigated with ground water where possible offsetting the increase in stream flow that occurred the previous year. Kansas Bostwick takes every drop they are entitled to.

Nebraska is compliance but all the Reservoirs are empty with the exception of Enders.

Kansas is not happy with Nebraska's Plan.