

**From:** Thompson, Aaron M  
**To:** Buchholz, Marcia L; Ryan, Michael J; Campbell, Gary W; Chaffin, John  
**Subject:** FW: Discussion Points for Testimony- 2010 IMP May 2010  
**Date:** Thursday, May 20, 2010 3:05:04 PM  
**Attachments:** Discussion Points for Testimony- 2010 IMP May 2010.docx  
**Importance:** High

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The attached discussion points are for the Republican River IMP conference call tomorrow at 10:00 MST/11:00 CST.

From: Swanda, Marvin R  
Sent: Thursday, May 20, 2010 3:36 PM  
To: Thompson, Aaron M; Esplin, Brent  
Cc: Scott, Craig D; Aycocock, Gordon L  
Subject: Discussion Points for Testimony- 2010 IMP May 2010  
Importance: High

All:

Attached are what Gordon, Craig, and myself believe to be the main points that could be crafted into the testimony for the upcoming IMP hearings. Please pass on to others as needed. The intent is for a draft to be put together next week so it can be circulated for comment.

Marv



## Discussion Points

### In preparation for Testimony Concerning Republican River - 2010 IMPs

#### General Comments/Discussion Points for Testimony

- The IMP does not match with its goals. NE Stat. 46-715 - IMPs must have a purpose of: “sustaining a balance between water users and water supplies”. Surface waters users are not being provided equal protection according to NE Stat. 46-715.
- Concur with Arbitrator Dreher’s decision that Nebraska IMPs are inadequate to ensure compliance with the Compact during dry-years and that further reductions in groundwater consumptive use should be made.
- Trend of declining groundwater levels ensures continuing and increasing stream flow depletions. To ensure long term compliance, groundwater allocations must be reduced to levels to prevent groundwater mining in the basin and to allow baseflows to return. Still does not deal with lag affect.
- Proposed IMP does not allow Reclamation to operate as authorized. Plan prevents Reclamation from performing its contractual obligations of delivering water to ID’s in “Compact Call” years.
- Federal projects were specifically designed to be in compliance with the Compact and our use has not increased over time but decreased as a result of uncontrolled depletions upstream of our reservoirs  
IMPs continue to favor groundwater users over surface water users – potentially 10% of groundwater acres could be curtailed during Compact Call year while, as defined by plan, potentially all surface water use could be curtailed. This does not apportion impacts within the URNRD in an equitable manner.
- Article X of the Compact states in part: “Nothing in this Compact shall be deemed: . . . to impair or affect the capacity of the United States, or those acting by or under its authority, to acquire rights in and to use the water of the Basin.”
- In dry years surface water supplies are already limited. Groundwater depletions generally remained constant. Plan is unfairly using surface water supplies to make up for deficits caused by years of groundwater overuse.
- Bypassing inflows during Compact Call years could result in surface water users losing irrigation supplies for multiple years as reservoirs will decline due to evaporation. Reclamation remains concerned with the long term viability of our irrigation districts.

#### Comments Specific to Draft Plan

- Definition of “Compact Call Year” not defined in draft IMP. Also a number of the terms under the Compact Call Year Evaluation are not clear (“current years’ balance” “irrigation water supply”, etc) What is the priority date for the Compact Call? Is there any reason it could be later than 1943?
- Ground Water Controls shown in the plan are limited to (1) GW allocations and (2) s moratorium on new wells. The moratorium is already required by the FSS. The ability to shut off certain wells in close proximity to the river during low water supply years should be an additional control.

- The plan requires a 20% reduction in pumping to a level no greater than 425,000 acre-feet but then allows higher pumping in years with **below** normal precipitation. This works against compliance and equity between surface water use and GW use. The years with below average precip. are also years with below average water supply (Compact Call Years). Higher pumping rates should not be allowed in below average precip years. GW users must adjust to these conditions as surface water users must adjust to low water supply.
- Surface Water Controls as described in section VII.F. are vague and do not describe intent of "Compact Call"
- Plan indicates "Compact Call" will be placed on the river at Guide Rock or Hardy
- If the intent of closing storage permits and bypassing inflows is to store water in HCL? This is a selective call: HCL vs. Reclamation Reservoirs. State does not have water right to store water in HCL for Compact purposes.
- To the extent natural flow rights and storage rights will be closed and not all ground water acres hydrologically connected to the streams, as defined by the FSS, will be curtailed is discriminatory and does not provide equity between water users (a primary goal of the IMP).
- The Plan appears to be silent on what measures that will be taken to reduce GW use during Compact Call Years. As a minimum wells within close proximity (3 miles) to the river should be shut off.
- If **all** natural flow and storage permits are closed then we cannot take water into Courtland Canal to be used by Kansas Bostwick as well as Ne Bostwick. To fill Lovewell?? Does this mean that it would not be Project water?
- Plan states: "Compact Call" on until such time that administration no longer needed – unclear if gw use can occur after call is off - surface water already lost
- Complete information and background on "allowable ground water depletions" is needed. This is a critical piece of the Plan. The allowable GW depletion must be set at a level that prevents further mining of the GW and preferably allows for some level of recovery. The information in the plan does not demonstrate this. Studies and GW model runs prepared to determine this should be available for public review.
- Plan does not define "allowable streamflow depletions" - need better understanding of what surface water share of allowable depletions. Surface water supplies are already reduced during "water short" years. Groundwater consumptive use has remained the same or increased.
- Goal 5 – "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" Any water that appears as streamflow is subject to storage and surface water use in accordance with NE state statutes.
- What is surface water's share of the Consumptive Use? Surface water should have a target and if under target then no curtailment. SW has never been given a share, only used to offset GW use.
- There are 732 landowners with about 89,000 acres in the Districts.
- Unknown year to year if allowed to irrigate and plan.