From: Swanda, Marvin R
To: Aycock, Gordon L; Scott, Craig D; Thompson, Aaron M
Cc: Esplin, Brent
Subject: Re: Republican River
Date: Wednesday, October 27, 2010 8:53:17 AM

I think we had put notes together that captured the main points.

From: Aycock, Gordon L
To: Scott, Craig D; Thompson, Aaron M
Cc: Swanda, Marvin R; Esplin, Brent
Sent: Wed Oct 27 08:50:46 2010
Subject: RE: Republican River

Craig did a good job with the timeline. The only thing I can see that we may want to do is expand some on what took place at the July 30th meeting but this probably isn't needed at this point.

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Phone: 406-247-7756

From: Scott, Craig D
Sent: Tuesday, October 26, 2010 5:41 PM
To: Thompson, Aaron M
Cc: Swanda, Marvin R; Esplin, Brent; Aycock, Gordon L
Subject: RE: Republican River

Attached as you requested, are recent correspondence between Reclamation and NE DNR regarding the recently adopted IMPs, a copy of Reclamation's testimony provided at the URNRD hearing on June 10, 2010, and copy of the editorial from Dan Smith, Manager, Middle Republican River NRD, dated Oct. 19, 2010. Below is a timeline of our efforts to understand the IMPs along with additional points that could be used in our response to Gov. Heineman's letter to Commissioner Connor.

TIMELINE:

- On June 30, 2009, Arbitrator Dreher rejected Nebraska position that the current IMPs were adequate to ensure Compact compliance during critical dry periods
- Beginning in late 2009, in response to the Arbitrator Decision, Nebraska began developing revisions to their IMPs to adopt controls that would ensure compliance during critical water short years
- On May 26, 2010 Reclamation sent letter to NE DNR asking for specific clarification on NE's proposed IMPs
- In early June 2010 Reclamation provided testimony at the Upper Republican Natural Resources District (NRD) and the Middle Republican NRD IMP hearings outlining our concerns with the proposed changes to the IMPs
- In response to our testimony, DNR requested a meeting with Reclamation to provide further details of the adopted IMPs - meetings were held on July 9th and July 30th – DNR provided details of how they would implement the controls identified in the IMPs. The sequence and implementation of the controls were not clear in the IMPs or never made clear at public meetings prior to the IMP hearings.
- On July 27 Reclamation sent letter to DNR requesting a formal written response to our concerns and comments provided in our IMP testimony.

- DNR replied to Reclamation's July 27 letter on August 23, 2010 – letter was nonresponsive to Reclamation's concerns with the revised IMPs
- On Sep 30 Reclamation sent a letter to DNR asking to verify our understanding of the IMPs as we understood from our July 30 meeting - NE has not responded to our letter of Sep 30.

Specific Issues and Responses:

- Reclamation made every effort to understand the IMPs prior to testifying (IMPs are not clearly written)

o We presented testimony on the date the hearings were scheduled limiting our review to what the NRDs had written.

o The IMPs have a fair amount of contradicting information

o If the IMPs mean what the DNR explain at our July 30th meeting then the IMPs need revised to better define intended purpose of the IMPs

o Recent editorial from Dan Smith, Manager of the MRNRD lends to more confusion

- Reclamation provided testimony at the IMP hearings outlining our concerns with the proposed IMPs

o We believe the IMPs must be developed in a manner to provide sustainability for both GW and SW. This is not stated in the current version of the Upper and Middle IMPs.

o The IMPs include controls to curtail surface water use and bypassing inflows through Reclamation reservoirs while failing to address ground water mining

o Equity is a very important issue that is not adequately addressed in the IMPs. Surface water users curtailed during Compact Call years while ground water users are allowed to pump should be fairly compensated.

o Bypassing water thru Harlan County Lake would render the Consensus Plan meaningless and alter the intent and procedures indentified in the Final Settlement Stipulation

- DNR has not responded to Reclamation's Sep. 30th letter

o A response from DNR could clarify our understanding of how the IMPs will limit ground water use

o We are willing to continue to work with the NRDs and the DNR to gain a full understanding of the IMPs

- Due to potential curtailment, Republican River Basin Irrigation Districts are concerned if surface water is curtailed they will not be able to remain financially viable

o The Republican River Basin Irrigation Districts have formally requested a hearing with DNR for determination on the statutory authority of DNR to regulate surface water rights during a "Compact Call" year

- The Lower Republican NRD has not adopted a revised IMP

o The LRNRD has drafted an IMP which they believe will provide long-term sustainability and Compact compliance

o Reclamation has been working with the LRNRD to draft an IMP that will protect surface water rights and achieve long term compliance

o The LRNRD is willing to make immediate reductions in their groundwater pumping allocations to meet their Compact obligations

o To date Nebraska has refused to approve the LRNRDs IMP

Hope this helps,

Craig

From: Campbell, Gary W
Sent: Tuesday, October 26, 2010 4:01 PM
To: Thompson, Aaron M; Swanda, Marvin R; Aycock, Gordon L
Subject: FW: Republican River
Importance: High

See need something in response ASAP.

From: Connor, Michael L
Sent: Tuesday, October 26, 2010 3:00 PM
To: Petersen, Lois Ann; Campbell, Gary W; Soucy, John F
Cc: Quint, Robert J (Bob); Nelson, David L
Subject: Republican River

After the call, I noticed that I had a letter from Gov. Heineman in my inbox. The letter criticizes Reclamation for our testimony at 2 public hearings on NE's proposed integrated water management plans.

I'm sure we're drafting a response but in the interim, I'd like to have a quick summary of the specific issue and our response. Basically, the Governor believes that we did not properly understand certain technical details. Can someone please provide? Thanks.

M

Michael L. Connor, Commissioner
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