From: Swanda, Marvin R
To: Scott, Craig D
Subject: FW: Nebraska NRD Requests meeting with Comm
Date: Friday, March 05, 2010 3:04:31 PM
Attachments: RepublicanRCompactNeKs(05 Mar "10).docx

From: Esplin, Brent
Sent: Friday, March 05, 2010 3:58 PM
To: Petersen, Lois Ann
Cc: Reichert, Thelene (Tami); Thompson, Aaron M; Swanda, Marvin R
Subject: RE: Nebraska NRD Requests meeting with Comm

Ann: An updated briefing paper is attached. Will you please make sure we receive a copy of any meetings notes in short order. We will be preparing to provide Reclamation's perspective on this issue in a 18 Mar 2010 meeting at the invitation of the Nebraska DNR. It will be useful to have feedback from the DC office if this meeting happens so we can make sure we are on the same page.

-Brent

From: Petersen, Lois Ann
Sent: Friday, March 05, 2010 2:44 PM
To: Thompson, Aaron M; Esplin, Brent
Cc: Reichert, Thelene (Tami)
Subject: Nebraska NRD Requests meeting with Comm

The Nebraska NRD (Kris Polly's client) wants a meeting next week with the Commissioner's office. Did I grab the correct briefing? And are we good with it? I'll need any revisions pretty quick as we're not sure exactly when next week it will be scheduled.

Thanks,

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EXHIBIT
11
5-22-12 JT

BUREAU OF RECLAMATION

BRIEFING FOR: Commissioner Michael Connor **DATE:** March 05, 2010

ISSUE: Republican River Compact (Compact) – Nebraska Compact Compliance Plan

CURRENT STATUS: The Nebraska Department of Natural Resources has developed three options for the local Natural Resources Districts (NRDs). They include curtailing surface water use and bypassing inflows through Reclamation reservoirs to store water in Harlan County Lake in order to ensure compliance during "water short" years. The Frenchman Cambridge and Bostwick Irrigation Districts are concerned these plans fail to protect their water rights and fear if these plans are adopted they will not be able to remain financially viable. Reclamation has prepared formal legal questions for the Solicitor's Office regarding the administration of the project water rights and associated existing contractual obligations. A stakeholders meeting has been scheduled by DNR on March 18, 2010, including the NRDs and the surface water users in the basin.

BACKGROUND: Nebraska remains out of compliance with the Compact, which is a three state compact between NE-CO-KS, on the Republican River. In accordance with a Final Settlement Stipulation for non-binding arbitration, an arbitrator rejected Nebraska's position that the current Integrated Management Plans (IMPs) were adequate to maintain Compact compliance during "water short" years. It was recommended additional reductions in groundwater allocations be made and that Nebraska secure long term access to surface water rights in June 2009. The Arbitrator made 12 recommendations in his Final Decision. With the exception of one minor groundwater accounting change, the states rejected all of the Arbitrator's recommendations that were not favorable to their position. Reclamation testified at the Arbitration hearing that the groundwater pumping allocations in the IMPs should be reduced significantly to ensure long-term Compact compliance and to improve surface water supplies. Without reductions in the groundwater allocations, surface water supplies will not be consistently available. The protection of groundwater irrigation at the expense of surface water irrigation has become a "social economic issue" in Nebraska to safeguard the future of their local economy.

POSITION OF INTERESTED PARTIES: Nebraska believes these new plans will allow them to be in Compact compliance in all years. Due to the potential curtailment of surface water use, the Irrigation Districts and Reclamation are concerned that if these plans are adopted the Irrigation Districts will not be able to remain financially viable.

RECOMMENDATION: The stated goals and objective of the IMPs are: "sustaining a balance between water uses and water supplies". Most of the senior water rights in the basin are the surface water rights that are currently not being provided "equity among water users". Reclamation should continue to collaborate with Nebraska as they seek compliance with the Compact. In doing so, Reclamation should continue to insist that the states involved in the Compact work on long-term solutions that reduce the groundwater depletions and restore stream flows to ensure Compact compliance. Effort should also be made to protect the federal investment and the project beneficiaries in the Republican River Basin. Reclamation should collaborate with the Solicitor's Office to better understand its legal right and obligation to operate its projects should these plans be adopted.

PREPARED BY: Michael J. Ryan, Regional Director, Great Plains Region, (406) 247-7600