

From: [Marvin Swanda](#)
To: [Craig Scott](#); [William Peck](#)
Subject: Fwd: Revised Karl Wirkus Briefing
Date: Friday, December 09, 2011 10:56:58 PM
Attachments: [Republican RiverInflowComparisons-E.ppt](#)
[Percentage of Normal PrecipitationD.xls](#)
[KarlWirkusBriefingTimelineC.doc](#)
[FinalDraftKarlWirkusBriefing5302008A.doc](#)
[All NRD wells vs All InflowsB.xls](#)

Consider confidential.

>>> Kimberley Parish 6/3/2008 2:08:31 PM >>>
Todd/Rae,

The attached BP for Protection of Surface ater Interest in the Republican River Basin has been reviewed and approved by GPRO. Please deliver to Karl Wirkus.

Thanks,
Kim P
Acting for Rae Olsen



BUREAU OF RECLAMATION**BRIEFING FOR:** Karl Wirkus, Deputy Commissioner Operations **DATE:** May 30, 2008**PURPOSE OF PAPER:** Protection of surface water interests in the Republican River basin – Nebraska (NE) and Colorado (CO)

CURRENT STATUS: Both NE and CO have been attempting to achieve Republican River Compact (Compact) compliance without significant reductions in groundwater pumping. Because of the amount of groundwater irrigated acres in the basin, protection of groundwater irrigation has become a “social issue,” that being the economy of the basin. There is approximately 1.7 million acres of groundwater irrigation in NE and CO compared to about 120,000 acres of surface water irrigation. Legislation was introduced in NE and CO this year that in effect would have diminished surface water rights to allow additional protection for and continuation of current levels of groundwater pumping. The introduced legislation met with significant, unexpected opposition which resulted in the legislation being withdrawn or indefinitely postponed. It is our understanding that the NE legislation will be redrafted and introduced during the 2009 legislative session.

Reclamation is concerned that our projects are water short. Inflows to the federal reservoirs in the Republican River basin has declined from over 600,000 acre-feet per year average in the 1960’s to nearly 151,000 acre-feet per year average for the period 2003 through 2007 (see attached table). The reduced inflow is not a result of long term declines in precipitation, which is virtually normal from the 1960’s to the present time (see attached graph). During this same period the number of irrigation wells in the Republican River basin in NE and CO has increased from approximately 6,000 in 1965 to over 16,000 in 2001. Several irrigation districts have been unable to deliver water to all or portions of their districts since 2003. Our main concern is not the reduced inflow due to drought; it is the long term decline in base flow because of groundwater pumping that is devastating to our projects. Recreation, fish and wildlife benefits and resulting revenues to managing partners have significantly declined due to minimum reservoir levels and little or no inflows. The viability of the irrigation districts and continuation of agreements with managing partners is a major concern. In response to the drought and historic low inflows in 2002 and 2003, Reclamation supported legislation that was enacted that provided financial relief to four of our irrigation districts by rescheduling their repayment obligations. However, this repayment rescheduling is not a permanent solution to the water scarcity facing these districts.

In December, 2007 Kansas (KS) gave NE notice of proposed remedies to address violations of the Supreme Court Decree, which if not agreed to by NE in 45 days (NE did not), KS would submit the dispute to the Republican River Compact Administration (RRCA) as a “fast track” issue and proceed to Final Settlement Stipulation (FSS) Dispute Resolution procedure (see attached timeline). The KS remedy notice to NE was based on NE non-compliance with the two-year Water Short Year accounting requirements of the FSS for NE that ended in 2006. CO is not subject to this two year accounting. NE and CO will both be in violation of the Supreme Court Decree when the first five year accounting is finalized for years 2003 through 2007. All three states have now submitted issues to the RRCA and are now engaged in “fast track” Dispute Resolution procedures.

To date CO’s Compact compliance activities include: (1) Plans for an augmentation pipeline. In 2008 ground water rights were purchased that will produce nearly 15,000 acre-feet annually. The pipeline project as designed will deliver this water to the North Fork of the Republican River at the CO-NE state line. CO has submitted their pipeline proposal to the RRCA as a “fast-track” issue to protect the interests of CO water users and to address the issue in a timely manner. (2) Order to Release Water – In 2007 the State Engineer ordered Reclamation to immediately begin release of water stored out-of-priority from Bonny Reservoir.

NE Department of Natural Resources (DNR) and the Natural Resources Districts (NRD) have developed and formally adopted integrated water resources management plans. Reclamation provided testimony at the hearings held during the development of these plans detailing our concerns that the plans: would not sustain a balance between water uses and supplies; stream flows will continue to decline; and with the exception of wet periods, the plans will not result in NE achieving Compact compliance. Beginning in 2006 the DNR and/or NRDs have annually purchased or leased surface water from irrigation districts to aid the state in achieving Compact compliance. In 2007 NE enacted legislation granting the Republican River NRD's taxing authority on all real estate in the Republican River basin to fund surface water purchases. This taxing authority was challenged in District Court which recently ruled this taxing authority "unconstitutional." The NE Attorney General's Office has bypassed the Court of Appeals and filed an appeal directly with the NE Supreme Court in an effort to expedite the case. If the case is accepted by the Supreme Court, it is expected that it could be at least a year before a ruling is made. During the interim the NRD's funding and ability to issue bonds to purchase or lease surface water is limited to a \$10/acre "occupation tax" on all irrigated lands in the basin. The Attorney General's Office is interested in pursuing a long term agreement for the purchase or lease of surface water from Reclamation projects to aid future Compact compliance by NE. NE is currently developing plans for groundwater augmentation that satisfy the requirements laid out in the FSS, with a targeted timeframe for completion of summer, 2009. At that time an application would be presented to the RRCA for approval.

POSITION OF INTERESTED PARTIES:

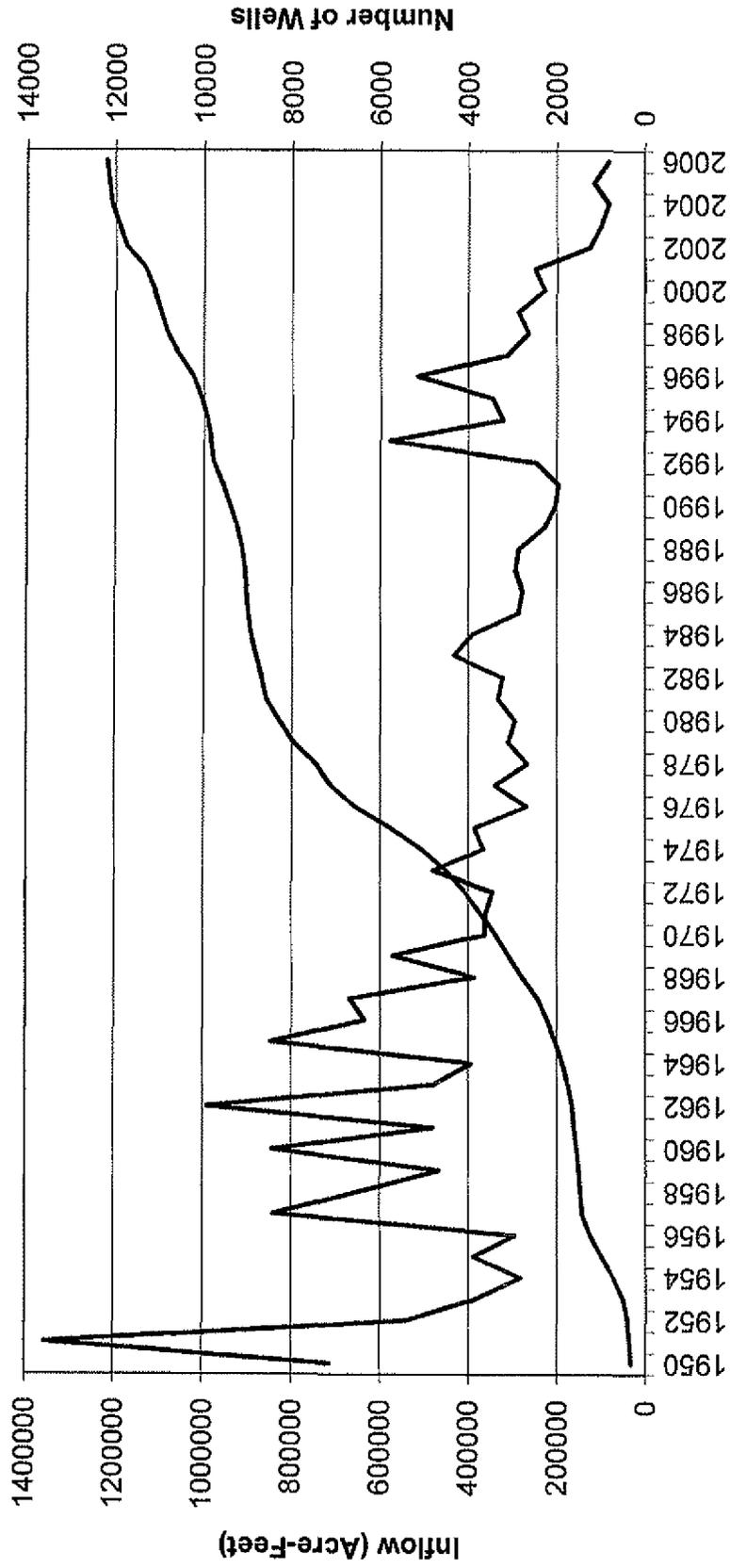
KS is demanding that they receive their full Compact allocation of water as provided in the Supreme Court Decree. CO is attempting to achieve Compact compliance with: minimum reductions in groundwater pumping; reduction or elimination of evaporation and consumptive use from seepage from Bonny Reservoir; and installation of augmentation wells and pipeline. NE is attempting to achieve Compact compliance with: minimum reductions in groundwater pumping; long term purchase or lease of surface water; and future augmentation of stream flows by groundwater withdrawal from augmentation wells.

RECOMMENDATION:

1. Reclamation should continue its efforts to collaborate with the three states as they seek compliance with the Republican River Compact. In doing so, Reclamation must take care to protect the public interests in the federal water projects and the interests of these federal project beneficiaries. Toward that end, Reclamation is concerned that the "augmentation wells and pipelines" proposed for Compact compliance may further diminish surface water supplies to federal projects. Conceptually, an augmentation pipeline could allow the continuation of pumping to the extinction of river base flow. Reclamation must analyze the augmentation proposals and present our comments to the Republican River Compact Administration.
2. Reclamation is concerned that entering into a long term purchase or lease agreement with the State of NE (DNR, NRDs) to provide surface water for Compact compliance may result in continued depletions within the Republican River basin by enabling the continuation of groundwater pumping at non-sustainable levels. Environmental documents prepared to accompany any long term water purchase or lease agreements should be of sufficient scope and rigor to analyze the groundwater/surface water connectivity and potential impacts.
3. Reclamation needs to be prepared to provide written comments to the Department of Natural Resources for NE and/or CO detailing our concerns regarding any introduced legislation that would reduce or diminish project (surface) water rights held by the United States and/or the irrigation districts.

PREPARED BY: Mike Ryan, Regional Director, (406) 247-7600

Total Inflow Into Federal Reservoirs and Well Development Republican River Basin in Nebraska



Legend:
— INFLOW (All Reservoirs)
— IRRIGATION WELLS

SOURCE: DNR,
USBR

RECLAMATION
Managing Water in the West