From: Gordon Aycock
To: Campbell, Gary; Moomaw, Donald
Date: Fri, Jun 2, 2006 10:47 AM
Subject: Fwd: FinalDraft of Strategy Paper

Gary & Don,

Attached is the revised Strategy Paper for the Republican River.

Gordon

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>>> Alice Johns 5/25/2006 4:53:03 PM >>>
Gordon,

Here's the final draft of the changes we discussed.

Please note that when I made the change in paragraph 2 under current status, to be more accurate re IMPs and NRDs, it caused me to rework the position of interested parties section, so that it would likewise be more accurate. If this doesn't work for folks, change back.

Thanks,

Alice

CC: Johns, Alice; Ronshaugen, Stephen; Swanda, Marvin

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REPUBLICAN RIVER RECLAMATION STRATEGY

PURPOSE OF PAPER: Provide a strategic plan for Reclamation to follow for issues involving the Republican River Compact Lawsuit Settlement Implementation, Republican River Basin – Nebraska, Kansas, and Colorado

CURRENT STATUS: Nebraska's compliance with the Republican River Compact is measured with a 5-year average starting in 2003 through 2007, and during water short years, a two year average (first two year average started in 2005). A water short year is designated when Harlan County Lake has less than 119,000 acre-feet available for irrigation. This is likely the second year with the water short designation.

In an effort to comply with the Republican River Compact Settlement, Nebraska through its Department of Natural Resources (State) and the Natural Resources Districts (NRDs) in the Republican Basin put in place integrated management plans (IMPs) in 2005 pursuant to Nebraska water right statutes (LB962, enacted in 2004). Reclamation testified at the IMP hearings regarding diminished reservoir inflows and associated impacts. The IMPs call for Compact compliance to be achieved through a combination of regulatory and incentive programs designed to limit and, if necessary, reduce beneficial consumptive use of Basin water supplies.(Nebraska estimates that it has over-used its compact allocation by 100,000 acre-feet or more by the end of calendar year 2005).

In April 2006, Nebraska enacted LB 1226, which may expand the NRDs' authority to regulate surface water.

BACKGROUND: : On May 26, 1998, Kansas filed a petition with the U.S. Supreme Court complaining Nebraska was using more than its share of the water of the Republican River. On November 15, 1999, the Supreme Court appointed a Special Master for the case. Because all major water development structures in the Republican River Basin were constructed by the Bureau of Reclamation and the Corps of Engineers, the United States was allowed to participate as an *amicus curiae*. In December 2001, the Special Master granted a stay to allow the parties time to attempt to negotiate a settlement. A final settlement agreement was signed by the governors and attorney generals and filed with the Special Master on December 16, 2002. The settlement provides a moratorium on new groundwater wells, special rules for administration of water during water-short years, protection of storage releases, minimized flood flow effects on the accounting, recognition by Nebraska of a 1948 priority date for the Kansas-Bostwick Irrigation District, inclusion of the impacts of groundwater pumping from tableland wells in the accounting, accounting for all reservoirs 15 acre-feet and larger within the river basin, joint participation in a study to determine the impact of farm ponds and land terracing on the water supply of the basin, and recognition of the Consensus Plan.
The waters of the Republican River Basin are allocated to the States of Colorado, Kansas and Nebraska through the Republican River Compact approved by Congress in 1943. Federal reservoirs have been built on the main stem and many of the main tributaries of the river. The Compact addresses the annual volume allocated and the annual

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consumptive use. However, for irrigation or other uses, timing and availability of the flows are very critical. Water that is annually accounted for under the Compact may not be available when needed due to existing system limitations.

Kansas filed a U.S. Supreme Court lawsuit against Nebraska and Colorado in 1998 because they believed Nebraska had been using more than their allocation of the Republican River water supply. The States negotiated a settlement that was approved by the United States Supreme Court in May of 2003. In accordance with the Final Settlement Stipulation, "The States agree to pursue in good faith, and in collaboration with the United States, system improvements in the Basin, including measures to improve the ability to utilize the water supply below Hardy, Nebraska on the main stem." The Feasibility Study, if authorized by Congress (legislation introduced in 2006) is intended to assist in fulfilling this provision of the settlement stipulation.

POSITION OF INTERESTED PARTIES: Kansas understands the difficulties involved but expects Nebraska (and Colorado) to meet their obligations under the compact. The State of Nebraska is working closely with the NRDs. The State's role is administration of surface water and compact compliance. NRDs have informed the State that basin-wide incentive programs, particularly those aimed at reducing surface water consumption, will be an effective tool to help Nebraska comply with the Compact during water short years. NRDs also are generally interested in minimizing the need to reduce, or not reducing, groundwater allocations further.

RECLAMATIONS POSITION/ROLE:

1. Fulfill our commitments under the Compact Settlement agreement.
   a. Work with the states to complete the Republican River conservation study.
   b. Support efforts by the states for system improvements in the Basin.
   c. Support efforts by the states for a system operations study to be used to revisit the 5-year running average.
2. Avoid further compact litigation.
3. Assist the states with Compact compliance when this can be done within our authority and without impact to our project or though agreements that ensure adequate financial compensation for any voluntary reduction in project water supply.
4. Protect the surface water supply for each of our projects. Take whatever appropriate action is needed to protect project water rights.
5. Protect project viability
6. Honor all Reclamation contracts and agreements
7. Work with the states and irrigation districts to ensure that our water rights documents (maps, filings, revisions) are accurate and up to date.
8. Review/analyze recently enacted legislation, such as LB 1226.