

Pete Ricketts
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
James C. Schneider, Ph.D.
Acting Director

March 6, 2015

IN REPLY TO:

Dear Appropriators of the Republican River Basin:

In an effort to share important news and improve communication, I'm providing an update on recent activities regarding the Republican River. At the Nebraska Department of Natural Resources, we are working hard to ensure the best interests of Nebraska's water users. I hope you find this information of interest.

You may have heard about the Feb. 24, 2015 U.S. Supreme Court ruling regarding the Republican River Compact. The ruling was a major victory for Nebraska and Republican River water users.

There are essentially three key highlights from the lawsuit that were settled with this ruling:

Issue #1 – Solid Water Management for Irrigated Acres in Nebraska

Kansas argued that Nebraska should be forced to permanently shut down irrigation on up to approximately half a million acres in the basin – an action that would have significantly harmed Nebraska's agricultural production.

However, the Court ruled in favor of Nebraska, stating that Nebraska already has solid water management in place to avoid future violations. The ruling benefits Nebraska by tens of millions of dollars of agricultural production every year into the future. The Court also ruled that because of Nebraska's good water management policies through the Integrated Management Plans that Kansas' request for a so-called 'River Master' was unnecessary.

Issue #2 – Accounting Correction to Credit Platte River Water

Nebraska argued that an error in the Compact accounting resulted in Nebraska being charged for the use of Platte River water despite that being prohibited by the Compact. To address this issue, the Nebraska Department of Natural Resources developed the corrected accounting methodology that allowed for usage of Platte River water in the Republican River Water Basin.

The Court ruled in favor of Nebraska, stating that Nebraska should not be charged for use of Platte River water. This is arguably the most significant issue in this case. The Court's agreement with Nebraska will be immensely beneficial to Nebraska's future Compact compliance efforts.

Issue #3 – Nebraska Water Overuse in 2005 and 2006

Kansas argued that Nebraska should pay \$80 million for water overuse in 2005 and 2006. The Court ruled that Nebraska should pay \$3.7 million for damages, and \$1.8 million for disgorgement, for

2005 and 2006 overuse. The Court determined Nebraska owed around \$75 million less than what Kansas had requested.

I am very pleased to say that with the Supreme Court ruling now behind us, Nebraska and Kansas are moving away from litigation and towards collaborative efforts to improve water management in the basin for all parties.

To this point, the Republican River Compact Administration (RRCA) has been making significant strides forward for the benefit of Nebraskans. For background, the RRCA is comprised of one member each from the States of Colorado, Kansas and Nebraska with the purpose of administering the Republican River Compact. The Compact allocates the waters of the Republican River among the three states, and I'm serving as the current Chair of the RRCA.

Over the last several months, there has been positive, cooperative progress, much of which resulted in today's agreement. Colorado, Kansas and Nebraska, along with the U.S. Bureau of Reclamation, have reached an agreement that will ensure more certainty to the basin's water users in both Nebraska and Kansas. The agreement was achieved through weeks of collaborative negotiation and will provide timely access to water for the 2015 irrigation season.

The agreement allows for the Nebraska Department of Natural Resources to lift its water administration for the Compact through at least September 15, 2015, thus ensuring that Compact obligations will have no negative impact on Nebraska's surface water users.

Attached are copies of the Governor's news release on the U.S. Supreme Court ruling and the RRCA news release. I hope you find this information helpful. If you have any questions regarding this update, please feel free to contact Shane Stanton, Cambridge Field Office Supervisor, at (308) 697-3730 or call me at (402) 471-2366.

Please feel free to share this letter and let others know that a copy is available on our website at www.dnr.nebraska.gov. It is a privilege for the Nebraska Department of Natural Resources to serve the great citizens of Nebraska. We look forward to continuing cooperation and providing good news updates in the future.

Sincerely,



James C. Schneider, Ph.D.
Acting Director, Department of Natural Resources

Enclosures



For Immediate Release: February 24, 2015
Contact: Taylor Gage, 402-471-1970

GOV. RICKETTS COMMENTS ON NEBRASKA'S SUCCESS WITH SUPREME COURT RULING ON REPUBLICAN RIVER COMPACT

Lincoln – Today, Governor Pete Ricketts commented on Nebraska's success with the U.S. Supreme Court ruling regarding Republican River water usage. The Court has ordered Nebraska to pay \$5.5 million to Kansas, significantly less than the \$80 million originally asked.

"Today is a good day for Nebraska," said Governor Pete Ricketts. "I am pleased to see that the court has made a reasonable decision. I look forward to working with the governors of Kansas and Colorado to move forward."

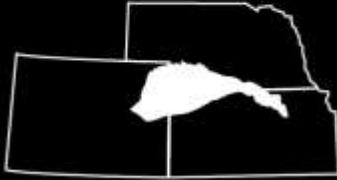
"This is a win for Nebraska's farmers and ranchers," said Acting Director Jim Schneider. "By lessening Nebraska's compliance burden, this ruling will in effect lessen Nebraska's need to regulate for compliance. Nebraska's water users should be very pleased."

Today's ruling upholds the Special Master's ruling from November 2013. The dispute centers on a 1943 compact allocating 49 percent of the river's water to Nebraska, 40 percent to Kansas and 11 percent to Colorado.

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Republican River Compact Administration



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Colorado, Kansas & Nebraska Continue Cooperation with Water Agreement

Republican River Compact Adjustments to Further Benefit Basin Water Users

(Manhattan, Kan.) Today, reflecting the continued spirit of cooperation, Colorado, Kansas and Nebraska, along with the U.S. Bureau of Reclamation, have reached an agreement that will ensure more certainty to the basin's water users in both Nebraska and Kansas. The agreement, signed through the Republican River Compact Administration (RRCA), was achieved through collaborative negotiations that began in January 2015 and will provide timely access to water for the 2015 irrigation season.

The agreement provides additional flexibility for Nebraska to achieve its Compact obligations while ensuring Kansas water users' interests are also protected. The additional flexibility allowed the Nebraska Department of Natural Resources to open Nebraska reservoirs and water user's rights that were initially limited in 2015. Opening the Nebraska water rights allowed the Bureau of Reclamation to agree to modify certain contract provisions for its irrigation districts, ensuring the availability of the water that was pumped from Nebraska augmentation projects for Compact compliance.

Additionally, the agreement allows for the Nebraska Department of Natural Resources to ensure no additional regulatory water supply reductions for Nebraska surface water irrigation user's water supplies for the 2015 irrigation season.

Current RRCA Chairman Jim Schneider, Acting Director of the Nebraska Department of Natural Resources, said, "This is a significant step forward for the states and our water users. Our collaborative work and this agreement further demonstrate the benefits of the recent cooperation that the states have been able to achieve. I am optimistic that the states and Bureau of Reclamation can work toward ensuring these types of arrangements can be in place each year so that both Nebraska and Kansas water users will secure the benefits of having more certainty in their water supplies."

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Kansas Commissioner David Barfield said, “Today’s agreement continues to move us forward toward a longer-term solution benefiting the basin’s water users. I appreciate not only Nebraska’s continued willingness to work through these issues, but also the Bureau of Reclamation and its irrigation districts for their part in reaching today’s agreement.”

Colorado Commissioner Dick Wolfe said, “These recent agreements are emblematic of the new cooperation among the states and the federal government. I hope it continues to be a model for cooperation and successful settlement of the remaining issues within the basin.”

At the Nov. 19, 2014, meeting in Manhattan, Kansas, the states reached an agreement that provided Nebraska with 100% credit for water delivered from augmentation projects to Harlan County Lake prior to June 1, 2015, and dedicated that water to be used exclusively by Kansas irrigators.

The RRCA is comprised of one member each from the States of Colorado, Kansas and Nebraska. The purpose of the RRCA is to administer the Republican River Compact. This Compact allocates the waters of the Republican River among the three states. The next RRCA meeting is scheduled for August to be hosted in Lincoln, Nebraska.

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