

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of Water Administration  
Of the Republican River Basin

ORDER

Water Division 1-B

COMPACT CALL YEAR  
IN EFFECT

The above entitled matter came for consideration before the Director of the Department of Natural Resources (Department) upon his own motion. The Director FINDS:

1. Nebraska Revised Statute § 61-206 gives the Department jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute.
2. The Republican River Basin was designated as fully appropriated in accordance with procedures set forth in Nebraska Revised Statute § 46-714 on July 16, 2004.
3. Nebraska Revised Statute § 46-715 required the Department to jointly develop an integrated management plan with the natural resources districts encompassing the Republican River Basin. Integrated management plans have been jointly developed with the Upper Republican, Middle Republican, Lower Republican, and Tri-Basin Natural Resources Districts in accordance with procedures set forth in Nebraska Revised Statute §§ 46-715 through 46-718.
4. Nebraska Revised Statute § 46-715(4) (b) requires that the groundwater and surface water controls proposed for and contained in an adopted integrated management plan, when considered together and with any applicable incentive programs, shall be sufficient to ensure that the State of Nebraska will remain in compliance with applicable state and federal laws and with any applicable interstate water compact or decree or other formal state contract or agreement pertaining to surface water or ground water use or supplies.
5. Nebraska Revised Statute § 46-715(6) requires that in any river basin, subbasin, or reach that is designated as fully appropriated or overappropriated and whenever necessary to ensure that the State of Nebraska is in compliance with an interstate compact or decree or formal state contract or agreement, the Department, in consultation with the affected Districts, shall forecast on an annual basis the maximum amount of water that may be available from streamflow for beneficial use in the short term and long term in order to comply with the requirement of § 46-715(4) (b).
6. To ensure compliance with the Republican River Compact (Compact), the integrated management plans contain surface water controls to be administered by the Department as provided in Nebraska Revised Statute §§ 46-715 and 46-716.

7. Based on the forecast procedures set forth in each of the Republican River Basin integrated management plans, the Department has determined that 2019 is a Compact Call Year. This Compact Call Year will require that Nebraska complies with the terms of the Republican River Compact Administration's "Resolution Approving Long-Term Agreements Related to the Operation of Harlan County Lake for Compact Call Year's" (RRCA Resolution), Dated August 24, 2016. Compliance with the RRCA Resolution constitutes compliance with the Final Settlement Stipulation and Compact.
8. The State of Nebraska adopted and ratified the Republican River Compact, as entered into by the states of Colorado, Kansas and Nebraska, which allocates the annual water supply among the three states. The Compact establishes the annual volume of water (allocation) to which Nebraska has legal rights. That annual volume can vary depending on the applicable Compact accounting metric (accounting metrics can modify the accounting point and averaging period) and is not known in the course of any given year, until after that year has concluded and the Republican River Compact Administration (RRCA) has completed the annual accounting. Therefore, all persons using water in the Nebraska portion of the Republican River Basin, are advised that their legal rights to store, access, and use water in Nebraska are subject to the Compact Call until the Department has confirmed that RRCA annual accounting indicates that Nebraska has remained in compliance with the Compact and the RRCA Resolution. A copy of the Compact is located at Nebraska Revised Statute Appendix §1-106.
9. During Compact Call Years, as determined from the procedures and analysis set forth in the most recent adopted integrated management plans for the Republican River Basin natural resource districts, the Department will regulate and administer surface water in the basin as necessary to ensure Compact compliance. During Compact Call Years, the Department will issue a "Compact Call" on the Republican River at Hardy or Guide Rock to carry out water rights administration for the Compact in a manner consistent with Nebraska law, including the integrated management plans.
10. The Department will issue the necessary closing notices on natural flow and storage permits in the basin until such time as the Department, in consultation with the Republican River Basin natural resource districts, determines that administration is no longer needed to ensure Compact compliance.

Therefore, based on the foregoing and for good cause, it is hereby ORDERED:

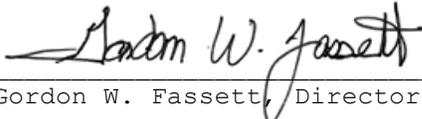
That A COMPACT CALL YEAR is in effect. Through the course of the year (2019), the necessary natural flow and storage appropriations in the Republican River Basin upstream of Hardy, Nebraska will be closed at such time that the Department determines that closure is necessary to ensure Compact compliance, including effectuating terms of the RRCA Resolution.

IT IS FURTHER ORDERED

That, when determined to be necessary, Closing Notices shall be sent, along with a copy of this Order, to the necessary surface water appropriators requiring administration. Such Notices will include, as appropriate, specific water rights administration instructions, directions, or actions relevant to the individual appropriation subject to such Notice.

DEPARTMENT OF NATURAL RESOURCES

December 28, 2018

  
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Gordon W. Fassett, Director