

# Update on Republican River Basin Agreements and Supreme Court Litigation

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Conference  
McCook, NE**



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# Outline

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- ❑ October 22, 2014 RRCA Agreement
- ❑ November 19, 2014 RRCA Agreement
- ❑ United States Supreme Court Ruling
- ❑ Recent discussions and likely March 6, 2015 Agreement
- ❑ Long-Term Agreement Components
- ❑ Basin-Wide Planning

# October 22, 2014 Agreement

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- ❑ Provided Nebraska 100% credit for the 63,500 ac-ft of augmentation conducted in 2014
- ❑ Allowed for Kansas to carry over a portion of their water allocation in HCL for KBID exclusive use
- ❑ Significant water supply benefits to each states surface water users

# Outcome Comparisons for 2014

Condition	Annual Accounting Balance	NBID Water Supply for 2015	KBID Water Supply for 2015	Additional 2014 Upstream Reservoir Storage
Without the Resolution and no additional releases	~ -10,000	0	30,000	~ 15,000 - 20,000
Without the Resolution and additional releases	~ 10,000	0	0	~ 5000 - 10,000
With Signed Resolution (End of 2014)	~20,000	~ 5,000 - 15,000	~ 20,000 - 40,000	~ 15,000 - 20,000

\*All values in ac-ft

**NBID and KBID Supply Estimates based on assumption of project water split 60% KBID and 40% NBID**

# November 19, 2014 Agreement

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- ❑ Provided Nebraska 100% credit for augmentation delivered prior to June 1, 2015
- ❑ Provided Kansas greater certainty on the timing of delivers for KBID
- ❑ Significant water supply benefits to each states surface water users

# Supreme Court Ruling

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## **Litigated Issues**

- ❑ Damages for past non-compliance (2005-2006)
- ❑ Injunctive Relief
- ❑ Accounting Change

# Supreme Court Ruling

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## ■ **Issue: Damages for past non-compliance (2005-2006)**

### **States arguments**

- Kansas – ~80 million dollars for Kansas loss and for Nebraska gains
- Nebraska – 0 to 2 million dollars for Kansas loss

### **Result from the Court**

- 3.7 million dollars for Kansas loss and 1.8 million dollars for Nebraska gains

# Supreme Court Ruling

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## ■ Issue: Injunctive Relief

### **States arguments**

- Kansas - permanent curtailment of pumping on ~300,000 acres of groundwater irrigated land and appointment of a Federal River Master
- Nebraska – Third generation Integrated Management Plans will ensure compliance now and in the future

### **Result from the Court**

- Nebraska's IMPs are sufficient to ensure current and future compliance



# Supreme Court Ruling

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## ■ Issue: Accounting Change

### States arguments

- Kansas – The accounting procedures should remain unchanged “a deal is a deal”
- Nebraska – Accounting Procedures must be changed to exclude Platte River water consumption from groundwater consumption calculations

### Result from the Court

- Accounting Procedures should be changed. Results in accounting improvement ~ 8,000 – 20,000 ac-ft each year

# Pending March 6, 2015 Agreement

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- ❑ Provides for lifting Compact Call Administration through the irrigation season
- ❑ Improves contracting terms for KBID, no special contracting with BOR necessary
- ❑ Provides Nebraska greater flexibility should augmentation and water administration be necessary after the irrigation season
- ❑ Significant water supply benefits to each states surface water users

# Likely Long- Term Agreement Elements

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- ❑ Provide full crediting for augmentation projects
- ❑ Provide for greater flexibility for NE in water administration
- ❑ Eliminate federal contracting concerns
- ❑ Provide greater reliability of known water supply for KBID
- ❑ Significant water supply benefits to each states water users

# Basin-Wide Plan

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- ❑ Develop a plan with goals and objectives with the purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, sub-basin, or reach can be achieved and maintained for both the near term and long term
- ❑ Ensure compact compliance

# Basin-Wide Plan

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- ❑ Timeline to meet goals and objectives within 30 years
- ❑ Timeframe of three years (two one-year extensions possible)
- ❑ First meeting with stakeholders March 31<sup>st</sup> in Cambridge

# Thank you

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## Questions?