

Update on Republican River Basin Agreements and Supreme Court Litigation

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Conference
McCook, NE**



Nebraska
Department of Natural Resources

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Outline

- ❑ 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

- ❑ 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

- ❑ 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

Litigated Issues

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

Supreme Court Ruling

■ **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

■ 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

■ 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

- ❑ 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

- ❑ 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

- ❑ 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

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

Thank you

Questions?