

## UPDATE – REPUBLICAN RIVER SETTLEMENT

No matter how some state officials and newspaper editorials try to spin the issue, the fact is becoming more and more apparent that Republican River basin irrigators got blindsided by the "deal" Nebraska cut with Kansas. Sure, we drew a loser with the special master assigned to the lawsuit, but how the whole thing ended up with Nebraska clearly getting the shortest of all short sticks is beyond comprehension.

How could things have gone from a relative state of normalcy, understanding and friendly coexistence for over half a century to what we have now to deal with? The politically correct crowd loves to blame a lot of what happened on former attorney general Don Stenberg, because they say he gave irrigators an unrealistic sense of confidence about Nebraska's chances of winning in court. Just to set the record straight on this bit of misinformation, consider what was said by others:

- June 20, 1995 - University of Nebraska water law specialist David Aiken - *"Kansas can make a case if they try hard enough, but I don't know if they can put together a strong case. If they do sue us I don't think the sky is going to fall. I don't think Kansas is in any shape to get a lot of water out of Nebraska."*
- June 20, 1995 - Then Director of Water Resources Mike Jess - *"Kansas doesn't have a very good case, but they seem quite intent on some suit against Nebraska."*
- December 24, 1997 - Then Governor Ben Nelson - *"Nebraska has an iron-clad case"* to win a potential lawsuit with Kansas.
- December 1, 1998 - Then Governor-elect Mike Johanns - *"I want Kansas to understand that we are simply not rolling over. We believe we can win it."*

So the next time you hear someone say Don Stenberg was solely responsible for unrealistic over-confidence about Nebraska's chances of winning in court, you can set the record straight.

It is an irrefutable fact that conservation measures, including terracing, residue management and farm ponds, impact river flows the most. The Republican River is 80 - 90 percent runoff. Terraces hold water on the land and thereby greatly reduce runoff into the river. Nevertheless, the computer model that assesses Nebraska's compliance does not accurately account for conservation measures. What the model does is to assign stream

depletions caused by conservation measures to groundwater. This false assignment of cause and effect greatly overstates the true impact groundwater pumping has on river flows. The group WaterClaim out of Imperial has studied this issue extensively and has done a terrific job of laying it all out on their website at [info@waterclaim.org](mailto:info@waterclaim.org). The governor must direct DNR to fix this major flaw in the model right now before it is too late. Nebraska will have no chance of ever complying with the settlement agreement unless conservation measures are fairly and fully accounted for.

When assessing the fairness of the agreement, consider that Milford Reservoir near Junction City, Kansas, which is the very end of the Republican River system, is full and releasing water. By comparison, Harlan County Reservoir near Alma is only about 40% full. Also, consider that Nebraska groundwater irrigators in the Lower Republican NRD are under strict allocations of only 11 to 12 inches. Compare this with the 18 plus inches that irrigators are allowed to pump in northwest Kansas where the Republican River system begins. The disparity between what is going on in Kansas and here in Nebraska in terms of water supply, water use and compact compliance requirements is stunning in its manifest unfairness. The settlement document includes a dispute resolution mechanism. This process must be used now to fix the woefully flawed model and to fairly account for the effects of conservation measures, riparian vegetation and the drought.

The governor must get his arms around this thing and get it squared away before the economic health and vitality of south central Nebraska fails because groundwater irrigation gets choked off. It is so very important that the three Republican River Basin natural resources districts (Upper, Middle and Lower) stick together in order to better protect their groundwater irrigators' rights from an overreaching, aggressive state DNR which seems inclined to keep pushing in the wrong direction. The drought appears to be lessening its grip on us, and Harlan Reservoir is up from prior years. Current allocations must not be lowered any further. If the NRDs unite in this common cause and are willing to stand up to the DNR as the Lower Republican NRD has so courageously done, we can protect our local economies and ways of life.