

## **UPDATE ON REPUBLICAN RIVER COMPACT ISSUES**

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### **1) Background on Republican River Compact**

- a) Colorado, Nebraska and Kansas negotiated the Compact and was signed by the three States on December 31, 1942
- b) The purposes of the Compact are:
  - i) Provide for equitable division of water within basin
  - ii) Remove all causes of controversy
  - iii) Promote interstate comity
  - iv) Promote efficient use of water and control of destructive floods
- c) Water allocated based on virgin water supply within the basin
- d) Virgin water supply is the water supply undepleted by the activities of man
- e) Allocations are made to each State in 14 different subbasins
- f) Compact includes provisions related to the federal government's ability to develop projects within the basin
- g) Rules and regulations for administration of the Compact are adopted by unanimous vote by the Republican River Compact Administration (created in 1959)

### **2) Past Litigation**

- a) U.S. Supreme Court Case No. 126 Original (filed in 1998)
  - i) Groundwater development was at heart of the controversy between the states
  - ii) Final Settlement Stipulation reached by the three States in 2002 and then approved by Special Master and US Supreme Court in 2003
- b) Kansas filed suit against Nebraska in 2010 for violation of FSS in 2005-2006 that resulted in decision by US Supreme Court in 2015
  - i) Nebraska assessed \$5.5M
  - ii) Nebraska moved forward with construction of Rock Creek Pipeline and the N-CORP Pipeline
  - iii) Nebraska also developed Integrated Management Plans

### 3) Current Situation

- a) States entered into monthly discussions in June 2014 in efforts to reach agreements for Compact compliance efforts
- b) Efforts resulted in a series of six interim agreements
- c) Agreements by Resolutions Dated August 24, 2016
  - i) Resolution Approving Long-Term Agreements Related to the Operation of Harlan County Lake for Compact Call Years
    - (1) Provides Kansas water users much more certainty for a viable water supply in dry periods
    - (2) Nebraska receives full credit for its compliance activities including augmentation deliveries
    - (3) Allows for delivery of water as needed to Harlan County Lake or left in the ground to be available to Kansas water users at some future time when it is needed more
    - (4) Agreement also sets a framework and a path forward to make water in excess of Kansas Bostwick Irrigation District's needs available to downstream Kansas users
  - ii) Resolution Approving Operation and Accounting for the Colorado Compact Compliance Pipeline and Colorado's Compliance Efforts in the South Fork Republican River Basin
    - (1) Colorado receives 100% credit for deliveries of water to the North Fork from the Compact Compliance Pipeline
    - (2) Colorado commits to retire an additional 25,000 groundwater-irrigated acres in the South Fork
    - (3) Explore opportunities to utilize Bonny Reservoir