



# UPPER REPUBLICAN Tailwater

Protecting Lives • Protecting Property • Protecting the Future

December 2009

## FREQUENTLY ASKED QUESTIONS IN THE UPPER REPUBLICAN NRD

In the past several months, we have noticed that the same questions are being asked by cooperators in the District. Here are some frequently asked questions and the answers:

### **What about the arbitration? Is there any current news?**

The Arbitrator released his report on June 30, 2009; the states then had 30 days to accept or reject his decisions. The Republican River Compact Administration met on August 12, 2009. The three States continue to disagree on proper accounting; neither Kansas nor Nebraska accepted the Arbitrator's ruling in whole. Thus, it remains to be seen if either State will pursue litigation on the unresolved issues at this time.

### **When will the property tax money be refunded to the tax payers?**

The NRD is currently asking the court if it has the authority to refund the unconstitutional property taxes. Only one section of the law was deemed unconstitutional: the section authorizing the collection of the special property tax. The section restricting what those funds can be used for is still valid, and does not allow for paying those funds back to the tax payers. Statute limits the refund to those individuals who filed a valid protest at the time the property taxes were paid. Thus, the fair solution of everyone getting their money back seems to be illegal, which is why the NRD is asking the court to give guidance in this unique circumstance. While this seems ironic, the situation is relatively unique; in most circumstances the tax monies would have already been expended prior to a law being ruled unconstitutional in the courts. Thus, the legislature had never contemplated dealing with this exception and chose not to this past legislative session. In spite of the hard work by the Senators' representing the basin, the legislature decided not to address the issue and left us with no alternative other than asking the

court for authority to resolve the issue.

### **Has the lawsuit on the occupation tax been ruled on yet?**

No, the courts have not ruled on the occupation tax yet, so the section of law authorizing the occupation tax is still valid.

### **Where are the tax monies that are being challenged in court?**

The NRD is holding these funds in escrow until the legal matters are settled, should that be necessary. The occupation and property taxes collected were not used to build the new NRD building. By law, those funds are only able to be used for the specific purpose of river flow enhancement to manage the water resources for Compact compliance, with the purpose of protecting the local economy, such as by entering into surface water leases or river flow augmentation. Unfortunately, these legal matters coupled with the lack of alternative State funding have delayed these activities that can help protect our local economy from otherwise unnecessary and relatively inefficient regulations.

### **Where can I get a copy of the current URNRD Rules and Regulations?**

You can call or stop by the NRD office to pick up a copy of the Rules and Regulations. You can also access the Rules and Regulations by going to our website: [www.urnrd.org](http://www.urnrd.org).

### **Who regulates groundwater and surface water?**

The NRDs manage groundwater and the Department of Natural Resources (DNR) regulates surface water. The two agencies are working together to develop regulations to maintain compliance with the Republican River Compact.

### **What are the annual irrigation allocation and how many years is it for?**

The annual allocation is 13 inches per year for 5 years. 2009 is the second year of the allocation period that began in 2008 and ends in 2012.

## UPPER REPUBLICAN NRD, YOUR LOCAL VOICE

The Upper Republican NRD is your local resource for information about flowmeters, water usage, drinking water, grass seed and wildlife habitat.

The NRDs were formed in 1972 as a local government system providing a local voice to the citizens of Nebraska for the management of our water supplies and other natural resources. This system is unique to Nebraska, a uniqueness only matched by the water supplies in Nebraska. The NRDs are made up of local people who know the local situation, solving local problems by implementing practical solutions that

work in the local setting, eliminating the failures that would be associated with a one size fits all approach for the many different water supplies and natural resources of our State.

Local government means having a local voice. Your local NRD is an important component of Nebraska's government. The NRDs are working diligently to protect lives by providing water sampling for drinking water, protecting property by supporting the removal of invasive species in Nebraska rivers, and protecting the future by educating our children to become aware of conservation of our natural resources.