

Sen. Hughes' Augmentation Bill Flows Through Capitol; Sen. Groene's Sinks

LEGISLATIVE UPDATES

Tax Levy for Fully/ Over-Appropriated NRDs Will Expire

The Legislature in March voted down the extension of a revenue source meant to help manage water in the URNRD and nine other NRDs designated by the state as fully or over-appropriated. The URNRD has routinely used at least some of the 3-cent property tax levy to fund such things as retirement of irrigated land in high-impact areas such as close to streams, providing cost share for soil moisture probes, and study and design of augmentation projects, among other things. Not having the 3-cent levy will likely lessen the URNRD's ability to pursue grant funds in the future. Grants commonly require the recipient to contribute match of 40%-50%.

With current land valuations, the 3-cent levy when fully used could generate about \$1.1 million for the URNRD. Without the 3-cent levy, the URNRD's maximum levy authority is 5.5 cents per \$100 of property valuation.

Augmentation bills dominated water-related legislation in 2018, with state Sen. Dan Hughes of Venango successfully ushering through the legislature a bill to aid counties with augmentation projects. Sen. Mike Groene of North Platte, meanwhile, saw his "sell-NCORPE" bill fail.

LB758 from Hughes removes a barrier that forced the URNRD and board of NCORPE to protest the payment of property taxes to Dundy County and Lincoln County. Both boards wanted to pay in-lieu of property taxes on the property holding the respective augmentation projects. But state law prohibits political subdivisions including NRDs from paying property taxes on land/projects that are for a public purpose. Therefore, members of each board would have been legally liable for knowingly violating the law had they not protested payment of property taxes (all property taxes charged by the two counties have been paid by the URNRD and NCORPE).

By giving NRDs the option of making in-lieu of tax payments, instead of forcing them to do so, Hughes' bill creatively sidesteps the constitutional prohibition against requiring political subdivisions to pay property taxes. The in-lieu of tax payments under his bill cannot exceed property taxes that would have been paid on the land if the land was taxable. Under the bill, county treasurers are required to distribute the in-lieu of tax payments to schools and other taxing entities in the same proportion that property taxes would have been distributed if the land was taxable.

The bill, which was the Natural Resources Committee's priority bill during the 2018 legislative session, also includes additional notice and reporting requirements of NRDs that develop augmentation projects. URNRD and NCORPE Board Chairman Terry Martin of Benkelman testified in favor of LB758 during the hearing on the bill. Dundy County farmer/rancher Shad Stamm, who is president of the Dundy County Stratton School Board, also testified in favor of the bill. The bill was approved on a 45-0 vote and was signed by Gov. Ricketts.

The other augmentation-related bill, LB1123 from Sen. Groene, was voted down by the Legislature's Natural Resources Committee, which is chaired by Hughes. As such, the bill wasn't debated by the full Legislature.

The bill attempted to give NRDs the ability to sell land associated with the NCORPE project while retaining the water rights. Separating water rights from land ownership would be a major change in Nebraska, and farm and ranch groups in the state, including Nebraska Farm Bureau, Nebraska Corn Growers, and Nebraska Cattlemen, among others, opposed the bill. Had the bill passed and the land been sold, a lawsuit challenging the bill could have jeopardized the ability to operate the Rock Creek and NCORPE augmentation projects and the investment irrigators have made in both projects.

URNRD and NCORPE Chairman Terry Martin testified in opposition to the bill, along with URNRD Director Dean Large and farmer Kurt Bernhardt of Lamar, a former URNRD board member.



River Compact Agreements Lessen Rock Creek Use

The Rock Creek Augmentation Project in Dundy County will be idle most, and maybe all, of 2018. If the project is used in 2018 and early 2019 at all, pumps won't be turned on until October of this year, at the earliest.

The non-use of Rock Creek and the NCORPE augmentation project in Lincoln County through at least October is due to common-sense agreements reached between the Republican River Compact states of Nebraska, Kansas and Colorado the last couple of years. Prior to the agreements, if Nebraska projected it would be noncompliant with the Compact the next year, the augmentation projects would be turned on regardless of whether Kansas actually needed the water in that year. Now, Kansas evaluates the needs of its water users and available water supplies. If it's decided additional supplies aren't needed, Kansas' water is instead stored in the ground at the augmentation sites to provide to



Kansas if, and when, it does need the water.

For example, if the agreements weren't reached, 9,300 acre feet more water would have been pumped last year by the Middle, Lower and Upper Republican NRDs; and more than 11,000 acre feet would be pumped this year.

Another feature of the agreements is Nebraska and the NRDs receiving 100% credit for the water that is pumped.

Previously, Nebraska and the URNRD received credit for 69% of the water pumped at Rock Creek; at NCORPE, the state and NRDs received just 54% credit. That resulted in a total of 11,400 more acre feet of water being pumped at Rock Creek in 2013-2014 than if 100% credit was received.

The table below illustrates Rock Creek's use compared to estimated irrigation usage had the project been developed under "post-agreement" conditions that now exist.

Rock Creek Augmentation v. Retired Rock Creek Irrigation, 2012-2018 (acre feet)

Water pumped at Rock Creek thus far has exceeded estimated irrigation use since 2012 by a total of about 3,000 acre feet. But significantly less would have been pumped had new agreements with Kansas also been in place in 2013 and 2014. The table below shows augmentation compared to irrigation amounts had the agreements been in place at the time the project started. It helps project future augmentation pumping relative to irrigation use.

	2012	2013	2014	2015	2016	2017	2018	Total
Aug.	0	10,680	14,150	0	0	4,563	0	29,393
Retired	5,700	5,700	5,700	5,700	5,700	5,700	5,700	39,900

1. All augmentation values ("Aug.") represent pumping if URNRD credited with 100% of all augmentation water pumped. Permanent agreements with Kansas have provided 100% credit since 2015; prior to that, credit was provided for approximately 69% of pumped water.

2. Retired use ("Retired") based on existing number of retired acres at annual usage of 13".

Lawsuit Dismissed in Favor of NRDs

The Nebraska Supreme Court in recent months dismissed two lawsuits involving the Natural Resources Districts and state Department of Natural Resources. One challenged the state's ability to administer surface water for Compact compliance and the other challenged the Integrated Management Plans the NRDs and state have in place.

The Frenchman Cambridge Irrigation District (FCID) filed a lawsuit that argued that Integrated Management Plans (IMPs) approved by DNR and the NRDs would deprive the surface-water irrigation district of water that would otherwise be available for its operations, among other things. But the state high court ruled that FCID lacked standing to challenge the IMPs because the irrigation district has not been harmed by them.

"IMPs are simply jointly developed plans for how water will be managed," says the opinion from the Nebraska Supreme Court. "Although the IMPs set forth the water controls that may be employed in times of water shortage, the IMPs themselves do not actually

implement the controls. Instead, for those controls to be implemented, the NRDs must determine that such controls are necessary and issue subsequent orders," pursuant to state law.

In another lawsuit, filed by Rodney Cappel, among the conclusions reached by the state Supreme Court is that DNR can issue surface water closing notices due to its policing power that can be used to maintain compliance with the Republican River Compact. Shut downs of water usage don't constitute a physical or regulatory taking of property, since water users do not own the water they use. Instead, they are given the right to use it. It was also ruled that DNR's regulation of the Republican River Basin does not constitute regulatory taking of property, and that water users are not entitled to restitution of occupation taxes levied against their property.

These rulings have helped DNR and the NRDs continue their jobs of protecting Nebraska's water and keeping the state in compliance with the Republican River Compact.

NCORPE Economic Report Shows Benefits of the Project

The University of Nebraska – Lincoln recently released an economic impact report on NCORPE that is the first study to look at the stream flow enhancement project and compare its economic impact to other regulatory alternatives to comply with the Republican River Compact. The report found that NCORPE has a positive economic impact on Lincoln County, the county where the project is located, as well as all of the NRDs party to the project.

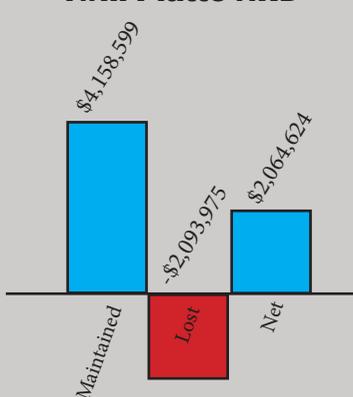
Describing the overall economic impact of NCORPE, the UNL report says, “(NCORPE) can bear the expense of purchasing land, moving it out of irrigated production, and installing and operating wells and pipelines, all for less cost to the economy and property value than the alternative of shutting down irrigation (on a larger number of acres)...”

The study looked at NCORPE versus a perpetual 60% irrigation reduction in the Republican Basin and a 50% reduction in the Twin Platte NRD. It was found that without NCORPE, there would have been an annual reduction in property tax revenue of \$5.6 million - \$8.7 million across the 16 NCORPE counties. The study also says such regulations would cause a \$61 million - \$89 million annual reduction in total economic output, i.e. business sales, across the NCORPE territory compared to the project, along with a loss of 126-185 jobs across the 16 counties.

The study also found NCORPE was a better economic alternative than regularly shutting down irrigation in the Rapid Response Areas of the three Republican NRDs to maintain compliance with the Compact. The Rapid Response Areas are those close to streams. The report concluded that compared to NCORPE, such shutdowns would cause property tax revenue annually to be \$900,000-\$2.1 million less, annual business sales would dip \$22 million - \$35 million and 49-78 jobs would be lost.

For more information on the report, visit our website, urnrd.org.

Annual Property Tax Benefits of NCORPE vs. Irrigation Shutdowns in Republican Basin and Twin Platte NRD



Water Usage Information for 2017

Average District water use:
12.6”

Average use in Chase County:
13.1”

Average use in Perkins County:
12.5”

Average use in Dundy County:
11.91”



Nebraska, Colorado Reach \$4 million Compact Settlement

Colorado has agreed to pay Nebraska \$4 million to settle a dispute regarding Colorado’s previous water use that may have violated the Republican River Compact and reduced Nebraska’s water supply. In exchange for the \$4 million, Nebraska agrees to not sue Colorado for any alleged violations that occurred up until Dec. 31, 2013. The payment will be made to Nebraska by Dec. 31, 2018, if legislators in Colorado approve the funding.

“THIS SETTLEMENT IS IN THE BEST INTEREST OF NEBRASKA, AND BUILDS ON OUR PREVIOUS COLLABORATIVE EFFORTS.” -NEBRASKA ATTORNEY GENERAL DOUG PETERSON

This settlement creates opportunities for cooperation between the states and better water management. By settling any potential issues outside of court, the states can continue to look toward the future and move on from any potential violations of the Republican River Compact.

Neb. Governor Pete Ricketts has recommended that the money be used for surface water resource conservation projects in the Republican River basin for the benefit of water users.

New Website for Landowners and Operators

The URNRD has been working on a new website that will make water use and other information more readily available for producers. The website is up and running and we are working on adding more content regarding field information and water usage.

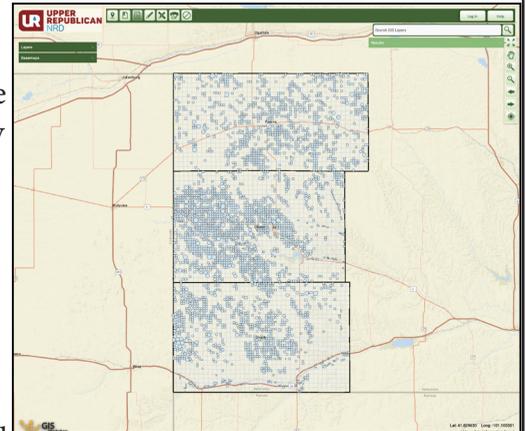
Currently on the site, producers can see all irrigated fields in the district and by clicking on a field, they can see the owner, the number of certified acres, and the legal description of the field. Producers in the future may be able to apply for variances as well as fill out well-drilling applications by clicking on the icons at the top of the page.

In the future, landowners and operators will be given log-in information to access all fields and wells associated with their name. Once logged into their account, they will be able to click on any of their fields and see the water usage history on the field and the

water levels in the area, as well as enter their current meter readings to find their current use for the year, allowing them to figure out how much available allocation they have.

We will be sending out more detailed information, with the log-in for each landowner and operator, when the website is complete.

Head to urnrd.gisworkshop.com to check it out.



Suspect High Nitrates? Here's What To Do...

Water quality in the URNRD is generally good, but there are localized areas with high nitrates that make it a good idea to have your drinking water tested.

Where do I start? At the URNRD. Stop by the office for a free water test kit you can take home to get water samples. Then bring it back to the URNRD by 1 p.m. Monday-Wednesday. The results will tell you your nitrate levels – anything at or above 10 parts per million (ppm) warrants attention.

Why should I care? High nitrates in drinking water can cause “blue baby syndrome” in infants less than six months old. It is a type of blood disorder that can cause a lack of oxygen in blood, leading to death in severe cases. Women who



are pregnant, expecting to be pregnant, or are nursing should also avoid water high in nitrates. The elderly should also beware.

I have high nitrates, now what? Treatment options include distillation, reverse osmosis or ion exchange. Systems that treat all the water that comes into a home generally cost between \$1,000 and \$5,000. Systems that just treat water where it's used – a system

at the kitchen faucet, for example, that only treats water at that faucet – varies between \$100 and \$1,000. Another option is water coolers/dispensers offered by companies such as Culligan that can be refilled with safe water.

URNRD Staff

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Jasper Fanning, General Manager
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 Cooper Bollman, Conservation Technician (Chase County)
 John Lemon, Conservation Technician (Dundy County)
 Todd Burrell, Conservation Technician (Rock Creek)
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 Danielle Haarberg, Information and Education Specialist
 Wilma Zimbelman, Receptionist
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Becky Spady, Imperial Patty Clough, Grant

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