

NRD wants alternative funding options in the plan

By Russ Pankonin

The Imperial Republican

Representatives of the Nebraska Department of Natural Resources took the wraps off an integrated management plan (IMP) Feb. 9 that would shut down Republican River Basin irrigation wells in rapid response areas (RRA) in water-short years.

The IMP would insure that Nebraska and the Upper Republican Natural Resource District would be in compliance with a 2003 water compact settlement with Kansas.

Members of the URNRD board and DNR reviewed the document during the NRD's regular meeting Tuesday, Feb. 9.

Jasper Fanning, URNRD manager, said this week the document remains a work in progress. Prior to the document's release, Fanning said members of the board's negotiating committee have been debating provisions of the new plan with DNR.

Earlier this year, DNR wanted a direction from NRDs in the Republican Basin as to what regulatory options NRDs wanted to consider in water-short years.

These options would be implemented to keep Nebraska in compliance with the compact.

The URNRD board opted for option 3, an option that would affect the least amount of irrigators in the district.

The option would shut down irrigation wells, without any compensation, in areas where two years of pumping would decrease stream flows by 10 percent, also known as the 10-2 RRA.

This would shut down more than 22,000 acres in the district that lies in near proximity to a river, stream or tributary in the district.

The Frenchman River valley from west of Champion to Wauneta would be heavily impacted, as would areas along the Stinking Creek and Spring Creek.

Other options given to NRDs was a shutdown of wells in a larger area, known as the 10-5 RRA, where five years of pumping reduced stream flows 10 percent; or a permanent reduction in allocations.

For the URNRD, that would have resulted in a permanent allocation of 5.9 inches per acre. The allocation was lower for the Middle and Lower Republican NRDs.

Fanning said NRDs in the basin continue to study other options, such as augmentation, acreage retirement and surface water leasing, as a way to help insure compliance without having to shut irrigators off.

More negotiations planned

Fanning said the IMP still remains an unfinished product and more discussions and negotiations will be held with DNR yet this week.

One thing that hasn't been addressed in the IMP is how these other compliance activities can be initiated and funded to avoid any shutdowns.

"It is the intent of this board to have funding options as part of the IMP," Fanning said. "We're not comfortable adopting an IMP without these tools included."

He said the two entities hope to have another draft ready for further review at next week's monthly meeting March 1.

Funding alternatives sought

Fanning said the board and legal advisors are continuing to look for alternative funding

methods to help pay for compliance activities.

The URNRD hired a legal firm to explore state statutes to see if any other funding options exist to allow the district to pay for these alternatives.

Fanning anticipates the board will receive a preliminary report on funding alternatives at the March 1 meeting.

The only option still on the table at this time is the per-irrigated-acre occupation tax created in LB 701 in 2007.

However, the constitutionality of the occupation tax is being challenged in Nebraska District Court.

A property tax in LB 701 was declared unconstitutional by a Lancaster County District Court judge, saying the tax only applied to the Republican Basin, making it “closed class” legislation.

The Nebraska Supreme Court said the levy was unconstitutional because it was a local tax collected for a state purpose—compact compliance with Kansas.

Parties are awaiting the District Court opinion on the occupation tax. Regardless of the decision, it will likely be appealed to the Nebraska Supreme Court.

Sen. Mark Christensen is seeking to get the “closed class” wording fixed in LB 862.

The Legislature’s Natural Resources Committee has named this one of their priority bills for the session.

Informative coffees being held

Members of the URNRD board and staff held coffees in Wauneta, Benkelman, Lamar and Champion to brief farmers on the status of local water issues and answer questions.

Fanning said there were about nine people in attendance in Wauneta Friday and nearly 40 in Benkelman later that day.

The other coffees were scheduled Wednesday, Feb. 24.

March meeting date changed

Normally the NRD board meets on the first Tuesday of the month but due to a conflict in Fanning’s schedule, the meeting has been moved ahead.

The meeting will be held at the Imperial office on Monday, March 1, beginning at 1:30 p.m. MT.