

Protecting Lives,
Protecting
Property,
Protecting the
Future

Lower Republican NRD REVIEW

January 2010
Volume 24



UPCOMING EVENTS

January 1—New Year's Day,
Office Closed

January 14—Board Meeting 2 pm,
LRNRD Meeting Room

January 18—Martin Luther King Jr.
Day, Office Closed

January 26-27—NARD Legislative
Conference, Embassy Suites,
Lincoln

February 11—Board Meeting 2 pm,
LRNRD Meeting Room, Alma

February 15—President's Day,
Office Closed

March 11—Board Meeting 2 pm,
LRNRD Meeting Room, Alma

March 14—Daylight Savings Time
Begins

District Court Hears LB 701 Challenge

Republican River Basin Natural Resources Districts continue to defend the constitutionality of an occupation tax collected on irrigated acres in the Republican Basin in 2008.

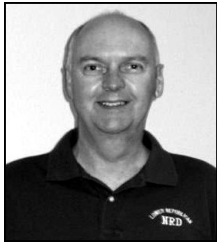
A lawsuit filed by several Republican River basin landowners against the State of Nebraska and the Upper, Middle and Lower Republican Natural Resources Districts, claims that the occupation tax brought on by LB 701 is unconstitutional, as it is only imposed upon residents of the Republican River basin while returns from taxes collected directly benefit the State of Nebraska by helping to achieve compliance with the Republican River Compact.

The suit went to trial in the Lancaster County District Court in Lincoln on Monday, December 14; a decision from Judge Robert R. Otte is anticipated in early 2010.

LB 701 was enacted by the Nebraska Legislature in 2007, granting both property tax and occupation tax authority to the NRDs; planning to utilize these tax proceeds, the NRDs purchased surface water for streamflow augmentation from over 350 irrigators for a total of \$8.8 million. The challenging lawsuit was filed later that fall, and the property tax portion of LB 701 was ruled unconstitutional by Lancaster County District Court Judge Paul D. Merritt Jr. in May of 2008.

A constitutional ruling for the occupation tax would give Republican River NRDs a funding mechanism for future projects within the basin – projects such as augmentation and conservation programs, which would decrease the risk of lowered allocations for basin irrigators.

On a related note, in an effort to legally refund property taxes that were declared unconstitutional, the NRDs are currently seeking a declaratory judgment from local district courts.



MIKE'S MESSAGE

As you know, the Arbitrator made a number of rulings last summer pertaining to issues brought forth by Nebraska and Kansas relating to the Settlement Agreement. The ruling that received the most press was the fact that Nebraska only owed damages in the amount of \$10,000 for 2005 and 2006. This was very positive for Nebraska, but other rulings were not so favorable.

The Arbitrator said that the Lower, Middle, and Upper Republican NRD's present Integrated Management Plans are not specific enough in dealing with "Water Short Year" compliance actions. We say that we will limit our consumptive use to our allocations, but we don't say specifically how we will do that.

As you have been reading, the State has proposed three options for the Districts to choose from that, in their opinion, will achieve compact compliance in "Water Short Years." All three options will have devastating local impacts on the Republican River Basin and the State. Option one would permanently reduce pumping as follows; Lower Republican, 3.6 inches; Middle Republican, 4.8 inches; and Upper Republican, 5.9 inches. Option two includes a curtailment of surface water use and curtailment of groundwater pumping in a 10% - five year rapid response area. Under option two, the groundwater acres curtailed in each District would be: Lower Republican, 77,800; Middle Republican, 59,400; and the Upper Republican, 44,300. Option three would be similar to option two except there would be curtailment of surface water use and groundwater pumping in a 10% - two year rapid response area and an overall 1% per year reduction in pumping for each of the three Districts. To this point, there has been no timeline set by the State as to when the 1% reduction in pumping per year would end.

Several years ago the NRDs in the Basin agreed to divide the available water supply according to the 1998-2002 historical pumping averages. As a result, the Lower Republican gets 26%, the Middle Republican 30%, and the Upper Republican 44% of the available water. Unfortunately, based on the State's options, the LRNRD would get 26% of the available supply, but in water short years would be responsible for 43% of the acres curtailed. I believe the State's options are inherently unfair. The disparity in the inequity of the curtailment acres is an issue that must be addressed by the State.

Our Board is working on an option four to present to the State. Although it's premature for me to comment on the details, option four will be a more comprehensive, long-term approach to managing the available supply and one that can not only maintain compliance, but work towards future sustainability of the basin. Simply targeting a select few to carry the burden of compliance is not a long-term solution.

There is no silver bullet and there are no easy solutions to meeting the terms of the Settlement Agreement that was negotiated by the State of Nebraska. Our past accomplishments should not be unnoticed as we seek long-term compliance and sustainability of our water resources. I can assure you that our Board will do everything possible to seek a long-term, more comprehensive approach to water short year management objectives.

2010 Prescribed Burn Workshops

(put on by Pheasants Forever)

Red Cloud (Basic) - Feb. 17

Trailblazer RC&D 8:30 a.m.—4:00 p.m.

Registration Fee \$5.00

Lunch provided

Franklin (Advanced) - Feb. 18

Franklin Co. Fairgrounds 8:30 a.m.—4:00 p.m.

Registration Fee \$5.00

Lunch provided

Set with SC NE Burn Association

TIME TO ORDER TREES

Anyone wishing to plant trees for wind-breaks in the spring are encouraged to make plans and order trees now. Whether planting trees for livestock protection in the open range, control of blowing soil, or wind protection around a feedlot or your home, early planning and tree ordering is critical for a successful growth.

The local Natural Resources Conservation Service offices are now accepting orders for trees to be planted in the spring. Staff in these offices can assist with tree species recommendations, a planting plan and schedule your tree planting next spring.

CHEMIGATION

The Nebraska Department of Environmental Quality (DEQ) requires that all applicators of chemicals to land or crops through the use of Chemigation, must obtain a permit. The Lower Republican Natural Resources District will be mailing out renewal permits after the first of the year. The renewal fee for Chemigation permits is \$10. These renewal permits must be returned to the LRNRD no later than June 1, 2010.

According to the Rules and Regulations of DEQ, Chemigation systems, must be inspected on a regular four-year rotating basis. You will be notified by the LRNRD if you are due for an inspection and a technician will set up an appointment to inspect your site. All permit fees and replacement parts must be paid for prior to or at the time of inspection.

If you did not renew your Chemigation permit last year, or you have a new site in which you will be applying chemical, you will need to apply for a new Chemigation permit. The fee for a new permit is \$30, and will also need to be inspected by a LRNRD technician before chemical can be applied.

Please contact the LRNRD at 308-928-2182 or 800-353-1297 if you have any questions or need to apply for a New Chemigation permit.

19th Annual Water Jamboree

The Nineteenth Annual Water Jamboree will be held April 21 & 22 at the Harlan County Reservoir. Approximately 550 students from the



surrounding communities attended the event last year. This program provides area youth with information about the interaction between people, the environment, and our water resources. Water Jamboree is funded by sponsors, including the Lower Republican NRD, and many local contributors. Any monetary or in-kind contributions that you or your organization would be willing to provide for the Water Jamboree would be greatly appreciated. You can contact the LRNRD at 308-928-2182 with questions concerning this event. Contributions can be directed to Water Jamboree, PO Box 618 Alma, NE 68920.

Unicameral Reduces NSWCP Funding

State revenues have been less than expected thus far and predictions for the remainder of the current biennium are somewhat bleak. To help assure expenditures and revenue are reasonably balanced, FY2010 budget appropriations and reappropriated funding originally approved for nearly all State agencies and programs were reduced during the Unicameral's special session. For the Nebraska Soil and Water Conservation Program, carryover dollars and the FY2010 appropriation were reduced by nearly \$695,000. The reduction in NSWCP funding for the Lower Republican for this year is \$35,907. This cut in funding will result in fewer cost share projects being funded in the District.

Post High School Scholarships Available

The Lower Republican Natural Resources District has a post high school scholarship program with two \$1,000.00 scholarships available. These scholarships are available to first, second, and third year college students. Applicants must attend college in Nebraska and be registered to attend their college of choice. Applicants must also have a permanent residence in the Lower Republican NRD and plan to major in a natural resources related field (i.e. forestry, park management, agronomy, agri-business, etc.). Applications and additional information regarding these scholarships are available at the LRNRD, high schools within the District, and at colleges within Nebraska. Applications are also available on our website—www.lrnrd.org.

**LOWER REPUBLICAN
NATURAL RESOURCES DISTRICT
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- At-Large Bradley Wulf, Red Cloud - Secretary**

**Quarterly
Quote**

“There can be no settlement of a great cause without discussion, and people will not discuss a cause until their attention is drawn to it.” *William Jennings Bryan*

Lower Republican NRD Review

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**Check Out Our Website
www.lnrd.org**

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