

Spring 2015

Volume 29, Issue 2

# Tri-Basin Topics

A quarterly publication of Tri-Basin Natural Resources District

## Supreme Court Ruling Benefits Nebraska Irrigators

The U.S. Supreme Court ruled on March 10 in favor of a Republican River basin water-accounting change that will be worth approximately \$20 million annually to Nebraska and significantly reduce the amount of water that must be provided to Kansas in years when action is needed to maintain compliance with the Republican River Compact.

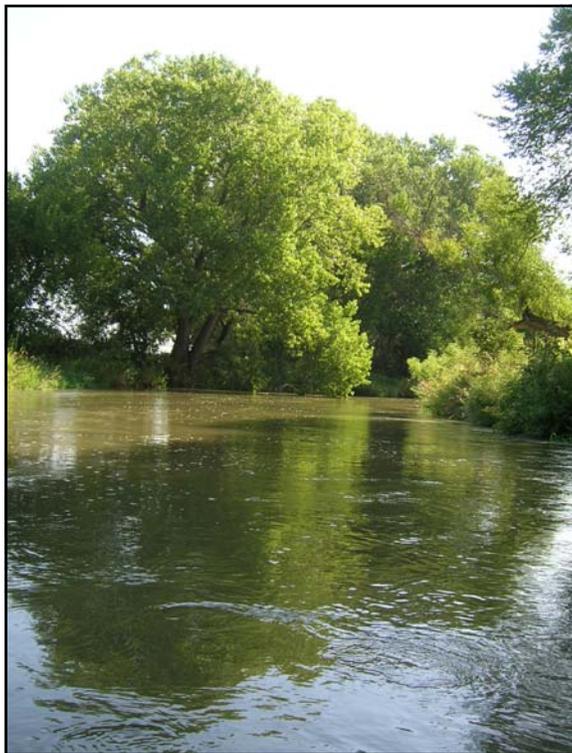
"The accounting counter-claim granted to Nebraska by the court dwarfs the \$5.5 million awarded to Kansas in terms of significance," said Jasper Fanning, manager of the Upper Republican NRD in Imperial. "The \$5.5 million was a one-time penalty. The accounting change is an ongoing benefit worth about three times that to Nebraska on an annual basis."

Kansas had originally sought about \$80 million in damages and a permanent irrigation shutdown on about 300,000 acres.

The hard work of the Nebraska Department of Natural Resources (DNR), Attorney General's Office and Natural Resources Districts in the Republican Basin has resulted in a favorable decision by the U.S. Supreme Court.

The accounting change approved by the high court will ensure that Nebraska is no longer charged for consumption of so-called imported groundwater that seeps into the Republican River Basin from the Platte River Basin. Because Nebraska has been wrongly charged with consuming that water in the Republican Basin as if the water originated there, the NRDs and State of Nebraska have had to supply Kansas with more water than otherwise would have been necessary. The amount of imported water Nebraska will no longer be charged with consuming is significant – it will vary year to year but could be as much as 10,000 acre feet annually.

That is equal to about 25 percent of Nebraska's alleged overuse in 2005 and 2006, the years for which Nebraska was sued by Kansas. Had the accounting change been in place in 2013, for example, Nebraska would have had to take little or no action to stay in compliance and in 2014 it would have substantially reduced the amount of water pumped by NRD augmentation projects.



*The Republican River, 2012.*

Locally, 40 percent of Tri-Basin Natural Resources District (NRD) lies in the Republican River Basin, with approximately 190,000 irrigated acres in that portion of the district. The ruling will greatly aid Tri-Basin NRD in maintaining compliance with a joint Integrated Management Plan (IMP) with DNR to offset depletions to the Republican River. Tri-Basin's planned streamflow augmentation projects, along with diversions of high flows from the Platte River into Elwood Reservoir to recharge groundwater supplies, should meet the requirements of the IMP for the foreseeable future.

"This is a win for Nebraska's farmers and ranchers," said Acting DNR Director Jim Schneider. "By lessening Nebraska's compliance burden, this ruling will in effect lessen Nebraska's need to regulate for compliance. Nebraska's water users should be very pleased."

Today's ruling upholds the Special Master's ruling from November 2013.

The dispute centers on a 1943 compact allocating 49 percent of the river's water to Nebraska, 40 percent to Kansas and 11 percent to Colorado.

"Today is a good day for Nebraska," said Governor Pete Ricketts. "I am pleased to see that the court has made a reasonable decision. I look forward to working with the governors of Kansas and Colorado to move forward."



# Manager's Message

by John Thorburn

## The Republican River: Past, Present and Future

The Republican River is notoriously difficult to predict. It can be dry for long periods of time, then rapidly swell into a flood. The most extreme example of the river's fickle behavior is, of course, the catastrophic flood of 1935. That terrible disaster killed more than 100 people and devastated thousands of homes and farms throughout the valley. Nebraska and Kansas officials appealed to the federal government for help to build flood control reservoirs to insure that such a calamity could never happen again. It was hoped that these reservoirs would also store water to irrigate cropland during dry times.

For these reasons, the federal government and the states of Nebraska, Kansas and Colorado negotiated the Republican River Compact agreement, which was ratified in 1943. As a result of this compact, several reservoirs were built, anchored by Harlan County Reservoir, the main flood control reservoir in the system.

River residents are now protected from floods, but drought is still a problem. Federal reservoirs provide a limited irrigation supply for about 100,000 acres, but most landowners turned to conservation measures like terraces and no-till farming and to groundwater irrigation to help their crops survive drought.

The economy of the Republican Basin has benefited greatly from irrigated crop production and from conservation measures that reduce runoff, enhance recharge and protect

soil. When these practices combine with drought however, they have the potential to negatively affect streamflows. For this reason, Kansas sued Nebraska twice, first in 1998, and again ten years later.

Nebraska agreed to reduce impacts to streamflows as part of the settlement of the first Kansas lawsuit, but we weren't able to fully implement all needed conservation measures quickly enough to prevent overusing water during the extreme drought years of 2005 and 2006. That's why Kansas sued us a second time, demanding \$80 million in damages. Fortunately, the U.S. Supreme Court recognized that, while Nebraska has some liability for overuse, Kansas suffered only five million dollars in harm as a result. The court also recognized that Nebraska now has all the necessary controls and regulations in place to prevent future compact violations.

Most importantly, the Supreme Court agreed with Nebraska that the Compact's water supply accounting formula incorrectly charged Nebraska for consumption of Platte River water ("imported water") that seeps into the Republican Basin. This aspect of the Supreme Court's decision was overlooked in some news stories, but it gives Nebraska a 10,000 acre-foot "cushion" in our water supply. This cushion will save Nebraska as much as \$20 million per year.

Now that our interstate lawsuits are behind us, we can look forward to working cooperatively with Kansas to make the best use of the Republican River's water supply for the benefit of both states. Nebraska is certainly not "off the hook." We will have to live with strict limits on our water supply, but we've shown that we can do it. The Republican River's flows are still unpredictable, but the future of the basin's agricultural economy is now clear and bright.

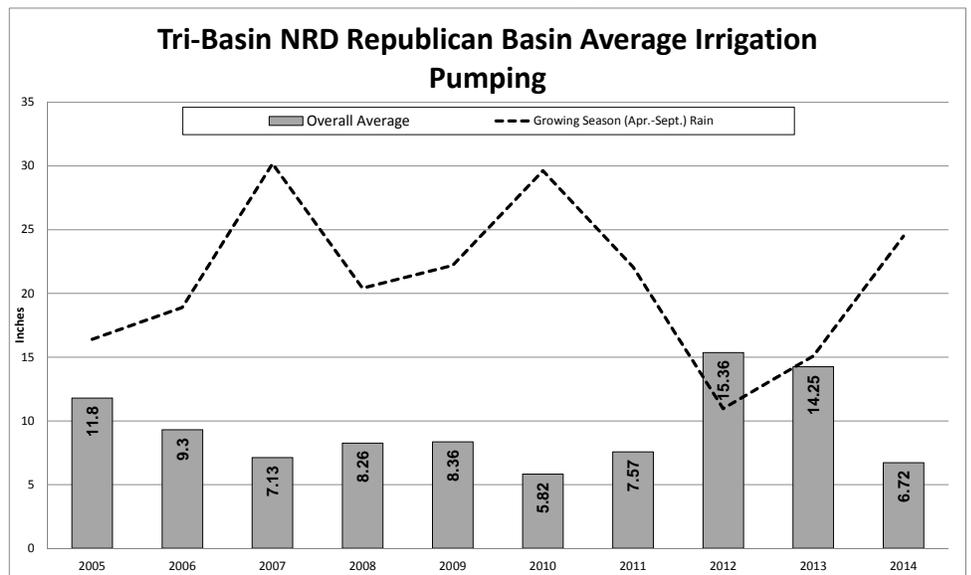
## TBNRD Republican Basin Water Use Lower in 2014

Ample precipitation during the growing season and efficient irrigation management practices combined to help irrigators in Tri-Basin NRD use less irrigation water in 2014 than in any year since 2010. The overall average irrigation water use in the Republican Basin portion of the district was 6.72 inches per acre in 2014. The only year in the past decade with a lower overall average was 2010, at 5.82 inches per acre (see chart).

More specifically, in 2014, average irrigation water use broken down by irrigation practice was: center pivot irrigation-6.11 inches per acre; gravity irrigation-11.34 inches per acre; subsurface drip irrigation-7.6 inches per acre; and a combination of irrigation practices-6.54 inches per acre. By comparison, in 2013: center pivot irrigation-12.46 inches per acre; gravity irrigation-22.84 inches per acre; and a combination of irrigation practices-15.05 inches per acre. (Data for subsurface drip irrigation was not compiled prior to 2014.) Irrigators in the district are to be commended for maintaining their commitment to protect

groundwater resources through best management practices.

Detailed information about irrigation water use in Tri-Basin NRD is available at the NRD office or on the district's website: [www.tribasinrd.org](http://www.tribasinrd.org).



## Cavanaugh Sworn in as NRD Director

Mike Cavanaugh of Minden was sworn in as a Tri-Basin NRD Director at the January board meeting. He replaces David Nelson of Up-land on the board. Nelson chose not to seek re-election after serving the district's citizens for 27 years.

Mike is employed in the aerial application industry. He and his wife, Janet, have three grown children. He is a member of Trinity Lutheran Church, the Minden Country Club, and the Nebraska Aviation Trades Association. In his spare time, he enjoys hunting and fishing.



## TBNRD Offers ACE Camp Scholarships

Adventure Camp about the Environment (ACE) is a natural resources camp sponsored by Nebraska's natural resources districts for students who have completed sixth, seventh, or eighth grade. It will be held at the State 4-H Youth Camp at Halsey June 14-17. Cost of camp is \$190.

Tri-Basin NRD is offering up to six scholarships that cover the full cost of registration for students from Gosper, Phelps, and Kearney Counties who want to attend this camp. The deadline to apply for TBNRD scholarships is May 1, 2015. More information about the camp and applying for the scholarships can be found on Tri-Basin NRD's website, [www.tribasinprd.org](http://www.tribasinprd.org), or by calling Destinee Steinke at Tri-Basin NRD toll-free at 1-877-995-6688.

## Chemigation Permit Renewals Due June 1

Chemigation renewal forms have been sent to producers and are due, along with payment, in the Tri-Basin NRD office by June 1, 2015. Anyone who wants to apply fertilizer or ag chemicals through their irrigation system needs to apply for a chemigation permit for the 2015 season. Landowners and operators should contact Tri-Basin NRD toll-free at 1-877-995-6688 regarding chemigation permits. All newly permitted chemigation systems must be inspected before use. A person who is certified as a chemigation applicator must supervise injection of fertilizer and ag chemicals in irrigation water.

NRD staff do routine inspections on chemigation systems from June until August. Routine inspections are required every three years. If your system is due for an inspection, you will receive a postcard this summer. Routine inspections must be completed for permits to be eligible for renewal the following year. Chemigation permit fees are higher this year. Renewal permits will cost \$15 and new permits will be \$50.

## Conservation Efforts Recognized

At our biennial awards banquet in January, Tri-Basin NRD recognized individuals who have made an outstanding effort to conserve and protect natural resources in the district and state. Award winners are pictured here.

Staff and directors were also recognized for their years of service to the district. Those receiving awards were: David Nelson (27 years, retired), Larry Reynolds (30 years), David Nickel (25 years), Phyllis Johnson (20 years), Carie Lynch (15 years), Charles Brooks (15 years), Esther Smith (10 years), and Nicole Salisbury (10 years).



Margo and Tom Carlson, recipient of the 2015 Friend of Conservation Award.



Dick and Bonnie Helms of Helms Flying H, LLC, recipient of the 2015 Tree Planter Award.



Millard Gustafson and Vera Brodine of Gustafson Family Farms LLC, recipient of the 2015 Wetland Stewardship Award.



Jim, Charlie, and Greg Linder of Linder Stock Farms, Inc., recipient of the 2015 Soil Conservation Award.



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# Tri-Basin Topics

Non-Profit Permit  
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Holdrege, NE 68949  
Permit No. 220

**Tri-Basin Natural Resources District**  
1723 Burlington St. Holdrege, NE 68949  
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email: [tribasin@tribasinprd.org](mailto:tribasin@tribasinprd.org)  
[www.tribasinprd.org](http://www.tribasinprd.org)

RETURN SERVICE REQUESTED

*Nebraska's NRDs: Protecting Lives, Protecting Property, Protecting the Future*

# CALENDAR

April 14.....NRD Board Meeting, 7:30 p.m.\*

April 22 & 23 .... Water Jamboree at Harlan Co. Reservoir

April 24..... Arbor Day  
Coffee AM & Tree Giveaway at Tri-Basin NRD

May 7-9..... NGPC Outdoor Discovery Program  
at Fort Kearny

May 12.....NRD Board Meeting, 7:30 p.m.\*

May 25.....NRD Closed for Memorial Day

June 9.....NRD Board Meeting, 7:30 p.m.\*

\* Times are tentative. All meetings are at TBNRD office in Holdrege unless otherwise noted.

### TRI-BASIN NRD BOARD OF DIRECTORS

David Olsen, Chairman ..... Minden, NE  
 Bradley Lundeen, Vice Chairman ..... Wilcox, NE  
 Joe Bilka, Treasurer ..... Holdrege, NE  
 Todd Garrelts, Secretary ..... Holdrege, NE  
 Brian Bergstrom ..... Axtell, NE  
 Mike Cavanaugh ..... Minden, NE  
 Ed Harris ..... Loomis, NE  
 Phyllis Johnson ..... Bertrand, NE  
 Joe Larson ..... Loomis, NE  
 David Nickel ..... Kearney, NE  
 David Raffety ..... Kearney, NE  
 Larry Reynolds ..... Lexington, NE  
 Ray Winz ..... Holdrege, NE

### TRI-BASIN NRD STAFF

Charles Brooks ..... Land Resources Coordinator  
 Tammy Fahrenbruch ..... Office Manager  
 Lori Hagan ..... Elwood Office Secretary  
 Nolan Little ..... Water Resources Manager  
 Carie Lynch ..... Administrative Secretary  
 Jon Munter ..... Land Resources Technician  
 Ruth Nielsen ..... Minden Office Secretary  
 Patrick Nott ..... Water Resources Technician  
 Tami Reese ..... Holdrege Office Secretary  
 Nicole Salisbury ..... Information Coordinator/Asst. Office Manager  
 Esther Smith ..... Office Clerk  
 Destinee Steinke ..... Educational Event Coordinator  
 John Thorburn ..... General Manager  
 Jeff VanEperen ..... Seasonal Field Technician

A mailing list is maintained and requests to be placed on the list should be sent to the above address. Comments and suggestions may be addressed to the General Manager.

***Get Tri-Basin Topics in your inbox instead of your mailbox!***

To request an electronic version of this newsletter, send an email [nsalisbury@tribasinprd.org](mailto:nsalisbury@tribasinprd.org).