

## Appendix E. Procedures for Addressing Conflicts Resulting from Implementation of the Republican River Basin-Wide Plan

### Section Overview

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This document establishes procedures for addressing conflicts that arise among water users within the Republican River Basin of Nebraska (Basin) and that result from implementation of the Republican River Basin-Wide Plan (Plan). This appendix lists the procedures and describes their purpose and exclusions to them.

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### Purpose

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This document establishes procedures for addressing conflicts that arise among water users within the Republican River Basin of Nebraska (Basin) and that result from implementation of the Republican River Basin-Wide Plan (Plan).

The Nebraska Department of Natural Resources (NeDNR), the Basin’s natural resources districts (NRDs), and members of the Plan’s Stakeholder Advisory Committee want to maintain local control over water management in the Basin to the extent possible. These procedures provide an opportunity to attempt to address certain conflicts locally, before resorting to lawsuits, the Interrelated Water Review Board, or other external conflict resolution processes.

In addition, including procedures to address conflicts as part of the Plan is consistent with the legislative intent of the Nebraska Ground Water Management and Protection Act:

All involved natural resources districts, the department, and surface water project sponsors should cooperate and collaborate on the identification and implementation of management solutions to conflicts between ground water users and surface water appropriators or to water supply shortages in fully appropriated or overappropriated river basins, subbasins, and reaches (*Neb. Rev. Stat. § 46-703 (6)*).

This process might result in NeDNR and the NRDs deciding that revisions to the Plan are necessary, as described in further detail in the procedures below.

## Exclusions

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These procedures apply only to conflicts that result from implementation of the Plan.

These procedures will not be used to readdress prior conflicts that have already been litigated or addressed through other conflict resolution procedures.

The extent to which NeDNR and the NRDs can address conflicts via these procedures is

limited to the statutory authorities of NeDNR and the NRDs.

These procedures do not apply to disagreements among NeDNR and the NRDs. *Neb. Rev. Stat. § 46-755 (f)* specifies that NeDNR and the NRDs may utilize the Interrelated Water Review Board process described in *Neb. Rev. Stat. § 46-719* for disputes arising from developing and implementing this Plan.

## Overview

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These conflict resolution procedures can be summarized as:

1. Initiate process
2. Investigate conflicts
3. Address conflicts

The procedures for each of these steps are described in detail below.

## Procedures

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### 1. *Initiate process*

- a. Any of the Basin's water users may initiate this process by sending a written request to the director of NeDNR or to the general manager of one of the NRDs. The request must be received by NeDNR or an NRD at least 60 days before an annual meeting in order to be placed on the agenda at that annual meeting ("Annual Meeting," page 47).
- b. In their written request, the water user(s) initiating this process (requestor(s)) must include the following items:
  - i. A description of the conflict

- ii. A request to discuss their issues and concerns related to the conflict at the annual meeting
  - iii. An explanation of why they believe the conflict has resulted from implementation of the Plan
  - iv. Their proposed solution to the conflict
  - v. Whether they know of any potential adverse impacts to other water users that might result from their proposed solution, and if so, what those potential adverse impacts are
- c. If NeDNR with concurrence from the NRDs determines that any of the required items listed in 1.b. above are missing from the written request, they will send the incomplete request back to the requestor(s) with a list of which required item(s) are missing. Returning an incomplete request to the requestor(s) will terminate these procedures, until and unless the requestor(s) submit a revised request that includes all required items.
- d. If NeDNR with concurrence from the NRDs determines that all of the required items listed in 1.b. are included sufficiently within the written request, they will proceed to the next step.
- e. Following this written request, and prior to the annual meeting, NeDNR and the NRDs will review the request to determine whether the conflict identified meets the criteria for consideration under these procedures: that it has resulted from implementation of the Plan, and that none of the stated exclusions apply.
- f. Requestor(s) will receive a written response from NeDNR with concurrence from the NRDs to notify them about whether their issue meets criteria for consideration at the upcoming annual meeting. If NeDNR and the NRDs determine that the conflict or potential solutions may affect other water users, NeDNR and the NRDs will notify the affected water users of the written request and will request their participation in discussion of the conflict and potential solutions at the annual meeting.
- g. Any written requests that have been made at least 60 days prior to the annual meeting will be posted to the website for the Plan before the meeting. In addition, NeDNR and the NRDs may use additional methods to notify other users potentially affected by the conflict or proposed solution about the upcoming discussion.

## *2. Investigate conflicts*

- a. During the annual meeting, the requestor(s) may present information about their conflict or issue. In addition, other water users or affected parties that would be affected by the conflict or a potential solution, may present information about potential adverse impacts to them.

This review will include:

- i. Review of the application materials and other relevant background information,
  - ii. Discussion and evaluation of the proposed solution, and
  - iii. Discussion of other recommended solutions.
- b. Following the annual meeting, NeDNR and the NRDs will evaluate the conflict and potential solutions. The potential adverse hydrologic, economic, and environmental impacts of any proposed change will be weighed against its potential beneficial hydrologic, economic, or environmental impacts under the 25-year time frame of the Plan. The evaluation will include, but is not limited to, consideration of:
- i. The input previously provided by the Plan's former Stakeholder Advisory Committee during the initial Plan development process,
  - ii. Input provided during the annual meeting from all interested parties
  - iii. Additional input from affected water users or other knowledgeable parties during continued discussion after the annual meeting, if such input is requested by NeDNR and the NRDs
- c. On a case-by-case basis, NeDNR and the NRDs may decide that a conflict should be evaluated by a subset of NeDNR and the NRDs. For example, location-specific conflicts might be evaluated by only NeDNR and the affected NRD(s), conflicts among only surface water users might be evaluated by only NeDNR, or conflicts among only groundwater users might be evaluated by only the NRDs.

### *3. Address conflicts*

- a. Following evaluation of the conflict, NeDNR and the NRDs will decide how to address the conflict identified. They may decide that no change or action is necessary. If they decide that a change or action is necessary, they are not limited to the proposed solution from the initial written request.
- b. NeDNR with concurrence of the NRDs will submit to the requestor(s) a written description of how the conflict will be addressed.
- c. If NeDNR and the NRDs determine, as a result of these procedures, that modifications to the Plan are needed to meet the goals and objectives of the Plan, modifications will be made following the established plan modification procedures ("Modifications to the Plan," page 49).