

By Russ Pankonin

The Imperial Republican

Republican Basin natural resources districts (NRDs) and representatives of the Department of Natural Resources (DNR) have been meeting behind closed doors recently.

During the Tuesday, Aug. 18 Upper Republican NRD meeting in Imperial, the board voted to go into executive session with DNR due to the litigation pending with Kansas.

URNRD Manager Jasper Fanning told the board that DNR pointed out over a year ago that the current integrated management plan contains no specifics as to water-short year administration and regulation.

Fanning said discussions on addressing that have progressed recently at the management level as they work with what DNR has developed in house.

DNR was present to discuss that progress with the board but Fanning cautioned it was premature to discuss that progress in the open because of the ongoing litigation with Kansas.

On Thursday, Aug. 20, board members from the three basin NRDs, DNR and the attorney general's office held a retreat in Gothenburg to discuss the issue further.

That retreat was also conducted in executive session.

In previous water-short years, the NRDs were able to purchase surface water to help the basin stay in compliance with the compact settlement between Nebraska, Kansas and Colorado.

However, the funding mechanisms created in LB 701 to pay for water acquisition have faced or are facing court challenges.

The additional 10-cent tax levy in the basin has already been declared unconstitutional by both a district court and the Nebraska Supreme Court.

A per-irrigated-acre occupation tax of up to \$10 per acre in the basin remains in a Lancaster County district court as it's constitutionality is being challenged.

With no way to fund additional water purchases, the basin faces a big question of how to deal with a water-short year situation.

Plenty of speculation has been swirling as to the remedies but nothing official has come from DNR or the NRDs.

According to the Associated Press, Nebraska Gov. Dave Heineman's administration has suggested an irrigation shutdown in a large swath of the Republican River basin during dry years to help send Kansas the water it is owed.

An official familiar with the proposal said groundwater wells within possibly a couple miles of the river and its main tributaries that irrigate between 250,000 acres and 334,000 acres would be shut down in water-short years.

This situation occurs when Harlan County Lake is less than about one-third full.

Fanning said this week he expects some details of the new approach will be released soon.

LB 701 Refunds

URNRD legal counsel Joel Burke said lawsuits have been filed against each of the three NRDs requesting repayment of the unconstitutional property taxes in LB 701.

While none of the NRDs dispute the property taxes need to be returned, there is no existing statute or legal precedence on how to legally and properly refund the money to taxpayers.

Burke said a motion for summary judgement, asking for a direct decision from the court, has been filed. However, no action has been taken at this point.

Burke anticipated the issue may be resolved in as little as two months.

Budget Hearing Set for Sept. 1

The URNRD will hold their public hearing for the 2009-10 budget year during their regular meeting Tuesday, Sept. 1.

The district will ask for the same amount of property tax money as last year's budget—\$1,153,947.

They also plan to collect the occupation tax at the same level as last year—\$4 per irrigated acre.