

**By Russ Pankonin**

*The Imperial Republican*

Legal teams from Nebraska and Kansas offered their input on a draft report by Special Master William J. Kayatta in a hearing held in Portland, Maine, Thursday, Jan. 24.

Upper Republican Natural Resources District Manager Jasper Fanning attended the hearing.

Earlier this month, Kayatta issued a draft report of his findings on the dispute between Nebraska and Kansas regarding water usage in the Republican River Basin.

Fanning said Kayatta's draft report set fairly tight guidelines on what each state could contest. Fanning said Nebraska continued to make its case that the state should not be charged for the use of imported water in the basin.

A buildup of underground water, known as the "mound," accumulates in the Republican Basin portion of the Tri-Basin NRD.

It occurs from seepage of Platte River Basin water from irrigation canals along the edge of the basin.

The compact settlement says that Nebraska should not be charged for the consumptive use of imported water.

Since this water originally comes from the Platte Basin, Nebraska considers it imported water.

Presently, the accounting procedures count the use of this imported water as if it was virgin water supply of the Republican Basin.

Kayatta's report said this accounting procedure should be corrected for years after 2006 so that Nebraska is not charged for the consumption of imported water supply.

Fanning said Kansas argued there is no flaw in the accounting procedures. Nebraska's legal team reinforced its claim that use of imported water supply shouldn't be counted in the state's consumptive use for compact compliance purposes.

Fanning said the amount of imported water in the mound totals around 8,000 acre-feet.

That's a significant amount of water, he said. Considering the overuse in 2005 and 2006 totalled just more than 40,000 AF, credit for this water would amount to 20 percent of the overuse.

After last week's oral comments, Fanning said Kansas must submit further briefs on the comments by May 15. Nebraska and Colorado will have until June 20 to respond to Kansas' briefs.

Another hearing will follow in mid-August to further address the issue.

**Kayatta's Recommendations**

In the draft report released early this month, Kayatta said Kansas' request to permanently idle retire 300,000 irrigated acres in the Republican basin should be denied.

He also said Kansas was entitled to some relief for Nebraska failing to meet the 2006 compliance test. However he proposed damages of only \$5 million, not the \$80 million Kansas had sought.

Other recommendations included that:

- 100 percent of the evaporation from Harlan County Lake during 2006, as calculated under the RRCA Accounting Procedures, should be charged to Kansas.
- Kansas' request that Nebraska be found in contempt should be denied.

