

Kansas, Nebraska further debate Republican River ruling

The dispute between Kansas and Nebraska over a ruling on overuse of Republican River water by Nebraska continues. In December, an arbitrator for the case ruled that Kansas can seek payment only for damages it allegedly suffered, not for what Nebraska allegedly gained. The decision may undermine Kansas claims to millions of dollars, though it is not clear yet how much Kansas could seek. Kansas originally sought \$72 million in damages from Nebraska for what Kansas contends was overuse of river water in 2005 and 2006. Kansas has asked for monetary compensation for past shortages in an amount equal to Nebraska's gains or Kansas' losses, whichever is greater. Kansas is also seeking interest, attorney fees, costs and any other relief the court deems appropriate. Nebraska disagreed with Kansas' analysis and demands. As a result, in February 2008, Kansas requested the dispute be considered by

the compact administration, the first step in a dispute resolution process prescribed by the settlement.

The use of water by Kansas, Nebraska and Colorado is governed by a 2003 decree from the U.S. Supreme Court.

Although the arbitrator's decision is non-binding and is preliminary, *The Topeka Capital Journal* recently reported that Nebraska Attorney General Jon Bruning said the decision could carry significant weight if the water fight ends up again in the U.S. Supreme Court.

Kansas contends Nebraska's water use exceeded what was allowed by nearly 26 billion gallons. Nebraska contends the state has taken steps to comply with the Court ruling.

A 1943 compact allocated 49 percent of the Republican River's water to Nebraska, 40 percent to Kansas and 11 percent to Colorado. Kansas sued Nebraska in 1988, alleging that Nebraska violated the compact by allowing many additional irrigation

wells to tap water along the River. The North and South forks of the Republican flow from northeast Colorado into Nebraska. The Republican then flows through southern Nebraska into north-central Kansas. (See map courtesy of Kansas Department of Agriculture).

According to the Kansas State Board of Agriculture's Web site, during the years Nebraska overused its share of water in violation of the settlement terms, Kansas has not had adequate water for its Kansas Bostwick Irrigation District and mainstream Republican River users. Because Nebraska has failed to comply with settlement terms, Kansas demanded that Nebraska immediately shutdown wells within 2.5 miles of the Republican River, its tributaries and on lands added after the year 2000, or their hydrologic equivalent. Additional actions may be needed for Nebraska to meet water-short year obligations until stream depletion caused by groundwater pumping decreases.



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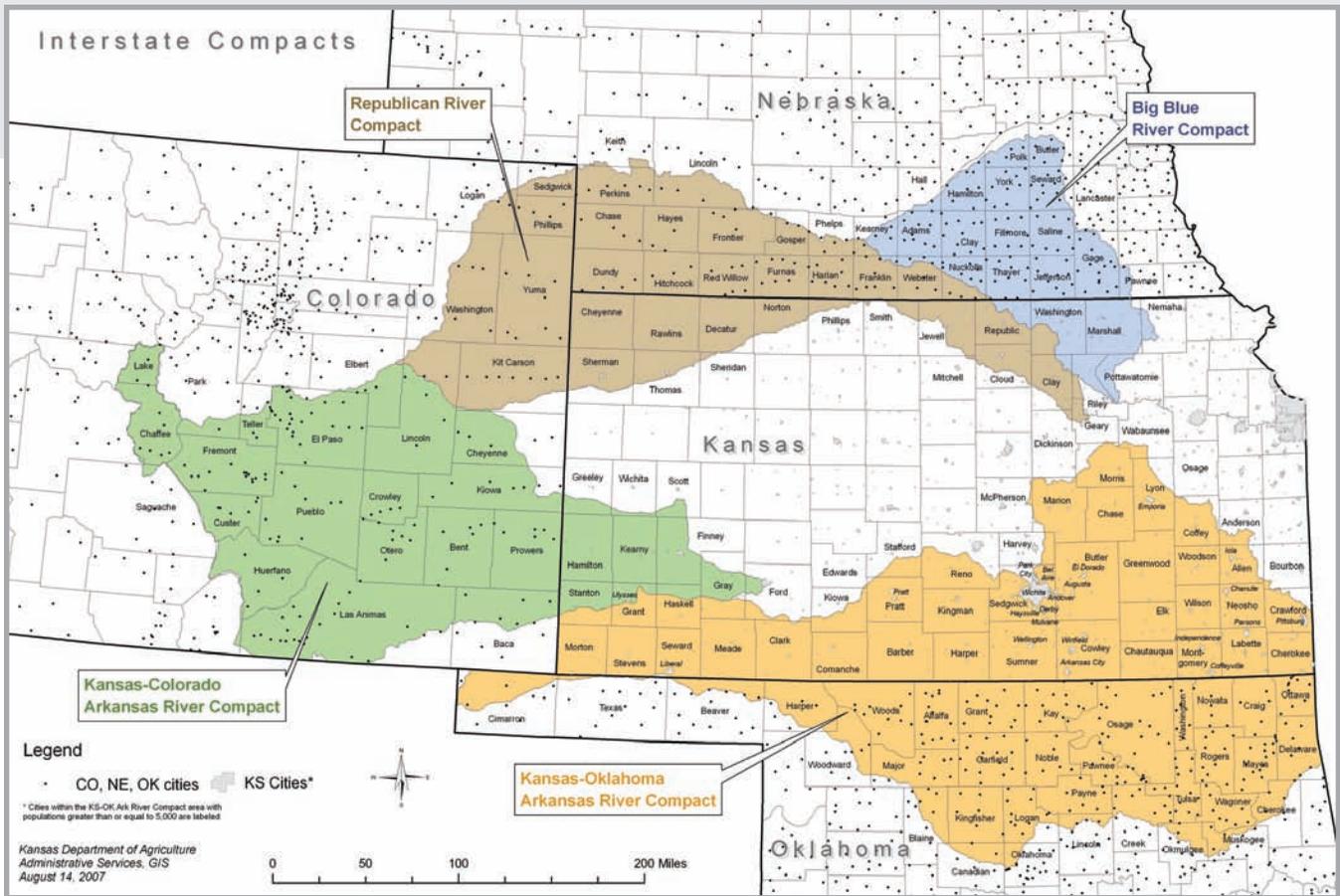
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