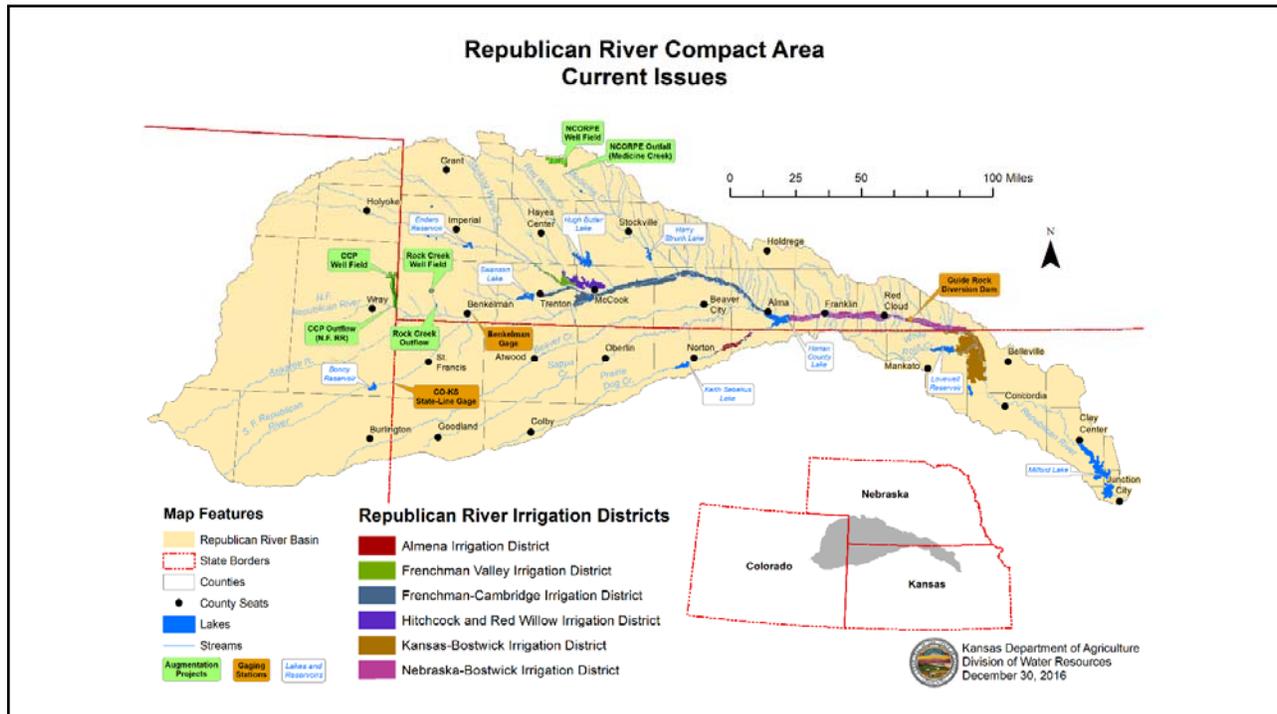
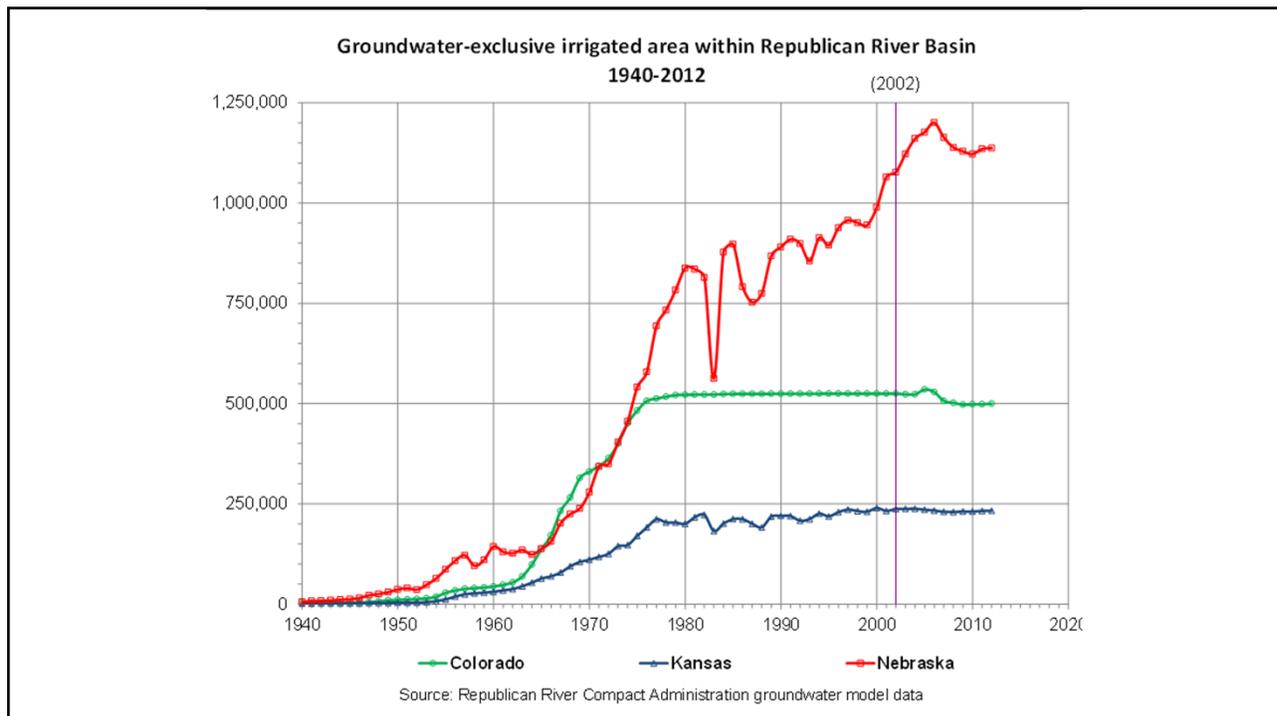
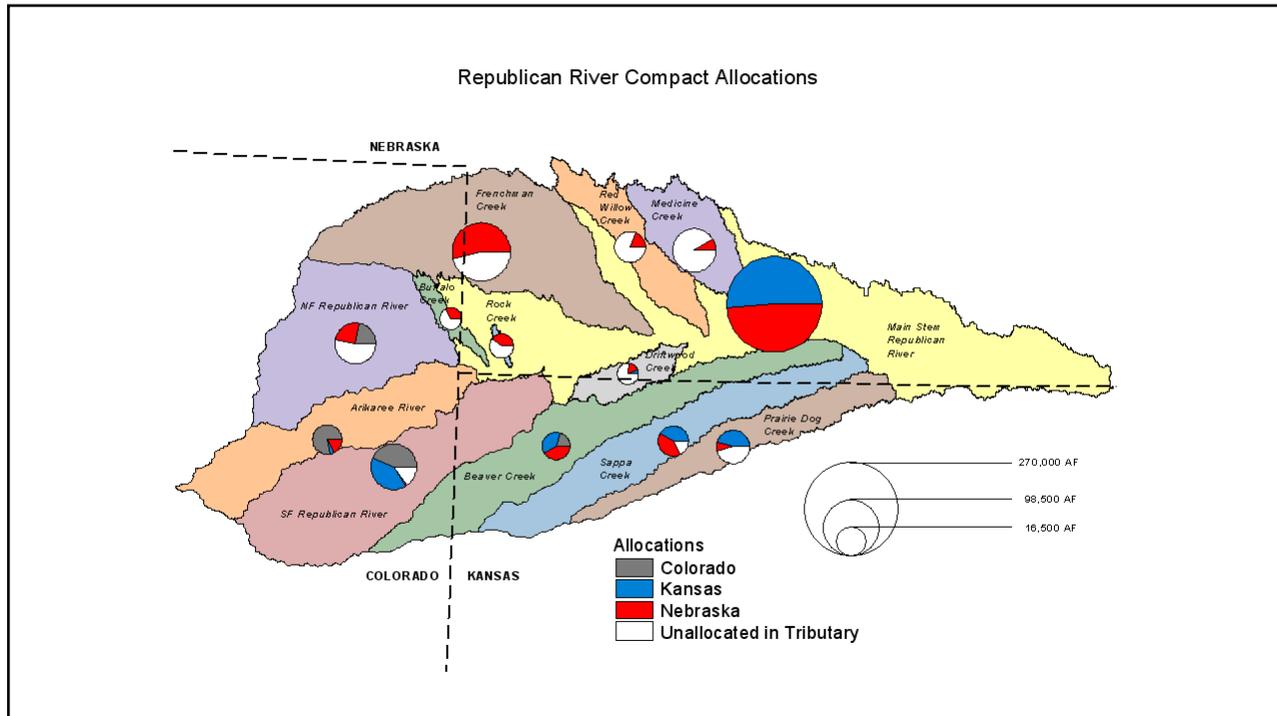


# South Fork Republican River water users meeting January 4, 2017

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## First U.S. Supreme Court litigation (1998) and 2002 Final Settlement Stipulation

- In 1998, Kansas files suit in the U.S. Supreme Court to constraint Nebraska overuse.
- The state resolve the litigation through negotiation of the 2002 Final Settlement Stipulation (FSS):
  - Provides clear, agreed-upon tests of compliance
  - Augmentation allowed, but plans must be approved by States, prior to implementation
  - Jointly developed groundwater model determines groundwater pumping impacts to streamflow, including pumping from the Ogallala aquifer.

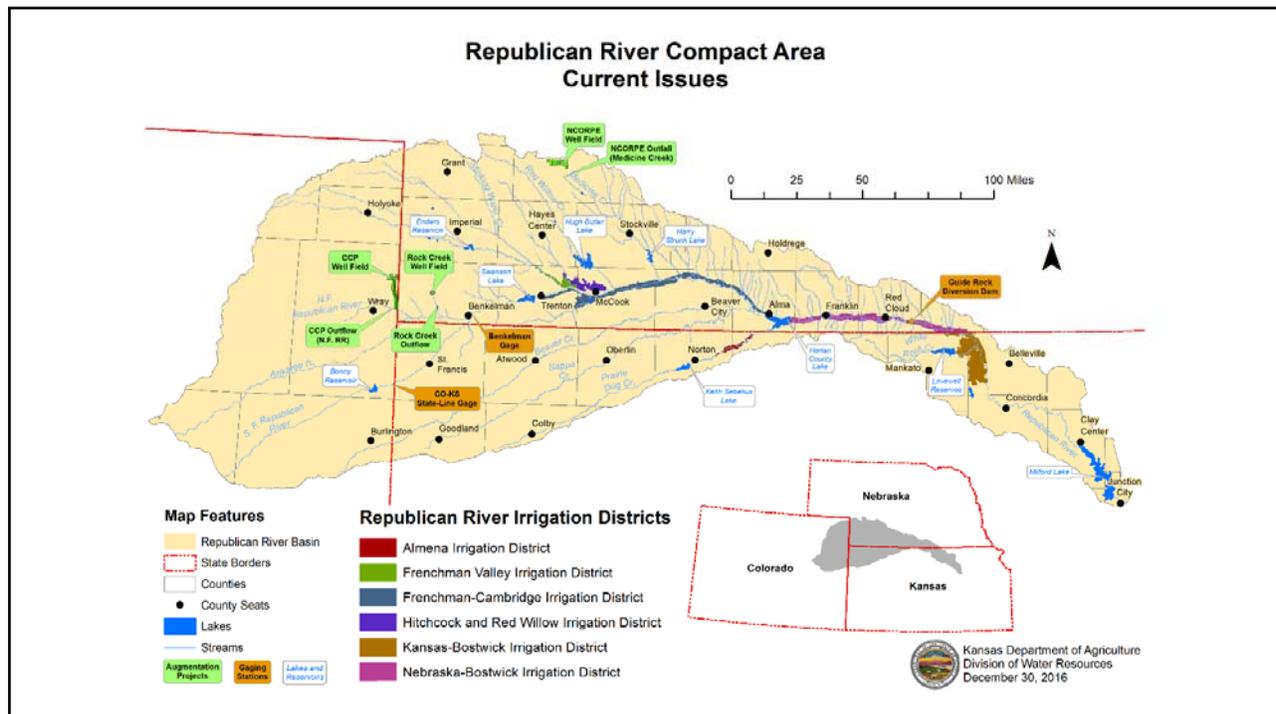
## 2010 U.S. Supreme Court litigation results

- Nebraska failed to comply with the terms of the Final Settlement Stipulation leading to a second trip to the Court in 2010.
- In sum, the Court found:
  - The Compact and FSS obligations are enforceable. Nebraska was required to pay for Kansas damages for violation and a small part of its “ill-gotten gain.” The next violation will result in a larger recovery of both losses and gains.
  - Kansas not allowed to dictate how Nebraska (or Colorado) complies.

## Nebraska and Colorado compliance activities

Both Nebraska and Colorado have implemented a suite of actions to meet their compact obligation:

- Surface water and groundwater retirements
- Groundwater allocations
- Limiting surface water use in dry periods
- Augmentation projects to fulfill the remaining balance of their projected compact compliance need.



## Republican River Issues discussion, 2014 to current



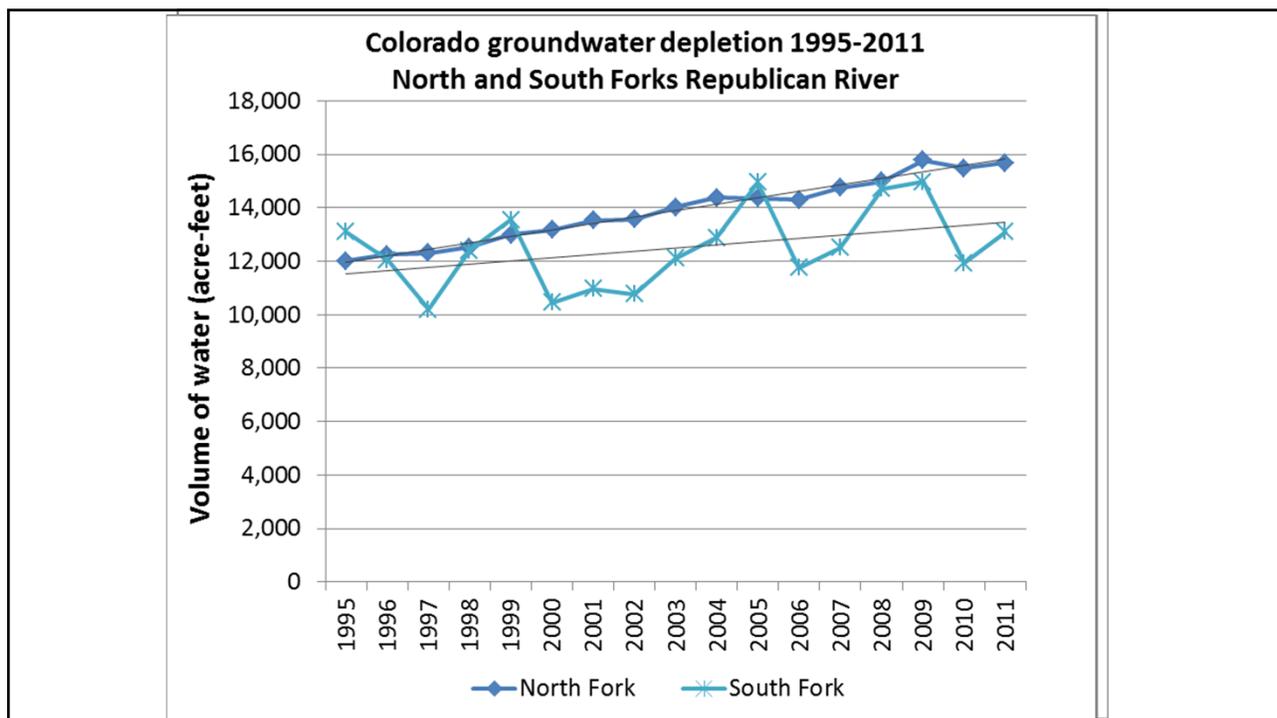
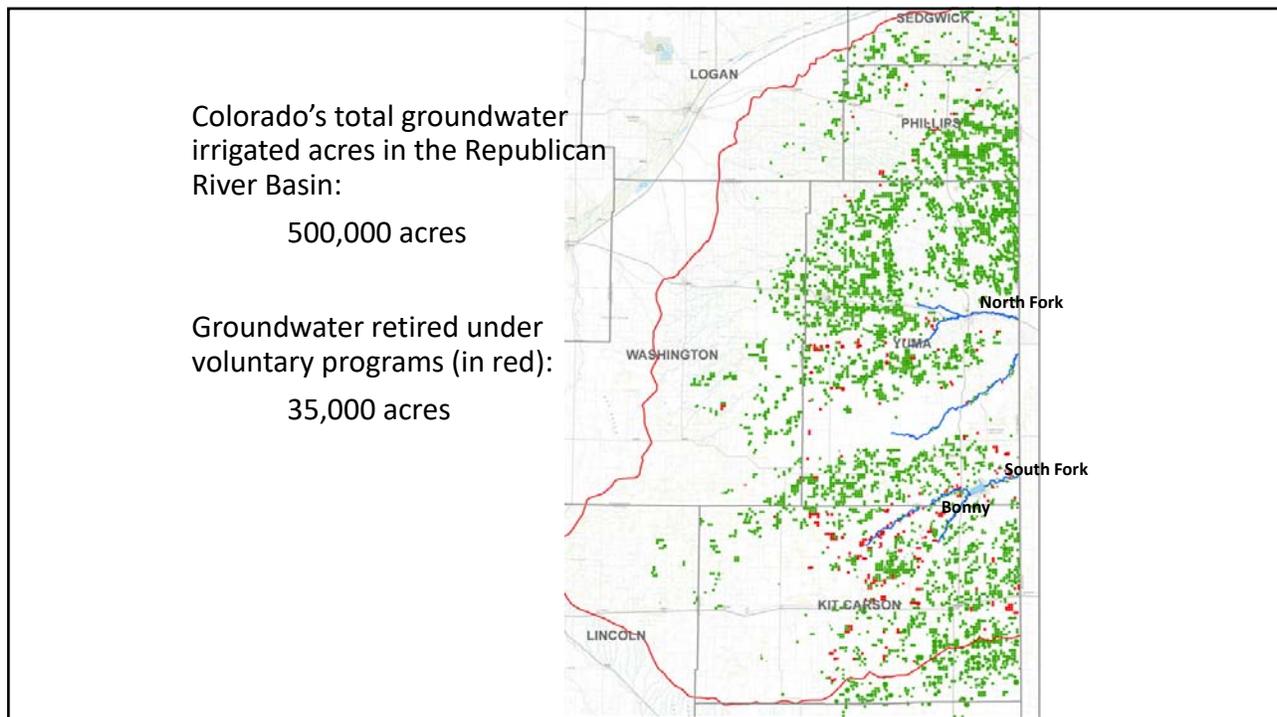
Over the last 2 ½ years, the states have been discussing two principal issues:

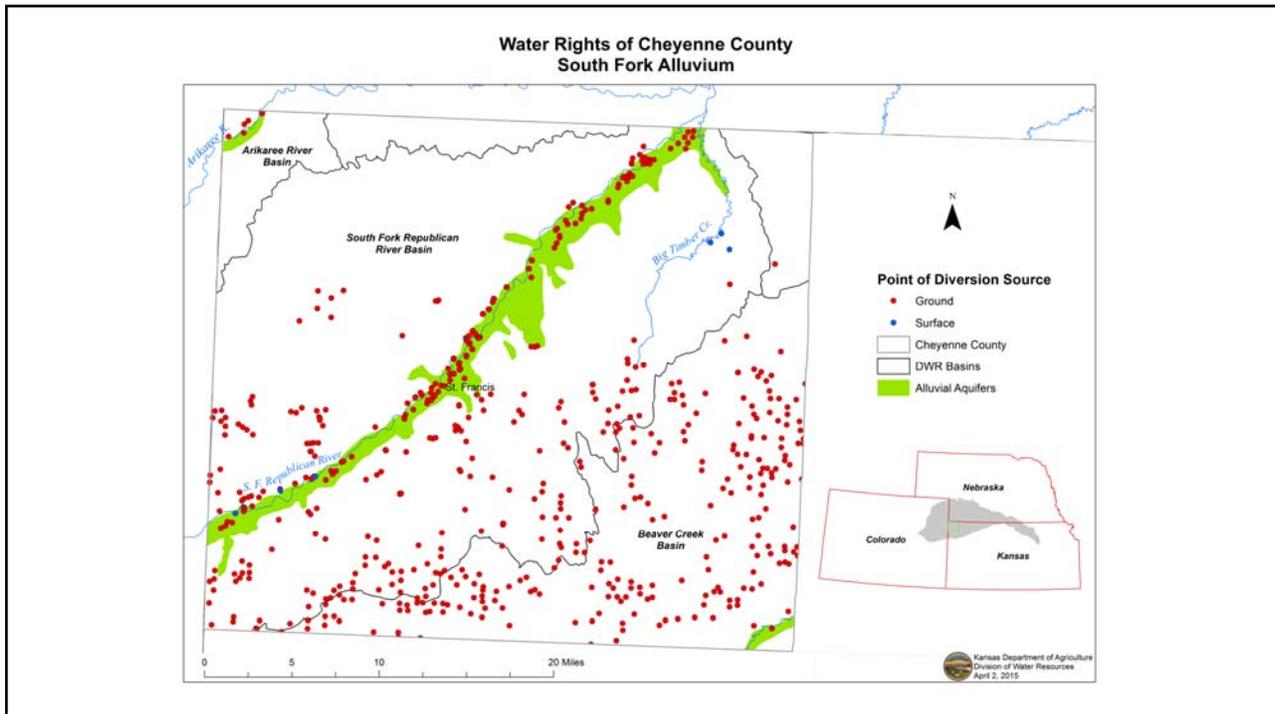
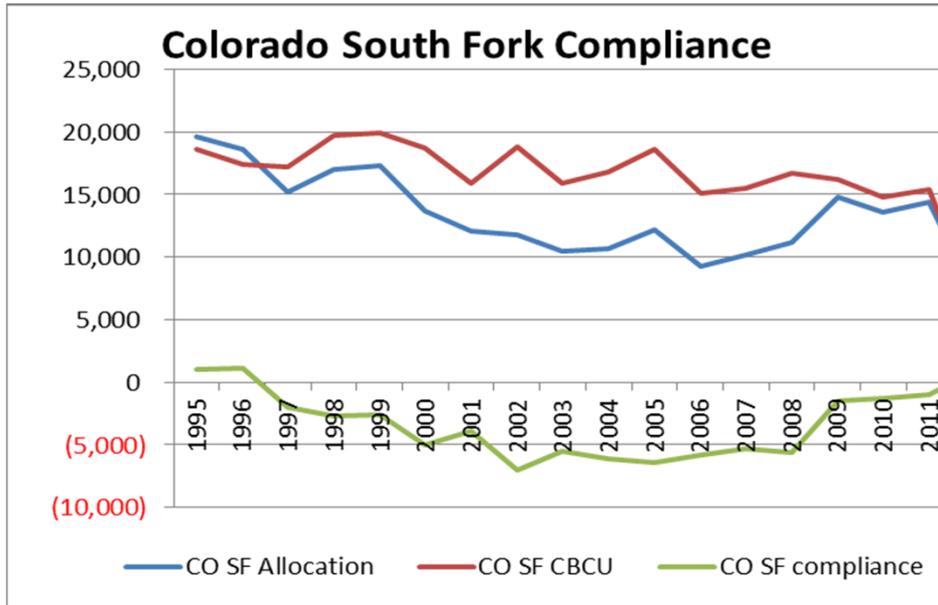
1. How augmentation pumping and other compliance activities should be credited in the compact accounting
2. How to insure Kansas will be able to make good use of the water generated by Colorado and Nebraska compliance activities

Result: Two separate agreements, adopted by the RRCA in August 2016, one on Colorado issues, a second on NE issues.

## Nebraska long-term agreement

- Each fall year Nebraska will run a projection of its expected compliance balance for the coming year based on a dry-year forecast.
- In years when this forecast requires additional action, Nebraska informs Kansas of the amount required by this projection.
- By October 1, the states meet to determine how much of this amount Kansas wants delivered by June 1 to its account in Harlan County. The remainder is left in the ground for Kansas to call in future years.





## Colorado Long-term agreement

- The states evaluated the additional action required by Colorado to keep its use within its allocation on the South Fork.
- In exchange for approval of Colorado credits for augmentation deliveries on the North Fork via its CCP, Colorado has agreed to retire an additional 25,000 acres of groundwater irrigation in the South Fork basin over the next 10 years to further enhance South Fork streamflows.
- In addition, the States have agreed to examine options to allow Bonny to retain future large inflows events.

## Questions & Discussion