

## Lawsuit aims to stop land, water deal

By Andrew Bottrell

abottrell@nptelegraph.com | Posted: Thursday, January 3, 2013 12:00 am

Two south-central Nebraska irrigation districts have filed a federal lawsuit seeking an injunction against the Nebraska Cooperative Republican Platte Enhancement project.

The Frenchman Cambridge Irrigation District and the Bostwick Irrigation District, both situated along the Republican River near Harlan County Lake, filed the lawsuit Dec. 28 in the United States Eighth District Court.

[David Domina](#), of Domina Law Offices, who represents the two irrigation districts said Wednesday that the districts are afraid that the water could bypass the irrigation districts, who have dealt with dwindling water flows for many years.

"They want a determination by the court to who is entitled to the water and under what circumstances," Domina said. "Both districts have been partially dry for several years."

Along with N-CORPE, the lawsuit specifically lists Gov. Dave Heineman, Director of the Nebraska Department of Natural Resources Brian Dunnigan, and the Upper Republican Natural Resources District as defendants.

N-CORPE finalized an \$83 million purchase of 19,500 acres of land in southern Lincoln County in December. The group - comprised of the Twin Platte, Upper, Middle and Lower Republican natural resources districts - plans to retire the irrigated cropland on the property and pump the groundwater to both the Republican and Platte rivers to meet state and federal regulations.

The lawsuit alleges that by retiring the irrigated farmland but still pumping the water and then piping it to the rivers, the districts are violating water rights agreements with the irrigation districts downstream.

"You can't fool Mother Nature," Domina said. "If it were to turn out the way that we think it should - that the pumping and piping projects are not permissible - [the agreements] would have to be changed so that [the irrigation districts'] right to surface water and the federal government's right to surface water wouldn't be interfered with."

He said the districts fear that, eventually, they may not see any of the water from the Republican River, and the two districts want to try to stop that from happening.

The irrigation districts are also concerned with a similar project that the Upper Republican Natural Resources District has in Dundy County.

As of Wednesday, a representative with the UPNRD said the district had not been served with the lawsuit by federal court officials.