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Dale A. Rodman, Secretary  
David W. Barfield, Chief Engineer

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August 30, 2013

Brian P. Dunnigan, P.E.  
Nebraska Commissioner, Republican River Compact Administration  
Nebraska Department of Natural Resources  
301 Centennial Mall South  
PO Box 94676  
Lincoln NE 68509-4676

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SEP 05 2013  
DEPARTMENT OF  
NATURAL RESOURCES

RE: Harlan County evaporation split for 2013

Dear Commissioner Dunnigan,

This letter is in response to your letter of August 23, 2013 regarding Harlan County evaporation for 2013.

First, you state that, "It now appears that little if any of this Compact water will actually be used..." This is not correct. This week, the Kansas Bostwick Irrigation District (KBID) exhausted its 2012 project water and began using the so-called "Compact water." As I understand it, KBID will be diverting Compact water until the planned end of its irrigation season on September 11. As you mention, the U.S. Bureau of Reclamation (Bureau) is planning some repairs at Lovewell Reservoir immediately thereafter. KBID would then refill Lovewell Reservoir after this repair is complete. It is my understanding that these actions will take much of the remaining Compact water.

As I stated in my April 19 letter, I can affirm again that Kansas remains willing to accept full responsibility for the evaporation of the Compact storage water for 2013. As you suggest, we should find some means at the RRCA annual meeting to memorialize this commitment.

Nebraska has been aware of this issue since early May 2013 and should have raised it earlier. Instead, you provided only 5 business days to respond, most of which were dedicated to an arbitration hearing on issues that Nebraska initiated. Your letter includes a threat to start evacuating the Compact water if Kansas will not agree to the specifics of your proposal. Your August 23 letter is the first time that you notified Kansas of your threat to force a release of the Compact water in early September.

As you know, the RRCA Accounting Procedures prescribe that the split of Harlan County Lake evaporation is determined by the ratio of irrigation season diversions between the Kansas and Nebraska Bostwick irrigation districts, and not based on the Bureau's methods for real-time assignment of evaporation during the irrigation season, which is based on the volumes in the Districts' individual irrigation pools.



Thus, this year's use of the temporary "Compact water pool" raises the issue of how to integrate a volume-based accounting into a diversion-based split methodology.

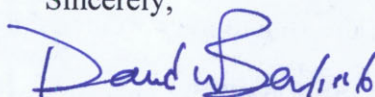
You note Nebraska's preference to charge the Compact water pool according to the Bureau's evaporation estimates. The Compact water pool accounting and evaporation estimates that you are referring to were worked out between Nebraska and the Bureau without Kansas' input. This is another reason that your assigned deadline of 5 business days to review your proposal and to commit to some permanent arrangement is inappropriate. The Bureau tracks and charges evaporation between the Districts in a manner wholly different than the method in the RRCA Accounting Procedures.

In Kansas' view, the evaporation split for irrigation and sediment pools should be done pursuant to the current Accounting Procedures, and the evaporation for the Compact water should be based on the additional evaporation due to that pool. Diversions of Compact water should not be included in the split of evaporation from the project water supply because Kansas would already have paid for the evaporation of Compact water under the Bureau's procedures.

In view of the current conditions and your threat to start releasing this water without an assurance from Kansas that it will assume full responsibility for the 2013 evaporation from the pool, we will agree to accept the amount of evaporation assigned to the Compact water pool calculated under Nebraska's method for 2013 only. As you suggest, the States can discuss the specific semantic details at the work session and annual meeting.

Finally, Kansas would prefer that any Compact water not used in 2013 by KBID be left in Harlan County Lake for the potential use of KBID. I will again affirm that Kansas stands behind its proposal of April 19 as we believe it is a better use of the Basin's limited water supply and provides Nebraska with an improved compact balance for 2013. As you know, Kansas was willing to agree that if the Compact water was retained in Harlan County Lake in 2013 for use in later years, it would be treated as released and further assumed that no delivery losses would occur. Under Nebraska's current approach, the Compact water will be dumped in 2013, and the Accounting Procedures provide that any delivery losses would reduce the benefit to Nebraska. Thus, Kansas has offered an agreement that provides Nebraska with an accounting benefit over Nebraska's proposed approach.

Sincerely,



David W. Barfield, P.E.  
Kansas Chief Engineer  
Chairman, RRCA

CC: Dick Wolfe, P.E., Colorado Commissioner, Republican River Compact Administration  
Aaron Thompson, Bureau of Reclamation  
Kenneth Nelson, Kansas Bostwick Irrigation District No. 2



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