

IN RE: NON-BINDING ARBITRATION PURSUANT TO THE FINAL  
SETTLEMENT STIPULATION, KANSAS v. NEBRASKA and COLORADO,  
No. 126 Original, U.S. Supreme Court

Jeffrey C. Fereday, Arbitrator

NEBRASKA'S ALTERNATIVE WATER-  
SHORT YEAR PLAN

AND

NEBRASKA'S ROCK CREEK  
AUGMENTATION PLAN.

**STATES' JOINT EXHIBIT LIST**

Arbitrator's Note: The following exhibits will be deemed stipulated into evidence and will become part of the record once they are used or referred to by a State in the hearing on these arbitrations, and such use or reference can be made without any further offer, proof of foundation or other validation as would normally be required by the Federal Rules of Evidence. If a State intends to assert at the hearing that a listed exhibit is irrelevant, lacks foundation, or otherwise is objectionable under the Rules in whole or in part, that State may note this in the "Objection" column using an abbreviation for the objection followed by that State's name abbreviation (e.g., Rel-CO). For any objection made during the hearing, the Arbitrator will use that column to enter this information. The Arbitrator will note whether the exhibit has been entered into the record.

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC J1	USBR "Water-Short Year" Projection for 2013	10/3/2012			
WSY/RC J2	Kansas Response to Nebraska's July 2012 Submittal of AWSY to RRCA	10/4/2012			
WSY/RC J3	RRCA Engineering Committee Call Notes	7/24/2012			
WSY/RC J4	Nebraska Letter to Kansas Discussing Forecast and Expectation of Closing Notices Issuance	12/6/2012			
WSY/RC J5	Nebraska Presented RRCA with Proposal to Include Platte Basin Water into RRCA Accounting in Addition to Augmentation Outline	12/10/2012			
WSY/RC J6	Kansas Letter Request to Nebraska for Backup Information Pertaining to Forecasting Under IMPs	12/14/2012			
WSY/RC J7	DNR Notice for Non-Permitted Dams	12/27/2012			
WSY/RC J8	Order From DNR Director for Compact Call Year	1/1/2013			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC J9	Example Storage Closing Notice above Guide Rock	1/1/2013			
WSY/RC J10	Example Surface Water Closing Notice Above Guide Rock	1/1/2013			
WSY/RC J11	DNR Notice to Hwy Supt. For non-permitted dams	1/3/2013			
WSY/RC J12	Kansas Letter to Nebraska Regarding Augmentation Documents Provided to Kansas on December 10, 2012	1/14/2013			
WSY/RC J13	Letter from Kansas to Nebraska Regarding Nebraska's Proposed AWSY Administration Plan	2/20/2013			
WSY/RC J14	Letter from Colorado to Kansas and Nebraska Regarding Nebraska's "Fast Track" Arbitration Invocation	2/22/2013			
WSY/RC J15	Correspondence Letter Regarding Scheduling of March 2013 RRCA Special Meeting	2/25/2013			
WSY/RC J16	Letter from Kansas to Nebraska and Colorado Regarding Draft Agenda for March 1, 2013 Meeting to Discuss Nebraska Aug Proposal	2/27/2013			
WSY/RC J17	Letter from Nebraska to Kansas and Colorado Confirming Attendance at Special Meeting on March 1, 2013	2/27/2013			
WSY/RC J18	Letter from Nebraska to Colorado and Kansas Regarding Draft Agenda for RRCA Work Session on March 1, 2013	2/28/2013			
WSY/RC J19	Transcript of RRCA Special Meeting on March 8, 2013	3/8/2013			
WSY/RC J20	RRCA Special Meeting to Provide Nebraska Opportunity to Offer Resolution Seeking Adoption of Aug Proposal	3/8/2013			
WSY/RC J21	Nebraska Presented Resolution to RRCA Special Meeting Seeking Adoption of Rock Creek Aug Proposal	3/20/2013			
WSY/RC J22	Nebraska Invoked Non-Binding Arbitration Pursuant to FSS Article VII.B.1 on Issue of Augmentation Proposal Being Consistent with Compact and FSS	3/21/2013			
WSY/RC J23	Order from the DNR Director for Storage Release	4/1/2013			
WSY/RC J24	Storage Release Notice	4/1/2013			
WSY/RC J25	Kansas Letter to USBR Regarding Inflows to Harlan County Reservoir	4/4/2013			
WSY/RC J26	Nebraska Letter Response to Kansas About Phone Call with USBR on Compact Compliance, Carry-over inflows and releases from HCL.	4/15/2013			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC J27	Kansas Letter to Nebraska Agreeing Inclusion of Nebraska March 20, 2013 Letter to RRCA Official Record	4/19/2013			
WSY/RC J28	Kansas Proposal in Letter to Nebraska to Store Water and Avoid Release of HCL Inflows	4/19/2013			
WSY/RC J29	Colorado Letter to Nebraska Agreeing Inclusion of Nebraska March 20, 2013 Letter to RRCA Official Record	4/20/2013			
WSY/RC J30	Nebraska Letter to Kansas Including Different Proposal to Store Water in HCL to Avoid Releases	4/29/2013			
WSY/RC J31	Nebraska Letter to USBR Regarding Invocation of Article VI of Compact and for Kansas to Enter Contract Under Warren Act	4/29/2013			
WSY/RC J32	Kansas Letter to Nebraska Responding to Proposal in Nebraska's April 29, 2013 Letter to Kansas About HCL Storage	4/30/2013			
WSY/RC J33	Order from the DNR Director for Storage Release	4/30/2013			
WSY/RC J34	Storage Release Notice for USBR upper lakes	5/1/2013			
WSY/RC J35	Storage Release Notice for USBR Harlan County Reservoir	5/1/2013			
WSY/RC J36	Nebraska Letter to Kansas Regarding Lack of Agreement on Retention and Carry-Over Water Previously Retained in Harlan County Reservoir	5/3/2013			
WSY/RC J37	Suspension of Release Notice - Harlan Reservoir	5/7/2013			
WSY/RC J38	Suspension of Release Notice - Harlan Reservoir	5/10/2013			
WSY/RC J39	Letter from Kansas Requesting Kansas Inclusion in All Correspondence Between Nebraska and USBR	5/17/2013			
WSY/RC J40	Letter from Nebraska to KBID in Response to KBID Letter on May 3, 2013	5/21/2013			
WSY/RC J41	Nebraska Letter to USBR in Reply to Letters Requesting Information Related to DNR Analysis to Determine Streamflows at Stateline for Compliance	5/22/2013			
WSY/RC J42	RRCA Engineering Committee Call Notes	5/24/2013			
WSY/RC J43	Letter from Nebraska to KBID Regarding Nebraska's AWSY Plan	5/29/2013			
WSY/RC J44	Email and Memo from DNR Deputy Director about IWM Forecast	6/25/2013			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC J45	Surface Water Opening Notice from DNR through 1913	6/26/2013			
WSY/RC J46	Storage Closing Notice Reminder from NDNR	6/26/2013			
WSY/RC J47	RRCA Engineering Committee Call Notes	6/26/2013			
WSY/RC J48	Surface Water Closing Notice for Call by Meeker-Driftwood	6/28/2013			
WSY/RC J49	Surface Water Opening Notice from DNR through 1945	7/1/2013			
WSY/RC J50	Storage Closing Notice Below Harlan Reservoir	7/1/2013			
WSY/RC J51	Email from Deputy Director Regarding IWM Forecast	7/16/2013			
WSY/RC J52	Notice of Deposition of Kenny Nelson of KBID	7/17/2013			
WSY/RC J53	Email from Deputy Director Regarding IWM Forecast	7/23/2013			
WSY/RC J54	Surface Water Opening Notice Above Harlan Reservoir	7/24/2013			
WSY/RC J55	Surface Water Opening Notice Below Harlan Reservoir Through 1948	7/24/2013			
WSY/RC J56	Surface Water Closing Notices for Call by FCID at Cambridge Canal	7/24/2013			
WSY/RC J57	Storage Closing Notice for Harlan County Reservoir	7/24/2013			
WSY/RC J58	2007 RRCA Report for the Year 2006	2007			
WSY/RC J59	2008 RRCA Report for the Year 2007	2008			
WSY/RC J60	2009 RRCA Report for the Year 2008	2009			
WSY/RC J61	2010 RRCA Report for the Year 2009	2010			
WSY/RC J62	2011 RRCA Report for the Year 2010	2011			
WSY/RC J63	Republican River Compact	1943			
WSY/RC J64	Final Settlement Stipulation	12/15/2002			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC J65	RRCA Accounting Procedures	8/12/2010			
WSY/RC J66	Kansas v. Nebraska & Colorado, First Report of the Special Master (Subject: Nebraska's Motion to Dismiss)	1/28/2000			
WSY/RC J67	Kansas v. Nebraska & Colorado, Transcript of Hearing before Special Master McKusick, Denver, Colorado	1/6/2003			
WSY/RC J68	Kansas v. Nebraska & Colorado, Second Report of the Special Master (Subject: Final Settlement Stipulation)	4/16/2003			
WSY/RC J69	Kansas v. Nebraska & Colorado, Final Report of the Special Master with Certificate of Adoption of RRCA Groundwater Model	9/17/2003			
WSY/RC J70	RRCA Reports, for Year 1961-2008	1961-2008			
WSY/RC N20000	Jasper Fanning, Ph.D. Direct Testimony	8/19/2013			
WSY/RC N20001	Map of Rock Creek Augmentation Project	2/8/2013			
WSY/RC N20003	Letter from DNR to URNRD Re: Crediting for the URNRD for Retirement of Groundwater Irrigated Acres in the Rock Creek Subbasin	1/12/2011			
WSY/RC N20010	Thomas Riley, P.E. Direct Testimony	8/20/2013			
WSY/RC N20011	Thomas Riley, P.E. Curriculum Vitae	8/20/2013			
WSY/RC N20012	Rock Creek Augmentation Project Video	8/20/2013	KS reserves the right to object to the admission of this exhibit		
WSY/RC N20013	Rock Creek Augmentation Project Video Narrative	8/20/2013	KS reserves the right to object to the admission of this exhibit		
WSY/RC N20020	James Schneider, Ph.D. Direct Testimony Re: Rock Creek Augmentation Plan	8/20/2013			
WSY/RC N20021	Nebraska Submitted Rock Creek Aug Proposal to RRCA Pursuant to FSS Article VII.A.3 Under "Fast Track" Provisions	2/8/2013			
WSY/RC N20022	Response to Kansas' Reports on the Nebraska Rock Creek Augmentation Plan	7/26/2013			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC N20024	Email and Attachment from Scott Ross Re: Discussion of RRCA Considerations of Nebraska Augmentation Plans	9/27/2012			
WSY/RC N20025	Email and Attachment Re: Nebraska Outline for Augmentation Plan to RRCA	12/10/2012			
WSY/RC N20026	Letter from Kansas to Nebraska Re: Nebraska Augmentation Plans	1/14/2013			
WSY/RC N20027	Letter from Kansas Re: Draft Agenda for RRCA Work Session Scheduled for March 1, 2013	2/28/2013			
WSY/RC N20028	Resolution RRCA Regarding Nebraska's Rock Creek Augmentation Proposal	3/8/2013			
WSY/RC N20029	USGS Groundwater Level Map of High Plains Aquifer				
WSY/RC N20030	Letter from Kansas to Nebraska and Colorado Regarding Revised Draft Agenda for RRCA Work Session on March 1, 2013	2/28/2013			
WSY/RC N25000	James Schneider, Ph.D. Direct Testimony Re: Alternative Water-Short Year Plan	8/20/2013			
WSY/RC N25001	Nebraska Submittal of AWSY Plan to RRCA	7/30/2012			
WSY/RC N25002	Response to the Kansas Report on the Nebraska Plan for the Alternative Water-Short Year Administration	7/26/2013			
WSY/RC N25004	Nebraska informed Kansas and Colorado of its intention to implement the AWSY Plan pursuant to Appendix M	3/29/2013			
WSY/RC N25005	RRCA Resolution Regarding Nebraska's AWSY Plan	10/16/2012			
WSY/RC N26000	USBR Letter to Kansas Regarding Proposed Federal Contract Related to Storage of Additional Harlan County Reservoir Inflows	4/23/2013	FRE 803, Hearsay objection for all statements by federal government employees		
WSY/RC N26001	USBR Letter to Nebraska Indicating Compliance with DNR Release Order	4/24/2013	FRE 803, Hearsay objection for all statements by federal government employees		
WSY/RC N26002	Email Correspondence from KBID to NDNR Regarding HCL	5/3/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC N26003	Email Correspondence from KBID to NDNR Regarding HCL	5/3/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		
WSY/RC N26004	Letter from KBID to Nebraska Regarding HCL Releases	5/3/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		
WSY/RC N26005	Email Correspondence from KBID to NDNR Regarding USBR Communications on HCL Releases	5/6/2013	FRE 803, Hearsay objection for all statements by federal government employees and KBID employees and board members		
WSY/RC N26006	Email Correspondence from KBID to NDNR Regarding HCL Releases and Warren Act	5/7/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		
WSY/RC N26007	Email Correspondence Between NDNR, USBR and KBID Regarding Warren Act Contract	5/7/2013	FRE 803, Hearsay objection for all statements by federal government employees and KBID employees and board members		
WSY/RC N26008	Email Correspondence Between NDNR, USBR and KBID Regarding HCL Releases	5/7/2013	FRE 803, Hearsay objection for all statements by federal government employees and KBID employees and board members		
WSY/RC N26009	KBID Minutes from Meeting on May 7, 2013	5/7/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC N26010	Email from KBID to NDNR Regarding HCL Releases	5/8/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		
WSY/RC N26011	KBID Entered Federal Warren Act Contract with USBR for Inflow Storage	5/9/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		
WSY/RC N26012	Email from KBID to NDNR Regarding HCL Releases and KBID Letters to Patrons	5/15/2013	FRE 803, Hearsay objection for all statements by KBID employees and board members		
WSY/RC C001	Joint Expert Report of Dick Wolfe and Dr. Willem A. Schreüder	5/23/2013			
WSY/RC C002	Joint Expert Rebuttal Report of Dick Wolfe and Dr. Willem A. Schreüder	7/26/2013			
WSY/RC C003	Written Direct Testimony of Dick Wolfe	8/21/2013			
WSY/RC C004	Curriculum Vitae for Dick Wolfe, P.E.	8/21/2013			
WSY/RC C005	Curriculum Vitae for Willem Schreuder, Ph.D.	8/21/2013			

**CO and NE Reserve the Right to Object to the Admission of Exhibits K1-K34**

WSY/RC K1	CV of Steven P. Larson	8/21/2013			
WSY/RC K2	Steven P. Larson and Samuel P. Perkins, Expert Report on Nebraska [Rock Creek] Proposal	7/1/2013			
WSY/RC K3	Pre-filed Direct Testimony of Kansas Expert Steven P. Larson	8/21/2013			
WSY/RC K4	CV of Dale E. Book, P.E.	8/21/2013			
WSY/RC K5	Dale E. Book, P.E., Response to Report [on Rock Creek Proposal] Prepared by State of Nebraska	7/1/2013			
WSY/RC K6	Pre-filed Direct Testimony of Kansas Expert Dale E. Book, P.E.	8/21/2013			
WSY/RC K7	CV of David W. Barfield, P.E.	8/21/2013			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC K8	David W. Barfield, P.E., Expert Report on Nebraska [Rock Creek] Proposal	7/1/2013			
WSY/RC K9	David W. Barfield, P.E., Expert Report on the Nebraska Plan for AWSY Administration	7/1/2013			
WSY/RC K10	Pre-filed Direct Testimony of Kansas Expert David W. Barfield, P.E.	8/21/2013			
WSY/RC K11	Pre-filed Direct Testimony of Kansas Witness Scott E. Ross	8/21/2013			
WSY/RC K12	Pre-filed Direct Testimony of Kansas Witness David L. Pope	8/21/2013			
WSY/RC K13	Final Decision of Karl Dreher, Arbitrator	6/30/2009			
WSY/RC K14	Final Decision of Martha O. Pagel, Arbitrator, re: Colorado's Compact Compliance Dispute	10/7/2010			
WSY/RC K15	Final Decision of Martha O. Pagel, Arbitrator, re: Nebraska's Crediting Dispute	10/7/2010			
WSY/RC K16	David Pope to Dr. Ann Bleed	1/24/2007			
WSY/RC K17	Colorado DWR, Application for a Change of Type of Use of Rights to Designated Ground Water in the Northern High plains Designated Ground Water Basin, Changes of Well Location, and a Change to Allow Wells to be Alternate Point of Diversions by the Republican River Water Conservation District, acting by and through its Water Activity Enterprise	2/25/2008			
WSY/RC K18	State of Colorado and the Republican River Water Conservation District, Application for Approval of an Augmentation Plan and Related Accounting Procedures Under Subsection III.B.1.K of the FSS	Mar-08			
WSY/RC K19	James E. Slattery and Randy L. Hendrix to Dr. Ken Knox, Colorado DWR, re: Revisions to Crop Irrigation Requirement Use Estimates included in March 2008 RRCA Submittal for the Republican River Compact Compliance Pipeline Project	5/14/2008			
WSY/RC K20	Report of James Schneider and James Williams, re: Colorado Compact Compliance Pipeline Proposal	2/17/2009			
WSY/RC K21	Proposed Resolution by the RRCA Regarding Approval of Colorado's Augmentation Plan and Related Accounting Procedures Submitted Under Subsec. III.B.1.K of the FSS	8/12/2009			
WSY/RC K22	Statement of David W. Barfield, in Kansas' Motion for Leave to File Petition, Kansas v. Nebraska & Colorado, No. 126 Orig.	5/3/2010			

Exhibit Number	Description	Exhibit Date	Objection	In Record (Y/N)	Notes (for use by Arbitrator)
WSY/RC K23	Stipulation Between Colorado and Nebraska re: CCP and Nebraska Crediting Disputes	5/3/2010			
WSY/RC K24	James E. Slattery, Expert Report on Colorado CCP	5/24/2010			
WSY/RC K25	James Schneider to Jasper Fanning, re: Crediting for the URNRD for Retirement of Groundwater Irrigated Acres in the Rock Creek Subbasin	1/12/2011			
WSY/RC K26	David W. Barfield, expert report, "Ensuring Compliance by Nebraska"	11/18/2011			
WSY/RC K27	Stipulation Between Colorado and Nebraska	4/10/2012			
WSY/RC K28	Brian Dunnigan to Aaron Thompson, re: Harlan County Lake	3/22/2013			
WSY/RC K29	Brian Dunnigan to David Barfield, re: Harlan County Lake	4/29/2013			
WSY/RC K30	David Barfield to Brian Dunnigan, re: April 29 letter	4/30/2013			
WSY/RC K31	URNRD monthly newsletter, May 2013	5/2013			
WSY/RC K32	URNRD Board of Directors Regular Meeting Minutes, May 7, 2013	5/7/2013			
WSY/RC K33	Steven P. Larson, Kansas' Expert Report on Nebraska's 5-Run Proposal	5/15/2013			
WSY/RC K34	Kansas' Report on the Development of the Integrated Solution Alternative to Nebraska's 5-Run Proposal	5/28/2013			

Respectfully submitted this 21st day of August, 2013.

***For the State of Nebraska***

*/s/ Justin Lavene*

---

Justin D. Lavene  
Assistant Attorney General  
Blake E. Johnson  
Assistant Attorney General  
2115 State Capitol  
Lincoln, Nebraska 68509

***For the State of Colorado***

*/s/ Scott Steinbrecher*

---

Scott Steinbrecher  
Assistant Attorney General  
Natural Resources Section  
Federal & Interstate Water Unit  
Office of the Attorney General  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 9<sup>th</sup> Floor  
Denver, Colorado 80203

***For the State of Kansas***

*/s/ Burke W. Griggs*

---

Burke W. Griggs  
Assistant Attorney General  
Kansas Office of the Attorney General  
120 SW10th Avenue, 2<sup>nd</sup> Floor  
Topeka, Kansas 66612