

Dunnigan, Brian

From: Hill, Lauren
Sent: Friday, March 28, 2008 6:05 PM
To: Dunnigan, Brian
Cc: Moseman, Neil; Salzwedel, Mike
Subject: LB 1094
Follow Up Flag: Follow up
Flag Status: Red

*Have you call the
NRD's first.*

Brian:

LB 1094 is on Monday's agenda for final reading. The sponsoring senators have requested the Governor's expedited review and approval of the bill. The bill contains the emergency clause which means it will become law ("effective") the day following the Governor's signature.

Under the bill, NRDs must make application to your agency within 5 days after the effective date; your agency must execute payments/contracts no later than 15 days after the effective date.

Can you please advise me whether the timing of the effective date is at all an issue for the agency? Please contact Neil or me on Monday. Thanks!

Lauren Hill
471-2533

Republican River Basin Coalition

Republican River Basin Coalition
30 North John Street
Alma, Nebraska 68920

Brian Dunnigan, P.E., Acting Director
Nebraska Department of Natural Resources
301 Centennial Mall South
Lincoln, NE 68509-4676

Monday, March 31, 2008

Dear Mr. Dunnigan,

On behalf of the Upper Republican Natural Resources District, Middle Republican Natural Resources District, and Lower Republican Natural Resources District, the Republican River Basin Coalition, as formed under the Interlocal Cooperation Act NRRS 13-801 through 13-872, requests funding from the Water Contingency Cash Fund, as set forth by the Nebraska Legislature in LB 1094.

The RRBC entered into agreements with the Frenchman Valley Irrigation District, Frenchman-Cambridge Irrigation District, and Riverside Irrigation Company in June of 2007, purchasing a total of \$8,551,000 in surface water as a compliance tool for the Republican River Compact Settlement. The NRDs intended to pay Irrigation Districts in December 2007 through LB 701 tax authority; this authority was postponed due to a lawsuit, leaving irrigators unpaid at present time.

The table below demonstrates the amounts currently owed to each irrigation district, and the RRBC's cumulative funding request (\$8,551,000.00); each NRD should be paid a percentage of this amount based on tax proceed percentages, (Upper Republican, 44%; Middle Republican, 30%; Lower Republican, 26%). Copies of the signed water lease agreements from Frenchman Valley Irrigation District, Frenchman-Cambridge Irrigation District, and Riverside Irrigation Company are also enclosed.

Surface Water Buyouts	
Frenchman Valley Irrigation District	\$640,000.00
Frenchman-Cambridge Irrigation District	\$7,785,000.00
Riverside Irrigation Company, Inc.	\$126,000.00
Total Funding Request	\$8,551,000.00
Funding Requested Per NRD	
Upper Republican NRD	\$3,762,440
Middle Republican NRD	\$2,565,300
Lower Republican NRD	\$2,223,260

RRBC 1

Funds obligated for surface water buyouts will be paid to the three irrigation districts, from which payments will be distributed to producers.

Please feel free to contact me via email at twitthuhn@lrnrd.org, or by telephone at 308.928.2182, with any questions.

Sincerely,

Traci J. Witthuhn,
Republican River Basin Coordinator

Jasper Fanning
Upper Republican NRD

Dan Smith
Middle Republican NRD

Michael Clements
Lower Republican NRD

Attachments: Memorandum of Agreement, Frenchman Valley Irrigation District
Memorandum of Agreement, Frenchman-Cambridge Irrigation District
Memorandum of Agreement, Riverside Irrigation Company
Interlocal Cooperation Agreement, Upper, Middle & Lower Republican NRDs
Resolution No. 07200701, Upper Republican NRD
Resolution No. 163-07-1, Middle Republican NRD
Resolution No. 105, Lower Republican NRD

CC: Rex Gittins, DNR Management Services
Ron Theis, DNR Legal Counsel
Senator Tom Carlson
Senator Mark Christensen

Theis, Ron

From: Andersen, Pamela
Sent: Friday, March 28, 2008 4:49 PM
To: Theis, Ron; Gittins, Rex
Subject: RE: draft 1094 memo

Gentlemen:

LB 1094 is scheduled to go to final reading Monday, 3-31-08. You are familiar with the general requirements of disbursement/reimbursement from the bill. This message is to offer some advice to clarify and facilitate the process.

After the effective date of the act, each natural resources district must submit a request to DNR, in writing within five days, for an amount to be disbursed to that district. The request must "certify... the amount of financial assistance necessary to meet its obligations [for 2-3226.04 eligible commitments, i. e. amount due from the district to pay for the district's committed portion of the 2007 contracts with the irrigation districts]". Please direct your *written* requests to Rex Gittins. *I suggest that you mail them by certified mail with confirmation of receipt so that the date you sent them is memorialized.* Please note that copies of the contracts the districts made with the Coalition will not in themselves certify an amount obligated by an individual district. *DNR must have a copy of the minutes or resolution by which the Board agreed to enter into the contract with the Coalition.* In other words, your certification must indicate the source of your district's obligation and a specific dollar amount of the eligible financial assistance *needed from DNR* to satisfy your district's obligation. The reason for this is the act is specific that the loan is to a district and shall be repaid by a district. The act is specific that the funds may only be used to meet this obligation, and that any funds not used for this purpose within sixty days after receipt is to be returned to DNR. DNR will require some evidence of eligible use or expenditure by the district within the same timeframe, or return of the balance.

Your *written* request *must* include adequate information to permit electronic transfer of the funds from the state to your bank.

You will also need to sign the attached Memorandum of Agreement before the money will be given to a district.

From: Theis, Ron
Sent: Friday, March 28, 2008 4:08 PM
To: Gittins, Rex; Andersen, Pamela
Subject: draft 1094 memo

Please take a look at this draft to see if I've forgotten something. It addresses the problem areas (mostly Dan S.) noticed so far. I'd like to send it today.

Gentlemen:

LB 1094 is scheduled to go to final reading Monday, 3-31-08. You are familiar with the general requirements of disbursement/reimbursement from the bill. This message is to offer some advice to clarify and facilitate the process.

After the effective date of the act, each natural resources district must submit a request to DNR, in writing within five days, for an amount to be disbursed to that district. The request must "certify... the amount of financial assistance necessary to meet its obligations [for 2-3226.04 eligible commitments, i. e. amount due from the district to pay for the district's committed portion of the 2007 contracts with the irrigation districts]". Please direct your requests to Rex Gittins, and it may be useful for you to date verify them using certified mail. Please note that copies of contracts made by the Coalition will not in themselves certify an amount obligated by an individual nrd unless accompanied by documentation from the board or other district authority indicating the particular

3/28/2008

DNR 007544

district's proportional obligation on those contracts. In other words, your certification must indicate the source of your district's obligation and a specific dollar amount of the eligible financial assistance necessary to satisfy your district's obligation. The reason for this is the act is specific that the loan is to a district and shall be repaid by a district. The act is specific that the funds may only be used to meet this obligation, and that any funds not used for this purpose within sixty days after receipt is to be returned to DNR. DNR will require some evidence of eligible use or expenditure by the district within the same timeframe, or return of the balance.

Sec. 6 of the act requires you to consider repayment. The funds for repayment are those funds (LB 701 property tax and occupation tax levies) collected by local tax collectors and sent to each district. My understanding is local county treasurers identify or segregate amounts of these proceeds sent to you. If not, you should make arrangement for an accounting system adequate to document for the anticipated reimbursement. For the purposes of the act's identification of when reimbursement must begin, "when such proceeds are available for distribution", and to clarify understandings of potential consequences of the 701 lawsuit, we will require your acknowledgment of a Memorandum of Agreement, draft attached.

Your request should include adequate information to permit electronic transfer of the funds from the state to your bank.

Theis, Ron

From: Theis, Ron
Sent: Monday, March 31, 2008 8:33 AM
To: 'mclements@lrrrd.org'; 'dsmith@mrnr.org'; 'jasperfanning@urnrd.org'
Subject: FW: LB 1094 WCCF advisory
Attachments: WCCF MOA LRNRD.doc; WCCF MOA MRNRD.doc; WCCF MOA URNRD.doc

Please note a one word change in the MOA, "legislation" to "litigation". Any questions, etc?

From: Theis, Ron
Sent: Friday, March 28, 2008 6:09 PM
To: 'mclements@lrrrd.org'; 'dsmith@mrnr.org'; 'jasperfanning@urnrd.org'
Cc: Brian Dunnigan (bdunnigan@dnr.ne.gov); Lavene, Justin; Gittins, Rex
Subject: LB 1094 WCCF advisory

Gentlemen:

LB 1094 is scheduled to go to final reading Monday, 3-31-08. You are familiar with the general requirements of disbursement/reimbursement from the bill. This message is to offer some advice to clarify and facilitate the process.

After the effective date of the act, each natural resources district must submit a request to DNR, in writing within five days, for an amount to be disbursed to that district. The request must "certify... the amount of financial assistance necessary to meet its obligations [for 2-3226.04 eligible commitments, i. e. amount due from the district to pay for the district's committed portion of the 2007 contracts with the irrigation districts]". Please direct your written requests to Rex Gittins. I suggest that you send them certified mail with confirmation of receipt so that the date you sent them is memorialized. Please note that copies of contracts made by the Coalition for water will not in themselves certify an amount obligated by an individual district unless accompanied by documentation from the board or other district authority indicating the particular district's proportional obligation under the sale/lease contracts. In other words, your certification must indicate the source of your district's obligation and a specific dollar amount of the eligible financial assistance necessary from DNR to satisfy your district's obligation, and any necessary supporting documentation. The reason for this is the act is specific that the loan is to a district and shall be repaid by a district. The act is specific that the funds may only be used to meet this obligation, and that any funds not used for this purpose within sixty days after receipt is to be returned to DNR. DNR will require some evidence of eligible use or expenditure by the district within the same timeframe, or return of the balance.

Your written request must include adequate information to permit electronic transfer of the funds from the state to your bank.

The expected funds for repayment are those funds (LB 701 property tax and occupation tax levies) collected by local tax collectors and sent to each district. My understanding is local county treasurers are identifying or segregating amounts of these proceeds sent to you. If not, you should make arrangement for an accounting system adequate to document for the anticipated reimbursement. For the purposes of the act's identification of when reimbursement must begin, "when such proceeds are available for distribution", and to clarify understandings of Sec. 6 of the act and potential consequences of the 701 lawsuit, we will require signing the attached Memorandum of Agreement before money will be given to a district.

Please call if you need further clarification.

3/31/2008

DNR 007546

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
WATER CONTINGENCY CASH FUND

MEMORANDUM OF AGREEMENT

WITNESSETH:

WHEREAS: The Water Contingency Cash Fund (WCCF) is created by LB 1094, 2008 Second Session, and administered by the Department of Natural Resources (Department);

WHEREAS: The Department and the natural resources districts eligible to receive funds from the WCCF wish to facilitate rapid compensation to surface water rights holders who agreed to forgo the use of water in 2007;

NOW THEREFORE, in consideration of the mutual covenants made in this Agreement and the compensation agreed to in this Agreement and performance agreed to according to the necessary administration of the WCCF, the parties agree as follows:

1. Any natural resources districts receiving funding through this memorandum shall remit to the Nebraska Department of Natural Resources the proceeds of the property tax authorized pursuant to subdivision (1)(d) of section 2-3225, and the proceeds of the occupation tax authorized pursuant the section 2-3226.05, (hereinafter collectively referred to as "the tax proceeds") when such proceeds are available for distribution until the Department has been repaid the entire amount of funding given to the district.
2. The tax proceeds shall be remitted to the Department within fifteen days after receipt of the tax proceeds by the district. However, repayment does not have to begin until resolution of pending litigation regarding the tax proceeds.
3. When the litigation has been resolved, the entire amount of tax proceeds held by each district shall be remitted to the Department within 15 days after resolution of the litigation, unless satisfactory repayment has been made to the Department through other authorized means prior to the pending litigation being resolved.
4. All reimbursement must be remitted to the Department by June 30, 2013.

Department of Natural Resources

Lower Republican NRD

_____ Date

_____ Date

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
WATER CONTINGENCY CASH FUND

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4. All reimbursement must be remitted to the Department by June 30, 2013.

Department of Natural Resources

Lower Republican NRD

_____ Date

_____ Date