

DUPLICATE ORIGINAL (3 of 3)

AMENDMENT TO  
MEMORANDUM OF AGREEMENT  
BETWEEN THE  
BOSTWICK IRRIGATION DISTRICT IN NEBRASKA  
AND  
KANSAS-BOSTWICK IRRIGATION DISTRICT NO. 2

This AMENDMENT to the MEMORANDUM OF AGREEMENT made this 18<sup>th</sup> day of May, 2006, by and between Kansas-Bostwick Irrigation District No. 2, party of the first part, and the Bostwick Irrigation District in Nebraska, party of the second part.

WITNESSETH:

WHEREAS, the following statements are made by way of explanation:

a. Kansas-Bostwick Irrigation District No. 2, party of the first part, and the Bostwick Irrigation District in Nebraska, party of the second part, during Board of Directors meetings for each of the respective Districts executed the "Memorandum of Agreement between the Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District No. 2" dated October 4, 2000.

b. The "Memorandum of Agreement between the Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District No. 2" was amended on March 5, 2002, to provide a more accurate and comprehensive description of the water supply facilities covered by the Agreement.

c. To provide for appropriate accounting and delivery of water during the 2006 irrigation season, certain provisions of the Agreement needs amended to reflect procedures to be followed for the 2006 irrigation season, therefore the "Memorandum of Agreement between the Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District No. 2" is hereby amended as follows:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein set out, it is agreed as follows:

1. The following shall be substituted for the existing Article 3. G. for the 2006 irrigation season ONLY:

3. G. The Bostwick Irrigation District in Nebraska agrees before the start of the irrigation season to relinquish the rights to the use of its water supply in order for their water supply to be used on Kansas-Bostwick Irrigation District No. 2 project lands. For purposes of this agreement for the 2006 irrigation season only, "irrigation season" and "water supply" as used herein are defined as follows:

(1) "Water Supply" shall mean the Water Supply determined by the U.S. Bureau of Reclamation (hereinafter "Bureau") under its water storage permit for Harlan County Lake as calculated and published by the Bureau for January 2006 according to the Harlan County Lake Operation Consensus Plan (hereinafter "Consensus Plan"), and natural flow that may become available for diversion at the Superior-Courtland Diversion Dam during the Irrigation Season.

(2) "Irrigation Season" shall mean the date beginning with the commencement of water deliveries for direct irrigation at the Superior-Courtland Diversion Dam and ending on the date of the last water delivery for direct irrigation, which date shall be no later than September 1, 2006.

2. The following shall be substituted for the existing Article 2. as it applies to the 2006 irrigation season ONLY:

2. To the allocation and payment of irrigation's share of the Corps of Engineers' operation, maintenance and replacement cost associated with Harlan County Dam and Harlan County Lake based on the most recent three-year moving average of each District's total diversions as established by Reclamation. (See the spreadsheet attached hereto and made a part hereof as Attachment A for prior year computations and procedures for computing individual District percentages.)

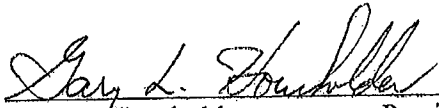
a. For purposes of this agreement for the 2006 irrigation season, the Bostwick Irrigation District in Nebraska's 2006 diversions to be recorded on Attachment A, will be computed assuming that the Bostwick Irrigation District in Nebraska had diverted their share of the 2006 Bostwick Division water supply into the Superior Canal. Commencing with water deliveries for direct irrigation at the Superior-Courtland Diversion Dam, available natural flow at Superior-Courtland Diversion Dam will be apportioned as described in Attachment B of this Memorandum of Agreement and ending no later than September 1, 2006. Accounting for the Bostwick Irrigation District in Nebraska's use of storage waters from Harlan County Lake will begin with the commencement of releases from Harlan County Lake for Kansas-Bostwick Irrigation District No. 2 and end when storage releases from Harlan County Lake for Kansas-Bostwick Irrigation District No. 2 have ceased for the season or September 1, 2006, whichever is earlier. The assumed use of water from Harlan County Lake by the Bostwick Irrigation District in Nebraska will be calculated using their proportionate share, as described in Attachment B, applied against the total releases from Harlan County Lake. The accounting for any diversions at Superior-Courtland Diversion

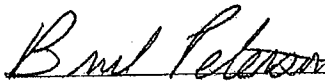
Dam subsequent to September 1, 2006 will be based on the historical methods used in prior years and recorded on said Attachment A.

b. For purposes of this agreement in 2006, Kansas-Bostwick Irrigation District No. 2's total diversions will be computed as follows: Kansas-Bostwick Irrigation District No. 2's actual diversions during 2006, as accounted for by Reclamation, LESS the Bostwick Irrigation District in Nebraska's 2006 share of the Bostwick Division water supply as if they had diverted this supply into Superior Canal.

EXCEPT AS PROVIDED HEREIN, all other terms and conditions of the "Memorandum of Agreement between the Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District No. 2" shall remain in full force and effect.


BOARD OF DIRECTORS  
Kansas-Bostwick Irrigation District No. 2

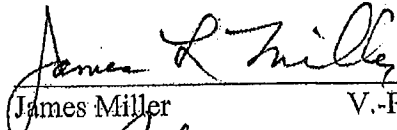
  
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Gary L. Housholder                      President

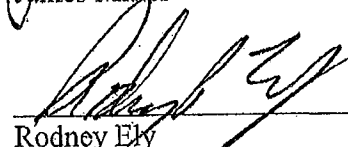
  
\_\_\_\_\_  
Brad D. Peterson                      Secretary

  
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Monty D. Dahl                      Treasurer

BOARD OF DIRECTORS  
Bostwick Irrigation District in Nebraska

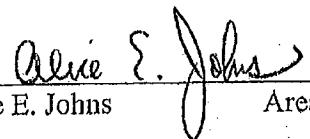
  
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Walter Knehans                      President

  
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James Miller                      V.-Pres./Sec.

  
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Rodney Ely                      Treasurer

APPROVED:

BUREAU OF RECLAMATION  
Nebraska-Kansas Area Office

  
\_\_\_\_\_  
Alice E. Johns                      Area Manager

## RESOLUTION

Whereas, the Kansas Bostwick Irrigation District #2 and the Bostwick Irrigation District in Nebraska, have a Memorandum of Agreement detailing specific provisions for the use of the Bostwick Division water supply;

Whereas, the Bostwick Irrigation District in Nebraska will execute a contract with the State of Nebraska providing for the use of their water supply for the 2006 irrigation season;

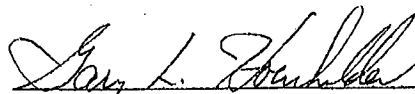
Whereas, the Kansas Bostwick Irrigation District #2 will receive a portion of the above mentioned contracted supply;

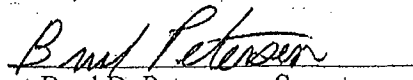
Whereas, Amendment No. 2 to the Memorandum of Agreement between the Districts has been prepared to address the effect upon the 2006 irrigation season;

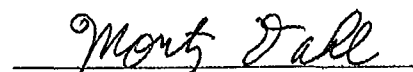
Whereas, the Kansas Bostwick Irrigation District #2 finds the Amendment No. 2 to accurately describe the conditions and accounting planned for the 2006 irrigation season caused by the above mentioned contract;

Therefore, Be it Resolved that the Kansas Bostwick Irrigation District #2 conforms to Amendment No. 2 to the Memorandum of Agreement dated October 4, 2000 and as amended March 5, 2002.

This Resolution was agreed to and signed this 18<sup>th</sup> day of May 2006.

  
\_\_\_\_\_  
Gary L. Housholder - President

  
\_\_\_\_\_  
Brad D. Peterson - Secretary

  
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Monty D. Dahl - Treasurer

**COST DISTRIBUTION PERCENTAGES**

**ATTACHMENT A**

Corps of Engineers  
HARLAN COUNTY DAM

Revised: 3/3/2006

Year	Bostwick in Nebraska (1)		Kansas-Boswick No. 2 (2)		3-Year Total Divisions	Annual Divisions	3-Year Total Divisions	Percentage Distribution		Use For Year
	Annual Divisions	3-Year Total Divisions	Annual Divisions	3-Year Total Divisions				Nebraska	Kansas	
1972	48,713	-	50,701	-	-	99,414	-	-	-	-
1973	53,569	-	50,635	-	-	104,204	-	-	-	-
1974	56,294	158,456	80,126	181,432	339,943	339,943	46.6%	53.4%	-	-
1975	52,810	162,583	79,574	210,335	372,918	372,918	43.6%	56.4%	-	-
1976	66,885	175,899	110,406	270,106	446,005	446,005	39.4%	60.6%	-	-
1977	40,226	159,921	59,333	249,333	409,254	409,254	39.1%	60.9%	-	-
1978	30,356	157,467	71,009	240,768	398,235	398,235	39.5%	60.5%	-	-
1979	33,418	124,000	56,927	187,289	311,289	311,289	39.8%	60.2%	-	-
1980	55,380	139,134	83,430	211,426	350,560	350,560	39.7%	60.3%	-	-
1981	27,916	116,694	52,661	193,078	309,772	309,772	37.7%	62.3%	-	-
1982	39,776	123,052	66,436	202,587	325,639	325,639	37.8%	62.2%	-	1984
1983	52,238	119,930	83,964	203,061	322,991	322,991	37.1%	62.9%	-	1985
1984	58,875	150,889	84,092	234,492	385,381	385,381	39.2%	60.8%	-	1986
1985	51,553	162,666	60,331	228,387	391,053	391,053	41.6%	58.4%	-	1987
1986	58,055	169,095	69,133	213,556	382,649	382,649	44.2%	55.8%	-	1988
1987	47,181	157,399	67,334	196,798	354,197	354,197	44.4%	55.6%	-	1989
1988	62,288	168,134	90,207	226,674	394,808	394,808	42.6%	57.4%	-	1990
1989	48,740	158,209	68,414	225,955	384,164	384,164	41.2%	58.8%	-	1991
1990	41,837	152,865	80,909	239,530	392,395	392,395	39.0%	61.0%	-	1992
1991	39,993	130,570	64,110	213,433	344,003	344,003	38.0%	62.0%	-	1993
1992	25,471	107,301	20,328	165,342	272,643	272,643	39.4%	60.6%	-	1994
1993	17,718	83,182	30,542	114,975	198,157	198,157	42.0%	58.0%	-	1995
1994	55,207	98,396	71,277	122,142	220,538	220,538	44.6%	55.4%	-	1996
1995	62,291	135,216	80,129	181,948	317,164	317,164	42.6%	57.4%	-	1997
1996	46,764	164,262	71,942	223,348	387,610	387,610	42.4%	57.6%	-	1998
1997	53,121	162,176	74,549	226,620	388,796	388,796	41.7%	58.3%	-	1999
1998	53,122	153,007	75,370	221,861	374,868	374,868	40.8%	59.2%	-	2000
1999	56,797	162,040	80,163	230,082	392,122	392,122	41.3%	58.7%	-	2001
2000	67,992	176,911	95,161	250,694	427,605	427,605	41.4%	58.6%	-	2002
2001	48,226	172,015	72,760	248,024	420,039	420,039	41.0%	59.0%	-	2003
2002	43,863	160,081	72,634	240,495	400,576	400,576	40.0%	60.0%	-	2004
2003	28,776	120,865	53,191	198,525	319,390	319,390	37.8%	62.2%	-	2005
2004	5,800	78,439	30,913	156,738	235,177	235,177	38.4%	61.6%	-	2006
2005	4,712	39,288	27,780	111,884	151,172	151,172	26.0%	74.0%	-	2007

Data to fill in columns (1) and (3) can be found in Table 6 of AOP