

March 10, 2006 – draft
Memorandum of Agreement

State of Kansas and State of Nebraska
Regarding the use of certain water from Harlan County Reservoir and the
Republican River for 2006 and related matters
March , 2006

WHEREAS, the State of Nebraska desires to provide the State of Kansas, for use by the Kansas Bostwick Irrigation District (KBID), water that would otherwise be available to the Nebraska Bostwick Irrigation District's (NBID) namely: (1) the amount of water currently available for release during the 2006 irrigation season of NBID's share of water stored in Harlan County Reservoir as determined by the Bureau of Reclamation (10,118 AF), and (2) NBID's share of the natural flow of the Republican River during calendar year 2006;

WHEREAS, the State of Kansas desires to facilitate KBID's ability to divert such water, and KBID desires to use such water for irrigation purposes; and

WHEREAS, both States anticipate and desire that this action will reduce Nebraska's beneficial consumptive use of the waters of the Republican River to some extent and make more water available for beneficial use in Kansas;

NOW, THEREFORE, the State of Nebraska and the State of Kansas, through their State officials responsible for the administration of water in their respective States, and as members of the Republican River Compact Administration (RRCA) agree that:

- (1) KBID will be allowed to: (a) call for release during 2006 from Harlan County Reservoir, 10,118 acre-feet of water that has currently been determined to be available to NBID and divert such water for use on KBID lands, and (b) divert the natural flows of the Republican River that NBID would have been entitled to divert during 2006, including natural flow that NBID is entitled to call through Harlan County Reservoir,
- (2) NBID will not be allowed to: (a) call for release during 2006 from Harlan County Reservoir, 10,118 acre-feet of water that has currently been determined to be available to NBID, and (b) divert the natural flows of the Republican River that NBID would have been entitled to divert during 2006, including natural flow that NBID is entitled to call through Harlan County Reservoir,
- (3) the State of Nebraska will, for the benefit of KBID, protect all releases of irrigation water from Harlan County Reservoir and administer water rights junior to NBID's water rights, so that natural flow that would otherwise have been available to NBID will be available for diversion by KBID at the Superior-Courtland Diversion Dam.
- (4) the States of Kansas and Nebraska will seek amendment to the RRCA Accounting Procedures at the 2006 RRCA annual meeting in accordance with the attached *Proposal on Splitting Harlan County Evaporation When Only One*

No! →

no! →

Belongs in other contract
No!

} No!

District Takes Irrigation Releases from Harlan County Reservoir Storage,
between the States concerning how evaporation from Harlan County Reservoir
will be accounted for when only one state takes irrigation releases from Harlan
County storage in a calendar year,

- (5) by accepting the above described water, Kansas is not agreeing that this action, in
and of itself, will bring Nebraska into compliance with the terms of the
Republican River Compact (Compact). The determination of whether Nebraska
has complied with the terms of the Compact will be made as set forth in the Final
Settlement Stipulation, including the RRCA Accounting Procedures and
Reporting Requirements, as amended, and
- (6) agreeing to accept this water does not affect either State's rights or remedies
under the Compact or the Final Settlement Stipulation.

State of Kansas _____

Date _____

State of Nebraska _____

Date _____

Attachment to Memorandum of Agreement

Proposal on Splitting Harlan County Evaporation When Only One District Takes Irrigation Releases from Harlan County Reservoir Storage

In 2006, in order to facilitate its compliance with the Compact and the Final Settlement Stipulation, the State of Nebraska is proposing to pay the NBID for its current share of stored water in Harlan County Reservoir (HC) as well as its share of natural flows of the Republican River to make such water available to KBID for its use. This could result in only KBID taking irrigation releases from HC storage during calendar year 2006.

no!

The RRCA Accounting Procedures and Reporting Requirements (AP's) do not include a procedure for use when only one District takes irrigation releases from HC storage during a calendar year.

As a result, the AP's Section IV.A.2.e.1 should be amended as follows:

The total annual net evaporation (Acre-feet) will be charged to Kansas and Nebraska in proportion to the annual diversions made by the Kansas Bostwick Irrigation District and the Nebraska Bostwick Irrigation District during the time period each year when irrigation releases are being made from Harlan County Lake. For any year in which no irrigation releases were made from Harlan County Lake, the annual net evaporation charged to Kansas and Nebraska will be based on the average of the above calculation for the most recent three years in which irrigation releases from Harlan County Lake were made to both Districts. For any year in which irrigation releases from Harlan County Lake were being made on behalf of only one of the Bostwick Districts, the net evaporation will be charged as follows:

- *Evaporation from Harlan County Reservoir will be divided between the pool below the minimum shut off elevation, 1927.0, and the pool above elevation 1927.0 based on the volume of water stored in each pool.*
- *Evaporation from the pool below elevation 1927.0 will be charged 50.6% to Kansas and 49.4% to Nebraska.*
- *Evaporation from water stored above the minimum shut-off elevation 1927.0 will be divided between the States in proportion to the annual diversions made by the Kansas Bostwick Irrigation District and the Nebraska Bostwick Irrigation District during the time period that year when irrigation releases are being made from Harlan County Lake.*

sort of a recreation Tax for NE
↓
Should we further pro-rate according to ratio of RS to NE sportsmen that use the lake?

In the event Nebraska chooses to substitute supply for the Superior Canal from Nebraska's allocation below Guide Rock in Water-Short Year Administration years, the amount of the substitute supply will be included in the calculation of the split as if it had been diverted to the Superior Canal at Guide Rock.

The States of Kansas and Nebraska commit to work out the final language, in consultation with the State of Colorado, to amend the AP's to this effect and seek

Call-in

12:30 PM

641-297-5400
72247

adoption by the RRCA at the 2006 RRCA annual meeting for use beginning with the Compact accounting for 2006.