

February 7, 2006 -

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Bostwick Contract Discussion

Gene Foland is positive (at this point) that the buy-out won't negatively affect PP claims process.

2 handouts of language for describing the water supply. Two things we need to do are

- 1) Federal Programs support
- 2) Define an "end" to the contract period

Protecting releases of storage from GW pumping should not be necessary since the wells would be intercepting potential natural flow heading toward the River.

Corps. Of M charges - Who pays? Is there a way to support the District in the payment of the charges?

Frenchman Valley -

Meeting tonight with the board - Can we discuss the possibility of a buy-out with them?

Justin: No - only talk to Don + ask them to come up with a proposal back to DNR + follow up with conference call w/ Felker + one board member.

MT Draft

Stan Goodwin - local legal council

Sec IV + add settlement season definition + release storage trigger

IV. THE PARTIES MUTUALLY AGREE AS FOLLOWS:

A. In consultation with the Bureau of Reclamation (Reclamation) the following water supply estimates were generated for Kansas Bostwick Irrigation District (hereinafter "Kansas Bostwick") for 2006 based on December 31, 2005 data. Approximately 58,000 acre-feet (AF) of water from above the Guide Rock Diversion Dam would be required to supply Kansas Bostwick with a 12-inch supply of water for lands above and below Lovewell Reservoir in Kansas. This figure assumes that Lovewell Reservoir will fill. The natural flow available at Guide Rock Diversion Dam is estimated at 5,000 AF; therefore the required amount of water from Harlan County Reservoir would be 53,000 AF. For the purpose of this agreement 53,000 AF released for irrigation from Harlan County Reservoir shall be considered the maximum amount of reservoir release necessary to satisfy Kansas Bostwick's irrigation needs for lands above and below Lovewell Reservoir.

B. The District reserves the rights to any additional water that it would be entitled to receive under the Harlan County Lake Operation Consensus Plan (Consensus Plan)* after either of the following two events have occurred:

- 1) Reclamation computes that 53,000 AF have been released from Harlan County Reservoir for irrigation use by Kansas Bostwick.
- 2) Storage releases for irrigation from Harlan County Reservoir have ceased for the 2006 irrigation season.

Once either condition has been met the District will be allowed to exercise full rights to bank or hold over for future years any additional available water supply as allowed in the Consensus Plan, or to negotiate further relinquishments for the calendar year 2006 or future years by further written agreement between the District and the State. The District will also be entitled, pursuant to the consensus plan, to reversion of any relinquished water supply under the agreement which for any reason beyond the District's control fails to be released or otherwise used as intended by this agreement.

*
Final Settlement Stipulation - Appendix K

Defined Water Supply for proposed State purchase of the use of B.I.D. water for 2006

In consultation with the Bureau of Reclamation (Reclamation) the following water supply estimates were generated for Kansas Bostwick Irrigation District (KBID) for 2006, based on December 31, 2005 data. Approximately 58,000 acre-feet (AF) of water from above the Guide Rock Diversion Dam would be required to supply KBID with a 12-inch supply of water for lands above and below Lovewell Reservoir. This figure assumes Lovewell Reservoir would fill. The natural flow at Guide Rock is estimated at 5,000 AF; therefore the required storage water from Harlan County Reservoir would be 53,000 AF.

If Reclamation computes that 53,000 AF have been supplied to KBID from Harlan County Reservoir, then the District will be allowed to exercise full rights to bank or hold over for future years any such additional available water supply or to negotiate further relinquishments for this year or future years by further agreement between the District and the State. The District will also be entitled to reversion of any relinquished water supply under the agreement which for any reason beyond the District's control fails to be released or otherwise used as intended by the agreement for 2006.

4. The District will reserve the rights to any additional water which may become available in Harlan County Reservoir that is above the amount necessary to satisfy the Kansas Bostwick Irrigation District (KBID) lands above and below Lovewell Reservoir. The amount necessary shall be up to, but not exceeding 53,000 Acre-Feet for the purpose of this agreement. That is the necessary amount of water estimated to supply KBID lands with 12 inches of irrigation water. In the event that KBID refused any or all water offered under this agreement the portion refused by KBID could be released to the Republican River from Harlan County Reservoir up to 53,000 Acre-Feet at the discretion of the State. If Reclamation computes that 53,000 Acre-Feet have been supplied to KBID, the District will be allowed to exercise full rights to bank or hold over for future years any such additional available water supply or to negotiate further relinquishments for this year or future years by further agreement between the District and the State. The District will also be entitled to reversion of any relinquished water supply under the agreement which for any reason beyond the District's control fails to be released or otherwise used as intended by the agreement for 2006.

Notes:

The language in the first draft could potentially severely limit the positive benefit from the District going dryland this year. If we take additional steps above Harlan to get more irrigation supply to Harlan than currently estimated, we shouldn't allow them to take it by arbitrarily defining the amount purchased by the

State as some estimate before the irrigation season. If the objective is to mitigate potential harm to KS interests and boost the CWS that we share in, then we need to ensure we get as much as reasonable out of this agreement.

The other paragraphs in the draft agreement need to be synchronized with the intent to supply KBID with a full supply.

An alternate is to use 24,500 AF (instead of 53,000 AF) for the purpose of supplying KBID ABOVE Lovewell with a 12 inch supply.

Lovewell may not be allowed to store the extra foot or so of water above the normal pool elevation as it has in the past. This means less storage may be available to KBID below Lovewell, thus putting more pressure on Harlan storage.

We need the net change in storage in all reservoirs, and particularly Harlan to be negative, i.e. less than last year's storage amount. This gives a boost to the CWS in the Mainstem, which we get about half.

Remember that the District only has 22,406 acres under permit. They have been billing for more, but we shouldn't give any inadvertent credibility to a higher acre figure.