

AMENDMENT NO. 3

ORIGINAL

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 _____ day of _____, 2007, 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. The "Memorandum of Agreement between the Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District No. 2" was amended on May 18, 2006 to provide for appropriate accounting and delivery of water during the 2006 irrigation season.

d. To provide for appropriate accounting and delivery of water during the 2007 irrigation season, certain provisions of the Agreement needs to be amended to reflect procedures to be followed for the 2007 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 2007 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 12,500 acre-feet of storage water to be used on Kansas-Bostwick Irrigation District No. 2 project lands. For purposes of this agreement for the 2007 irrigation season only, "irrigation season" and "water supply" as used herein are defined as follows:

(1) "Water Supply" shall be 12,500 acre-feet of storage water allocated to the Bostwick Irrigation District in Nebraska in its water storage account at Harlan County Lake as calculated and published by Reclamation for 2007 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, 2007.

2. The following shall be substituted for the existing Article 2. as it applies to the 2007 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 2007 irrigation season, the Bostwick Irrigation District in Nebraska's 2007 diversions to be recorded on Attachment A, will be computed assuming that the Bostwick Irrigation District in Nebraska had diverted the above referenced 12,500 acre-feet of Bostwick Division water supply into the Superior Canal. In addition, commencing with water deliveries for direct irrigation at the Superior-Courtland Diversion Dam and ending no later than September 1, 2007, the available natural flow at Superior-Courtland Diversion Dam will be apportioned as described in Attachment B of this Memorandum of Agreement. The accounting for the Bostwick Irrigation District in Nebraska's use of the above referenced 12,500 acre-feet 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

402
744
3424

District No. 2 have ceased for the season or September 1, 2007, whichever is earlier. The accounting for any diversions at Superior-Courtland Diversion Dam subsequent to September 1, 2007 will be based on the historical methods used in prior years and recorded on said Attachment A.

b. For purposes of this agreement in 2007, Kansas-Bostwick Irrigation District No. 2's total diversions to be recorded on Attachment A, will be computed as follows: Kansas-Bostwick Irrigation District No. 2's actual diversions during 2007, as accounted for by Reclamation, LESS any diversions resulting from the purchase and or lease of irrigation water supplies from the Frenchman-Cambridge, Frenchman Valley and Riverside Irrigation Districts for the benefit of Kansas Bostwick Irrigation District, LESS the Bostwick Irrigation District in Nebraska's 2007 diversions to be recorded on Attachment A as provided in Article 2.a. above.

3. For purposes of this agreement in 2007, it is agreed that the irrigation waters being supplied to Kansas-Bostwick Irrigation District No. 2 will be utilized in the following order of priority by Kansas Bostwick Irrigation District No. 2:
 - a. Natural flow that may become available for diversion at the Superior-Courtland Diversion Dam during the Irrigation Season purchased or leased from Bostwick Irrigation District in Nebraska;
 - b. Any irrigation water resulting from the purchase and or lease of irrigation water supplies from the Frenchman Valley and Riverside Irrigation Districts for the benefit of Kansas-Bostwick Irrigation District No. 2,
 - c. Any irrigation water resulting from the purchase and or lease of irrigation water supplies from the Frenchman-Cambridge Irrigation District for the benefit of Kansas-Bostwick Irrigation District No. 2,
 - d. The 12,500 acre-feet of storage water allocated to the Bostwick Irrigation District in Nebraska in its water storage account at Harlan County Lake as calculated and published by Reclamation for 2007 according to the Harlan County Lake Operation Consensus Plan (hereinafter "Consensus Plan"),
 - e. Storage water allocated to the Kansas-Bostwick Irrigation District No. 2 in its water storage account at Harlan County Lake as calculated and published by Reclamation for 2007 according to the Harlan County Lake Operation Consensus Plan (hereinafter "Consensus Plan").
4. For purposes of this agreement in 2007, the delivery, protection, and accounting of the irrigation water supplies from the Frenchman-Cambridge Irrigation District for the benefit of Kansas-Bostwick Irrigation District No. 2 will be as directed by the Nebraska Department of Natural Resources, pursuant to applicable state laws and regulations. However, the United States desires to reserve the right to protect its property interests if the delivery, protection, and accounting of the assigned water by the Nebraska Department of Natural Resources appears to reduce or diminish the water use benefits of the Bostwick Irrigation District in Nebraska's water supply that

they would have received as a result of normal irrigation water deliveries from Harry Strunk Lake.

- 5. For purposes of this agreement in 2007, should any of the above referenced irrigation water resulting from the purchase and or lease of irrigation water supplies from the Frenchman-Cambridge Irrigation District for the benefit of Kansas-Bostwick Irrigation District No. 2 remain in Harlan County Lake at the end of the 2007 irrigation season, such amount less an appropriate reduction for losses associated with that storage, will be available for the exclusive use of the Kansas-Bostwick Irrigation District in water year 2008. However, should Harlan County Lake fill subsequent to the 2007 irrigation season, any flood storage releases made from Harlan County Lake will be subtracted from the exclusive use carryover storage available to Kansas-Bostwick Irrigation District as described above.
- 6. For purposes of this agreement in 2007, should any of the above referenced 12,500 acre-feet of storage water purchased and or leased by Nebraska Department of Natural Resources from the Bostwick Irrigation District in Nebraska for the benefit of Kansas-Bostwick Irrigation District No. 2 remain in Harlan County Lake at the end of the 2007 irrigation season, such amount less an appropriate reduction for losses associated with that storage, will be available for the exclusive use of the Kansas-Bostwick Irrigation District in water year 2008. However, should Harlan County Lake fill subsequent to the 2007 irrigation season, any flood storage releases made from Harlan County Lake in excess of the exclusive use carryover storage referenced in Article 5 above, will be subtracted from the exclusive use carryover storage available to Kansas-Bostwick Irrigation District as described above.

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

BOARD OF DIRECTORS
Bostwick Irrigation District in Nebraska

Gary L. Housholder President

Walter Knehans President

Brad D. Peterson Secretary

James Miller V.-Pres./Sec.

Monty D. Dahl Treasurer

Rodney Ely Treasurer

APPROVED:

BUREAU OF RECLAMATION
Nebraska-Kansas Area Office

Stephen F. Ronshaugen
Acting Area Manager