

DOCUMENT 9

Ann Bleed

To: Vogler Dave; France Susan; Cambridge; Patterson Roger; Thompson Mike
Subject: Comments on Popes draft 2004 rules of operating for KBID and NBID
Importance: Low

I think we have a ways to go before we can settle this issue with Kansas. The major concern is that KBID takes all the water after Superior without providing any to Nebraska Courtland. This is contrary to Roger's suggestion of the two Courtland districts sharing the remainder.

I don't think we should have details of how the canals will be operated in the agreement. All we need is who is entitled to what. After that we perhaps should have a paragraph allowing Kenny and Mike to agree to check or not check up the canal or alternate deliveries if they so choose. More detail is not necessary.

In paragraph 5, Pope talks of splitting the natural flow by percentage in the operating agreements. This is not what the Bureau or Roger described. The total supply could be split in accordance with the operating agreement if there was sufficient storage to supplement the natural flow to do so. Otherwise, Nebraska and the Settlement should determine who gets the natural flow.

I am not sure I understand the implications of paragraph 7 and think we need to be careful.

I have no problem with the requirement for consultation in paragraph 1 unless Brad sees a problem. Ann

Ann Bleed

From: Pope, David L. [DPOPE@KDA.STATE.KS.US]
Sent: Friday, May 07, 2004 3:43 PM
To: Roger Patterson (E-mail); Ann Bleed (E-mail); Marvin Swanda (E-mail); Stephen Ronshaugen (E-mail)
Cc: Andrea Kessler (E-mail); Mendez, Debra; Barfield, Dave; Ross, Scott
Subject: Republican River water supply

Sensitivity: Private



2004 Bostwick
Operations.doc

Attached is the "operations criteria" draft I promised to send out after our conference call this morning. I assume the language the Bureau has agreed to draft can be inserted or attached regarding the situation that would occur if some stored water from Harlan turns out to be available for use by the districts.

As per the discussion this morning, this is not intended to be a formal agreement, but a list of this operations criteria that we will use for 2004, as a trial year, under the extremely low water supply conditions we expect to experience this year. Its other purpose is so we can all ensure that we understand the proposed operations the same way. This is intended to make the best of a bad situation through some cooperative efforts, and avoid misunderstandings and disputes during the irrigation season. I have included a clause to emphasize that this does not set precedent for any of us. The last paragraph was included because of significant concerns by KBID and our office related to the split natural flow when there is not stored water available for release from Harlan Co. Lake.

I would appreciate your timely review and comment, so that this matter can be completed by early to mid next week. Thanks, David

<<2004 Bostwick Operations.doc>>

2004 Operations criteria for the Kansas Bostwick Irrigation District
and the Bostwick District of Nebraska. (draft)

1) When water is needed for diversion at Guide Rock by either the Kansas Bostwick Irrigation District (KBID) or the Superior Canal, Nebraska will close junior and require compliance with senior natural flow diversions of surface water as per the Republican River Compact Litigation (RRCL) settlement agreement. The districts will consult about when they plan to begin making deliveries and coordinate their operations to the extent possible to maximize the efficiency of use.

2) The Superior canal will be allowed to divert the natural flow ^{39.} ~~in~~ gain below Harlan Co. Reservoir up to its first water right of approximately 40 CFS, with a priority date of April 3, 1946. When the flow available at the diversion dam exceeds 40 CFS, then KBID may divert the entire amount above 40 CFS in accordance with the priority date of February 26, 1948 that was identified for KBID in the RRCL settlement. In all other respects, KBID may divert as much water as they need and desire in accordance with their Kansas Water Rights. KBID can divert any and all flows over 40 CFS until all KBID irrigators above Lovewell Reservoir wanting water are receiving it. If additional flow is available to the Courtland Canal, it will be shared with the Bostwick District of Nebraska if they want and need additional water, for their users on the Courtland Canal or the Superior Canal.

3) When there is sufficient natural flow for the Superior Canal and KBID to both divert some natural flow at the same time, they may by agreement, rotate the available flows so that the net quantity available to each is the same as would otherwise be available to each during a given period, such as one week. For example, if there is a total of 60 CFS available, then Superior could take 80 CFS for 3.5 days per week, and KBID could take 40 CFS during 3.5 days per week.

4) The Courtland Canal in Nebraska will normally not be checked up and will be run on the bottom to minimize ditch losses so water can be available to KBID users. If there are occasions where water can be efficiently made available to share natural flows with Nebraska users on the Courtland Canal, the canal will be checked up in a manner to not interfere with the Kansas flow, as best can be operated by KBID. This may include making very low flows that would not reach Kansas available to Nebraska users at the upper end of the canal. These operations will be coordinated between the two districts.

5) Natural flows delivered to the Superior Canal will be accounted as part of Nebraska's share from Harlan County Reservoir, if water is released from storage, and the natural flows will be split by percentage as per the operations agreements in place for the Kansas and Nebraska-Bostwick-Irrigation Districts. Nebraska will protect storage water released from Harlan County Lake for delivery at Guide Rock from surface water diversions in accordance with the provisions of the RRCL settlement.

6) This criteria is for the year 2004 only and shall be considered a trial arrangement. It sets no precedent for any other period or for interpretation of the Republican River Compact, contracts, agreements or rights of the irrigation districts, the States of Kansas, Nebraska or the Bureau of Reclamation.

7) Neither KBID or the State of Kansas agree that the Bostwick District of Nebraska or the Superior Canal has a right to receive water prior to KBID or that Nebraska should receive preference for use of natural flow on lands that are served above Lovewell Reservoir, irrespective of the amount of water available for use on lands in KBID served by stored water from Lovewell Reservoir.

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