

Yolanda Sandoval

From: Pope, David L. <DPOPE@KDA.STATE.KS.US>
Sent: Tuesday, May 04, 2004 12:48 PM
To: KBID@courtlund.net
Subject: FW: Summer operations

Kenny,

The address seemed right, but I put it in under your name, so maybe that was a problem. David

> -----Original Message-----

> From: Pope, David L.
> Sent: Thursday, April 29, 2004 4:38 PM
> To: Pope, David L.; 'Kenny Nelson (E-mail)'
> Cc: Barfield, Dave; Austin, George; Ross, Scott; Rolfs, Lee
> Subject: RE: Summer operations
> Sensitivity: Private

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> Correction. I meant to say in the comments portion of my message:

> Roger
believes the USBR has no authority to split the natural flow

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> -----Original Message-----

> From: Pope, David L.
> Sent: Thursday, April 29, 2004 4:31 PM
> To: Kenny Nelson (E-mail)
> Cc: Barfield, Dave; Austin, George; Ross, Scott; Rolfs, Lee
> Subject: Summer operations
> Sensitivity: Private

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> Kenny,

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> I talked with Roger twice after our visit and offered the proposal we developed. He has visited with Brad, as well as Mike Delka. He has offered a counter proposal, which I will outline below. Your input to this is critical. After we have had a chance to discuss this with you, Roger and I talked about a potential joint call with you, Mike, he and I, possibly before your meeting next Tuesday.

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> Here is how I understand the proposal:

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> 1) At such time as Mike or you begin making deliveries, the juniors will be shut off as per the RRCL settlement agreement. You and Mike would consult about timing of when to begin, etc. He said Mike mentioned starting about June 15.

> KBID can divert as much as possible as you are now doing in the meantime.

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> 2) Superior has a water right to almost 40 cfs, priority date of 4-3-1946, which would be allowed to divert the natural flow up to that point. This compares to the 2-26-1948 date (priority for Nebraska Courtland) that was identified in the settlement for administration. When the flow available at the diversion dam exceeds 40 cfs, then KBID can divert the amount above 40 cfs.

>

> 3) When both districts are able to divert water, they could work out an agreement to rotate so that the net quantity amount available each week is the same as would otherwise be available. Nebraska law allows a user to divert twice as much in half the time. For example, if there was 60 cfs available then Superior could take 80 cfs for 3.5 days per week, and KBID could take the rest during the other portion of the week.

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> 4) Mike and Kenny would figure out how much water the Nebraska users on the Courtland canal would get when water is available for diversion.

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> Other comments and observations I gleaned from the conversation:

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> Roger believes: The USBR has authority to split the natural flow when there is no stored water to release at HCR. The contract water supply calculations do assume a split of the natural flow, but operationally releases from storage allow the total water supply to be delivered as called for in the contract. Each component (HCR, Lovewell and gains below HCR) is not split 1/3 to 2/3, but the overall supply is. He thinks you fall back to state law and administer water rights when there is not storage available from HCR, but is willing to include the 1948 priority for Courtland, which comes ahead of the balance of Superior (it has a total right to 140 cfs) and most of the other direct flow rights on the river with individual pumps.

>

> Superior serves about 5972 acres, while the total Nebraska Bostwick is 24,000 acres. His view is about 2/3 of the KBID users (below Lovewell) will get 6 inches or so while they are not expecting any of the other Nebraska users below HCR to get water, unless some HCR storage is available. Superior and Courtland divert at the best location to capture the gains below HCR. Nebraska does not have access to the supply from Lovewell, so he feels Nebraska should get their share of the total supply at Guide Rock for Superior instead of capping the natural flow diversions to get water to the KBID users above Lovewell. I pointed out that Lovewell is filled off season when their users could not have used that water anyway.>

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> The list of priorities for the Nebraska Bostwick ditches is as follows:

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> Franklin 4-03-46 67 cfs canal directly from HCR

> Superior 4-03-46 39+ cfs Also has a later right for a total of 140 cfs

> Cambridge 4-03-46 above HCR, but effects call. Several canals and storage rights, all same priority

> Napanee 2-26-48 10.3 cfs

> Courtland (NE) 2-26-48 11.95

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> The flows are now about 80 cfs at Guide Rock, but will likely drop to

> 35

or 40 cfs, so most of the water at that point would go to Superior under the NE proposal. My back of the envelope calculation would indicate that 40 cfs for 60 days would yield 4,800 AF or about 5 inches on the Superior lands, assuming a 50% delivery efficiency. They would also get some recharge from the losses, although some returns might make it into KS.

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> In summary, the NE proposal would give the first 40 cfs to Superior, instead of splitting the supply 1/3 to them and 2/3 to KBID, with a provision to rotate each week to make the supply more useable and keep the canals wet, as we proposed. Higher flows could be diverted by KBID, but it may take quite a bit of that to fill the canal, when a runoff event occurs. Perhaps some pivots could get in an irrigation while the canal has water in it. The primary concession I see is for NE to administer juniors, which they are committed to do by the settlement anyway, and to limit Superior to 40 cfs, instead of 140 cfs. Perhaps that is worth something.

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> I do not think any of us expect much water to be available from

> storage in

HCR. Franklin can ask for the inflow to be passed, but it won't be much, so Roger does not think they will bother, especially if NBID is trying to get water to Superior. Roger also said he did not think it made sense to call for a release from HCR unless 3 inches or so is available. According to the USBR, it would take about 16,000 AF of HCR supply to deliver 3 inches. That would take an elevation of 1929.06, or about two feet above the shutoff, which is close to where HCR is now. If stored water is available, then the contracts would be used to figure out how it gets distributed. I assume the stored water and natural flow would then be used to get it to the NBID and land above Lovewell, at least until it reached the same supply as that below Lovewell. I mentioned that the sum of the water to Superior from storage and natural flow should not exceed the supply to the irrigators below Lovewell, if something like the NE proposal is used.

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> Kenny, please provide comments, another alternative or your thoughts

> about

whether this is acceptable. Same for the staff copied.

>

> David