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United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
P.O. Box 36900
Billings, Montana 59107-6900



NOV 14 2011

RETURN RECEIPT REQUESTED

Justin D. Lavene
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Subject: Deposition Testimony of Mr. Aaron Thompson; Responsive to the September 1, 2011, Touhy Request and Subpoena for Documents and Information in *Kansas v Nebraska & Colorado* No. 126, Orig., U.S. Supreme Court

Dear Mr. Lavene:

This letter is in response to the September 1, 2011, Touhy Request and Subpoena for Documents, which the State of Kansas sent on behalf of itself and the State of Nebraska requesting Mr. Thompson's testimony and the production of documents. To date, the Bureau Reclamation has produced and provided documents to the States through Mr. Jim DuBois at the Department of Justice. The date for the deposition has not been scheduled.

You requested that Mr. Aaron Thompson, Reclamation's Nebraska Kansas Area Office Manager, provide deposition testimony as part of discovery in *Kansas v. Nebraska & Colorado*, Original 126, United States Supreme Court.

Specifically, you request:

1. "The testimony of Mr. Aaron Thompson, Area Manager. In accordance with 43 C.F.R. 2.84(e), Nebraska submits that Mr. Thompson's testimony is required because Mr. Thompson has unique and personal knowledge of events leading to Reclamation's critique of Nebraska's Integrated Management Plans, including the scope of analyses conducted to support that critique. In addition, Nebraska expects Mr. Thompson will be able to provide:
 - a. An explanation of how record adjustments are made after Nebraska Bostwick Irrigation District and Kansas Bostwick Irrigation District submit irrigation information to Reclamation.
 - b. An explanation of how Reclamation verifies the amount of water actually delivered to producers.
 - c. An explanation of the process by which Reclamation uses actual gaged flows to derive the diversion numbers for the Courtland Canal reported in Table 2 of Reclamation's Annual Operating Plan, including a discussion of how canal losses enter into these calculations.

No record can be provided and used in lieu of Mr. Thompson's testimony."

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Concerning Integrated Management Plans, Mr. Thompson is authorized to testify regarding historical information regarding the Integrated Management Plans, including what information Reclamation had at the time of providing testimony for each Plan. He may testify as to how Reclamation arrived at its decision concerning testimony for each Plan.

Concerning record adjustments, Mr. Thompson may testify as to how Reclamation adjusts records based on information provided by Nebraska and Kansas Bostwick Irrigation Districts.

Concerning verification of water deliveries, Mr. Thompson may testify and provide an explanation of how Reclamation verifies the amount of water actually delivered to producers.

Concerning diversion numbers for the Courtland Canal, Mr. Thompson may testify and provide an explanation of the process by which Reclamation uses actual gauged flows to derive the diversion numbers for the Courtland Canal reported in Table 2 of Reclamation's Annual Operating Plan, including a discussion of how canal losses enter into these calculations.

Mr. Thompson is not authorized to testify to matters outside of your specific requests.

Pursuant to 43 C.F.R. § 2.85, you will be required to pay costs associated with Mr. Aaron Thompson's time, and any record production costs.

Please advise this office as soon as possible of the date and location where the deposition will be held. If you wish to discuss this matter further, please contact Donna Hirming at 406-247-7713 or Melissa Chastain at 406-247-7788. Thank you for your courtesy and cooperation in this matter.

Sincerely,



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Regional Director

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