

MAR 04 2009

GP-3100
LAW-5.10

Mr. John B. Draper
Counsel for Kansas
Montgomery and Andrews
325 Paseo de Peralta
Santa Fe, NM 87501

Subject: Touhy Request and Request for Documents and Information in Interstate Arbitration,
Letter Dated, January 29, 2009

Dear Mr. Draper:

In response to your Touhy request dated January 29, 2009, we have prepared the following narrative and documentation to respond to your fourteen specific requests. The majority of the information is being transmitted on electronic medium (USB drive), however, there is also a package of hard copy documents that we did not scan in electronically.

1. The history of inflows to, and deliveries by, the Projects and the prospective viability of the Projects under current conditions and trends.
Response: Please see enclosed USB drive for electronic version of consolidated response under folders labeled Q. 1 and Q.1, 8, & 10
2. Reclamation reports on the Basin since 2002 and the current public draft of the Appraisal Study of Enders Reservoir.
Response: Please see enclosed USB drive for electronic version of documents requested under folder labeled Q.2.
3. A description of the Appraisal Study of Enders Reservoir and its current status.
Response: Please see enclosed USB drive for electronic version of response under folder labeled Q.3.
4. Whether any short-term or long-term arrangement has been approved by Reclamation regarding transfer of Project water to offset Depletions and, if so, the terms and conditions thereof.
Response: Please see enclosed USB drive for electronic version of response under folder labeled Q.4 & 7.
5. Whether Reclamation can guarantee the Project water can and will be made available in the future to offset Depletions, and if so, to what extent, under what conditions and over what time periods.

4-2-09 Post
EXHIBIT
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CASE # Deposition

Response: Please see enclosed USB drive for electron version of consolidated response under folder labeled Q.5.

6. The contractual and procedural steps that have been, and would be, necessary to transfer Project water from current Project uses and lands for use elsewhere to offset Depletions.
Response: Please see enclosed USB drive for electron version of consolidated response under folder labeled Q.6.
7. The status of any Reclamation consideration of long-term or short-term transfers of Project water to offset Depletions.
Response: Please see enclosed USB drive for electron version of consolidated response under folder labeled Q.4 & 7.
8. Any concerns that Reclamation may have about the adequacy of the Nebraska Republican Basin Natural Resource Districts' (NRDs') Integrated Management Plans (IMPs).
Response: Please see enclosed USB drive for electron response submitted as a consolidated response for Questions Numbers 1, 8, and 10. Responses found under folders labeled Q. 1, 8, & 10.
9. All testimony provided by Reclamation to the NRDs since the beginning of 2005.
Response: Please see enclosed USB drive for electron version of consolidated response under folder labeled Q.9.
10. Any concerns that Reclamation may have regarding the effect of Depletions on Project inflows.
Response: Please see enclosed USB drive for electron response submitted as a consolidated response for Questions Numbers 1, 8, and 10. Responses found under folder labeled Q. 1, 8, & 10.
11. The major interests Reclamation has in the Basin that are protected by the Decree, the FSS and the Compact.
Response: Please see enclosed USB drive for electron version of consolidated response under folder labeled Q.11.
12. All correspondence between or among the State of Nebraska, the districts, the NRDs and Reclamation related to purchase or transfer of Project water to offset Depletions.
Response: Please see enclosed USB drive for electronic response submitted as a consolidated response for Question Numbers 12 and 14, under folder labeled Q. 12 & 14, and in addition the package containing hard copy documents.
13. Contracts with the Districts, including current contracts and any amendments to facilitate transfers of Project water to offset Depletions.
Response: Please see enclosed USB drive for electron version of consolidated response under folder labeled Q. 13 and in the box containing hard copy documents.

14. All documents created or received in connection with consideration or approval of short-term or long-term transfers of Project water to offset Depletions.

Response: Please see enclosed USB drive for electronic response submitted as a consolidated response for Question Numbers 12 and 14. Responses found under folder labeled Q 12 & 14 and in the box containing hard copy documents.

In accordance with 5 U.S.C. §552 (b), Reclamation has redacted portions of the document dated October 14, 2007, and withheld three (3) documents in their entirety (43 CFR §2(E)(5) (deliberative and attorney-client privilege). Any documents containing redactions or documents to be withheld by application of the above referenced regulations are reviewed by the Department of the Interior Attorney-Advisor.

As you referenced in your letter, and further discussed with Area Manager Aaron Thompson, Mr. Thompson and Mr. Marv Swanda will be available to testify at the arbitration hearing scheduled before Arbitrator Karl J. Dreher on March 16 and 17, 2009. The scope of Reclamation's testimony is included in the Reclamation Statement on Concerns with Project Viability in the Republican River Basin included in folder Q 1. Mr. Thompson is authorized to testify on past and present policy issues related to Reclamation projects in the Republican River basin and on the water contracts and agreements that were developed to assist Nebraska with Compact Compliance. Mr. Swanda is authorized to testify on the operations of Reclamation water projects in the Republican River basin and technical issues related to water supply and the hydrology of the Republican River basin.

If you have any questions, please do not hesitate to call Donna Hirning at 406-247-7713.

Sincerely,

Michael J. Ryan

Michael J. Ryan
Regional Director

Enclosures 650

bc: GP-1000 (MRyan), GP-1154 (JChaffin, GMoore), GP-3000 (Macartney), 3100 (LSmith), DHirning), GP-3300 (RSteinmetz), GP-3600 (CFiles), GP-4600 (PErger), (GAYcock), NK-100 (AThompson), (JBerlinger), (SHughson), NK-300 (MKube), NK-400 (MSwanda) *w/o ENCLOSURES*

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