

What the sale means to NE compliance.

Nebraska compliance is the difference between NE's allocations and its consumptive use.

During normal periods, compliance is measure on a 5-year running average basis. During water short years, which we are now experiencing, NE must comply on a 2-year average, in this case for 2005 and 2006.

Water held in storage is not part of the year's water supply and therefore, it is not part of the year's allocation. As water is released from storage it increases the year's water supply and allocation.

With this sale, NE's 10,000 AF will be released from storage and will increase the water supply by approx. that number. <sup>NBID</sup> NE's additional allocation will be approx. 5000 AF without any corresponding consumptive use. *However they won't have any*

In addition, they will benefit by our release of 5000 AF of storage, which also becomes a part of the year's water supply of which they get a share, approx 2500 AF. *of one's*

Finally, Nebraska will pay a lesser share of Harlan County evaporation as a result of us taking all the water. The states are in dispute on this matter: NE is saying that KS should pay all the evaporation for the year as we are taking all the water. KS believes NE should pay a share as well since they continue to enjoy benefits of the reservoir (future irrigation; recreation; flood control). The matter will either be settled through negotiation or through the Settlement's dispute resolution provision. If NE ~~has its way~~, <sup>prevails</sup> it would decrease its consumptive use by about 10,000 AF.

Thus, the sale will help NE's compliance by somewhere between 8000 AF and 17,500 AF. While this will help, we expect it will still be well short of the reductions needed to comply with the Settlement.

Should NE not be in compliance and we are able to demonstrate this to the Court, we might be able to claim damages resulting from their non-compliance. Our receiving a supply for the Upper KBID district will reduce the damages that we would otherwise experience without their additional water supply. Once again however, we could claim damages for previous years when their overuse interfered with us obtaining a water supply for our uses.