

**RESOLUTION APPROVING LONG-TERM AGREEMENTS
RELATED TO THE OPERATION OF HARLAN COUNTY LAKE
FOR COMPACT CALL YEARS**

August 24, 2016

Whereas, the States of Kansas, Nebraska, and Colorado (States) entered into a Final Settlement Stipulation (FSS), dated December 15, 2002, to resolve pending litigation in the United States Supreme Court regarding the Republican River Compact (Compact) in the case of *Kansas v. Nebraska and Colorado*, No. 126 Original; and

Whereas, the FSS was approved by the United States Supreme Court on May 19, 2003; and

Whereas, the States have previously determined and continue to hold that the Compact may be administered in a manner that increases flexibility for all water users, while remaining consistent with the terms of the Compact and the FSS; and

Whereas, the RRCA has previously enacted multiple resolutions to modify the operations of Harlan County Lake (HCL) and the RRCA Accounting Procedures for the years 2014, 2015, and 2016 to maximize the beneficial consumptive use of the waters of the Republican River Basin, and desires to establish a long-term agreement to implement similar modifications to Harlan County Lake operations and the RRCA Accounting Procedures to ensure the continued maximum beneficial consumptive use of the waters within the Basin; and

Whereas, the RRCA holds that *Project Water* means all water made up of flows of the Republican River basin, which may include flows resulting from water management actions, water rights administration and imported surface or groundwater supplies; and stored in Harlan County Lake for the benefit of water users in Kansas and/or Nebraska, pursuant to water right permits approved by the State of Nebraska.

Whereas, the intent of this Resolution is to build on the success of the prior Resolutions by establishing a process that applies during all Compact Call Years without the need for annual renewals.

NOW THEREFORE BE IT RESOLVED:

1. For this Resolution, the following definitions shall apply:
 - A. *Compact Call Year* means the calendar year that is designated by the State of Nebraska pursuant to its Republican River Basin Integrated Management Plans for Compact compliance activities, which may include augmentation, water rights administration, and other actions to effect Compact compliance.
 - B. *Compact Call Forecast Volume* means the amount of water that is identified through application of the forecasting methodology established in Nebraska's Republican River Basin Integrated Management Plans.
 - C. *Compact Compliance Volume* means the amount of water Nebraska would need to contribute to the natural flows of the Republican River Basin, for Kansas' exclusive use through augmentation activities, alone or in combination with other water management activities by the State of Nebraska, for purposes of ensuring Nebraska's Compact compliance.

- D. *Kansas Account* means an account that shall store all Project Water made available for the exclusive use by the Kansas Bostwick Irrigation District (KBID), and water supplies previously available to KBID under Warren Act Contract(s) existing as of the date of this Resolution.
 - E. *Kansas Supplemental Account* means an account that shall store water supplies not in the Kansas Account and which shall be for use outside of KBID within the state of Kansas.
 - F. *Remaining Compact Compliance Volume* means the portion of a previous year's Compact Compliance Volume retained for Kansas' use in a subsequent Compact Call Year subject to the conditions of Provisions 5 and 10.
2. Nebraska may supplement the natural flows of the Republican River Basin through augmentation discharges, alone or in combination with other water management activities beginning October 1 of the year preceding the year which is designated as a Compact Call Year and until such time as necessary to provide the Remaining Compact Compliance Volume, subject to the terms of Provision 5 and 10.
 3. Prior to October 1 of each Compact Call Year, Kansas and Nebraska shall meet to discuss the preliminary Compact Call Forecast Volume and the projected water supply available for irrigation within HCL for the upcoming year, and establish the portion of the Remaining Compact Compliance Volume that will be utilized to meet the conditions of Provisions 5 and 6.
 4. Nebraska shall establish, pursuant to the Integrated Management Plans, the Compact Call Forecast Volume no later than December 31 of each year.
 5. Nebraska shall make good faith efforts to ensure that, no later than June 1 of each Compact Call Year, the Kansas Account contains not less than the amount of water established by October 1 of the previous year as described in Provision 3 subject to Nebraska's operational capacity.
 6. Upon Kansas's request any portion of Remaining Compact Compliance Volume shall be administered to the Kansas Account or the Kansas Supplemental Account subject to Nebraska's operational capacity and Provision 3.
 7. Water in the Kansas Supplemental Account shall not be considered part of the Kansas Account for the purposes of Provision 5. Evaporation from water stored in the Kansas Supplemental Account shall be exclusively charged to Kansas.
 8. During Compact Call Years, Nebraska shall evaluate actual hydrologic conditions on a regular basis to estimate the Compact Compliance Volume. Beginning May 10 of each Compact Call Year, Nebraska shall provide the results of this estimate to Kansas and Colorado and to the United States not later than the tenth day of each month. Nebraska shall provide the other States the final Compact Compliance Volume no later than December 31 of each Compact Call Year.
 9. The accounting offset, equal to the final Compact Compliance Volume, for Nebraska's compliance operations shall be recorded in the "Imported Water Supply Credit" column of Nebraska's Table 3c and Table 5e and "Imported Water Supply Credit Above Guide Rock" column of Nebraska's Table 5c. The computed water supply will be reduced by the amount of augmentation water contributed to the natural flows of each respective

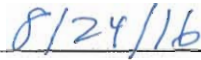
subbasin for the years in which the augmentation water contributions occur. Additionally, in the event that water contributed to the Kansas Account is not beneficially consumed within the year that it is provided, the Computed Water Supply will be adjusted as necessary to ensure that Nebraska receives full credit for the Compact Compliance Volume in that Compact Call Year. Subsequent release of water from the Kansas Account that was not beneficially consumed in a Compact Call Year, but for which Nebraska received full credit in a prior year, shall not increase the Computed Water Supply or allocation, and for purposes of Compact accounting shall be the last Project Water released from the Kansas Account.

10. Should the balance of the Remaining Compact Compliance Volume be greater than zero on January 1 of any year not designated as a Compact Call Year then the balance shall immediately be reduced by twenty-percent, and an equal volumetric reduction shall be applied to the balance of the Remaining Compact Compliance Volume on January 1 of each of the four subsequent years.
11. The compliance tests outlined in Tables 5A – 5E shall not apply when, on or before June 30:
 - A. the sum of all waters available for irrigation from Harlan County Lake, the Remaining Compact Compliance Volume, and the volume in the Kansas Supplemental Account, is greater than or equal to 119,000 acre-feet; or
 - B. the sum of the Kansas Account and Kansas Supplemental Account is greater than or equal to 68,000 acre-feet.
12. The RRCA agrees that if a state is developing or considering a management strategy, including supplementing the basin's natural water supply that may impact the availability, usability or timing of the water supply of another state, that state will share the concepts of the management strategy with the other States.
13. The RRCA is committed to the establishment of water storage accounts for Kansas and Nebraska in HCL. The RRCA agrees to cooperate on working with the United States and the Nebraska Bostwick Irrigation District and the Kansas Bostwick Irrigation District (Districts) to establish these accounts.
14. The RRCA Commissioners hereby agree that compliance with this Resolution constitutes compliance with the Final Settlement Stipulation and Republican River Compact
15. Re-examination and Termination.
 - A. The States agree to re-examine the terms of this Resolution to ensure they are being implemented as intended and with the desired effect not later than April 1, 2020.
 - B. The terms of this Resolution shall remain in full force and effect until terminated by election of one or more States, which termination may be effectuated on the following conditions:
 - i. The terminating State must provide a written Notice of Intent to Terminate to the RRCA not later than October 1 of the year in which a State desires to issue a Notice;
 - ii. The terms of this Resolution shall remain in full force and effect through December 31 of the second full year following the RRCA's receipt of a Notice of Intent to Terminate.

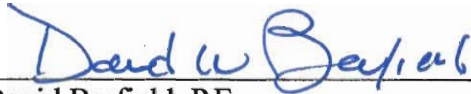
iii. The States agree to work in good faith to resolve any disputes arising from the interpretation of this resolution.



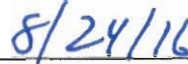
Dick Wolfe, P.E.
Colorado Commissioner
Chairman, RRCA



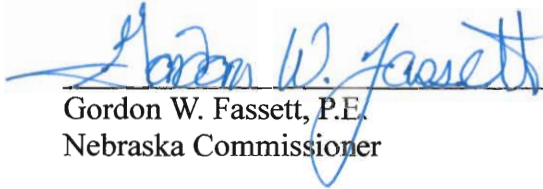
Date



David Barfield, P.E.
Kansas Commissioner



Date



Gordon W. Fassett, P.E.
Nebraska Commissioner



Date