



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E.
Acting Director

November 12, 2008

IN REPLY TO:

Patrick J. O'Donnell
Clerk of the Legislature
Room 1218, State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Pursuant to § 61-218(6), I am submitting this report to the Legislature of the Water Resources Cash Fund uses for the previous year. In brief, appropriations available for the past two years since the Fund's creation by LB 701, Sec. 25, 2007 have been applied by the Department for purchases of annual surface water rights for use in achieving compliance with the Republican River Compact. Thus, although the WRCF is available for multiple purposes by multiple entities, virtually all Fund appropriations were used directly by the Department for both years for achieving compact compliance, and none were available to natural resources districts for use under Fund rules.

A contract in the amount of \$5,648,000 with Bostwick Irrigation District in 2007 for use of the District's 2007 water supply was possible through a direct appropriation to the Department in FY06-07 of \$3,000,000 for that purpose, in addition to the FY 07-08 appropriation to the WRCF of \$2,700,000. The final payment to Bostwick, \$2,648,000, was made September, 2007, making use of all but \$52,000 appropriated for FY-07-08. This amount was applied to the initial payment of a multi-part contract with Frenchman Cambridge Irrigation District for withholding use of their irrigation rights until June 23, 2008 in order that the state was assured of avoiding water short year status under the Republican River Compact accounting in 2008. The total contracted amount for this contract was \$470,640, now paid in full with FY 08-09 resources. In addition and for the same purpose, the Department contracted with and paid Riverside Irrigation Company to forgo use of their total surface water right for calendar year 2008 in the amount of \$165,000, and Frenchman Valley Irrigation District \$1,000,000 for forgoing their rights for 2008. The balance of the fund as of October 1, 2008, was \$1,154,276. This is comprised of the remainder of the FY08-09 appropriation plus accrued interest.

Water short year status is determined under Republican River Compact rules, based upon water levels in Harlan County Reservoir at July 1st of each year. Avoiding the water short year status is important because it triggers a two year Compact accounting cycle for determining compliance through average annual deliveries rather than the normal five year cycle that gives the state more flexibility on an annual basis. We could not know, at the time of making these 2008 contracts, the fact that 2008 would be an overall wet year. It is impossible to know if we would have avoided water short year status by July 1st with the relatively low water levels in Harlan Lake in

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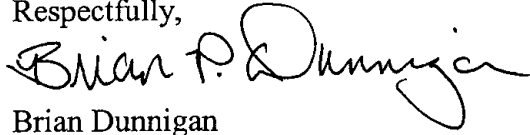
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January 2008, so we believe the Fund was well used. Due to 2008's precipitation and implementation of new and existing integrated management plans, we expect increased flexibility for the Fund's use in 2009.

Respectfully,

A handwritten signature in black ink that reads "Brian P. Dunnigan". The signature is written in a cursive style with a large, looped initial "B".

Brian Dunnigan
Acting Director

cc: Senator Leroy Loudon, Chairman, Natural Resources Committee