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REPORT AND SUBMISSION

of the

**ARKANSAS RIVER COMPACT**

Negotiated and signed by

Commissioners representing

**The States of Colorado and Kansas**

at Denver, Colorado, December 14, 1948

to the

**Governor and General Assembly, State of Colorado**

by the

**COMMISSIONERS FOR COLORADO**



Publication Approved by James A. Noonan, Controller

December, 1948

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THE STATES OF  
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THE COMMISSION

Hans Kramer, *Federal Representative and Chairman*  
Henry C. Vidal, Gail L. Ireland and Harry B. Mendenhall,  
for Colorado;

George S. Knapp, Edward F. Arn, William E. Leavitt and  
Roland H. Tate, for Kansas



December, 1948

THE GOVERNOR AND GENERAL ASSEMBLY OF  
THE STATE OF COLORADO

There is herewith submitted the Arkansas River Compact which was negotiated and signed by the Commissioners representing the States of Colorado and Kansas, and approved by the Federal representative on the 14th day of December, 1948. This Compact accomplishes two major purposes: (a) It settles existing disputes and removes causes of future controversy between the two States, and between the citizens of one State as against citizens of the other State concerning the waters of the Arkansas River as well as their control, conservation and use for irrigation and other beneficial purposes; (b) It equitably apportions between the two States the waters of the Arkansas River as well as the benefits arising from the construction, operation and maintenance by the United States of John Martin Reservoir for water conservation purposes.

The Colorado Commissioners submit:

1. That this Compact is fair and provides an equitable apportionment of such waters between the States of Colorado and Kansas.
2. That it definitely settles disputes, controversies and litigation which have continued for more than fifty years last past.
3. That it establishes a fair and practicable method of use and apportionment of waters stored in John Martin Reservoir for consummation purposes.
4. That it will protect and improve existing water rights and present use of Arkansas River water.
5. That its provisions do not violate or impinge upon the provisions of the Colorado River Compact in that it does not consider or deal with any water imported or to be imported into the Arkansas River Basin.
6. That it does not prevent the proper development of the proposed Gunnison-Arkansas Project.
7. That it recognizes and provides for improvement of water rights in Colorado above John Martin Reservoir and assures water users in Colorado below said Reservoir with a greatly improved and regulated water supply.
8. That it is in the best interests of the State of Colorado and its citizens, and is necessary to accomplish development of a major water resource of Colorado.

Accordingly, the Colorado Commissioners respectfully recommend and urge that it be ratified by the General Assembly and approved by the Governor of the State of Colorado.

The Compact was executed in triplicate original. One original has been delivered to the Governor of Colorado. A copy of the Compact, together with explanatory material, is attached hereto.

Respectfully submitted,

HENRY C. VIDAL

GAIL L. IRELAND

HARRY B. MENDENHALL

*Commissioners for Colorado*



**RESOLUTION ADOPTED UNANIMOUSLY BY THE  
COLORADO WATER CONSERVATION BOARD  
ON DECEMBER 10, 1948**

BE IT RESOLVED by the Colorado Water Conservation Board that the proposed Compact between the States of Colorado and Kansas, for the distribution of water from John Martin Reservoir Project, as the same is set out in the mimeographed draft thereof of date November 10, 1948, be and the same is hereby approved, provided:

(a) Paragraph F of Article V is subject to such revisions as may be unanimously agreed to by the Colorado Compact Commissioners.

(b) That the word "materially" be inserted on page 5 of said draft, before the word "depleted" in the third line from the bottom of Paragraph D of Article IV thereof.

(c) That the words "and reservoirs" be inserted on page 7 of said draft, after the word "ditches" in the second line from the bottom of paragraph D of Article V thereof.

BE IT FURTHER RESOLVED, That upon the modification of said draft of Compact of November 10, 1948, in compliance with subparagraphs (a), (b), and (c) above, the Colorado members of said Compact Commission are authorized and requested to sign and execute said Compact for and on behalf of the State of Colorado.

FURTHER RESOLVED, That the Colorado Water Conservation Board urges the General Assembly of the State of Colorado to ratify such Compact at as early a date as is consistent with orderly legislative procedure.

FURTHER RESOLVED, That upon the ratification of the Compact by the signatory States the Congress of the United States is urged to give its consent and approval to the Compact.

FURTHER RESOLVED, That copies of this Resolution shall be forwarded by the Secretary of the Board to each member of the General Assembly of the State of Colorado and to the Senators and Congressmen representing the State of Colorado in the Congress of the United States.

Adopted and approved by unanimous vote this 10th day of December, A. D. 1948.

(GEORGE J. BAILEY)  
*Vice Chairman of the Board*

ATTEST:

(CLIFFORD H. STONE)  
*Director and Secretary of the Board*



**TEXT OF RESOLUTION ADOPTED BY EXECUTIVE  
COMMITTEE OF THE ARKANSAS VALLEY DITCH  
ASSOCIATION AT PUEBLO, COLORADO,  
DECEMBER 3, 1948**

BE IT RESOLVED by the Executive Committee of the Arkansas Valley Ditch Association in meeting assembled at Pueblo, Colorado, this 3rd day of December, 1948, that the proposed Compact between the States of Colorado and Kansas, for the distribution of water from John Martin Reservoir Project, as the same is set out in the mimeographed draft thereof of date November 10, 1948, be and the same is hereby approved, provided:

(a) Paragraph F of Article V is subject to such revisions as may be unanimously agreed to by the Colorado Compact Commissioners.

(b) That the word "materially" be inserted on page 5 of said draft, before the word "depleted" in the third line from the bottom of paragraph D of Article IV thereof.

(c) That the words "and reservoirs" be inserted on page 7 of said draft, after the word "ditches" in the second line from the bottom of paragraph D of Article V thereof.

BE IT FURTHER RESOLVED, That the Colorado members of said Commission be and they are hereby requested to sign said Compact, after the editing of paragraph F of Article V, and the insertion of the words "materially" and "and reservoirs," as hereinabove set forth; to the end that said Compact may be submitted for ratification at the next session of the legislatures of the States of Colorado and Kansas, and thereafter to the Congress of the United States.

VENA POINTER

*Secretary*



# NECESSITY FOR AN ARKANSAS RIVER COMPACT

## HISTORICAL DATA

The Arkansas River flows from above Leadville to the Kansas line, a distance of 320 miles, through Leadville, Salida, Canon City, Florence, Pueblo, Manzanola, Rocky Ford, La Junta, Las Animas, Lamar and Holly, and was the site of some of the earliest irrigation developments in Colorado. The average annual flow, originating in Colorado, without diversions, is about 1,100,000 acre-feet. Considerable irrigation from the river has also developed in Western Kansas as far east as Garden City.

For many years prior to 1901, Kansas claimed that it was being deprived by Colorado of its rightful share of the river, and in 1901 Kansas brought suit (206 U.S. 46) against Colorado in the United States Supreme Court, asking relief for alleged injury. Decision was rendered in 1907 in favor of Colorado, recognizing the basic principle of equitable division of the benefits of an interstate stream and holding that as of 1907 Colorado had not extended its right of development or its use of the water to a point that Kansas had a right of action, but suggested that later development and use might give Kansas grounds for relief.

In 1910 litigation again developed when the United States Irrigating Company, as owner of several ditches in Western Kansas, sued Colorado water users in the United States District Court for Colorado in an effort to establish priorities against Colorado water users, disregarding the State line. The Colorado water users settled this case by making certain substantial payments.

Controversy still continued, however, and in 1916, the Finney County Water Users Association (not a party to the 1910 suit, but a water user in Kansas) brought suit in the United States District Court for Colorado against the same Colorado users and for the same purpose as the 1910 suit, and again a few years later, brought another suit against the Colorado water users for the same purpose.

Finally, in 1928, the State of Colorado, in order to protect its own citizens and water users and to put an end to further such suits, took action in the United States Supreme Court against the State of Kansas and the Finney County Water Users Association. After many and extended hearings and the accumulation of an immense mass of evidence, the United States Supreme Court (320 U.S. 383) on December 6, 1943, affirmed its previous decision and held that Kansas, up to that time, had not established any claim for relief and enjoined further private litigation, but declined to apportion the water of the river or even discuss the division of the benefits of John Martin Reservoir, and very strongly suggested and recommended that the only proper way to determine such controversies was by interstate negotiations under the compact provision of the Constitution of the United States. Incidentally, an attempt had been made in 1923 and 1924 to make a compact, but to no avail.



In 1936 Congress, pursuant to applications by the two States, enacted legislation authorizing the construction of what is generally known as the Caddoa Reservoir project (now officially designated as the John Martin Reservoir project), which involved the construction of a dam in the main channel of the river some 58 miles west of the State line for flood control and irrigation conservation. The designed capacity is in round figures 281,000 acre-feet for flood control, and 402,000 acre-feet for irrigation storage. This was constructed by the Department of the Army Corps of Engineers, and began to operate to a limited extent in 1943, and is now substantially finished. The expense was entirely at the cost of the United States government.

A major consideration in the Congressional legislation authorizing the construction of the Reservoir was the asserted intent by Congress to facilitate final settlement of the long pending interstate controversy.

Pursuant to implied direction of the last decision of the United States Supreme Court and in order that both States might enjoy immediate advantage of the construction of John Martin Reservoir, preliminary plans for a Compact were initiated and in 1945 Commissioners were appointed by the respective states; namely, for Colorado, Henry C. Vidal, Gail L. Ireland, Harry B. Mendenhall, and Charles L. Patterson, and for Kansas, George S. Knapp, A. B. Mitchell, William E. Leavitt, and Roland H. Tate, and the United States government, in accordance with proper legislation, designated Brigadier General Hans Kramer, USA-Retired, as the Federal representative on the interstate commission. The resignation and subsequent departure from the state of Mr. Patterson resulted in the three remaining Colorado Commissioners being authorized to proceed to completion of the Compact. In Kansas Mr. Mitchell was succeeded by Mr. Edward F. Arn, and finally after many meetings, from January 7, 1946 to December 14, 1948, negotiations, correspondence and statement of positions by the various Federal departments and agencies interested, the attached Compact was signed with the approval of the United States representative affixed.

Since the partial completion of the John Martin Reservoir project, water has been stored to a limited extent and diversions therefrom for the benefit of Colorado and Kansas have taken place under so-called executive interim agreements between the Governors of the two States, all of which has been most helpful to the Commissioners in appraising the practical benefits of the Reservoir.

## ANALYSIS OF THE COMPACT

The above mentioned executive interim agreements, which worked out equitably in actual practice, established to a large degree the basic provisions of the Compact as finally signed.

The Compact contains nine separate Articles, each of which must be considered to have an understanding of the principles and purposes thereof.



The introductory paragraph names the official personnel of the interstate Compact Commission and recites the consent of Congress to enter into an interstate compact with respect to the waters of the Arkansas River.

#### ARTICLE I.

This Article is a declaration of intent, first to settle disputes and remove causes for future controversy, and second, to equitably divide and apportion between the two States such waters and their use as well as the benefits arising from John Martin Reservoir.

#### ARTICLE II.

This Article recognizes (1) the physical and other conditions of the stream and its basin and the irrigation developments therein, (2) the opinion of the United States Supreme Court in the case of *Colorado vs. Kansas* (320 U.S. 383) concerning the relative rights of the two States, and (3) the experience derived from the temporary executive interim agreements.

#### ARTICLE III.

This Article is made up entirely of definitions of terms appearing in the Compact. Attention is particularly directed to paragraph B therein, which excludes from consideration and apportionment any waters brought into the Arkansas River Basin from any other river basin.

#### ARTICLE IV.

This Article further recognizes that the Reservoir is a flood control as well as water conservation facility and must be operated in cooperation and conjunction with the Corps of Engineers, defines the relative flood control and conservation storage pools, and *specifically provides* that it is not intended to impede or prevent future beneficial development of the river basin, so long as such future development does not materially deplete such river basin water in usable quantity or availability for use to the water users of Colorado and Kansas so far as their rights are established under this Compact.

#### ARTICLE V.

This is the apportionment Article. In considering it one must keep in mind the fact that it was the definite intent of the Commissioners that water must not be wasted and that there must be a flexibility and availability in use for water users in both States and that such requirements will not necessarily arise at the same time, dependent on weather conditions in different areas. Furthermore, it must not be overlooked that the principal beneficial purpose of the Reservoir is to conserve water which previously has been unusable and wasted because of lack of a storage



facility in which to conserve it for future use. This Article and the Compact in general, also recognize that progressive siltation will occur in the Reservoir and it is so written that neither State will bear more than its proportionate share of such loss of storage capacity.

The general principle of this Compact is the division of the benefits of the reservoir storage on the basis of the maximum rates of flow, 750 c.f.s. (cubic feet per second) or 60% to Colorado and 500 c.f.s. or 40% to Kansas, out of available storage water in the Reservoir, with Colorado having the substantial advantage of using all accretions and return flow at the State line to make up Kansas' 40% share at the state line. In other words, if Kansas called for 500 c.f.s. of release of stored water and there was 250 c.f.s. of other water crossing the State line, then only a sufficient flow necessary to develop a flow of 500 c.f.s. need be released from the Reservoir. Thus, if each State continued to call for their maximum releases at the same time, Colorado would always have the advantage of such return flow and accretions at the State line, which would result in the actual division of the water in the Reservoir being much more than 60% to Colorado and much less than 40% to Kansas.

The operation of the Reservoir is divided into two general periods, namely (1) winter storage from November 1st to March 31st, when all water entering the Reservoir shall be stored up to conservation capacity limit, except that Colorado may call for up to 100 c.f.s. limited to the river flow entering the Reservoir, for stock pond and other winter uses, and (2) summer storage from April 1st to October 31st, when all water entering the Reservoir up to conservation capacity limit shall be stored, provided, however, that if volume of river flow is sufficient, Colorado can call for the release of the first 500 c.f.s. of such river flow and Kansas can call up for the release of water equivalent to that portion of such river flow between 500 c.f.s. and 750 c.f.s. whether Colorado calls for any or all of her 500 c.f.s. In other words, Colorado gets the first 500 c.f.s. but Kansas is limited to what river flow may be available in excess of Colorado's maximum, but in no event more than 250 c.f.s. In such cases Colorado again has the decided advantage of using the accretions and return flow at the State line to make up Kansas' share of such river flow.

Releases of stored water, referred to above, are limited to the summer storage period, April 1st to October 31st.

Releases under the terms of the Compact, except when all Colorado water users are operating under decreed priorities, as hereinafter mentioned, shall not impose any call on Colorado water users that divert from the river above the Reservoir. Releases of all kinds can be made by the states separately or concurrently. Beneficial use of released waters is demanded and waste is prohibited. Allowance is made for intervals of time in the flow of released water. There shall be no allowance or accumulation of credits or debits for or against either State.

This Article further recognizes that when there is water in storage in the Reservoir and available for use, Colorado shall not administer diversions on a decreed priority basis, but that users above the Reservoir



may divert without regard to the decreed priorities in Colorado below the Reservoir and at the same time the said users in Colorado below the Reservoir may divert in accordance with whatever distribution agreement may be in effect between them at that time. Such a distribution agreement is now in effect and operation—and satisfactorily so.

However, it is expected that there may be times when the Reservoir becomes empty and this Article gives the administrative agency, hereinafter referred to, the right to anticipate such happening and to provide by ample notice through the State Engineer (subject to change or cancellation because of change of conditions) for a change of administration so that all Colorado water users will switch back to the decreed priority basis as though the Reservoir had never been constructed. Provision is made for the administrative agency to time such notice so as not to unduly disturb the regimen of the river. It is further provided that when stored water is again available for release, notice in the same manner will be issued by the administrative agency, discontinuing the decreed priority administration. It is specifically provided herein that when Colorado is on the decreed priority basis, Kansas shall not be entitled to any portion of the river flow reaching the Reservoir, and that only such waters as may flow across the State line during such periods shall be apportioned to Kansas.

Paragraph H of this Article contains the limitation on transfers of rights from below the Reservoir to any point above the Reservoir, as well as the limitation upon increase of ditch diversions below the Reservoir in Colorado and in Kansas beyond the total present rights of such ditches, and provides for a finding by the administrative agency, in respect to material depletion or adverse effect in respect thereto. It should be emphasized, however, that such a finding is not conclusive, but only constitutes prima facie evidence (see paragraph I of Article VIII) and that the proper court can still pass on such question after proper notice to all parties, including the administrative agency.

#### ARTICLE VI.

This Article protects Colorado as to the waters arising in Colorado, and fully recognizes Colorado's statutory system of water administration, particularly as to use for irrigation and other beneficial purposes in Colorado. It also recognizes a peculiar situation which exists as to the Frontier Ditch which diverts in Colorado near the State line, for irrigation uses in Kansas. Colorado, however, gets credit on its deliveries to Kansas for any water thus diverted into Kansas.

#### ARTICLE VII.

This Article is purely explanatory of terms used in the Compact, and clearly states that this Compact establishes no general principle or precedent with respect to any other interstate stream.



## ARTICLE VIII.

This Article creates and defines the powers and duties of the Administration which will be the agency to administer the provisions of the Compact.

There shall be three representatives from each State. Those from Colorado shall be appointed by the Governor for a term not to exceed four years, and shall consist of one who shall be a resident and water right owner in Water District 67 (below the Reservoir) and one similarly qualified from either Water District 14 or Water District 17 (above the Reservoir), and the third one shall be the Director of the Colorado Water Conservation Board. The Commission considered it important to designate the Colorado Director as a member because of the responsibility which the Colorado law places on the Colorado Water Conservation Board in all interstate water matters.

It is also provided that there may be a Federal representative on the Administration, who shall act as chairman but without a vote. Each State has but one vote, and any decision, authorization or other action must be unanimous.

The duties of the Administration shall be purely administrative, and in no manner judicial. Cooperation with and between all appropriate State and Federal agencies is required. Enforcement of the terms of the Compact shall be accomplished through the proper State agencies and officials. Each State shall bear the salaries, if any, and the expenses of its own members, and all other expense of the Administration shall be paid 60% by Colorado and 40% by Kansas. All persons hired by the Administration shall not be considered employees of either State, but strictly employees of the Administration. Proper records shall be kept of expenses as well as factual data pertinent to the administration of the Compact.

It is estimated that for the first biennium 60% of the cost which would be paid by Colorado, including necessary furniture, equipment and supplies for establishing a moderate office near the Reservoir, will be approximately \$5,600.00, and that thereafter the average biennial cost to Colorado should not exceed \$5,000.00.

## ARTICLE IX.

This Article contains a recognition of a statement of principle (Paragraph A) which it is anticipated will be demanded by Congress, which the Commission considers as proper in preserving the sovereignty of the United States. It is important to note that it is also provided that the Compact shall remain in effect until modified or terminated by unanimous action of both States, and in the event of modification or termination, all rights then established or recognized by this Compact shall continue unimpaired.

## ARKANSAS RIVER COMPACT

The State of Colorado and the State of Kansas, parties signatory to this Compact (hereinafter referred to as "Colorado" and "Kansas,"



respectively, or individually as a "State," or collectively as the "States") having resolved to conclude a compact with respect to the waters of the Arkansas River, and being moved by considerations of interstate comity, having appointed commissioners as follows:

HENRY C. VIDAL, GAIL L. IRELAND, and  
HARRY B. MENDENHALL, for Colorado; and  
GEORGE S. KNAPP, EDWARD F. ARN, WILLIAM  
E. LEAVITT, and ROLAND H. TATE, for Kansas;

and the consent of the Congress of the United States to negotiate and enter into an interstate compact not later than January 1, 1950, having been granted by Public Law 34, 79th Congress, 1st Session, and pursuant thereto the President having designated Hans Kramer as the representative of the United States, the said commissioners for Colorado and Kansas, after negotiations participated in by the representative of the United States, have agreed as follows:

#### ARTICLE I

The major purposes of this Compact are to:

A. Settle existing disputes and remove causes of future controversy between the States of Colorado and Kansas, and between citizens of one and citizens of the other State, concerning the waters of the Arkansas River and their control, conservation and utilization for irrigation and other beneficial purposes.

B. Equitably divide and apportion between the States of Colorado and Kansas the waters of the Arkansas River and their utilization as well as the benefits arising from the construction, operation and maintenance by the United States of John Martin Reservoir Project for water conservation purposes.

#### ARTICLE II

The provisions of this Compact are based on (1) the physical and other conditions peculiar to the Arkansas River and its natural drainage basin, and the nature and location of irrigation and other developments and facilities in connection therewith; (2) the opinion of the United States Supreme Court entered December 6, 1943, in the case of Colorado v. Kansas (320 U. S. 383) concerning the relative rights of the respective States in and to the use of waters of the Arkansas River; and (3) the experience derived under various interim executive agreements between the two States apportioning the waters released from the John Martin Reservoir as operated by the Corps of Engineers.

#### ARTICLE III

As used in this Compact:

A. The word "Stateline" means the geographical boundary line between Colorado and Kansas.



B. The term "waters of the Arkansas River" means the waters originating in the natural drainage basin of the Arkansas River, including its tributaries, upstream from the Stateline, and excluding waters brought into the Arkansas River basin from other river basins.

C. The term "Stateline flow" means the flow of waters of the Arkansas River as determined by gaging stations located at or near the Stateline. The flow as determined by such stations, whether located in Colorado or Kansas, shall be deemed to be the actual Stateline flow.

D. "John Martin Reservoir Project" is the official name of the facility formerly known as Caddoa Reservoir Project, authorized by the Flood Control Act of 1936, as amended, for construction, operation and maintenance by the War Department, Corps of Engineers, later designated as the Corps of Engineers, Department of the Army, and herein referred to as the "Corps of Engineers." "John Martin Reservoir" is the water storage space created by "John Martin Dam."

E. The "flood control storage" is that portion of the total storage space in John Martin Reservoir allocated to flood control purposes.

F. The "conservation pool" is that portion of the total storage space in John Martin Reservoir lying below the flood control storage.

G. The "ditches of Colorado Water District 67" are those ditches and canals which divert water from the Arkansas River or its tributaries downstream from John Martin Dam for irrigation use in Colorado.

H. The term "river flow" means the sum of the flows of the Arkansas and the Purgatoire Rivers into John Martin Reservoir as determined by gaging stations appropriately located above said Reservoir.

I. The term "the Administration" means the Arkansas River Compact Administration established under Article VIII.

#### ARTICLE IV

Both States recognize that:

A. This Compact deals only with the waters of the Arkansas River as defined in Article III.

B. This Compact is not concerned with the rights, if any, of the State of New Mexico or its citizens in and to the use in New Mexico of waters of Trinchera Creek or other tributaries of the Purgatoire River, a tributary of the Arkansas River.

C. (1) John Martin Dam will be operated by the Corps of Engineers to store and release the waters of the Arkansas River in and from John Martin Reservoir for its authorized purposes.

(2) The bottom of the flood control storage is presently fixed by the Chief of Engineers, U. S. Army, at elevation 3,851 feet above mean



sea level. The flood control storage will be operated for flood control purposes and to those ends will impound or regulate the streamflow volumes that are in excess of the then available storage capacity of the conservation pool. Releases from the flood control storage may be made at times and rates determined by the Corps of Engineers to be necessary or advisable without regard to ditch diversion capacities or requirements in either or both States.

(3) The conservation pool will be operated for the benefit of water users in Colorado and Kansas, both upstream and downstream from John Martin Dam, as provided in this Compact. The maintenance of John Martin Dam and appurtenant works may at times require the Corps of Engineers to release waters then impounded in the conservation pool or to prohibit the storage of water therein until such maintenance work is completed. Flood control operation may also involve temporary utilization of conservation storage.

D. This Compact is not intended to impede or prevent future beneficial development of the Arkansas River basin in Colorado and Kansas by Federal or State agencies, by private enterprise, or by combinations thereof, which may involve construction of dams, reservoirs and other works for the purposes of water utilization and control, as well as the improved or prolonged functioning of existing works: Provided, that the waters of the Arkansas River, as defined in Article III, shall not be materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas under this Compact by such future development or construction.

## ARTICLE V

Colorado and Kansas hereby agree upon the following basis of apportionment of the waters of the Arkansas River:

A. Winter storage in John Martin Reservoir shall commence on November 1st of each year and continue to and include the next succeeding March 31st. During said period all water entering said reservoir up to the limit of the then available conservation capacity shall be stored: Provided, that Colorado may demand releases of water equivalent to the river flow, but such releases shall not exceed 100 c.f.s. (cubic feet per second) and water so released shall be used without avoidable waste.

B. Summer storage in John Martin Reservoir shall commence on April 1st of each year and continue to and include the next succeeding October 31st. During said period, except when Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, all water entering said reservoir up to the limit of the then available conservation capacity shall be stored: Provided, that Colorado may demand releases of water equivalent to the river flow up to 500 c.f.s., and Kansas may demand releases of water equivalent to that portion of the river flow between 500 c.f.s. and 750 c.f.s., irrespective of releases demanded by Colorado.



C. Releases of water stored pursuant to the provisions of paragraphs A and B of this Article shall be made upon demands by Colorado and Kansas concurrently or separately at any time during the summer storage period. Unless increases to meet extraordinary conditions are authorized by the Administration, separate releases of stored water to Colorado shall not exceed 750 c.f.s., separate releases of stored water to Kansas shall not exceed 500 c.f.s., and concurrent releases of stored water shall not exceed a total of 1,250 c.f.s.: Provided, that when water stored in the conservation pool is reduced to a quantity less than 20,000 acre-feet, separate releases of stored water to Colorado shall not exceed 600 c.f.s., separate releases of stored water to Kansas shall not exceed 400 c.f.s., and concurrent releases of stored water shall not exceed 1,000 c.f.s.

D. Releases authorized by paragraphs A, B and C of this Article, except when all Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, shall not impose any call on Colorado water users that divert waters of the Arkansas River upstream from John Martin Dam.

E. (1) Releases of stored water and releases of river flow may be made simultaneously upon the demands of either or both States.

(2) Water released upon concurrent or separate demands shall be applied promptly to beneficial use unless storage thereof downstream is authorized by the Administration.

(3) Releases of river flow and of stored water to Colorado shall be measured by gaging stations located at or near John Martin Dam and the releases to which Kansas is entitled shall be satisfied by an equivalent in Stateline flow.

(4) When water is released from John Martin Reservoir appropriate allowances as determined by the Administration shall be made for the intervals of time required for such water to arrive at the points of diversion in Colorado and at the Stateline.

(5) There shall be no allowance or accumulation of credits or debits for or against either State.

(6) Storage, releases from storage and releases of river flow authorized in this Article shall be accomplished pursuant to procedures prescribed by the Administration under the provisions of Article VIII.

F. In the event the Administration finds that within a period of fourteen (14) days the water in the conservation pool will be or is liable to be exhausted, the Administration shall forthwith notify the State Engineer of Colorado, or his duly authorized representative, that commencing upon a day certain within said fourteen (14) day period, unless a change of conditions justifies cancellation or modification of such notice, Colorado shall administer the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now or hereafter decreed to water users diverting upstream from John Martin Dam on the basis of relative priorities in the same manner in which their respective



priority rights were administered by Colorado before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. Such priority administration by Colorado shall be continued until the Administration finds that water is again available in the conservation pool for release as provided in this Compact, and timely notice of such finding shall be given by the Administration to the State Engineer of Colorado or his duly authorized representative; Provided, that except as controlled by the operation of the preceding provisions of this paragraph and other applicable provisions of this Compact, when there is water in the conservation pool the water users upstream from John Martin Reservoir shall not be affected by the decrees to the ditches in Colorado Water District 67. Except when administration in Colorado is on a priority basis the water diversions in Colorado Water District 67 shall be administered by Colorado in accordance with distribution agreements made from time to time between the water users in such District and filed with the Administration and with the State Engineer of Colorado or, in the absence of such agreement, upon the basis of the respective priority decrees, as against each other, in said District.

G. During periods when Colorado reverts to administration of decreed priorities, Kansas shall not be entitled to any portion of the river flow entering John Martin Reservoir. Waters of the Arkansas River originating in Colorado which may flow across the Stateline during such periods are hereby apportioned to Kansas.

H. If the usable quantity and availability for use of the waters of the Arkansas River to water users in Colorado Water District 67 and Kansas will be thereby materially depleted or adversely affected, (1) priority rights now decreed to the ditches of Colorado Water District 67 shall not hereafter be transferred to other water districts in Colorado or to points of diversion or places of use upstream from John Martin Dam; and (2) the ditch diversion rights from the Arkansas River in Colorado Water District 67 and of Kansas ditches between the Stateline and Garden City shall not hereafter be increased beyond the total present rights of said ditches, without the Administration, in either case (1) or (2), making findings of fact that no such depletion or adverse effect will result from such proposed transfer or increase. Notice of legal proceedings for any such proposed transfer or increase shall be given to the Administration in the manner and within the time provided by the laws of Colorado or Kansas in such cases.

## ARTICLE VI

A. (1) Nothing in this Compact shall be construed as impairing the jurisdiction of Kansas over the waters of the Arkansas River that originate in Kansas and over the waters that flow from Colorado across the Stateline into Kansas.

(2) Except as otherwise provided, nothing in this Compact shall be construed as supplanting the administration by Colorado of the rights of appropriators of waters of the Arkansas River in said State as



decreed to said appropriators by the courts of Colorado, nor as interfering with the distribution among said appropriators by Colorado, nor as curtailing the diversion and use for irrigation and other beneficial purposes in Colorado of the waters of the Arkansas River.

B. Inasmuch as the Frontier Canal diverts waters of the Arkansas River in Colorado west of the Stateline for irrigation uses in Kansas only, Colorado concedes to Kansas and Kansas hereby assumes exclusive administrative control over the operation of the Frontier Canal and its headworks for such purposes, to the same extent as though said works were located entirely within the State of Kansas. Water carried across the Stateline in the Frontier Canal or any other similarly situated canal shall be considered to be part of the Stateline flow.

## ARTICLE VII

A. Each State shall be subject to the terms of this Compact. Where the name of the State or the term "State" is used in this Compact these shall be construed to include any person or entity of any nature whatsoever using, claiming or in any manner asserting any right to the use of the waters of the Arkansas River under the authority of that State.

B. This Compact establishes no general principle or precedent with respect to any other interstate stream.

C. Wherever any State or Federal official or agency is referred to in this Compact such reference shall apply to the comparable official or agency succeeding to their duties and functions.

## ARTICLE VIII

A. To administer the provisions of this Compact there is hereby created an interstate agency to be known as the Arkansas River Compact Administration herein designated as "the Administration."

B. The Administration shall have power to:

(1) Adopt, amend and revoke by-laws, rules and regulations consistent with the provisions of this Compact;

(2) Prescribe procedures for the administration of this Compact: Provided, that where such procedures involve the operation of John Martin Reservoir Project they shall be subject to the approval of the District Engineer in charge of said Project;

(3) Perform all functions required to implement this Compact and to do all things necessary, proper or convenient in the performance of its duties.

C. The membership of the Administration shall consist of three representatives from each State who shall be appointed by the respective Governors for a term not to exceed four years. One Colorado representative shall be a resident of and water right owner in Water Districts 14



or 17, one Colorado representative shall be a resident of and water right owner in Water District 67, and one Colorado representative shall be the Director of the Colorado Water Conservation Board. Two Kansas representatives shall be residents of and water right owners in the counties of Finney, Kearny or Hamilton, and one Kansas representative shall be the chief State official charged with the administration of water rights in Kansas. The President of the United States is hereby requested to designate a representative of the United States, and if a representative is so designated he shall be an ex-officio member and act as chairman of the Administration without vote.

D. The State representatives shall be appointed by the respective Governors within thirty days after the effective date of this Compact. The Administration shall meet and organize within sixty days after such effective date. A quorum for any meeting shall consist of four members of the Administration: Provided, that at least two members are present from each State. Each State shall have but one vote in the Administration and every decision, authorization or other action shall require unanimous vote. In case of a divided vote on any matter within the purview of the Administration, the Administration may, by subsequent unanimous vote, refer the matter for arbitration to the Representative of the United States or other arbitrator or arbitrators, in which event the decision made by such arbitrator or arbitrators shall be binding upon the Administration.

E. (1) The salaries, if any, and the personal expenses of each member shall be paid by the government which he represents. All other expenses incident to the administration of this Compact which are not paid by the United States shall be borne by the States on the basis of 60 per cent by Colorado and 40 per cent by Kansas.

(2) In each even numbered year the Administration shall adopt and transmit to the Governor of each State its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by each State. Each State shall appropriate and pay the amount due by it to the Administration.

(3) The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

F. Each State shall provide such available facilities, equipment and other assistance as the Administration may need to carry out its duties. To supplement such available assistance the Administration may employ engineering, legal, clerical and other aid as in its judgment may be necessary for the performance of its functions. Such employees shall be paid by and be responsible to the Administration, and shall not be considered to be employees of either State.

G. (1) The Administration shall cooperate with the chief official of each State charged with the administration of water rights and with







