

MINUTES OF THE
ARKANSAS RIVER COMPACT ADMINISTRATION

SPECIAL MEETING
Cow Palace Inn, Lamar, Colorado
June 30, 1980

Attendance:

United States Representative
Frank G. Cooley - Meeker, Colorado (Chairman)

Colorado Members
J. William McDonald - Denver
Leo Idler - Lamar (Secretary-Treasurer)
Kent Reyher - Las Animas

Kansas Members
Carl E. Bentrup - Deerfield (Vice-Chairman)
W. F. Stoeckly - Garden City
Guy E. Gibson - Topeka

The meeting was called to order by Mr. Cooley at 10:00 a.m.
The agenda suggested by the Chairman was as follows:

- (1) Reports
- (2) Budget
- (3) Resolution by Kansas concerning the Model Reservoir storage right at Trinidad, Colorado.
- (4) Resolution by Kansas concerning the transmountain diversion of water in Colorado.

Mr. Idler provided the members of the Administration with several reports, as follows:

- (1) Treasurer's Report, July 1, 1979 through December 11, 1979 (see Attachment A),
- (2) Treasurer's Report, December 11, 1979 through March 19, 1980 (see Attachment B),
- (3) Treasurer's Report, March 19, 1980 through June 26, 1980 (see Attachment C),
- (4) A list of checks written from March 19, 1980 through June 26, 1980 (see Attachment D), and
- (5) Secretary's Report concerning the content of John Martin Reservoir during compact year 1980 (see Attachment E).

Upon motion duly made, seconded, and passed, items 1, 2, and 3 were accepted as the Treasurer's Report, item 4 was accepted, and item 5 was accepted as the Secretary's Report.

With respect to the budget, Mr. Idler provided a proposed budget for FY 81-82 (i.e., for the fiscal year ending June 30, 1982). Discussion ensued during which Mr. Jerry Hughes, of the USGS (Pueblo), explained the funding requirements for the cooperative agreement with USGS and for the operation and maintenance of the telemark installed at John Martin Reservoir. Mr. Bentrup moved, seconded by Mr. McDonald, the adoption of the proposed budget (see Attachment F). The motion passed upon the affirmative vote of both states.

With respect to the next agenda item, Mr. Leland Rolf, an attorney for Kansas, read into the record a proposed resolution concerning the storage of water at Trinidad Reservoir under the Model Reservoir water rights (see Attachment G). Mr. Bentrup moved, seconded by Mr. Stoeckly, the adoption of the resolution.

At this time, Mr. Cooley asked Mr. Robert Jesse, Division Engineer for Division 2, Colorado Division of Water Resources, to describe the circumstances concerning the storage of water in Trinidad Reservoir. Mr. Jesse read a brief statement at this time (see Attachment H).

Discussion ensued at great length among the members of the Administration concerning the historical use of the Model Reservoir water rights, the storage of water in Trinidad Reservoir, the accounting procedures used in association therewith, and the "Operating Principles - Trinidad Dam and Reservoir Project," including the "Five Conditions - State of Kansas." During the course of the discussion, Mr. Bentrup noted that Kansas was of the opinion that storage of water in Trinidad Reservoir under the Model Reservoir water rights could not exceed 20,000 acre-feet at any one time. Mr. McDonald noted that he disagreed with this conclusion for several reasons.

After considerable discussion, Colorado requested that the Chairman declare a 15 minute recess, which request was granted. Upon reconvening, Mr. Cooley called upon those persons in the audience who wished to speak. Mr. Wayne Schroeder, attorney for the Fort Lyon Canal Co., addressed himself primarily to provisions of the Arkansas River Compact which he felt had been violated by the particular storage events in question. Mr. Joe McMahan, attorney for the Purgatoire River Water Conservancy District, noted his disagreement with Mr. Schroeder's arguments and defended the actions of his client.

Discussion among the members of the Administration then resumed, with several questions being directed to Mr. Jesse. After the discussion had focused for some time on certain questions concerning Colorado's water laws, Mr. Gibson noted his

objection to such a line of discussion. He then called upon Mr. Rolf to reiterate Kansas' position. After yet more discussion, Mr. McDonald noted that the proposed resolution was unacceptable to Colorado. He also noted that the Administration has no authority, contrary to the assertion in the proposed resolution, to order a state engineer to do certain things.

At this point, Mr. Cooley called a recess for the lunch hour. Upon reconvening, Mr. McDonald indicated that discussions with the Kansas delegation during the recess suggested that a different resolution might be acceptable to the two states. Mr. Bentrup, with the leave of his second, then withdrew his original motion, whereupon Mr. McDonald, seconded by Mr. Gibson, moved the adoption of a different resolution (see Attachment I).

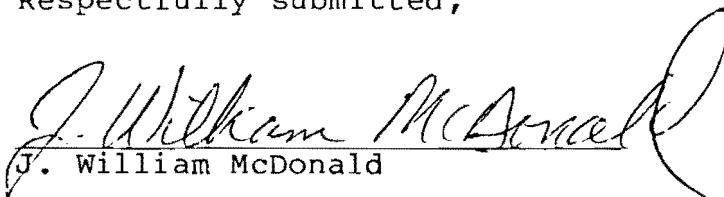
During the discussion which followed, certain modifications to the proposed resolution were agreed upon. The resolution as so modified (see Attachment J) was then approved upon the affirmative votes of both states.

Concerning the matter of transmountain diversions, Mr. Bentrup moved, seconded by Mr. Stoeckly, that the Administration "go on record in the State of Colorado that any sale or exchange of any and all water that may affect inflows into John Martin Reservoir is subject to the prior approval of this Compact Administration." Mr. McDonald stated his objection to the motion, noting that such exchanges occur daily and are the responsibility of the Colorado State Engineer, not the Administration, to administer. Mr. Bentrup indicated that he felt that the Administration should have advance notice of major exchanges such as had been perfected with water in Trinidad Reservoir (see Attachment H). With the leave of his second, Mr. Bentrup withdrew his motion without further discussion.

Mr. Bentrup then moved, seconded by Mr. Stoeckly, that the Administration request the Colorado State Engineer to impound the water in question above 20,000 acre-feet at Trinidad Reservoir until the matter is resolved. The motion failed to pass with Colorado voting "No" and Kansas voting "Yes."

Upon motion of Mr. Gibson, the Chairman adjourned the meeting.

Respectfully submitted,


J. William McDonald

ARKANSAS RIVER COMPACT ADMINISTRATION

Post Office Box 1156
LAMAR, COLORADO 81052

KANSAS

GUY E. GIBSON, Topeka
CARL E. BENTRUP, Deerfield
Vice Chairman
W. F. STOECKLY, Garden City

FRANK G. COOLEY

Chairman and Federal Representative
P.O. Box 98
Meeker, Colorado 81641

COLORADO

FELIX SPARKS, Denver
KENT A. REYHER, Las Animas
LEO IDLER, Lamar
Treasurer

TREASURERS REPORT

July 1, 1979 thru December 11, 1979

Balance on hand July 1, 1979..... \$12,157.58

RECEIPTS: Colorado

Kansas.....58,053.00

Interest..... 143.13

Total funds available..... 20,353.71

DISBURSEMENTS:

Geological Survey.....34,900.00

Professional Fees..... 200.00

Office Expense..... 153.12

Printing..... 104.17

Secretary's Salary..... 874.43

Payroll Taxes..... 110.34

Telephone..... 648.47

Travel & Meetings..... 291.76

Office Equipment..... 627.12

TOTAL DISBURSEMENT..... 7,909.41

Balance on hand..... \$12,449.30

Checking Account..... 663.03

Pass Book Savings..... 11,786.24

\$12,449.30

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TREASURES REPORT

Balance on hand December 11, 1979		<u>\$12,449.30</u>
Receipts:		
Colorado	14,203.50	
Kansas		
Interest	400.29	
Stanford University	<u>2.00</u>	
Total funds available		<u>27,055.09</u>
Disbursements:		
Professional Fees	339.50	
Office Expenses	197.41	
Telephone	234.86	
Social Security	110.34	
Secretary's salary	<u>1056.84</u>	
Total Disbursements:		<u>1,938.95</u>
Balance on hand		<u><u>25,116.14</u></u>
Checking Account	726.11	
Pass Book Savings	<u>24,390.03</u>	
	<u><u>25,116.14</u></u>	

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Treasurer

TREASURER'S REPORT

Balance on hand March 19, 1980	\$25,116.14
Receipts	
None	
Total Funds Available	25,116.14
Disbursements:	
Office Supplies	63.97
Meeting Expence-Garden City	118.40
Telephone Expence	554.30
Coping Expence	129.28
Social Security	110.34
Secretary's Salary	1,687.66
Total Disbursements	2,663.85
Balance on hand	<u>22,452.29</u>
Checking account.	62.26
Pass Book Savings	<u>22,390.03</u>
	<u>22,452.29</u>

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Treasurer

Checks written since last meeting
(Garden City)

Check No.

415 Room rent for convention hall in Garden City	\$82.40
416 Typing and copying at Garden City	36.00
417 Social Security deposit	110.34
418 Secretary's salary-travel expence-office supplies	1,074.59
419 Telephone-John Martin Dam-telemark	75.92
420 Telephone for April	173.12
421 Secretary's salary for April	280.61
422 Void-typing mistake	
423 Xerox copies to 4/30/80	129.28
424 Telephone for May	305.43
425 Void Typing mistake	
426 Secretary's salary-milage-postage and supplies	396.43
Total	<u>2,663.85</u>

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SECRETARY'S REPORT

Listed below are the acre feet of water that was in John Martin Reservoir on the first day of each month of the present water year, also listed are the surface acres covered and the depth of the water at that time at the dam.

Date	Acre Feet	Aprox. S. A.	Depth
1 November	5209	1216	25.7 ft.
1 December	9480	1632	28.8
1 January	15320	2063	32.2
1 February	26044	2576	37
1 March	34561	3073	39.7
1 April	41758	3286	41.9
1 May	49960	3523	44.3
1 June	166440	7093	67.1
26 June	177349	7470	68.6

As of June 26 there has been 7,992 acre feet of water evaporated from John Martin Reservoir. There has been 264,065 acre feet of water computed as having flowed into the reservoir this water year so far.

Leo Idler
Leo Idler
Secretary

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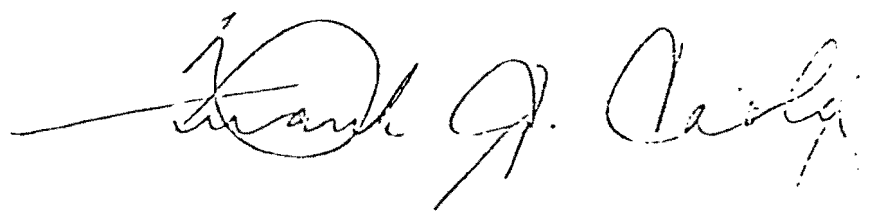
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BUDGET ADOPTED

Fiscal Year July 1, 1981 Thru June 30, 1982

Personal Services		\$ 4,750.00
Secretary's salary	\$ 3,600.00	
Social Security	230.00	
Professional services	920.00	
U. S. GEOLOGICAL SURVEY		5,750.00
Cooperative Agreement	4,900.00	
Telemark	850.00	
Data Acquisition Improvement Plan		5,000.00
Maintenance and Operation		5,190.00
Treasurer's Bond	90.00	
Printing	1,250.00	
Telephone	2,000.00	
Office Expense	500.00	
Travel and Meetings	1,350.00	
Contingency		2,000.00
TOTAL BUDGET		\$ 22,690.00
To be appropriated		\$ 22,690.00
Colorado (60%)	\$ 13,614.00	
Kansas (40%)	\$ 9,076.00	



WHEREAS Mr. Robert Jesse, District Engineer for the State Engineer of the State of Colorado, has notified this Compact Administration that water has been stored in Trinidad Reservoir in excess of the 20,000 acre-feet authorized under the Model Reservoir Right, and

WHEREAS, the Operating Principles of Trinidad Dam and Reservoir Project, as adopted by this Administration on June 6, 1967, and the court decree in Civil Action No. 19793 dated April 15, 1965 in the District Court of Los Animas County, Colorado, relating to the changing the place of storage of Model Reservoir to Trinidad Reservoir, limits the storage of water in Trinidad Reservoir under the Model Reservoir Right to 20,000 acre-feet of water at any one time,

^{Kansas}
THEREFORE, ~~VZ~~ moves that the Arkansas River Compact Administration order the State Engineer of Colorado to order all of the water stored in Trinidad Reservoir in excess of the 20,000 acre-feet authorized under the Model Reservoir Right to be released to John Martin Reservoir beginning no later than July 1, 1980 and that such releases be completed no later than July 5, 1980, and that should such water not be released as ordered that the Compact Administration take the necessary and suitable action to enforce its order in a court of competent jurisdiction.

In Water Year 1979 (November 1, 1978 thru October 31, 1979), the Trinidad Model Water Rights stored in Priority, during several high water events, sufficient water so that on September 28, 1979 there was stored in the Model account in Trinidad, 18,290 A.F. This water, by Board action, was transferred into the Joint Use Pool, leaving the Model account at zero. Trinidad then stored during the Winter Period, which began October 15, 1979 and ended April 15, 1980, 4,910 A.F., making a total of 23,200 A. F. on April 15, 1980. All stored in the Joint Use Pool. When the Model Water right came into Priority, storage was allowed until 20,000 A.F. was stored, which occurred on May 17, 1980. Trinidad then, by various purchases, was able to purchase enough water to bring their total up to about 59,000 A.F., where they are today. These purchases are mainly transmountain water either owned or acquired by the City of Pueblo. There is one small sale of Twin Lakes water by the Bessemer Canal and the sale by C.F. & I. of native water stored in Turquoise. All of these transactions were charged a transit loss and are handled in the same manner of any other routine exchange. To say the exchange is to John Martin may be a simplification since the river is whole at the confluence of the Purgatoire and Arkansas. The river was running at such a level that all intervening water rights were satisfied and the only water rights that could have diverted and were not being permitted to do so were the rights that are decreed junior to the Conservation Pool in John Martin and Trinidad Reservoir, and this is exactly the reason they were forced to purchase this water. All but 4,000 A.F. was trans-basin and was either imported last year or imported this year under decrees owned by the City of Pueblo or Twin Lakes and would have, but for this sale, been

left on the western slope to run off to the western slope.

All the accounting was shown and copies given to Mr. Corrigan on June 24, 1980. This accounting was done as a function of the Office of Division Engineer and is coordinated with the Bureau of Reclamation, the Corps of Engineers and the entities who own this water and water rights. At first glance, the accounting may seem a little imposing, but in principle is fairly straightforward and in general conforms to most acceptable methods used by other agencies.

In conclusion, I would point out that all exchanges were charged transit losses and except for the C.F. & I. water, all was imported. There was no injury to any water right either on the Arkansas or Purgatoire Rivers and the water, had it not been put to this use, would have gone on down the Colorado River. Legal issues on Re-fill and the handling of carry over water can be answered by our counsel. I would not like to comment, as this is at issue in the Colorado Court ^{and} any conclusion would be premature. I will try to answer any questions.

WHEREAS, it has come to the attention of the Compact Administration that 18,290 Ac.Ft. of water, stored under the Model Reservoir Water Right in Trinidad Reservoir During Compact year 1979, which was transferred to the Joint Use pool on September 28, 1979; and

WHEREAS, an additional 20,000 Ac.Ft. was stored in Trinidad Reservoir under the Model Reservoir Right during Compact year 1980; and

WHEREAS, the State of Kansas has questioned whether these actions are in conformity with the Operating Principles for Trinidad Reservoir; and

NOW THEREFORE BE IT RESOLVED that pursuant to Article VIII, paragraph H of the Arkansas River Compact, the Compact Administration shall cause an investigation to be made of these circumstances.

BE IT FURTHER RESOLVED that this investigation shall be accomplished on behalf of the Compact Administration by the Colorado Water Conservation Board and the Kansas Division of Water Resources, which entities shall conduct said investigation as promptly as possible and report the determinations to the Compact Administration as soon as possible after the adoption of this resolution.

RESOLUTION CONCERNING
AN INVESTIGATION OF TRINIDAD RESERVOIR OPERATIONS

WHEREAS, it has come to the attention of the Arkansas River Compact Administration that 18,290 acre-feet of water stored under the Model Reservoir water right in Trinidad Reservoir during compact year 1979 was transferred to the joint use pool on September 28, 1979 by action of the Board of Directors of the Purgatoire River Water Conservancy District without objection from the Division Engineer for Division 2, Colorado Division of Water Resources; and

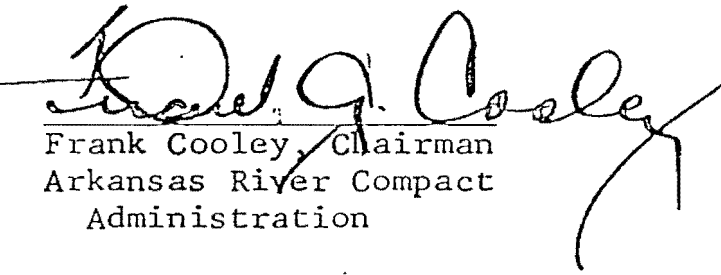
WHEREAS, an additional 20,000 acre-feet was stored in Trinidad Reservoir under the Model Reservoir right during compact year 1980; and

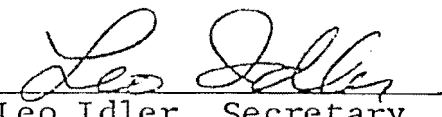
WHEREAS, the State of Kansas has questioned whether these actions are in conformity with the operating principles for Trinidad Reservoir;

NOW, THEREFORE, BE IT RESOLVED that pursuant to Article VIII, paragraph H of the Arkansas River Compact, the Compact Administration shall cause an investigation to be made of these circumstances; and

BE IT FURTHER RESOLVED that this investigation shall be accomplished on behalf of the Compact Administration by the Colorado Water Conservation Board and the Kansas Division of Water Resources, which entities shall conduct said investigation as promptly as possible and report their determinations to the Compact Administration as soon as possible after the adoption of this resolution.

Entered this 30th day of June, 1980, at a special meeting of the Compact Administration held in Lamar, Colorado.


Frank Cooley, Chairman
Arkansas River Compact
Administration


Leo Idler, Secretary
Arkansas River Compact
Administration