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**ARKANSAS RIVER COMPACT ADMINISTRATION
MINUTES OF SPECIAL MEETING
WEDNESDAY, NOVEMBER 8, 2006**

HELD VIA TELEPHONIC CONFERENCE CALL
WEDNESDAY, NOVEMBER 8 AT 2:00 M.S.T. (3:00 C.S.T.)
[Transcript of Recorded Conference Call]

The following transcript is the official minutes of the Arkansas River Compact Administration's November 8, 2006 Special Meeting, as signified by the signature of the Chairman of the Administration, pursuant to Administration approval given on 12/8/09 at Garden City, KS.


Robin Jennison, Chairman
Arkansas River Compact Administration

Note

On November 8, 2006, a Special Meeting of the Arkansas River Compact Administration (ARCA) was held by conference call. This meeting immediately followed a meeting of the ARCA Engineering Committee. The transcript picks up at the transition between the Engineering Committee and the ARCA Special Meeting. The following transcript was prepared by the Colorado Water Conservation Board from an audio recording of the conference call, which was then reviewed by the Kansas Division of Water Resources, and finalized after consultation between the two agencies.

List of Exhibits

- A. Notice and Agenda
- B. Recommendation A and proposed Resolution 2006-01
- C. Recommendation B and proposed Resolution 2006-02
- D. Recommendation C and proposed Resolution 2006-03
- E. Recommendation D and proposed Resolution 2006-04

1 Robin Jennison: I call the special ARCA meeting to order. The way that I see it, what
2 we've got is one item, is just the procedure that's going to be involved, and I
3 would kick it back to whoever wants to make a recommendation...is that the way
4 we want to proceed?

5 Steve Miller: Yes, we might just reconfirm who is on the line, Robin, since we did have
6 some stuff going on there, just to make sure we've got everyone.

7 Jennison: Are all the Colorado guys still there?

8 Ed Perkins: We are, but we haven't introduced ourselves. Do you want us to get...Ed
9 Perkins, Division of Wildlife...Grady McNeil is here with me....

10 [Phone connection problems, lines dropped]

11 David Pope: I didn't hear anything, so I was wondering...this is Pope in Topeka, do we
12 have the Garden City folks besides Dave Brenn?

13 Kevin Salter: We have Garden City, here in Garden City we have Al Knoll, Randy
14 Hayzlett, Kansas Compact Commissioner, Mike Meyer, Chelsea Juricek,
15 ...(inaudible) for a while, Brandy Cole and myself, Kevin Salter, and I do have
16 Steve Miller's cell phone so I will give him a quick call and see what's going on..

17 Dave Barfield: This is Dave Barfield, I'm also on the line.

18 Speaker: John, are you out there?

19 John Draper: Yes, this is John Draper. I would think he could dial back in.

20 [Multiple voices speaking at the same time about the phone connection]

21 Jennison: This is Jennison, I'm back, hello?

22 Miller: Robin, this is Steve Miller, can you hear me?

23 Jennison: I hear you.

24 Miller: OK, I hesitate to push this record button again,

25 Voices: Don't push it...

1 Miller: So we're going to be going just into my little Dictaphone that's sitting here
2 next to the phone.

3 Pope: Do we have the guys from Garden City?

4 Miller: Probably not, they're probably all trying to get back in. Did you get cut
5 off? You did? OK.

6 Speaker: Somebody...I think we got a couple more...

7 Brenn: This is Dave Brenn again. Garden City. OK.

8 Perkins: Division of Wildlife

9 Miller: We'd better go fast, I don't know how long this phone is going to hold out.
10 The Compact representatives of Colorado: Matt Heimerich, Colin Thompson and
11 Rod Kuharich are all here, so we have our quorum of Compact members and we
12 have some various legal advisors, Hal Simpson, Steve Witte. Let's not do the
13 whole room full of people, OK, and does Kansas have their three members?

14 Pope: I believe that is correct, this is David Pope, and Dave Brenn's on and I
15 believe Randy's in Garden City.

16 Randy Hayzlett: Randy Hayzlett is in Garden City.

17 Miller: Well, I am doing a backup record on this with my Dictaphone, and we'll
18 see who can prepare the best set of minutes, but I think we're not going to make
19 very many substantive decisions, so I am going to turn it back to Robin, who I
20 think was just in the process of turning it over to probably Witte and Salter?

21 Pope: Let me...David and Robin, if it's a good...I might just make a few brief
22 comments to kick things off in regard to the Special Engineering Committee, and
23 then I think we should then turn it over to Kevin and Steve Witte. Basically, as
24 hopefully everyone here knows, ARCA did create the Special Engineering
25 Committee at the last annual meeting, and gave out certain assignments.
26 Primarily, that was related to the process to try and resolve a series of issues,

1 mostly related to accounting at John Martin Reservoir. Some of you refer,
2 recognize of course, that there was a pretty extensive matrix that had been put
3 together by the Operations Committee and others that had worked on that the
4 last few years, actually. The Special Engineering Committee which included Hal
5 Simpson and myself, along with one other member from each state that was a
6 member of ARCA, those members turned out to be Dave Brenn from Kansas and
7 Rod Kuharich from Colorado. The Committee has met, I believe, three times,
8 and spent a considerable amount of time on the issues, did establish its ground
9 rules so that we could try to come up with an effective process to deal with these
10 very complicated and difficult issues, for the most part. One of the challenges we
11 had was trying to do that in an effective way and so the Committee did agree to
12 hold its discussions in confidence so as to help facilitate more open and frank
13 discussions to move the issues forward. However, the Committee, of course
14 they recognized that any recommendations that it came up with that would be
15 forwarded to ARCA of course at that point would no longer be confidential, and
16 those particular recommendations would then be forwarded to ARCA at its
17 pleasure for action. And I would say at this point the Special Engineering
18 Committee has reached agreement and has made recommendations to ARCA, is
19 prepared to make recommendations today to ARCA for several of the issues,
20 and again, one of the things we could do here on the conference call today is to
21 talk about the process that I believe the Special Engineering Committee had
22 envisioned that it would provide these written agreements that have been kind of
23 assigned by the Committee and some draft resolutions that have been prepared
24 ...turn those over to ARCA and then assuming that it agrees with this process, it
25 would then release those recommendations to the public and water users, and
26 then perhaps consider those for action at the end of the meeting in December.

1 So that's kind of the anticipated process but again, it's up to ARCA in terms of
2 how to deal with those items. At this point, I think the Committee talked about, at
3 least Hal and I talked about having Steve Witte and Kevin Salter sort of run
4 through a brief summary of the issues that...for which the Committee has
5 reached agreement, and go over those at this time, if that's OK with you.

6 Jennison: It's agreed...is Kevin going to do that...or Kevin or Steve is going to do
7 that?

8 Pope: They are going to do it...I think they've talked amongst themselves about
9 who is going to do which ones.

10 Witte: This is Steve Witte, the division of labor turned out to be that I would
11 summarize the first two recommendations and their associated proposed
12 resolutions, and then Kevin would do the last two. Do all of the ARCA members
13 have copies of the Recommendations A and Resolution 2006-01 available to
14 them? [Four recommendations, attached as Exhibits B, C, D, and E]. Randy, do
15 you have it? And David? OK. The first recommendation, Recommendation A,
16 the subject line being John Martin Reservoir Permanent Pool Evaporation
17 Method, is related to an issue regarding what the appropriate means of
18 assessing evaporation from the permanent pool in John Martin Reservoir should
19 be. There has been some...some differences of opinion regarding what the
20 appropriate procedure is based upon various interpretations of language that
21 appear in both the 1976 resolution, which created the permanent pool, as well as
22 the operating criteria that were attached to that original 1976 resolution, in
23 contrast to the language that appears in the 1980 Operating Plan Resolution.
24 The recommendation of the Special Engineering Committee is that after
25 consideration of the controlling language in each document, that the provisions
26 can be consistently interpreted and are not in conflict with one another, and that

1 the appropriate method of assessing or distributing evaporation to all accounts in
2 John Martin Reservoir, including the Permanent Pool Account, should be on a
3 basis of pro-ration by the volume in each of the accounts. So that is the
4 recommendation that the Special Engineering Committee reached and endorsed
5 on October 19th, and then prepared a proposed resolution for consideration by
6 the Administration, to be considered at the December 12th meeting. Are there
7 any questions I can answer for anyone regarding that recommendation, or
8 concerning the proposed resolution? Can anyone acknowledge if anyone is still
9 on the other line? Can you hear me?

10 Speaker: Yeah, we're here.

11 Witte: That's reassuring, guys, I appreciate that. Talking into space is a little
12 unnerving. So are there any questions regarding Recommendation A and
13 proposed Resolution number 1? I'll take that as a resounding "no". Then, if you
14 would, turn to Recommendation B, and the proposed Resolution 2006-2. Does
15 anyone not have access to those documents? Very well, then. The issues that
16 are involved here, the subject line is Winter Water and District 67 Winter Water
17 Storage Charge Accounting Accounts. The 1980 Operating Plan Resolution
18 authorizes water to be stored as characterized as "other water" pursuant to
19 Section 3 of that resolution. The practice since the inception of the creation of
20 those accounts, has been that water stored under the Pueblo Winter Storage
21 Program has been held in an account called the Winter Water Account for the
22 sake of convenience an account for the implementation of the ... what's known
23 as the Pueblo Winter Storage Program. That account of convenience is not one
24 that was authorized by the 1980 Operating Plan Resolution specifically, nor by
25 any other action of ARCA. At the...at issue here is not only the use of accounts
26 that had not been authorized, but there were very...there were more substantive

1 reasons related to the timing of when the storage charge on that Section 3 water
2 is distributed, according to the directions provided in the 1980 Operating Plan
3 Resolution. The issue here, then, affected the timing of spills of water in those
4 holding accounts, as well as the distribution into accounts, Section 2 Accounts for
5 example, that would include the interests of Kansas. The...I believe it was at the
6 2004 meeting of the Compact Administration, the Operations Committee directed
7 me to investigate a method of doing the distribution of the storage charge
8 component on a daily basis, and based on that direction, we began a practice of
9 distributing that 35% storage charge on November 15th of last year, so we've
10 actually, we have a year of experience under our belts, and that procedure then
11 was considered by the Special Engineering Committee, and they moved for its,
12 they agreed upon its appropriateness and have incorporated that procedure as a
13 recommendation to ARCA, and that is in the form of Recommendation B. Then
14 to implement that, a Resolution 2006-2 has been created, which clarifies the
15 appropriateness of two holding accounts, known as the Winter Water Holding
16 Account and the District 67 Winter Water Storage Charge Holding Account, as
17 well as clarifying the appropriate spill order that ought to be utilized in the event
18 the there is water in those temporary holding accounts at the time that a spill
19 occurs. And that is all embodied in this resolution that has been presented to
20 ARCA for its consideration at its December meeting. That's pretty brief, but I
21 would be happy to try to field any questions regarding that recommendation or
22 the related procedures, if anyone has question they would like to have answered.
23 Very good, then Kevin, I think the floor is yours.

24 Salter: This is Kevin Salter in Garden City. And as it turns out I have the last two
25 recommendations of the Special Engineering Committee. The first one of that
26 being recommendation C – the business involving the transfer of conservation

1 storage to the Section 2 Accounts under the 1980 Operating Plan. The issue
2 here is the interruption of the transfer from conservation storage once it's initiated
3 from conservation storage into both the Colorado and Kansas Section 2
4 Accounts. There were two different conditions that were identified if this occurs.
5 One of them was during summer storage, the summer storage period, and the
6 other one was at the break between the summer storage period and the winter
7 storage period, or period of winter storage, that being on November 1st. This
8 would get the summer storage period, the conservation storage may have been
9 initiated, and then for some reason the demand has come off the reservoir, and
10 the transfer would be interrupted for a period of up to 48 hours. There was a
11 dispute whether that was something that was appropriate to happen. The
12 second instance was, if there was water remaining in conservation storage, on
13 October 31st, moving into November 1st, that those transfers from conservation
14 storage to the Colorado and Kansas Section 2 Accounts was also interrupted.
15 The Committee has recommended that if a conservation storage transfer is
16 initiated during the summer, that that transfer would continue uninterrupted, until
17 conservation storage is empty, so that takes care of the first period of summer
18 storage interruption. The Committee recommendation for the second one, that's
19 the interruption of conservation storage between October 31st and November 1st,
20 we're going to recommend that that conservation storage transfer be interrupted
21 at that point in time. That's the recommendation on that. We then deal within the
22 body of the recommendation has the suggested language, should the 1980
23 plan, the 1980 Operating Plan be amended, that this language be adopted. This
24 also relates to Resolution number 2006-3, for ARCA's consideration, which would
25 adopt those recommendations and also further suggest that the 1980 Operating

1 Plan be amended as suggested. So if there are any questions on this particular
2 recommendation and resolution, that this would be the time.

3 Miller: Looks like there's none in Pueblo.

4 Salter: OK, hearing that, I'll move to the 4th recommendation. That would be
5 Recommendation D. This has to deal with a Section 2 Account spill volume. If
6 we ever get away from these dry conditions ... that should John Martin get to the
7 point again where we have John Martin spilling water under a flood control
8 operation, that account water spilling, there became a question to what extent
9 Section 2 Accounts would spill, that would be the Colorado and Kansas Section 2
10 Accounts. There is certain language in there that talks about the account spilling
11 based on the ratio of a spilling account, based on the amount that came within at
12 the inception of the spill of the Section 2 Account. The Committee would
13 recommend that just the water that was in the Section 2 Account with the spill
14 during one of those events and that the volume be limited strictly to that amount.
15 So that would be the Recommendation D, and that would relate to Resolution
16 2006-4 with again, if ARCA would adopt that resolution with, adopt the
17 recommendations of the Special Engineering Committee, there you would
18 certainly see some language changes right in the operating plan, ... we would
19 begin on work to implement those language changes.

20 George Austin: Kevin this is George Austin. Is that the volume of water in the Section 2
21 Account at the initiation of spill of Section 2?

22 Salter: That is correct. Are there any other questions? Thanks.

23 Pope: Mr. Jennison, this is David Pope. I don't have a further question, I would
24 just note, Kevin pointed out that each of the recommendations for resolutions
25 does contain, he mentioned it on the two of them, but I think the other two also
26 have a recommendation that these matters be incorporated into a future

1 amendment of the 1980 Operating Plan and I believe it was the understanding of
2 the Committee that rather than individual amendments to the Operating Plan,
3 that it might make sense to go ahead with individual recommendations and
4 resolutions at this time so that they can be considered resolved and
5 implemented, that they may be incorporated into the global amendment of the
6 1980 Operating Plan, once the Committee is at that point, and make
7 recommendations to ARCA. If other members of the Committee would comment
8 on that, that's fine, but that's the way its being recommended.

9 Jennison: So, David, is that my understanding, is that the main issue that we need
10 to resolve today, if that's the way we want to handle that on the 12th of not?

11 Pope: I don't know if that's the main issue, Robin, I think it's important in the
12 proposal to get it that way, and I don't know that we need to take any action as
13 ARCA today, other than if ARCA is in agreement that we should place these on
14 the agenda for consideration at the end of the meeting.

15 Jennison: So I guess the question is, does anybody have any objection to placing
16 that on the agenda for the annual meeting?

17 Rod Kuharich: No, Colorado doesn't.

18 Jenison: OK. Well, that ought to take care of that.

19 Brenn: I'm fine with that.

20 Kuharich: Robin, do we need a motion to that affect?

21 Jennison: I don't know, I mean, since we're all having the meeting, that might be the
22 most official way of handling it, so

23 Kuharich: I would so move to present to the full ARCA at their December meeting
24 these resolutions the Special Engineering Committee have developed.

25 Brenn: I second the motion.

1 Jennison: OK, It's been moved and second. Discussion? Hearing none, I'll take a
2 vote.

3 Pope: Kansas votes Aye.

4 Jennison: Colorado?

5 Kuharich: Colorado Aye.

6 Jennison: OK. Motion carried.

7 Miller: Robin, this is Steve Miller. As a result of that, it would be Colorado's
8 intent to begin circulating these recommendations and proposed resolutions
9 amongst our water users. I just want to make sure that that was consistent with
10 what Kansas' understanding was.

11 Jennison: Is that your understanding?

12 Pope: Yes, Robin, and Steve, I certainly think that's the appropriate thing to do,
13 and one of the advantages to having this call today is it does allow these to be
14 provided to whoever wants to look at them and gives us about a 30 day period in
15 here for them to be digested by the water users, that way everybody can be
16 prepared to provide their feedback to their members and then we can consider it
17 for action in December.

18 Jennison: OK.

19 Pope: So I'm certainly OK with them being released to the users and the public.

20 Jennison: What else do we have to do?

21 Salter: I guess to kind of follow up with, this is Kevin in Garden City, to follow up
22 with the work of the Special Engineering Committee, these are four of the issues
23 that were on the water issues matrix, the Committee's continuing to look at the
24 other issues and working on resolving those issues, we're trying to address the
25 issues, that work is needing to extend past the December 31, 2006 termination
26 date of this Committee. We did provide for an extension of the Committee, that

1 has to be an action of ARCA that would be taken at the December meeting, but
2 we may want to get that kind of out there as well, in order for the Committee to
3 complete its work, that extension may be needed. (recording breakup) Special
4 Engineering Committee, that after statement...

5 Kuharich: This is Rod Kuharich in Colorado. There were indeed discussions on
6 extending the Special Engineering Committee's work. I think a lot of it is related
7 ...

8 Pope: I think it is something for ARCA then to carefully consider in December,
9 the Committee I think has ... spent considerable time working on these issues,
10 these and others, and I believe that progress is being made, is a fair statement,
11 so but these things do take time.

12 Jennison: Rod, did you have something to add to that? You were talking and we
13 were having trouble hearing you.

14 Kuharich: No, that's all right.

15 Pope: Sorry, I didn't mean to interrupt.

16 Jennison: It was coming in pretty faint on my end. So was there any thing else that
17 we need to do today?

18 Kuharich: I don't believe so.

19 Pope: I think that pretty well covers it as far as I know.

20 Miller: Did you want to include in your report that you reached agreement on
21 accounting at the state line?

22 Pope: Yes, Steve, this...I don't know who is best to comment on this, but the
23 Committee did, we did use that forum to discuss and reach agreement on a
24 method of measuring transit...measuring deliveries and transit losses for Section
25 2 releases from John Martin Reservoir. That is a matter that was assigned to the
26 representatives of the Colorado State Engineer's Office and in Kansas Division of

1 Water Resources, under the 1980 Operating Plan. There have been issues
2 associated with that in the past, and that's an agreement that doesn't require
3 ARCA approval, but I think it is appropriate to announce that we've ... I believe
4 its fair to say we've reached agreement, we're tweaking the language just a little
5 bit, I think that would be available hopefully by the end of the meeting for
6 distribution. Hal, is that a fair statement?

7 Hal Simpson: Yes.

8 Pope: So, that's another important issue that we've dealt with.

9 Jennison: So we're all set for the 12th, then, right?

10 Pope: I think that's right.

11 Miller: This is Steve Miller. One last word on minutes ...When this call's over I
12 can listen to whatever they did record, and then I can listen to my own recording,
13 maybe you could authorize Lee and I to come up with a set of minutes that most
14 effectively captures what happened, but they most likely will not be verbatim.

15 Jennison: OK. What you're listening to today, Steve, if you hear anyone saying
16 anything derogatory about you when we got back on, you guys just disregard it.

17 Miller: We could hear you most of the time, we just couldn't make ourselves
18 heard.

19 Jennison: OK, go ahead and do that, and does anybody have anything else? I'm
20 taking your silence as a "no". OK, then we're adjourned. Thank you all.

21 Sounds of participants hanging up.

22 End of meeting [at approximately 3:00 PM MST].

ARKANSAS RIVER COMPACT ADMINISTRATION

P.O. Box 1106,
Lamar, CO 81052

For Colorado

Rod Kuharich, Denver
Colin Thompson, Holly
Matt Heimerich, Olney Springs

Chairman and Federal Representative

Robin Jennison
Healy, Kansas

For Kansas

David L. Pope, Topeka
Randy Hayzlett, Lakin
David A. Brenn, Garden City

NOTICE OF **SPECIAL TELEPHONIC MEETING** **ARKANSAS RIVER COMPACT ADMINISTRATION** **WEDNESDAY, NOVEMBER 8, 2006,** **2:00 - 3 P.M. (MST)**

The Arkansas River Compact Administration will meet by telephonic conference for the limited purposes set forth below. Listening stations in Lamar and Pueblo, Colorado, as well as Garden City, Kansas, will be provided. Please contact Steve Miller at 303-866-3532, Kevin Salter at 620-276-2901, or Stephanie Gonzales at 719-537-0111 at least 3 days before the meeting for station locations and/or dial in instructions if you wish to participate.

NOVEMBER 8, 2006 SPECIAL MEETING AGENDA

1. ARCA Engineering Committee will review progress on the John Martin Reservoir to Stateline Transit Loss Study being conducted by Mr. Russ Livingston, and may provide further directions to the consultant for continuing the study.
2. Report from ARCA Special Engineering Committee on status of John Martin Reservoir accounting issues negotiations and continuation during calendar year 2007.
3. Consideration of procedures for ARCA to follow at the 2006 Annual Meeting in considering and adopting recommendations forwarded from the Special Engineering Committee. No substantive action will be taken by ARCA in regards to formal adoption of any of the recommendations at this Special Meeting.

PRELIMINARY NOTICE OF 2006 ANNUAL MEETING

The Administration hereby gives preliminary notice of the 2006 Annual Meeting to be held in Lamar, Colorado on Tuesday December 12, 2006. It is anticipated that ARCA Committees will also meet in Lamar on the afternoon of Monday, December 11, 2006. Details and an agenda for the Annual Meeting will be circulated by email after November 15, 2006. The agenda will also be posted on the Colorado Water Conservation Board's website: <http://cwcb.state.co.us>. For additional agenda information contact Steve Miller at steve.miller@state.co.us or 303-866-3532.

Resolution No. 2006-01
Arkansas River Compact Administration

John Martin Reservoir Permanent Pool Evaporation Method

Be it resolved that the Arkansas River Compact Administration hereby approves the attached recommendation of the Special Engineering Committee with respect to John Martin Permanent Pool Evaporation Method. Be it further resolved that ARCA directs that this recommendation be implemented immediately for all subsequent operations and that this recommendation will be incorporated by future amendment of the Resolution Concerning an Operating Plan for John Martin Reservoir, adopted April 24, 1980 as amended.

Entered this ____ day of December 2006, at the ARCA Annual meeting.

Robin Jennison, Chairman
Arkansas River Compact
Administration

Stephanie Gonzales, Recording Secretary
Arkansas River Compact
Administration

___ of 4 originals

Recommendation A
Special Engineering Committee
October 2006

John Martin Reservoir Permanent Pool Evaporation Method

The Arkansas River Compact Administration (ARCA) created a Special Engineering Committee by means of Resolution No. 2005-1 and directed said Committee to develop recommendations to ARCA which will reduce or eliminate disputes between the States.

Pursuant to said Resolution, Rod Kuharich and Hal Simpson, for Colorado; David Brenn and David Pope, for Kansas; and Robin Jennison, Federal member, ex-officio, were appointed members of the Special Engineering Committee.

Whether evaporation is charged to the Permanent Pool Account pro-rata-by-content with the other accounts or by incremental area was raised as an issue.¹

The ARCA Resolution Concerning John Martin Reservoir Permanent Pool dated August 14, 1976, states in part:

“Whereas operating criteria for a permanent pool have been formulated and are attached herewith as exhibit 1 and assure the owners of water rights in the States of Colorado and Kansas to those waters available to them under the terms of the Arkansas River Compact and under the laws of their respective states;

* * *

NOW THEREFORE BE IT RESOLVED that this compact administration approves the creation in John Martin Reservoir of a permanent pool with Muddy Creek water and adopts the criteria attached herewith as procedures for the operation of John Martin Reservoir.”

The fifth numbered paragraph of the John Martin Permanent Pool Operating Criteria attached as exhibit 1 to the August 14, 1976 Resolution states:

“Net evaporation from the additional reservoir surface area resulting from the addition of the permanent pool to the conservation storage shall be charged against the permanent pool storage. The net evaporation rate shall be seven-tenths of the measured pan evaporation less measured precipitation. During times when no conservation water is in storage, the permanent pool shall be charged with all the evaporation.”

The Resolution Concerning an Operating Plan for John Martin Reservoir, adopted April 24, 1980 as subsequently amended (referred to as the 1980 Operating Plan) provides in Section IV:

¹ This issue has been referenced as Issue #10 in the “Water Issues Matrix” document, JMR Accounting Issues, dated April 2005

“A permanent recreation pool has been authorized by the August 14, 1976, Resolution of the Administration. For purposes of the Resolution, this permanent recreation pool shall be considered a separate account and deliveries made to it are not subject to the transfers provided in Subsection III D, herein. The permanent recreation pool will, however, stand its pro rata share of evaporation as provided in the Administration’s Resolution of August 14, 1976.”

Additionally, Section II F of the 1980 Operation Plan states:

“Evaporation charges shall be made against water stored in the accounts...using formulas and procedures approved by the Colorado Division Engineer and a representative of the Kansas Division of Water Resources... The evaporation charges shall be prorated amongst conservation storage and the accounts according to the amounts in them.”

Since the adoption of the 1980 Operating Plan, the evaporation has been charged to all accounts on a pro-rata-by-content basis, including the Permanent Pool Account.

It is the finding of the Special Engineering Committee that the foregoing provisions of the various documents should be consistently interpreted to assess evaporation charges from all accounts within John Martin to be on a pro-rata basis by content, including the Permanent Pool account and recommends the continuation of the practice to charge evaporation to all accounts within John Martin Reservoir on a pro-rata-by-content basis.

Therefore, it is recommended that ARCA adopt this finding that the assignment of evaporation among all accounts is to be pro-rata-by-content so long as the 1980 Operating Plan is in force.

Further, it is recommended that clarifying language be included in a subsequent amendment of the 1980 Operating Plan.

Special Engineering Committee Approval



Rod Kuharich, Colorado



David A. Brenn, Kansas



Hal Simpson, Colorado State Engineer



David L. Pope, Kansas Chief Engineer

Date: October 19, 2006

1 of 4 originals

Resolution No. 2006-02
Arkansas River Compact Administration

**Winter Water and District 67 Winter Water Storage Charge Holding Accounts in
John Martin Reservoir**

BE IT RESOLVED that the Arkansas River Compact Administration does hereby create two holding accounts in John Martin Reservoir as prescribed below:

1. **Definitions:** All terms employed in this Resolution which are defined in the Compact or the 1980 Operating Plan shall have the same meaning as set out in the Compact or the 1980 Operating Plan, as the case may be. When the term Section is used in this resolution, it refers to a Section of the 1980 Operating Plan.
2. **1980 Operating Plan:** The two holding accounts are in addition to those accounts established in the 1980 Operating Plan (formally known as *Resolution Concerning an Operating Plan for John Martin Reservoir*). The holding accounts will facilitate the distribution of water delivered to John Martin Reservoir under the Pueblo winter water storage plan. This facilitation is necessary because the exact distribution between the Section III accounts and the exact distribution of associated storage charge water (detailed in Section III D) to the Colorado District 67 accounts established in Section II may not be known until March 15.
3. **Termination:** The holding accounts directly relate to the operation of the 1980 Operating Plan and these holding accounts shall no longer exist if 1980 Operating Plan is terminated.
4. **Winter Water Holding Account:** A holding account is hereby established in John Martin Reservoir during the period of November 15 to the next March 15 of each Compact Year to allow temporary storage of water delivered under the Pueblo winter water storage plan solely for the purpose of distribution to the Section III A, III B and III C accounts in accordance with the limitations set forth in Section III of the 1980 Operating Plan. All water accumulated in this holding account shall be completely released to the accounts established in Sections III A, III B and III C as of March 15.
5. **District 67 Winter Water Storage Charge Holding Account:** A holding account is hereby established in John Martin Reservoir during the period of November 15 to the next March 15 of each Compact Year to allow temporary storage of the portion of the Section III D waters delivered under the Pueblo winter water storage plan owed to the Colorado Water District 67 Section II accounts solely for the purpose of distribution to these Section II accounts. All water accumulated in this holding account shall be completely distributed to the Section II accounts as of March 15.

6. **Spill Order:** In the event that runoff conditions occur in the Arkansas River basin upstream from the Reservoir that cause water to spill from the Reservoir, then water stored in the Permanent Pool in excess of 10,000 acre-feet shall spill before water stored in the accounts established in Subsections III A, B, and C of the 1980 Operating Plan, including the **winter water holding account** established herein; which shall spill before the water stored in the Offset Account; which shall spill before the accounts established in Section II of the Operating Plan, including the **District 67 winter water storage charge holding account** established herein; which shall spill before the Kansas Transit Loss Account; all of which shall spill before conservation storage.

7. **Effective Date:** These holding accounts will be used as of Compact Year 2006.

Be it further resolved that ARCA directs that this recommendation be implemented for all subsequent operations and that this recommendation will be incorporated by future amendment of the Resolution Concerning an Operating Plan for John Martin Reservoir, adopted April 24, 1980 as amended.

Entered this ____ day of December 2006, at the ARCA Annual meeting.

Robin Jennison, Chairman
Arkansas River Compact
Administration

Stephanie Gonzales, Recording Secretary
Arkansas River Compact
Administration

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Recommendation B
Special Engineering Committee
October 2006

Winter Water and District 67 Winter Water Storage Charge Holding Accounts

The Arkansas River Compact Administration (ARCA) created a Special Engineering Committee by means of Resolution No. 2005-1 and directed said committee to develop recommendations to ARCA which will reduce or eliminate disputes between the States.

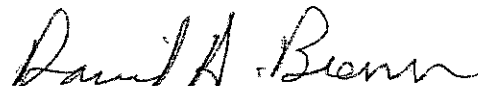
Pursuant to said Resolution, Rod Kuharich and Hal Simpson, for Colorado; David Brenn and David Pope, for Kansas; and Robin Jennison, Federal member, ex-officio, were appointed members of the Special Engineering Committee.

Two issues related to the provisions of Section III of 1980 Operating Plan specifically associated with water delivered to John Martin Reservoir under the Pueblo winter water storage plan are in dispute: (1) the use of temporary accounts not specifically authorized by ARCA¹ and (2) the timely transfer of 35% charge water as described in Section III D.²

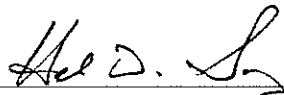
The Operations Secretary has proposed and implemented a process that potentially resolves these issues. Attached as an exhibit is a flow chart entitled "Distribution of Inflow to John Martin Nov. 15 to Mar. 15" that illustrates the process to distribute water delivered under the Pueblo winter water storage plan. In order to fully and properly implement that process, the Committee recommends that ARCA authorize the use of two holding accounts by adopting the attached resolution.



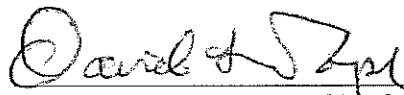
Rod Kuharich, Colorado



David A. Brenn, Kansas



Hal Simpson, Colorado State Engineer



David L. Pope, Kansas Chief Engineer

Date: October 19, 2006

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¹ These issues have been referenced as Issue #20 in the "Matrix" document, JMR Accounting Issues, dated April 2005

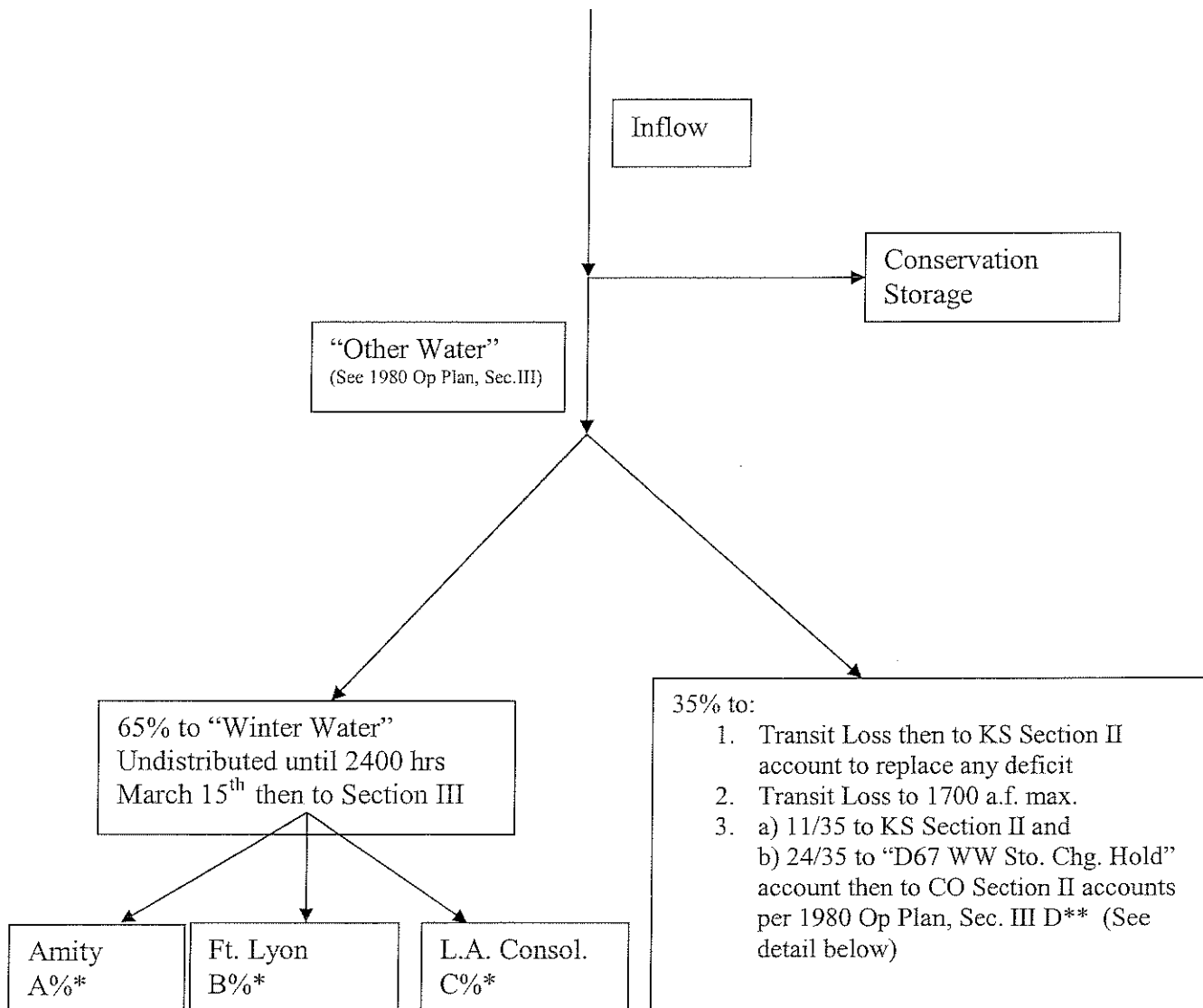
² These issues have been referenced as Issue #21 in the "Matrix" document, JMR Accounting Issues, dated April 2005

Distribution of Inflow to John Martin Nov. 15 to Mar. 15

The following illustration depicts the processes that are to be performed to properly distribute inflow to John Martin Reservoir during this period.

Problem: One can not properly distribute to Section III accounts or complete step 3. b) in right-hand branch, until after March 15th.

Proposed Solution: Use "Winter Water" account and "D67 WW Sto. Chg. Hold" account to accumulate quantities of water prior to distribution on or after March 15th of each year. All other distributions are to be made on a daily basis.



* These percentages are not fixed. Actual percentages are unknown until at least March 15 per 84CW179. $A\% + B\% + C\% = 100\%$

**Detail Step 3. b):

Assume, 100 units on Mar.15th. 1980 Op Plan, Sec. III D provides that Amity doesn't share in proportion it contributed, so distribute "D67 WW Sto. Chg. Hold" acct. as follows:

A units ($A\% \times 100$) to be distributed to All WD 67 ditches per Section III D except Amity
 B+C units ($(B\% + C\%) \times 100$) to be distributed to All WD 67 ditches per Section III D including Amity

Resolution No. 2006-03
Arkansas River Compact Administration

Transfer of Conservation Storage to Section II Accounts
under the 1980 Operating Plan

Be it resolved that the Arkansas River Compact Administration hereby approves the attached recommendation of the Special Engineering Committee with respect to Transfer of Conservation Storage to Section II Accounts under the 1980 Operating Plan. Be it further resolved that ARCA directs that this recommendation be implemented immediately for all subsequent operations and that this recommendation will be incorporated by future amendment of the Resolution Concerning an Operating Plan for John Martin Reservoir, adopted April 24, 1980 as amended.

Entered this ____ day of December 2006, at the ARCA Annual meeting.

Robin Jennison, Chairman
Arkansas River Compact
Administration

Stephanie Gonzales, Recording Secretary
Arkansas River Compact
Administration

___ of 4 originals

Recommendation C
Special Engineering Committee
October 2006

Transfer of Conservation Storage to Section II Accounts
under the 1980 Operating Plan

The Arkansas River Compact Administration (ARCA) created a Special Engineering Committee by means of Resolution No. 2005-1 and directed said Committee to develop recommendations to ARCA which will reduce or eliminate disputes between the States.

Pursuant to said Resolution, Rod Kuharich and Hal Simpson, for Colorado; David Brenn and David Pope, for Kansas; and Robin Jennison, Federal member, ex-officio, were appointed members of the Special Engineering Committee.

Questions concerning whether interruptions of transfers from Conservation Storage to Section II accounts during the summer storage season¹ or at the conclusion of the summer storage season² are appropriate under any circumstances, have been in dispute.

After reviewing the issue, the Special Engineering Committee recommends once the transfer from conservation storage to Section II Accounts has been initiated, such transfers will not be interrupted until exhaustion or November 1, whichever occurs first.

To fully implement this clarifying language, the Special Engineering Committee recommends that sub-Section II B (3) of the 1980 Operating Plan be amended as follows:

- (3) All inflows entering said reservoir during a period of conservation storage in the summer storage season shall accrue to conservation storage. Conservation storage shall be released into the accounts specified in Section II D beginning at the first request for release of account water by a Colorado Water District 67 ditch or by Kansas or beginning 48 hours after commencement of conservation storage, whichever occurs first. *Such transfers from conservation storage should continue until conservation storage is exhausted or November 1, whichever occurs first. (added language italicized)*

Furthermore, the Special Engineering Committee recommends that the 1980 Operating Plan be amended to add a new sub-Section II D (4):

- (4) *In the event that any conservation storage has not been released into accounts as of November 1 of any year, further release shall be suspended until such*

¹ This issue has been referenced as Issue #42 in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005

² This issue has been referenced as Issue #43 in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005

time as provided for according to Section II A herein. (added language italicized)

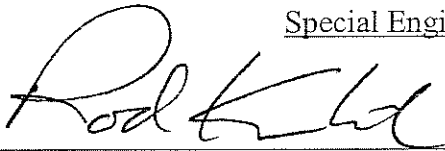
As a result of the Special Engineering Committee review of these issues, the committee found that Section II A should also be amended as follows:

A. Period of Winter Storage -

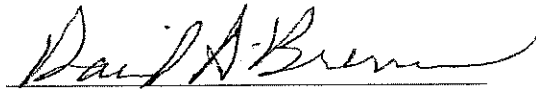
All inflows into John Martin Reservoir during a period of winter storage shall accrue to conservation storage. Conservation storage shall be released into the accounts specified in Subsection II D beginning at the first request for release after March 31 of account water by a Colorado Water District 67 ditch or by Kansas or beginning at 8:00 a.m. on April 7, whichever occurs first. *Such transfers from conservation storage should continue until conservation storage is exhausted or November 1, whichever occurs first. (added language italicized)*

Therefore, it is recommended that ARCA incorporate these recommendations through amendments to the 1980 Operating Plan.

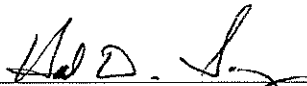
Special Engineering Committee Approval




Rod Kuharich, Colorado



David A. Brenn, Kansas



Hal Simpson, Colorado State Engineer



David L. Pope, Kansas Chief Engineer

Date: October 19, 2006

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Resolution No. 2006 - 04
Arkansas River Compact Administration

Section II Account Spill Volume

Be it resolved that Arkansas River Compact Administration hereby approves the attached recommendation of the Special Engineering Committee with respect to the Section II Account Spill Volume. Be it further resolved that ARCA directs that this recommendation be implemented immediately for all subsequent operations and that this recommendation will be incorporated by future amendment of the Resolution Concerning an Operating Plan for John Martin Reservoir, adopted April 24, 1980 as amended.

Entered this ____ day of December 2006, at the ARCA Annual meeting.

Robin Jennison, Chairman
Arkansas River Compact
Administration

Stephanie Gonzales, Recording Secretary
Arkansas River Compact
Administration

___ of 4 originals

Recommendation D
Special Engineering Committee
October 2006

Section II Account Spill Volume

The Arkansas River Compact Administration (ARCA) created a Special Engineering Committee by means of Resolution No. 2005-1 and directed said committee to develop recommendations to ARCA which will reduce or eliminate disputes between the States.

Pursuant to said Resolution, Rod Kuharich and Hal Simpson, for Colorado; David Brenn and David Pope, for Kansas; and Robin Jennison, Federal member, ex-officio, were appointed members of the Special Engineering Committee.

Clear and unambiguous authority to limit the total volume of water spilled from Section II accounts to the amount contained in those accounts at the inception of their spill is not found in the Resolution Concerning an Operating Plan for John Martin Reservoir, adopted April 24, 1980 as subsequently amended (referred to as the 1980 Operating Plan).¹ It is noted that without such a limitation, it is possible that a simultaneous spill from Section II accounts and release into such accounts as prescribed by Section II B (3) may preclude the spill of water from either the transit loss account or from conservation storage, which is otherwise provided for in Section II G.

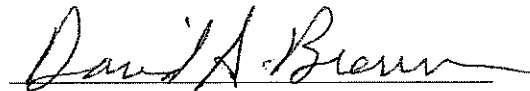
Therefore, it is the recommendation of the Special Engineering Committee that ARCA determine that the total volume of water spilled from Section II accounts shall be limited to the amount contained in those accounts at the inception of the Section II spill

Further, it is recommended that ARCA incorporate these recommendations through amendments to the 1980 Operating Plan.

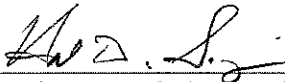
Special Engineering Committee Approval



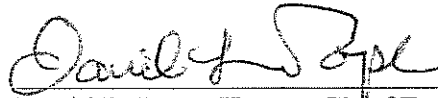
Rod Kuharich, Colorado member



David A. Brenn, Kansas member



Hal Simpson, Colorado State Engineer



David L. Pope, Kansas Chief Engineer

Date: October 19, 2006

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¹ This issue has been referenced as Issue #54 in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005