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MINUTES OF
ARKANSAS RIVER COMPACT ADMINISTRATION MEETING

Tuesday, July 24, 1951
Lamar, Colorado

Attendance--

Brig. Gen. Hans Kramer, San Francisco, Calif.; Representative of the
United States and Chairman of the Administration

For Colorado:

Harry B. Mendenhall, Rocky Ford; Chairman of Colorado Representatives
Harry C. Nevius, Lamar; Administration Secretary
Clifford H. Stone, Denver

For Kansas:

William E. Leavitt, Garden City; Administration Vice Chairman
Roland H. Tate, Garden City, Kansas

Administration Members Absent:

R. V. Smrha, Topeka

Others Attending:

Jack M. Terry, USGS, Denver
Francis M. Bell, District Engineer USGS, Denver
Ross W. Moor, USGS, Lamar
Charles E. Keliher, USGS, Lamar
R. M. Gildersleeve, Colorado Water Conservation Board, Denver
Guy M. Vincent, Kansas State Division of Water Resources, Garden City
John S. Sharer, Manager John Martin Reservoir, Caddo
Ray E. Peterson, Recorder, Denver
George S. Knapp, Topeka

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The July 24, 1951 meeting of the Arkansas River Compact Administration was called to order in the County Commissioners' Room of the Prowers County Court House, Lamar, Colorado at 10:15 O'Clock by Chairman Kramer.

As directed by the Chairman, Secretary Nevius read the text of a resolution adopted by the Administration on December 12, 1950, in tribute to Mr. George S. Knapp, of Kansas. Following the reading of the resolution, a framed scroll, containing the full text of the resolution and signed individually by the members of the Administration was presented to Mr. Knapp by the Chairman.

Mr. Knapp expressed his thanks for the scroll with the comment that in serving on the Administration he had done no more than any man would have done as a public duty. He said it had been a pleasure to serve with men of such high caliber on the Administration.

It was noted for the record that Mr. R. V. Smrha of Kansas was absent on official business but that Kansas had a quorum at the meeting in the persons of Mr. Tate and Mr. Leavitt.

The Chairman called attention to the fact that this meeting was a regular meeting of the Administration and that the expected special meeting, intended for about May 1, had been postponed and finally cancelled, due to an increase in storage of water in the John Martin Reservoir. The minutes of the March 27, 1951 meeting of the Administration were edited, and approved as corrected.

Secretary Nevius informed the Administration that an error in figures appeared in Appendix D-11 of the Second Annual Report of the Administration. He presented a letter from Mr. A. B. McLauthlin, Engineer of the Colorado Water Conservation Board, which explained the error as follows:

June 6, 1951

Mr. Harry C. Nevius
Arkansas River Compact Administration
Court House
Lamar, Colorado

Dear Mr. Nevius:

The report for the Bessemer Canal for the Month of September should read:

Bessemer (River)	5,038	instead of 343
Res. or imported	<u>179</u>	
	5,217	instead of 522

This will make the totals for the year read:

Bessemer (River)	60,926	instead of 56,231
Res. or imported	<u>2,847</u>	
	63,773	instead of 59,078

Total diversions made in districts 14 and 17 shown on the last three lines of the second page of Appendix "D-11" for the month of September should read:

(River)	45,066	instead of 40,371
Res. or imported	<u>6,850</u>	
	51,916	instead of 47,221

Very truly yours,

/s/ A. B. McLauthlin

It was moved by Mr. Mendenhall and seconded by Mr. Tate that the statistical records of 1950, tabulated in Appendix D-11, will be officially corrected as shown in the McLauthlin letter and that the formal correction will be embodied in the next annual report of the Administration.

On vote being taken, the motion carried and was adopted.

The report of the Chairman of the Administration included several items:

1. He announced that the Secretary of the Interior, in response to his request, had provided a copy of the Fryingpan-Arkansas Project Report to the Administration. The file of the Chairman's correspondence relating to the request for the report was submitted for the record as follows:

May 8, 1951

Mr. Hans Kramer, Chairman
Arkansas River Compact Administration
220 Bush Street
San Francisco 4, California

My dear Mr. Kramer:

I am pleased to enclose, in response to your request, a copy of the proposed report of the Department of the Interior on the Initial Development (Roaring Fork Diversion), Gunnison-Arkansas Project.

Copies of this report are being transmitted to the Secretary of the Army, to appropriate officials of the States of the Colorado River Basin, and to the States of Kansas and Oklahoma for their views and recommendations in accordance with

the provisions of Section 1(c) of the Flood Control Act of 1944.

Sincerely yours,

(Sgd) Michael W. Straus

Commissioner

Enclosure

April 12, 1951

In Reply Refer to: 737

Mr. Hans Kramer
Chairman and Representative
of the United States, Arkansas
River Compact Administration
220 Bush Street
San Francisco 4, California

My dear Mr. Kramer:

Your letter of April 3 to Secretary Chapman requesting a copy of the report on the Fryingpan-Arkansas Project has been referred to this office.

In response to your request, we are pleased to furnish you herewith a copy of the Regional Director's proposed report on this project.

When the Secretary has adopted the report as his proposed report it will be submitted to the interested States and other Federal agencies for their views and comments. At that time we will furnish you a copy of the report as adopted by the Secretary.

Sincerely yours,

s/ Floyd E. Dominy

Acting Asst. Commissioner

Enclosure

April 3, 1951

Hon. Oscar L. Chapman
The Secretary of the Interior
Washington 25, D. C.

My dear Mr. Secretary:

It has come to the attention of the Arkansas River Compact Administration that the Bureau of Reclamation has issued recently a preliminary report on the Fryingpan-Arkansas Project and that the final report is expected to be issued soon for review and comment by the interested States.

In view of the provisions of the Arkansas River Compact regarding development of the Arkansas River basin, the Administration respectfully requests that it be furnished a copy of the preliminary report on the Fryingpan-Arkansas Project for its advance study and a copy of the final report, when issued, for its review. It is contemplated that such study and review by the Administration will be made in conjunction and concurrently with the studies and reviews by the States of Colorado and Kansas.

It would be appreciated if the reports referred to above were mailed to my address.

Sincerely yours,

HANS KRAMER
Chairman and Representative of the United States
Arkansas River Compact Administration

2. Under the date of April 7, 1951, the Chairman received a communication from the Las Animas Sportsman Association regarding the possibility of a fish pool in John Martin Reservoir. The Chairman reported that the subject was dormant now and required no action by the Administration at this time. The Association's letter of April 7, 1951 and the Chairman's reply on April 12, 1951, were ordered placed in the record:

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LAS ANIMAS
SPORTSMAN ASSOCIATION
Las Animas, Colo.

7 April 1951

General Hans Kramer
220 Bush Street
San Francisco 4
California

Dear Sir:-

The Sportsman Club of Las Animas, Colorado requests some information concerning the lake above John Martin Dam.

It is our desire to know if there is any possible way to retain enough water in the lake to save the fish that are now there. Authorities have stated that it would be necessary to retain at least 4,000 acre feet of water to maintain the life of the fish that have been placed there. This lake is also used by thousands of geese and ducks and if allowed to be drained it would mean a great loss to wild fowl life. We might add that the lake is used by hundreds of people for fishing and for boating and it is quickly developing into a fine recreational asset to Southeastern Colorado as well as for the entire State and Western Kansas.

Due to the fact that the State Game and Fish Dept. have not been assured of a sufficient water level they have refused to stock it with any more fish.

Any advise you may have to offer in helping us to retain the necessary amount of water in the dam will be sincerely appreciated.

Very truly yours,

LAS ANIMAS SPORTSMAN ASSOCIATION

s/ Ray Sallee

April 12, 1951

Mr. Ray Sallee
Las Animas Sportsman Association
Las Animas, Colorado

My dear Mr. Sallee:

I have your letter of April 7, 1951, regarding the possibility of retaining a minimum pool of water in John Martin Reservoir in the interest of fish and wild life and recreation.

The question you raise was carefully studied by the commissioners representing Colorado and Kansas in the formulation of the Arkansas River Compact. The views of the Colorado Game and Fish Commission and of the Fish and Wild Life Service of the U. S. Department of the Interior, on this subject were solicited and given careful consideration during the compact negotiations. It was concluded from these deliberations, with the concurrence of those agencies, that no permanent minimum pool should be maintained in John Martin Reservoir and the Compact was drawn accordingly.

I am well aware of the fact that the John Martin Project has become a fine recreational asset and that the reservoir itself has come into use for fishing and boating in addition to the development of the facilities below the dam. The recreational use of the reservoir while water is impounded is indeed a fine thing but it must be recognized that such use may be interrupted occasionally when all water is drawn out of the reservoir for irrigation use as provided by the terms of the Compact. Unfortunately, an empty reservoir appears to be imminent this spring, but I know of no way legally or physically of forestalling that condition.

The Arkansas River Compact contains a provision under which it may be modified by unanimous action of the signatory States. Hence it would be possible for your Association to request, by formal communication, with appropriate supporting data to the Arkansas River Compact Administration, a consideration to modify the terms of the Compact. Such modification would necessarily require careful consideration of the interests of the water users in the States of Colorado and Kansas.

I am sorry that I cannot give you a more optimistic answer.

Sincerely yours,

Hans Kramer
Chairman and Representative of the United States
Arkansas River Compact Administration

3. The Chairman attended on April 30, 1951 a meeting in the office of Rep. Stone in Denver regarding John Martin Reservoir studies. He said it had been decided to establish a study panel with the initiative for such a group to be taken by the Corps of Engineers. He said there had been no developments since the April 30 meeting. The Chairman said he would remind the Corps of Engineers of its obligation.

4. The Chairman said that he, Mr. Nevius and Mr. Mendenhall had conferred with Mr. F. C. Snyder, new Division Engineer at Pueblo, on May 18, 1951 relative to the water management program in the Arkansas Valley as it relates to the administration of water rights in the event Article V-F of the Compact is made operative.

5. He reported the Arkansas Valley Ditch Association had made inquiry as to the procedure for going back to Compact provisions when John Martin Reservoir had refilled after being emptied. The Chairman stated the Administration would consider action on that problem if and when the occasion arose, in accordance with the motion adopted by the Administration on December 12, 1950.

6. The Chairman suggested that the Administration hold an autumn meeting in advance of the annual meeting in December, duplicating the Garden City meeting of October 20, 1950, which was held away from the Lamar headquarters in the Lower Basin of the River. He suggested that such a meeting should be held in the Upper Basin area.

In his report as Secretary, rep. Nevius stated that copies of the Administration's Second Annual report had been distributed as directed; that a photo-static copy of Rep. Smrha's official appointment has been received from Kansas for the Administration files; and that a letter had been received explaining that Mr. Smrha would be absent from the July 24 meeting because of special work in connection with the Kansas flood situation. Mr. Smrha had written in the letter that the Engineering Committee, of which he is Chairman, would have no report to make to the Administration.

For his report as Treasurer, Mr. Nevius submitted the following report for inclusion in the record:

ARKANSAS RIVER COMPACT ADMINISTRATION

Report of Harry C. Nevius, Treasurer, July 24, 1951.

Balance on hand, October 31, 1950		\$1,386.27
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Expenditures:

Vouchers 31 to 39, March 27, Report		943.05
Balance March 27, 1951.		<u>443.22</u>

Assessment March 27, 1951.	\$3,333.33		
Kansas 40% Paid May 22		\$1,333.33	\$1,333.33
Colorado 60% Paid June 30	\$ 76.18		76.18
Unpaid	<u>1,923.82</u>	2,000.00	
Total Cash			<u>\$1,852.73</u>

Expenditures:

Voucher 40 May 12	Mountain States Tel & Tel	
	Service and Toll March & April	13.90
41 May 12	Lamar Daily News	
	Supplies	13.20
42 May 12	H. C. Nevius, Cash Advanced	
	Stamps, & Office Supplies	21.65
43 May 12	Secretary's Salary	
	March & April	200.00
44 June 30	Mountain States Tel & Tel	
	Service & Toll May & June	37.69

Expenditures: (Continued)

Voucher 45 June 30	Secretary Salary May & June	200.00	
46 June 30	E. G. Taylor, Service Supplies (Scroll)	27.00	
47 June 30	Mileage Secretary	11.55	
48 June 30	Kendrick Bellamy Sta. Co. Supplies	4.05	
		<u>529.04</u>	<u>529.04</u>
Balance on hand June 30, 1951.			\$1,323.69

The Treasurer stated that call for funds had been made to Colorado and Kansas, as directed, and that on May 22, 1951, Kansas had paid a sum of \$1,333.33, representing its 40 per cent assessment. The Controller of the State of Colorado questioned the Administration budget provisions, which resulted in a conference between the Controller, the Deputy Attorney General and Rep. Stone. It was determined that Colorado could pay only 60 per cent of the known and expected expenditures for the current period (ending June 30, 1951). Accordingly, a Colorado draft for \$76.18 was received on June 30, 1951, to cover that item.

Explanation of the Colorado situation was contained in a letter to Mr. Nevius from Rep. Stone, which was included in the record as follows:

July 3, 1951

Mr. Harry Nevius, Secretary-Treasurer
Arkansas River Compact Administration
Lamar, Colorado

Dear Harry:

Following your phone conversation regarding payment by Colorado of \$2,000.00 to the Arkansas River Compact Administration, I conferred with James A. Noonan, State Controller, and Lawrence Hinkley, Deputy Attorney General. Previously, and after I submitted the voucher for payment of the \$2,000.00, Mr. Noonan had requested an opinion from the Attorney General on the obligation of the State to pay the \$2,000.00 in view of this circumstance, namely:

The appropriation to meet Colorado's share of the cost of administering the Arkansas River Compact for the biennium, July 1, 1949 to June 30, 1951, was included in a lump sum appropriated to the Colorado Water Conservation Board. Mr. Noonan took the position, and asked for an opinion from the Attorney General in respect thereto, that since this money for the administration of the Compact was included in a lump sum appropriation to the Board, it was incumbent upon him to see that there

had been actually expended money or obligations incurred during the biennium of the Colorado Water Conservation Board as a basis of his approval of vouchers issued by its Director. Based upon the report of the Administration, he contended that it could not actually show incurred obligations of the full \$2,000.00. (This situation was cured in the appropriation made by the last Legislature, for fiscal year July 1, 1951 to June 30, 1952, by the money being made available for the Arkansas Compact Administration to the Water Conservation Board in a separate item.)

When I was advised that this position taken by Mr. Noonan had been referred by him to the Attorney General, I discussed the matter with the Deputy Attorney General, Hinkley. In preparation for this discussion, I reviewed the reports of the Administration and reports given by you and appearing in the minutes. I also got the estimates from you by phone of actual expenditures and anticipated expenditures from May 13 to June 30, 1951. The result of this study is shown by the attached sheet.

Under the theory adopted by Mr. Noonan, Colorado would owe, as shown by the attached sheet, \$76.18. It is my view, as well as that of the Attorney General, that under all of the circumstances, it would be better to pay only the \$76.18 and avoid any opinion by the Attorney General on the subject.

This means that Colorado will pay the \$2,000.00 appropriated by the last Legislature for Arkansas River Compact Administration shortly after the next meeting of the Administration and upon a request made by the Administration for such payment. It also means that, with the exception of a rather small amount, Kansas will have paid her share of the Administration's budget for the fiscal year beginning July 1.

I have analyzed the expenditures made during the past year and find that, unless there are some extraordinary and unanticipated expenditures, a budget of \$3,333.33 for the next fiscal year will amount to about \$1,000.00 in excess of expenditures for the past fiscal year. Thus, it would seem that the Administration could get by very nicely even though the last Legislature cut my request of \$3,000.00 for the fiscal year beginning July 1 down to \$2,000.00.

It also appears to me that hereafter we shall have to be more precise in making our budget estimates rather than follow the principle of considering that any unexpended amount for a fiscal year or a biennium will be held in reserve for use during the following fiscal period, and, thereby, reduce the amount to be paid by a State to meet a subsequent budget estimate. In other words, so far as Colorado is concerned, it appears that the budgetary authorities do not look with favor on a large, unexpended amount being held in the hands of a State Department or administrative body. As a matter of fact, this is contrary to the spirit of the Administrative Code. Although the Act ratifying the Arkansas River Compact by Colorado provided that the activities of the Administration and its officers are not subject to the Administrative Code, yet there remains this policy in Colorado which, I believe, we should comply with as near as possible.

Be assured, however, that the specific point raised by Mr. Noonan cannot arise this next fiscal year because I had anticipated such a question and Mr. Noonan joined me in requesting that the Legislature, when making an appropriation to the Colorado Water Conservation Board to meet Colorado's share of the Administration's budget, place that monetary requirement in a separate item in the Act making appropriation to the Board.

This whole matter should, of course, be discussed at the next meeting of the Administration, which will be held in Lamar on July 24.

Yours very truly,

/s/ Clifford H. Stone, Director
Colorado Water Conservation Board

CHS:pam
Enclosure

Discussing the financial situation further, Chairman Kramer inquired if the set up proposed by Colorado would allow no revolving fund for use of the Administration.

Rep. Stone explained that the State of Colorado was making a new approach to its Compact obligations with a separate appropriation bill for each Compact in which the State is a signatory, instead of funds being allocated in a lump sum to the Colorado Water Conservation Board. He said the Colorado Controller is opposed to large carry-over amounts in either State or interstate accounts. He said that has been an established policy of the State of Colorado. The Colorado Legislature from now is to meet annually on budget matters and will be in a position to take care of emergency funds if needed.

Mr. Knapp reported to the Administration that as of July 1, 1951, the State of Kansas began operating on a new financial set up, with controller supervision, a plan which conceivably parallels the Colorado situation. Rep. Tate explained that Kansas will have a Director of Finance with an auditing system similar to that used in Colorado. A new Kansas financial structure is in formative stage and will be amended and strengthened in the next session of the Kansas Legislature.

The Administration discussed its financial needs for the current fiscal year 1951-1952. It was decided, in order to simplify the bookkeeping of the Administration, that the Kansas payment of May 22, 1951 would constitute the Kansas share of the Administration budget for the current fiscal year and that call would be issued to Colorado to pay its 60 per cent share.

It was moved by Rep. Stone and seconded by Rep. Tate that the Arkansas River Compact Administration request the State of Colorado to pay to the Administration the sum of \$1,923.82 and that such request be made forthwith.

On vote being taken, the motion was unanimously carried and declared adopted.

Chairman Kramer said he recognized the practical aspects of the problem and commended Rep. Stone's handling of it, but he maintained that the Administration should not bow entirely to the administrative view of any official of one of the states. He said he felt such approach would be interfering with the autonomy of the Administration which is not a state agency. He suggested that the action taken at this meeting should not prejudice future action of the Administration.

Rep. Stone concurred generally in the observations of the Chairman and pointed out that the Compact exempts the Administration from the administrative code of either State, but that developments in the current situation provided the Colorado Controller with a legal point which could not be ignored. He predicted no further difficulty in securing funds from Colorado if all requirements of the Compact regarding budget matters are fulfilled.

The Chairman inquired the status of communications with the Bureau of Internal Revenue, relative to exemptions from Federal tax, available to Administration members for their travel and other duties in behalf of the Administration. Rep. Stone said that he had obtained a file of letters on the subject from the Upper Colorado River Commission, which recently handled a similar situation, but that correspondence had not yet been prepared for Secretary Nevius to transmit to the Bureau of Internal Revenue.

The Administrative and Legal Committee reported that its assignment of preparing a scroll in honor of Mr. Knapp has been fulfilled (with presentation made earlier in the meeting) and that the committee had no other report to make.

Rep. Stone discussed preparation of the Administration budget for the fiscal year, July 1, 1952 to June 30, 1953. He said that since the Colorado Legislature now meets annually, the Administration should consider drawing up its budget estimates on an annual basis.

It was moved by Rep. Stone and seconded by Rep. Tate that the Administration revise its budget for the fiscal year beginning July 1, 1952, and ending June 30, 1953, and that the Administrative and Legal Committee prepare and submit for the consideration of the Administration at its December, 1951 meeting a recommended budget revision.

On vote being taken, the motion carried and was declared adopted.

There was no report from the Engineering Committee, it having been explained in the letter from Mr. Smrha that there were no developments to be brought to the attention of the Administration. Mr. F. M. Bell, District Engineer of the USGS, reported that the gaging program was progressing satisfactorily, but that the radio communication system was not yet installed due to new FCC regulations and assignment of definite call letters. He said the radio installation would be made by autumn and tested for use in 1952. He announced that the Frontier Ditch gage installation had been made since the last meeting. The report of the operations committee was submitted by Mr. Mendenhall as follows:

At the time of our last meeting on March 27, or better on April 1, the commencement of the irrigating season, there was in storage in John Martin Reservoir 81,463 acre feet of water. On April 1 there was released 446 csf, on April 4 520 csf. The gates were closed on April 10 and were opened on April 11 with a discharge of 480 csf. This was reduced to 400 csf on April 24. On May 2 Kansas requested 300 csf at the state line and there was released from the reservoir 750 csf. On May 7 Kansas called for an additional 50 csf and on May 8 requested 400 csf at the state line. On May 15, on account of floods at Holly and south of Lamar, the gates were closed and were not reopened until May 29 when 50 csf was released. This was increased to 175 csf on May 31 and these releases varied downward until the 11th day of June at which time, on account of storms, the gates were closed and at that time there was a low of 38,130 acre feet in the reservoir. No further releases were requested until the 6th day of July and one of 250 csf was made and at that time there was impounded in the reservoir 76,413 acre feet. These releases were gradually increased up to 620 csf and at 8:30 July 24 there was 78,821 acre feet of water in the reservoir. Unless unusual climatic conditions occur it is anticipated that there will be sufficient water to finish the irrigating season for Colorado and Kansas.

Mr. John S. Sharer, Manager of John Martin Reservoir, reported 76,180 acre feet of water in storage in the Reservoir as of midnight, July 23, and that an unofficial record at 8:30 a. m., July 24, indicated storage of 78,821 acre feet. Rep. Mendenhall predicted that the water in storage would be sufficient for the 1951 growing season unless the month of August is particularly dry and hot. He said water from the high snow level was now reaching the lower valley.

A report of the Special Committee, which met on July 23 to study the Fryingpan-Arkansas Project plan, was given to the members of the Administration for study during the noon hours.

The Board adjourned for the noon recess.

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Afternoon Session

Secretary Nevius called the Administration's attention to a framed picture of the John Martin Dam, hanging on the wall in the County Commissioners' Room. This picture, he said, had been presented by the Corps of Engineers through the district engineer's office at Albuquerque, to the Administration. Chairman Kramer acknowledged receipt of the gift and requested Mr. Sharer to convey the thanks of the Administration to the district engineer. It was decided to leave the picture in the County Commissioners' Room rather than in the Administration office, but title to the picture will be kept by the Administration.

Rep. Stone requested that, if possible, a similar picture should be made available to the Colorado Water Conservation Board for display in the Board's office. Mr. Sharer promised to transmit the request to the Corps of Engineers' office at Albuquerque.

The Administration took up the report of the Special Committee on the Fryingpan-Arkansas Project plan. The Committee's report, as submitted to the Administration, was as follows:

"The Administration understands that the project plan proposes:

- "(a) The importation by appropriate project works of approximately 70,000 acre-feet of water a year from the Colorado River Basin to the Arkansas River Basin for supplemental irrigation and domestic water supplies in Colorado and for the production of hydroelectric energy.
- "(b) In connection with such importation of water and its regulation in the Arkansas River Valley by project works, the re-regulation of native waters of the Arkansas River (the term 'native waters', as herein used, being those waters covered and defined by Art. III-B of the Arkansas River Compact).

The interstate water relations of Colorado and Kansas with respect to the Arkansas River do not justify any objection to the proposed project development for the importation of Colorado River Water (described in sub-paragraph (a) above).

"The re-regulation of native waters of the Arkansas River (native waters being as above mentioned) concerns the Arkansas River Compact Administration and both Colorado and Kansas in complying with the provisions of the Arkansas River Compact and maintaining the benefits and obligations of the two states under that Compact. To that end, it is recommended to the Governors of Colorado and Kansas, and expressed as a policy of the Arkansas River Compact Administration, that the Initial Development, Gunnison-Arkansas Project, Roaring Fork Diversion, Colorado, as set forth in Project Planning Report No. 7-8a.49-1 of the Bureau of Reclamation, be approved; provided, however, that there shall be no re-regulation of native waters of the Arkansas River as proposed in

such report until a plan of operation, rules, regulations, procedures and agreements in furtherance thereof, including any pertinent agreements between the Corps of Engineers and the Bureau of Reclamation, shall have been submitted to, and approved by, the Arkansas River Compact Administration and the affected water users.

"It is the purpose and intent of these recommendations that the proposed project development shall not interfere with or defeat the rights, interests and obligations of Colorado and Kansas under the Arkansas River Compact."

Rep. Stone, who attended the meeting on July 23 with the Special Committee, stated that the Committee's report incorporated a revised interpretation of unofficial Kansas comments on the plan. He explained that phraseology in the initial Kansas draft had indicated some Kansas opposition to the Project, but that Kansas spokesmen at the meeting had agreed to rephrase the objection to apply only to any future re-regulation of native waters of the Arkansas River with no objection to the transmountain diversion program.

Mr. Knapp and Rep. Tate of Kansas concurred in the statement by Rep. Stone, explaining that their State was concerned only with the regulation of native waters of the Arkansas River in which Kansas shares. They said the State of Kansas has no objection to the main project to import water to the Eastern Slope of Colorado. Chairman Kramer requested the Kansas delegation to report back to the Kansas Advisory Committee and secure a revision and modification of that Committee's report in accordance with the findings of the Special Committee. Mr. Knapp and Rep. Tate agreed to do this.

Chairman Kramer proposed that the Special Committee's report, when approved by the Administration, be submitted to the Governors of Colorado and Kansas with the request that the Administration comments be included in the official comments made by each State to the Secretary of the Interior on the Fryingpan-Arkansas Project. The Chairman suggested further that it might be well to request the inclusion of the Administration comments in the Congressional authorization act as a definite procedural precaution.

It was moved by Rep. Tate and seconded by Rep. Nevius that the Administration approve and adopt the report of the Special Committee and incorporate the Committee's report in a resolution submitted by the Legislative and Legal Committee as follows:

"WHEREAS the Arkansas River Compact Administration, an official interstate body created by the Arkansas River Compact and charged with the administration of such Compact, is interested in the proposed development to the extent that its construction and operation shall not interfere with the rights, interests and obligations of Colorado and Kansas under the Compact;

" NOW BE IT RESOLVED by the Arkansas River Compact Administration that the following comments and recommendations relating to said report of the Secretary of Interior, to wit:

" 'The Arkansas River Compact Administration submits these comments and recommendations to the Governors of Colorado and Kansas respecting the proposed Initial Development, Gunnison-Arkansas Project, Roaring Fork Diversion, Colorado, namely:

" '1. The Administration understands that the project plan proposes:

" '(a) The importation by appropriate project works of approximately 70,000 acre-feet of water a year from the Colorado River Basin to the Arkansas River Basin for supplemental irrigation and domestic water supplies in Colorado and for the production of hydroelectric energy.

" '(b) In connection with such importation of water and its regulation in the Arkansas River Valley by project works, the re-regulation of native waters of the Arkansas River (the term 'native waters', as herein used, being those waters covered and defined by Art. III-B of the Arkansas River Compact).

" '2. The interstate water relations of Colorado and Kansas with respect to the Arkansas River do not justify any objection to the proposed project development for the importation of Colorado River water (described in sub-paragraph (a) above).

" '3. The re-regulation of native waters of the Arkansas River (native waters being as above mentioned) concerns the Arkansas River Compact Administration and both Colorado and Kansas in complying with the provisions of the Arkansas River Compact and maintaining the benefits and obligations of the two states under that Compact. To that end, it is recommended to the Governors of Colorado and Kansas, and expressed as a policy of the Arkansas River Compact Administration, that the Initial Development, Gunnison-Arkansas Project, Roaring Fork Diversion, Colorado, as set forth in Project Planning Report No. 7-8a. 49-1 of the Bureau of Reclamation, be approved; provided, however, that there shall be no re-regulation of native waters of the Arkansas River as proposed in such report until a plan of operation, rules, regulations, procedures and agreements in furtherance thereof, including any pertinent agreements between the Corps of Engineers and the Bureau of Reclamation, shall have been submitted to, and approved by, the Arkansas River Compact Administration and the affected water users.

" '4. It is the purpose and intent of these recommendations that the proposed project development shall not interfere with or defeat the rights, interests and obligations of Colorado and Kansas under the Arkansas River Compact.'

"be transmitted to the Governors of the States of Colorado and Kansas and such Governors be and are hereby requested to submit the same to the Secretary of Interior with their official State comments and recommendations upon said proposed project and development."

On vote being taken, the motion carried and was declared adopted.

Chairman Kramer instructed the Secretary to forward certified copies of the Administration resolution as follows:

- One to the Governor of Colorado
- One to the Governor of Kansas
- Two to the Chairman of the Administration (who will submit one to the Secretary of Interior)
- One copy to Mr. Smrha
- One copy to the office of the Colorado Water Conservation Board.

As proposed by Rep. Stone and favored by all members of the Administration, the minutes of the July 23 meeting of the Special Committee, which minutes constitute the full report of the Special Committee to the Administration, are made a part of the minutes of the Administration meeting of July 24, and attached hereto as an Appendix.

Chairman Kramer renewed the suggestion for a special meeting of the Administration to be held during the fall months in the Upper Arkansas Basin. He stated that such a meeting prior to the annual meeting in December should consider a preliminary draft of the Third Annual Report and make final decision as to what tables and statistics would be included as appendices.

Following discussion, it was agreed to hold such a special meeting on Tuesday, October 30, 1951 at 10 a.m. in La Junta, Colorado. The annual meeting of the Administration is scheduled at Lamar on Tuesday, December 11, 1951.

The Administration adjourned at 3:20 p.m.

Harry C. Nevius, Secretary

Ray E. Peterson, Recorder

(These minutes were approved by action of the Arkansas River Compact Administration on Tuesday, October 30, 1951, at La Junta, Colorado.)

APPENDIX TO APPROVED MINUTES OF ARKANSAS RIVER COMPACT ADMINISTRATION
MEETING OF JULY 24, 1951

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MINUTES OF THE SPECIAL COMMITTEE
ON ADMINISTRATION COMMENTS ON THE PROPOSED INITIAL DEVELOPMENT
GUNNISON-ARKANSAS PROJECT, ROARING FORK DIVERSION, COLORADO

Lamar, Colorado
Monday, July 23, 1951

ATTENDANCE

Brig. Gen. Hans Kramer
George S. Knapp
Guy M. Vincent
Clifford H. Stone
R. M. Gildersleeve
Harry C. Nevius
Ray E. Peterson
John S. Sharer
R. J. McGrath
Ben F. Powell
J. M. Barrett
Kenneth E. Ireland

The Committee meeting was called to order in the Commissioners' Room of the Prowers County Courthouse with Gen. Kramer presiding as Chairman. Ray E. Peterson, Denver, acted as reporter.

Chairman Kramer inquired the status of the comments being prepared by Colorado on the Fryingpan-Arkansas report of the Bureau of Reclamation.

Rep. Stone (Colorado) reported the official State comments for Colorado had not been put into writing but that general understanding of the position Colorado would take had been informally reached. He said the State comments would be adopted officially at a meeting of the State Water Board to be held later in July or early in August. He stated that the Colorado comments will include a conclusion that the operation of the Fryingpan-Arkansas Project shall not interfere with the Arkansas River Compact and its administration or the rights of the signatory states under the Compact.

Rep. Stone advised that the Administration make its own comments on the proposed project plan, as to its belief that the project can be operated without interfering with the Compact. He said the Administration is not concerned with any details of internal problems within the State of Colorado which are being solved by a Policy and Review Committee set up for that purpose.

Rep. Stone reported that essentially the Colorado comments will set forth:

1. That the plan of operation, recommended by the Colorado Water Conservation Board and accepted by the Bureau of Reclamation, is satisfactory.

2. That the Project is economically justified and engineeringly feasible.

3. That Colorado is obligated to see that the proposed project operation does not interfere with three major compacts to which the State of Colorado is a party, namely, the Colorado River Compact of 1922, the Upper Colorado River Basin Compact of 1948 and the Arkansas River Compact of 1949. He said Colorado is obligated to utilize its water supplies in a manner so as to meet its obligations and preserve its rights under all of these compacts.

4. That the need for imported water into the Arkansas River Basin in Colorado is great and is necessary for domestic water supplies and supplemental irrigation. He said the Fryingpan-Arkansas Project plan is designed so that the importation of water into the Arkansas Valley will have no adverse effects on the rights of Kansas in the native waters of the Arkansas River.

Rep. Stone stated that the Colorado comments on the proposed Fryingpan-Arkansas Project were being drawn with the assistance, advice and recommendations of various local groups in the Valley, including the water Development Association of Southeastern Colorado, and with similar cooperation from interests representing the Western Slope. Chairman Kramer concurred in the viewpoint that the Administration was concerned only with the native waters of the Arkansas River available to Colorado and Kansas, and that the Administration was not concerned with imported water nor with any of the details of local economic problems.

George S. Knapp (Kansas) said Kansas would take the position that the Arkansas River Compact was not intended to interfere with any future development in Colorado which may be achieved through the medium of imported water. He said, however, that Kansas would be concerned with any problem arising from the mingling of the native and imported waters and would be specifically concerned with any program for the re-regulation of the use of native water. He said Kansas would review critically the functions and operation of a dam located at Pueblo which might have the effect of impounding waters which might otherwise flow into the pool of John Martin Reservoir at Caddoa.

Chairman Kramer agreed that a vital problem existed in the proposed re-regulation of the use of native waters of the Arkansas River, and Rep. Stone reiterated that Colorado is obligated to observe all the provisions of the Arkansas River Compact, including the rights of Kansas under the Compact to share in the native water of the stream.

It was pointed out that water users in Colorado downstream from John Martin Reservoir have the same interests as the water users farther downstream in Kansas.

Chairman Kramer submitted his comments on the proposed project report, as representative of the United States. His criticism was that the project report submitted a number of conclusions which have to be recognized at face value because definite substantiating evidence was not contained in the accompanying text of the report. He cited three examples:

1. The project report contains a blanket statement that the project conforms to all provisions of the Arkansas River Compact. Chairman Kramer said

the statement is a satisfactory, acceptable conclusion but is unsupported in the text of the report.

2. The report is based principally on studies in the Arkansas River Valley from 1911 to 1944. He said, "Why stop at 1944? The project report is dated 1950. There was material change in the regimen of the river, from 1947 on, as the result of the operation of John Martin Conservation Pool".

3. In the appendix on water supplies, there appear to be conflicting statements on evaporation losses. These should be clarified and explained.

Chairman Kramer said he believed these discrepancies were a potential source of future misinterpretation and misunderstanding.

He said the proposals of re-regulation of water at Pueblo and re-regulation of water for Great Plains storage were not sufficiently in detail. He advised that the Administration has a responsibility and a role to perform in surveying all agreements relating to John Martin Reservoir and that the Administration should pass judgment to make certain that no provisions of the Arkansas River Compact were being violated. He said he assumed it was the Administration's responsibility to consider itself an interested party to all agreements to check such details.

Ben Powell, Pueblo, Bureau engineer who drafted the project report, stated that the plan provided for taking care of evaporation loss out of the water which would otherwise be consumed in Colorado, with no detriment to the State of Kansas.

Rep. Stone commented that regardless of the interest of the Administration in Arkansas River water matters, the Administration does not have a veto power over the responsibilities and obligations of the signatory states. He further commented that the Administration could not exercise judicial or quasi-judicial powers, but could only make findings of fact.

Chairman Kramer said the Administration must do its part and should exercise a review of the evidence of all other parties to make sure that the administration of the Compact is fully protected and adhered to. He said this procedure would assure complete cooperation in a formalized way. Rep. Stone said this position of the Administration should not be interpreted to mean that the Administration would determine whether or not the State of Colorado, for instance, was complying with compact provisions. Chairman Kramer said that his recommendations, as representative of the United States, were two-fold:

1. That the Arkansas River Compact Administration approves and supports the Fryingpan-Arkansas Project.

2. That the Administration exercise official scrutiny over all operating plans, regulations and agreements which affect 'native' waters of the Arkansas River, as defined in the Compact, in order to protect all interstate angles under the compact.

Mr. Knapp furnished to the Committee a copy of comments informally prepared by a special advisory committee in Kansas for submission to the Governor of Kansas, analyzing the Fryingpan-Arkansas report. The comments of the Kansas special advisory committee were as follows:

"The proposed initial development of the Gunnison-Arkansas Project provides for the diversion of water from the Colorado Basin into the Arkansas Basin within the State of Colorado. The proposed plan of operation provides a system of exchange which would permit the use of native water for power production and downstream storage for later irrigation use while imported water would take the place of native water in upstream storage. Proposed changes in irrigation practices could result in a considerable reduction in the quantity of water entering John Martin Reservoir. Under the terms of the Colorado-Kansas Compact, Kansas is in effect limited to 40 per cent of the water entering John Martin Reservoir. The State of Kansas has no desire to oppose any irrigation improvements within the State of Colorado as long as such improvements do not violate the terms of the existing interstate compact.

"The proposed development, as presently planned, recommends the elimination of winter irrigation in parts of Colorado. As a consequence the return flow from historical winter irrigation plus the spills which have been wasted in connection with such irrigation would no longer flow into John Martin Reservoir as they have in the past to become a part of the supply for downstream irrigators. An analysis of the records indicates that the return flows and spills during the winter months (November to March, incl.) have contributed substantially to the annual water supply of John Martin Reservoir.

"If the construction of the Initial Development of the Gunnison-Arkansas Project will reduce the water supply to John Martin Reservoir, some provision must be made for compensating for this loss. Releases could be made from storage in Pueblo Reservoir according to some mutually acceptable formula.

"The initial development of the Gunnison-Arkansas plan would greatly modify the stream flow and irrigation pattern throughout the Arkansas Basin in Colorado. Until a procedure is worked out to meet requirements of the Compact that will be satisfactory to the interests of both states, the State of Kansas cannot consent to approval of this proposed plan."

Considerable attention was devoted to the last paragraph of the Kansas committee comments with reference to the exact meaning of the concluding portion which read, "* * * * * the State of Kansas cannot consent to approval of this proposed plan."

Mr. Knapp said he was not a member of the advisory committee which drew up the comments and that he had not studied the comments in detail prior to coming to the meeting in Lamar, but he said he felt certain that it was not the intention of the State of Kansas to oppose or object to the Fryingpan-Arkansas Project or to the diversion which would benefit Colorado thereby.

He said he was confident that the committee's reference was to "any proposed plan for re-regulation" of the native waters of the river in which Kansas would be entitled to share. He admitted the language of the committee comments was not concise or clear. He promised to advise the Kansas committee of the situation to have them revise their statement so as not to imply objection to the importation project itself.

Anticipating a change of language in a redrafted comment of the Kansas special advisory committee to approve the Fryingpan-Arkansas River Project, the Committee reviewed and adopted the following recommendation to be submitted to the Arkansas River Compact Administration at its meeting on Tuesday, July 24 as the basis for the Administration's comments on the proposed Fryingpan-Arkansas Project.

"The Arkansas River Compact Administration submits these comments and recommendations to the Governors of Colorado and Kansas respecting the proposed Initial Development, Gunnison-Arkansas Project, Roaring Fork Diversion, Colorado, namely:

"1. The Administration understands that the project plan proposes:

"(a) The importation by appropriate project works of approximately 70,000 acre-feet of water a year from the Colorado River basin to the Arkansas River basin for supplemental irrigation and domestic water supplies in Colorado and for the production of hydroelectric energy.

"(b) In connection with such importation of water and its regulation in the Arkansas River Valley by project works, the re-regulation of native waters of the Arkansas River (the term 'native waters', as herein used, being those waters covered and defined by Art. III-B of the Arkansas River Compact).

"2. The interstate water relations of Colorado and Kansas with respect to the Arkansas River do not justify any objection to the proposed project development for the importation of Colorado River water (described in sub-paragraph (a) above).

"3. The re-regulation of native waters of the Arkansas River (native waters being as above mentioned) concerns the Arkansas River Compact Administration and both Colorado and Kansas in complying with the provisions of the Arkansas River Compact and maintaining the benefits and obligations of the two states under that Compact. To that end, it is recommended to the Governors of Colorado and Kansas, and expressed as a policy of the Arkansas River Compact Administration, that the Initial Development, Gunnison-Arkansas Project, Roaring Fork Diversion, Colorado, as set forth in Project Planning Report No. 7-8a, 49-1 of the Bureau of Reclamation, be approved; provided, however, that there shall be no re-regulation of native waters of the Arkansas River as proposed in such report until a plan of operation, rules, regulations, procedures, and agreements in furtherance thereof, including any pertinent

agreements between the Corps of Engineers and the Bureau of Reclamation, shall have been submitted to, and approved by, the Arkansas River Compact Administration and the affected water users.

- "4. It is the purpose and intent of these recommendations that the proposed project development shall not interfere with or defeat the rights, interests and obligations of Colorado and Kansas under the Arkansas River Compact."