

MINUTES OF
ARKANSAS RIVER COMPACT ADMINISTRATION
SPECIAL MEETING

Tuesday, May 13, 1952
Lamar, Colorado

Attendance--

For Colorado:

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

For Kansas:

William E. Leavitt, Garden City; Administration Vice Chairman
R. V. Smrha, Topeka; Chairman of Kansas Representatives
Roland H. Tate, Garden City

Absent:

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

Others Attending:

Ray E. Peterson, Denver, recorder
R. M. Gildersleeve, Denver, Chief Engineer, Colorado Water Cons. Board
John S. Sharer, Caddoa; Reservoir Manager, John Martin Reservoir
Guy M. Vincent, Garden City, Kans.; Kansas State Division of Water Resources
Ross W. Moor, Lamar; U. S. G. S.
C. E. Keliher, Lamar; U. S. G. S.
R. J. McGrath, Lamar; Water Commissioner, District No. 67
L. E. Des Rosiers, Caddoa
H. B. Marshall, Aberdeen, Washington; visitor

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A special meeting of the Arkansas River Compact Administration was called to order at 2:20 o'clock p.m., on Tuesday, May 13, 1952, in the Commissioners' Room of the Prowers County Courthouse at Lamar, Colorado, by Vice Chairman William E. Leavitt.

The special meeting resulted from an emergency call issued by Secretary Nevius, for the purpose of discussing and analyzing the low level of water storage in John Martin Reservoir, and the necessity for invoking the provisions of Article VF of the Arkansas River Compact to meet the situation.

In the absence of Chairman Kramer, Vice Chairman Leavitt took temporary charge of the meeting for the opening, but relinquished the position of presiding officer to Judge Clifford H. Stone, chairman of the Administration's legal committee.

It was explained, for the record, that Chairman Kramer's absence was due to unavailability of flight reservations because of the restricted flight schedules during the nationwide oil strike.

Secretary Nevius reported to the Administration that he had issued the call for the special meeting, after having consulted with members of the Administration's Operations Committee. Call for the special meeting was issued in accordance with instructions given the Secretary at the March 25, 1952 meeting of the Administration, and all members duly notified.

Motion was made by Rep. Tate, seconded by Rep. Mendenhall, that reading of the minutes of March 25, 1952, be dispensed with, but that, in the absence of any official corrections or revisions, the minutes of March 25, 1952, stand approved.

On vote, the motion carried unanimously, and the minutes declared approved.

There was no Report of the Chairman, due to the absence of the Chairman.

Secretary Nevius stated there was only one item to be reported by the Secretary. He said he had attended the adjudication proceedings on April 1, in Las Animas, in regard to the Colt filings, as instructed by the Administration. The referee in the case, he reported, set June 17, 1952 as the date to hear evidence, and the Administration's legal committee had been so notified.

No financial statement was presented by Rep. Nevius, as treasurer, inasmuch as only a few vouchers had been processed since the March 25 meeting of the Administration, and the financial situation of the Administration therefore was practically unchanged from that date.

Rep. Stone, reporting for the special committee set up by the Administration to review the Fountain River watershed report of the Department of Agriculture, announced that comments of the State of Colorado had been determined at a meeting of the Colorado Water Conservation Board on May 5, and that Colorado comments were being prepared in official form for presentation to the Secretary of Agriculture.

It was announced that the Administration's special committee would meet in Denver on May 15, 1952, to study the comments of the State of Colorado on the Fountain River Report, and to decide on the contents of Administration findings regarding the same report.

Rep. Tate announced the Legal Committee had no report to submit.

Rep. Smrha announced the Engineering Committee had no report to submit.

The report of the Operations Committee, submitted by Rep. Mendenhall, introduced the subject for which the special meeting of the Administration had been called.

The report stated that at the beginning of the summer storage period on April 1, 1952, the amount of water impounded in John Martin Reservoir was 46,449 acre-feet, according to the 1951 survey capacity table. No releases from the

reservoir were requested by the water users in Colorado or Kansas until April 7, 1952, on which date the total release requested by the two States was 450 cubic feet per second. Between April 7 and May 12, the requested daily releases had ranged between 350 c.f.s. and 700 c.f.s. until on midnight May 12, 1952, the amount of storage in the reservoir had been reduced to 20,239 acre-feet.

Since the current release was 700 c.f.s., and it appeared that the measured inflow was no more than sufficient to offset evaporation losses from the water surface of the reservoir, continued inflows and releases at the current rates would result in a daily storage depletion of approximately 1,400 acre-feet, and the reservoir would be empty by May 27, 1952.

It was estimated that it would require a period of about three days for the Colorado State Engineer to so adjust the diversions of the upstream ditches according to their respective priorities that the water to which the downstream ditches were entitled under their priorities would reach their headgates as soon as possible after the draining of the reservoir.

It was therefore determined by the Administration that May 24, 1952 should be designated as the day certain on which the Colorado State Engineer should take over the administration of the river.

The following statement submitted by Rep. Stone of the Legal Committee was reviewed for approval as the text of the "Findings and Notification" by the Arkansas River Compact Administration, regarding the water storage situation in John Martin Reservoir:

"WHEREAS, Article VF of the Arkansas River Compact which became effective on May 31, 1949, provides as follows:

"In the event the Administration finds that within a period of fourteen (14) days the water in the conservation pool will be or is liable to be exhausted, the Administration shall forthwith notify the State Engineer of Colorado, or his duly authorized representative, that commencing upon a day certain within said fourteen (14) day period, unless a change of conditions justifies cancellation or modification of such notice, Colorado shall administer the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now or hereafter decreed to water users diverting upstream from John Martin Dam on the basis of relative priorities in the same manner in which their respective priority rights were administered by Colorado before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. Such priority administration by Colorado shall be continued until the Administration finds that water is again available in the conservation pool for release as provided in this Compact, and timely notice of such finding shall be given by the Administration to the State Engineer of Colorado or his

duly authorized representative. Provided, that except as controlled by the operation of the preceding provisions of this paragraph and other applicable provisions of this Compact, when there is water in the conservation pool the water users upstream from John Martin Reservoir shall not be affected by the decrees to the ditches in Colorado Water District 67. Except when administration in Colorado is on a priority basis the water diversions in Colorado Water District 67 shall be administered by Colorado in accordance with distribution agreements made from time to time between the water users in such District and filed with the Administration and with the State Engineer of Colorado or, in the absence of such agreement, upon the basis of the respective priority decrees, as against each other, in said District."

NOW, THEREFORE, acting pursuant to the above quoted provision of the Arkansas River Compact, and in the exercise of the powers set forth in Article VIII of such Compact, the Arkansas River Compact Administration finds:

That, based upon the present quantity of water stored in, and anticipated release of water from, and inflow to, the John Martin Reservoir, the conservation pool thereof, within a period of fourteen (14) days from this 13th day of May, 1952, will be, or is liable to be, exhausted.

NOTIFICATION: In further compliance with the above quoted provision of the Arkansas River Compact, the Arkansas River Compact Administration hereby notifies the State Engineer of Colorado as follows:

That, commencing on the 24th day of May, 1952, unless a change of conditions justifies cancellation or modification of this notice, he is required, under the terms of the Compact, to administer the decreed rights of the water users in Colorado in the manner and for a period of time determined in accordance with the provisions set forth in the above quoted Article VI of the Compact.

The above findings have been made, and notification thereof given, at a special meeting of the Arkansas River Compact Administration held at Lamar, Colorado on the 13th day of May, 1952."

Motion was made by Rep. Mendenhall, seconded by Rep. Tate, that the text of the Findings and Notification, as reviewed and discussed, be adopted by the Arkansas River Compact Administration.

On rollcall of the states, both Colorado and Kansas voted in the affirmative, and the motion was declared unanimously carried.

Secretary Nevius pointed out that the Compact provides that the finding and notice of an empty reservoir can be cancelled or modified, if warranted by a change in conditions, and he inquired who would make such decisions, and what procedure would be followed.

Following discussion, it was agreed the Administration was required by the Compact to meet to make a finding and notification regarding an empty reservoir, and that, likewise, the Administration would have to meet to modify or cancel such a finding and notice, or to make a finding that water is again available in the conservation pool for release as provided in the Compact.

Rep. Stone reminded the Administration that the whole proceeding was in the nature of a precedent, this being the first time since the Compact became operative in 1949 that reservoir storage would be entirely depleted, and that all actions by the Administration should be taken in formal meetings, to satisfy all provisions of the Compact without question.

With technicalities met in this fashion for the purposes of precedent, it was pointed out, a more abbreviated, acceptable procedure may be devised for future use.

Official distribution of the Administration's Findings and Notification was arranged as follows: Copy to M. C. Hinderlider, Colorado State Engineer, to be delivered through Rep. Stone's office in Denver; copies to the Division Engineer and to the Water Commissioners in Colorado Districts Nos. 67, 17 and 14 to be delivered by Secretary Nevius.

The office of Rep. Stone was instructed to forward copies of the Findings and Notification to the press, especially in the Arkansas Valley in Colorado, and that a summary press release, covering the situation, should be released in Denver the following day from Rep. Stone's office.

The text of the press release, as prepared and issued by Rep. Stone's office, was as follows:

"Lamar, Colorado -- For the first time since the Arkansas River Compact went into effect in 1949, an empty John Martin Reservoir is in prospect. The Arkansas River Compact Administration, at a special meeting held at Lamar on Tuesday, approved a finding that the irrigation capacity of the reservoir will be, or is liable to be, exhausted within a fourteen-day period. Notification to this effect, as required by the Compact, was given to the State Engineer today.

"This empty reservoir condition will place the entire river and its tributaries in Colorado under priority administration as though the Reservoir had not been built. When water is in storage for release to irrigated land below John Martin Reservoir, benefits of storage are pushed upstream by relieving junior priority rights above the reservoir from call for water under rights senior to them below the reservoir.

"At midnight on May 12, there was 20,239 acre-feet of water in storage in John Martin Reservoir. The Administration found that present and anticipated releases of water from the reservoir for irrigation of land below it in Colorado and Kansas would exhaust this storage within a fourteen-day period and advised the State Engineer of Colorado that on May 24, he should administer the water rights in Colorado on the Arkansas River and its tributaries on the basis of relative priorities as though John Martin Dam had not been constructed or placed in operation. This notification to the State Engineer was made in accordance with the terms of the Arkansas River Compact.

"This priority administration in Colorado will continue until the Compact Administration finds that water is again available for storage in the conservation pool of the reservoir for release as provided by the Compact and timely notice of such changed condition has been given by the Administration to the State Engineer.

"At the beginning of the present irrigation season on April 1, there was only 45,536 acre-feet of water impounded in the conservation pool of John Martin Reservoir. No request for release of water was made until April 7. Since that time, there has been no appreciable addition to the storage from the snow run-off. Precipitation in the Upper Arkansas watershed this season has been sub-normal. It is anticipated that increased stream flow, due to the snow melt at high elevations in the Arkansas River Basin, cannot be normally expected until about June 10. The extent to which snow run-off at that time may provide water for storage in John Martin Reservoir is a matter of speculation. It is believed by some that an appreciable amount of storage may come about at that time. Heavy rains, particularly during the snow melt period, would be an important factor in producing substantial amounts of water for storage."

John S. Sharer, manager at John Martin Reservoir, asked the Administration's advise on operation of the reservoir, under the priority system, with particular reference to procedure in the event a flash flood should increase the river flow to an amount in excess of the requirements of the ditches in Water District 67.

He was advised that the Administration wished to have the reservoir gates closed to conserve and impound water, during such a period, if and when the river flow exceeded the priority demands.

Mr. Sharer was advised that Rep. Nevius, as agent of the Administration, would issue instructions as to the closing or adjusting of the reservoir gates, after consulting with representatives of the Colorado State Engineer's office.

The Administration took cognizance of the fact that depletion of the water storage in John Martin Reservoir, resulting in an 'empty' reservoir, might necessitate netting and removal of fish now in the reservoir.

It was recalled that the conservation capacity in John Martin Reservoir does not include a 'fish pool' under the terms of the Compact, and that the water in the reservoir is for use of irrigators. Fish in the reservoir were planted on an experimental basis, on the assumption that the water level would always be high enough to maintain fish life. With the prospect of the reservoir being dry, it would be the responsibility of the Colorado Game and Fish Department to remove the fish to other waters.

The special meeting of the Administration adjourned at 4:30 o'clock.

William E. Leavitt, Vice Chairman

Harry C. Nevius, Secretary

Attest:

Ray E. Peterson, Recorder

(These minutes were approved by action of the Arkansas River Compact Administration at a Special Meeting held on Tuesday, October 28, 1952, at Lamar, Colorado).