

MINUTES OF
ARKANSAS RIVER COMPACT ADMINISTRATION

Tuesday, July 22, 1952
Lamar, Colorado

Attendance:

Brig. Gen. Hans Kramer, San Francisco, California; 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 and Treasurer.
Clifford H. Stone, Denver.

For Kansas:

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

Others Attending:

Ray E. Peterson, Denver, Recorder.
H. H. Christy, Pueblo, C.F. & I. Corp.
A. N. Dallimore, Pueblo, Bessemer Ditch Co.
R. W. Adkins, Pueblo, C.F. & I. Corp.
Guy M. Vincent, Garden City, Kansas; Kansas Div. of Water Resources.
F. C. Snyder, Pueblo, Colorado Division Engineer.
Ross W. Moor, Lamar, U.S. Geological Survey.
Robert R. Kayne, Albuquerque, New Mexico; Corps of Engineers.
Stanley O. Fish, Albuquerque, New Mexico; Corps of Engineers.
John B. Sharer, Caddoa, Colorado; Manager, John Martin Dam.
D. E. Heiser, Rocky Ford, Water Commissioner District 17.
R. J. McGrath, Lamar, Water Commissioner District 67.
Gordon Allott, Lamar, Attorney for Amity.
Sisto Guidotti, Bristol, Colorado; Director for Amity.
William Pattie, Holly, Colorado; Superintendent for Amity.
Dale O. Marston, Hartman, Colorado; Director for Amity.
Roy Eckles, Lamar; President, Game and Fish Commission.

* * * * *

The July 22, 1952 regular meeting of the Arkansas River Compact Administration was called to order at 10 o'clock a.m., by Chairman Kramer, in the court room, second floor, of the Frowers County Courthouse at Lamar, Colorado.

The minutes of the Administration special meeting of May 13, 1952 were taken up for consideration. Rep. Stone stated that some question of interpretation of the May 13 minutes had arisen, and he suggested that the Administration

might want to clarify the wording of the minutes, after discussion at the present meeting. By consent, action on approval of the May 13 minutes was postponed.

Chairman Kramer presented his report to the Administration. He said he had participated in a May 15, 1952 meeting in Denver of the special committee which was authorized by the Administration on March 25, 1952, for the purpose of reviewing the Fountain River Watershed report of the Department of Agriculture, and to prepare the text of the proposed Administration comments on the Fountain River Report. He said that the statement prepared by the committee had been circulated to all members of the Administration, and following their unanimous approval of the text, he had forwarded the statement to the Secretary of Agriculture under the date of June 3, 1952.

It was moved by Rep. Tate and seconded by Rep. Nevius that the approved text of the Administration's statement on the Fountain River Watershed report, as submitted to the Secretary of Agriculture, be ratified in rollcall vote, and made a part of the minutes of the July 22, 1952 meeting of the Administration.

On rollcall of the states, both Colorado and Kansas voted aye, and motion was declared adopted.

The Chairman's letter of transmittal to the Secretary of Agriculture, and the Administration's approved statement on the Fountain River Watershed report were as follows:

June 3, 1952

Hon. K. T. Hutchinson
Assistant Secretary
Department of Agriculture
Washington 25, D. C.

My dear Mr. Secretary:

Attached hereto and submitted for your consideration is a statement by the Arkansas River Compact Administration in reference to the Survey Report by your Department on the Fountain River Watershed, Colorado, 1951.

As explained in my letter of March 27, 1952, the Administration deferred its action in this matter pending official action by the State of Colorado which was communicated to your Department by Judge Stone's letter of May 15, 1952.

While regretting the unavoidable delay that has been involved, the Administration is appreciative of your courtesy in extending the time for the submittal of its statement.

Sincerely yours,

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

The Administration's statement on the Fountain River Watershed Report:

S T A T E M E N T

By
Arkansas River Compact Administration

The Arkansas River Compact Administration has given consideration to the Survey Report, Fountain River Watershed, Colorado, 1951, prepared by the Department of Agriculture, and is cognizant of the official comments thereon by the State of Colorado contained in letter from the Director of the Colorado Water Conservation Board to the Secretary of Agriculture, dated May 15, 1952.

The Arkansas River Compact Administration concurs in general with the comments contained in the communication referred to above. The Administration is particularly concerned, under the following provisions of Article IV-D of the Arkansas River Compact with the effect of the proposed development on the water supply of the Arkansas River:

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

As pointed out in Colorado's official comments, the project report fails to make a definitive evaluation of the effects of the project measures upon the usable quantity and availability of the water supply under the above terms of the Arkansas River Compact. In view of this deficiency in the report, the Arkansas River Compact Administration joins with the State of Colorado in objecting to the authorization of the proposed development and withholds final comments until satisfactory data for evaluation are supplied.

(End of Statement)

The Chairman reported further, regarding the Fountain River Watershed report, that he had received a copy of a communication to Judge Stone, dated June 26, 1952, from the Secretary of Agriculture, acknowledging receipt of the Administration's statement. The last paragraph of the Secretary's letter contained recommendations on procedure, which the Chairman advised the Administration to accept and follow.

It was moved by Rep. Stone and seconded by Rep. Tate that the Chairman's recommendation pertaining to the last paragraph of the Secretary of Agriculture's letter be accepted, and the Chairman so notify the Secretary of Agriculture:

On rollcall, the vote was unanimous, and the motion was declared adopted.

The Secretary of Agriculture's letter of June 26, 1952, containing the paragraph on recommended procedure, was submitted for the record:

June 26, 1952

Judge Clifford H. Stone
Director, Colorado Water Conservation Board
State Office Building
Denver, Colorado

Dear Judge Stone:

This is in response to your letter of May 15, 1952, conveying the official comments of the State of Colorado on the Survey Report, Fountain River Watershed, Colorado, 1951; and to the statement endorsing these comments, which was sent us by the Arkansas River Compact Administration on June 3, 1952. On June 6 Mr. Wilm and Mr. Lobenstein of the Forest Service discussed your comments with you and Mr. Gildersleeve, and several suggestions were developed which will be confirmed in this letter.

In the State of Colorado comments, objections were made to the Fountain River report in its present form on **three major grounds**: (1) Information is lacking to substantiate certain statements made in the report, especially as to the effects of the proposed flood prevention program on the volume and distribution of water yields in the Fountain River; (2) the relation of the Fountain River survey to the comprehensive program now being developed in the Arkansas-White-Red basin area was not clearly explained, and there was some question as to the coordination of this flood control survey report with the basin program; and (3) the State of Colorado is concerned over the possible real impact of the flood prevention program upon the existing fabric of water rights in the Fountain and Arkansas River watersheds, including possible effects on the provisions of the Arkansas River Compact. These three points will be discussed separately in the following paragraphs.

As to the first point, Mr. Lobenstein, who has charge of Flood Control Survey work for the Forest Service in your region, offered to supply additional available data which will give further background on the effects of the proposed flood prevention program on water yields. While these additional data are far from adequate to establish accurately the effects of the program on water yields, we believe they will demonstrate that the estimated effects are conservative. It is our understanding that Mr. Lobenstein will contact Mr. Gildersleeve of your office as soon as his supplemental data are available, and that these data will be presented at the next subsequent meeting of the Subcommittee on Hydrology of the Arkansas-White-Red Committee.

Our survey report should have explained more clearly the relation between the recommendations proposed for the Fountain River Watershed and the comprehensive program now being developed for the Arkansas-White-Red River Basin. Early in the work of the Arkansas-White-Red Rivers Basin Inter-Agency Committee it was decided to submit separately certain of the reports of the several agencies which were nearing completion at the time the committee was set up. This Department's report on a survey of the Fountain River Watershed for runoff and waterflow retardation and soil erosion prevention was in this category. The proposed program for the Fountain River Watershed will be coordinated with and made part of the comprehensive program at the time the report for the Arkansas-White-Red Rivers Basin is prepared. We plan to mention this point in our letters submitting the Fountain River report to the Bureau of the Budget and the Congress.

The third point indicated above raises an important issue which must be met squarely by both the Federal Government and the State of Colorado. As you remarked to Wilm, many of the State's citizens have a vital stake in soil and water conservation and flood prevention as achieved through the programs of the Department of Agriculture; and you indicated your sympathy with this work. At the same time, we appreciate fully the possible conflicts of this work with the interests of junior appropriators of water. It is our feeling that these conflicts can be resolved by education of the public and arbitration, together with some adjustments in watershed programs. Under normal procedure, the Department prepares detailed work plans for subwatersheds as the first stage of program development after Congressional authorization of plans such as those proposed in the Fountain River report. During the work planning stage problems involving water rights could be studied jointly by the Department of Agriculture and the State of Colorado or other interested agencies, and mutual agreement reached on any conflicts before initiating the program of improvement in the subwatershed involved. We are willing to include a statement to this effect in our letter submitting the report on the Fountain River Watershed to the Congress. The suggested joint studies would form a logical and integral part of detailed planning.

After further discussion of the problems involved in purchasing water rights and the uncertainty regarding the need for such purchases, we have decided to delete this item from the recommendations of our report.

We would greatly appreciate any action that you might take toward obtaining expeditiously the reaction of the Colorado Water Conservation Board and the Arkansas River Compact Administration to the proposals made in this letter. In accordance with your suggestion, copy of this letter is being sent to the Arkansas River Compact Administration.

Sincerely,

cc: Ark. R. Compact Adm.
Forest Service

/s/ K. T. Hutchinson
Assistant Secretary

The Chairman continued his report, with comments on the problem of the 'fish pool' at John Martin Reservoir, and correspondence relating thereto. He submitted a memorandum received from J. D. Hart of the Game and Fish Department, dated May 15, 1952, for inclusion in the minutes of the meeting. The Chairman said he had been contacted by Thomas L. Kimball, Director of the Game and Fish Department, and had expressed accord in the Department's plans for handling the situation.

The Hart memorandum was included in the record as follows:

MEMORANDUM TO: Judge Clifford H. Stone
Harry C. Nevius
General Kramer

May 15, 1952

Gentlemen:

My departure to meet with Mr. G. E. Kimble and others of the John Martin Reservoir area as well as with Mr. Roy Eckles of the Game and Fish Commission is to inform these people that we cannot legitimately compound any agreement, demand or solicitation to create a conservation pool at John Martin. If there is any such thing as a conservation pool agreed to, it will be because the water users upstream agree to by-pass any waters they voluntarily choose to by-pass, and more important by the consent of all water users downstream in Colorado and particularly any water users in Kansas who have delivery coming to them.

This conservation pool would have to be worked out by those people affected and we just can't very well use our offices here in that regard; first, because we have no legal right to do so, and second, we believe that any publicity which naturally arises from such solicitation would only result in junior appropriators demanding all the water they had coming.

My visit in the John Martin Reservoir area will in no manner result in any embarrassment to the Water Conservation Board or the Army Engineers. In fact, I am going down to make certain that the Game and Fish Department does not unwittingly become involved in any way through which they could be embarrassed. We do have a seven year stocking program, work and investment involved, and if salvage operations become necessary, even though expensive, we would appreciate being kept constantly advised so as to detail manpower and equipment for salvage operations.

Yours truly,

/s/ J. D. Hart
Assistant Director

The Chairman discussed the notices sent out by the Administration regarding the impending empty reservoir. He said that following the resolution adopted May 13, 1952, there had been subsequent modification notices issued by the Secretary, and these later notices should be ratified by the Administration.

It was moved by Rep. Stone and seconded by Rep. Tate that the modification notices sent by the Secretary be made part of the record, and that the Administration confirms the modifications dated May 23, 26 and 28, 1952.

On rollcall, the vote was unanimous, and the motion declared adopted.

The modification notices ratified by the Administration were as follows:

May 23, 1952

Mr. M. C. Hinderlider,
State Engineer,
State Capitol Building,
Denver, Colorado.

Dear Mr. Hinderlider;

Reference is made to "Findings and Notification by Arkansas River Compact Administration May 13, 1952."

I am advising you in behalf of the Arkansas River Compact Administration that there is in John Martin Reservoir water, sufficient to justify a modification as to the date of priority administration.

The time is herewith extended for three days from May 24, 1952 to May 27, 1952.

Respectfully yours,

Copy to F.C. Snyder
Irrigation Division Engineer
504 Central Block
Pueblo, Colorado.

/s/ Harry C. Nevius,
Secretary.

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May 26, 1952

Mr. M. C. Hinderlider,
State Engineer,
State Capitol Building,
Denver, Colorado.

Dear Mr. Hinderlider;

Reference is made to "Findings and Notification by Arkansas River Compact Administration May 13, 1952."

I am advising you in Behalf of the Arkansas River Compact Administration that there is in John Martin Reservoir water, sufficient to justify another modification as to the date of priority administration.

The time is herewith further extended for two days from May 27, 1952 to May 29, 1952.

Respectfully yours,

/s/ Harry C. Nevius,
Secretary.

Copy to F.C. Snyder

P.S. This will confirm our conversation by telephone this date that the water in John Martin Reservoir will be exhausted by midnight May 31, 1952.

May 28, 1952

Mr. M. C. Hinderlider,
State Engineer,
State Capitol Building,
Denver, Colorado

Dear Mr. Hinderlider;

Reference is made to "Findings and Notification by Arkansas River Compact Administration May 13, 1952."

I am advising you in behalf of the Arkansas River Compact Administration that there is in John Martin Reservoir water, sufficient to justify another modification as to the date of priority administration.

The time is herewith further extended for one day from May 29, 1952 to May 30, 1952.

Respectfully yours,

Copy to F.C. Snyder

/s/ Harry C. Nevius,
Secretary.

P.S. This will confirm our conversation by telephone this date that the water in John Martin Reservoir will be exhausted by midnight June 1, 1952.

The Chairman said he had been contacted by telephone by the District Engineer at Albuquerque, New Mexico, who requested an interpretation of Article IV C, subparagraph 3, of the Compact. Chairman Kramer said his interpretation, as given to the District Engineer, was that the District Engineer has unilateral authority under the paragraph cited.

The Chairman reported he had participated in a conference attended by C. H. Stone, H. C. Nevius, R. M. Gildersleeve, M. C. Hinderlider, C. C. Hezmalhalch, Stanley Fish and himself in Denver on June 23, 1952. As record of the developments, the Chairman submitted for inclusion in the minutes of the current meeting, the following correspondence: Chairman Kramer's telegram of July 3 and Hinderlider's acknowledgment dated July 3, with enclosure, as follows:

July 3, 1952

M. C. Hinderlider, State Engineer
State House
Denver, Colorado

(TELEGRAM)

Have advised Albuquerque District by phone today that during current period of administration of Arkansas River by Colorado State Engineer John Martin Reservoir is to be operated in compliance with State Engineer's requests only. Fish informed me that this is same as agreement he reached with you by phone last night. Fish also states that Reservoir Operating personnel will respond to McGrath's requests 24 hours per day during present critical period. In view of this clarification believe special meeting of Compact Administration unnecessary in immediate future.

/s/ Hans Kramer, Chairman
Arkansas River Compact Administration

July 3, 1952

Brig. General Hans Kramer, Retired
462 Nevada Avenue
San Mateo, California

Dear General Kramer:

This acknowledges receipt this date, of your telegram of July 3rd relative to future administration of the waters in John Martin Reservoir, for which please accept the writer's thanks.

Immediately following receipt of this telegram, I conferred with our Division Engineer F. C. Snyder of Pueblo and also Water Commissioner R. J. McGrath of Lamar, advising them of the procedure to follow as outlined in my letter to Mr. Snyder of this date, copy of which is enclosed.

Commissioner McGrath reported a peak flow at the Highland Dam on the Purgatoire River, of 11,000 second feet, which had decreased to 4500 second feet and to 1350 second feet at 8:00 A.M., this date, and that at 1:00 P.M., June 3rd, (sic) there was 2281 acre feet in the reservoir.

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After mailing said letters, Judge Stone called me and stated that Mr. Nevius had in turn requested releases of water stored in the reservoir, to meet demands from Kansas.

It is my view that as State Engineer, I have no authority under my administration of the reservoir, to recognize any demands from Kansas for water. Any such demands must come through your Commission and, presumably, after you have advised this office that the Commission has taken over the administration of the reservoir.

Best regards.

Very truly yours,

Enclosure

/s/ M. C. Hinderlider
State Engineer

July 3, 1952

Mr. F. C. Snyder
Division Engineer, Div. #2
504 Central Block
Pueblo, Colorado

Dear Sir:

Enclosed is copy of telegram just received from General Kramer, outlining his views with respect to the administration of the waters stored in John Martin Reservoir. It will be noted that Engineer Fish of Colonel McNutt's office states that the reservoir operating personnel will respond to McGrath's requests 24 hours per day during present critical period.

Following receipt of General Kramer's telegram, I called you by 'phone and read the same to you, following which I advised you of the procedure which should be followed in the administration of any waters which might accumulate in the John Martin Reservoir and until such time as the Arkansas River Compact Commission had formally advised me that they were taking over the administration of the reservoir.

Following our conversation over long distance 'phone at 3:15 this afternoon, I received a call from Water Commissioner McGrath advising that the outflow from the reservoir this morning was 525 second feet; that he had indirectly been advised that a representative of Kansas had asserted claim to as much as 40% of the additional amount of water in storage above 1200 acre feet, and that Mr. Nevius had advised him to release from the reservoir, additional water to satisfy the Kansas demand.

I advised him to ignore any such demands from any person until we are advised by the Arkansas River Compact Administration, that they were taking over the administration of the reservoir, and to limit his daily requests on the attendant at the reservoir to the needs of the ditches in District 67.

I also advised Commissioner McGrath that he should notify you each morning of the extent of such requests so that you in turn would know how much water, if any, should be passed from the districts above the reservoir to meet the requirements of senior appropriators in District 67.

Very truly yours,

/s/ M.C. Hinderlider
State Engineer

Rep. Nevius submitted his report as Treasurer, dated July 22, 1952. He stated that the Administration treasury had a balance of \$1008.44, approximately \$200 greater than the Administration had estimated would be the balance at this time. He said that bills still to be processed would be those for telephone service and for Social Security payments.

He announced that call would be made soon to the States of Colorado and Kansas, requesting payment of the assessments authorized at the March 25, 1952 meeting of the Administration.

It was moved by Rep. Stone, and seconded by Rep. Tate, that the financial report of the treasurer be received and placed on the record.

On rollcall of the states, the vote was in the affirmative, and the motion declared adopted.

The Treasurer's report was as follows:

ARKANSAS RIVER COMPACT ADMINISTRATION

Report of Harry C. Nevius, Treasurer, July 22, 1952.

Balance on hand Oct. 31, 1951 (Auditor's Report) \$2624.91

12-10-51	Voucher 58 to 60	Reported Dec. 11, 1951	115.29	
12-11-51	"	61		
2-9-52	"	62 to 66		
3-15-52	"	67 to 68		
3-22-52	"	69	Reported Mar. 25, 1952	899.25
				<u>\$1014.54</u>
		Balance March 25, 1952		\$1610.37
5-10-52	"	70 Mtn States T & T Mar & Apr		
		Service & Tolls	20.50	
		71 Secretary Salary Mar & Apr	200.00	
			<u>220.50</u>	
6-30-52	"	72 Mtn States T & T		
		May Service & Tolls	29.80	
		June Service & Tolls	87.05	

6-30-52	Voucher 73	Secretary Salary May & June less 1-1/2% Jan to June Salary (F.I.C.A.)	191.00	
6-30-52	"	74 H.C. Nevius, Cash Adv Supplies 18.43 Stamps 6.00 Mileage 700 miles at 7 cents	24.43 49.00	
6-30-52	"	75 Mtn States T & T Tolls Denver (Kramer)	10.15 381.43	
				601.93
				1616.47
				\$1008.44
		Balance on hand July 22, 1952		

Chairman Kramer reminded the Administration members that in preparing a new budget, it had been customary for the Administration Committee to submit estimates at a fall meeting, for review and revision for final adoption at the Administration annual meeting in December. Rep. Tate suggested that the new budget be formulated by making comparisons with the previous budget, in a breakdown of all items.

The Secretary's report by Rep. Nevius revealed that contracts for Social Security coverage for eligible employees of the Administration had been drawn up, and were ready for the signatures of the designated officers of the Administration. He said withholdings had been made for the secretary (only present eligible employee) to date, but that the Administration's matching fund was still to be paid. He said the contract provided retroactive coverage to January 1, 1951.

The contract on Social Security which was signed at this meeting by the Chairman and Secretary is as follows:

AGREEMENT

The Federal Security Administrator, hereinafter called the Administrator, and the Arkansas River Compact Administration, hereinafter called the Compact Administration, hereby agree, in accordance with the terms and conditions stated in this agreement, to extend, in conformity with section 218 of the Social Security Act, the insurance system established by Title II of the Social Security Act, to services performed by individuals as employees of the Compact Administration.

(A) Definitions.

For purposes of this agreement--

(1) The term "employee" means an employee as defined in section 210(k) of the Social Security Act and shall include an officer of the Compact Administration.

(2) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by the States which created the Compact Administration or which participate in carrying out the functions of the Compact Administration, or by the Compact Administration.

(3) A "coverage group" means a coverage group as defined in section 218(b)(5) of the Social Security Act.

(B) Services covered.

This agreement includes all services performed by individuals as employees of the Compact Administration except:

- (1) Any service performed by an employee in a position which, on the effective date specified under part (I) of this agreement, is covered by a retirement system.
- (2) Service performed by an employee who is employed to relieve him from unemployment.
- (3) Service performed in a hospital, home or other institution by an inmate thereof.
- (4) Covered transportation service (as defined in section 210(1)) of the Social Security Act, and
- (5) Service excluded from employment by any provision of section 210(a) of the Social Security Act, other than paragraph (8) of such section; agricultural labor or service performed by a student, which if performed in the employ of a private employer would be excluded from employment under section 210(a) of the Social Security Act; services of an emergency nature; services in any class or classes of elective positions; part-time positions; and positions the compensation for which is on a fee basis.

(C) Contributions by the Compact Administration.

The Compact Administration will pay to the Secretary of the Treasury, at such time or times as the Administrator may by regulation prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Internal Revenue Code if the services of employees covered by this agreement constituted employment as defined in section 1426 of such code.

(D) Compliance with regulations.

The Compact Administration will comply with such regulations as the Administrator may prescribe to carry out the purposes of section 218 of the Social Security Act.

(E) Modification.

This agreement may be modified at the request of the Compact Administration to include coverage groups in addition to those listed in the appendix, or to include additional services not now included in this agreement, such modification to be consistent with the provisions of section 218 of the Social Security Act.

(F) Termination by the Compact Administration.

The Compact Administration, upon giving at least two years advance notice in writing to the Administrator, may terminate this agreement, either in its entirety or with respect to any coverage group, effective at the end of a calendar quarter specified in the notice, provided, however, that the agreement may be terminated in its entirety only if it has been in effect from the effective date specified under part (I) for not less than five years prior to receipt of such notice, and provided further that the agreement may be terminated with respect to any coverage group only if it has been in effect with respect to any coverage group for not less than five years prior to receipt of such notice.

(G) Termination by the Administrator.

If the Administrator, after notice and opportunity for hearing to the Compact Administration, finds that the Compact Administration has failed or is no longer legally able to comply substantially with any provision of this agreement or of section 218 of the Social Security Act, he shall notify the Compact Administration by giving notification in writing to the Chairman of the Compact Administration that this agreement will be terminated in its entirety, or with respect to any one or more coverage groups, at such time designated in, but not later than two years from the date of such notification, as he deems appropriate, unless prior to such time he finds that there no longer is any failure or that the cause for such legal inability has been removed. If under this part or part (F), an agreement is terminated with respect to any coverage group, such termination shall be effective also with respect to any additional services in such coverage group included in the agreement pursuant to any modification thereof under part (E).

(H) Adjustments, refunds, and interest on delinquent payments.

(1) If more or less than the correct amount due under Part (C) of this agreement is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such part (C) shall be made, without interest, upon such conditions, in such manner, and at such times, as may be prescribed by regulation of the Administrator. If an overpayment cannot be adjusted under this subpart, refund shall be made in accordance with section 218(h)(3) of the Social Security Act.

(2) If the Compact Administration does not make, at the time or times due, the payments provided for under this agreement, there shall be added, without prejudice to other available methods of collections, as part of the amounts due (except in the case of adjustments made in accordance with the provisions of subpart (1) of this part), interest at the rate of six per centum per annum from the date due until paid.

(I) Effective date.

This agreement shall be effective as of the first day of January, 1951.

This agreement is entered into this _____ day of _____, 1952, by _____, Commissioner for Social Security, pursuant to section 218 of the Social Security Act, acting herein by virtue of authority vested in him by Oscar R. Ewing, Federal Security Administrator, in Federal Security Agency Order 9, dated March 8, 1951, and the Compact Administration acting herein through Hans Kramer, its Chairman, and Harry C. Nevius, its Secretary, by virtue of Public Law 82, 81st Congress, 1st Session, approved May 31, 1949, and by instruction of the Compact Administration on the 25th day of March, 1952, at a regular meeting thereof.

Appendix

All employees of the Arkansas River Compact Administration

Except

- A. Persons performing services excluded by the provisions of subparagraphs (1), (2), (3), (4), and (5) of Paragraph B of the agreement between the Federal Security Administrator and the Arkansas River Compact Administration.

The Secretary reported that the Plains water claim had been presented April 1, 1952 at Las Animas. A hearing was held June 17, at which testimony of W. A. Colt, proponent of the water claims, was heard. The Administration was not represented at the hearing, but was informed of developments in a report prepared by A. W. McHendrie, Pueblo attorney. It was the consensus of opinion, the Secretary said, that the Colt claims may have some recognition on Adobe Creek waters, but not on the waters of the Arkansas River. It was decided that the Administration would submit a statement of its position and views to Referee Atwood. Rep. Stone, of the Legal Committee, agreed to prepare a proposed text for an Administration statement, have it reviewed and concurred in by Rep. Tate, also of the Legal Committee, and then submitted by mail to all members of the Administration for their approval, before being sent to the referee. Individuals' approval of the statement would be in a mail vote.

The Secretary reported on developments regarding the so-called 'fish pool' in the reservoir at John Martin Dam. He said that when it appeared the reservoir might be emptied, as contemplated in the findings of the Administration, the Game and Fish Commission and Sportsmen's organizations advocated retention of enough water to safeguard fish planted in the reservoir. Public meetings were held with this purpose in mind. These meetings resulted in a petition to the Administration and to the State Engineer, asking that 1,200 acre-feet of water be left in the reservoir as a 'fish pool'. The Secretary reported that most ditches, which would be the ones entitled to the water, supported the 'fish pool' proposal at that time, or agreed to go along with the proposed plan.

It was moved by Rep. Stone, and seconded by Rep. Tate, that all communications received by the Administration regarding the 'fish pool' be placed in the record, but with the understanding that there was no Administration responsibility or authority implied in the matter.

On rollcall, the motion was passed unanimously and declared adopted.

The correspondence regarding the 'fish pool' included the following letters:

BUFFALO MUTUAL IRRIGATION COMPANY

May 24, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the reservoir not less than 1200 acre feet of water. Such operation of the river and reservoir will be in all respects satisfactory to this Company.

Yours very respectfully,

Ham, Johnson & Shinn
Attorneys for
BUFFALO MUTUAL IRRIGATION COMPANY

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I have contacted the President and Secretary of the Company, being a majority of the Board of Directors, and secured the approval of the above letter.

/s/ Wilkie Ham

THE FORT BENT DITCH COMPANY

May 26, 1952

Arkansas River Compact Administration
c/o Mr. H. C. Nevius
Lamar, Colorado

Dear Sirs:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated so that there will be at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water; provided, that when the level of the said Reservoir reaches 1200 acre feet, that it be considered as dry by the proper authorities, and that the irrigation water in the Arkansas River be on a priority basis to all of the users thereof.

Such operation of the River and Reservoir will be in all respects satisfactory to this Company.

Very truly yours,

THE FORT BENT DITCH COMPANY

By: G. L. Carrico, President

This is to certify that I, G. L. Carrico, President of the Fort Bent Ditch Company, has contacted a majority of the Board of Directors of said Company, who have given their approval to the above.

/s/ G. L. Carrico

THE HOLBROOK IRRIGATION DISTRICT

Cheraw, Colorado
May 26, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water. Such operation of the river and reservoir will be in all respects satisfactory to this Company.

Respectfully yours,

THE HOLBROOK IRRIGATION DISTRICT

By J. E. Wadleigh, President

I do hereby certify that the execution of the above letter by the President of the Holbrook Irrigation District has been authorized by the Board of Directors of said District, and each member thereof.

/s/ Melvin L. Bailey
Secretary

THE ROCKY FORD DITCH COMPANY
Rocky Ford, Colorado
May 26, 1952

Mr. Harry C. Nevius
Secretary
Compact Administration
Lamar, Colorado

Dear Sir:

At a meeting of the Board of Directors of the Rocky Ford Ditch Company held May 26, 1952, the following resolution was passed:

"That the State Engineer and the Compact Administration be requested to maintain a pool of at least 1,200 acre feet of water to preserve the fish life in the John Martin Reservoir."

Yours very truly,

/s/ Edward Morrison, President

THE BESSEMER IRRIGATING DITCH COMPANY

May 26, 1952

Arkansas River Compact Commission
c/o H. C. Nevius
Lamar, Colorado

M. C. Hinderlider
State Capitol Building
Denver, Colorado

Gentlemen:

The undersigned company for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and the danger to the public health which might arise from the complete drainage of the reservoir and the death and decay of the fish in it, request that the reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency and irrigating season of 1952 remain in the reservoir not less than 1200 acre feet of water and such operation of the river and reservoir will be in all respect satisfactory to this ditch company.

THE BESSEMER IRRIGATING DITCH COMPANY

by W. I. Sanford, President

THE OXFORD FARMERS DITCH COMPANY

May 26, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado .

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of fish in it, request that the Reservoir and the

Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water. Such operation of the river and reservoir will be in all respects satisfactory to this Company.

Yours very respectfully,

OXFORD FARMERS DITCH COMPANY,

By Carl Thomas Bauer, Treas.

C. J. Stauder, Director

THE AMITY MUTUAL IRRIGATION COMPANY

Holly, Colorado

May 26, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water. Such operation of the river and reservoir will be in all respects satisfactory to this Company.

Yours very respectfully,

THE AMITY MUTUAL IRRIGATION CO.

By Wm. Pattie, Superintendent

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OTERO IRRIGATION DISTRICT

La Junta, Colorado

May 26, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Dear Sir:

Herewith Certificate of Howard Stephens, Secretary of the Otero Irrigation District, in duplicate, relative to the request of the Board of Directors that water be retained in John Martin Reservoir, for Arkansas River Compact Administration and for M. C. Hinderlider, State Engineer.

Yours very truly,

OTERO IRRIGATION DISTRICT

C E R T I F I C A T E

I, Howard Stephens, Secretary of the Otero Irrigation District, do hereby certify that the Board of Directors of the Otero Irrigation District have requested the Arkansas River Compact Administration and M. C. Hinderlider, State Engineer, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water, and that such operation of the river and reservoir will be in all respects satisfactory to the Otero Irrigation District.

/s/ Howard Stephens, Secretary

OTERO IRRIGATION DISTRICT

May 24, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
State Capitol Building
Denver, Colorado

Gentlemen:

The undersigned District, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water. Such operation of the river and reservoir will be in all respects satisfactory to this District.

Yours very respectfully,

OTERO IRRIGATION DISTRICT

By Everette Marshall
President

THE LAS ANIMAS DITCH COMPANY
Las Animas, Colorado
May 24, 1952

Mr. Harry Nevius
Lamar,
Colorado

Dear Sir:

At a meeting of the Board of Directors of the Las Animas Ditch Company held on May 24, 1952, it was agreed that enough direct flow of the Arkansas River be passed to create a conservation pool of at least 1200 acre feet for the preservation of the fish in John Martin Reservoir and that such pool be maintained.

Respectfully yours,

The Las Animas Ditch Company

/s/ Richard Morley
Secretary

THE LAS ANIMAS CONSOLIDATED CANAL COMPANY
May 24, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water. Such operation of the river and reservoir will be in all respects satisfactory to this Company.

Yours very respectfully,

THE LAS ANIMAS CONSOLIDATED CANAL COMPANY

By Carl J. Johnson
Secretary-Treasurer

STATE OF COLORADO)
)
COUNTY OF BENT) ss.

This is to certify that the contents of the attached letters were approved by a majority of the Board of Directors of the said The Las Animas Consolidated Canal Company.

IN WITNESS WHEREOF, I have hereunto set my hand at Las Animas, Colorado, this 27th day of May, A. D., 1952.

THE LAS ANIMAS CONSOLIDATED CANAL COMPANY

By Carl J. Johnson
Secretary-Treasurer

THE TWIN LAKES RESERVOIR & CANAL COMPANY
Ordway, Colorado
May 27, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, will have no objection to any plan, on an equitable basis to appropriators, whereby the Reservoir and the Arkansas River may be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952 be not less than 1,200 acre feet of water in said Reservoir. Such operation of the river and reservoir will be in all respects satisfactory to this Company.

Very truly yours,

THE TWIN LAKES RESERVOIR & CANAL CO.

/s/ Herbert Schroeder, President

KESSEE COMPANY

May 24, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water, and such operation of the river and reservoir will be in all respects satisfactory to this Company.

Yours very respectfully,

Kessee Company

STATE OF COLORADO)
) ss.
COUNTY OF BENT)

This is to certify that a certain letter dated on or about May 24, 1952, addressed to M. C. Hinderlider and Arkansas River Compact Administration, c/o H. C. Nevius, by the undersigned company concerning its consent that at least 1,200 acre feet of water be retained in the John Martin Dam, Bent County, Colorado, and that sufficient water be passed in the Arkansas River to make this possible, was duly approved by the Board of Directors of the undersigned company.

IN WITNESS WHEREOF, I have set my hand and the official seal of said company at Las Animas, Colorado, this 26th day of May, A. D., 1952.

THE CONSOLIDATED LAS ANIMAS CANAL CO.

Loyde Gardner /s/

Vice President

By: Arthur Dean /s/

Secretary

CATLIN CANAL COMPANY
Manzanola, Colorado
May 26, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

At a meeting of the Board of Directors of the Catlin Canal Company, held on May 26, 1952, it was moved by Ted R. Ryan and seconded by John C. Vroman, Jr. and unanimously adopted, that the Kansas - Colorado Compact Commission be requested to maintain a conservation pool of 1200 acre feet in John Martin Reservoir.

CATLIN CANAL COMPANY

/s/ John W. Beaty
President

ATTEST:

/s/ Albert R. Stover
Secretary

THE FORT LYON CANAL COMPANY

May 26, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company for the purpose of preserving fish in the John Martin Reservoir and preventing the destruction of said fish, request that during the emergency which now exists, the Reservoir and the Arkansas River be so regulated and operated that there will remain in the Reservoir approximately 1200 Acre feet of water. The Company reserves the right to withdraw or revoke this permission for such operation at any time upon giving three (3) days' notice in writing to you and each of you.

Very truly yours,

THE FORT LYON CANAL COMPANY

By Ray McGrath
President

I hereby certify that I have communicated with a majority of the members of the Board of Directors of the Fort Lyon Canal Company and I am authorized by such majority to execute in behalf of said Company, the foregoing statement.

/s/ Ray McGrath
President

THE HIGH LINE CANAL COMPANY
Rocky Ford, Colorado
May 28, 1952

MINUTES OF THE SPECIAL MEETING OF
THE HIGH LINE CANAL COMPANY

A special meeting, convened at the call of the President, W. C. Beaty, at 11:00 o'clock A. M., on Wednesday, May 28, 1952, in the office at Rocky Ford.

The following Directors were present: W. C. Beaty, C. J. Bersagel, W. W. Caldwell, Lee Hancock, Ralph Hallows, J. E. Lewis, Superintendent. Secretary Mrs. Belle Daring, being absent, J. E. Lewis was appointed to act as Secretary Pro Tem.

Mr. Beaty stated the meeting was called for the purpose of considering the advisability of creating a pool of 1200 acre feet in John Martin Reservoir for the purpose of preserving the fish life in the reservoir.

The following resolution was presented by Director Bersagel, who moved its adoption:

Be it resolved that the State Engineer, and the Administration Committee of the John Martin Reservoir, be requested to create a pool of 1200 acre feet to preserve the fish life in the John Martin Reservoir.

Said resolution was seconded by Director Hallows, and being put to a vote, was unanimously adopted, and was so declared by President Beaty.

The Secretary was instructed to mail a certified copy of the minutes to M. C. Hinderlider of Denver, and H. C. Nevius, Lamar, Colo.

No further business appearing the meeting adjourned.

/s/ J. E. Lewis

Secretary Pro Tem

I hereby Certify that this is a true and correct copy of the minutes of the meeting held at 11:00 A. M., May 28, 1952.

/s/ J. E. Lewis

Secretary Pro Tem

LAMAR CANAL & IRRIGATION COMPANY

May 24, 1952

Arkansas River Compact Administration
c/o H. C. Nevius
Lamar, Colorado

Mr. M. C. Hinderlider
State Engineer
Capitol Building
Denver, Colorado

Gentlemen:

The undersigned Company, for the purpose of preserving fish in the John Martin Dam and preventing the public nuisance and danger to public health which would arise from complete drainage of the Reservoir, and the death and decay of the fish in it, request that the Reservoir and the Arkansas River be so regulated and operated that there will at all times during the present emergency, and the irrigation season of 1952, remain in the Reservoir not less than 1200 acre feet of water, and such operation of the river and reservoir will be in all respects satisfactory to this Company.

Yours very respectfully,

LAMAR CANAL & IRRIGATION COMPANY

By Harry Helm
Supt. Eng.

STATE OF KANSAS
May 26, 1952

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

Dear Mr. Nevius:

This will confirm our telephone conversation concerning the matter of retaining a fish pool in John Martin Reservoir for the purpose of saving the fish now in the reservoir, and in that connection I advise you that Kansas is willing to and consents to establishing and retaining the so-called fish pool and Kansas is willing to go along in this matter.

Yours very truly,

/s/ Roland H. Tate,
Chairman for Kansas

The Secretary summarized his actions in behalf of the Administration in the period since the priority administration became effective, as follows: On May 30, an order was issued to John S. Sharer, manager of John Martin Reservoir, which provided that the Reservoir would not be lowered beyond 3779.00 gage height. It provided for passing all priorities demanded by ditches in District #67. The order stated:

"You are hereby authorized to pass river flow when gage height reaches 3779.00. Pass priorities demanded by ditches below dam when gage height is above 3779.00 - /s/ H. C. Nevius."

This order, the Secretary continued, was supplemented on June 18 by adding instructions to pass additional river flow. The June 18 order directed:

"You are hereby authorized to pass river flow when gage height reaches 3779.00. Pass priority demand by ditches below dam when gage height is above 3779.00 and additional river flow.
/s/ H. C. Nevius."

The supplement order was given after consultation with Rep. Leavitt and Rep. Mendenhall of the Operations Committee, and telephone conversations with Rep. Tate and Rep. Stone. Kansas water users, through Rep. Leavitt, had protested using the dam to interfere with river flow. The order of June 18 was in effect when Chairman Kramer transferred operation of the reservoir gates to the State Engineer, on June 23, 1952, in Denver, and instructed the Secretary not to interfere with such operation.

The above-mentioned Kansas protest to using the dam to interfere with river flow, expressed to Rep. Leavitt by the Kansas water users, was conveyed to the Administration in a communication from Rep. Tate, dated June 18, 1952, as follows:

June 18, 1952

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

Dear Mr. Nevius:

The matter of passing the river flow of the river through John Martin Reservoir has been under discussion between the Kansas representatives and the Colorado representatives, and it seems that the gates at the dam have not been so operated as to pass the entire flow of the river continuously during the past several days. It is the opinion of the Kansas representatives on the Administration that during periods when Colorado water users are operating under priorities that the full river flow should be passed through the Reservoir continuously, subject to holding the pool for preservation of the fish at elevation 3779 feet. Therefore, the Kansas members of the Administration request that the full flow

of the river be passed through the Reservoir at all times, subject only to maintaining the pool for preservation of the fish at elevation 3779 feet, and we trust that you will make arrangements with those in charge of operation of the gates at the dam to pass the full river flow entering the Reservoir at all times and until such time as water users in Colorado are not again operating under decreed priorities.

Yours very truly,

/s/ Roland H. Tate
Chairman for Kansas

Continuing his report, the Secretary announced that, as instructed, the Administration minutes had been assembled in a book-form folder, and that records of each meeting were being signed officially by the presiding officers and the Secretary.

The Administrative and Legal Committee offered no report, except to acknowledge the assignment of preparing the Administration statement on the Colt (Plains) water claim, and the preparation of preliminary budget estimates for review at a fall meeting of the Administration.

The report of the Engineering Committee, in writing, was presented by Rep. Smrha.

It was moved by Rep. Tate, and seconded by Rep. Stone that the Engineering Committee report be placed in the record, together with a copy of Chairman Kramer's letter of March 28, 1952.

On rollcall, the motion carried unanimously, and was declared adopted.

The Engineering Committee report was as follows:

SEDIMENTATION IN JOHN MARTIN RESERVOIR

The initial capacity of John Martin Reservoir is given in Table 15 of the "Interim Report of Committee on Engineering Data and Studies to Colorado-Kansas Arkansas River Compact Commission", dated June 26, 1947. Subsequent surveys were made in 1944, 1950 and 1951.

The storage of Water was commenced in January 1943 subject to limiting the maximum conservation pool elevation to 3815 pending the installation of flood control gates on the spillway. These were completed in October 1948 and the conservation storage capacity to elevation 3851 has been available since that time.

The accompanying diagrams show the extent to which sediment is progressively encroaching upon the initial storage capacity of the reservoir.

Figure 1 shows the extent to which sediment had accumulated in the reservoir to 1944. There had been deposited in the irrigation pool a total of 17,985 acre-feet of sediments largely below elevation 3800. All of the initial capacity below elevation 3770 was then no longer available.

The results of a survey made in 1950 of that portion of the reservoir below elevation 3800 are shown in Figure 2. At that time the initial storage space was filled with sediment to elevation 3769 and the total accumulation of silt within the limits of the survey amounted to 19,834 acre-feet deposited almost entirely below elevation 3794.

The most recent survey was made in 1951 covering the entire reservoir area. The results are shown in Figure 3. The elevation of zero storage is indicated to be 3767, almost two feet lower than in the preceding year, suggesting some movement of sediment out of the lower portion of the reservoir. Total sediment accumulations amount to 35,784 acre-feet with a uniform vertical distribution below elevation 3820.

Figure 4 shows the progressive encroachment of sediment expressed as a percentage of the initial capacity of the reservoir. At elevation 3800 the capacity decreased from 78% in 1944 to 68% in 1950 and to 62% in 1951. In 1944 there remained 96% and in 1951 there was available 91.5% of the initial capacity of the irrigation pool.

Throughout the period during which water has been stored in the reservoir, sediment has been accumulating at an average rate of nearly 4,000 acre-feet annually. On the basis of this figure, it would require about 100 years to produce a quantity of sediment equal in volume to the initial capacity of the irrigation pool.

(Engineering Committee charts to accompany report appear on adjacent page.)

The Chairman's letter of March 28, 1952:

March 28, 1952

Mr. R. V. Smrha
915 Harrison Street
Topeka, Kansas

Dear Bob:

I am inclosing a copy of the revised area-capacity table for John Martin Reservoir, to be adopted April 1, 1952, which I have just received from the Albuquerque office of the Corps of Engineers.

It would be desirable for the Engineering Committee--(which means you in this case)-- to make an analysis of this new table and a comparison

FIGURE — 1.

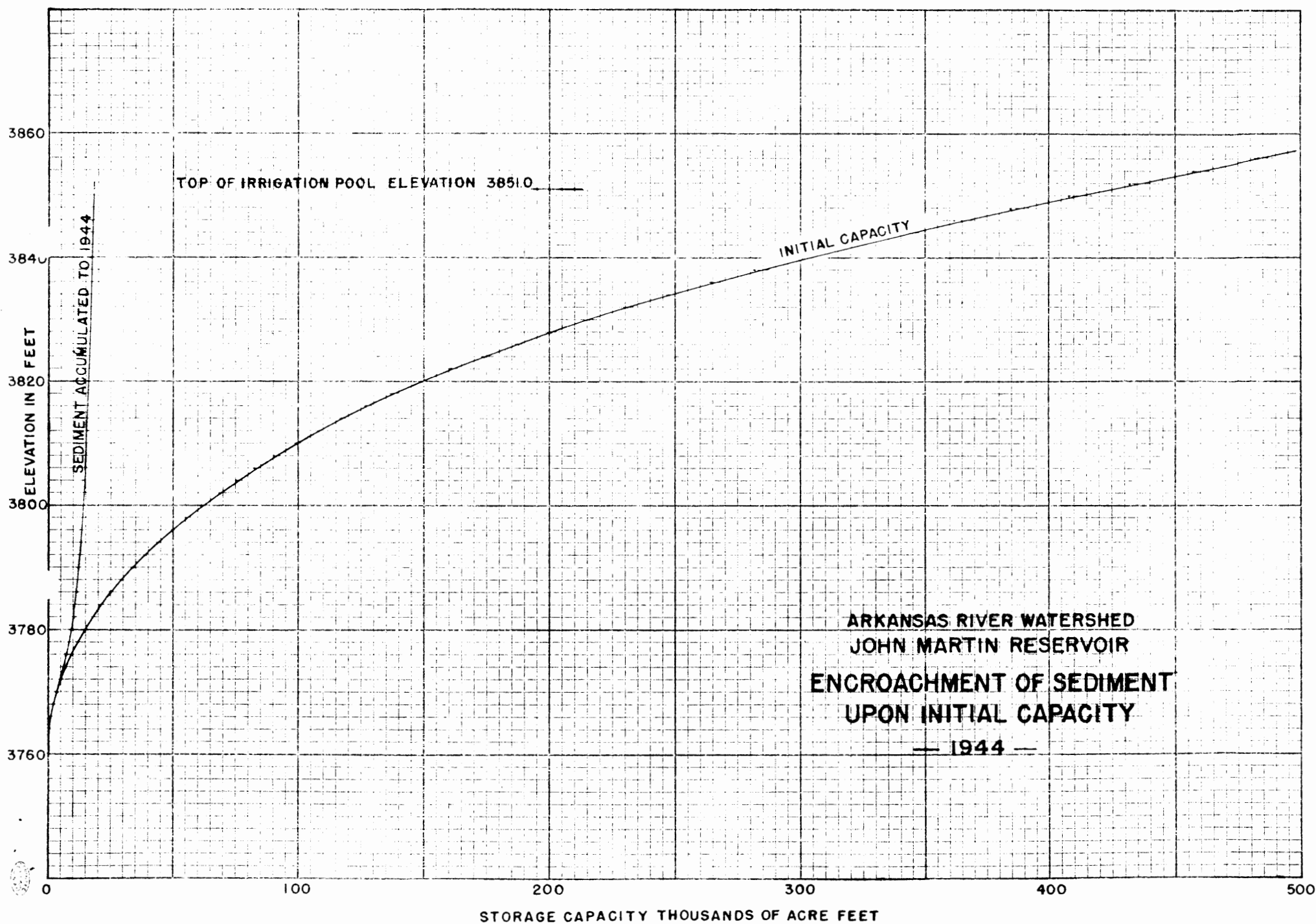


FIGURE — 2.

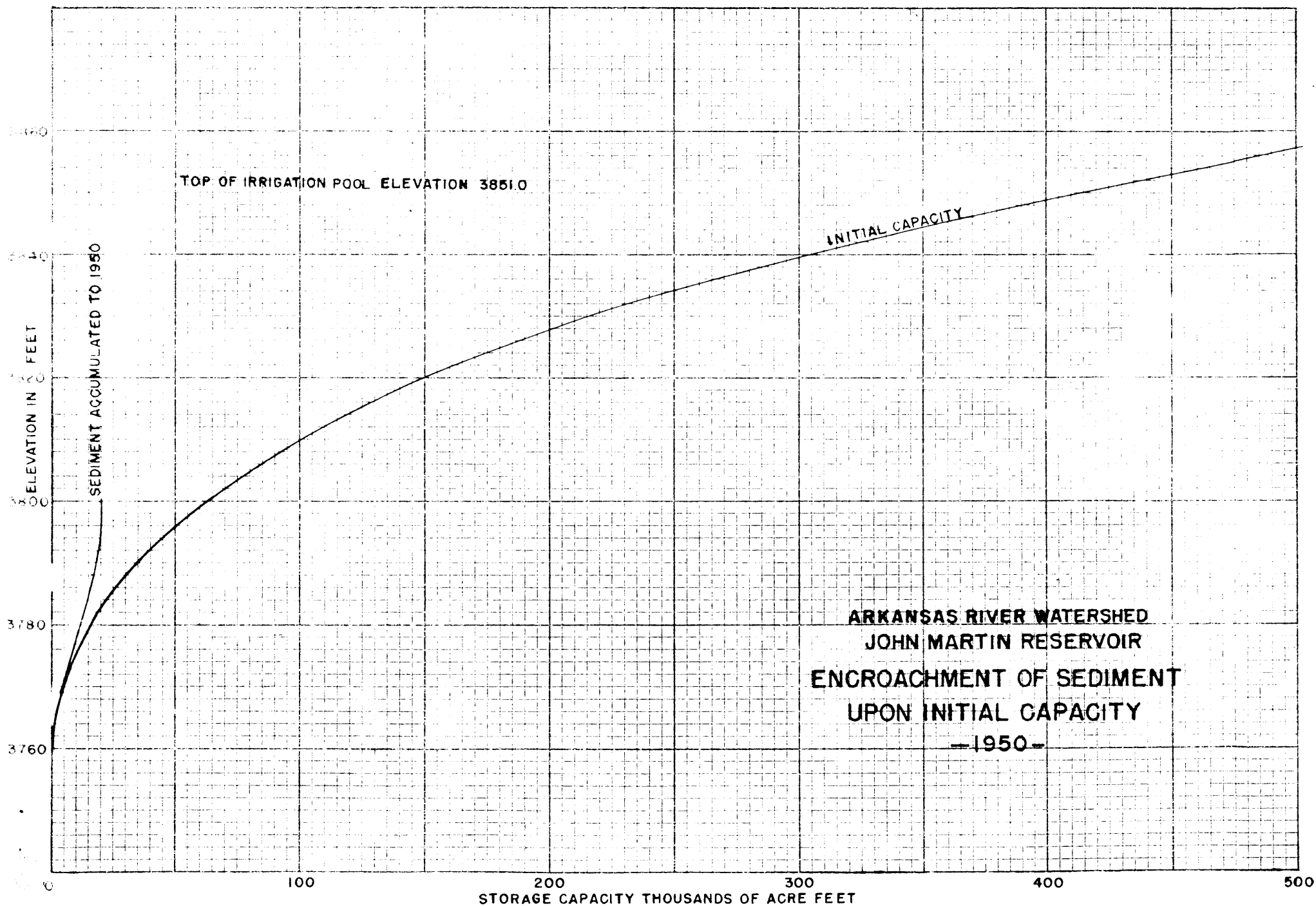


FIGURE — 3.

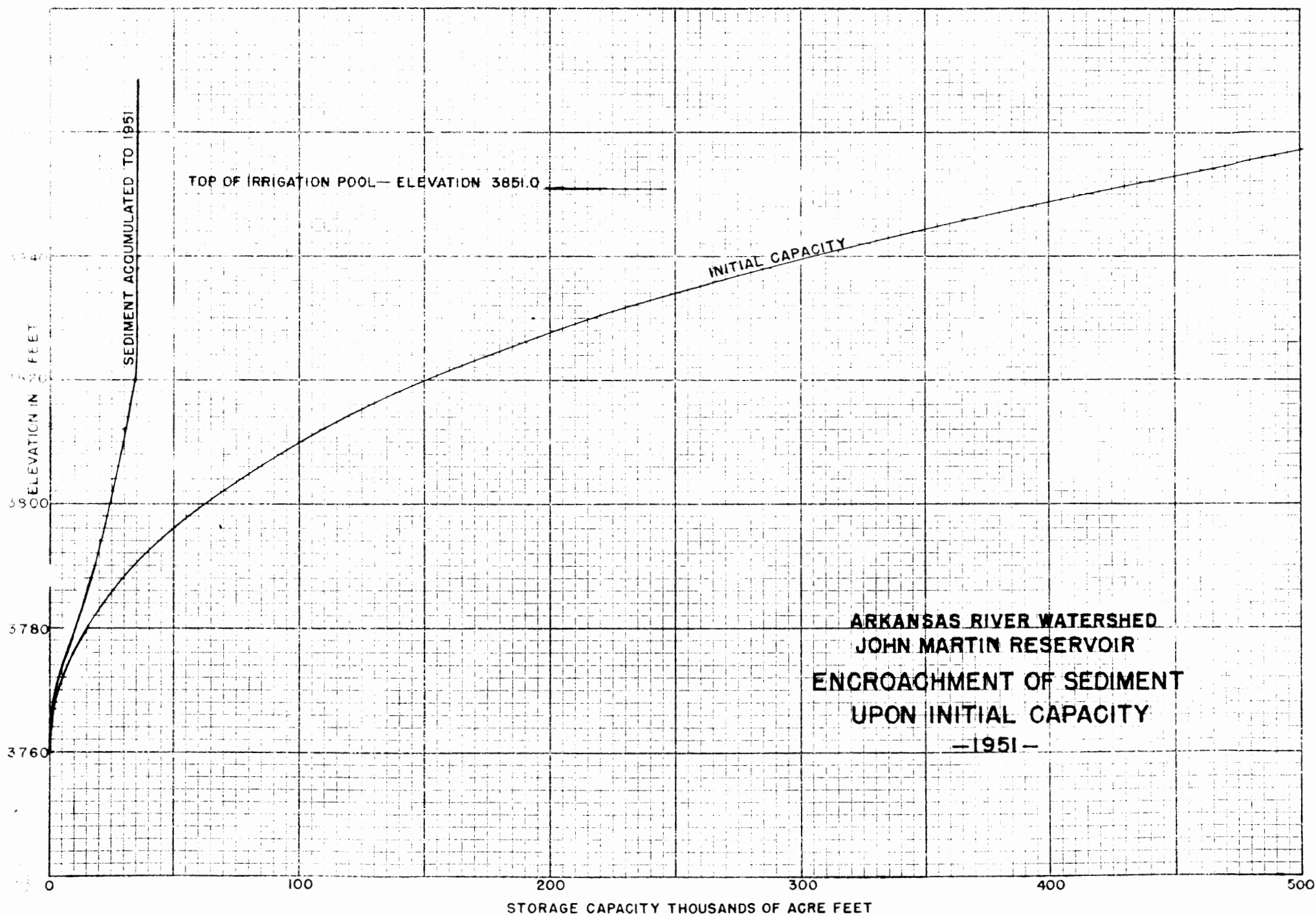
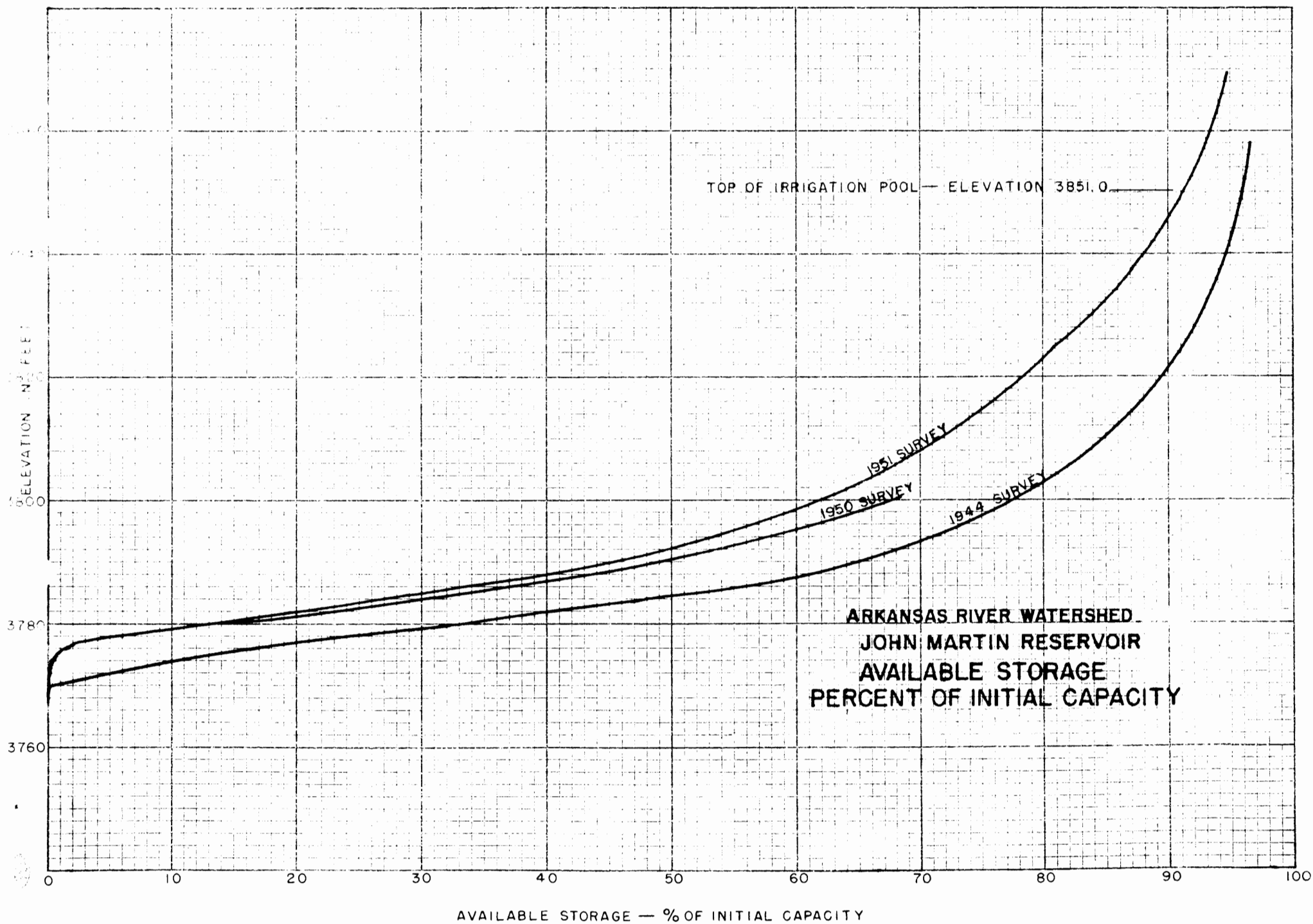


FIGURE — 4.



with the results of previous surveys in order to determine the rate of silting indicated by successive surveys. The Administration has always been interested in such an analysis in the past and will, undoubtedly, expect a summary report on the subject at its next meeting.

Sincerely,

/s/ Hans Kramer

A report summarizing activities of the U. S. Geological Survey, in behalf of the Administration, was presented by Ross W. Moor, Lamar, in the absence of F. M. Bell, district engineer of Denver.

The U.S.G.S. report was as follows:

There was little change in the gaging stations since the last Compact meeting. All are operating satisfactorily except the station on the Purgatoire River near Las Animas where high water of last year caused the channel to shift away from the station. There has not been sufficient high water this year to change the channel back.

However, I did get one fairly high measurement this year which hit the rating curve of last year. Since this is the best we have, last year's rating was used to work up the record so far this season.

The radio gages are operating satisfactorily with the exception of a few stoppages due to battery power running low. There have been two or more mechanical failures, which are to be expected.

The fact that the daily ditch report shows "No report" on several days for the State line stations does not necessarily reflect on the condition of the radio gages. Mr. McGrath and myself, being amateur radio operators, sometimes cannot get the stations on the air when Mr. Keliher can. Keliher monitors these stations and finds that they come in nearly all of the time.

Our power trouble may be eliminated sometime in the near future as I have learned that the R.E.A. has staked the power line into the State line stations. At least one battery with a trickle charger will be installed at each of the radio gages so that the transmitter will continue to operate in case of power failure.

The report of the Operations Committee was presented by Rep. Mendenhall.

It was moved by Rep. Stone and seconded by Rep. Tate that the report of the Operations Committee be received, and placed in the record.

On rollcall, the motion was carried unanimously, and declared adopted.

The report of the Operations Committee, submitted for the record, is as follows:

A special meeting of the administration of John Martin Reservoir was held on May 13, 1952, to give consideration to the gravity of the small amount of water impounded in the reservoir.

At noon on that date there was but 19,539 a.f. of water left in storage. It was deemed advisable acting under Article VF of the Arkansas River Compact that the State Engineer be notified that, unless a change of conditions justified cancellation or modification, on May 24, 1952, he would be expected to administer the river under the decreed priorities heretofore existing. Under the date of May 23 the above notice was modified and time extended to May 27, 1952. Subsequent modifications were made on May 26 from May 27 to May 29 and on May 28 from May 29 to May 30, advising the State Engineer that the supply of water in John Martin Reservoir would be exhausted by midnight, June 1, 1952.

Resolutions subsequently signed by all of the ditches affected were filed with the Administration requesting that the reservoir be declared empty at elevation 3,779 thereby creating a permanent pool of 1,170 a.f.

On the morning of June 1 there remained 1,170 a.f. of stored water in the reservoir, which constituted the fish pool hereinbefore mentioned.

On the evening of July 2 there was a flash flood down the Purgatoire. At 5:45 P. M. there was a peak flow at nine mile station of 4,550 c.s.f. while the morning of July 3 there was but 180 c.s.f., at 2:30 A. M. July 3 there was a peak at the Highland Dam of 11,200 c.s.f., while at 5:00 A. M. the flow was down to 980 c.s.f. This flood flattened out so that the peak storage in John Martin Reservoir was only 2,541 a.f., which included the fish pool of 1,170 a.f.

The water commissioner in District No. 17 issued orders that no water be passed La Junta in anticipation that the Purgatoire would care for senior appropriators in District No. 67, which created a 'hole' in the river when it was necessary to close the gates of John Martin Reservoir to build up the fish pool from 1,051 a.f. to the agreed pool of 1,170 a.f. At 7:15 P. M. on that date the pool was up to 1,170 a.f. and 7:30 P. M. 275 c.s.f. was released. On June 30 there was 2,003 a.f. in storage. Accumulations above 1,170 a.f. were ordered discharged by the Army Engineers at Albuquerque.

Since that time efforts have been made to maintain the reservoir in the agreed pool of 1,170 a.f., but there has been some fluctuations both above and below that figure. As of this date there is 1160 a.f. in storage.

The season has been extremely dry with no rains in the mountains nor on the plains to supplement the flow of snow water, which we have been having.

The Army Engineers through Colonel McNutt in charge at Albuquerque recommend a conservation pool of approximately 6,000 a.f. for the protection of John Martin Dam. A flash flood coming down the river if there were no pool in existence could possibly lodge timbers or logs in the gates, creating a hazard to the structure and possibly wasting any subsequent inflow of waters available for storage into the reservoir. This matter should be given serious consideration by the administration.

Chairman Kramer called attention to the last paragraph of the report of Operations Committee, which mentioned the Corps of Engineers' recommendation for a conservation pool of approximately 6,000 a.f. in John Martin Reservoir. He stated that no formal action had been initiated by the Corps of Engineers to follow up the recommendation, and that therefore no action by the Administration was necessary at this time. It was agreed that Chairman Kramer would consult with Colonel McNutt, to learn the present desires of the Corps of Engineers regarding a conservation pool, and to report the results of such conference to the Administration.

Rep. Tate (Kansas) said he disagreed with the Chairman's view, expressed earlier in the meeting, that the Corps of Engineers had "unilateral powers". He pointed out that the Compact does not make mention of so-called "protective measures". He maintained, also, that the present circumstances were of emergency nature, not permanent, and that the Corps of Engineers could exercise control of water only during periods when physical repairs were being made to the dam.

Rep. Mendenhall commented that 1,626 second-feet of water was involved below the dam on decreed priorities. He stated, also, that the Administration (through its Operations Committee) had never relinquished full control of the reservoir.

Chairman Kramer renewed discussion on the next meeting of the Administration, reminding the members that the annual meeting would occur on Tuesday, December 9, at Lamar. He repeated his suggestion for a fall meeting, at which to make preliminary review and preparation of the contents of the annual report. It was decided that a special fall meeting of the Administration will be held on Tuesday, October 28, 1952, at Colorado Springs, or at Lamar, if special business should develop.

-- Noon Recess --

* * * *

Afternoon Session

The afternoon session of the Administration was called to order at 1:35 o'clock by Chairman Kramer. The Chairman recognized the presence of a large number of visitors, and offered introduction of two of the audience: Gordon Allott of Lamar, lieutenant governor of the State of Colorado, and F. C. Snyder of Pueblo, representing the State Engineer.

The Administration referred back to the preliminary draft of the minutes of the May 13, 1952 meeting, discussed previously at the morning session. Rep. Stone re-read the paragraphs in question, explaining that these were the ones which might require rephrasing to convey the Administration's and his own conclusions more specifically. The paragraphs in question were as follows:

"John S. Sharer, manager at John Martin Reservoir, asked the Administration's advice 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."

Rep. Stone said that the subject matter covered in the paragraphs under review had been hastily considered by the Administration, and the conclusions not fully weighed, with the result that the minutes as written contained some ambiguities. He said he felt the minutes needed clarification, in order to provide full conformity with the provisions of the Arkansas River Compact. He reminded the Administration that it could not change the compact, but it could prescribe procedures for administering the compact.

Basically, he stated, the question was presented: "Who is in authority to instruct the Reservoir Manager during the period after the Administration has found an 'empty' reservoir?" Reviewing developments, he said that on May 13, the Administration notified the State Engineer, as provided in the compact, that there existed a possible 14-day supply of water in the reservoir, and at that time the Administration estimated a day certain when the river should revert to priority operation. The 'day certain' was later extended three times, by modification notices. After the notice was given, he continued, the administration of the river was lodged in the State Engineer, and for this reason he believed the State Engineer should instruct the Reservoir Manager on the operation of the gates. If there were reason for resuming storing of water, the Administration has the obligation of notifying the State Engineer and take over operation. Until such notice is given, Rep. Stone said, the Administration should not actively participate in instructions for the operation of the gates at John Martin Reservoir. Under such an arrangement, he explained, there would be dual administration and responsibility which could not function satisfactorily.

The State Engineer, he continued, would be required to use every measure possible to carry out his function, namely to pass water through the reservoir as it came in. If such a procedure were not followed, it would be a detriment to Kansas, a signatory state under the compact. It was emphasized by him that it was improper to use the reservoir as a regulatory structure for the benefit of ditches in Colorado in disregard of the rights of Kansas under the compact. Actually, it was reported, the stream flow through the gates of the dam was approximately the daily inflow, during the period in question, except for brief occasions, such as a flash flood which occurred on the Purgatoire River.

Rep. Stone reminded the Administration that there could be no system of "off again--on again" authority. Protection should be afforded so that the State Engineer would not use the reservoir in a manner contrary to the interests of Kansas. It must be recognized that the State Engineer has no authority to store water in the reservoir, and cannot deliberately plan to store water in the reservoir, to aid in his administration of Colorado water rights. Release from storage is a function of the Administration in accordance with compact terms.

Rep. Tate said he was convinced the Compact draft commission never intended for the State Engineer of Colorado to control and operate the dam or reservoir. He said he had been informed that, recently, the Colorado State Engineer had restrained a flash flood in the dam, and had not released such water as river flow to reach Kansas.

F. C. Snyder, representative of the State Engineer, said his division office had received instructions to administer priority decrees in Colorado, but had been given no order to prevent stream flow water from reaching Kansas.

Chairman Kramer cited U.S.G.S. figures to show that 1170 acre feet of water was in the reservoir when the priority system was started, and that 1160 acre-feet of water was currently reported in the reservoir, indicating that releases during the period had been practically at the same rate as inflow. He said there was no evidence of storage, and that the over-all record appeared consistent, with few minor daily exceptions.

Rep. Tate said that he was not objecting to any present situation, but declared he was concerned about the principle involved and worried about major future possibilities.

Chairman Kramer reminded the Administration that in 1950 he had proposed an amendment to the Rules and Regulations, aimed to cover conditions as had arisen, but that at the meeting on December 12, 1950, his amendment was 'tabled' by the Administration, without prejudice. He said that his amendment anticipated a possible 'dry' reservoir, when the State Engineer would control the gates.

Rep. Leavitt acknowledged that perhaps Kansas was responsible for the present controversy, inasmuch as Kansas had originally agreed to maintenance of a fish pool when the river went on priorities. If there had been no arrangement for a fish pool, the gates would have been open completely. He said that the simplest solution would be to order the gates open, and let the water come through.

Rep. Mendenhall gave his opinion that the Operations Committee never fully relinquished control of the dam, although in the present situation its role was in standby advisory capacity.

H. H. Christy, Pueblo, commented that a Compact and a Dam exist, and every effort should be made to make them work. He said he agreed with the arguments presented by Rep. Tate. He said he believed the State Engineer runs the Dam, when the reservoir is 'empty'. He maintained that the Compact is contradictory in places, and that Sections G and F conflict.

He said it was a question as to how and when the Administration takes back supervision. He said that two situations should be definitely resolved: 1. Establishment of the minimum amount of water needed in the reservoir. 2. How many acre feet should be in the reservoir before the Administration would take over again? He expressed the opinion that the water users should be included in any agreement drawn up. He suggested a 'policy conference' be held, to work out and agree upon details.

Rep. Stone announced that, as previously indicated by him, he would have to be excused from the meeting to meet another appointment.

In view of the fact the discussion had not proceeded to a point of agreeing on clarification of the May 13, 1952 minutes, it was moved by Rep. Tate and seconded by Rep. Stone that action on approval of the May 13 minutes be deferred until the next meeting of the Administration.

On rollcall, the motion was unanimously carried, and declared adopted.

Gordon Allott, appearing as attorney for the Amity Ditch, said he concurred generally with the views expressed by Rep. Tate. He said he considered the Compact never conferred upon the State Engineer the right to raise or lower the reservoir gates.

He also reported, further, that he was at the meeting to serve notice to the Administration that the Amity group was withdrawing their consent to the 'fish pool' agreement, effective August 1, 1952.

Rep. Stone, in a parting comment, emphasized the need for clear-cut principles and operating procedures, and suggested that the problem be rereferred to the Operations Committee for further study.

It was agreed that Rep. Mendenhall of the Operations Committee would arrange an early meeting of the Committee, at which other interests would appear and be heard.

Rep. Leavitt said that Kansas would be willing to accept the "status quo" temporarily, if it could be assured that the State Engineer would pass 2,000 acre-feet of river flow at all times when available.

Rep. Tate accepted the assignment to prepare a covering motion. During the time this was being drafted, the Administration proceeded to other matters.

Rep. Nevius presented a resolution of the Fort Bent Ditch Co., for abandonment of the fish pool in John Martin Reservoir. The resolution was ordered recorded in the minutes.

The Fort Bent communication was as follows:

THE FORT BENT DITCH COMPANY
July 5, 1952

At a regular meeting of the Fort Bent Ditch Company, held in Lamar, Colorado under date of July 5, 1952 the following resolution was presented and being put to a vote was adopted unanimously:-

RESOLUTION

That due to the irregular flow of water and the unequitable distribution below the Caddoa Dam, we request that the Caddoa Reservoir be completely emptied and that water be distributed according to the river priority.

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The foregoing is a true and correct copy of a resolution appearing in the minutes of a regular board meeting of the Fort Bent Ditch Company, held in Lamar, Colorado, July 5, 1952.

/s/ Towers Deeter, Secretary

Rep. Nevius reported further that communications had also been received from the Las Animas Sportsmen's Association and John Martin Anchorage Inc., expressing their appreciation to the Administration and individual members for their part in establishing the pool for preservation of fish in John Martin Reservoir.

Rep. Tate submitted the proposed text of the motion he had been asked to prepare. The motion was as follows:

"That the further study of the problems pertaining to operation of John Martin Reservoir and Dam during periods when the reservoir is empty and Colorado is operating under decreed priorities is referred to the Operations Committee of the Arkansas River Compact Administration, and during the interim pending adoption of additional rules and regulations relating to operation of the reservoir and dam by the Administration, all river flow up to and including 2,000 c.f.s. shall be passed through the reservoir as expeditiously as practicable: Provided that the present status quo shall be preserved during such interim except as herein otherwise provided."

It was moved by Rep. Tate, and seconded by Rep. Nevius, that the draft motion, as submitted, be adopted by the Administration.

On rollcall vote, the motion to adopt was carried unanimously.

The Administration instructed the Secretary to transmit copies of the motion to M. C. Hinderlider, State Engineer; F. C. Snyder and R. J. McGrath.

The meeting adjourned, with the understanding that the Operations Committee would arrange a meeting as soon as possible, for further study of the matters considered at the Administration meeting, and that the Administration would hold a special meeting on October 28, 1952, at Colorado Springs, for preliminary discussion of the text and contents of the annual report, and other business.

Hans Kramer, Chairman.

Harry C. Nevius, Secretary.

ATTEST:

Ray E. Peterson, Recorder

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