

MINUTES OF
ARKANSAS RIVER COMPACT ADMINISTRATION
REGULAR MEETING

December 22, 1953

LAMAR, COLORADO

Attendance-

For Colorado:

Ivan C. Crawford, Denver; Director Colorado Water Conservation Board
Harry D. Mendenhall, Rocky Ford; Chairman of Colorado Representatives
Harry C. Nevius; Lamar; Administration Secretary and Treasurer

For Kansas:

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

For the United States:

Brig. Gen. Hans Kramer, San Francisco, Calif.; Chairman of the Administration

Others Attending:

F. C. Snyder, Division Engineer, Pueblo
Ross W. Moor, U. S. G. S., Lamar
Francis M. Bell, U. S. G.S., Denver
Harold H. Christy, C. F. & I. Corp., Pueblo
Ralph W. Adkins, C. F. & I. Corp., Pueblo
A. N. Dallimore, Bessemer Irrig. Ditch Co., Pueblo
Guy M. Vincent, Kansas Water Resources, Garden City
James E. Bone, U. S. Engineers, John Martin Dam, Caddoa
James D. Lee Mastus, Corps of Engineers, Conchas Dam, N. M.
L. E. Des Rosiers, John Martin Anchorage, Caddoa
H. D. Amsley, Ft. Lyon Canal Co., Las Animas, Colo.
Arthur C. Gordon, Fort Lyon Canal Co., Lamar
George W. Colburn, C. W. C. B., Denver
R. J. McGrath, Water Commissioner, Dist. 67, Lamar

The annual meeting of the Arkansas River Compact Administration, which had been postponed from its scheduled date of December 8, 1953, was held at Lamar, Colorado, on December 22, 1953, at 9:30 A. M. in the Court House.

Minutes of the Special Meeting of the Administration held October 27, 1953, were approved after changing the word "Reservoir" to "Creek" on Page 5 of those minutes.

Chairman Kramer made his report by putting in the record a letter from Mr. Leavitt dated November 6, 1953, and Chairman Kramer's answer dated November 13, 1953, as follows:

ARKANSAS RIVER COMPACT ADMINISTRATION

Lamar, Colorado

November 6, 1953

Hans Kramer, Brig. Gen. U.S.A. (Ret.)
Chairman, Arkansas River Compact Administration
417 Montgomery Street
San Francisco 4, California

Dear General Kramer:

I have given much thought to the discussion which developed at the recent Administration meeting with reference to the limit of 2000 c.f.s. to be passed through the gates of John Martin Dam and I am quite convinced that the action of our Secretary in his directive to the Manager of John Martin Reservoir as to the handling of the flash floods was reasonable and proper.

It is written in the compact that when John Martin Reservoir is empty the priority rights of the river shall be administered in the same manner as before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. To me this can only mean that until the reservoir operation reverts to a storage basis all water in the river must pass through the dam as though it were not there.

On the other hand it is the purpose of the compact to control and conserve the water of the river for irrigation and other beneficial purposes. Therefore the river must not be allowed to run wild and water wasted. In order to prevent this waste it will become necessary at times to restrict this flow of the river to an amount which can be properly used in Colorado and Kansas.

It was to bring about this conservation of water that I suggested the 2000 c.f.s. figure in the wire of July 22, 1952, which was sent to the State Engineer of Colorado and was also

used by the Secretary of the Administration in his directives to the Manager of John Martin Reservoir during the present season. At the time of the flash floods of this year the Secretary and I agreed upon the limit of 2000 c.f.s. to be passed through the dam as it was our opinion that water in this amount was needed and would be properly used by the ditches in Colorado and Kansas. This figure of 2000 c.f.s. was simply a limitation of the amount of water which should be passed through the dam if the river flood were to exceed that amount. Under other conditions the limitation could be 500 c.f.s., 2500 c.f.s. or any other amount which the situation might indicate. In the case of the flash floods of this season the river did not reach the 2000 c.f.s. limit and very little water reached the State Line.

I cannot see how any other arrangement can be made for handling flash floods. Until the volume of water entering John Martin Reservoir can be determined no decision can be made as to whether there will be sufficient water to justify placing the reservoir on a storage basis, and as there is no provision in the compact for the closing of the gates of the dam when the river is being operated on priorities we must therefore use our best judgment and common sense in handling each situation as it may develop.

With personal regards,

Sincerely,

WEL:am

/s/ W. E. Leavitt

Copies to Members of the Administration

Representative of United States
Hans Kramer, Brig. Gen. USA. Ret.
Chairman

ARKANSAS RIVER COMPACT ADMINISTRATION
Principal Office - Court House

Lamar, Colorado

November 13, 1953

Mr. W. E. Leavitt
Member, Arkansas River Compact Administration
c/o Garden City Company
Garden City, Kansas

My dear Mr. Leavitt:

I appreciate the thoughtfulness of your letter of November 6, 1953, regarding the release of 2000 c.f.s. of river

flow during periods of empty reservoir as specified in the motion adopted by the Administration on July 22, 1952.

I am in full accord with the principle you have stated that, within practical limits, river flow should not be wasted. However, the question might be raised whether such flow in the range of 2000 c.f.s.--as it was on occasion last summer--is not substantial enough to warrant resumption of storage by the Administration under the provisions of Article V-F of the Compact. But that is not the question raised by me at the Administration's meeting on October 27, 1953. Nor do I raise it now. Neither is there any question as to the propriety of our Secretary's actions because I recognize that he has acted in accordance with the Administration's motion of July 22, 1952. My criticism goes to the Administration as a public body for persisting, without benefit of counsel, in a rule for action whose legality has been officially challenged.

Notwithstanding your practical reasoning in support of the 2000 c.f.s. rule, it is my considered opinion, as stated at the Administration's meeting on October 27, 1953, that such a figure does not conform to the terms of the Compact. Specifically, I believe that it is in violation of Articles V-B and V-G. My conclusion in this matter is, incidentally, quite independent of a similar objection stated by the State Engineer of Colorado in his letter dated July 28, 1952. From my reading of the Compact and a careful review of the pertinent discussions by the negotiating commission as set forth in its Record, it is my conclusion that the 2000 c.f.s. rule is inconsistent with the terms of the Compact and, therefore, legally untenable.

Unfortunate though it may seem, it is clear that the Administration is confronted with its first important case of compact interpretation. We all know that the Administration has no judicial powers and, since the interpretation here in issue is purely a question of law, it follows that we must be guided by competent legal opinion or, ultimately, by court decision. That is why I offered the suggestion, which was formally rejected by the Administration at its meeting on October 27, 1953, that the question be referred initially to the Attorneys General of Colorado and Kansas for advisory opinions. It was my thought that those opinions might prove conclusive enough to obviate further legal process.

In view of the lack of unanimity within the Administration on this question of law, which it is itself incompetent to resolve, I sincerely believe that we should seek, rather than side-step, the best legal counsel obtainable. Fortunately, in this situation, such counsel is readily available from the Attorneys General of Colorado and Kansas if we but face squarely the legal question that has divided our opinions.

As in the case of your letter, I am sending a copy of this reply to each member of the Administration. I suggest that copies of these communications be recorded in the Minutes of the next meeting of Administration.

Sincerely yours,

/s/ Hans Kramer

Copy to each Administration Member.

Mr. Nevius gave his report as Secretary & Treasurer as follows:

1. The budget adopted October 27, 1953 had been transmitted to the Governors of the respective states as per instructions.

2. He introduced the auditor's letter of transmittal, dated December 18, 1953, and report for the report year 1952-53.

3. He presented a greeting card communication to the Administration from Mr. John Shearer.

4. He announced receipt of a communication dated December 19, 1953 from the City Attorney of Colorado Springs as follows:

Office of
THE CITY ATTORNEY
Colorado Springs, Colorado

December 19, 1953

Arkansas River Compact Administration
Lamar, Colorado

Chairman and Members of the Compact Commission:

The City of Colorado Springs has been advised that you have under consideration an amendment to the Rules and Regulations of Arkansas River Compact Administration, as follows:

" At such times as the John Martin Reservoir has been declared empty and the State Engineer of Colorado is administering the decreed rights of water users in Colorado on the basis of priorities, the gates of John Martin Dam shall be opened and the waters of the Arkansas River shall pass through as though the dam did not exist.

"In case of any flash flood in excess of the requirements of Colorado and Kansas, the Secretary of the Administration acting under the authority of the Operations Committee of the Administration shall request the manager of John Martin Dam to restrict such flash flood to the extent that only such water shall be passed through the dam as may be properly used in Colorado and Kansas.

"The above arrangement shall continue until such time as it may appear to the Administration that a sufficient quantity of water has been or will be stored to justify taking over the operation of the reservoir."

The first paragraph of the proposed rules and regulations appear to conform to the Compact and no comment thereon is offered at this time.

The second and third paragraphs are clearly a violation of the Compact in the following respects:

(a) While John Martin Reservoir is actually or technically empty, and the State Engineer is administering the stream, he must distribute the available water to Colorado users alone. Neither he nor anyone else is empowered to release any water for Kansas use. (Art. VG)

(b) The proposed amendment does not define a flash flood and consequently the Secretary under this amendment could cause the storage of flood flows and the release of stored waters for indefinite periods while at the same time the State Engineer would be enforcing District 67 priorities against upstream water rights, in violation of Art. VD.

The unauthorized delivery of water to Kansas tends to keep the reservoir depleted, thus extending the periods of an empty reservoir with authorized restrictions on upstream rights. The proposal to retain water in the reservoir while the State Engineer administers the

stream, due to an empty reservoir by declaration of the Commission, also extends the authorized periods for restricting upstream diversions.

Colorado Springs owns and operates the water system supplying its inhabitants and many of the water rights in use on this system are junior to some rights in District 67. The City cannot be expected to accept an encroachment on its water rights and supplies contrary to the provisions of the Arkansas River Compact.

If the Commission desires to improve water service to the Kansas lands this should be done within Compact authorizations and without damage to upstream rights by more economical use of water, and by refraining from making findings of an impending empty reservoir pursuant to Art. VF of the Compact.

We are further advised that the Commission has in the past, by resolution, authorized a release of 2000 second feet during flash floods. Again, the Compact does not authorize withholding of any water while the reservoir is officially empty. If such a resolution is in force, it is requested that we be so informed, and be furnished a copy thereof.

Very truly yours,

/s/ Frederick T. Henry
Frederick T. Henry
City Attorney

In response to questions and after a general discussion, Mr. Crawford made the motion:

I move that the letter of transmittal of the Auditor, dated December 18, 1953, and his report be accepted by the Administration.

Mr. Leavitt seconded the motion and on question the motion was carried.

The letter and report are inserted in the record as follows:

ROBERT W. ROLLINS
CERTIFIED PUBLIC ACCOUNTANT
LA JUNTA, COLORADO
December 18, 1953

Registered: Ret.Rec.Req.

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

Dear Mr. Nevius:

In connection with the audit assignment for the "Report year" ending October 31, 1953 and related subjects, the following transmittal letter is offered. The various points as they are mentioned will be grouped in numerical order.

(1) Original and three copies of the Audit Report for the "Report year" ended October 31, 1953 are enclosed.

(2) An original and duplicate together with penciled copy of the States Report of Adjustments for the quarter ended December 31, 1952. You are reminded that the original and duplicate should be signed by you and the Administration's **check** in the amount of \$6.00 should then be sent to the State Agency. Please retain the penciled copy in your files. In connection with the regular social security return for the December 31, 1953 quarter, **wages** paid to the Secretary for the months of September and October of 1953 in October of 1953 should be included together with any subsequent salary payments made in November and December of 1953.

(3) In connection with reporting the salary of the Secretary for the calendar year of 1953, it is suggested the Administration file Form W-2, Federal and Form 109-2, Colorado early in January of 1954.

(4) I am returning, herewith, the combined journal pages J-3, 4, 5 and 6. Would you please insert them in the post binder that you now have.

There is enclosed, herewith, a statement of services rendered to date in the amount of \$65.00.

Mr. Mendenhall's copy of the preliminary draft of the Administration's Special meeting of October 27, 1953 has been mailed to him.

May I again express my appreciation of the repeat assignment and if I can be of further service to you please call on me.

Very truly yours,
(signed) Robert W. Rollins

ROBERT W. ROLLINS
CERTIFIED PUBLIC ACCOUNTANT
LA JUNTA, COLORADO

December 15, 1953

To the Representatives
Arkansas River Compact Administration
Lamar, Colorado

Gentlemen:

In accordance with your request, an examination has been made of the financial transactions of the Arkansas River Compact Adm. for its fourth "Report year"—November 1, 1952 to October 31, 1953. The results of this audit are expressed in the attached statement of Cash Receipts and Disbursements - Schedule I, page #4. The remarks that follow are offered as additional information and also tend to describe the extent of the auditing work performed.

General Comments

Schedule I, page #4 reflects the beginning balance of cash in bank, revenue assessments received from the States of Colorado and Kansas, other cash receipts, expenditures by classification and the ending balance of cash in bank.

As provided for in the budget of the Minutes of the Administration's Meeting of October 28, 1952, funds due from Colorado (60% share) of \$1,440.00 and Kansas (40% share) of \$960.00 were received for the fiscal year ending June 30, 1954 and deposited in the First National Bank in Lamar, Colorado on the respective dates of September 18, 1953 and October 8, 1953. A refund from the National Surety Corporation in the amount of \$18.77 was deposited on December 31, 1952. This receipt was the result of reducing the \$10,000.00 protection to a \$5,000.00 coverage on the Treasurer's bond and was so authorized in the Minutes of the Administration's Meeting of December 9, 1952. Such action was taken by the Administration upon reviewing the maximum amount of fund which would be on hand at any one time.

All disbursements were made by checks drawn on the Administration's account at the First National Bank in Lamar, Colorado. The individual checks were examined for amount, signature and endorsement. The correctness of the amounts disbursed was verified to payees' statements, authorization of payment as evidenced in minutes of the Administration's meetings or other supporting evidence. Minutes of the October 28, 1952 Meeting that were unavailable for last year's audit, were examined this year.

The Secretary's salary for the current year of \$1,200.00 has been reduced by Old-Age and Survivors Insurance deductions amounting to \$18.00 or 1 1/2% of the gross figure. It should be remembered, the Administration contributes a similar amount, thus matching the employee's deduction. As of October 31, 1953 the combined amount due by the Administration for Old-Age and Survivors Insurance on its employees is \$12.00.

Travel expense of the Secretary for the year under review amounted to \$85.40 or 1,220 miles of business travel at \$0.07 a mile incurred during August and December of 1952, and April, May, July and August of 1953.

Payments made to the U.S. Treasury totaling \$90.00 during the year and labeled taxes were accompanied by related returns referring to Old-Age and Survivors Insurance information on the Secretary. \$60.00 pertained to former years' salaries, while the current year's salary deduction and related expense accounted for balance of \$30.00. As mentioned on Schedule I, the Secretary's deduction of \$3.00 for the months of September and October, 1952 (salaries paid in October, 1952) together with related Administration's share will be reported on and paid in December, 1953.

The reduction of the premium paid in October of 1953 on the Treasurer's bond for the year ending September 12, 1954 has been previously referred to, and it is thought additional remarks need not be made.

Cash in bank at October 31, 1953, per Schedule I, amounting to \$3,600.07 was reconciled to the amount confirmed by the First National Bank in Lamar. Outstanding checks at the end of the year under review cleared the bank in November of 1953.

The financial position of the Administration at October 31, 1953 is compared with that of a year ago, in the following summary:

<u>Arkansas River Compact Administration</u>			
<u>Lamar, Colorado</u>			
<u>Comparative Balance Sheets</u>			
	<u>October 31, 1953</u>	<u>October 31, 1952</u>	<u>Increase (Decrease)</u>
<u>Assets</u>			
Cash in bank	\$3,600.07	\$3,446.95	\$153.12
Equipment (Portable typewriter)	92.50	92.50	-0-
<u>Total Assets</u>	<u>\$3,692.57</u>	<u>\$3,539.45</u>	<u>\$153.12</u>
 <u>Liabilities</u>			
Employee's deductions (held in trust)	6.00	33.00	(27.00)
<u>Capital</u>			
Unexpended fund balance	\$3,594.07	3,413.95	180.12
Expended fund balance for equipment	92.50	92.50	-0-
<u>Total Capital</u>	<u>3,686.57</u>	<u>3,506.45</u>	<u>180.12</u>
<u>Total Liabilities & Capital</u>	<u>\$3,692.57</u>	<u>\$3,539.45</u>	<u>\$153.12</u>

Since the "Budget year" covers the period July 1, 1952 to June 30, 1953, it has been necessary to combine certain months of the past two "Report years" in order to compare actual expenditures with related budgeted amounts. The following summary reflects such a comparison in detail:

Arkansas River Compact Administration
Lamar, Colorado
Comparison of Disbursements with Budget
Fiscal Year July 1, 1952 to June 30, 1953

<u>Classification</u>	<u>Disbursements</u>	<u>Budget</u>
Personal Services		
Secretary salary (\$1,100.00 - \$6.00)	\$1,094.00**	\$1,200.00
Taxes - O.A. and S.I.(Combined)	64.50	-0-
Gage reports	-0-	500.00
Professional services (audit of accounts)	75.00	100.00
Capital Outlay	-0-	300.00
Maintenance and operation		
Bond	50.00	50.00
Printing	500.00	600.00
Official publications	-0-	100.00
Travel expense - Secretary and employees	47.60	150.00
Typing and mailing	6.00	200.00
Investigation and inspection	-0-	150.00
Telephone and telegraph	239.19	300.00
Office supplies	.55	150.00
<u>Totals</u>	<u>\$2,094.84</u>	<u>\$3,800.00</u>

** June's salary was not paid until July, 1953, so the excess of the budgeted amounts over actual disbursements of approximately \$1,700.00 is overstated by \$100.00. Salary expenditures have also been reduced by tax deductions not yet paid to the U. S. Treasury.

The Administration's Budget as approved in the Minutes of its Meeting of October 28, 1952, for the fiscal year July 1, 1953 to June 30, 1954, provided for the use of an estimated excess of \$1,400.00 of budgeted funds at June 30, 1953 to reduce the assessments from the States for the ensuing fiscal year. In like manner, the Administration has provided for an estimated excess of unexpended cash balance of \$1,400.00 at June 30, 1954 to be carried forward and affect a similar reduction in assessments requested from the States for the fiscal year July 1, 1954 to June 30, 1955.

Consistant with the Administration's policy as stated in last year's "Audit report," the Writer has been advised that a budget aggregating \$3,800.00 will be maintained, but any excess of amounts budgeted over actual disbursements will always be used to reduce the subsequent year's revenue assessment requests of the States accordingly.

Respectfully submitted,

(signed) Robert W. Rollins
Certified Public Accountant

Arkansas River Compact Administration
Lamar, Colorado
Statement of Cash Receipts and Disbursements
November 1, 1952 to October 31, 1953
(Refer to comments in text of audit)

Cash in bank at November 1, 1952 (Per audit) \$3,446.95

Receipts

Revenues from assessments		
Colorado portion 60%	\$1,440.00	
Kansas portion 40%	960.00	
Refund - Secretary-treasurer's bond	18.77	
<u>Total Receipts</u>		<u>2,418.77</u>
<u>Total Available Funds</u>		<u>\$5,865.72</u>

Disbursements

Salary of secretary	\$1,200.00	
Less: O.A. and S.I. deductions	<u>18.00*</u>	1182.00
Printing--Annual reports		500.00
Telephone and telegraph		289.40
Travel expense		85.40
Audit fee - Fiscal Year--Oct. 31, 1952		75.00
Taxes - O.A. and S.I. payments		
Deductions from employee	45.00	
Administration's portion	<u>45.00</u>	90.00
Premium on secretary-treasurer's bond		25.00
Office supplies and stationery		12.85
Typing and mailing		<u>6.00</u>
<u>Total Disbursements</u>		<u>2,265.65</u>

Cash in bank at October 31, 1953 \$3,600.07*

Cash on deposit at First National Bank in Lamar

(Per direct confirmation) on Oct. 31, 1953	\$3,708.77	
Less: Outstanding checks of:		
#112 Harry C. Nevius	\$98.50	
113 Mt. States Tel & Tel. Co.	<u>10.20</u>	108.70
		<u>3,600.07</u>

*At October 31, 1953, \$6.00 was held in trust by the Administration, representing Old-Age and Survivors Insurance deductions from the Secretary's salary for the months of September, 1952, October, 1952, September, 1953, and October, 1953. Amounts so withheld for 1952 totaling \$3.00 together with the Administration's expense are being sent in with a special adjustment report in December, 1953. Current year's deductions should be reported in the normal manner.

Mr. Nevius then presented the Treasurer's report as of October 31, 1953 which was accepted and placed in the record as follows:

ARKANSAS RIVER COMPACT ADMINISTRATION

Treasurer's Report from November 1, 1952 to October 31, 1953.

Balance on hand October 31, 1952, Auditor's Report \$3,446.95

Receipts

12/31/52	National Surety Corp. Treas. Bond reduction	\$ 18.77	
9/18/53	Colo. Payment July 28 call 60%	1440.00	
10/ 8/53	Kansas Payment July 28 call 40%	<u>960.00</u>	
	Total		<u>2418.77</u> <u>5865.72</u>

Disbursements by the Administration Nov. 1, 1952 to October 31, 1953.

Voucher

No.	Date	Payee & Purpose		
85	12/19/52	Robert W. Rollins, Audit & Service		75.00
86		Treasurer of U.S., Deposit F.I.C.A.		60.00
87	12/31/52	Mtn. States T & T Co., Nov. & Dec. Service & Tolls		37.45
88		Secretary Salary Nov. & Dec. (less 3.00 F.I.C.A.)		197.00
89		Secretary Mileage 16.10, supplies 6.55		22.65
90		Treasurer of U.S., Deposit F.I.C.A.		6.00
91	3/ 2/53	Secretary Salary, Jan. & Feb. (less 3.00 F.I.C.A.)		197.00
92		Peerless Print Co., Annual Report		500.00
93		Mtn. States T & T Co. Jan. Service & Tolls		9.55
94	3/31/53	Secretary Salary, March (less 1.50 F.I.C.A.)		98.50
95		Treasurer of U.S., (Deposit F.I.C.A.)		9.00
96		Mtn. States T & T Co., Feb. & Mar. Service & Tolls		23.25
97	6/ 3/53	Western Union Tel. Co., Telegram		2.45
98		Mtn. States T & T Co., Apr. & May Service & Tolls		49.00
99		Secretary Salary, Apr. & May (less 3.00 F.I.C.A.)		197.00
100		Secretary Mileage		31.50
101	7/15/53	Mtn. States T & T Co., June Service & Tolls		27.50
102		Treasurer of U.S. Deposit F.I.C.A.		6.00
103		Secretary Salary June (less 1.50 F.I.C.A.)		98.50
104	9/ 8/53	Lamar Daily News, Supplies		12.30
105		Mtn. States T & T Co., July, Aug. Service & Tolls		105.60
106		Secretary Salary July & Aug. (less 3.00 F.I.C.A.)		197.00
107		Secretary Expense Mileage		37.80
108	10/20/53	J. L. Wade. Nat. Surety Corp. Treas.		25.00
109		Secretary Salary Sept. (less 1.50 F.I.C.A.)		98.50
110		Mtn. States T & T Co. Sept. Service & Toll		24.40
111		Treasurer of U.S. Deposit by States (F.O.A.S. Ins.)		9.00
112	10/31/53	Secretary Salary October (less 1.50 F.I.C.A.)		98.50
113		Mtn. States T & T Co., October Service & Toll		10.20
		Total Disbursements		<u>2265.65</u>
		Balance on hand, October 31, 1953		\$3600.07

Chairman Kramer acknowledged the presence of the visitors as shown by the attendance roster.

The report of the Administrative and Legal Committee was deferred to a later portion of the meeting.

The Engineering Committee announced the receipt of certain evaporation data as follows:

MONTHLY EVAPORATION AT JOHN MARTIN RESERVOIR
1952 AND 1953 WATER YEARS
6 November 1953

<u>MONTH</u>	<u>1952 W.Y.</u> <u>(AC.-FT.)</u>	<u>1953 W.Y.</u> <u>(AC.-FT.)</u>
Oct.	805	0
Nov.	0	27
Dec.	0	0
Jan.	0	0
Feb.	0	0
Mar.	0	416
Apr.	1135	337
May	1013	0
Jun.	579	0
Jul.	521	680
Aug.	329	285
Sep.	<u>0</u>	<u>0</u>
Total	4382	1745

Note: The above values are actual net evaporation, i.e., the measured pan evaporation (adjusted for precipitation) times 0.70.

The Administration desired to officially express its thanks and appreciation to the Albuquerque District Office, Corps of Engineers, for furnishing these data.

Mr. Mendenhall, Chairman of the Operations Committee, gave his report which was placed in the record without comment as follows:

On October the 27th, 1953, the date of our last meeting the ditches in sixty-seven were operating under decreed priorities. At the commencement of the storage season November the 1st instructions were given to pass the river flow not to exceed 100 c.f.s. there being no water actually stored until the gates were ordered closed at 9:00 A.M., November the 23rd, since which time there has been impounded in John Martin Reservoir to this date 5294 acre feet of water.

The winter has been open so that all ditches up stream have been diverting with the result that less than the normal amount of water has been impounded in the reservoir.

While we have had no report on the snowfall authorities advise that it is above that of a year ago at this time.

On request from Chairman Kramer, Mr. Bell of the U.S.G.S. gave a verbal progress report on the activity in the study of the relationship of peak discharge and volume of flash floods. He stated that lack of data and other factors made the study as originally begun impracticable but that by introduction of a third factor - that of localization it was hoped that more definite information could be given soon.

Chairman Kramer announced that, because of the unavoidable delay of Mr. Smrha, he would dispense with the regular order of business and that when Mr. Smrha arrived, he would return to the deferred business.

Nomination and election of the elective officers for the ensuing year was as follows, all ballots being unanimous:

for Vice Chairman - Mr. Roland H. Tate of Kansas
for Secretary - Mr. Harry C. Nevius of Colorado
for Treasurer - " " " " " "

It was moved by Mr. Crawford, seconded by Mr. Tate, that the Secretary's salary be continued at \$100.00 per month for the ensuing year plus allowances for necessary incidental expenses. The motion was carried.

Mr. Smrha having arrived, the Administration took up the matter of the Fifth Annual Report of the Administration for consideration. After careful editing, review and discussion, Mr. Tate made and Mr. Crawford seconded a motion that:

The Fifth Annual Report of the Arkansas River Compact Administration as edited December 22, 1953, be adopted.

On roll call the motion carried.

The question of responsibility of printing the Annual Report and letting of bids was discussed. Because of the close coordination required between the source of data, editing, proofreading of galley proofs, etc., it was decided that, with the consent of Mr. Crawford, the Administration delegate full supervision of the printing, editing, and proofreading of the Fifth Annual Report of the Administration to the office of the Colorado Water Conservation Board in Denver with authority to select a printing firm and to negotiate a price for the printing of 500 copies of the same.

Mr. Crawford asked that an Opinion by the Attorney General of Colorado dated December 4, 1953, reviewed and approved by the Legal Consultant of the Colorado Water Conservation Board, be entered in the record as follows:

THE STATE OF COLORADO

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL
DENVER 2

DUKE W. DUNBAR
Attorney General

December 4, 1953

Mr. Ivan C. Crawford
Director, Colorado Water Conservation Board
212 State Office Building
Denver 2, Colorado

Dear Sir:

This is in response to your request for my opinion concerning the following:

FACTS: During the summer period releases of water from John Martin reservoir pursuant to Article V of the Arkansas River Compact (Chapter 180, S. L. 1949) deplete the storage therein. Water users in Water District No. 67 in Colorado, comprising all of the Arkansas River watershed below John Martin reservoir, are then placed under priority administration "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." Article V-F, Arkansas River Compact. During this same period, when the reservoir is empty, heavy summer rains may increase the flow of the Arkansas River very materially, to the point where there will flow into the reservoir more than enough water necessary to satisfy the Colorado decrees in Water District No. 67, which total 1,626.40 c.f.s. The Arkansas River Compact Administration has adopted a motion which, in effect, would provide that under the facts just related the dam would be so operated as to capture for reservoir storage all water entering the reservoir except 2,000 c.f.s., which would be passed through for the apparent purpose of satisfying downstream priorities.

QUESTIONS: (1) Does the Arkansas River Compact permit the Administration to so regulate John Martin dam that during the summer storage periods there will be passed through the reservoir all of the flow of the Arkansas River up to and including 2,000 c.f.s., with the remainder of the flow captured and stored in the reservoir?

(2) If the Compact does not permit the 2,000 c.f.s. limitation, what, if any, limitation can be so used?

CONCLUSIONS: I am of the opinion that your first question should be answered in the negative. I am of the further opinion that the John Martin dam and reservoir must be so operated during the summer storage season, at times when water users in Water District No. 67 in Colorado are operating under priority administration, that there shall be passed through the reservoir sufficient water, and no more, to satisfy downstream users in said District No. 67, and that the remainder of the flow entering said reservoir must be captured for storage therein.

12/4/53

ANALYSIS: We are here concerned with the summer storage period, which is governed in part by Article V-B of the Arkansas River Compact (Chapter 180, S. L. 1949). This provision reads as follows:

"B. Summer storage in John Martin Reservoir shall commence on April 1st of each year and continue to and include the next succeeding October 31st. During said period, except when Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, all water entering said reservoir up to the limit of the then available conservation capacity shall be stored: Provided, that Colorado may demand releases of water equivalent to the river flow up to 500 c.f.s., and Kansas may demand releases of water equivalent to that portion of the river flow between 500 c.f.s. and 750 c.f.s., irrespective of releases demanded by Colorado."

As we read that part of the second sentence of the quoted provision, ending with the colon, it requires, subject to a capacity limitation, that all water entering John Martin reservoir shall be stored therein for release in accordance with Paragraph C, except when users in Water District No. 67 in Colorado are operating under priority administration pursuant to Paragraph F. It does not say that no water shall be stored when Colorado users are operating under priority administration.

On the contrary, Paragraph F provides in part as follows:

". . . 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; . . ."

The quoted language clearly contemplates that water shall be stored in the reservoir concurrently with the use of water in Water District No. 67 under priority administration.

There is nothing in the Compact which we have discovered which permits or authorizes the cessation or curtailment of storage in the reservoir for any reason or at any time except for the satisfaction of decrees in Water District No. 67 in Colorado during the summer storage period, and for the releases of river flow provided for in Paragraph E. It is made clear by Paragraph G that when Colorado users are operating under priority administration Kansas is entitled to none of the river flow entering John Martin reservoir; all that is not required to satisfy Colorado decrees must be stored. Inasmuch as the decrees in the district are for a total of only 1,626.40 c.f.s., we would consider it a violation of the compact to pass through the reservoir during periods of priority administration in Colorado any more water than is necessary to satisfy these decrees.

Mr. Ivan C. Crawford - 3

12/4/53

If any of the canals and ditches in Water District No. 67 are not physically able to divert the full amount of their decrees, then satisfaction of actual rather than decreed capacity would have to be a factor in determining the amount of water to be passed through the reservoir. Furthermore, the extent of the demand of the ditches for fulfillment of their decrees would have to be considered - some may want the full amount, some may want part, some may not desire any. In addition, regard should be given to inflows to the river downstream from the reservoir in Colorado. If, because of heavy rains, the downstream additions to the stream are of consequence in fulfilling the demands of the ditches and canals in the district, then equivalent greater quantities would have to be stored in the reservoir.

The consideration of these factors should be made at the time the river reaches a flow which indicates that it may be in excess of the demands in Water District No. 67. We are unable to see how any arbitrary limitation can be set, particularly one which would not take into consideration conditions existing at the time, for determining the amount of water to be passed through John Martin reservoir for satisfaction of decrees in Water District No. 67 when the users therein are operating on priority administration.

Very truly yours,

(Signed) Duke W. Dunbar

DUKE W. DUNBAR
Attorney General

CMS:sg

Chairman Kramer asked for discussion of the above opinion.

Mr. Tate stated that Kansas was not willing to accept the opinion as written. Kansas desires time to study the opinion and wishes to review the questions raised in the minutes of the Compact Commission during the formation of the Compact. Mr. Tate believes that more time is necessary to resolve the questions.

Chairman Kramer said he had similar ideas and had made a review of the record of the Compact Commission. He offered to the Administration members the reference notes he had made. He asked for further suggestions for future activity and procedure as there were several related subjects which would come up. After considerable discussion this matter was tabled temporarily to be considered for future action.

Chairman Kramer read the following "Suggested Amendment to Rules and Regulations" which had been issued with the call of the annual meeting.

SUGGESTED AMENDMENT TO RULES AND REGULATIONS
OF
ARKANSAS RIVER COMPACT ADMINISTRATION

At such times as the John Martin Reservoir has been declared empty and the State Engineer of Colorado is administering the decreed rights of water users in Colorado on the basis of priorities, the gates of John Martin Dam shall be opened and the waters of the Arkansas River shall pass through as though the dam did not exist.

In case of any flash flood in excess of the requirements of Colorado and Kansas, the Secretary of the Administration acting under the authority of the Operations Committee of the Administration shall request the manager of John Martin Dam to restrict such flash flood to the extent that only such water shall be passed through the dam as may be properly used in Colorado and Kansas.

The above arrangement shall continue until such time as it may appear to the Administration that a sufficient quantity of water has been or will be stored to justify taking over the operation of the reservoir.

He stated that he thought this "Suggested Amendment" was a sincere effort to assist in solving the problem. Mr. Leavitt stated that he had assisted in its wording. Mr. Mendenhall stated that the Special Committee had not approved the offering of the suggested amendment to the Administration and suggested that it too be deferred.

for future consideration.

There was a motion by Mr. Mendenhall, seconded by Mr. Crawford to the effect that: The Special Committee on Revision of the Rules and Regulations, be discharged, its functions be assumed by the Committee of the Whole and its records be placed in the minutes of this meeting.

On roll call the motion carried.

The records follow:

THE ARKANSAS VALLEY DITCH
ASSOCIATION

Offices
of the Secretary

P.O. Box 654
Pueblo, Colorado
August 21, 1953

To: Amity Mutual Irri. Company
Holly, Colorado

and all other owners of ditches and water
rights in the Arkansas Valley in Colorado:

Gentlemen:

At the quarterly meeting of the Arkansas River Compact Administration held on July the 28th at Lamar it was suggested that the Special Operations Committee solicit the water users on the Arkansas River for constructive criticism on the manner in which John Martin Reservoir had been operated, as well as for suggestions as to how the operations might be improved. The criticisms, as well as suggestions, to be reduced to writing and addressed to H. C. Nevius, Secretary of the Administration, at Lamar.

When these letters have been received and reviewed a meeting will be called shortly thereafter, probably at Lamar, which will be open to the water users of the valley, as well as the public, and of which you will have timely notice.

It is urged that after your boards have met that these letters be filed at an early date. It will in turn accelerate the meeting time of the special operations committee.

Very truly yours,

Vena Pointer, Secretary

CATLIN CANAL COMPANY

Albert R. Stover, Secretary and Treas. Sam Bingman, Supt.
Manzanola, Colo.

September 5, 1953

Mr. H. C. Nevius
Secretary of the Administration
Lamar, Colorado

Dear Mr. Nevius:

We hereby acknowledge receipt of the letter from the Arkansas Valley Ditch Association, dated August 21, 1953, concerning the John Martin Reservoir.

Upon receipt of notice of meeting concerning the John Martin Reservoir, the Catlin Canal Company will send their representatives down to this meeting.

Thank you very much.

Very truly yours,

/s/ Albert R. Stover
Secretary-Treasurer

La Junta, Colorado
September 6, 1953

Mr. H. C. Nevius, Secretary
Lamar, Colorado

Dear Mr. Nevius:

In relation to the operations of John Martin reservoir. Our irrigation district has been well pleased with a good job well done by your operations committee.

We would suggest that at any time storage is present the operations committee take over operations at once. We believe by carefully controlling the volume of outlet at once we, as a ditch above the reservoir, will share with other ditches, similarly located, a prolonged period of time from the benefits of storage.

Thanking you as an operations Committee for your excellent work and assuring you of our cooperation for the mutual benefits of all concerned.

/s/ Simon Schultz
President of Board

Very truly yours,
Holbrook Irrigation Dist.

THE FORT BENT DITCH COMPANY

Irrigates 10,000 acres of Land
In Bent and Prowers Counties

September 17, 1953

The Arkansas River
Compact Administration
H. C. Nevious, Sec.
Lamar, Colo.

Dear Sir:

The following resolution was unanimously adopted at the regular meeting of the Board of Directors of the Fort Bent Ditch Company held September 5, 1953.

"The Directors of the Fort Bent Ditch Company have no constructive criticism to offer and feel that the Arkansas River Compact Board should be commended on the handling of the water through the John Martin Reservoir during the present irrigation season."

Very truly yours,

/s/ Towers Deeter
Fort Bent Ditch Company
Towers Deeter, Sec.
P.O. Box 401
Lamar, Colorado

After discussion on the above it was moved by Mr. Crawford and seconded by Mr. Tate that the Committee of the Whole would meet in Lamar on January 26, 1954, for study and consideration of such proposed amendments and letters now held in abeyance. On vote the motion carried.

Chairman Kramer stated that, unless objection was made, the sense of the Administration was that: The meeting of the Committee of the Whole was to include the representatives of the States of Colorado and Kansas together with such special legal advisors as may be desired and that this also carries an invitation to Mr. Gail Ireland as one of the participants in the original Compact discussions. He stated further that such a meeting would be a study session rather than a formal, open meeting of the Administration.

No objections were made.

The next item of business was the consideration of the Resolution to amend Article 3 (b) of the Bylaws and Regulations as published and notice duly given in the call of this meeting as prescribed. Mr. Tate made the motion and Mr. Crawford seconded it that: The resolution concerning the amendment of the Bylaws and Regulations be adopted.

After discussion and vote the motion carried and the resolution was passed as follows:

BE IT RESOLVED that Article IV, Meetings, Section 3, of the By-laws of the Arkansas River Compact Administration be amended to read as follows:

3. (a) Special meetings, etc. . . .

(b) Special telephonic meetings of the Administration may be held by telephonic communications between the several members of the Administration in respect to all matters arising under Article V F of the Compact: Provided, that such special telephonic meetings may be called by the Chairman, Vice-Chairman or any member of the Operations Committee, and in any case at least two representatives of each State shall participate personally in such special telephonic meetings and concur in the action taken as a result of any such meeting. And provided further, that the Secretary of the Administration shall prepare minutes of any special telephonic meeting and such minutes shall be acted upon by the Administration at the next regular meeting or special meeting held under sub-section (a) hereof.

The meeting recessed for lunch at 12:45 P.M.

The meeting reconvened at 2:10 P.M. at the Court House.

Chairman Kramer suggested that the Administration would welcome written communications for consideration at its January 26th study session.

The Chair called upon Mr. Smrha for a report from the Engineering Committee. Mr. Smrha stated there was no report.

Mr. Mendenhall offered a motion to rescind the action taken by the Administration July 22, 1952, which was:

"Moved 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 ex-

peditionously as practicable: Provided that the present status quo shall be preserved during such interim except as herein otherwise provided."

Mr. Tate seconded Mr. Mendenhall's motion and added that the Secretary be instructed to notify the State Engineer of Colorado and the Corps of Engineers at Albuquerque. Upon being put to vote, Colorado voted Yes and Kansas Yes, thus rescinding the motion of July 22, 1952.

The Chairman asked if there were any remarks or suggestions from the visitors. There being none, the meeting was adjourned.

A study session of the Administration, as a Committee of the Whole, is to be held in Lamar, Colorado on January 26, 1954. The next regular meeting of the Administration is scheduled for March 23, 1954.

ARKANSAS RIVER COMPACT ADMINISTRATION

December 3, 1953

NOTICE OF REGULAR ANNUAL MEETING

The regular scheduled annual meeting of the Arkansas River Compact Administration has been postponed. It will be held in the Courthouse, Lamar, Colorado, December 22, 1953, at 9:30 A. M.

Your attention is also directed to the proposed amendment to the by-laws and the proposed amendment to the Rules and Regulations. These are in accordance with Par. 2, Art. VI and Par. 1, Art. XI, of the by-laws.

For the Administration
Geo. W. Colburn

BE IT RESOLVED that Article IV, Meetings, Section 3, of the By-laws of the Arkansas River Compact Administration be amended to read as follows:

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SUGGESTED AMENDMENT TO RULES AND REGULATIONS

OF

ARKANSAS RIVER COMPACT ADMINISTRATION

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