

MINUTES OF
ARKANSAS RIVER COMPACT ADMINISTRATION
SPECIAL MEETING

October 6, 1959

Court House

Lamar, Colorado

Attendance:

For Colorado:

David Jenkins, Las Animas
Hacket Smartt, Lamar
Felix L. Sparks, Denver

For Kansas:

Carl E. Bentrup, Deerfield
Logan N. Green, Garden City, Vice Chairman
R. V. Smrha, Topeka

For the United States

Carl G. Paulsen, Washington, D. C., Chairman

Others Attending:

Ross W. Moor	U. S. Geological Survey	Lamar, Colo.
John T. Martin	Corps of Engineers	Albuquerque, N. M.
Edw. J. Tripp	U. S. Geological Survey	Denver, Colo.
Taro Hiram	Granada Irrigation Co.	Granada, Colo.
Wm. Pattie	Amity Canal	Holly, Colo.
Guy M. Vincent	Kansas Water Resources	Garden City, Kansas
R. J. McGrath	Water Cons. #67	Lamar, Colo.
James E. Bone	U. S. Engineers	John Martin Dam
Frank N. Leatherwood	Ft. Lyon Canal Co.	Las Animas, Colo.
George Ed Deahl	-	Hasty, Colo.
Oakley Wade	Permanent Pool	Las Animas, Colo.
E. A. Thaxton	S. E. C. R. A.	Las Animas, Colo.
G. E. Kimble	"	Swink, Colo.
Harry C. Nevius	-	Lamar, Colo.
Hugh Morgan	Lamar Daily News	Lamar, Colo.
Fred L. Boydston, Jr.	Colo. Water Cons. Board	Denver, Colo.

The Chairman called the meeting to order at 9:45 A. M. and called for consideration of the minutes of the regular meeting held July 28, 1959. Mr. Green's motion, seconded by Mr. Smartt, was passed to dispense with reading the minutes since the Administration had received copies and had had a chance to read them. When Mr. Paulsen asked for corrections to the minutes, several were offered. Mr. Smrha then moved that the minutes be approved as corrected and the motion was passed after being seconded by Mr. Bentrup.

Mr. Smartt then read the minutes of the telephonic meeting held September 4, 1959 and after some discussion and correction, Mr. Bentrup's motion, seconded by Mr. Sparks was passed to approve the minutes as corrected. The corrected minutes follow:

Minutes of Telephone Meeting, September 4, 1959

On September 4, 1959, the Chairman of the Operations Committee called a special telephonic meeting at which meeting members Smartt, Jenkins and Sparks participated for Colorado and members Bentrup and Green participated for Kansas. At such meeting and by vote of the respective states it was anticipated that John Martin reservoir would be empty on September 14, 1959.

In accordance with the action taken, Mr. Whitten was notified by telephone that the reservoir would be dry on September 14, 1959, and unless a change in conditions justified cancellation or modification of that notice, priority administration should commence and decreed rights of water users in Colorado would be administered by Colorado under Article V, F of the Arkansas River Compact Administration.

/s/ Hacket Smartt
Hacket Smartt, Secretary.

Attached is the finding of fact and notification:

FINDINGS AND NOTIFICATION
by
ARKANSAS RIVER COMPACT ADMINISTRATION

September 4, 1959

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

"In the event the Administration finds that within a period of fourteen (14) days the water in the conservation pool will be or is liable to be exhausted, the Administration shall forthwith notify the State Engineer of Colorado, or his duly authorized representative, that commencing upon a day certain within said fourteen (14) day period, unless a change of conditions justifies cancellation or modification of such notice, Colorado shall administer the decreed rights of water users in Colorado Water District #67

as against each other and against all rights now or hereafter decreed to water users diverting upstream from John Martin Dam on the basis of relative priorities in the same manner in which their respective priority rights were administered by Colorado before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. Such priority administration by Colorado shall be continued until the Administration finds that water is again available in the conservation pool for release as provided in this Compact, and timely notice of such findings shall be given by the Administration to the State Engineer of Colorado or his duly authorized representative. Provided, that except as controlled by the operation of the preceding provisions of this paragraph and other applicable provisions of this Compact, when there is water in the conservation pool the water users upstream from John Martin Reservoir shall not be affected by the decrees to the ditches in Colorado Water District 67. Except when administration in Colorado is on a priority basis the water diversions in Colorado Water District 67 shall be administered by Colorado in accordance with distribution agreements made from time to time between the water users in such District and filed with the Administration and with the State Engineer of Colorado or, in the absence of such agreement, upon the basis of the respective priority decrees, as against each other, in said District."

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

That, based upon the present quantity of water stored in, and anticipated release of water from, and inflow to, the John Martin Reservoir, the conservation pool thereof, within a period of fourteen (14) days from this 14th day of Sept. 1959, will be, or is liable to be, exhausted.

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

That, commencing on the 14th day of Sept., 1959, unless a change of conditions justifies cancellation or modification of this notice, he is required, under the terms of the Compact, to administer the decreed rights of the water users in Colorado in the manner and for a period of time determined in accordance with the provisions set forth in the above quoted Article VF of the Compact.

The above findings have been made, and notification thereof given, by the Arkansas River Compact Administration on this 14th day of Sept., 1959.

ATTEST: /s/ Hacket Smartt
Secretary

/s/ Logan N. Green
Vice Chairman

Chairman Paulsen said that the Chairman had no report to make except that he wanted to voice his regret that the reservoir was empty and hope that the condition would soon be alleviated.

Mr. Smartt read the Secretary's report as follows:

October 6, 1959
Secretary's Written Report

The Secretary made calls upon the States of Colorado and Kansas, requesting the funds for the budget year of 1959-1960. Both States have responded; Colorado's share (60%) was \$2400.00, and Kansas' share (40%) \$1600.00

These funds have been deposited to the credit of the Administration in the First National Bank in Lamar as shown in the Treasurer's report.

On August 19th budget requests for the fiscal year 1960-61 were submitted to the Governors of Colorado and Kansas.

On September 10th a request was received from the Bureau of Reclamation in Denver asking that copies of all of our Annual Reports be sent to them at their Denver address. All ten copies were mailed to them.

A letter was written to Mr. Paulsen by the Secretary on September 6th informing him of the Telephonic meeting of September 4th, when the question was considered of declaring the reservoir empty. Also a copy of formal action taken was enclosed. A letter of appreciation for the information was received from Chairman Paulsen but expressing regret to hear of the near emptiness of the reservoir.

/s/ Hacket Smartt
Hacket Smartt, Secretary

Mr. Smrha's motion, seconded by Mr. Bentrup, to approve the Secretary's report was passed.

Mr. Smartt then gave the Treasurer's report as follows:

Treasurer's Report from July 28, 1959, to October 6, 1959

Balance in Bank, July 28, 1959		\$2246.13
Deposits, State of Colorado, September 10, 1959		2400.00
Deposits, State of Kansas, September 23, 1959		<u>1600.00</u>
	Total	\$6246.13

Disbursements since July 28, 1959

Date	Vouchers	Payee and Purpose	Amount
8-3-59	272	U. S. Geological Survey 4th Quarter	\$250.00
8-3-59	273	M.S.T.&T. Co., Telephone Service for July & August	39.15
9-30-59	274	Lamar Daily News, Letter Heads and Envelopes	18.67
9-30-59	275	Hacket Smartt, July, August & September	292.50
9-30-59	276	Treasurer of the U. S. O. A. S. I. Fund	15.00
9-30-59	277	Valley Agency, Treasurer's Bond	<u>25.00</u>
Total Disbursements			\$640.32
Balance Funds Available, October 6, 1959			\$5605.81

Mr. Smartt explained that the last four vouchers drawn had not yet cleared. Mr. Sparks moved and Mr. Green seconded that the Treasurer's report be accepted and filed. The motion passed.

Mr. Bentrup gave the report of the Operations Committee as follows:

ARKANSAS RIVER COMPACT ADMINISTRATION
Lamar, Colorado

Report of Operations Committee from July 28, 1959
to
October 6, 1959

The demand for water from the reservoir has remained steady since July 28th. Kansas continued to call the maximum of 500 cfs, and Colorado also continued a steady demand for water during this period. However, 1100 cfs was the maximum amount released from the reservoir during this period.

On September 4, 1959, the Operations Committee, in compliance with Article V, C of the Compact, reduced the discharge from the reservoir to 1000 cfs, 400 cfs to Kansas and 600 cfs to Colorado. Also on this date the Operations Committee held a Telephonic meeting, as provided in the By Laws, Article IV, Section 3 (B), on the question of declaring the reservoir dry. The minutes of this meeting are submitted in proper form.

The Reservoir was officially declared dry at 8:45 A. M. on September 14, 1959.

Storage in Reservoir July 28, 1959	- - - - -	-92,557 A. F.
Present Storage	- - - - -	00.000 A. F.
Total Depletion this Period	- - - - -	92,557 A. F.

/s/ Carl E. Bentrup
Chairman

Mr. Jenkins then asked if records were kept of inflow and outflow of the reservoir. After some discussion on the records available in the annual report and on the high and low years of runoff and draft on the reservoir, it was generally agreed that the records in the annual report indicate all the measured inflows and outflows available. Mr. Paulsen said that he thought there was a need for a long term hydrological analysis of storage and outflow of John Martin reservoir. Mr. Sparks replied that the Colorado Water Conservation Board will have the reservoir operations summarized in almost every way feasible, and will send out to the Administration whatever information might be helpful. The demands by Kansas were discussed, and Mr. Jenkins asked

how many acres are now irrigated in Kansas by compact water, and Mr. Smrha answered that about 67,000 acres were now irrigated. Mr. Sparks said that at the time the Colorado-Kansas case was in the court the exact figures on irrigated land were obtained, and he did not think there had been much change since then.

Mr. Sparks asked Mr. Smartt how the demands are given to him, and Mr. Smartt replied that Mr. McGrath makes the demand for Colorado ditches and Mr. Vincent makes the demand for Kansas ditches. Mr. Sparks then asked if the individual ditch demands ever exceeded the percentage of the release allocated them, and Mr. McGrath answered that at times when the other ditches do not call on the water, a ditch may exceed its percentage as long as the maximum allocation of all the ditches is not exceeded. Mr. Sparks then asked Mr. Bentrup if the Kansas ditches ever exceed their percentages of water, and Mr. Bentrup replied that Kansas ditches are not held to a percentage. Mr. Sparks then asked if Colorado ditches ever call for more than their decreed rights. Mr. McGrath said that there are several decrees usually on each ditch. Mr. Smartt said that when they are running reservoir water, the decrees are not used. Mr. Sparks then stated that, as he saw the operations, the decrees are out of the picture as long as Colorado does not exceed its 60 per cent. Mr. Paulsen questioned how the demands between Colorado and Kansas are evened up, and Mr. Sparks told him that there is no system of credits or debits. Mr. Sparks asked if, in operating the reservoir, when there is a maximum call by both States and an inflow occurs above the Stateline, are the releases decreased accordingly, and Mr. Smartt answered that return flows and accretions are used in meeting the Kansas demand as much as possible. Mr. Jenkins stated that in following the river reports published in the paper, there is often water produced between places on the river and this production should be taken into account. Mr. Sparks said that the State Water Board studies show astonishing results--large increases in flows between Lamar and the Stateline and large decreases in flows between Nepesta and John Martin reservoir. He said at times the diversions below John Martin exceed the allocation to the ditches. In the discussion which followed on the inflow between Lamar and the Stateline, Mr. Sparks brought out the fact that the graphs show that the inflow occurs with no distinction as to wet or dry years. Mr. Paulsen inquired if it may become necessary to change the Rules and Regulations after the Colorado Water Conservation Board has completed its studies, and Mr. Sparks answered that changes may be necessary, and, if so, he will introduce such changes upon completion of the studies. Mr. Sparks asked if Kansas was using John Martin reservoir water to fill other reservoirs in Kansas, and Mr. Bentrup answered that they were not. He said that there is only one reservoir capable of taking such water and that when John Martin water is running, the water is required to be passed on through the reservoir. He also explained that the reservoir, Lake McKinney, had an original capacity of about 30,000 acre feet and is located across a draw from which it obtains some of its water from the large drainage area above it. Arkansas River water is also diverted into it, but no John Martin water is so used. Mr. Sparks said he had asked the question because a complaint had been filed with the Colorado Water Conservation Board that Kansas was filling reservoirs with John Martin water. He said that Colorado will live up to the terms of the Compact, and it is expected that Kansas will do the same. A discussion was held on how rumors were started on waste of water past Garden City. Mr. Jenkins asked if a canal can demand water and then store it in a private reservoir for use about 24 hours later. Mr. Sparks told him that the courts have

approved temporary detention of water and that such detention constitutes immediate beneficial use as contemplated in the Compact. A discussion was held on the difference between "regulation" and "storage". Mr. Bentrup then questioned if diversions were not made by ditches into the Great Plains reservoirs above John Martin which cannot be entirely drained. Mr. Sparks replied that those reservoirs were filled with decreed water, and historically it was contemplated that the Great Plains reservoirs would be abandoned when John Martin was built. Waste of water was discussed as well as possible storage of Great Plains water in the proposed Pueblo reservoir. Mr. Sparks said that unquestionably there could be some salvage of water with better storage sites. Mr. Jenkins told the Administration that the Fort Lyons Canal Company has a crew of men working trying to stop some of the waste. Mr. Sparks said that movement of storage to another reservoir would also effect some savings of evaporation losses. He also said that starting November first, he expects to have a resident engineer in the valley, and other engineers from his staff will assist the resident engineer. It is apparent that they need a man on the ground. He also said that the State Water Conservation Board is now collecting basic data for the studies. Mr. Paulsen questioned the availability of the results, and was assured that future results will be made available to help the Administration in the operations and the conservation of water. Mr. Bentrup said that, as a supplement to his report, the Operations Committee had been charged with investigating the ditches below the reservoir for measuring devices, but that so far it had not been done. However, he hoped that he and Mr. Smartt could investigate the ditches within the next two weeks. Mr. Smartt added that he has investigated and found that all ditches below the reservoir have some kind of measuring device, although some might not be classified as adequate. Mr. Sparks said that he thought that the resident engineer to be stationed in the valley should go along on the investigation tour and check to see if the devices are adequate. Mr. Smartt said that Mr. Moor of the U. S. G. S. had checked most of the measuring devices, and Mr. McGrath explained that all of the measuring devices on the ditches are Parshall flumes with the exception of two which are rectangular ones. Mr. Jenkins said he feels it is necessary to distinguish between "adequate" and "approved" measuring devices. Mr. Smartt then asked if it is necessary to have a recorder on a measuring flume, and Mr. Sparks answered that it is not. He added that a standard measuring device is all that is required, although the State Engineer may require a recorder in some instances. Mr. Bentrup said that this concluded the report of the Operations Committee. A motion was made by Mr. Smrha and seconded by Mr. Jenkins to accept and approve the Operations Committee report. The motion passed. Mr. Bentrup then asked if the report on measuring devices should be approved by the Administration before it is submitted to the State Engineer, and after some discussion it was determined that the report could be submitted directly to the State Engineer.

Mr. Green said he had no report to make for the Legal Committee.

Mr. Smrha said he had no report to make for the Engineering Committee.

Mr. Sparks said that he would have to leave the meeting early, and at this time he would like to introduce into the minutes a letter from the Corps of Engineers reflecting their attitude toward a permanent pool. He said that he thought no action was necessary, but that it should be on record. The letter follows:

U. S. ARMY ENGINEER DISTRICT, ALBUQUERQUE
CORPS OF ENGINEERS
P. O. Box 1538
ALBUQUERQUE, NEW MEXICO

SWKGW

7 AUG 1959

SUBJECT: Permanent Pool at John Martin Reservoir, Colorado

TO: Mr. Felix L. Sparks
Director
Colorado Water Conservation Board
212 State Office Building
Denver 2, Colorado

Dear Mr. Sparks:

Knowing of your interest in a permanent pool at John Martin Reservoir, this is to advise you that the Chief of Engineers would be agreeable to maintaining a permanent pool subject to the following conditions:

a. That the Arkansas River Compact Administration or other responsible authorities take the initiative in establishing the storage capacity and requesting such operation.

b. That the Arkansas River Compact Administration, or other appropriate responsible local agency, furnish assurances that they have the necessary water rights to permit such operation, and will hold and save the United States free of any claims arising from this method of operation.

c. If the necessary storage for the permanent pool is taken from the flood control storage rather than the conservation storage, additional Congressional authorization will be required.

The Chief of Engineers, if required to furnish comments to higher authority on proposed legislation, will not object to legislation which would provide for the use of a small amount of flood control storage for conservation purposes.

In order that other interested organizations may be advised of the policy of the Chief of Engineers regarding this matter, copies of this letter are being furnished to the Federal, State, and local organizations shown on the inclosed list.

Sincerely yours,

/s/ Albert L. Reed
ALBERT L. REED
Colonel, CE
District Engineer

Incl
List of Organizations

List of organizations furnished copies of letter from the District Engineer, Albuquerque District, Albuquerque, New Mexico, to Mr. Felix L. Sparks, Director, Colorado Water Conservation Board, Denver, Colorado, dated 7 August 1959

Regional Director
Fish and Wildlife Service
P. O. Box 1306
Albuquerque, New Mexico

Regional Director
National Park Service
P. O. Box 1728
Santa Fe, New Mexico

Mr. Thomas L. Kimball
Executive Director
Department of Game and Fish
State of Colorado
Denver 1, Colorado

Mr. Hackett Smartt
Secretary-Treasurer
Arkansas River Compact
Administration
Court House
Lamar, Colorado

Mr. Robert L. Smith
Executive Secretary
Kansas Water Resources Board
State Office Building
Topeka, Kansas

Secretary
Arkansas Valley Ditch Association
Pueblo, Colorado

Mr. G. E. Kimble
Secretary-Treasurer
Southeastern Colorado Recreation
Association
P. O. Box 402
Swink, Colorado

Loveland Wildlife Association
Loveland, Colorado

Mr. G. E. Kimble
Vice President
Colorado Wildlife Federation
P. O. Box 402
Swink, Colorado

The Denver Post
Denver, Colorado

The Lamar Daily News
Lamar, Colorado

Mr. Earl Ashbury
Editor
Bent County Democrat
Las Animas, Colorado

Mr. Sparks also said that Colorado is preparing legislation for the next Session of Congress to authorize invasion of the flood control pool by the recreation pool. Mr. Paulsen asked if it would be necessary to submit companion bills to the State Legislature, and Mr. Sparks replied that he didn't think it was necessary, since there will be no invasion of the irrigation pool and the permanent pool will be placed on top of the irrigation pool. Mr. Paulsen then inquired if both states would not have to agree on the legislation, and Mr. Sparks said that as soon as proposed legislation is completed, it will be sent to Kansas and the other States in the Arkansas River basin for their comments.

Mr. Wade asked permission to make a few remarks regarding the permanent pool before the Administration recessed for lunch. He referred to the letter of the Corps of Engineers, and said that he did not think that Congress had legal authority to establish a permanent pool. He then said that opponents to the permanent pool had been shown recently, when the reservoir went dry, that there were tons of fish in the reservoir. It is the objective of proponents of a permanent pool to prepare an operation plan and submit it to the Administration. It is possible that the next session of the Legislature will be requested to authorize renegotiation of the Compact. He said that it is a complex problem, but the engineering and operating differences will be worked out, and no part of the conservation pool will be depleted. Mr. Paulsen said that at the Compact negotiations a permanent pool was considered and dismissed, and Mr. Wade replied that during the negotiations the Fish and Wildlife Service had requested 10,000 acre feet of space and withdrew the request after the head of the Colorado Game and Fish Department, at that time, indicated that there was not sufficient support or interest in such a request. It was considered not a beneficial use, and no recreation intent was apparent at the time of the Compact negotiations. Mr. Jenkins read from the eighth meeting of the negotiations where the intent of the Compact does not preclude other uses of the reservoir. The Compact allocates water to the State and the use is a matter of that State. He said he read this to bring out the thinking behind the Compact. Mr. Bentrup said that in the final minutes of the Commission it was agreed that no place be left for a permanent pool. Mr. Sparks said that the thinking had been influenced by the fact that a drought period had just ended, and it would have meant invading the conservation pool. The Corps had no authority to consider any other use. Mr. Jenkins said the first draft of the Compact stated that the conservation pool was "for irrigation". Mr. Bentrup asked if Mr. Jenkins thought the Corps have a right to establish a permanent pool, and Mr. Jenkins replied that at a recent meeting in Lamar, Judge Chenoweth said that it did not. Mr. Wade said he agreed with Mr. Jenkins. Mr. Sparks said that the Corps has control of their space and the Administration has no authority for use of it. It is not a problem involving the Compact Commission. Mr. Paulsen said that in his opinion when a permanent pool has been approved by Congress, the Compact will have to be changed to determine when the reservoir will be declared empty. A discussion of the declaration of an empty pool ensued, and Mr. Sparks read the portion of the Compact which referred to when the water of the "conservation pool" is exhausted. After more discussion on use of the capacity table in operating the reservoir, a recess for lunch was called.

Afternoon Session

Chairman Paulsen reconvened the meeting at 2:00 P. M.

The annual report was discussed and assignments made for completion of each section.

Mr. Smrha moved that the books be audited as in previous years. Mr. Smartt seconded the motion and it was passed by vote of the states.

Mr. Bentrup's motion, seconded by Mr. Smrha, that the Lamar gaging station be recognized as a Compact station starting November 1, 1959 was passed by vote of the states.

Mr. Paulsen noted that the Annual Meeting of the Administration should be scheduled for December 8, 1959, and upon hearing no objection so scheduled it.

Mr. Smartt asked if there was any opposition to handling the typing and mileage expenses as in the past. There were no objections.

Mr. John Martin was asked if he wished to make any remarks for the Corps of Engineers, and he said he had no remarks at this time. Mr. Paulsen told him that the Administration appreciated the fine cooperation of the Corps of Engineers.

Mr. Tripp was asked for remarks of the U. S. Geological Survey, and he said that materials had been ordered for the two cableways, but since there is a steel strike, there will probably be some delay. Mr. Paulsen said that he also wished to express the appreciation of the Administration for the fine cooperation of the U. S. Geological Survey.

Mr. Jenkins said that he noticed that eight copies of the Records of the Compact Administration had been printed and wondered where they were. It was determined that one copy is kept in the Administration offices and is available for reference. It was also suggested that the minutes of the earlier meetings may reveal the distribution made of the printed records.

Mr. Smrha's motion to adjourn was seconded by Mr. Green. The motion passed, and the meeting adjourned at 3:00 P. M.