

# ARKANSAS RIVER COMPACT ADMINISTRATION

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For Colorado

Rod Kuharich, Denver  
James G. Rogers, Lamar  
Thomas R. Pointon, Las Animas

Chairman and Federal Representative

Robin Jennison  
Healy, Kansas

For Kansas

David L. Pope, Topeka  
David A. Brenn, Garden City  
Randy Hayzlett, Lakin

December 1, 2003

Mr. James Rogers, Chairman  
Mr. David Brenn, Member  
Mr. Robin Jennison, Ex-officio Member  
Operations Committee  
Arkansas River Compact Administration

Re: CY 2003 Summary/ Assistant Operations Secretary

Gentlemen,

This letter report is to provide you with a review of the status of operational concerns for CY 2003 from the perspective of the Assistant Operations Secretary (AOS). This particular report will focus on two areas: river conditions and operational & accounting concerns.

## River Conditions

Drought impacted the basin again in CY2003. Kansas had a limited water supply in the Kansas Section II Account and a dry river system below John Martin Reservoir (JMR). On July 15<sup>th</sup>, when irrigation demand was coming on strong, there were 4,894 AF<sup>1</sup> in the Kansas Section II Account according to the Operations Secretary's accounting using the John Martin (Reservoir) Accounting System computer software<sup>2</sup> (JMAS) and river conditions were similar to, if not worse than, those present in CY 2002. As a result, the Kansas irrigation ditches decided not to call for any water from JMR at that time. This decision was based in part on the losses suffered by deliveries of Kansas Section II Account water in CY 2002. Our office continued to monitor the river for more favorable conditions; however, river conditions did not improve.

There was also Offset Account water available to Kansas on July 15<sup>th</sup>, 11,771 AF according to the Operations Secretary's accounting using JMAS<sup>2</sup>. Offset Account water is delivered on top of antecedent flow at the stateline and pays for its own transit loss. Kansas decided not to call for this water unless river conditions improved. The Kansas decision not to call for Offset Account water was based in part on the losses suffered by Offset Account water deliveries in CY 2002. In addition

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<sup>1</sup> This value is in dispute.

<sup>2</sup> Kansas has concerns with the account balances as shown in the Colorado JMAS and reference to any JMAS account balance in this document does not represent concurrence with that particular account balance.

to the losses suffered during delivery of the Offset Account water, Colorado also claimed credits that exceeded actual stateline deliveries.

The States have exchanged letters concerning the accounting of Offset Account water and CY 2003 delivery conditions for Kansas Section II. These letters are: from David Pope to Hal Simpson dated August 20<sup>th</sup> and from Hal Simpson to David Pope dated October 17<sup>th</sup>. Copies of these letters are attached.

## **Operational & Accounting Concerns**

There have been approximately twenty-five (25) operational issues identified by the Operations and Assistant Operations Secretaries. For this report, I will focus on: the water issues matrix, the winter water split, CY 2002 deliveries, pass-through accounting, communications between State staffs, and Kansas Section II deliveries.

Water Issues Matrix: The result of many discussions on operational and accounting concerns is the water issues matrix, or as it was further developed at ARCA's Special Meeting, May 10, 2002, the Joint Work Product of JMR Accounting Issues. This is a dynamic document that is being used as a working tool to further discussions of these operational and accounting concerns.

The Operations Committee at their May 2003 meeting, asked that the issues be placed into the following categories: legal, policy and/or technical. To fulfill this assignment, Kevin Salter met with Colorado Division II staff on June 25<sup>th</sup> and August 7<sup>th</sup>, and David Anderson and Kevin Salter met with Colorado Division II staff on October 23<sup>rd</sup> & 24<sup>th</sup> and November 20<sup>th</sup> & 21<sup>st</sup>. There have also been various additional communications between the two offices as a result of these meetings. The issues were categorized during the October meeting. The issues have been renumbered, regrouped and retitled as the attached Categorization of JMR Accounting Issues, dated October 24, 2003. None of the issues were ultimately categorized as purely technical. I have referred to those issues by number in the headings below where appropriate. In the process of categorizing the issues on the Categorization of JMR Accounting Issues, a couple of new issues were identified and included on this matrix (Issues numbers 32, 66 and 67).

Split of winter water (Issues 21 and 22): Kansas continues to have concerns about how the water is split between Compact conservation storage and the Pueblo Winter Water Storage Program (PWWSP). The Operations Secretary should limit credits of PWWSP water to the lessor of the water that is physically available or was historically diverted at the respective headgates. We appreciate the Operations Secretary providing the split ratios in his report for CY 2002 and request that this reporting continue, however this split should be determined in consultation with Kansas.

CY 2002 Delivery (Issues 30 and 31): The Colorado Division II Engineer and the Kansas Water Commissioner agreed that there was a delivery deficit in the Kansas Section II in CY 2002 but could not agree on the amount. The Colorado Division II Engineer, as Operations Secretary, unilaterally determined a delivery deficit (676 AF) and placed that amount in the Transit Loss Account. The delivery deficit as determined by the Kansas Water Commissioner was 4,375 AF and this water should have been replenished to the Kansas Section II Account, not the Transit Loss Account. A

letter from Mr. Salter to Mr. Witte dated August 26, 2003, providing more detail on this subject is attached.

Pass-through Accounting (Issue 41): The Operations Secretary asked that the Assistant Operations Secretary provide pass-through accounting for CY 2003 so he could include it in the Operations Secretary report. This accounting was provided to the Operations Secretary based on information from JMAS and the Corps of Engineers. Kansas has been concerned that water that should be passed through the reservoir is not being passed through in a timely manner. The use of a “admin (status) account” is not permitted by the 1980 Operating Plan. The rate of release to the river downstream should equal the rate of inflow to the reservoir.

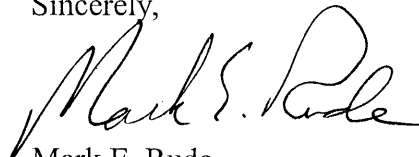
Communication between State staffs: Before the October meeting, the Operations Committee asked that operational events be identified throughout the year and an appropriate level of communication for each event be assigned. In response to their request, the attached tables entitled Event Dates within Compact Year and Events within Compact Year were jointly developed and distributed to the Operations Committee on November 13<sup>th</sup>. The intent of the Operations Committee is to initiate a communication process that will identify and resolve problems. For example, there should be communication between the States before, during, and after delivery of Kansas Section II Account water: The staffs should discuss river conditions and related issues before the release is made from JMR; During the release, the staffs should stay in contact to determine how the release is progressing; After the release, the staffs should review the results of the release at the stateline. It was determined that a mid-summer meeting of the Operations Committee would be helpful.

Kansas Section II Account deliveries (Issues 30, 31 and 32): The staffs will work jointly to develop a method or procedure that can be used to identify and quantify any Kansas Section II Account delivery deficits. The staffs have jointly set a deadline of achieving this goal by April 1, 2004. Once this has been achieved the next two issues to be addressed are: (1) identification of the account to which deficit make up water should be delivered, and (2) how the Transit Loss Account should be operated.

## Summary

As is apparent from the foregoing discussion, essentially all of the significant issues dividing the States remain to be resolved. We will continue to work diligently to resolve these issues. I appreciate the Operations Committee’s interest in working to resolve the issues of dispute and to facilitate communication.

Sincerely,



Mark E. Rude,  
Assistant Operations Secretary

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FILE COPY

# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

August 20, 2003

Hal Simpson  
State Engineer  
Colorado Division of Water Resources  
1313 Sherman Street, Room 818  
Denver, CO 80203

**RECEIVED**  
KS Dept. of Agriculture

AUG 22 2003

RE: Kansas CY 2003 Delivery Options

Garden City Field Office  
Division of Water Resources

Dear Hal:

The Colorado Division II staff has asked if Kansas was going to call for water this year. They were told that under the current conditions Kansas would not likely be calling for water. We have been reviewing river conditions and options for utilizing our water stored in John Martin Reservoir during this irrigation season. Under prevailing river conditions most of this summer, it appears a delivery to the state line would be difficult and losses would be significant.

We have considered calling for water from the Offset Account. However, in reviewing a CY2002 Offset account delivery (April 10 to April 19, 2002), we calculated a transit loss of 46%(1610 AF) during this delivery that was relatively early in the season with antecedent flow above 60 cfs. Using this past delivery as a basis of comparison and with a current antecedent flow under 30 cfs, it is doubtful that more than 50% of any Offset Account water released would be delivered to the stateline.

In a letter dated April 22, 2002 from Steve Witte, as well as in your report to the Compact Administration, Colorado used a calculated transit loss of 22.47% for this same Offset Account release. We do not believe this is reflective of the actual transit losses suffered. This illustrates a significant problem in accounting for and crediting of Offset Account deliveries.

In summary, Kansas has concluded that it may not be practical, or very efficient, to call for account water during current river conditions and given the uncertainty of reservoir releases being delivered to the Stateline. Although we could call for water available to Kansas in the Offset Account to help mitigate well depletions of Stateline flows, current proposals by Colorado for accounting and crediting of that delivery create disincentives for use of that account by the State

Division of Water Resources David L. Pope, Chief Engineer

109 SW 9th ST., 2nd Floor Topeka, KS 66612-1283

Voice (785) 296-3717

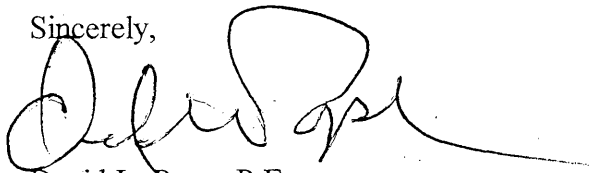
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Hal Simpson  
Page 2  
August 20, 2003

of Kansas. Because of the unfavorable river conditions and continued accounting challenges, Kansas has determined that it would most likely be better to wait for more favorable conditions before release of either Section II or Offset Account Water.

Sincerely,



David L. Pope, P.E.  
Chief Engineer

DLP/ks/dlm

c: Steve Witte, Operations Secretary  
Mark Rude, Assistant Operations Secretary

**RECEIVED**  
KS Dept. of Agriculture

AUG 22 2003

Garden City Field Office  
Division of Water Resources

# STATE OF COLORADO

## OFFICE OF THE STATE ENGINEER

Division of Water Resources  
Department of Natural Resources

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Bill Owens  
Governor

Greg E. Walcher  
Executive Director

Hal D. Simpson, P.E.  
State Engineer

October 17, 2003

Mr. David L. Pope  
Kansas Chief Engineer  
Kansas Board of Agriculture  
901 S. Kansas Avenue, 2nd Floor  
Topeka, KS 66612-1283

### RE: Kansas CY 2003 Delivery Options

Dear Mr. Pope:

We reviewed your August 20, 2003 letter regarding Kansas' decision to not call for any stored water in 2003 and wanted to reply to some of your concerns about computation of transit losses on Offset Account deliveries.

Your August 20, 2003 letter stated that you computed a transit loss of 46% (1,610 acre-feet) during an Offset Account delivery called for from April 10 through April 19, 2002 (release rate 200 cfs; total volume released 3,479.55 acre-feet). You stated also that the antecedent flow was 60 cfs, and that based on the analysis that with a current antecedent flow under 30 cfs, it is doubtful that more than 50% of any Offset Account water released would be delivered to the state line.

Additionally, you reference the April 22, 2002 letter from Steve Witte incorporated in the report to the Compact Administration and indicate that the transit loss computed in accordance with the Resolution Concerning an Offset Account in John Martin Reservoir for Colorado Pumping as Amended March 30, 1998 (Offset Account Resolution) was 22.47% and indicate that you believe this illustrates a significant problem in accounting for and crediting of Offset Account deliveries.

Finally, you state in summary that Kansas has concluded that it may not be practical, or very efficient, to call for account water under current river conditions and that current proposals by Colorado for accounting and crediting of that delivery create disincentives for use of that account (Offset Account) by the State of Kansas.

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KS Dept. of Agriculture

OCT 27 2003

Garden City Field Office  
Division of Water Resources

I would first like to address the computation of transit loss and antecedent flow conditions that you describe in the second paragraph of your letter. The release of Offset Account water was initiated while conservation storage was still being distributed into accounts (April 1 thru April 12, 2002) and Colorado ditches were calling for very little account water. Although the antecedent flow at the state line was approximately 60 cfs at the start of the delivery, the antecedent flow at key locations along the river was significantly lower (gage below JMR was 16 cfs, at Lamar was 7 cfs, and at Granada was 13 cfs). The Offset Account release represented over 80% of the water released from John Martin Reservoir for the first four to five days of the run. The procedure for computing the transit loss utilizing the USGS Water Resources Investigations 78-75 (September 1978) [herein after the "Livingston Formula"] is described on pages 17 through 23 of that report and those pages are included as Enclosure 1. Since you did not provide any details on how you computed transit losses of 46%, it is difficult to determine if you followed a procedure consistent with the guidelines in the USGS report. We do not believe that transit losses were 46%.

It is important to point out, however, that a significant portion of the water in the Offset Account at the time of the delivery represented either return flow or return flow transit loss water. This includes not only the 801.57 acre-feet designated at the time of the release, but also the unevaporated portions of the amounts of return flow/return flow transit loss water booked over to the Kansas consumable subaccount from the return flow/return flow transit loss subaccount on a monthly basis from July 2001 (after the last Kansas release) through March of 2002, estimated to be an additional 350 acre-feet. The return flow transit loss water stored in the Offset Account is the amount estimated to be necessary to deliver the return flows to their historic river reach based on the historic monthly schedule of return flows and is not intended to be sufficient to deliver the return flows to the state line under higher transit loss conditions.

We believe our computation of Offset Account release credit is consistent with paragraphs 8 and 9 of the Offset Account Resolution. However, paragraph 3 of the Stipulation Re Offset Account provides that the states agree to cooperate with each other, the Compact Administration, and the U.S. Geological Survey to improve the method of determining transit losses between John Martin Dam and the state line, and we are open to any suggestions you might have for attempting to calibrate the Livingston formula for the reaches below John Martin Dam for the potential range of delivery conditions under which Kansas may choose to release water from the Offset Account.

Although I recognize that the State of Kansas has discretion as to when to demand delivery of Offset Account or Section II account water for western Kansas farmers, it seems unfortunate that the result of this decision has been to suffer evaporation losses from the Offset Account since the last Kansas delivery in July.

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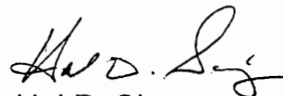


David L. Pope  
October 6, 2003

Page 3

of 2002 of more than 6,200 acre-feet and evaporation losses from the Kansas Section II and Transit Loss accounts totaling more than 2,700 acre-feet. If there are areas of discussion regarding the computation of Offset Account transit loss or accounting of Offset deliveries that you wish to pursue, please feel free to let us know.

Sincerely,

  
Hal D. Simpson  
State Engineer

Enclosure

cc: Kevin Salter  
John Draper  
Dale Book  
Dennis Montgomery  
Steve Sims  
Steve Witte  
Dale Straw  
Bill Tyner

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KS Dept. of Agriculture

OCT 27 2003

Garden City Field Office  
Division of Water Resources

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## Categorization of JMR Accounting Issues

Issue Number	Issue	L <sup>1</sup>	P <sup>2</sup>	T <sup>3</sup>	KS Staff position	CO Staff Position	KS Staff Comment	CO Staff Comment	Operations Committee or other general Comment(s)
10	<p><b>Permanent Pool evaporation charges calculated by pro rata volume vs. incremental area</b></p> <p><i>See Supplement A</i></p> <p>– Language of the 1980 Operating Plan and the 1976 Resolution establishing the Permanent Pool</p>		Policy		Evaporation should be pro rata by volume on all accounts. The permanent pool is recognized as an account in the 1980 Operating Plan.	Agreed that pro rata by volume is fairest and simplest method, but need to clear up inconsistent provisions between 1980 Plan and 1976 resolution authorizing permanent pool and containing specific perm pool Operating Criteria	The Permanent Pool is a recognized account in the 1980 Operating Plan. As such, the 1980 Operating Plan does include the permanent pool in the pro rata by volume evaporation method. In review of documents related to the development of the 1980 Operating Plan, it would seem that the Permanent Pool was to be charged evaporation on a volume basis. The reference to the 1976 Resolution was to show that charging the Permanent Pool evaporation was nothing new.	Propose to resolve inconsistency by new resolution modifying the Operating Criteria attached to the 1976 resolution and superceding the provision as to evaporation calculation and authorizing at same time a new source of evaporation replacement water for the perm pool based on consumptive use water from transfer of existing Colorado irrigation rights. “stand its pro rata share on the same basis as with all other accounts.”	<p>Recommend continued use of pro rata by volume for CY2002.</p> <p>Recommend that ARCA assign the Engineering Committee to consider other sources of Permanent Pool water and other ways to resolve the issue. The Engineering Committee should make a recommendation to ARCA in December. – ARCA formally adopted this as a resolution on 10 May 2002.</p>
12	<b>Consideration of new sources of permanent pool.</b>		Policy						See Issue 10 above.
20	<b>Winter Water Account of convenience</b>		Policy		See letter dated 21 October 2003 from Kevin Salter				

Categorization of JMR Accounting Issues

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21	Timely distribution of Section III storage charge during Pueblo Winter Water Storage Program (PWWSP)		Policy		All Section III water delivered to JMR must be assessed the 35% charge at the time of delivery. There is no authority to store PWWSP water in JMR except in one of the three Section III accounts. There is no provision to spill unauthorized accounts.	Understands Kansas concerns with delay of 35% of PWWSP inflows to the transit loss account, but account is necessary to perform accounting and reconciliation of PWWSP inflows on March 15 <sup>th</sup> prior to allocating water to individual accounts.  Section II (E) 1 & 5 with KS calls	Restore any 35% charge water incorrectly reported as spilled in prior years, and operate accounts as required. Any amendments necessary to assist participants in the operation of the PWWSP can be considered when properly presented to the administration.	Amend 1980 Operating Plan to allow continued existence of Winter Water Account subject to provisions that:  1) In the event of a spill, distribution into Section III shall be made pursuant to terms of Section III (D).  2) Kansas may call for distribution in order to call for a release of water from Kansas Section II account if prior to such distribution of the content of Kansas Section II Account is less than 5,000 acre feet.  Colorado has drafted language for a separate resolution.	Colorado has proposed a resolution and Kansas has expressed concerns over language. Colorado would appreciate a response from Kansas or other suggested solution. (10 May 2002)  Kevin Salter responded to the Colorado proposal by letter dated 21 October 2003

### Categorization of JMR Accounting Issues

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22	<b>Criteria for determining Section III storage under the Pueblo Winter Water Storage Program (PWWSP)</b>	Legal 1 <sup>st</sup>		Technical 2 <sup>nd</sup>	The criteria used by Colorado fails to adhere to what was established under the 1980 Operating Plan in that <i>other water</i> under Section III.		ARCA should establish criteria for determining the water available for Section III storage in JMR to protect inflows to conservation storage. Water delivered to JMR under the PWWSP should meet those criteria.	Colorado feels that any consideration of changes is prevented during the pendency of the lawsuit, thus cannot be resolved.	The Operation Secretary and the Assistant Operation Secretary should continue to work on this issue. (10 May 2002)
23	<b>Reporting of Winter Water vs. Winter Compact storage split calculation</b>  <i>Resolved</i>	Resolved				Although it is not called for by the 1980 Operating Plan, the request is reasonable.		The Operation Secretary has committed to provide to ARCA the split ratios, how those were determined, and the basis for any adjustments to the split through the season.	Resolved: The Operation Secretary has agreed to provide the method and the data used to determine the split between winter water storage and conservation storage.
30	<b>Determination of transit loss under Section II(E)(4)</b>		Policy*	Technical	Criteria for determining transit loss for Kansas Section II deliveries are needed, and should include timeliness of delivery.		Some base criteria are needed to address the timing of the measurements of Kansas Section II account releases. *Kansas concurs that there is a potential impediment to resolving this issue on how this is applied retroactively.	*Colorado believes that there is a <i>Policy</i> issue in how any criteria developed is applied retroactively. This is a potential impediment to resolving this issue.	The Operation Secretary and the Assistant Operation Secretary should continue to work on this issue. (10 May 2002)

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31	<b>Sections II (E)(4) and III (D) are unclear as to where transfers to make up deficits should be made</b>		Policy		Deficits of Kansas Section II deliveries due transit loss shortage should be replenished to the Kansas Section II account.	Section III D states: "First transfers from deliveries shall make up any deficits, if any, <u>in the Kansas Transit Loss account...</u> " (emphasis added)	Deficit to be restored to Kansas Section II account as soon as additional water becomes available in transit loss account. Kansas to propose clarifying resolution	Deficit to be restored to Kansas transit loss account as soon as additional water becomes available in transit loss account. Kansas to propose clarifying resolution.	Kansas to work on this issue.  Kevin Salter letter of 26 August 2003
32*	<b>How should transit loss account be used?</b>		Policy			Based on the interpretation proposed by Kevin Salter's letter (21 October 2003), there is a question of whether the transit loss releases are a front or back side operation.			*Issue added 24 October 2003 at meeting between staffs.
40	<b>Exchange of daily reservoir status accounting</b>  <i>Resolved</i>		Resolved		Daily determinations of the difference between accounts and physical measurements at the reservoir are an integral part of the daily accounting.	Daily determinations of the difference between accounts and physical measurements at the reservoir are an integral part of the daily accounting.	The Operations and Assistant Operations Secretaries should continue to exchange data.	The Operations and Assistant Operations Secretaries should continue to exchange data.	Resolved
41	<b>Non-reporting of Section II(C)(1) determinations</b>		Policy		Need daily accounting of non account water for compliance with this Section of the 1980 Operating Plan.		All data and data interpretations related to JMR operations should be reported in annual reports.		Kansas will work on analyzing the accuracy of the amount of water passing through the reservoir under this section.

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42	<b>Summer season interruption of transfers from conservation storage to accounts</b>		Policy – probably ought to make amendments for clarification		Summer conservation storage releases should not be interrupted once those releases begin. The 1980 Operating Plan does not provide for an interruption of conservation storage releases. Section II accounts have a standing call for releases from summer conservation storage.	Interruption is an application of the 1980 Operating Plan provision that releases into accounts shall be delayed until 1 <sup>st</sup> call for Section II or 48 hours after commencement of storage event. See Section II B (3). This reflects recognition that drafts on the conservation pool may have typically been deferred by up to two days by rainfall events resulting in storage, thus deferring implementation of Compact Article V F.	The 1980 Operating Plan implements Article V of the Compact. Continue all releases of summer conservation storage to accounts uninterrupted.	Operations Committee should direct the Operations Secretary to continue the present practice, or recommend amendment of the last sentence of Section II B (3) of the 1980 Operating Plan to read: “Releases of conservation storage shall be initiated or resumed into the accounts...”	Unresolved

### Categorization of JMR Accounting Issues

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43	<b>Winter storage period interruption of transfers from summer conservation storage to accounts</b>		Policy – probably ought to make amendments for clarification		Summer conservation storage releases should not be discontinued on November 1 <sup>st</sup> . The 1980 Operating Plan does not provide for an interruption of conservation storage releases. Section II accounts have a standing call for releases from summer conservation storage.	To keep consistency with Article V A, of the Compact, all water entering JMR during the winter season must be stored and no releases made from conservation pool.	The 1980 Operating Plan implements Article V of the Compact. Continue all releases of summer conservation storage to accounts uninterrupted.	Operations Committee should direct the Operations Secretary to continue the present practice. Discontinue releases from conservation storage on November 1 <sup>st</sup> as operationally equivalent to the Compact requirement for discontinuing conservation pool releases. Or, amend 1980 Operating Plan to add new Section II D (4): “In the event that any conservation storage has not been released into accounts as of November 1 <sup>st</sup> of any year, further release shall be suspended until such release is provided for according to Section II A herein.	Unresolved



### Categorization of JMR Accounting Issues

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50	<b>Commencement of a spill event</b>		Policy		The language places the event on the physical operation of the projects control structure and not on the elevation of the water surface or some other trigger. Colorado's timing of spill accounting is not suggested in the governing language.	Contrary to express language of 1980 Operating Plan, water does not "spill physically over the project's spillway" during flood operations. Flood releases are normally made through the outlet works.	Rely on the physical operations of the project control structure to govern the loss of account water. No change to the language is required, unless clarifying language is desired.	Kansas' position ignores Corps of Engineers exclusive authority to determine flood control releases when JMR surface elevation rises into flood pool space.	Unresolved
51	<b>Spilling accounts</b>		Policy		The accounting practices should not change during a spill event. Accounts are adjusted as dictated by the physical operation of the dam. A <i>flood pool</i> account in the flood control space is not authorized by the 1980 Operating Plan and creates evaporation charge conflicts.	Accounting based on JMR inflows is used at all other times and has been demonstrated to produce identical results as outflow based accounting.	Use the normal accounting methods during spills that occurs at all other times. This also eliminates the issue of how to handle evaporation during a spill event. Tracking the extent that water invades the flood control storage space prior to release by the Army Corps of Engineers is useful.	Use inflow based accounting at all times	Unresolved

Categorization of JMR Accounting Issues

Issue Number	Issue	L <sup>1</sup>	P <sup>2</sup>	T <sup>3</sup>	KS Staff position	CO Staff Position	KS Staff Comment	CO Staff Comment	Operations Committee or other general Comment(s)
52	Upstream storage during JMR spill events	Legal			Upstream storage is not in priority until Section II accounts is completely spilled.	1980 Operating Plan not intended to address issues other than JMR conservation pool operations and therefore provides no guidance on upstream storage when JMR spilling	Discontinue the practice until authorized by resolution of ARCA.	Compact not intended to impair use of water by either state if no material depletion to useable stateline flows results. Apportioning water during flood operations may be a Compact issue for negotiation by ARCA, but is clearly not a 1980 Operating Plan issue to be determined by the Operations Committee. See earlier exchange of letters between Mr. Simpson and Mr. Pope on this issue.	Unresolved
53	Adjusted JMR inflows during times of spill		Policy*		The 1980 Operating Plan does not provide for these adjustments. *Only can be resolved if 52 is resolved		Discontinue the practice until authorized by resolution of ARCA.		Unresolved

### Categorization of JMR Accounting Issues

Issue Number	Issue	L <sup>1</sup>	P <sup>2</sup>	T <sup>3</sup>	KS Staff position	CO Staff Position	KS Staff Comment	CO Staff Comment	Operations Committee or other general Comment(s)
54	<b>Section II spill volume during summer storage season</b>  <i>See Illustration</i>		Policy		The condition of Summer conservation storage releasing into accounts during a summer spill event has occurred, but is not specifically addressed by the 1980 Operating Plan. The issue concerns the ratio of spill from Section II accounts. This needs clarifying language.	<i>"The amount of spill from the accounts should be amongst them according to the amounts in them at the beginning of spill."</i> Colorado believes this language of Section II (G) properly addresses this issue.	Language to clarify the accounting under this condition if spill should occur.  Steve Witte suggests that language would limit Section II spill to the volume in the Section II accounts at the beginning of spill.		Not discussed during May 9 <sup>th</sup> Meeting of Operations Committee
60	<b>Section II(C)(2) compliance</b>  <b>(Agreement B)</b>	Legal			District 67 priority calls under pre-JMR conditions are to occur when conservation storage is exhausted into accounts. Colorado does not comply with this requirement of the 1980 Operating Plan.	Agreement B is a separate document, not part of the 1980 Operating Plan, whereby Colorado water right owners agreed to subordinate certain aspects of their entitlement to enforce the priority of their water rights and is entirely consistent with administration of the priority system in Colorado. This issue is not properly before the Operations Comm..	Operate according to the 1980 Operating Plan as written or propose changes to the plan for consideration by the administration.	Agreement B is necessary to maintain the respective benefits of JMR between Colorado water rights above and below JMR granted under the Compact. It is not inconsistent with either the Compact, the 1980 Operating Plan, or administration by Colorado of its priority system.	No further progress can be made at this time.

### Categorization of JMR Accounting Issues

Issue Number	Issue	L <sup>1</sup>	P <sup>2</sup>	T <sup>3</sup>	KS Staff position	CO Staff Position	KS Staff Comment	CO Staff Comment	Operations Committee or other general Comment(s)
61	<b>Retroactive adjustments of accounting for prior years if accounting methods are revised</b>		Policy		To the degree that the issues can be resolved, they should be. Some weight should be given to the deep spill that occurred in 1997, which would have made any water equities mute.	If new procedures are adopted they should be only applied to future years, there should be no corrected accounting for prior years, certainly not prior to 1999!	The 1980 Operating Plan has a method to provide restitution that should be followed, and applied retroactively. (See Section V)		Not ripe for consideration at this time.
62	<b>OS Report status for 1994 through 2004</b>		Policy		There are several significant accounting issues that are preventing the Operations Secretary's reports mentioned from being adopted.		Since the 1994 and 1996 OS reports were presented, additional accounting issues have been discovered. These would include 1994 and 1996, as well as the other years mentioned. Until these issues are resolved it is difficult to act on the submitted reports.	For 1994 and 1996, the Operations Committee should find that ARCA's requirement for footnotes on tables regarding Stateline deliveries have been met and therefore these reports have been approved by ARCA.	Work in progress (10 May 2002)
63	<b>Status of Assistant Operations Secretary Reports: 1998, 1999, 2000, 2001 &amp; 2002</b>		Policy						Determination of what records of the AOS are on file, are they final copies.

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64	<b>Assistant Operations Secretary Reports: purpose and timeliness</b>  <b>(A bylaw issue)</b>		Policy		Assistant Operations Secretary's reports have served to highlight certain operations and accounting issues for the compact year. Some issues may not be evident until a draft or final Operations Secretary report is circulated.	Colorado recognizes that the Assistant Operation Secretary should have a forum for dissent, but doesn't like receiving the report at the 11 <sup>th</sup> hour. Each of the reports submitted to date should be reviewed by ARCA and acted on.	No need to require an AOS report.	Colorado would like the Assistant Operations Secretary to provide report on the same time schedule as the Operations Secretary. Colorado further suggests that ARCA may want to either consider moving the Annual Meeting to later in the Winter, or deferring action on the OS Report until a subsequent meeting.	
65	<b>Consider Moving Date of Annual Meetings to January or February</b>		Policy						Leave meeting date as is, but look at an earlier exchange of data. (10 May 2002)
66*	<b>Need for definite process for introducing and resolving operational issues.</b>		Policy						*Issue added 24 October 2003 at meeting between staffs.

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67*	When issues are resolved is it in the form of separate resolutions and /or revisions to the 1980 Operating Plan?		Policy					Colorado would like to institutionalize a method that makes changes without revising the 1980 Operating Plan.	*Issue added 24 October 2003 at meeting between staffs.
<i>Issues removed from consideration</i>									
	City of Lamar regulating account  -- this issue is tabled (indefinitely)				The City of Lamar has requested a temporary re-regulation account and ARCA has granted such an account on a fairly regular basis. This is starting to appear as a regular account, to the degree that JMAS has an account built into the software for the City of Lamar.		The City of Lamar should propose an account in JMR to allow for the re-regulation of flows from other releases. Consideration should be given to conditions contained in the original resolution of ARCA.		Still being worked on (10 May 2002).  Kansas will not object to the temporary account for 2002. (10 May 2002)
	Transfer of Account water to Permanent Pool during flood control operations in JMR	Colorado has withdrawn this proposal from consideration. Kansas doesn't object.							

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	Seasonal variations	Nobody remembers what this issue was, and is removed from consideration							

Categorization of JMR Accounting Issues

Supplement A:

1976 Resolution

1980 Operating Plan Language

- II.F. Evaporation charges shall be made against water stored in the accounts, including those established in Section III, herein, and the Kansas transit loss account, using formulas and procedures approved by the Colorado Division Engineer and a representative of the Kansas Division of Water Resources and using, when available, pan evaporation data provided by the Corps of Engineers. The evaporation charges shall be prorated amongst conservation storage and the accounts according to the amounts in them.
- IV. A permanent recreation pool has been authorized by the August 14, 1976, Resolution of the Administration. For purposes of the Resolution, this permanent recreation pool shall be considered a separate account and deliveries made to it are not subject to the transfers provided in Subsection II D. herein. The permanent recreation pool will, however, stand its pro rata share of evaporation as provided in the Administration's Resolution of August 14, 1976.



# Categorization of JMR Accounting Issues

Supplemental A: Language of the 1980 Operating Plan and 1976 Permanent Pool Resolution

Illustration A: Illustrate the 199? Spill, Need a concise way to illustrate the problem

Resolutions:

- Colorado should have a draft resolution on the Winter Water Program account. – May 2002
- Kevin Salter responded to the Colorado draft resolution in October 2003
- Kansas will have a draft resolution on making up deficit transit loss to Kansas Section II Account.
- Kevin Salter has presented an interpretation of the 1980 Operating Plan that may negate the need for a resolution or amendment in August 2003.
- City of Lamar is expected to submit at the May ARCA meeting a resolution for a regulating account in JMR.
- Colorado indicated that this issue has been tabled indefinitely

## Endnotes

<sup>1</sup> *Legal* is defined as an issue that is not resolvable at this time or within ARCA.

<sup>2</sup> *Policy* is defined as an issue that needs to have input or guidance from either the Operation Committee or ARCA

<sup>3</sup> *Technical* is defined as an issue that can be resolved by respective State staffs

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# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

August 26, 2003

Steve Witte  
Operations Secretary  
Arkansas River Compact Administration  
310 E. Abriendo Ave, Ste B  
Pueblo, CO 81006

RE: Delivery Deficits in the Kansas  
Transit Loss Account

Dear Steve:

In our recent meetings, we have discussed which account should be credited if Kansas suffers delivery losses in excess of the quantity available in the Kansas Transit Loss account. Your interpretation of Section III.D., is that any delivery deficits should be made up to the Kansas Transit Loss account. I agree, however, I believe that the water should be immediately transferred from the Transit Loss account to the Kansas Section II account to *replenish* any outstanding delivery deficits.

Section II.E.(4) of the 1980 Operating Plan provides,

"Releases of Kansas account water shall be measured at the Stateline as provided in Compact Article V E (3) allowing appropriate arrival times. If transit losses occur, those losses shall be determined by the Colorado Division Engineer and a representative of the Kansas Division of Water Resources and shall be *replenished* from the Kansas transit loss account. *In the event that such losses at the end of the delivery are greater than the total in the Kansas transit loss account, then the deficit shall be made up from the next available transfers of other water under Subsection III D.*" – *Emphasis added.*

Section III.D. of the 1980 Operating Plan provides,

"Thirty-five percent of all water deliveries to John Martin Reservoir, under Subsections III A, III B, and III C, herein, during any compact year shall be transferred into the accounts for Kansas transit losses, for Kansas, and for Colorado Water District 67 ditches at the time of delivery in the following manner: First, *transfers from deliveries shall make up deficits, if any, in the Kansas transit loss account which result from Subsection II E (4), herein, and shall then also fill the said Kansas transit loss account to the amount of 1,700 acre-feet.*

Then, of all such water delivered in excess of this specified amount, 11 percent of those deliveries shall be transferred to the Kansas account and 24 percent of those deliveries shall be transferred to the account of the Colorado Water District 67 ditches. Transfers into the accounts for Colorado Water District 67 ditches shall be distributed according to the percentages in Subsection II D (3). herein; except the Amity shall not share in distributions of deliveries under Subsection III A, herein.” – *Emphasis added.*

These sections provide that if there is a transit loss (delivery deficit) on a Kansas release, then the extent of those losses are determined and replenished from the Transit Loss account. For example, if the delivery deficit is 600 AF and there is at least 600 AF in the Transit Loss account, then 600 AF is transferred to the Kansas Section II account, thus replenishing that account.

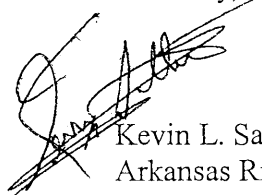
However, if a transit loss occurs that exceeds what is available in the Transit Loss account, then the deficit is to be replenished from the next available water under Section III.D., which in part provides:

*“First, transfers from deliveries shall make up deficits, if any, in the Kansas transit loss account which result from Subsection II E (4), herein, and shall then also fill the said Kansas transit loss account to the amount of 1,700 acre-feet.”* – *Emphasis added*

Under this condition, the Kansas release as physically measured at the stateline resulted in a delivery deficit in an amount that exceeded the water available in the Transit Loss account. The Transit Loss account cannot fully *replenish* the Kansas Section II account. The actual deficit can only be attributable to the Kansas Section II account. Section III.D. is very clear that any deficit is to be made up first. After any deficit is made up, the 35% charge fills the Transit Loss account to 1700 AF. Please note that under this description, there does not exist an amount greater than 1700 AF in this account, because the transfer into and out of the Transit Loss account satisfies the outstanding delivery deficit first. This section even goes on to say that the 35% charge in excess of the 1700 AF is to be allocated between the Colorado and Kansas Section II accounts.

We have discussed the need to look at this language, and possibly propose clarifying language. The current language seems to provide a well defined process to address any delivery deficits that may occur as the result of a Kansas Section II release. Therefore, I do not see any need for clarifying language. Should you have any questions, please feel free to call this office.

Sincerely,



Kevin L. Salter, P.E.  
Arkansas River Team

KLS:kl

pc: Jim Rogers, ARCA Rep  
David Brenn, ARCA Rep

*Event Dates within Compact Year*

Date	Description	Communication between OS and AOS	Communication with Operation Committee	Meeting between staffs	Meeting with Operation Committee
November 1 <sup>st</sup>	Beginning of CY	X			
November 15 <sup>th</sup>	Beginning of PWWSP	X			
November 20 <sup>th</sup> to 25 <sup>th</sup>	Meeting to: -- Rvw past CY -- Look at current CY -- Look at PWWSP for current year			X	
December 1st	OS and AOS Reports to Compact are due	X	X		
Second Tuesday in December	ARCA Annual meeting with Operations Committee meeting the prior day				X
March 15 <sup>th</sup>	End of PWWSP season	X			
April 1 <sup>st</sup>	Earliest that water can be transferred from Conservation Storage	X			
Mid April	Meeting to: -- Rvw of CY operation from Nov 1 <sup>st</sup> to March 31 <sup>st</sup> -- Rvw of potential water supply -- Augmentation plans -- Coordination of calls: offset & section II			X	Optional
Mid-Summer	This meeting would be a regularly scheduled meeting to address outstanding accounting issues and identify emerging issues				X

### *Events within Compact Year*

Event	Communication between States	Communication with Operation Committee	Meeting between staffs	Meeting with Operation Committee
Summer Storage, or not	As needed			
Spill events	As needed			
Before, during and after delivery to Kansas / both Section II & Offset	As needed			
Pass thru questions: temporary retention, City of Lamar, etc.	As needed			
Delivery to permanent pool	As needed			
Exchange to allow storage in Trinidad Reservoir	As needed			
Exchange of gate orders and reservoir status	Daily (workdays)			
Exchange of JMAS data	Daily (workdays)			
High flow conditions and usable flow at stateline	As needed			
Exchange of information on Trinidad Reservoir	Daily (workdays) and monthly			
Advantages / unfavorable river conditions	As needed			

#### *Additional Comments:*

OS recommends Operation Committee meetings should have formalized notes or minutes taken.

OS recommends that there should be a formalized complaint procedure. It was suggested that a standard protocol be developed for complaints: initial concern or complaint may be submitted via email, telephone or by any other means and shall be afforded an in kind response addressing the matter by the counterpart of the other State within a reasonable amount of time. Normally, such concerns or complaints should be raised initially within one week of the occurrence of the event at issue. In any instance where the explanation provided through this informal communication procedure does not satisfactorily resolve the issue the matter may be appealed to the Operations Committee for resolution by affirmatively stating a complaint or request in a written document with detailed documentation of the relevant facts provided to each member of the Operating Committee and the counterpart of the other State, at least one week in advance of any consideration of the matter or action by the Operations Committee.