

**Report of the
Assistant Operations Secretary**

Compact Year 2005

**Submitted to the
Operations Committee**

December 2005

Arkansas River Compact Administration

ARKANSAS RIVER COMPACT ADMINISTRATION

Lamar, Colorado 81052

719-336-9696

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December 7, 2005

Mr. Collin Thompson, Chairman,
Mr. David Brenn, Member, and
Mr. Robin Jennison, Ex-officio Member
Operations Committee, Arkansas River Compact Administration

RE: CY 2005 letter report
Assistance Operations Secretary

Gentlemen:

This report is provided to the Operations Committee (Committee) of the Arkansas River Compact Administration (ARCA) as a review of the operations and operational issues for Compact Year (CY) 2005 from the perspective of the Assistant Operations Secretary (AOS). Discussion occurred in 1994 between staff of the two states regarding growing concern by Kansas over operational and accounting issues in Colorado relating to the ARCA *Resolution Concerning An Operating Plan For John Martin Reservoir* as amended (1980 Agreement), including proposed spill accounting methods.

It may be helpful to the new committee membership to review the operational issues that have been identified and tracked on the multi-page issue table created as a joint work product for discussion purposes. The table has been labeled JMR Accounting issues. The table includes other issues not related to JMR accounting issues and has generally been referred to as the issue matrix. The latest version of the issue matrix has been formatted to fit on letter size pages and is provided for your reference as an attachment to this report.

Settlement negotiations in KS v. CO, that occurred after the CY 2004 ARCA meeting, were successful in resolving disputed litigation issues. This included an agreement on criteria to be used for the measurement of deliveries from the Offset Account at the stateline. That success provides a model for the resolution of issues identified in the issue matrix. In light of the progress and the momentum established between the two states, it is recommend that a similar process be implemented at the level of the Colorado State Engineer and the Kansas Chief Engineer. ARCA must have some role in the adoption of agreements reached; respecting the proper role of ARCA. When agreements are reached between state officials, it is important for officers of the administration not to prematurely implement those agreements. Operations concerning the distribution of water in both states should be consistent with ARCA resolutions or as provided through the actions of ARCA.

CY 2005 Operations

The content of JMR at the beginning of CY 2005 according to the Army Corps of Engineers who operate the JMR project was 16,634 acre feet. However, the distribution among accounts in JMR at that

time is an issue of dispute resulting from the many years of unresolved accounting issues. The issue of retroactive accounting once the disputed issues are resolved is identified as issue 61 on the issue matrix.

The splitting of the inflows to JMR by the Colorado Division II office to operate the Pueblo Winter Water Storage Program (PWWSP) began on November 16, 2004. The PWWSP portion of the inflows to JMR is considered "other water" under Section III of the 1980 Agreement and must not include water that otherwise would have accumulated in conservation storage. The issue of acceptable criteria for use in determining the inflow split between conservation storage and "other water" during the Period of Winter Storage is issue 22 on the issue matrix. This issue must be resolved to protect inflows to conservation storage.

The use of a "winter water" account in JMR by the Colorado Division II office to operate the PWWSP is not authorized by ARCA and appears as issue 20 on the issue matrix. The use of the accounting method to delay the distribution of the storage charge of "other water" through the PWWSP period is contrary to Section III D of the 1980 Agreement, and appears as issue 21 on the issue matrix. The Committee acted on this issue on December 14, 2004 as action item number six (#6). The Committee suggested that both States work to develop language to implement the suggestions. The "winter water" account was used again in CY 2005. However, from committee staff discussions that occurred this year, it is anticipated that the Operations Secretary (OS) will discontinue the use of the "winter water" account of convenience. If this is true, and the 1980 Agreement is followed, then issues 20 and 21 may be resolved.

The two runs of water that Kansas called for from JMR this year involved releases of Offset Account water. The September 30, 2005 agreement between the State Engineer in Colorado and the Chief Engineer in Kansas resolved several issues that were raised and discussed at the committee staff level during these runs. Criteria for the measurement of a run of only Kansas Section II water remains unresolved as issue 30 on the issue matrix.

A concern raised in the CY 2004 AOS report involves the adequate determination of transit loss during deliveries made to accounts in JMR from upstream releases. The concern over a notable difference between the calculated delivery rate and the observed gauged flow rate at Las Animas was expressed at operations staff meetings this year. In CY 2004, the transit loss determination for the delivery to the permanent pool affected the calculated inflows to summer conservation storage. This year, a 500 acre feet release to the permanent pool of JMR was reportedly made from Pueblo Reservoir. This delivery occurred and a small transit loss was charged to the delivery. A summer storage event in JMR occurred during this delivery resulting in a small transit loss charged to the delivery. The April 15, 1980 resolution by ARCA authorizing such deliveries carries a proviso that adequate transit losses are charged during the delivery to the permanent pool. It was suggested in a November 8, 2005 meeting of committee staff that consideration be given to extending the proposed transit loss study below JMR to include reaches above JMR. Favorable consideration should be given to this idea which can provide assistance to Colorado staff in determining adequate transit loss amounts for these and other operations affecting inflows to JMR.

Additional Considerations

On March 31, 2005, the OS provided an e-mail notice of a proposed contract exchange of water. The notice was to initiate consultation with Kansas pursuant to the actions of the Committee to encourage communication in the adoption of the "Process to Address and Resolve Interstate Administrative Issues..." Additional e-mails were exchanged April 1, 2005(see attachment). The consultation produced a determination that the proposed contract exchange was prohibited by the 1980 Agreement and a potential problem was avoided that would be difficult to resolve after the fact. The assistance of the committee members in developing this process of consultation is appreciated.

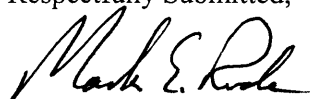
The details provided in the notice raises a question concerning contract exchanges of Section III water out of JMR. It is worth pointing out to the committee that exchanges can be complex. Once Section III water is exchanged upstream into another storage vessel by a paper contract, it becomes difficult to follow the eventual upstream Section III water use. Tracking the water use is necessary to insure that use is restricted to agricultural purposes on the Fort Lyon Ditch or the Las Animas Consolidated Ditch as required by Section III of the 1980 Agreement. This issue is important to compact conservation storage because the provisions in Section III B and III C of the 1980 Agreement transfer any unreleased water to conservation storage at the end of the Compact Year. Some careful consideration of this contract exchange practice, in light of the 1980 Agreement, is advisable.

In Summary

The Committee and the committee staff in both states have made significant effort to review and resolve the issues captured in the issue matrix. As additional issues have been identified, they have been included in the issue matrix. In general, the issues involving only hydrology or common engineering principals are easily solved at the staff level. However, most of the identified issues in the issue matrix have stalled over policy questions that require higher level negotiation by both states. It is recommended that a process similar to the successful settlement process in KS v. CO be implemented to resolve the issues on the issue matrix. Most of the substantive issues remain unresolved. Additionally, work should continue for better information and tools to predict and to determine transit losses for deliveries above and below JMR.

The Committee has successfully facilitated a process for better communication between offices at the staff level. It is appropriate to recognize the hard work and commitment that outgoing Commissioner Jim Rogers has given to the activities of the Operations Committee and to ARCA in his role as Treasurer. Mr. Rogers was involved in the development of the 1980 Agreement and provided a valued perspective to the Committee. His contributions are recognized and appreciated.

Respectfully Submitted,



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Pending JMR Accounting Issues

10 – Permanent Pool evaporation charges calculated by pro rata volume vs. incremental area <i>See Supplement A: Language of the 1980 Operating Plan and the 1976 Resolution establishing the permanent pool.</i>	
<i>ARCA Committee</i>	Engineering
<i>Issue Category & Priority¹</i>	B – 7
<i>Legal² – Policy³ – Technical⁴</i>	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
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.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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.”
<i>ARCA Committee or other general comment(s)</i>	
<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>	
11 – Removed -- Transfer of Account water to Permanent Pool during flood control operations in JMR	

¹ Categories: **A** – capable of resolution; **B** – may need to be addressed by an ARCA Committee other than Operations; and **C** – staffs have taken this issue as far as they can. The priority based on two groupings “A” issues and “B & C” issues. From memos dated 5 Feb 2004 and 19 August 2004 (Witte & Rude)

² **Legal** is defined as an issue that not resolvable at this time or within ARCA

³ **Policy** is defined as an issue that needs to have input or guidance from either Operations Committee or ARCA

⁴ **Technical** is defined as an issue that can be resolved by the respective State staffs

12 – Consideration of new sources for permanent pool water	
<i>ARCA Committee</i>	Engineering
<i>Issue Category & Priority</i>	B – 8
<i>Legal – Policy – Technical</i>	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
<i>ARCA Committee or other general comment(s)</i>	
See Issue 10 above	

13 – 1980 Operating Plan's Restriction on use of Section III related to Perm Pool	
<i>ARCA Committee</i>	Engineering
<i>Issue Category & Priority</i>	
<i>Legal – Policy – Technical</i>	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
	Colorado asked that this be placed on the matrix for the purpose of future discussions (April 2005)
<i>ARCA Committee or other general comment(s)</i>	

20 – Winter Water Account of convenience	
<i>ARCA Committee</i>	Operations
<i>Issue Category & Priority</i>	C – 1a
<i>Legal – Policy – Technical</i>	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
See letter dated 21 October 2003 from Kevin Salter	Colorado's proposed draft resolution (5/02) addresses main issues
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
	KS' 10/03 concerns: amend 1980 OP res. & legal asst. in drafting.
<i>ARCA Committee or other general comment(s)</i>	
OS recommendation 12/8/03: Committee must consider draft resolution and provide direction.	
Operations Committee asked the states to find a compromise on this issue. (14 December 2004)	

21 – Timely distribution of Section III storage charge during Pueblo Winter Water Storage Program (PWWSP)	
ARCA Committee	Operations
Issue Category & Priority	C – 1b
Legal – Policy – Technical	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
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 th prior to allocating water to individual accounts. * See Section II (E) 1 & 5 with KS calls
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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 (5/10/02).
<i>ARCA Committee or other general comment(s)</i>	
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.	
OS recommendation 12/8/03: Operations Committee should consider draft resolution/comments and provide direction.	
Operations Committee asked the states to find a compromise on this issue. (14 December 2004)	

22 – Criteria for determining Section III storage under the Pueblo Winter Water Storage Program (PWWSP)	
ARCA Committee	Operations
Issue Category & Priority	A – 4
Legal – Policy – Technical	Legal 1 st / Technical 2 nd
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
The criterion used by Colorado fails to adhere to what was established under the 1980 Operating Plan in that <i>other water</i> under Section III.	The criteria used to divide inflow to JMR into conservation storage/Section III is not provided in the 1980 Operating Plan, but has been continuously used. Since KS did not prove PWWSP caused injury, CO is reluctant to change.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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 consideration of changes may occur.
<i>ARCA Committee or other general comment(s)</i>	
The Operation Secretary and the Assistant Operation Secretary should continue to work on this issue. (10 May 2002)	

22 – Criteria for determining Section III storage under the Pueblo Winter Water Storage Program (PWWSP)	
ARCA Committee	Operations
Issue Category & Priority	A – 4
Legal – Policy – Technical	Legal 1 st / Technical 2 nd
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
The criterion used by Colorado fails to adhere to what was established under the 1980 Operating Plan in that <i>other water</i> under Section III.	The criteria used to divide inflow to JMR into conservation storage/Section III is not provided in the 1980 Operating Plan, but has been continuously used. Since KS did not prove PWWSP caused injury, CO is reluctant to change.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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 consideration of changes may occur.
<i>ARCA Committee or other general comment(s)</i>	
The Operation Secretary and the Assistant Operation Secretary should continue to work on this issue. (10 May 2002)	

23 – Resolved --Reporting of Winter Water vs. Winter Compact storage split calculation

24 – Utilization of “Summer storage season” as defined by the 1980 Operating Plan	
ARCA Committee	Operations
Issue Category & Priority	
Legal – Policy – Technical	
Kansas Staff Position	Colorado Staff Position
The 1980 Operating Plan defines the "Summer storage season shall be the period of time commencing at the first exhaustion of conservation storage and continuing to and including the next succeeding October 31."	
Kansas Staff Comments	Colorado Staff Comments
The 1998 Operations Secretary's Annual Report notes that the Operations Secretary deviate from ...	
ARCA Committee or other general comment(s)	

30 – Determination of transit loss under Section II(E)(4)	
ARCA Committee	Operations
Issue Category & Priority	A – 1
Legal – Policy – Technical	Policy * / Technical
Kansas Staff Position	Colorado Staff Position
Criteria for determining transit loss for Kansas Section II deliveries are needed, and should include timeliness of delivery.	Colorado is committed to reach a temporary agreement for CY 2004 by 4/01/04 that defines a procedure for determining deliveries of releases of KS Section II account water to the Stateline.
Kansas Staff Comments	Colorado Staff Comments
Some base criteria are needed to address the timing of the measurements of Kansas Section II account releases.	The criteria must recognize reasonable response of hydrologic system, historically.
ARCA Committee or other general comment(s)	
The Operation Secretary and the Assistant Operation Secretary should continue to work on this issue. (5/10/02 and 12/9/03)	
*CO and KS believe 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. See Issue #61.	

31 – Resolved -- Sections II (E)(4) and III (D) are unclear as to where transfers to make up deficits should be made

32 – How should transit loss account be used?	
ARCA Committee	Operations
Issue Category & Priority	A – 3
Legal – Policy – Technical	Policy
Kansas Staff Position	Colorado Staff Position
	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.
Kansas Staff Comments	Colorado Staff Comments
	1980 Operating Plan res. does not authorize release from transit loss account concurrent with KS Section II act. Resolution needed. CO should have control of account to minimize deficit.
ARCA Committee or other general comment(s)	
<p>*Issue added 24 October 2003 at meeting between staffs.</p> <p>OS recommendation 12/08/03: Committee should direct continuation of past practices regarding utilization of transit loss account by OS and direct development of a clarifying res.</p>	

40 – Resolved -- Exchange of daily reservoir status accounting

41 – Resolved -- Non-reporting of Section II(C)(1) determinations
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42 – Summer season interruption of transfers from conservation storage to accounts	
ARCA Committee	Operations
Issue Category & Priority	C – 5a
Legal – Policy – Technical	Policy – probably ought to make amendments for clarification
Kansas Staff Position	Colorado Staff Position
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 st 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.
Kansas Staff Comments	Colorado Staff Comments
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 Section II B (3) of the 1980 Operating Plan to read: "Similarly, releases of conservation storage into accounts...shall be suspended...until the first request for release of account water...or beginning 48 hours after the discontinuance of all account releases, whichever occurs first."
ARCA Committee or other general comment(s)	
OS recommendation 12/08/03 contains complete text for consideration and action by the Operations Committee.	
Operations Committee asked the states to find a compromise on this issue. (14 December 2004)	

43 – Winter storage period interruption of transfers from summer conservation storage to accounts	
<i>ARCA Committee</i>	Operations
<i>Issue Category & Priority</i>	C – 5b
<i>Legal – Policy – Technical</i>	Policy – probably ought to make amendments for clarification
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Summer conservation storage releases should not be discontinued on November 1 st . 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.	Suspension of transfers into accounts after October 31 st is appropriate as it is consistent with the provisions of Compact Article V A which prohibits such releases of water during winter storage.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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 st as operationally equivalent to the Compact requirement for discontinuing conservation pool releases. 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 st of any year, further release shall be suspended until such release is provided for according to Section II A herein.
<i>ARCA Committee or other general comment(s)</i>	
OS recommendation 12/08/03: Operations Committee should determine to amend the 1980 Operating Plan res. to confirm this practice.	
Operations Committee asked the states to find a compromise on this issue. (14 December 2004)	

50 – Commencement of a spill event	
ARCA Committee	Full ARCA
Issue Category & Priority	C – 6a
Legal – Policy – Technical	Policy
Kansas Staff Position	Colorado Staff Position
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.	Compact Article IV C (3) provides that the conservation pool will be operated for the benefit of water users in CO and KS...as provided by the Compact. See also, Art. IV C (2).
Kansas Staff Comments	Colorado Staff Comments
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. 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.
ARCA Committee or other general comment(s)	
OS recommendation 12/08/03: amend Section II G of 1980 Operating Resolution to clarify criteria defining the commencement of spill.	
Operations recommended moving this issue to Full ARCA. (14 December 2004)	

51 – Spilling accounts	
ARCA Committee	ARCA
Issue Category & Priority	C – 6b
Legal – Policy – Technical	Policy
Kansas Staff Position	Colorado Staff Position
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. This is supported by Sections II A & B of the 1980 Operating Plan resolution.
Kansas Staff Comments	Colorado Staff Comments
Use the normal accounting methods during spills that occur 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
ARCA Committee or other general comment(s)	
Operations recommended moving this issue to Full ARCA. (14 December 2004)	

52 – Upstream storage during JMR spill events	
ARCA Committee	Administrative & Legal
Issue Category & Priority	B - 10
Legal – Policy – Technical	Legal
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Upstream storage is not in priority until Section II accounts is completely spilled.	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.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
Discontinue the practice until authorized by resolution of ARCA.	
<i>ARCA Committee or other general comment(s)</i>	
OS recommendation 12/08/03: Operations Committee should refer this issue to the Administrative and Legal Committee.	
Operations Committee transferred this issue to the Administrative and Legal Committee by memo dated 8 October 2004.	

53 – Adjusted JMR inflows during times of spill	
ARCA Committee	ARCA
Issue Category & Priority	C – 6c
Legal – Policy – Technical	Policy*
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
The 1980 Operating Plan does not provide for these adjustments. *Only can be resolved if 52 is resolved	Adjustments to inflow are necessary to account for the effect of post-compact upstream storage during the period that JMR is spilling.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
Discontinue the practice until authorized by resolution of ARCA.	
<i>ARCA Committee or other general comment(s)</i>	
OS recommendation 12/08/03: Operations Committee should table this matter until issue #52 is resolved.	
Operations recommended moving this issue to Full ARCA. (14 December 2004)	

54 – Section II spill volume during summer storage season	
<i>See Illustration</i>	
ARCA Committee	Operations
Issue Category & Priority	A – 5
Legal – Policy – Technical	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
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.	"The amount of spill from the accounts should be amongst them according to the amounts in them at the beginning of spill." Colorado believes this language of Section II (serves to limit the quantity spilled and justify proportioning the rate of spill.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
Language to clarify the accounting under this condition if spill should occur.	Separate statements clarifying the intent of ARCA that spills of Section II account water should be limited and prorated are needed.
<i>ARCA Committee or other general comment(s)</i>	
Not discussed during May 9 th Meeting of Operations Committee	
OS recommendation 12/08/03: Committee should direct the development of separate statements that Section II spills should be limited and prorated.	

60 – Section II(C)(2) compliance (Agreement B)	
ARCA Committee	Administrative & Legal
Issue Category & Priority	B - 9
Legal – Policy – Technical	Legal
Kansas Staff Position	Colorado Staff Position
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 Committee.
Kansas Staff Comments	Colorado Staff Comments
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 the Compact, the 1980 Operating Plan, or administration by Colorado of its priority system.
ARCA Committee or other general comment(s)	
<p>No further progress can be made at this time.</p> <p>OS recommendation 12/08/03: Committee should refer this matter to the Administrative and Legal Committee with a recommendation that no further consideration be given to this issue.</p> <p>Operations Committee transferred this issue to the Administrative and Legal Committee by memo dated 8 October 2004.</p>	

61 – Retroactive adjustments of accounting for prior years if accounting methods are revised	
ARCA Committee	Operations
Issue Category & Priority	C – 3
Legal – Policy – Technical	Policy
Kansas Staff Position	Colorado Staff Position
To the degree that the issues can be resolved, they should be. Some weight should be given to the deep spill that occurred in 199?, 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!
Kansas Staff Comments	Colorado Staff Comments
The 1980 Operating Plan has a method to provide restitution that should be followed, and applied retroactively. (See Section V)	The Operations Committee should consider resolution of issues on a prospective basis and whether the responsibility for quantification of injury delegated to the Engineering Committee is properly placed.
ARCA Committee or other general comment(s)	
OS recommendation 12/08/03: This question is ripe for consideration by the Operations Committee at this time.	

62 – OS Report status for 1994 through 2004	
<i>ARCA Committee</i>	Operations
<i>Issue Category & Priority</i>	C – 4
<i>Legal – Policy – Technical</i>	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
There are several significant accounting issues that are preventing the Operations Secretary's reports mentioned from being adopted.	
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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.
<i>ARCA Committee or other general comment(s)</i>	
Work in progress (10 May 2002)	
It should be noted that resolution of this issue will likely require action by the Operations Committee on issues 20, 21, 42, 43, 50, 51, 53 and 61 on which further progress by staff is doubtful without further direction.	
63 – Removed -- Status of Assistant Operations Secretary Reports: 1998, 1999, 2000, 2001 & 2002	
64 – Resolved -- Assistant Operations Secretary Reports: purpose and timeliness	
65 – Removed -- Consider Moving Date of Annual Meetings to January or February	
66 – Resolved -- Need for definite process for introducing and resolving operational issues	

67 – When issues are resolved, is it in the form of separate resolutions and /or revisions to the 1980 Operating Plan?	
<i>ARCA Committee</i>	Operations
<i>Issue Category & Priority</i>	C – 2
<i>Legal – Policy – Technical</i>	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
	Colorado has suggested separate resolutions to address issues as an alternative to revising the 1980 Operating Plan.
<i>ARCA Committee or other general comment(s)</i>	
*Issue added 24 October 2003 at meeting between staffs.	
OS Special Report 12/08/03, pg. 7, includes discussion of pros and cons and requests direction from the Operations Committee and ARCA	

70 – Trinidad Reservoir: Passing of inflows exceeding 1,000 cfs	
<i>ARCA Committee</i>	Operations
<i>Issue Category & Priority</i>	
<i>Legal – Policy – Technical</i>	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Releases exceeding 1,000 cfs should be passed as soon as possible, up to the channel capacity called for.	
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
Inflows to Trinidad Reservoir exceeded 1,000 cfs on two separate occasions in August 2004. Those releases should have been passed through the reservoir and may have triggered a summer storage event at John Martin Reservoir.	The Water Commissioner had requested that the release of these inflows be made: beginning at 1,000 cfs on Friday afternoon, 6 August. He requested that the release be increased to 1,500 cfs on Saturday afternoon. The Corps rating curve for a downstream gage had a maximum release of 1,000 cfs.
<i>ARCA Committee or other general comment(s)</i>	
A letter was received from the Corps, dated 1 Nov 2004. This letter explains the events in August and steps that have been and will be taken to assure these releases will be passed in the future.	

<i>Notes on Water Issues Matrix Versions</i>		
<i>Version</i>	<i>Modification Date</i>	<i>Description of Modification(s)</i>
		Issues #32 & 67 were added 24 October 2003 at a meeting between State staffs
2002issues_table09b.doc	14 June 2004	Incorporate changes suggested by Steve Witte as transmitted by email dated 21 Jan 2004. Change status of issues based on Joint categorization of issues document dated 5 Feb 2004. I also made formatting and grammatical changes (KLS).
2005issues_table09c.doc	19 August 2004 12 Nov 2004 19 April 2005	-- Add a Trinidad Issues category. Specifically, Issue #70, the passing of inflows exceeding 1,000 cfs. -- Show Issue 52 & 60 as being transferred to the Admin & Legal Committee. -- add Issue #13 & 24 (19 April 2005), make formatting changes to table, adjust according to 19August 2004 Joint Prioritization memo, rename columns combining Legal, Policy & Technical and adding ARCA Committee and issue categorization
2005issues_table09d_letter.doc	20 April 2005	-- Changed format to 8-1/2 by 11 inch and reorganize sections -- Add actions taken at ARCA CY2004 Annual meeting

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

1976 Resolution

- 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 III 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.

Supplemental B: Table showing the various versions of the Water Issues Matrix

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

Issues that have been removed from consideration

na – Removed -- City of Lamar regulating account -- this issue is tabled (indefinitely)	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
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.	
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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.	
<i>ARCA Committee or other general comment(s)</i>	
Still being worked on (10 May 2002).	
Kansas will not object to the temporary account for 2002. (10 May 2002)	

11 – Removed / Resolved -- Transfer of Account water to Permanent Pool during flood control operations in JMR	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Colorado has withdrawn this proposal from consideration. Kansas doesn't object.	

na – Removed – Seasonal variations	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Nobody remembers what this issue was, and is removed from consideration	

63 – Removed -- Status of Assistant Operations Secretary Reports: 1998, 1999, 2000, 2001 & 2002	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
	CO is satisfied that reports have been accepted but not approved by the Operating Committee for each of these years.
<i>ARCA Committee or other general comment(s)</i>	
Determination of what records of the AOS are on file, are they final copies? OS recommends removal of this as an issue for further consideration.	

65 – Removed -- Consider Moving Date of Annual Meetings to January or February
<i>ARCA Committee or other general comment(s)</i>
Leave meeting date as is, but look at an earlier exchange of data. (10 May 2002) See OS recommendations 12/08/03 regarding Processes to address and resolve interstate administration issues.

Issues that have been resolved

23 – Resolved -- Reporting of Winter Water vs. Winter Compact storage split calculation	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
	Although it is not called for by the 1980 Operating Plan, the request is reasonable.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
	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.
<i>ARCA Committee or other general comment(s)</i>	
The Operation Secretary has agreed to provide the method and the data used to determine the split between winter water storage and conservation storage.	

31 – Resolved -- Sections II (E)(4) and III (D) are unclear as to where transfers to make up deficits should be made	
<i>ARCA Committee</i>	Operations
<i>Issue Category & Priority</i>	A – 2
<i>Legal – Policy – Technical</i>	Policy
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Deficits of Kansas Section II deliveries due transit loss shortage should be replenished to the Kansas Section II account, immediately after initial delivery to the transit loss acct.	CO can accept KS' 8/26/03 interpretation.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
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 with subsequent transfer to KS Section II account as soon as additional water becomes available in transit loss account.
<i>ARCA Committee or other general comment(s)</i>	
Kansas to work on this issue. Kevin Salter letter of 26 August 2003 OS recommendation 12/8/03: Operations Committee should direct action regarding accounting and drafting clarifying resolution.	

40 – Resolved -- Exchange of daily reservoir status accounting	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
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.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
The Operations and Assistant Operations Secretaries should continue to exchange data.	The Operations and Assistant Operations Secretaries should continue to exchange data.
<i>ARCA Committee or other general comment(s)</i>	

41 – Resolved -- Non-reporting of Section II(C)(1) determinations, a.k.a. Pass-thru accounting	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
Need daily accounting of non account water for compliance with this Section of the 1980 Operating Plan.	This data should be routinely made available to KS, creating an obligation to monitor and raise concerns in a timely fashion.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
All data and data interpretations related to JMR operations should be reported in annual reports.	OS agreed to include data in CY 03 report on condition that AOS compile / submit for publication and assist in defending basis of data.
<i>ARCA Committee or other general comment(s)</i>	
Kansas will analyze the reports of the amount of water passing through the reservoir under this section, consult with OS timely on concerns and submit for publication by 11/20 of each CY.	

64 – Resolved -- Assistant Operations Secretary Reports: purpose and timelines	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
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 11th hour.
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
There is 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 adoption of the recommendations of the OS concerning Processes to address and resolve interstate administration issues will resolve this issue.
<i>ARCA Committee or other general comment(s)</i>	
See OS recommendations 12/08/03 regarding Processes to address and resolve interstate administration issues. See also Joint Recommendations dated xx xxx 2004.	

66 – Resolved -- Need for definite process for introducing and resolving operational issues.	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
	Adoption of OS recommendations 12/08/03 regarding Processes to address and resolve interstate administration issues should resolve issues #64, 65, and 66.
<i>ARCA Committee or other general comment(s)</i>	
*Issue added 24 October 2003 at meeting between staffs.	
See OS recommendations 12/08/03 regarding Processes to address and resolve interstate administration issues.	

Templates of tables used in this document

Unresolved issue table

xx – xx	
<i>ARCA Committee</i>	
<i>Issue Category & Priority</i>	
<i>Legal – Policy – Technical</i>	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
<i>ARCA Committee or other general comment(s)</i>	

Issue removed / resolved table for unresolved portion

xx – xx

Removed or resolved issue table

xx – Removed / Resolved -- xx	
<i>Kansas Staff Position</i>	<i>Colorado Staff Position</i>
<i>Kansas Staff Comments</i>	<i>Colorado Staff Comments</i>
<i>ARCA Committee or other general comment(s)</i>	

Mark Rude

From: Witte, Steve [Steve.Witte@dwr.state.co.us]
Sent: Friday, April 01, 2005 12:48 PM
To: Kevin Salter
Cc: mrude@gmd3.org; Meyer, Mike; Barfield, Dave; Austin, George; Pope, David L.; Tyner, Bill; Flory, Joe; Morey, Monique; McNeill, Grady; Higbee, Don; Dale W Baker; Allen Ringle; Ward, Alan; Amy Van Horn; Richard Mehren; Montgomery, Dennis
Subject: RE: Notice of delivery of water to the permanent pool in John Martin Reservoir
Importance: High

Kevin,

Thank you for your prompt response. I believe that you are correct...the proposed operation to deliver water to the permanent pool through an exchange involving the Ft. Lyon Section III account does appear to be prohibited under the terms of the 1980 Operating Resolution. Your prompt action thus prevented an ex post facto controversy.

Therefore, the accounting of this proposed operation will not be done until or unless some further action is taken by ARCA that would allow this to occur. The parties to the first portion of the proposed operation may elect to move water downstream as far as Meredith by exchange and then complete the delivery to the permanent pool by means of a physical release from that point, but I don't know that for certain at this point. Subsequent notice will be provided of how the proposed delivery may be conducted.

I am unclear as to the reason for the restrictive language that appears to preclude the original proposal, since it would result in water identified as having its origins in the Colorado River basin having been delivered into the permanent pool without injury to other parties. This may be a reason to request amendment to the 1980 Operating Plan regarding exchanges between the Fort Lyon's Section III account and the permanent pool, so I am requesting that you add this as a potential issue to the matrix of issues that you maintain for the ARCA Operations Committee as a place-holder for further discussion.

Steve

-----Original Message-----

From: Kevin Salter
Sent: Friday, April 01, 2005 6:22 AM
To: Witte, Steve
Cc: mrude@gmd3.org; Meyer, Mike; Barfield, Dave; Austin, George; Pope, David L.
Subject: RE: Notice of delivery of water to the permanent pool in John Martin Reservoir

Steve,

When is this operation to take place? Is it consistent with the 1980 Operating Plan?

The following is from Section III:

"B. An account for the Fort Lyon Canal is hereby granted in John Martin Reservoir for agricultural purposes only. The Fort Lyon Canal may deliver water into said account under an approved Pueblo winter storage plan subject to the limitations that total quantity in the account at any time cannot exceed 20,000 acre-feet and that the delivery cannot include water that otherwise would have accumulated in conservation storage. The Fort Lyon may use water in this account for exchange with existing priorities. However, this account shall not be used in any manner to increase the permanent recreation pool, either by exchange, transfer, change of use, or otherwise. In the event that water accumulated in this account has not been completely released by the end of the compact year, then that water shall become conservation storage controlled by Subsection 11 A, herein."

Please note the sentence concerning permanent pool.

... Kevin

-----Original Message-----

From: Witte, Steve [mailto:Steve.Witte@dwr.state.co.us]
Sent: Thursday, March 31, 2005 5:00 PM
To: Rude, Mark
Cc: Meyer, Mike; Salter, Kevin; Tyner, Bill; Morey, Monique; Flory, Joe; Higbee, Don; Dale W Baker; Allen Ringle; Ward, Alan; McNeill, Grady; Richard Mehren
Subject: Notice of delivery of water to the permanent pool in John Martin Reservoir

Pursuant to the "Process to Address and Resolve Interstate Administrative Issues..." approved by the ARCA Operations Committee August 19, 2004, which identifies Deliveries to the permanent recreational pool as being one of those events warranting consultation, this is to advise you of a planned delivery authorized by the Resolution of ARCA dated April 15, 1980. This resolution provides that water imported into the Arkansas River basin from the Colorado River basin is approved as an additional source of supply than may be delivered into the Permanent Pool in John Martin, provided that adequate transit losses are charged by the Division 2 Engineer during its delivery.

The Pueblo Board of Water Works (PBWW) has leased more than 500 a.f. of water to a member of the Colorado Water Protective and Development Association (CWPDA), who in turn has assigned the water to CWPDA, which PBWW can identify as "transmountain" water imported from the Colorado River Basin. This water currently resides in Pueblo Reservoir. CWPDA has an obligation to repay the Lower Arkansas Water Management Association (LAWMA) 500 a.f. for a loan of water made in 2004. LAWMA has determined that it wishes to take delivery of the aforementioned water offered as repayment of this loan and have it delivered into the Permanent Pool in John Martin Reservoir to benefit one of its members, the Colorado Division of Wildlife (DOW). The process to accomplish this will be as follows:

- 1.) 500 a.f. of Colorado River water in Pueblo Reservoir leased from PBWW, under the control of CWPDA will be assigned to LAWMA. This will be documented by means of the lease from PBWW and an agreement between LAWMA, CWPDA, and Ft. Lyon.
- 2.) LAWMA has made arrangements to contract exchange this quantity of water with entities who have consumable water in Meredith Reservoir which they wish to have located in Pueblo Res.
- 3.) LAWMA has made arrangements to subsequently exchange this quantity of water from Meredith with water currently stored in Ft. Lyon's Section III account. Simultaneous with this exchange of 500 a.f., an equal quantity will be transferred from the Ft. Lyon Section III account, into the Permanent Pool account.

Therefore, since the movement can be accomplished exclusively by contract exchanges, there will be no transit losses charged. Currently, Ft. Lyon has just over 4600 a.f. in their Section III account, more than is necessary to effect that aspect of the exchange operation. Barring unforeseen circumstances, I expect that this operation will be conducted and reflected in the accounting for John Martin Reservoir within the next few days.

As has been my custom, I intend to include supporting documentation for this delivery as part of the annual report of the Operations Secretary.

Please contact me if there are any questions or concerns regarding this proposed delivery operation.

Steve