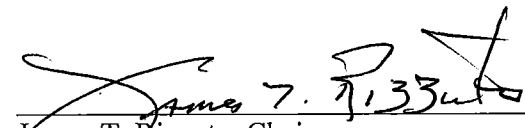


**ARKANSAS RIVER COMPACT ADMINISTRATION**  
**SPECIAL MEETING**

**March 20, 2018**

VIA  
TELEPHONIC CONFERENCE CALL  
Tuesday, March 20, 2018  
10:00 A.M. MDT (11:00 A.M. CDT)  
[Summary of Recorded Meeting]

The following meeting summary is the official minutes of the Arkansas River Compact Administration's March 20, 2018, Special Meeting, as signed by the Chairman of the Administration, pursuant to Administration approval given on December 7, 2018 at its Annual Meeting held in Garden City, Kansas.

  
James T. Rizzuto, Chairman  
Arkansas River Compact Administration

**List of Summary Attachments**

- A. Notice and Agenda (as amended)
- B. Signed ARCA Resolution 2018-01

**Notes**

Pursuant to its by-laws, the Administration instructed staff to prepare a written summary in lieu of a verbatim transcript, and to preserve for the record an electronic copy of the audio recording for this meeting.

The following meeting summary was prepared by staff of the Kansas Division of Water from notes and audio recording, which was reviewed by staff of the Resources Colorado Water Conservation Board, and finalized after consultation between both agencies. Audio recording of the meeting were made by the Kansas Division of Water Resources. This recording will be made part of the ARCA record.

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## **1. Call to order & roll call**

Jim Rizzuto called the Special Meeting of the Arkansas River Compact Administration (ARCA) at 10:03 A.M. (MDT) pursuant to the Notice attached hereto as Exhibit A. A roll call was taken and a quorum was present.

The following ARCA representatives participated in the conference call:

Jim Rizzuto, Chairman, federal representative;

For Colorado:

Rebecca Mitchell, CWCB Director and CO Representative;

Lane Malone, CO Representative;

Scott Brazil, CO Representative;

For Kansas:

David Barfield, Kansas Chief Engineer and KS Representative;

Hal Scheuerman, KS Representative; and

Randy Hayzlett, KS Representative and Vice-Chairman.

Others in attendance who were announced:

Bill Tyner, Operations Secretary, Colorado Division of Water Resources, Division 2;

Kevin Salter, Assistant Operations Secretary, Kansas Division of Water Resources;

Brent Campbell, Kansas Division of Water Resources;

Brandy Cole, Kansas Division of Water Resources;

Chris Beightel, Kansas Division of Water Resources;

Steve Witte, Colorado Division of Water Resources, Division 2;

Bethany Arnold, Colorado Division of Water Resources, Division 2;

John Van Ort, Colorado Division of Water Resources, Division 2;

Phil Reynolds, Colorado Division of Water Resources, Division 2;

Kelley Thompson, Colorado Division of Water Resources;

Brent Newman, Colorado Water Conservation Board;

Eric Skeie, Colorado Water Conservation Board;

Andrew Rickert, Colorado Water Conservation Board;

Dan Steuer, Colorado Attorney General Office;

Kevin Rein, Colorado State Engineer;

Bob Rice, US Bureau of Reclamation;

Amy Louise, US Army Corps of Engineers;

Mark Rude, SW Kansas Groundwater Management District #3;

Trevor Ahring, SW Kansas Groundwater Management District #3;

Steve Hines, Frontier Ditch

John Stulp, Colorado Governor's office

Jeff Kahn, Special Water Council, City of Trinidad;

Gil Ramirez, City of Trinidad;

Mike Weber, Lower Arkansas Valley Water Conservancy District;

Mike Valentine, City of Trinidad;

Greg Sund, City of Trinidad;

Marty Lee, Rocky Ford.

## **2. Approval of agenda**

Jim Rizzuto asked for approval of the agenda:

Bob Rice requested the addition of an informational item to the agenda at the end of the consideration of Resolution 2018-01.

Jim Rizzuto asked for approval of the agenda with the addition of the informational item (as shown in Exhibit A):

Rebecca Mitchell asked if this was only an informational item and there will not be any deliberation since this meeting has been previously noticed. Bob Rice confirmed that his agenda item was informational only.

Randy Hayzlett, Kansas, moved approval of the agenda.

David Barfield, Kansas, seconded the motion.

Mr. Rizzuto called the question: Kansas voted aye, and Colorado voted aye.

Motion was approved.

## **3. Meeting protocol and preparation of minutes/summary**

Kevin Salter, requested instead of a verbatim transcript that the Administration approve a written summary instead. Jim Rizzuto asked for any objections; Kansas no objections, and Colorado no objections.

## **4. Introduction and explanation of February 28, 2018 agreement**

Bill Tyner provided that this resolution would allow delivery of Highland Canal water rights as a source for the John Martin permanent pool pursuant to a February 28, 2018 agreement between the States of Kansas and Colorado. Delivery could begin on April 1<sup>st</sup>, 2018 through November 15<sup>th</sup>, 2018 to allow deliveries to occur. During this time LAWMA has agreed to deliver at least 4,700 ac-ft of fully consumable water to the Offset Account in John Martin Reservoir. To ensure delivery in a timely manner, LAWMA has agreed to deliver 3,133 ac-ft to the Offset Account by August 1<sup>st</sup>, 2018. Neither of these figures would include the 500 ac-ft storage charge that will be completed by the end of March, 2018. The 2018 agreement adds one new provision that addresses if John Martin Reservoir was eminent to spill or was in a spill condition. This provision is stated and characterized in paragraph 3 of the 2018 agreement. The Substitute Water Supply Plan that is required by paragraph 4 is in process with the application submitted with approval likely to be completed prior to April 1<sup>st</sup>, 2018.

David Barfield commended Mr. Tyner on the explanation and summarized the agreement as allowing for an additional source of water for the permanent pool for 2018, and assurance that the Offset Account is adequately funded with a process to look forward to a longer-term agreement. David Barfield noted that by adding paragraph dealing with the potential for spill that the agreement in paragraph 5 incorrectly refers to paragraph 3 and should instead reference paragraph 4 within the 2018 agreement.

## **5. Discussion**

Jim Rizzuto asked for discussion of the resolution.

David Barfield, Kansas, moved Adoption of Resolution 2018-01.

Rebecca Mitchell, Colorado, seconded the motion.

Jim Rizzuto asked for discussion. Resolution was not read into the record due to the absence of a court reporter and no one on the call asked for a reading of the resolution. Mr. Rizzuto called the question: Kansas voted aye; and Colorado voted aye. Motion was approved, and the Resolution was adopted (as shown in Exhibit B).

## **6. USBR Informational Item**

Bob Rice of the Bureau of Reclamation provided an update related to ARCA Resolution 2014-03 involving amending the Trinidad Operating Principles. This is an informational update only. In 2012 ARCA passed Resolution 2012-01 to amend the Trinidad Operating Principles which included two actions: the first allowing the City of Trinidad to dry-up additional acres under the Johns Flood ditch system and the second to allow City of Trinidad water stored in the joint use capacity to be used within the Purgatoire River basin upstream of Trinidad Reservoir. In 2014, ARCA passed Resolution 2014-03 which separated out the dry-up component. Due to the possibility that this resolution, 2014-03, could have affected PRWCD repayments to the Bureau of Reclamation, the Bureau has been working with the PRWCD to ensure that the Bureau would not be adversely affected. Reclamation and PRWCD has reached agreement on the contract amendment which includes incorporating the changes made in resolution 2014-03. With this there were no proposed changes to the resolution. The spring of 2018 the Bureau will provide public notice the proposed changes to the repayment contracts including the operating principles. In approximately July once the public notice period is closed, the Bureau will send out the operating principles for signature. Signatories include: ARCA, Kansas, US Corp of Engineers, PRWCD, and the Bureau of Reclamation. Mr. Rice quoted part of the 2014-03 resolution regarding the authority of the ARCA chair subject to approval of all signatories. USBR will sign last so that they will sign both the amended Trinidad Operating Principles and updated contract at the same time.

Jim Rizzuto asked if there were any questions on the update:

David Barfield asked if Bob Rice if the new changes were only over the dry-up? Mr. Rice confirmed.

Jeff Kahn, added that there were also volumetric limits in addition to the acreage adjustment from the adopted 2012 resolution.

## **7. Adjournment**

Jim Rizzuto asked if there was a motion to adjourn:

Rebecca Mitchell provided a statement thanking everyone and that this was a good collaborative step in the right direction.

Rebecca Mitchell, Colorado, moved adjournment of the Special Meeting; and David Barfield, Kansas, seconded the motion.

Mr. Rizzuto called the question: Colorado voted aye, and Kansas voted aye.

Meeting was adjourned at 10:18 A.M., MDT.

Exhibit A

ARKANSAS RIVER COMPACT ADMINISTRATION		
Lamar, Colorado 81052		
For Colorado	Chairman and Federal Representative	For Kansas
Rebecca Mitchell, Denver	James T. Rizzuto, Swink	David Barfield, Topeka
Scott Malone, Holly		Randy Hayzlett, Lakin
Scott Brazil, Vineland		Hal Scheuerman, Deerfield

**NOTICE & AGENDA  
SPECIAL TELEPHONIC MEETING  
ARKANSAS RIVER COMPACT ADMINISTRATION**

**TUESDAY, MARCH 20, 2018  
10:00 A.M. (MDT) / 11:00 A.M. (CDT)**

The Arkansas River Compact Administration ("ARCA") will meet at the time noted above via telephonic conference call to consider Resolution 2018-01 Regarding John Martin Reservoir Permanent Pool. This resolution would allow delivery of Highland Canal water rights into the John Martin Permanent Pool pursuant to a February 28, 2018 agreement between the States of Kansas and Colorado. Copies of that agreement and the draft Resolution 2018-01 are attached to this notice.

The Colorado Water Conservation Board will be setting up the call. Call in instructions for ARCA, Federal and State agency representatives will be provided separately. Please contact Brent Newman at 303-866-3441 ext. 3228 or via email at: brent.newman@state.co.us for further assistance.

Meetings of the Administration are open to the public and operated in compliance with the federal Americans with Disabilities Act. If you wish to participate in the Special Meeting you may do so at the following listening stations:

1. Kansas Div. Water Resources, 2508 Johns St., Garden City, KS 67846;  
Host: Kevin Salter, kevin.salter@ks.gov [620-276-2901]
2. ARCA Office, 112 West Elm Street, Lamar, CO 81052;  
Host: Stephanie Gonzalez, see below
3. Colorado Div. of Water Resources, 310 East Abriendo, Suite B, Pueblo, CO 81004  
Host: Wendy Hunker, wendy.hunker@state.co.us, 719-542-3368 x2105
4. Colorado Water Conservation Board, 1313 Sherman St. #721, Denver, CO 80203  
Host: Brent Newman, see above

Please contact the listening station host prior to the meeting date to confirm details and seat availability. If you need a special accommodation as a result of a disability please contact Stephanie Gonzales by email at arca.co.ks@gmail.com or phone at 719-336-3850 at least three days before the meeting.

**SPECIAL MEETING AGENDA  
MARCH 20, 2018**

1. Call to order & roll call ..... Jim Rizzuto
2. Approval of agenda ..... Jim Rizzuto
3. Meeting protocol and preparation of minutes/summary ..... Jim Rizzuto
4. Introduction and explanation of February 28, 2018 agreement ..... Bill Tyner
- \* 5. Discussion ..... Jim Rizzuto
- \* 6. Consideration of Resolution 2018-01 ..... Jim Rizzuto
7. Adjournment (at approximately 10:30 A.M. MDT) ..... Jim Rizzuto

*New #5 - Discussion and Consideration of Resolution 2018-01*

*New #6 - USBR Informational Item*

Exhibit B

**ARKANSAS RIVER COMPACT ADMINISTRATION**

Lamar, Colorado 81052

For Colorado

Chair and Federal Representative

For Kansas

Rebecca Mitchell, Denver  
Lane Malone, Holly  
Scott Brazil, Vineland

James Rizzuto, Swink, CO

David Barfield, Topeka  
Randy Hayzlett, Lakin  
Hal Scheuerman, Deerfield

**Arkansas River Compact Administration  
Resolution No. 2018-01**

**Regarding John Martin Reservoir Permanent Pool**

**WHEREAS**, Section 204 of the Flood Control Act of 1965 authorized a “permanent pool for fish and wildlife and recreational purposes” at John Martin Reservoir (“JMR”); and

**WHEREAS**, Section 204 of the Flood Control Act of 1965 required that the State of Colorado “purchase and make available any water rights necessary under State law to establish and thereafter maintain the permanent pool”; and

**WHEREAS**, Section 204 of the Flood Control Act of 1965 required that the Arkansas River Compact Administration (“ARCA”) approve “written terms and conditions . . . [for] establishing, maintaining, and operating the permanent pool”; and

**WHEREAS**, by the Resolution Concerning John Martin Reservoir Permanent Pool (“1976 Resolution”) adopted on August 14, 1976, ARCA “approve[d] the creation in [JMR] of a permanent pool . . . and adopt[ed] the criteria . . . as procedures for the operation of [JMR]”; and

**WHEREAS**, the 1976 Resolution further provided that “water deliveries from other valid water rights owned or controlled by the State of Colorado may be added to the permanent pool water supply subject to the approval of [ARCA]”; and

**WHEREAS**, The Resolution Concerning an Operating Plan for John Martin Reservoir (Apr. 24, 1980, as amended) (“1980 Operating Plan”) recognizes the permanent pool authorized by the 1976 Resolution and makes the operation of the permanent pool subject to the terms of the 1980 Operating Plan; and

**WHEREAS**, pursuant to a Water Management Agreement between the Colorado Division of Parks and Wildlife and the Lower Arkansas Water Management Association (“LAWMA”), LAWMA will allow use of its Highland Canal water rights located in District 17 upstream of JMR and diverting from the Purgatoire River as a source of water supply for the permanent pool; and

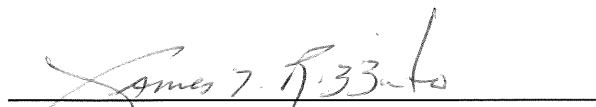
**WHEREAS**, the States of Colorado and Kansas have agreed to the delivery of fully consumable water from LAWMA's Highland Canal water rights under conditions provided by the document entitled "**Permanent Pool Agreement for 2018**," attached to this Resolution as Exhibit 1; and

**WHEREAS**, a clerical error in the Permanent Pool Agreement for 2018, paragraph no. 5 has been found. ARCA acknowledges that the reference to *paragraph no. 3)* should be a reference to *paragraph no. 4)*, and both Kansas and Colorado agree to such.

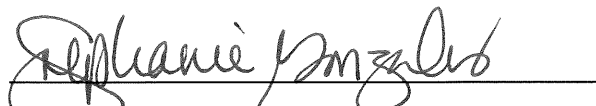
**NOW THEREFORE, BE IT RESOLVED** that pursuant to the terms of its 1976 Resolution the Arkansas River Compact Administration hereby approves the use of the Highland Canal water rights, formerly diverted from the Purgatoire River in District 17, as an additional source of water supply for the permanent pool at JMR through March 31, 2019, subject to the terms and conditions as described in the "**Permanent Pool Agreement for 2018**."

**ADOPTED** by the Arkansas River Compact Administration at the Special Meeting held telephonically on March 20, 2018.

The effective date of this Resolution shall be the date on which the Chief of Engineers of the Corps of Engineers, or his duly authorized representative, concurs with this Resolution by signing and dating below in the space provided.


  
\_\_\_\_\_  
Jim Rizzuto, Chairman  
Arkansas River Compact Administration

3/20/18  
Date

  
\_\_\_\_\_  
Stephanie Gonzales, Recording Secretary,  
Arkansas River Compact Administration

3-20-18  
Date

Concurrence

  
\_\_\_\_\_  
Lt. Col. James L. Booth,  
Commander and District Engineer,  
Albuquerque District, U.S. Army Corps of Engineers  
Duly Authorized Representative of the Chief of Engineers,  
U.S. Army Corps of Engineers

20 APR 18  
Date

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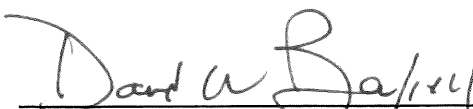
**Permanent Pool Agreement  
for 2018**

The States of Colorado and Kansas (“States”) agree to the delivery of fully consumable water from the Lower Arkansas Water Management Association’s (“LAWMA”) Highland Canal water rights (“Highland Canal Water”) to the Permanent Pool Account in John Martin Reservoir (“Permanent Pool”) under the following conditions:

- 1) The Highland Canal Water may not be delivered to the Permanent Pool pursuant to this agreement until the Arkansas River Compact Administration (“ARCA”) approves the temporary use of the Highland Canal Water as a source of water for the Permanent Pool.
- 2) The State of Colorado and LAWMA shall deliver at least 4,700 acre-feet of fully consumable water to the Offset Account in John Martin Reservoir between April 1, 2018 and November 15, 2018, at least 3,133 acre-feet of which shall be delivered by August 1, 2018. This amount does not include the 500 acre-foot storage charge.
- 3) In the case of a spill of the Offset Account, or if a spill of the Offset Account appears likely, any quantity of water required to be delivered to the Offset Account prior to August 1, 2018, may be delayed for the purpose of avoiding a spill of such deliveries. The terms and conditions of any such delay shall be first proposed by LAWMA and set forth in writing. There shall be no allowable delay in delivery until such terms and conditions are approved in writing by the Chief Engineer of the State of Kansas. In writing may include email communications and other electronic documents.
- 4) LAWMA and Colorado Parks and Wildlife must obtain approval for a Substitute Water Supply Plan (SWSP) pursuant to Colorado Revised Statutes §37-92-308(5) prior to delivery of the Highland Canal Water to the Permanent Pool.
- 5) Upon ARCA approval to use the Highland Canal Water as a source of water for the Permanent Pool as described in paragraph 1), above, and SWSP approval in paragraph 3), above, the Highland Canal Water may be delivered to the Permanent Pool on a daily basis to the extent it is not needed to fulfill the commitment made in paragraph 2), above.
- 6) The Highland Canal Water shall not be delivered to the Permanent Pool in months when any portion of the Highland Canal Water is used for in-state replacement.
- 7) Replacement credit will not be claimed as special water input to the H-I Model for the transit losses incurred when the Highland Canal Water is being delivered to the Permanent Pool. LAWMA may claim in-state replacement credit in the monthly accounting maintained by Colorado for unconsumed transit losses allowed by the LAWMA decree or approved Substitute Water Supply Plan.
- 8) The States will continue to work together to:
  - a. Establish a methodology to annually determine LAWMA’s projected depletions, projected replacements, and the amount and sources of water committed to the Offset Account

- b. Allow the use of the Highland Canal Water as a source of water for the Permanent Pool when the Offset Account is full. When the Offset Account is full, paragraph 2.a of Appendix A.4 of the decree entered in *Kansas v. Colorado*, No. 105, Original provides that there is no obligation to deliver replacement water to the Offset Account under Appendix A.4.
  - c. Determine what replacement credit is allowed for transit losses on Highland Canal Water deliveries to the Offset Account and Permanent Pool.
  - d. Examine the potential for exchange from Fort Lyon and Lamar Canal augmentation stations to the Offset Account in lieu of direct delivery to the Stateline, including how the evaporative losses on those exchanged credits are charged.
  - e. Explore how augmentation station deliveries of Granada Irrigation Company shares could be managed to facilitate replacement of in-state and Stateline depletions.
- 9) LAWMA or Colorado Parks and Wildlife, through Colorado Division of Water Resources staff, shall notify the State of Kansas and the ARCA Operations Secretary prior to beginning delivery of the Highland Canal Water to the Permanent Pool.
  - 10) The ARCA Operations Secretary shall keep accurate records of all deliveries into the Permanent Pool, provide such information to the State of Kansas upon request, and include an annual summary of all Permanent Pool operations in his annual report to the Administration.
  - 11) Nothing in this agreement shall be construed to alter in any way the State of Colorado's obligation to maintain compliance with the Colorado-Kansas Arkansas River Compact.
  - 12) This agreement shall not be binding on any future agreements related to the delivery of the Highland Canal Water to the Permanent Pool or to the Offset Account.
  - 13) Approval of this agreement does not waive either State's position on allowable uses of the Highland Canal Water.
  - 14) Approval of this agreement does not waive either State's position concerning the interpretation of Appendix A.4 of the decree entered in *Kansas v. Colorado*, No. 105, Orig.
  - 15) The States agree to review the performance of this agreement at the 2018 ARCA Annual Meeting and to discuss renewal or modifications of an agreement to allow for continued delivery of the Highland Canal Water to the Permanent Pool on a temporary or permanent basis beyond the term of this agreement.
  - 16) This agreement will expire on March 31, 2019.

  
 Kevin Rein, P.E.  
 Colorado State Engineer

  
 David W. Barfield, P.E.  
 Kansas Chief Engineer

Date: 2/28/2018

2 of 2 originals