

**ADDENDUM TO THE 1994 THROUGH 2005 ANNUAL  
REPORTS OF THE OPERATIONS SECRETARY  
CONCERNING THE OPERATION OF  
JOHN MARTIN RESERVOIR**

**AND**

**ADDENDUM TO THE 1997 THROUGH 2005 REPORTS OF  
THE COLORADO STATE ENGINEER CONCERNING  
ACCOUNTING OF THE OPERATIONS OF AN OFFSET  
ACCOUNT IN JOHN MARTIN RESERVOIR FOR  
COLORADO PUMPING**

**DECEMBER 9, 2008**

## Addendum to the 1994 - 2005 Reports of the Operations Secretary

**DRAFT**

| Year          | Start Month | End Month | Delivery Type | Original Reference     | Operations Secretary computed delivery (AF) | Operations Secretary computed delivery shortfall (AF) | Delivery computed using Section II Agreement (AF) | Delivery shortfall computed using Section II Agreement (AF) | Computed shortfall difference (AF) | Amount paid back by Colorado (AF) | Net deficit (AF) |
|---------------|-------------|-----------|---------------|------------------------|---|---|---|---|------------------------------------|-----------------------------------|------------------|
| 1994          | 6           | 7         | Section II    | Tables XI, XII, XIII   | 33897                                       | 0   | 33897   | not applicable  | na                                 | na                                | na               |
| 1995          | 8           | 9         | Section II    | Tables XI, XII, XIII   | 18829                                       | 0   | 18829   | not applicable  | na                                 | na                                | na               |
| 1996          | 6           | 6         | Section II    | Tables XI, XII, XIII-C | 1963  | 0   | 1908  | 55  | 55                                 | 0                                 | 55               |
| 1996          | 6           | 6         | Section II    | Tables XI, XII, XIII-D | 3592  | 0   | 3577  | 15  | 15                                 | 0                                 | 15               |
| 1997          | 5           | 5         | Section II    | Table XI-C             | 2473  | 0   | 2430  | 43  | 43                                 | 0                                 | 43               |
| 1997          | 6           | 6         | Combined O/S  | Table XI-D             | 2434  | 0   | 2414  | 20  | 20                                 | 0                                 | 20               |
| 1997          | 8           | 8         | Section II    | Table XI-F             | 1940  | 0   | 1931  | 9   | 9                                  | 0                                 | 9                |
| 1998          | 7           | 7         | Section II    | Table XI-D             | 1554  | 0   | 1510  | 44  | 44                                 | 0                                 | 44               |
| 1998          | 7           | 7         | Section II    | Table XI-F             | 2380  | 0   | 2314  | 66  | 66                                 | 0                                 | 66               |
| 2002          | 5           | 5         | Section II    | Table XI-B Amended     | 1962  | 0   | 1927  | 35  | 35                                 | 0                                 | 35               |
| 2002          | 6           | 7         | Combined O/S  | Table XI-C Amended     | 10461                                       | 676   | 8097  | 3040  | 2364                               | 676                               | 2364             |
| 2004          | 3           | 4         | Combined O/S  | Table XII              | 7823  | 738   | 6990  | 1720  | 982                                | 738                               | 982              |
| 2005          | 6           | 7         | Combined O/S  | Table XII-B            | 30991                                       | 0   | 30991   | 0   | 0                                  | 0                                 | 0                |
| 2006          | 6           | 7         | Combined O/S  | Table XIII             | 7668  | 149   | 7668  | 149   | 0                                  | 149                               | 0                |
| <b>Totals</b> |             |           |               |                        |   | 1563  |   | 5126  | 3633                               | 1563                              | 3633             |

1. The Annual Reports of the Operations Secretary for the years 1994 and 1996 were previously accepted with conditions by Resolution of ARCA dated December 10, 1996.
2. Recommendation G, approved by the Special Engineering Committee on May 1, 2008 recommended that the Annual Reports of the Operations Secretary submitted for Compact years 1994 through 2006 be approved with qualifications, including the preparation of this Addendum and defined "past deficits" in reference to deficits accumulated during Compact Years 1996 through 2006. Past deficits were quantified as 3633 acre-feet and Colorado committed to deliver 3062 acre-feet to the Kansas Section II account in full restitution for these past deficits. This delivery was accomplished during May 2008.
3. See letter dated March 23, 2003 to Mark Rude from Steve Witte which transmitted revised copies of Table XI-B and Table XI-C to be included as amendments to the 2002 Annual Report of the Operations Secretary and detailed computations of delivery shortfall (transit loss) associated with releases of Kansas Section II account water in CY 2002.
4. See letter dated March 31, 2005 to Kevin Sailer from Steve Witte included as Exhibit A to Section I of the CY 2005 Annual Report of the Operations Secretary which describes how the Operations Secretary computed transit loss on delivery of water released from the Kansas Section II account during CY 2004.

## Addendum to the 1997-2005 Offset Account Reports

**Draft**

| Year          | Start Month | End Month | Delivery Type | Original Reference         | State Engineer reported consumable delivery (AF) | Consumable delivery computed using 2005 Offset Crediting Agreement (AF) |
|---------------|-------------|-----------|---------------|----------------------------|--|---|
| 1997          | 6           | 6         | Combined O/S  | Table, page 2              | 573  | 536   |
| 1997          | 8           | 9         | Offset        | Table, page 2              | 1362   | 1566  |
| 2000          | 7           | 8         | Combined O/S  | Summary of Release, pg. 2  | 1548   | 1277  |
| 2001          | 6           | 8         | Combined O/S  | Summary of Release, pg. 2  | 1797   | 1581  |
| 2002          | 4           | 4         | Offset        | Summary of Releases, pg. 2 | 1694   | 1168  |
| 2002          | 6           | 7         | Combined O/S  | Summary of Releases, pg. 2 | 1836   | 1246  |
| 2004          | 3           | 4         | Combined O/S  | Summary of Releases, pg. 2 | 7461   | 6975  |
| 2005          | 4           | 5         | Offset        | Summary of Releases, pg. 2 | 9859   | 9859  |
| 2005          | 6           | 7         | Combined O/S  | Summary of Releases, pg. 2 | 2207   | 2207  |
| <b>Totals</b> |             |           |               |                            | <b>28337</b>                                     | <b>26415</b>  |

1. Recommendation G, approved by the Special Engineering Committee on May 1, 2008 recommended that the Annual Reports of the Operations Secretary submitted for Compact years 1994 through 2006 be approved with qualifications, including the preparation of this Addendum to the 1997 through 2005 Reports of the Colorado State Engineer, Concerning Accounting for Operations of an Offset Account in John Martin Reservoir for Colorado Pumping.
2. For CY 2000 through 2004, the values shown in the column above entitled "State Engineer reported consumable delivery" may be verified in the annual "Report of the Colorado State Engineer Concerning Accounting of Operations of an Offset Account in John Martin Reservoir for Colorado Pumping" by adding the reported 'Credit for Colorado Consumptive Use Water' value to the product of the appropriate delivery efficiency (1% transit loss) and the reported 'Release from Kansas Consumable Water subaccount' value, if any.

**Recommendation G**  
**Special Engineering Committee**  
**May 1, 2008**

**Recommendations for Revision and Approval of Annual Reports of the Operations Secretary for Compact Years 1994-2006, Restitution for Transit Losses on Releases of Water from the Kansas Section II Account That Were Not Replenished From the Kansas Transit Loss Account, and Other Assigned Tasks**

The Arkansas River Compact Administration (ARCA) created a Special Engineering Committee ("Committee") by Resolution No. 2005-1 and directed the Committee to develop recommendations to ARCA to reduce or eliminate disputes between the States. ARCA extended the term of the Committee by Resolution Nos. 2006-7 and 2007-4.

Pursuant to these Resolutions, Jennifer Gimbel and Dick Wolfe, for Colorado, and David Brenn and David Barfield, for Kansas, were designated as members of the Committee, and Robin Jennison, the Federal representative and Chairman of ARCA, was made an *ex-officio* member of the Committee.

The Committee was assigned the tasks of developing recommendations to resolve various long standing disputes as described in ARCA Resolution 2005-1, including "The review and recommendation on the revision and approval of all Annual Reports of the Operations Secretary for Compact Years 1994-2004, to include the status of the Report for Compact Year 2005 if not approved by ARCA at the December 2005 Annual Meeting." During the Committee's deliberations, the effects of the implementation of new accounting procedures on accounting during prior years, and how any restitution of water would be made were considered.<sup>1</sup> The Committee makes the following recommendations to ARCA, with the condition that all of the following recommendations will be adopted, or none of them will be adopted:

A. The Committee recommends that the Annual Reports of the Operations Secretary submitted for Compact Years 1994 through 2006 be approved<sup>2</sup> except as provided below and with the following qualifications:

1. The values for Kansas Section II Account water deliveries measured at the Stateline ("Stateline deliveries") will be revised *via* an addendum to the 1994 through 2005 reports. This addendum will report the Stateline deliveries using the criteria provided in the Agreement Concerning the Offset Account in John Martin Reservoir for Colorado Pumping, Determination of Credits for Delivery of Water Released for Colorado Pumping, and Related Matters approved September 30, 2005 ("2005 Offset Account Crediting Agreement") and the 2006 Agreement on Measurement of Section II Deliveries.

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<sup>1</sup> This issue is referenced as Issue #61 (Retroactive Accounting) in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005.

<sup>2</sup> This issue is referenced as Issue #62 (Operations Secretary Reports) in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005.

2. The values of Offset Account water released and measured at the Stateline should be revised *via* an addendum to the 1997 through 2005 Reports of the Colorado State Engineer, Concerning Accounting of the Operations of an Offset Account in John Martin Reservoir for Colorado Pumping (Offset Report). This addendum will report the values for the deliveries using the criteria provided in the 2005 Offset Account Crediting Agreement.

3. An addendum *proviso* should be added to the cover page of each Annual Report of the Operations Secretary for 1994 through 2005 and each Offset Report for the years 1997 through 2005 stating as follows: "The Annual Report of the Operations Secretary for Compact Year \_\_\_\_ [or the Offset Account Operations Report for \_\_\_\_ (year)] has been approved by the Arkansas River Compact Administration with the following proviso: *The values and operations in this report have been in dispute. An addendum report, dated \_\_\_\_\_, contains the revised values that have been determined through agreement by the States. However, while Kansas and Colorado have agreed that accounting prior to 2006 will not be otherwise revised, Kansas does not waive any claim for past damages or restitution of water on the unresolved, disputed issues of upstream storage during spills and Agreement B.*"

4. Deliveries of water to John Martin Reservoir under Section III of the 1980 Operating Plan, and particularly the method for determining the Winter Water split<sup>3</sup> contained in the Annual Reports of the Operation Secretary for 1994 through 2006, will not be revised or recalculated. However, this shall not set any precedent as to how this accounting should be done if this Recommendation is adopted by ARCA. This recommendation is not intended to preclude either State from proposing a revision of the method for calculating deliveries of water to John Martin Reservoir under Section III in the future or the States continuing to work towards agreement on the method.

B. The Committee recommends that no restitution be made for water lost to evaporation during John Martin spill events<sup>4</sup> prior to 2006.

C. While some transit losses on releases of water from the Kansas Section II account were replenished from the Kansas transit loss account in accordance with Section II E 4 of the 1980 Operating Plan; the Committee has determined that some transit losses were not replenished from 1996 to 2006 (past deficits). In this document the term, "past deficits" refers only to the deficits accumulated during Compact Years 1996 through 2006. The Committee recommends that restitution for the past deficits be made as provided for in this recommendation. The Committee has quantified the amount of the past deficits as 3,633 acre-feet. For only these past deficits, Colorado will deliver 3,062 acre-feet (2,491 acre-feet plus half of what would normally have been derived from Kansas' portion of the 35% distribution) to the Kansas Section II account by no later than May 15, 2008. The water to be delivered has been derived from Arkansas River Basin consumable sources as described in the attached letter agreement from either Lake Meredith or Pueblo

<sup>3</sup> This unresolved issue is referenced as Issue #22 (Winter Water Split) in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005.


<sup>4</sup> This resolved issue is referenced as Issue #51 (Spilling Accounts) in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005. The Committee resolved this issue with our Recommendation F and is awaiting concurrence via an ARCA Resolution.

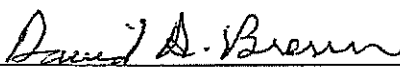
Reservoir. Colorado agrees to use the Livingston transit loss method to compute the delivery transit loss, both consumed and unconsumed, to deliver the water to the Kansas Section II account and no credit will be claimed for the unconsumed portion for this delivery.


- D. The Committee recommends that the procedures described in paragraph C above apply only to the past deficits and should remain valid only as long as this past deficits balance exists, and does not establish any precedent for any future dispute or for replenishment of transit losses on the release of water from the Kansas Section II account, subsequent to this recommendation, in any manner other than that provided for in the 1980 Operating Plan and the 2006 Agreement on Measurement of Section II Deliveries.
- E. The Committee recommends that ARCA, through its Operations Committee, conduct a review of the circumstances that led to the delivery deficits of 2002 and 2004 and to review the provisions of Section II E 5 of the 1980 Operating Plan in order to better understand the meaning of reasonable and favorable conditions under varying operational and hydrologic conditions.
- F. The issues referenced as Issues #52 (Upstream Storage during Spills) and #60 (Section II C (2) compliance, a.k.a. Agreement B) in the "Water Issues Matrix" document, JMR Accounting Issues, dated April 2005 have not been resolved by the Committee and those issues remain in dispute. The Committee makes no recommendation on these issues at this time, and the Committee acknowledges that Kansas does not waive any claim to past damages or restitution of water on those disputed issues.

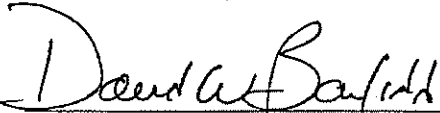
Therefore, it is the recommendation of the Special Engineering Committee that ARCA adopt the above recommendations in their entirety, or not adopt them at all.

Special Engineering Committee Approval

  
Jennifer Gimbel, Colorado member

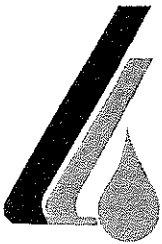
  
David A. Brenn, Kansas member

  
Dick Wolfe, Colorado member

  
David W. Barfield, Kansas member

Date: 5/1/08

1 of 4 originals



**Board of Water Works**  
of Pueblo, Colorado

319 W. 4th Street ▪ P.O. Box 400 ▪ Pueblo, Colorado 81002-0400 ▪ 719/584-0250

May 7, 2008

Mr. Steven J. Witte  
Division Engineer  
Water Division No. 2  
310 E. Abriendo Ave., Suite B  
Pueblo, CO 81004

Re: Water released from Lake Meredith to John Martin Reservoir

Dear Steve:

Beginning on May 8, 2008 and continuing through May 13, 2008, the Board of Water Works of Pueblo will arrange for Colorado Springs Utilities to release a total of 3,441.37 acre-feet of Arkansas River consumptive use water attributable to the changed water rights of the Colorado Canal. This water is being released from Lake Meredith and delivered to John Martin as repayment to Kansas for cumulative under-deliveries claimed back to 1996. We will repay Colorado Springs for this release with transmountain water at a time and location yet to be determined. Please let me know if you have any questions or need additional details on this release.

Sincerely,

Alan Ward  
Water Resources Administrator  
(719) 584-0235  
[award@pueblowater.org](mailto:award@pueblowater.org)

cc: *Allen Ringle*  
*Abby Ortega*  
*Jay Winner*