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Model Interstate Water Compact

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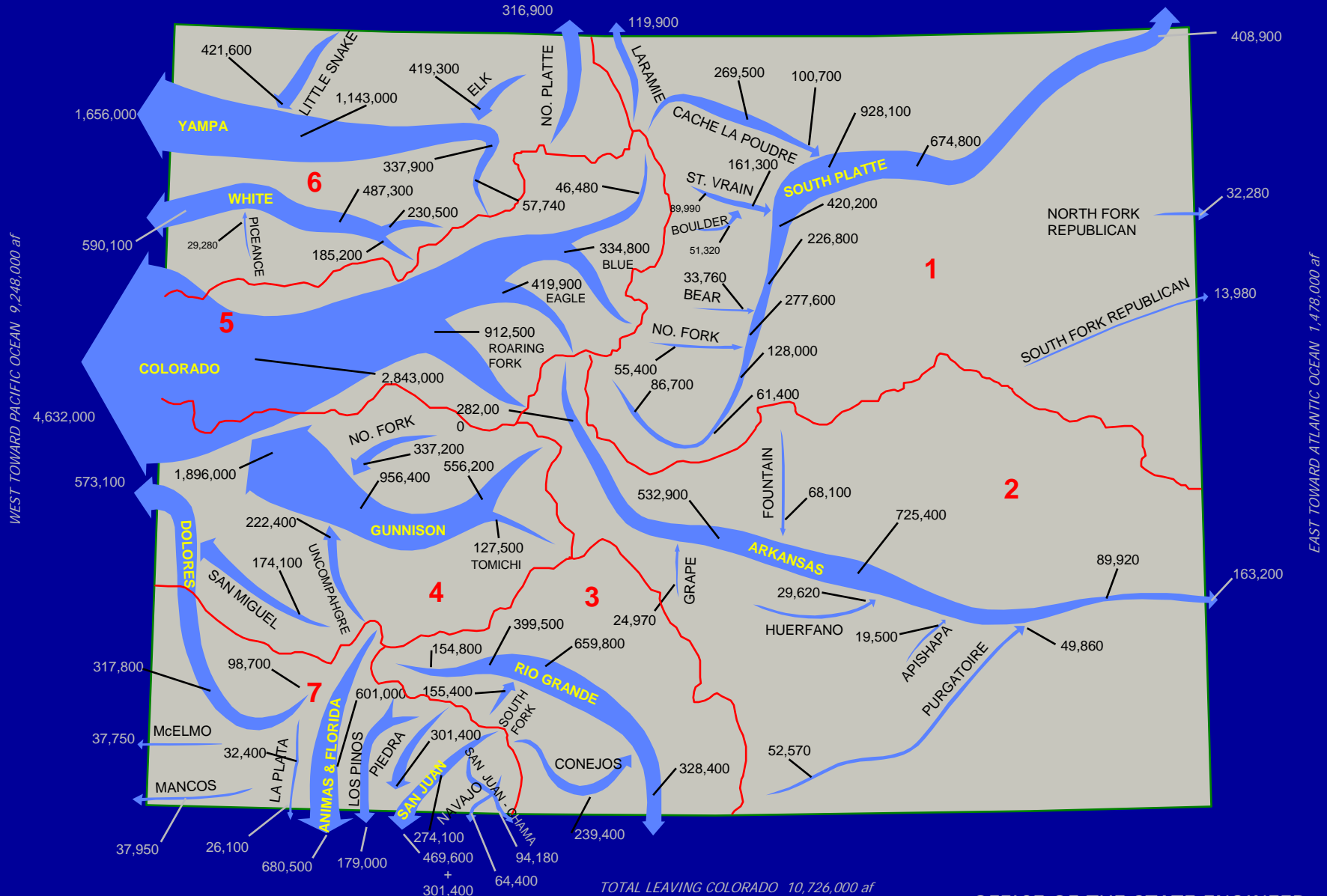
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The Utton Center
Model Interstate Water Compact
June 8, 2007

COLORADO HISTORIC AVERAGE ANNUAL STREAM FLOWS (acre feet)



TOTAL LEAVING COLORADO 10,726,000 af

REASONS WHY COLORADO NEGOTIATED INTERSTATE RIVER COMPACTS

Two U.S. Supreme Court Decisions

Kansas v. Colorado (1907): Principal of Equitable Apportionment

Wyoming v. Colorado (1922): Doctrine of Prior Appropriation applies across interstate boundaries, if both states rely upon the identical water allocation system

Protection of Existing and Future Water Development

Concern about cost and impacts of interstate litigation

Preservation of future uses – development potential

INTERSTATE RIVER COMPACTS

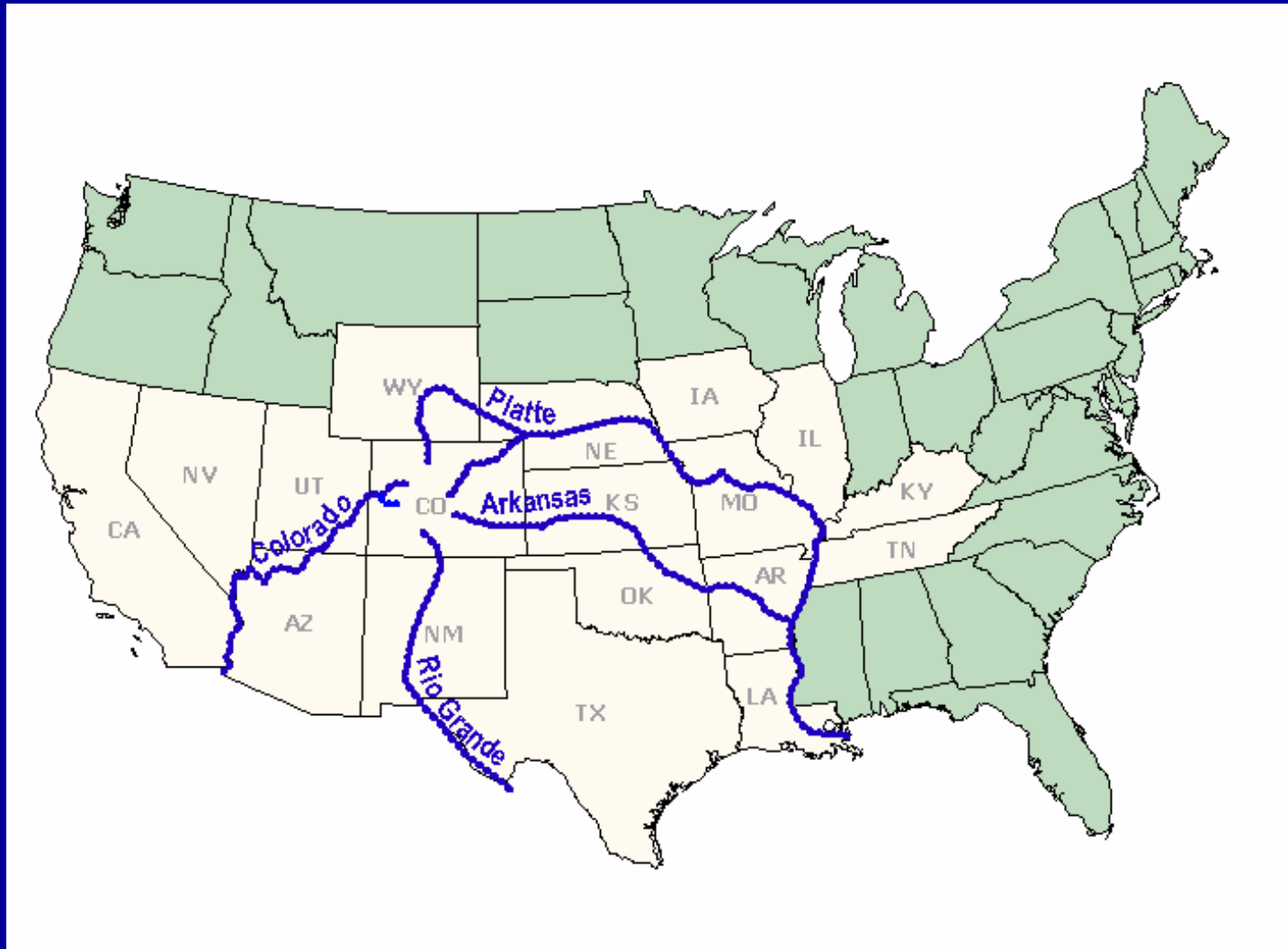
Advantages of Compacts

- Mutually beneficial solution to all states
- Thorough discussion of issues outside of formal court proceedings – includes experts and users
- Binding agreement – allows certainty concerning future development

Compact Enforcement

- Binding agreement or contract – enforceable by U.S. Supreme Court
- If a violation is found, damages can be assessed

Rivers Originating in Colorado Serve 18 States



INTERNATIONAL AND INTERSTATE DOCUMENTS AFFECTING COLORADO'S USE OF WATER

International Treaties

Mexican Treaty on Rio Grande, Tijuana,
and Colorado's Rivers – 1945

INTERSTATE DOCUMENTS AFFECTING COLORADO'S USE OF WATER

Interstate Compacts

Colorado River Compact - 1922

La Plata River Compact - 1922

South Platte River Compact - 1923

Rio Grande River Compact - 1938

Republican River Compact - 1942

Costilla Creek Compact - 1944 (Rev. 1963)

Upper Colorado River Compact - 1948

Arkansas River Compact - 1948

Animas-La Plata Project Compact - 1969

INTERSTATE DOCUMENTS AFFECTING COLORADO'S USE OF WATER

U.S. Supreme Court Cases

Nebraska v. Wyoming - 325 U.S. 589 (2001, 1945)

Wyoming v. Colorado - 353 U.S. 953 (1957)

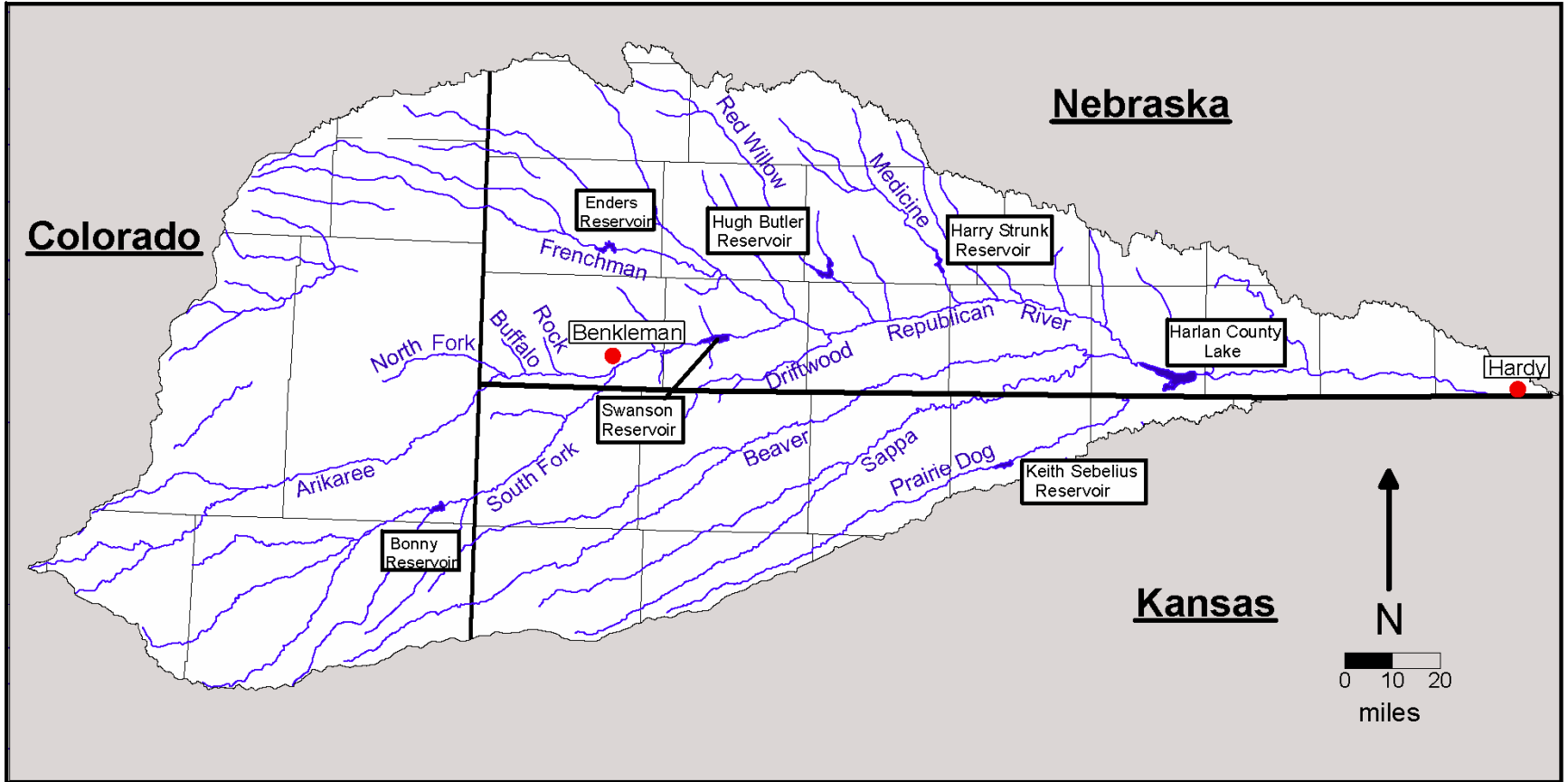
Agreements

Pot Creek Memorandum of Understanding – 2005 (1958)

Sand Creek Memorandum of Agreement - 1997

The Republican River Compact



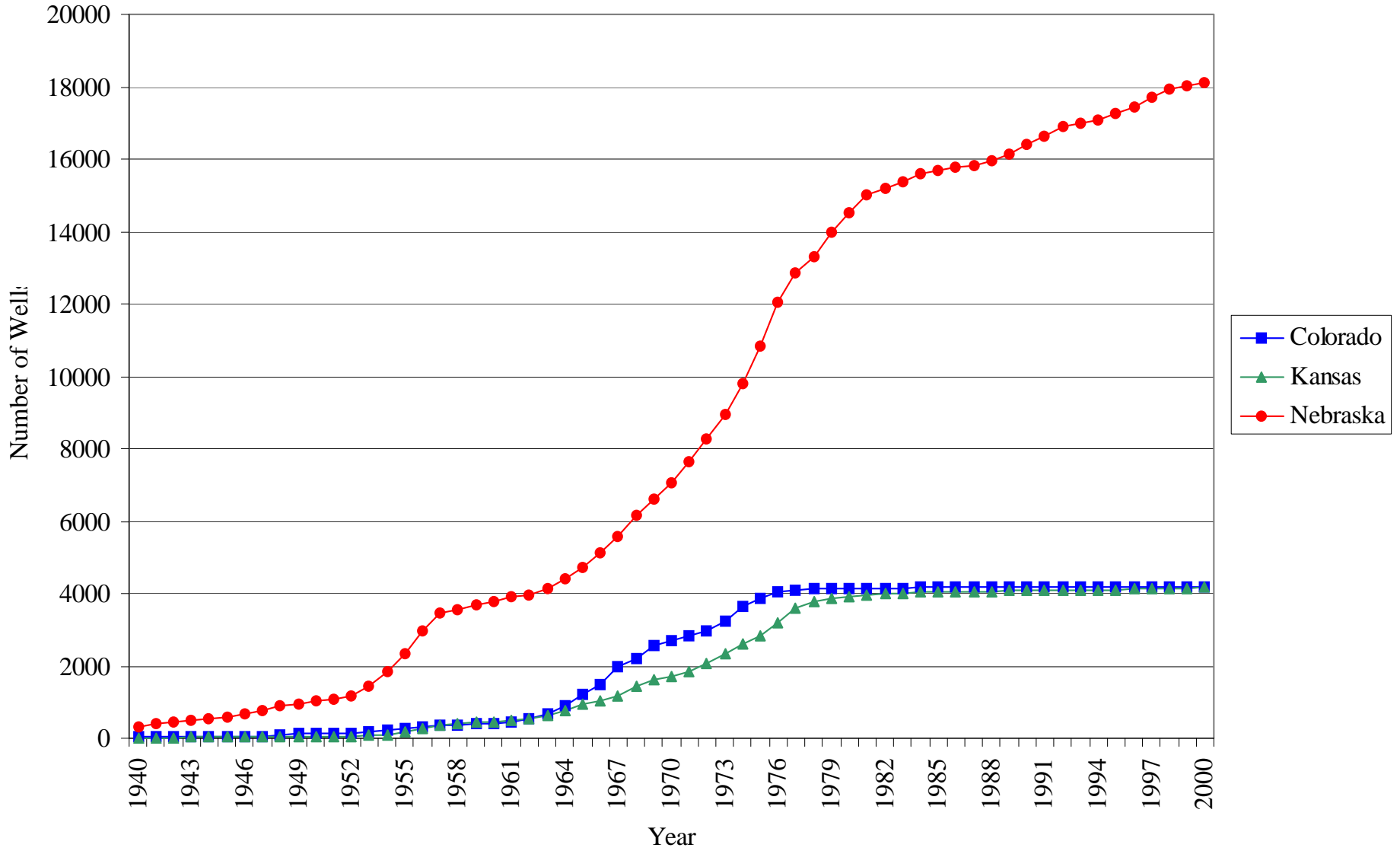


Republican River Basin

REPUBLICAN RIVER COMPACT

- 💧 Compact between Colorado, Kansas, and Nebraska signed December 31, 1942
- 💧 Republican River Basin: 24,900 square miles
- 💧 Impetus for Compact – equitable apportionment of Republican River waters. Construction of federal storage projects for irrigation development & the aftermath of 1935 flood
- 💧 Compact adjusts for variable water supply

Cumulative Number of Active Wells in the Republican River Model Domain



KANSAS V. NEBRASKA & COLORADO

Kansas filed complaint against Nebraska in May 1998

- ✦ Focus of Kansas' complaints against Nebraska
 - ◆ Overuse, primarily through groundwater use
 - ◆ Injury to Kansas
- ✦ United States as amicus curiae
- ✦ Appointment of Vincent McKusick as Special Master
- ✦ Colorado included as formal party in November 2000
- ✦ First Report of the Special Master included groundwater “to the extent it depletes Republican River Basin streamflows.”
- ✦ Affirmed by United States Supreme Court

SETTLEMENT NEGOTIATIONS

Settlement efforts began October 2001

1. Stay of trial schedule and briefs
2. Settlement Principles, April 2002

Final Settlement Stipulation December 15, 2002

1. Waives all claims through December 15, 2002
2. “Moratorium” – no relaxation of existing laws and regulations
3. Sub-basins may be combined toward compliance
4. Groundwater impacts quantified through jointly developed model

SETTLEMENT NEGOTIATIONS

Final Settlement Stipulation (con't)

5. Accounting Procedures re-done for much more specificity
6. Agreement between Kansas and Nebraska on Guide Rock compliance
7. Study on small reservoirs and land terracing
8. Dispute resolution process
9. First year of calculating five year running average for Compact compliance 2003
10. Does not mandate any particular actions any State must take to assure consumption is within the Compact allowance

Goals

Compliance with the Republican River Compact and Decree of the United States Supreme Court

Protection of agriculture and economic development in northeast Colorado

Conclusions



- ∞ Value and Opportunity Available within Compacts
- ∞ Integrate Interstate and Intrastate Water Administration

A scenic photograph of a farm. In the foreground, tall, thin grasses are silhouetted against the scene. In the middle ground, a large red barn with a grey metal roof and a tall, cylindrical brick silo are visible. The buildings are reflected in a calm body of water. The sky is blue with scattered white clouds.

Thank You

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