Model Interstate Water Compact

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Colorado State

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COLORADO HISTORIC AVERAGE ANNUAL STREAM FLOWS
(acre feet)

Prepared by the Hydrographic Branch (2000 Revision)
Historic averages obtained from USGS Water-Data Report CO-99
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
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 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

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
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
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
Thank You

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