The Utton Center
Model Interstate Water Compact
June 8, 2007
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
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 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


Agreements

- Pot Creek Memorandum of Understanding – 2005 (1958)
- Sand Creek Memorandum of Agreement - 1997
The 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

- **Number of Wells**: Cumulative count of active wells

- **Legend**:
  - Colorado
  - Kansas
  - Nebraska

The graph shows the cumulative number of active wells from 1940 to 2000 for Colorado, Kansas, and Nebraska.
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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