

COLORADO WATER CONSERVATION BOARD

Department of Natural Resources

INTERSTATE WATER ALLOCATION

The Colorado Water Conservation Board (CWCB) actively protects the authority, interests and rights of the state and its citizens in matters pertaining to interstate waters.

Allocation of water supplies among states has been accomplished using compacts, negotiated interstate agreements ratified by Congress; interstate litigation; or by Act of Congress, a process called congressional apportionment.

The CWCB and other representatives appointed by the Governor are engaged in ongoing discussions with federal agencies and other states about water availability and utilization. For example, we are meeting periodically with the seven Colorado River Basin states and 10 Indian Tribes about California's consumption of Colorado River water. We also meet every few months with interstate programs established to reconcile water supply needs with water quality and endangered species requirements and the interstate allocations of water in the Platte, Arkansas and Rio Grande rivers.

These activities have become an extremely important part of the CWCB's overall efforts to maximize opportunities for water supply, flood protection and environmental protection.



Major International Treaties, Interstate Compacts and U.S. Supreme Court Decisions:

- 1922 Colorado River Compact
- 1922 La Plata River Compact
- 1923 South Platte River Compact
- 1938 Rio Grande Compact
- 1942 Republican River Compact
- 1944 Costilla Creek Compact (Rev. 1963)
- 1945 Treaty between United States and Mexico, Utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande
- 1945 Nebraska v. Wyoming (325 U.S. 589)
- 1948 Upper Colorado River Compact
- 1949 Arkansas River Compact
- 1957 Wyoming v. Colorado ((309 U.S. (1940)), (259 U.S. 419 (1922))
- 1969 Animas-La Plata Project Compact

QUICK FACTS: COMPACTS, TREATIES AND DECREES

Platte River Basin

SOUTH PLATTE RIVER COMPACT OF 1923

Establishes Colorado's and Nebraska's rights to use water in Lodgepole Creek and the South Platte River. Nebraska has the right to fully use water in Lodgepole Creek. Colorado has the right to fully use water in the South Platte River between October 15 and April 1. Between April 1 and October 15, if the mean flow of the South Platte River at Julesburg drops below 120 cfs and water is needed for beneficial use in Nebraska, water rights in Colorado between the western boundary of Washington County and the state line (the "Lower Section") with priority dates junior to June 14, 1897 must be augmented through and approved plan or they will be curtailed. In addition to prior perfected rights in Colorado in use at the time of the Compact in the Lower Section, Colorado reserves the right to develop 35,000 acre-feet of storage in the Lower Section. (See 37-65-101 C.R.S.)

REPUBLICAN RIVER COMPACT OF 1942

Establishes the rights of Colorado, Nebraska and Kansas to water in the Republican River Basin and makes specific allocations of the right to make beneficial consumptive use of water from identified streams. (See 37-67-101 and 37-67102 C.R.S.)

NEBRASKA V. WYOMING 325 U.S. 665 (1945) and 345 U.S. 981 (1953)

Equitably apportions water in the North Platte River between Colorado, Nebraska and Wyoming. Limits total irrigation in Jackson County to 145,000 acres and 17,000 acre-feet of storage for irrigation during any one irrigation season. Limits total water exports from the North Platte River in Colorado to no more than 60,000 acre-feet during any 10-year period.

WYOMING V. COLORADO, 260 U.S. 1 (1922) and 309 U.S. 572 (1940)

Establishes the right of Colorado and Wyoming to water in the Laramie River Basin. Limits total diversions from the Laramie River in Colorado to a total of 39,750 acre-feet, divided among specific water facilities, including 15,500 acre-feet through the Laramie-Poudre Tunnel; 18,000 acre-feet through the Skyline Ditch; and 4,250 acre-feet through various "meadow land appropriations."

Arkansas River Basin

ARKANSAS RIVER COMPACT OF 1948

The Compact apportions the waters of the Arkansas River between Colorado (60%) and Kansas (40%) based on the opinion of the U.S. Supreme Court in *Colorado v. Kansas*, 320 U.S. 383 (1943). The Compact established the Arkansas River Compact Administration to prescribe procedures for Compact administration, including three representatives from Colorado (a water user from above and below John Martin Reservoir and the Director of the Colorado Water Conservation Board), three Kansas representatives, and a federal representative.

The 1980 Operating Principles provide for storage accounts in John Martin Reservoir and the release of water from those accounts for Colorado and Kansas water users. If the conservation pool in the reservoir is depleted, Colorado is required to administer water rights priorities in District 67 (downstream from John Martin). During such periods, Kansas is not entitled to water flowing into the reservoir.

Colorado and Kansas have litigated claims concerning Arkansas River water since the early twentieth century. Supreme Court decrees establish principles of equitable apportionment of water between states. In 1995, Colorado was found to have depleted stateline flows in violation of the Compact. The states are now litigating the nature and extent of the injury to Kansas and the method of repayment by Colorado before a Supreme Court appointed Special Master. In response to an order of the Special Master, the Colorado State Engineer promulgated well administration rules to bring Colorado into compliance with the Compact. (See 37-69-101 to 37-69-106 C.R.S.)

Rio Grande River Basin

RIO GRANDE RIVER COMPACT OF 1938

Establishes Colorado's obligation to ensure deliveries of water at the New Mexico state line and New Mexico's obligation to assure deliveries of water at the Elephant Butte Reservoir, with some allowance for credit and debit accounts. The obligations are calculated based on a schedule of deliveries. The Compact establishes the Rio Grande Compact Commission to administer the terms of the Compact. The Commission consists of one representative from each state and a non-voting federal representative. (See 37-66-101 and 37-66-102 C.R.S.)

AMENDED COSTILLA CREEK COMPACT OF 1963

Establishes uses, allocations and administration of the waters of Costilla Creek in Colorado and New Mexico. The Compact makes apportionments and allocations among specific facilities. It is administered by the Costilla Creek Compact Commission, which is composed of the water officials from Colorado and New Mexico. (See 37-68-101 and 37-68-102 C.R.S.)

U.S.– MEXICAN WATER TREATY OF 1906

Guarantees the delivery of 60,000 acre-feet of water annually at the International Dam at Ciudad Juarez, except during periods of extreme drought. Elephant Butte Reservoir in New Mexico was constructed partly to ensure the nation's ability to meet this obligation. The Rio Grande Compact provides that the allocations of water to the states shall not be increased or diminished by reason of changes in the delivery or loss of water to Mexico.

Colorado River Basin

COLORADO RIVER COMPACT OF 1922

Allocates 75 million acre-feet (maf) of consumptive use during each 10-year period to the Lower Colorado River Basin (those parts of Arizona, California, Nevada, New Mexico and Utah below Lee Ferry, Arizona). The balance of the water supply available in the Upper Basin (approximately 7.5 maf) is allocated for use in parts of Arizona, Colorado, New Mexico Utah and Wyoming above Lee Ferry. Lake Powell, located immediately upstream of Lee Ferry, is operated to annually deliver 7.5 maf plus a portion of the flow required to meet Mexican Treaty obligations. (See 37-61-101 to 37-61-104 C.R.S.)

LA PLATA RIVER COMPACT OF 1922

Apportions the La Plata River between Colorado and New Mexico. Each state has unrestricted use between December 1 and February 15. Outside that period, each state can use the flow of the river at the state line if the flow is in excess of 100 cfs. If the flow is less than 100 cfs, Colorado must ensure delivery of an amount of flow equal to one-half the flow of the river at Hesperus, Colorado. (See 37-63-101 and 37-63-102 C.R.S.)

UPPER COLORADO RIVER BASIN COMPACT OF 1948

Allocates the Upper Basin consumptive use of Colorado River water as follows: Arizona - 50,000 acre-feet/year; Colorado - 51.75%, Utah - 23%, Wyoming - 14%, New Mexico - 11.25%. The State of Colorado may not deplete the flow in the Yampa River below an aggregate of 5 maf over any 10-year period. Depending upon the interpretation of the Compacts, other laws, and the amount of water in the river, Colorado's right to the consumptive use of water under the Compacts may range from 3.079 maf to 3.855 maf per year. Colorado currently consumes an average of 2.3 maf per year with facilities in place using up to 2.6 maf. Colorado's apportionment has not been divided among the various sub-basins within the state. The Yampa and La Plata River Basins have specific delivery obligations under the compacts. The allocation and administration of any surpluses and shortages under the Compacts within Colorado remains open to discussion but ultimately will be subject to determination and administration by the State Engineer. (See 37-62-101 to 37-62-106 C.R.S.)

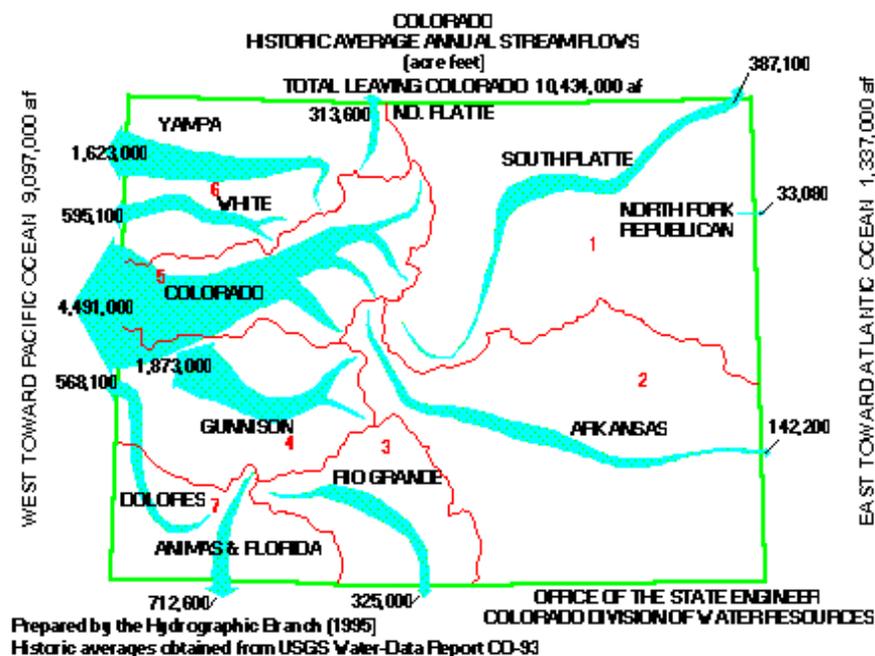
RIO GRANDE, COLORADO AND TIJUANA TREATY OF 1944 BETWEEN THE U. S. AND MEXICO

Guarantees delivery of 1.5 maf of Colorado River water per year to Mexico. If there is not adequate surplus water to satisfy the obligation, the Upper and Lower Basins are to equally share the burden of

reducing uses to make up any deficiencies.

ANIMAS-LA PLATA PROJECT COMPACT OF 1968

Assures New Mexico priority to the use of water delivered by the Animas-La Plata Project (ALP). The right to store and divert water for use in New Mexico under this Project shall be of equal priority to rights granted under Colorado Court Decree for uses in Colorado from the project. (See 37-64-101 C.R.S.)



You may find the text of the compacts discussed in this fact sheet by searching the Colorado Revised Statutes using the citations indicated following each compact via the following website:

[http://www.leg.state.co.us/inetcrs.nsf/caff08b8a0e34035872565e8006d65f8/\\$searchForm?SearchView](http://www.leg.state.co.us/inetcrs.nsf/caff08b8a0e34035872565e8006d65f8/$searchForm?SearchView).

For more information about this or other water resource topics you can contact the CWCB at:

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