

ADDENDUM TO SAND CREEK MEMORANDUM OF AGREEMENT
AND CORRECTION OF CLERICAL ERRORS

WHEREAS, on March 13, 1939, representatives of the states of Colorado and Wyoming and Sand Creek water users signed a Memorandum of Agreement for the administration of the waters of Sand Creek (the Sand Creek Agreement), whereby Colorado and the Divide Canal and Reservoir Company, which diverts water from Sand Creek in Colorado, recognized prior rights of Sand Creek appropriators in Wyoming totalling 50.64 cfs;

WHEREAS, the Sand Creek Agreement contains clerical errors concerning the amounts of Wyoming appropriations, including an error in computing the total amount of senior appropriations as 50.64 cfs rather than the correct amount of 50.68 cfs, and the states desire to correct such clerical errors;

WHEREAS, in administering the Sand Creek Agreement, Colorado and Wyoming water administration officials have found that it is not necessary for Colorado to deliver 50.68 cfs of water to the state line to make 50.68 cfs available to the Wyoming rights; that before return flows are established, delivery of 40 cfs of water to the state line is sufficient to satisfy the 50.68 cfs of senior Wyoming rights; and that once return flows are established, delivery of 35 cfs is sufficient to satisfy the Wyoming rights;

WHEREAS, For almost thirty years, Colorado and Wyoming water administration officials have administered the Sand Creek Agreement in the above manner; and

WHEREAS, this Addendum to the Sand Creek Agreement is intended to correct clerical errors and to reflect existing administrative practices, and is not intended to alter in any respect any of the rights recognized in the original Agreement, or to revoke, rescind, or replace any provisions of the original Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and in order to correct clerical errors and to conform the Sand Creek Agreement to long-standing administrative practices, the parties hereto agree as follows:

1. The amounts of individual Wyoming appropriations shall be deemed corrected as follows as if the same were set forth therein:

Richards: from 3.58 cfs to 3.57 cfs;
Red (1871): from 1.04 cfs to 1.40 cfs;
Red (1880): from 2.96 cfs to 2.95 cfs;
Davis Bros. No. 1: from 3.66 cfs to 3.65 cfs;
Leroy: from 4.98 cfs to 4.97 cfs;
William Konold: from 4.57 cfs to 4.17 cfs;
Lone Tree: from 5.69 cfs to 5.68 cfs;
Lone Tree or Antelope: from 5.86 cfs to 5.85 cfs;
Bush No. 1: from 2.14 cfs to 2.28 cfs; and
Davis Bros. No. 2: from 2.86 cfs to 2.85 cfs abandoned.

2. All references to 50.64 cfs in the Sand Creek Agreement shall be deemed corrected to 50.68 cfs as if the same were set forth therein.

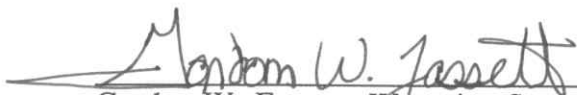
3. At the start of each year's irrigation season, Wyoming shall give notice to Colorado when irrigation demand by Wyoming appropriators reaches 40 cfs. When that occurs, Colorado shall deliver 40 cfs, or such lesser amount as can be made available by administering water rights in Colorado, to the state line gage. Once Colorado has delivered 40 cfs to the state line gage for a cumulative period of seven days (which need not be consecutive), Colorado shall deliver 35 cfs, or such lesser amount as can be made available by administering water rights in Colorado, to the state line gage for the remainder of the irrigation season whenever Wyoming senior appropriators need such water.

4. Each state shall pay the salary and expenses of its respective water administration officials. Wyoming shall pay the costs incurred in communicating with the superintendent of the Divide Canal and Reservoir Company regarding flows at the state line. Colorado shall pay the costs incurred in the normal maintenance of the state line gage. Should the state line gage require major repairs or replacement, such costs shall be shared equally by the states. "Major repair" of the state line gage shall mean an equipment or structural repair necessary to restore the gage to a sound state after decay, damage, dilapidation, or partial destruction which was not due to failure to maintain.

5. Wyoming shall have the right to reopen this Addendum if the water administration procedures specified herein fail to satisfy the 50.68 cfs of senior Wyoming rights. Colorado shall have the right to reopen this Addendum if the water administration procedures specified herein deliver more water than necessary to satisfy the 50.68 cfs of senior Wyoming rights.

6. Any changes, modifications, revisions, or amendments to this Addendum which are mutually agreed upon by the states shall be in writing and signed by the appropriate representatives of the states.


FOR THE STATE OF WYOMING:



Gordon W. Fassett, Wyoming State Engineer

8/18/97
date

APPROVED AS TO FORM



Donald M. Gerstein
Wyoming Attorney General's Office

8/13/97
date

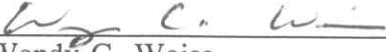
FOR THE STATE OF COLORADO:



Hal D. Simpson, Colorado State Engineer

8-7-97
date

APPROVED AS TO FORM



Wendy C. Weiss
Colorado Attorney General's Office

8/7/97
date