STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

COMPACTS AND DECREES

Includes:

- South Platte River Compact
- Republican River Compact
- Nebraska-South Dakota-Wyoming Water Compact
- Nebraska-Kansas Water Compact Commission
- Wyoming-Nebraska Compact on Upper Niobrara River
- Blue River Basin Compact

FEBRUARY 2010

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Table of Contents

1-105. SOUTH PLATTE RIVER COMPACT **1**

1-106. REPUBLICAN RIVER COMPACT **9**

1-110. NEBRASKA-SOUTH DAKOTA-WYOMING WATER COMPACT **17**

1-111. NEBRASKA-KANSAS WATER COMPACT COMMISSION **18**

1-112. WYOMING-NEBRASKA COMPACT ON UPPER NIOBRARA RIVER **19**

1-115. BLUE RIVER BASIN COMPACT **25**

NORTH PLATTE DECREE **34**

1-105. SOUTH PLATTE RIVER COMPACT

(1) Ratification by Nebraska Legislature

COMPACT WITH COLORADO, SOUTH PLATTE RIVER

AN ACT to ratify and approve the Compact between the States of Colorado and Nebraska, respecting the South Platte River, and to declare an emergency.

Be it enacted by the people of the State of Nebraska:

Section 1. **Compact Betweeen States of Colorado and Nebraska.** The compact concluded and signed on the 27th day of April A. D. 1923, by Commissioners for the States of Colorado and Nebraska, acting under appointment by the Governors of said States respectively, providing for the use and disposition of the waters of the South Platte River, is hereby ratified and approved by the Legislature of the State of Nebraska, which said Compact is in words and figures as follows:

SOUTH PLATTE RIVER COMPACT BETWEEN THE STATES OF

COLORADO AND NEBRASKA

The State of Colorado and the State of Nebraska, desiring to remove all causes of present and future controversy between said States, and between citizens of one against citizens of the other, with respect to waters of the South Platte River, and being moved by considerations of interstate comity, have resolved to conclude a compact for these purposes, and, through their respective Governors, have named as their Commissioners:

Delph E. Carpenter, for the State of Colorado; and Robert H. Willis, for the State of Nebraska; who have agreed upon the following articles:

ARTICLE I

In this compact: (1) The State of Colorado and the State of Nebraska are designated, respectively, as "Colorado" and "Nebraska." (2) The provisions hereof respecting each signatory State, shall include and bind its citizens and corporations and all others engaged or interested in the diversion and use of the waters of the South Platte River in that State. (3) The term "Upper Section" means that part of the South Platte River in the State of Colorado above and westerly from the west boundary of Washington County, Colorado. (4) The term "Lower Section" means that part of the South Platte River in the State of Colorado between the west boundary of Washington County and the intersection of said river with the boundary line common to the signatory States. (5) The term "Interstate Station" means that stream gaging station described in Article II. (6) The term "flow of the river" at the Interstate Station means the measured flow of the river at said station plus all increment of said flow entering the river between the Interstate Station and the diversion works of the Western Irrigation District in Nebraska.

ARTICLE II

(1) Colorado and Nebraska, at their joint expense, shall maintain a stream gaging station upon the South Platte River at the river bridge near the town of Julesburg, Colorado, or at a convenient point between said bridge and the diversion works of the canal of The Western Irrigation District in Nebraska, for the purpose of ascertaining and recording the amount of water flowing in said river from Colorado into Nebraska and to said diversion works at all times between the first day of April and the fifteenth day of October of each year. The location of said station may be changed from year to year as the river channels and water flow conditions of the river may require. (2) The State Engineer of Colorado and the Secretary of the Department of Public Works of Nebraska shall make provisions for the cooperative gaging at and the details of operation of said station and for the exchange and publication of records and data. Said state officials shall ascertain the rate of flow of the South Platte River through the Lower Section in Colorado and the time required for increases or decreases of flow, at points within said Lower Section, to reach the Interstate Station. In carrying out the provisions of Article IV of this compact, Colorado shall always be allowed sufficient time for any increase in flow (less permissible diversions) to pass down the river and be recorded at the Interstate Station.

ARTICLE III

The waters of Lodgepole Creek, a tributary of the South Platte River flowing through Nebraska and entering said river within Colorado, hereafter shall be divided and apportioned between the signatory States as follows: (1) The point of division of the waters of Lodgepole Creek shall be located on said creek two miles north of the boundary line common to the signatory States. (2) Nebraska shall have the full and unmolested use and benefit of all waters flowing in Lodgepole Creek above the point of division and Colorado waives all present and future claims to the use of said waters. Colorado shall have the exclusive use and benefit of all waters flowing at or below the point of division. (3) Nebraska may use the channel of Lodgepole Creek below the point of division and the channel of the South Platte River between the mouth of Lodgepole Creek and the Interstate Station, for the carriage of any waters of Lodgepole Creek which may be stored in Nebraska above the point of division and which Nebraska may desire to deliver to ditches from the South Platte River in Nebraska, and any such waters so carried shall be free from interference by diversions in Colorado and shall not be included as a part of the flow of the South Platte River to be delivered by Colorado at the Interstate Station in compliance with Article IV of this compact; **Provided, however,** that such runs of stored water shall be made in amounts of not less than ten cubic feet per second of time and for periods of not less than twenty four hours.

ARTICLE IV

The waters of the South Platte River hereafter shall be divided and apportioned between the signatory States as follows: (1) At all times between the fifteenth day of October of any year and the first day of April of the next succeeding year, Colorado shall have the full and uninterrupted use and benefit of the waters of the river flowing within the boundaries of the State, except as otherwise provided by Article VI. (2) Between the first day of April and the fifteenth day of October of each year, Colorado shall not permit diversions from the Lower Section of the river, to supply Colorado appropriations having adjudicated dates of priority subsequent to the fourteenth day of June, 1897, to an extent that will diminish the flow of the river at the Interstate Station, on any day, below a meanflow of 120 cubic feet of water per second of time, except as limited in paragraph three (3) of this Article. (3) Nebraska shall not be entitled to receive and Colorado shall not be required to deliver, on any day, any part of the flow of the river to pass the Interstate Station, as provided by paragraph two (2) of this Article, not then necessary for beneficial use by those entitled to divert water from said river within Nebraska. (4) The flow of the river at the Interstate Station shall be used by Nebraska to supply the needs of present perfected rights to the use of water from the river within said State before permitting diversions from the river by other claimants. (5) It is recognized that variable climatic conditions, the regulation and administration of the stream in Colorado, and other causes, will produce diurnal and other unavoidable variations and fluctuations in the flow of the river at the Interstate Station, and it is agreed that, in the performance of the provisions of said paragraph two (2), minor or compensating irregularities and fluctuations in the flow at the Interstate Station shall be permitted; but where any deficiency of the mean daily flow at the Interstate Station may have been occasioned by neglect, error or failure in the performance of duty by the Colorado water officials having charge of the administration or diversions from the Lower Section of the river in that state, each such deficiency shall be made up, within the next succeeding period of seventy two hours, by delivery of additional flow at the Interstate Station, over and above the amount specified in paragraph two (2) of this article, sufficient to compensate for such deficiency. (6) Reductions in diversions from the Lower Section of the river, necessary to the performance of paragraph two (2) of this Article by Colorado, shall not impair the rights of appropriators in Colorado (not to include the proposed Nebraska canal described in Article VI), whose supply has been so reduced, to demand and receive equivalent amounts of water from other parts of the stream in that State according to its Constitution, laws, and the decisions of its courts. (7) Subject to compliance with the provisions of this Article, Colorado shall have and enjoy the otherwise full and uninterrupted use and benefit of the waters of the river which hereafter may flow within the boundaries of that State from the first day of April to the fifteenth day of October in each year, but Nebraska shall be permitted to divert, under the subject to the provisions and conditions of Article VI, any surplus waters which otherwise would flow past the Interstate Station.

ARTICLE V

(1) Colorado shall have the right to maintain, operate, and extend, within Nebraska, the Peterson Canal and other canals of The Julesburg Irrigation District which now are or may hereafter be used for the carriage of water from the South Platte River for the irrigation of lands in both States, and Colorado shall continue to exercise control and jurisdiction of said canals and the carriage and delivery of water thereby. This Article shall not excuse Nebraska water users from making reports to Nebraska officials in compliance with the Nebraska laws. (2) Colorado waives any objection to the delivery of water for irrigation of lands in Nebraska by the canals mentioned in paragraph one (1) of this Article, and agrees that all interests in said canals and the use of waters carried thereby, now or hereafter acquired by owners of lands in Nebraska, shall be afforded the same recognition and protection as are the interests of similar land owners served by said canals within Colorado; **Provided, however,** that Colorado reserves to those in control of said canals the right to enforce the collection of charges or assessments, hereafter levied or made against such interests of owners of the lands in Nebraska, by withholding the delivery of water until the payment of such charges or assessments; **Provided, however,** such charges or assessments shall be the same as those levied against similar interests of owners of lands in Colorado. (3) Nebraska grants to Colorado the right to acquire by purchase, prescription, or the exercise of eminent domain, such rights of way, easements or lands as may be necessary for the construction, maintenance, operation, and protection of those parts of the above mentioned canals which now or hereafter may extend into Nebraska.

ARTICLE VI

It is the desire of Nebraska to permit its citizens to cause a canal to be constructed and operated for the diversion of water from the South Platte River within Colorado, for irrigation of lands in Nebraska; that said canal may commence on the South bank of said river at a point southwesterly from the town of Ovid, Colorado, and may run thence easterly through Colorado along or near the line of survey of the formerly proposed "Perkins County Canal" (sometimes known as the "South Divide Canal") and into Nebraska, and that said project shall be permitted to divert waters of the river as hereinafter provided. With respect to such proposed canal it is agreed: (1) Colorado consents that Nebraska and its citizens may hereafter construct, maintain, and operate such a canal and thereby may divert water from the South Platte River within Colorado for use in Nebraska, in the manner and at the time in this article provided, and grants to Nebraska and its citizens the right to acquire by purchase, prescription, or the exercise of eminent domain such rights of way, easements or lands as may be necessary for the construction, maintenance, and operation of said canal; subject, however, to the reservations and limitations and upon the conditions expressed in this Article which are and shall be limitations upon and reservations and conditions running with the rights and privileges hereby granted, and which shall be expressed in all permits issued by Nebraska with respect to said canal. (2) The net future flow of the Lower Section of the South Platte River, which may remain after supplying all present and future appropriations from the Upper Section, and after supplying all appropriations from the Lower Section

perfected prior to the seventeenth day of December, 1921, and after supplying the additional future appropriations in the Lower Section for the benefit of which a prior and preferred use of Thirty-five thousand acre feet of water is reserved by subparagraph (a) of this article, may be diverted by said canal between the fifteenth day of October of any year and the first day of April of the next succeeding year subject to the following reservations, limitations and conditions: (a) In addition to the water now diverted from the Lower Section of the river by present perfected appropriations, Colorado hereby reserves the prior, preferred and superior right to store, use and to have in storage in readiness for use on and after the first day of April in each year, an aggregate of thirty-five thousand acre feet of water to be diverted from the flow of the river in the Lower Section between the fifteenth day of October of each year and the first day of April of the next succeeding year, without regard to the manner or time of making such future uses, and diversions of water by said Nebraska canal shall in no manner impair or interfere with the exercise by Colorado of the right of future use of the water hereby reserved. (b) Subject at all times to the reservation made by subparagraph (a) and to the other provisions of this Article, said proposed canal shall be entitled to direct five hundred cubic feet of water per second time from the flow of the river in the Lower Section, as of priority of appropriation of date December 17th, 1921, only between the fifteenth day of October of any year and the first day of April of the next succeeding year upon the express condition that the right to so divert water is and shall be limited exclusively to said annual period and shall not constitute the basis for any claim to water necessary to supply all present and future appropriations in the Upper Section or present appropriations in the Lower Section and those hereafter to be made therein as provided in subparagraph (a). (3) Neither this compact nor the construction and operation of such a canal nor the diversion, carriage and application of water thereby shall vest in Nebraska, or in those in charge or control of said canal or in the users of water therefrom, any prior, preferred or superior servitude upon or claim or right to the use of any water of the South Platte River in Colorado from the first day of April to the fifteenth day of October of any year or against any present or future appropriator or user of water from said river in Colorado during said period of every year, and Nebraska specifically waives any such claims and agrees that the same shall never be made or asserted. Any surplus waters of the river, which otherwise would flow past the Interstate Station during such period of any year after supplying all present and future diversions by Colorado, may be diverted by such a canal, subject to the other provisions and conditions of this Article. (4) Diversions of water by said canal shall not diminish the flow necessary to pass the Interstate Station to satisfy superior claims of users of water from the river in Nebraska. (5) No appropriations of water from the South Platte River by any other canal within Colorado shall be transferred to said canal or be claimed or asserted for diversion and carriage for use on lands in Nebraska. (6) Nebraska shall have the right to regulate diversions of water by said canal for the purposes of protecting other diversions from the South Platte River within Nebraska and of avoiding violations of the provisions of Article IV; but Colorado reserves the right at all times to regulate and control the diversions by said canal to the extent necessary for the protection of all appropriations and diversions within Colorado or necessary to maintain the flow at the Interstate Station as provided by Article IV of this Compact.

ARTICLE VII

Nebraska agrees that compliance by Colorado with the provisions of this compact and the delivery of water in accordance with its terms shall relieve Colorado from any further or additional demand or claim by Nebraska upon the waters of the South Platte River within Colorado.

ARTICLE VIII

Whenever any official of either State is designated herein to perform any duty under this compact, such designation shall be interpreted to include the State official or officials upon whom the duties now performed by such official may hereafter devolve, and it shall be the duty of the officials of the State of Colorado charged with the duty of the distribution of the waters of the South Platte River for irrigation purposes, to make deliveries of water at the Interstate Station in compliance with this compact without necessity of enactment of special statutes for such purposes by the General Assembly of the State of Colorado.

ARTICLE IX

The physical and other conditions peculiar to the South Platte River and to the territory drained and served thereby constitute the basis for this compact and neither of the signatory States hereby concedes the establishment of any general principle or precedent with respect to other interstate streams.

ARTICLE X

This compact may be modified or terminated at any time by mutual consent of the signatory States, but, if so terminated and Nebraska or its citizens shall seek to enforce any claims of vested rights in the waters of the South Platte River, the statutes of limitation shall not run in favor of Colorado or its citizens with reference to claims of the Western Irrigation District to the water of the South Platte River from the sixteenth day of April, 1916, and as to all other present claims from the date of the approval of this compact to the date of such termination and the State of Colorado and its citizens may be made defendants in any action brought for such purpose shall not be permitted to plead the Statutes of Limitation for such periods of time.

ARTICLE XI

This compact shall become operative when approved by the Legislature of each of the signatory States and by the Congress of the United States. Notice of approval by the Legislature shall be given by the Governor of each State to the Governor of the other State and to the President of the United States, and the President of the United States is requested to give notice to the Governors of the signatory States of the approval by Congress of the United States.

IN WITNESS WHEREOF, the Commissioners have signed this compact in duplicate originals, one of which shall be deposited with the Secretary of State of each of the signatory States.

DONE at Lincoln, in the State of Nebraska, this 27th day of April, in the year of our Lord, One Thousand Nine Hundred Twenty-Three.

(Signed) Delph E. Carpenter.

Robert H. Willis.

Sec. 2. **Not to Bind State Until Approved by Other State.** That said Compact shall not bind either of the signatory States unless and until the same shall have been approved by the Legislature of each of the signatory States and the Congress of the United States shall have given its consent thereto and approval thereof.

Sec. 3. **The Governor to Notify Governor of Colorado.** The Governor of the State of Nebraska shall notify the Governor of the State of Colorado and the President of the United States of the passage of this Act, and the President is requested to notify the Governors of said States of the consent to and approval of said Compact by the Congress and to make proclamation thereof.

Sec. 4. **Emergency.** WHEREAS, an emergency exists, this Act shall take effect and be in force from and after its passage and approval.

(2) Appointment of the Commission of 1939

AN ACT providing for the appointment of a commissioner to act on behalf of the State of Nebraska to negotiate a compact between the States of Colorado and Nebraska respecting the use of and distribution of the waters of the South Platte River and the rights of said states thereto.

Section 1. The Governor of Nebraska shall appoint a commissioner who shall represent the State of Nebraska upon a joint commission to be composed of commissioners representing the States of Colorado and Nebraska, to be constituted by said states for the purpose of negotiating and entering into a compact or agreement between said states, with the consent of Congress, relative to the utilization and disposition of the waters of the South Platte River and all streams tributary thereto, and fixing and determining the rights of each of said states to the use, benefit and disposition of the waters of said streams; **Provided,** that any compact or agreement made on behalf of said states shall not be binding or obligatory upon either of said states or the citizens thereof, unless and until the same shall have been ratified and approved by the Legislatures of both states. Said commissioner shall have complete authority to consider and include in any compact between the said states, provisions for the construction of such works as may be necessary to conserve the waters in the aforesaid river and to store said waters in the State of Colorado for use in the State of Nebraska.

Sec. 2. Upon appointment of said commissioner by the Governor, the said commissioner shall proceed as soon as possible to meet with the commissioner for the State of Colorado for the purpose of negotiating the compact referred to in Section 1 hereof.

Source: (1) Laws 1923, c. 125, p. 299; (2) Laws 1939, c. 53, p. 223.

1-106. REPUBLICAN RIVER COMPACT

AN ACT to ratify the compact entered into by the states of Colorado, Kansas and Nebraska on December 31, 1942, relating to the Republican River; to repeal Chapter 92, Session Laws of Nebraska, 1941; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The compact entered into on December 31, 1942, between the states of Colorado, Kansas and Nebraska, and in the formulation of which compact a representative of the President of the United States participated, respecting the waters of the Republican River, is ratified and approved in all respects and is as follows:

REPUBLICAN RIVER COMPACT

The States of Colorado, Kansas, and Nebraska, parties signatory to this compact (hereinafter referred to as Colorado, Kansas, and Nebraska, respectively, or individually as a State, or collectively as the States), having resolved to conclude a compact with respect to the waters of the Republican River Basin, and being duly authorized therefor by the Act of the Congress of the United States of America, approved August 4, 1942, (Public No. 696, 77th Congress, Chapter 545, 2nd Session) and pursuant to Acts of their respective Legislatures have, through their respective Governors, appointed as their Commissioners:

M.C. Hinderlider, for Colorado

George S. Knapp, for Kansas

Wardner G. Scott, for Nebraska

who, after negotiations participated in by Glenn L. Parker, appointed by the President as the Representative of the United States of America, have agreed upon the following articles:

ARTICLE I

The major purposes of this compact are to provide for the most efficient use of the waters of the Republican River Basin (hereinafter referred to as the "Basin") for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is for beneficial consumptive use; and to promote joint action by the States and the United States in the efficient use of water and the control of destructive floods.

The physical and other conditions peculiar to the Basin constitute the basis for this compact, and none of the States hereby, nor the Congress of the United States by its

consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

ARTICLE II

The Basin is all the area in Colorado, Kansas, and Nebraska, which is naturally drained by the Republican River, and its tributaries, to its junction with the Smoky Hill River in Kansas. The main stem of the Republican River extends from the junction near Haigler, Nebraska, of its North Fork and the Arikaree River, to its junction with Smoky Hill River near Junction City, Kansas. Frenchman Creek (River) in Nebraska is a continuation of Frenchman Creek (River) in Colorado. Red Willow Creek in Colorado is not identical with the stream having the same name in Nebraska. A map of the Basin approved by the Commissioners is attached and made a part hereof.

The term "Acre-foot," as herein used, is the quantity of water required to cover an acre to the depth of one foot and is equivalent to forty-three thousand, five hundred sixty (43,560) cubic feet.

The term "Virgin Water Supply," as herein used, is defined to be the water supply within the Basin undepleted by the activities of man.

The term "Beneficial Consumptive Use" is herein defined to be that use by which the water supply of the Basin is consumed through the activities of man, and shall include water consumed by evaporation from any reservoir, canal, ditch, or irrigated area.

Beneficial consumptive use is the basis and principle upon which the allocations of water hereinafter made are predicated.

ARTICLE III

The specific allocations in acre-feet hereinafter made to each State are derived from the computed average annual virgin water supply originating in the following designated drainage basins, or parts thereof, in the amounts shown:

North Fork of the Republican River drainage basin in Colorado, 44,700 acre-feet;

Arikaree River drainage basin, 19,610 acre-feet;

Buffalo Creek drainage basin, 7,890 acre-feet;

Rock Creek drainage basin, 11,000 acre-feet;

South Fork of the Republican River drainage basin, 57,200 acre-feet;

Frenchman Creek (River) drainage basin in Nebraska, 98,500 acre-feet;

Blackwood Creek drainage basin, 6,800 acre-feet;

Driftwood Creek drainage basin, 7,300 acre-feet;

Red Willow Creek drainage basin in Nebraska, 21,900 acre-feet;

Medicine Creek drainage basin, 50,800 acre-feet;

Beaver Creek drainage basin, 16,500 acre-feet;

Sappa Creek drainage basin, 21,400 acre-feet;

Prairie Dog Creek drainage basin, 27,600 acre-feet;

The North Fork of the Republican River in Nebraska and the main stem of the Republican River between the junction of the North Fork and the Arikaree River and the lowest crossing of the river at the Nebraska-Kansas state line and the small tributaries thereof, 87,700 acre-feet.

Should the future computed virgin water supply of any source vary more than ten (10) per cent from the virgin water supply as hereinabove set forth, the allocations hereinafter made from such source shall be increased or decreased in the relative proportions that the future computed virgin water supply of such source bears to the computed virgin water supply used herein.

ARTICLE IV

There is hereby allocated for beneficial consumptive use in Colorado, annually, a total of fifty-four thousand, one hundred (54,100) acre-feet of water. This total is to be derived from the sources and in the amounts hereinafter specified and is subject to such quantities being physically available from those sources:

North Fork of the Republican River drainage basin, 10,000 acre-feet;

Arikaree River drainage basin, 15,400 acre-feet;

South Fork of the Republican River drainage basin, 25,400 acre-feet;

Beaver Creek drainage basin, 3,300 acre-feet; and

In addition, for beneficial consumptive use in Colorado, annually, the entire water supply of the Frenchman Creek (River) drainage basin in Colorado and of the Red Willow Creek drainage basin in Colorado.

There is hereby allocated for beneficial consumptive use in Kansas, annually, a total of one hundred ninety thousand, three hundred (190,300) acre-feet of water. This total is

to be derived from the sources and in the amounts hereinafter specified and is subject to such quantities being physically available from those sources:

Arikaree River Drainage Basin, 1,000 acre-feet;

South Fork of the Republican River drainage basin, 23,000 acre-feet;

Driftwood Creek drainage basin, 500 acre-feet;

Beaver Creek drainage basin, 6,400 acre-feet;

Sappa Creek drainage basin, 8,800 acre-feet;

Prairie Dog Creek drainage basin, 12,600 acre-feet;

From the main stem of the Republican River upstream from the lowest crossing of the river at the Nebraska-Kansas state line and from water supplies of upstream basins otherwise unallocated herein, 138,000 acre-feet; provided, that Kansas shall have the right to divert all or any portion thereof at or near Guide Rock, Nebraska; and

In addition there is hereby allocated for beneficial consumptive use in Kansas, annually, the entire water supply originating in the Basin downstream from the lowest crossing of the river at the Nebraska-Kansas state line.

There is hereby allocated for beneficial consumptive use in Nebraska, annually, a total of two hundred thirty-four thousand, five hundred (234,500) acre-feet of water. This total is to be derived from the sources and in the amounts hereinafter specified and is subject to such quantities being physically available from those sources:

North Fork of the Republican River drainage basin in Colorado, 11,000 acre-feet;

Frenchman Creek (River) drainage basin in Nebraska, 52,800 acre-feet;

Rock Creek drainage basin, 4,400 acre-feet;

Arikaree River drainage basin, 3,300 acre-feet;

Buffalo Creek drainage basin, 2,600 acre-feet;

South Fork of the Republican River drainage basin, 800 acre-feet;

Driftwood Creek drainage basin, 1,200 acre-feet;

Red Willow Creek drainage basin in Nebraska, 4,200 acre-feet;

Medicine Creek drainage basin, 4,600 acre-feet;

Beaver Creek drainage basin, 6,700 acre-feet;

Sappa Creek drainage basin, 8,800 acre-feet;

Prairie Dog Creek drainage basin, 2,100 acre-feet;

From the North Fork of the Republican River in Nebraska, the main stem of the Republican River between the junction of the North Fork and Arikaree River and the lowest crossing of the river at the Nebraska-Kansas state line, from the small tributaries thereof, and from water supplies of upstream basins otherwise unallocated herein, 132,000 acre-feet.

The use of the waters hereinabove allocated shall be subject to the laws of the State, for use in which the allocations are made.

ARTICLE V

The judgment and all provisions thereof in the case of Adelbert A. Weiland, as State Engineer of Colorado, et al. v. The Pioneer Irrigation Company, decided June 5, 1922, and reported in 259 U.S. 498, affecting the Pioneer Irrigation ditch or canal, are hereby recognized as binding upon the States; and Colorado, through its duly authorized officials, shall have the perpetual and exclusive right to control and regulate diversions of water at all times by said canal in conformity with said judgment.

The water heretofore adjudicated to said Pioneer Canal by the District Court of Colorado, in the amount of fifty (50) cubic feet per second of time is included in and is a part of the total amounts of water hereinbefore allocated for beneficial consumptive use in Colorado and Nebraska.

ARTICLE VI

The right of any person, entity, or lower State to construct, or participate in the future construction and use of any storage reservoir or diversion works in an upper State for the purpose of regulating water herein allocated for beneficial consumptive use in such lower State, shall never be denied by an upper State; provided, that such right is subject to the rights of the upper State.

ARTICLE VII

Any person, entity, or lower State shall have the right to acquire necessary property rights in an upper State by purchase, or through the exercise of the power of eminent domain, for the construction, operation and maintenance of storage reservoirs, and of appurtenant works, canals and conduits, required for the enjoyment of the privileges granted by Article VI; provided, however, that the grantees of such rights shall pay to the political subdivisions of the State in which such works are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the

average annual amount of taxes assessed against the lands and improvements during the ten years preceding the use of such lands, in reimbursement for the loss of taxes to said political subdivisions of the State.

ARTICLE VIII

Should any facility be constructed in an upper State under the provisions of Article VI, such construction and the operation of such facility shall be subject to the laws of such upper State.

Any repairs to or replacements of such facility shall also be made in accordance with the laws of such upper State.

ARTICLE IX

It shall be the duty of the three States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

The United States Geological Survey, or whatever federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of water facts necessary for the proper administration of this compact.

ARTICLE X

Nothing in this compact shall be deemed:

(a) To impair or affect any rights, powers or jurisdiction of the United States, or those acting by or under its authority, in, over, and to the waters of the Basin; nor to impair or affect the capacity of the United States, or those acting by or under its authority, to acquire rights in and to the use of waters of the Basin;

(b) To subject any property of the United States, its agencies or instrumentalities, to taxation by any State, or subdivision thereof, nor to create an obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, state agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

(c) To subject any property of the United States, its agencies or instrumentalities, to the laws of any State to any extent other than the extent these laws would apply without regard to this compact.

ARTICLE XI

This compact shall become operative when ratified by the Legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things, that:

(a) Any beneficial consumptive uses by the United States, or those acting by or under its authority, within a State, of the waters allocated by this compact, shall be made within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

(b) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Basin shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial consumptive use of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial consumptive use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested federal agencies and the state officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes.

(c) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the waters allocated by this compact which may be impaired by the exercise of federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under state law prior to the initiation or authorization of the federal program or project which causes such impairment.

IN WITNESS WHEREOF, the Commissioners have signed this compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done in the City of Lincoln, in the State of Nebraska, on the 31st day of December, in the year of our Lord, one thousand nine hundred forty-two.

M. C. Hinderlider

Commissioner for Colorado

George S. Knapp

Commissioner for Kansas

Wardner G. Scott

Commissioner for Nebraska

I have participated in the negotiations leading to this proposed compact and propose to report to the Congress of the United States favorably thereon.

Glenn L. Parker

Representative of the United States.

Sec. 2. That Chapter 92, Session Laws of Nebraska, 1941, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

Source: Laws 1943, c. 109, p. 377.

1-110. NEBRASKA-SOUTH DAKOTA-WYOMING WATER COMPACT

AN ACT relating to water compacts; to provide for the appointment of a commissioner or commissioners to act on behalf of the State of Nebraska to negotiate a compact among the States of Wyoming, South Dakota, and Nebraska as prescribed; to provide for an equitable division and apportionment among the states of the waters of the Niobrara River and its tributaries; to negotiate a compact between the States of South Dakota and Nebraska; to provide for the equitable division and apportionment between the states of the waters of Ponca Creek and its tributaries; to negotiate a compact by the State of Nebraska with the States of South Dakota and Wyoming, or either of them, relating to the extraction and use of ground waters from sources common to the compacting states; to provide certain powers for such commissioner or commissioners; to provide when such compacts shall become binding upon the states involved or the citizens thereof; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The Governor of Nebraska shall appoint a commissioner or commissioners who shall (1) represent the State of Nebraska upon a joint commission to be composed of commissioners representing the States of Wyoming, South Dakota, and Nebraska, to be constituted by the states for the purpose of negotiating and entering into a compact or agreement between the states of the waters of the Niobrara River and its tributaries; (2) represent the State of Nebraska upon a joint commission to be composed of commissioners representing the States of South Dakota and Nebraska to be constituted by the states for the purpose of negotiating and entering into a compact or agreement between the states for an equitable division and apportionment between the states of the waters of the Ponca Creek and its tributaries; and (3) represent the State of Nebraska upon a joint commission of the States of (a) Wyoming, South Dakota, and Nebraska, (b) Wyoming and Nebraska, or (c) South Dakota and Nebraska, to be constituted by the states for the purpose of negotiating a compact or compacts relating to the extraction and use of ground water from sources common to the compacting states; **Provided,** that any compact made on behalf of the states herein referred to shall not be binding or obligatory upon any of the states, or the citizens thereof, unless and until the same shall have been ratified by the Legislatures of the compacting states and approved by the Congress of the United States. The commissioner or commissioners shall have complete authority to consider and include in any compact provisions for the conservation of the waters and of the aforesaid streams and may provide for the construction of works in one of the states to control water for use in another of the states.

Sec. 2. Upon appointment of a commissioner or commissioners by the Governor, the commissioner or commissioners shall proceed immediately to meet with the commissioners for the States of Wyoming and South Dakota for the purpose of negotiating the compacts referred to in section 1 of this act.

Source: Laws 1955, c. 230, p. 715.

1-111. NEBRASKA-KANSAS WATER COMPACT COMMISSION

A BILL FOR AN ACT relating to water compacts; to provide for the appointment of a commissioner or commissioners to act on behalf of the State of Nebraska to negotiate a compact between the States of Kansas and Nebraska; to provide for an equitable division and apportionment between the states of the water of the Big Blue River and Little Blue River and their tributaries; to provide certain powers for such commissioner or commissioners; and to provide when such compact shall become binding upon the states involved or the citizens thereof.

Be it enacted by the people of the State of Nebraska,

Section 1. The Governor of Nebraska may appoint a commissioner or commissioners who shall represent the State of Nebraska upon a joint commission to be composed of commissioners representing the States of Kansas and Nebraska, to be constituted by the states for the purpose of negotiating and entering into a compact or compacts for the equitable division and apportionment between the states of the waters of the Big Blue River and its tributaries and the Little Blue River and its tributaries. Any compact made on behalf of the states herein referred to shall not be binding or obligatory upon either state, or the citizens thereof, unless and until the same shall have been ratified by the Legislatures of the compacting states and approved by the Congress of the United States. The commissioner or commissioners shall have complete authority to consider and include in any compact provisions for the conservation of the waters of the aforesaid streams and may provide for the construction of works in one of the states to control water for use in the other state.

Sec. 2. Upon appointment the commissioner or commissioners shall proceed immediately to meet with the commissioners for the State of Kansas for the purpose of negotiating the compact or compacts referred to in section 1 of this act.

Source: Laws 1959, c. 268, p. 954.

1-112. WYOMING-NEBRASKA COMPACT ON UPPER NIOBRARA RIVER

AN ACT to ratify the compact entered into by the States of Wyoming and Nebraska on October 26, 1962, relating to the Upper Niobrara River; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The compact respecting the waters of the upper Niobrara River entered into on October 26, 1962, by the States of Wyoming and Nebraska, and in the negotiation of which compact a representative of the President of the United States participated, is ratified and approved in all respects and is as follows:

"UPPER NIOBRARA RIVER COMPACT

The State of Wyoming, and the State of Nebraska, parties signatory to this compact (hereinafter referred to as Wyoming and Nebraska, respectively, or individually as a 'State', or collectively as 'States'), having resolved to conclude a compact with respect to the use of waters of the Niobrara River Basin, and being duly authorized by Act of Congress of the United States of America, approved August 5, 1953 (Public Law 191, 83rd Congress, 1st Session, Chapter 324, 67 Stat. 365) and the Act of May 29, 1958 (Public Law 85-427, 85th Congress, § 2557, 72 Stat. 147) and the Act of August 3, 1961 (Public Law 87-181, 87th Congress, § 2245, 75 Stat. 412) and pursuant to the Acts of their respective Legislatures have, through their respective Governors, appointed as their Commissioners: For Wyoming, Earl Lloyd, Andrew McMaster, Richard Pfister, John Christian, Eugene P. Willson, H. T. Person, Norman B. Gray, E. J. Van Camp: For Nebraska, Dan S. Jones, Jr., who after negotiations participated in by W. E. Blomgren appointed by the President of the United States of America, have agreed upon the following articles:

ARTICLE I.

A. The major purposes of this compact are to provide for an equitable division or apportionment of the available surface water supply of the Upper Niobrara River Basin between the States; to provide for obtaining information on groundwater and underground water flow necessary for apportioning the underground flow by supplement to this compact; to remove all causes, present and future which might lead to controversies; and to promote interstate comity.

B. The physical and other conditions peculiar to the Upper Niobrara River Basin constitute the basis for this compact; and neither of the States hereby concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

C. Either State and all others using, claiming or in any other manner asserting any right to the use of waters of the Niobrara River Basin under the authority of that State, shall be subject to the terms of this compact.

ARTICLE II.

A. The term 'Upper Niobrara River' shall mean and include the Niobrara River and its tributaries in Nebraska and Wyoming west of Range 55 West of the 6th P.M.

B. The term 'Upper Niobrara River Basin' or the term 'Basin' shall mean that area in Wyoming and Nebraska which is naturally drained by the Niobrara River west of Range 55 West of the 6th P.M.

C. Where the name of a State or the term 'State' or 'States' is used, they shall be construed to include any person or entity of any nature whatsoever using, claiming, or in any manner asserting any right to the use of the waters of the Niobrara River under the authority of that State.

ARTICLE III.

It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

The States agree that the United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, may collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of information necessary for the proper administration of this compact.

ARTICLE IV.

Each State shall itself or in conjunction with other responsible agencies cause to be established, maintained, and operated such suitable water gaging stations as are found necessary to administer this compact.

ARTICLE V.

A. Wyoming and Nebraska agree that the division of surface waters of the Upper Niobrara River shall be in accordance with the following provisions.

1. There shall be no restrictions on the use of the surface waters of the Upper Niobrara River by Wyoming except as would be imposed under Wyoming law and the following limitations:

(a) No reservoir constructed after August 1, 1957, and used solely for domestic and stock water purposes shall exceed 20 acre-feet in capacity.

(b) Storage reservoirs with priority dates after August 1, 1957, and storing water from the main stem of the Niobrara River east of Range 62 West of the 6th P.M. and from the main stem of Van Tassel Creek south of Section 27, Township 32 North, Range 60 West of the 6th P.M. shall not store in any water year (October 1 of one year to September 30 of the next year) more than a total of 500 acre-feet of water.

(c) Storage in reservoirs with priority dates prior to August 1, 1957, and storing water from the main stem of the Niobrara River east of Range 62 West and from the main stem of Van Tassel Creek south of Section 27, Township 32 North, shall be made only during the period October 1 of one year to June 1 of the next year and at such times during the period June 1 to September 30 that the water is not required to meet the legal requirements by direct flow appropriations in Wyoming and Nebraska west of Range 55 West. Where water is pumped from such storage reservoirs, the quantity of storage water pumped or otherwise diverted for irrigation purposes or other beneficial purposes from any such reservoir in any water year shall be limited to the capacity of such reservoir as shown by the records of the Wyoming State Engineer's office, unless additional storage water becomes available during the period June 1 to September 30 after meeting the legal diversion requirements by direct flow appropriations in Wyoming and in Nebraska west of Range 55 West.

(d) Storage in reservoirs with priority dates after August 1, 1957 and storing water from the main stem of the Niobrara River east of Range 62 West and the main stem of Van Tassel Creek south of Section 27, Township 32 North, shall be made only during the period October 1 of one year to May 1 of the next year and at such times during the period May 1 and September 30 that the water is not required for direct diversion by ditches in Wyoming and in Nebraska west of Range 55 West.

(e) Direct flow rights with priority dates after August 1, 1957, on the main stem of the Niobrara River east of Range 62 West and Van Tassel Creek south of Section 27, Township 32 North, shall be regulated on a priority basis with Nebraska rights west of Range 55 West, provided, that any direct flow rights for a maximum of 143 acres which may be granted by the Wyoming State Engineer with a priority date not later than July 1, 1961 for lands which had Territorial Rights under the Van Tassel No. 4 Ditch with a priority date of April 8, 1882, and the Van Tassel No. 5 Ditch with a priority date of April 18, 1882, shall be exempt from the provisions of this sub-section (e).

(f) All direct flow diversions from the main stem of the Niobrara River east of Range 62 West and from Van Tassel Creek south of Section 27, Township 32 North shall at all times be limited to their diversion rates as specified by Wyoming law, and provided that Wyoming laws relating to diversion of 'Surplus Water' (Wyoming Statutes 1957, Sections 41-181 to 41-188 inclusive) shall apply only when the water flowing in the main channel of the Niobrara River west of Range 55 West is in excess of the legal diversion requirements of Nebraska ditches having priority dates before August 1, 1957.

ARTICLE VI.

A. Nebraska and Wyoming recognize that the futures use of ground water for irrigation in the Niobrara River Basin may be a factor in the depletion of the surface flows of the Niobrara River, and since the data now available are inadequate to make a determination in regard to this matter, any apportionment of the ground water of the Niobrara River Basin should be delayed until such time as adequate data on ground water of the basin are available.

B. To obtain data on ground water, Nebraska and Wyoming, with the cooperation and advice of the United States Geological Survey, Groundwater Branch, shall undertake ground water investigations in the Niobrara River Basin in the area of the Wyoming-Nebraska State Line. The investigations shall be such as are agreed to by the State Engineer of Wyoming and the Director of Water Resources of Nebraska, and may include such observation wells as the said two officials agree are essential for the investigations. Costs of the investigations may be financed under the cooperative groundwater programs between the United States Geological Survey and the States, and the States' share of the costs shall be borne equally by the two States.

C. The ground water investigations shall begin within one year after the effective date of this compact. Upon collection of not more than twelve months of ground water data Nebraska and Wyoming with the cooperation of the United States Geological Survey, shall make, or cause to be made an analysis of such data to determine the desirability or necessity of apportioning the groundwater by supplement to this compact. If, upon completion of the initial analysis, it is determined that apportionment of the groundwater is not then desirable or necessary, reanalysis shall be made at not to exceed two-year intervals, using all data collected until such apportionment is made.

D. When the results of the ground water investigations indicate that apportionment of ground water of the Niobrara River Basin is desirable, the two States shall proceed to negotiate a supplement to this compact apportioning the ground water of the Basin.

E. Any proposed supplement to this compact apportioning the groundwater shall not become effective until ratified by the legislatures of the two States and approved by the Congress of the United States.

ARTICLE VII.

The provisions of this compact shall remain in full force and effect until amended by action of the Legislatures of the Signatory States and until such amendment is consented to and approved by the Congress of the United States in the same manner as this compact is required to be ratified and consented to in order to become effective.

ARTICLE VIII.

Nothing in this compact shall be construed to limit or prevent either State from instituting or maintaining any action or proceeding, legal or equitable, in any court of competent jurisdiction for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE IX.

Nothing in this compact shall be deemed:

A. To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Upper Niobrara River Basin nor its capacity to acquire rights in and to the use of said waters; provided that, any beneficial uses of the waters allocated by this compact hereafter made within a State by the United States, or those acting by or under its authority, shall be taken into account in determining the extent of use within that State.

B. To subject any property of the United States, its agencies, or instrumentalities to taxation by either State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes.

C. To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the compact.

D. To affect the obligations of the United States of America to Indians or Indian tribes, or any right owned or held by or for Indians or Indian tribes which is subject to the jurisdiction of the United States.

ARTICLE X.

Should a court of competent jurisdiction hold any part of this compact to contrary to the constitution of any State or of the United States, all other severable provisions shall continue in full force and effect.

ARTICLE XI.

This compact shall become effective when ratified by the Legislatures of each of the signatory States and by the Congress of the United States.

IN WITNESS WHEREOF, the Commissioners have signed this compact in triplicate original, one of which shall be filed in the archives of the United States of America and

shall be deemed the authoritative original, and one copy of which shall be forwarded to the Governor of each of the signatory States.

Done at the city of Cheyenne, in the State of Wyoming, this 26th day of October, in the year of our Lord, One Thousand Nine Hundred Sixty-Two 1962.

Commissioner for the State of Nebraska

s/Dan S. Jones, Jr.

Commissioners for the State of Wyoming

s/Earl Lloyd

s/Andrew McMaster

s/Richard Pfister

s/John Christian

s/Eugene P. Willson

s/H. T. Person

s/Norman B. Gray

s/E. J. Van Camp

I have participated in the negotiation of this compact and intend to report favorably thereon to the Congress of the United States.

s/W. E. Blomgren

Representative of the United States of America"

Sec. 2. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

Source: Laws 1963, c. 332, p. 1063.

1-115. BLUE RIVER BASIN COMPACT

A BILL

FOR AN ACT to ratify the compact entered into by the States of Kansas and Nebraska on January 25, 1971, relating to the waters of the basins of the Big Blue River and the Little Blue River; and to provide duties for the Revisor of Statutes as prescribed.

Be it enacted by the people of the State of Nebraska,

Section 1. The compact respecting the waters of the Big Blue River Basin entered into on January 25, 1971, by the States of Kansas and Nebraska, a copy of which was filed in the office of the Secretary of State on January 28, 1971, and in the negotiation of which compact a representative of the President of the United States participated, is ratified and approved in all respects.

Sec. 2. After the effective date of this act, in any future edition of a supplement to the Revised Statutes of Nebraska, 1943, or in any reissue of permanent volume 2A of the Revised Statutes of Nebraska, the Revisor of Statutes is authorized and directed to print the entire compact referred to in section 1 of this act.

KANSAS-NEBRASKA BIG BLUE RIVER COMPACT

PREAMBLE

The State of Kansas and the State of Nebraska, acting through their duly authorized Compact representatives, Keith S. Krause for the State of Kansas and Dan S. Jones, Jr., for the State of Nebraska, after negotiations participated in by Elmo W. McClendon, appointed by the President as the representative of the United States of America, and in accordance with the consent to such negotiations granted by an Act of Congress of the United States of America, approved June 3, 1960, Public Law 489, 86th Congress, 2nd Session, have agreed that the major purposes of this Compact concerning the waters of the Big Blue River and its tributaries are:

A. To promote interstate comity between the States of Nebraska and Kansas;

B. To achieve an equitable apportionment of the waters of the Big Blue River Basin between the two States and to promote orderly development thereof; and

C. To encourage continuation of the active pollution-abatement programs in each of the two States and to seek further reduction in both natural and man-made pollution of the waters of the Big Blue River Basin.

To accomplish these purposes, the said States have agreed as set forth in the following Articles.

Article I—DEFINITIONS

As used in this Compact:

1.1 The term "State" shall mean either State signatory hereto, and it shall be construed to include any person, entity, or agency of either State who, by reason of official responsibility or by designation of the Governor of the State, is acting as an official representative of the State;

1.2 The term "Kansas-Nebraska Big Blue River Compact Administration," or the term "Administration," means the agency created by this Compact for the administration thereof;

1.3 The term "Big Blue River Basin" means all of the drainage basin of the Big Blue and Little Blue Rivers in Nebraska and Kansas downstream to the confluence of the Big Blue River with the Kansas River near Manhattan, Kansas;

1.4 The term "Big Blue River Basin in Nebraska" means all of the drainage basin of the Big Blue River in Nebraska and is exclusive of the drainage basin of the Little Blue River in Nebraska;

1.5 The term "minimum mean daily flow" means the minimum mean flow for any one calendar day;

1.6 The term "pollution" means contamination or other undesirable alteration of any of the physical, chemical, biological, radiological, or thermal properties of the waters of the basin, or the discharge into the waters of the basin of any liquid, gaseous, or solid substances that create or are likely to result in a nuisance, or that render or are likely to render the waters into which they are discharged harmful, detrimental, or injurious to public health, safety, or welfare, or that are harmful, detrimental, or injurious to beneficial uses of the water;

1.7 The term "water project" means any physical structure of any man-made changes which affect the quantity or quality of natural water supplies or natural streamflows and which are designed to bring about greater beneficial use of the water resources of an area;

1.8 The term "natural flow" means that portion of the flow in a natural stream that consists of direct runoff from precipitation on the land surface, ground-water infiltration to the stream, return flows to the natural stream from municipal, agricultural, or other uses, and releases from storage for no designated beneficial use;

1.9 The term "inactive water appropriation" means a water right that is subject to cancellation or termination for non-use.

Article II—DESCRIPTION OF THE BASIN

2.1 The Big Blue River, a tributary of the Kansas River, drains an area of 9,696 square miles in south central Nebraska and north central Kansas. About 75 percent of the Big Blue River Basin is in Nebraska, and the remainder is in Kansas. The Big Blue River and its principal tributary, the Little Blue River, join near Blue Rapids, Kansas. From there, the Big Blue River flows generally southward to join the Kansas River near Manhattan, Kansas, as shown on Exhibit A.

2.2 Much of the upper portion of the basin in Nebraska is underlain with sands and gravels that supply large quantities of water to irrigation wells. The lower portion of the basin in Nebraska and that portion of the basin in Kansas lack significant groundwater supplies except within the major stream valleys.

Article III—ORGANIZATION OF COMPACT ADMINISTRATION

3.1 Administration Agency. There is hereby established an interstate administrative agency, to be known as the "Kansas-Nebraska Big Blue River Compact Administration," to administer the Compact.

3.2 Administration Membership. The Administration shall be composed of one ex officio member and one advisory member from each State, plus a Federal member to be appointed by the President if he so desires. The ex officio member from each State shall be the official charged with the duty of administering the laws of his State pertaining to water rights. Said official shall designate a representative who may serve in his place at meetings of the Administration. All actions taken by the designated representative in the transaction of the business of the Administration shall be in the name of the official he represents and shall be binding on that official. The advisory member from each State may serve in any capacity within the Administration. He shall reside in the Big Blue River Basin portion of the State he represents.

The Governor of each State shall appoint the advisory member from that state for a term of 4 years. This appointment shall be made within 90 days after the effective date of this Compact.

3.3 Administration Government. The Administration shall hold its first meeting within 120 days after the effective date of this Compact, and it shall meet at least annually thereafter. The Federal member, if one be designated, shall serve as Chairman, without vote. If no Federal representative is appointed, the Administration shall select a Chairman, in addition to such officers as may be provided for in the rules and regulations, to serve at the will of the Administration. A meeting quorum shall consist of the ex officio members from both States, or their designated representatives. Each State shall have but one vote, cast by the ex officio member or his representative. All actions must be approved by both ex officio members or their representatives. Minutes of each meeting shall be kept, and they shall be available for public inspection.

3.4 Administration Powers and Duties. The Administration shall have the power to adopt rules and regulations consistent with the provisions of this Compact, to enforce such rules and regulations, and to otherwise carry out its responsibilities. It may institute action in its own name in courts of competent jurisdiction to compel compliance with the provisions of this Compact and with the rules and regulations it adopts.

The Administration is hereby authorized to employ the technical and clerical staff necessary to carry out its functions, and to maintain the office and appurtenances necessary to conduct its business. It may employ attorneys, engineers, or other consultants. It may purchase equipment and services necessary to its functions.

The Administration shall publish an annual report including a review of its activities and financial status. It may also prepare and publish such other reports and publications as it deems necessary.

In order to provide a sound basis for carrying out the apportionment provisions of this Compact, the Administration shall cause to be established such stream-gaging stations, ground-water observation wells, and other data-collection facilities as are necessary for administering this Compact; and it shall install such other equipment and collect such data therefrom, for a period of not less than 5 years, as are necessary or desirable for evaluating the effects of pumping of wells on the flows of the Big Blue and Little Blue Rivers at the Kansas-Nebraska state line. The well area to be considered is described in Article V, paragraph 5.2.

The Administration shall have authority to accept funds from local, State, and Federal sources. It may enter into cooperative agreements and contribute funds to support such data-collection and analysis programs as are necessary for administration of the Compact.

Article IV—RESPONSIBILITY OF EACH STATE

4.1 Expenses of Administration. Each State and Federal member of the Administration shall receive such compensation and such reimbursement for travel and subsistence as are provided by the government he represents, and he shall be paid by that government.

4.2 Budget. Each year, the Administration shall prepare a properly documented budget covering the anticipated expenditures of the Administration for the following fiscal period. Each State shall make provision in its budget for funds to pay its share of the expenses of the Administration, which shall be divided equally between the States of Kansas and Nebraska. The Administration shall establish a fund to which each State shall contribute equally and from which the expenses of the Administration shall be paid.

4.3 Records and Information. The State of Kansas and the State of Nebraska shall cooperate with the Administration and furnish to it such records, information, plans, data, and assistance as may be reasonably available; and they shall keep the Administration advised of Federal activities in connection with planning, design, construction, operation,

and maintenance of water-resource projects in the Big Blue River Basin. Any local, public, or private agency collecting water data or planning, designing, constructing, operating, or maintaining any water project or facility in the Big Blue River Basin shall keep the Administration advised of its investigations and of any proposed changes and additions to existing projects and facilities, and it shall submit plans for new projects to the Administration for review of those project aspects affecting surface-water flowage and quality.

Article V—APPORTIONMENT OF WATERS OF THE BIG BLUE RIVER BASIN

5.1 Principles of Apportionment. The physical and other conditions peculiar to the Big Blue River Basin constitute the basis for this apportionment, and neither of the signatory States hereby, nor the Congress of the United States by its consent hereto, concedes that this apportionment establishes any general principle with respect to any other interstate stream.

The States of Kansas and Nebraska subscribe to the principle of including storage capacity for low-flow regulation in reservoirs constructed by the U.S. Bureau of Reclamation and the U.S. Army Corps of Engineers, and to the principle of such administration as is required to assure that water released from storage for low-flow regulation shall remain available in the stream to accomplish its intended purpose.

5.2 Nebraska Apportionment. The State of Nebraska shall have free and unrestricted use of the waters of the Little Blue and Big Blue River Basins in Nebraska, such use to be in accordance with the laws of the State of Nebraska, subject to the limitations set forth below.

(a) Water appropriations of record in the Little Blue and Big Blue River Basins in Nebraska on November 1, 1968, that were then inactive, shall be cancelled by due process of laws in effect in that State.

(b) During the period, May 1-September 30, the State of Nebraska shall regulate diversions from natural flow of streams in the Little Blue and Big Blue River Basins by water appropriators junior to November 1, 1968, in order to maintain minimum mean daily flows at the state-line gaging stations (which are now located at Fairbury and Barneston, respectively, but which may be relocated at such other places as may be designated state-line gaging stations by the Administration) during each month as follows:

Little Blue River		Big Blue River	
May	45 cfs	May	45 cfs
June	45 cfs	June	45 cfs
July	75 cfs	July	80 cfs
August	80 cfs	August	90 cfs
September	60 cfs	September	65 cfs

When such action is necessary to maintain the above schedule of flows, the State of Nebraska shall:

(1) Limit diversions by natural-flow appropriators in Nebraska in accordance with their water appropriations;

(2) Close, in reverse order of priority, natural-flow appropriations with priority dates subsequent to November 1, 1968, including rights to store water in the conservation-storage zones of reservoirs;

(3) Enjoin all persons not holding valid natural-flow appropriations from taking water during periods when the exercise of junior natural-flow appropriations is being restricted;

(4) Regulate, in the same manner that diversion of natural flows is regulated, withdrawals of water from irrigation wells installed after November 1, 1968, except equivalent wells drilled to replace wells installed before that date, in the alluvium and valley side terrace deposits within one mile from the thread of the river and between the mouth of Walnut Creek and the Kansas-Nebraska state line on the Little Blue River and between the mouth of Turkey Creek and the Kansas-Nebraska state line on the Big Blue River (as delineated on Exhibits A and B of Supplement No. 1 to the Report of the Engineering Committee) provided that, if the regulation of such wells fails to yield any measurable increases in flows at the state-line gaging stations as determined by the investigations to be undertaken under Article III, paragraph 3.4, the regulation of such wells shall be discontinued. Determination of the effect on streamflow of the pumping of such wells shall rest with the Administration.

Delivery of water under the terms of this article shall be deemed to be in compliance with its provisions when the amounts passing the state-line gaging stations are substantially equivalent to the scheduled amounts. Minor irregularities in flow shall be disregarded.

(c) The storage capacity provided in reservoirs in the Little Blue River Basin in Nebraska shall be limited to a total of 200,000 acre-feet. Similarly, the storage capacity in reservoirs in the Big Blue River Basin in Nebraska shall be limited to 500,000 acre-feet. These limitations are exclusive of storage capacity that may be found necessary for

regulation and use of waters imported into these basins in Nebraska; exclusive of storage capacity in small reservoir projects where the storage of water for subsequent use is less than 200 acre-feet; exclusive of storage capacity allocated to sedimentation and flood control; and exclusive of storage capacity allocated to, and from which water is released to accomplish, low-flow augmentation for improvement of water quality, for fishery, wildlife, or recreation purposes, or for meeting the flow schedules at the Kansas-Nebraska state line as set out in Article V, paragraph 5.2.

5.3 Kansas Apportionment. The State of Kansas shall have free and unrestricted use of all waters of the Big Blue River Basin flowing into Kansas from Nebraska in accordance with this Compact, and of all waters of the basin originating in Kansas, excepting such waters as may, in the future, flow from Kansas into Nebraska.

5.4 Transbasin Diversion. In the event of any importation of water into the Big Blue River Basin by either State, the State making the importation shall have exclusive use of such imported water, including identifiable return flows therefrom. Neither State shall authorize the exportation from the Big Blue River of water originating within that basin without the approval of the Administration.

Article VI—WATER QUALITY CONTROL

6.1 The States of Kansas and Nebraska mutually agree to the principle of individual State efforts to control natural and man-made water pollution within each State and to the continuing support of both States in active water pollution control programs.

6.2 The two States agree to cooperate, through their appropriate State agencies, in the investigation, abatement, and control of sources of alleged interstate pollution within the Big Blue River Basin whenever such sources are called to their attention by the Administration.

6.3 The two States agree to cooperate in maintaining the quality of the waters of the Big Blue River Basin at or above such water quality standards as may be adopted, now or hereafter, by the water pollution control agencies of the respective States in compliance with the provisions of the Federal Water Quality Act of 1965, and amendments thereto.

6.4 The two States agree to the principle that neither State may require the other to provide water for the purpose of water quality control as a substitute for adequate waste treatment.

Article VII—GENERAL PROVISIONS

7.1 Right to Store Water in Upper State. The right of the State of Kansas or of any person, corporation, local agency, or entity in Kansas to construct or participate in the future construction and use of any storage reservoir or diversion works in the Big Blue and Little Blue Basins of Nebraska for the purpose of regulating water to be used in Kansas shall never be denied; provided, that such right is subject to the laws of the State

of Nebraska and that any such storage for use by Kansas shall be excluded from the limitations on storage under Article V, paragraph 5.2(c).

Releases of water from storage provided by Kansas interests in the State of Nebraska shall not be counted toward meeting the minimum flow requirements at the State line under the provisions of paragraph 5.2(b).

7.2 Disclaimer. Nothing contained in this Compact shall be deemed:

1. To impair, extend, or otherwise affect any right or power of the United States, its agencies, or its instrumentalities involved herein;

2. To subject to the laws of the States of Kansas and Nebraska any property or rights of the United States that were not subject to the laws of those States prior to the date of this Compact;

3. To interfere with or impair the right or power of either signatory State to regulate within its boundaries the appropriation, use, and control of waters within that State consistent with its obligations under this Compact.

7.3 Invalidity in Part. Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of either signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

7.4 Future Review. After the expiration of 5 years following the effective date of this Compact, the Administration may review any provisions hereof; and it shall meet for such review whenever a member of the Administration from either State requests such review. All provisions hereof shall remain in full force and effect until changed and amended within the intent of the Compact by unanimous action of the Administration, and until such changes in this Compact are ratified by the Legislatures of the respective States and are consented to by the Congress of the United States, in the same manner that this Compact is required to be ratified and consented to before it becomes effective.

7.5 Termination. This Compact may be terminated at any time by appropriate action of the Legislatures of both signatory States. In the event of amendment or termination of the Compact, the water-resource developments made in compliance with, and reliant upon, this Compact shall continue unimpaired.

Article VIII—RATIFICATION

8.1 This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each State and consented to by the Congress of the United States and when the Congressional act consenting to this Compact includes the consent of Congress to name and join the United States as a party in any litigation in the United

States Supreme Court, if the United States is an indispensable party and if the litigation arises out of this Compact or its application, and if a signatory State is a party thereto.

8.2 Notice of ratification by the Legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of the consent by the Congress of the United States.

IN WITNESS WHEREOF the authorized representatives have executed three counterparts hereof, each of which shall be and constitute an original, one of which shall be deposited with the Administrator of General Services of the United States, and one of which shall be forwarded to the Governor of each State.

Done at Lincoln, Nebraska, this 25th day of January 1971.

/S/ KEITH S. KRAUSE

Commissioner for the State of Kansas

/S/ DAN S. JONES, Jr.

Commissioner for the State of Nebraska

APPROVED:

/S/ ELMO W. McCLENDON

Representative of the United States of America

Source: Laws 1971, LB 609.

NORTH PLATTE DECREE

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COURT DECISIONS

During the October Term, 1952, the Supreme Court of the United States modified the North Platte River Decree dated October 8, 1945. Following is a copy of the original Decree, and a copy of the Order Modifying and Supplementing said original Decree:

SUPREME COURT OF THE UNITED STATES

No. 6, Original.—October Term, 1945.

THE STATE OF NEBRASKA, Complainant,
V.
THE STATE OF WYOMING, Defendant, and
the State of Colorado, Impleaded Defendant,
The United States of America, Intervenor.

IN EQUITY.

(October 8, 1945.)

This cause having been heretofore submitted on the report of the Special Master and the exceptions of the parties thereto, and the Court being now fully advised in the premises:

It is ordered, adjudged and decreed that:

I. The State of Colorado, its officers, attorneys, agents and employees, be and they are hereby severally enjoined

(a) From diverting or permitting the diversion of water from the North Platte River and its tributaries for the irrigation of more than a total of 135,000 acres of land in Jackson County, Colorado, during any one irrigation season;

(b) From storing or permitting the storage of more than a total amount of 17,000 acre feet of water for irrigation purposes from the North Platte River and its tributaries in Jackson County, Colorado, between October 1 of any year and September 30 of the following year;

(c) From exporting out of the basin of the North Platte River and its tributaries in Jackson County, Colorado, to any other stream basin or basins more than 60,000 acre feet of water in any period of ten consecutive years reckoned in continuing progressive series beginning with October 1, 1945.

II. Exclusive of the Kendrick Project and Seminoe Reservoir the State of Wyoming, its officers, attorneys, agents and employees, be and they are hereby severally enjoined

(a) From diverting or permitting the diversion of water from the North Platte River above the Guernsey Reservoir and

from the tributaries entering the North Platte River above the Pathfinder Dam for the irrigation of more than a total of 168,000 acres of land in Wyoming during any one irrigation season.

(b) From storing or permitting the storage of more than a total amount of 18,000 acre feet of water for irrigation purposes from the North Platte River and its tributaries above the Pathfinder Reservoir between October 1 of any year and September 30 of the following year.

III. The State of Wyoming, its officers, attorneys, agents and employees, be and they are hereby severally enjoined from storing or permitting the storage of water in Pathfinder, Guernsey, Seminoe and Alcova Reservoirs otherwise than in accordance with the relative storage rights, as among themselves, of such reservoirs, which are hereby defined and fixed as follows:

First, Pathfinder Reservoir;
Second, Guernsey Reservoir;
Third, Seminoe Reservoir; and
Fourth, Alcova Reservoir;

Provided, however, that water may be impounded in or released from Seminoe Reservoir, contrary to the foregoing rule of priority operation for use in the generation of electric power when and only when such storage or release will not materially interfere with the administration of water for irrigation purposes according to the priority decreed for the French Canal and the State Line Canals.

IV. The State of Wyoming, its officers, attorneys, agents and employees be and they are hereby severally enjoined from storing or permitting the storage of water in Pathfinder, Guernsey, Seminoe or Alcova Reservoirs, and from the diversion of natural flow water through the Casper Canal for the Kendrick Project between and including May 1 and September 30 of each year otherwise than in accordance with the rule of priority in relation to the appropriations of the Nebraska lands supplied by the French Canal and by the State Line Canals, which said Nebraska appropriations are hereby adjudged to be senior to said four reservoirs and said Casper Canal, and which said Nebraska appropriations are hereby identified and defined, and their diversion limitations in second feet and seasonal limitations in acre feet fixed as follows:

Lands	Canal	Limitation in Sec. Feet	Seasonal Limitation in Acre Feet
Tract of 1025 acres	French	15	2,227
Mitchell Irrigation District	Mitchell	195	35,000
Gering Irrigation District	Gering	193	36,000
Farmers Irrigation District	Tri-State	748	183,050
Ramshorn Irrigation District	Ramshorn	14	3,000

V. The natural flow in the Guernsey Dam to Tri-State Dam section between and including May 1 and September 30 of each year, including the contribution of Spring Creek, be and the same hereby is apportioned between Wyoming and Nebraska on the basis of twenty-five per cent to Wyoming and seventy-five per cent to Nebraska, with the right granted Nebraska to designate from time to time the portion of its share which shall be delivered into the Interstate, Fort Laramie, French and Mitchell Canals for use on the Nebraska lands served by these canals. The State of Nebraska, its officers, attorneys, agents and employees, and the State of Wyoming, its officers, attorneys, agents and employees, are hereby enjoined and restrained from diversion or use contrary to this apportionment, provided that in the apportionment of water in this section the flow for each day, until ascertainable, shall be assumed to be the same as that of the preceding day, as shown by the measurements and computations for that day, and provided further, that unless and until Nebraska, Wyoming and the United States agree upon a modification thereof, or upon another formula reservoir evaporation and transportation losses in the segregation of natural flow and storage shall be computed in accordance with the following formula taken from United States' Exhibit 204A:

Reservoir Evaporation Losses.

Seminoe, Pathfinder and Alcova Reservoirs.

Evaporation will be computed daily based upon evaporation from Weather Bureau Standard 4 foot diameter Class "A" pan located at Pathfinder reservoir. Daily evaporation will be multiplied by area of water surface of reservoir in acres and by co-efficient of 70% to reduce pan record to open water surface.

Guernsey Reservoir.

Compute same as above except use pan evaporation at Whalen Dam.

River Carriage Losses.

River carriage losses will be computed upon basis of area of river water surface as determined by aerial surveys made in 1939 and previous years and upon average monthly evaporation at Pathfinder reservoir for the period 1921 to 1939, inclusive, using a co-efficient of 70% to reduce pan records to open water surface.

Daily evaporation losses in second-feet for various sections of the river are shown in the following table:

River Section	Area Acres	Daily Loss—Second Feet May	June	July	Aug.	Sept.
Alcova to Wendover	8,360	53	76	87	76	56
Guernsey Res. to Whalen	560	4	5	6	5	4
Whalen to State Line	2,430	16	22	25	22	16

Above table is based upon mean evaporation at Pathfinder as follows: May .561 ft.; June .767 ft.; July .910 ft.; Aug. .799 ft.; Sept. .568 ft. Co-efficient of 70% to reduce pan record to open water surface.

Above table does not contain computed loss for section of river from Pathfinder dam to head of Alcova reservoir (area 170 acres) because this area is less than submerged area of original river bed in Alcova reservoir and is, therefore, considered as off-set.

Likewise the area between Seminoe dam and head of Pathfinder reservoir is less than area of original river bed through Pathfinder reservoir—considered as off-set. Evaporation losses will be divided between natural flow and storage water flowing in any section of river channel upon a proportional basis. This proportion will ordinarily be determined at the upper end of the section except under conditions of intervening accruals or diversions that materially change the ratio of storage to natural flow at the lower end of the section. In such event the average proportion for the section will be determined by using the mean ratio for the two ends of the section.

In the determination of transportation losses for the various sections of the stream, such time intervals for the passage of water from point to point shall be used as may be agreed upon by Nebraska, Wyoming and the United States, or in the absence of such agreement, as may be decided upon from day to day by the manager of the government reservoirs, with such adjustments to be made by said manager from time to time as may be necessary to make as accurate a segregation as is possible.

VI. This decree is intended to and does deal with and apportion only the natural flow of the North Platte River. Storage water shall not be affected by this decree and the owners of rights therein shall be permitted to distribute the same in accordance with any lawful contracts which they may have entered into or may in the future enter into, without interference because of this decree.

VII. Such additional gauging stations and measuring devices at or near the Wyoming-Nebraska state line, if any, as may be necessary for making any apportionment herein decreed, shall be constructed and maintained at the joint and equal expense of Wyoming and Nebraska to the extent that the costs thereof are not paid by others.

VIII. The State of Wyoming, its officers, attorneys, agents and employees be and they are hereby severally enjoined from diverting or permitting the diversion of water from the North Platte River or its tributaries at or above Alcova Reservoir in lieu of or in exchange for return flow water from the Kendrick Project reaching the North Platte River below Alcova Reservoir.

IX. The State of Wyoming and the State of Colorado be and they hereby are each required to prepare and maintain complete and accurate records of the total area of land irrigated and the storage and exportation of the water of the North Platte River and its tributaries within those portions of their respective jurisdictions covered by the provisions of paragraphs I and II hereof, and such records shall be available for inspection at all reasonable times; provided, however, that such records shall not be required in reference to the water uses permitted by paragraph X hereof.

X. This decree shall not affect or restrict the use or diversion of water from the North Platte River and its tributaries in Colorado or Wyoming for ordinary and usual domestic, municipal and stock watering purposes and consumption.

XI. For the purposes of this decree:

(a) "Season" or "seasonal" refers to the irrigation season, May 1 to September 30, inclusive;

(b) The term "storage water" as applied to releases from reservoirs owned and operated by the United States is defined as any water which is released from reservoirs for use on lands under canals having storage contracts in addition to the water which is discharged through those reservoirs to meet natural flow uses permitted by this decree;

(c) "Natural flow water" shall be taken as referring to all water in the stream except storage water;

(d) Return flows of Kendrick Project shall be deemed to be "natural flow water" when they have reached the North Platte River, and subject to the same diversion and use as any other natural flow in the stream.

XII. This decree shall not affect:

(a) The relative rights of water users within any one of the States who are parties to this suit except as may be otherwise specifically provided herein;

(b) Such claims as the United States has to storage water under Wyoming law; nor will the decree in any way interfere with the ownership and operation by the United States of the various federal storage and power plants, works and facilities.

(c) The use or disposition of any additional supply or supplies of water which in the future may be imported into the basin of the North Platte River from the water shed of an entirely separate stream, and which presently do not enter said basin, or the return flow from any such supply or supplies.

(d) The apportionment heretofore made by this Court between the States of Wyoming and Colorado of the waters of the Laramie River, a tributary of the North Platte River;

(e) The apportionment made by the compact between the States of Nebraska and Colorado, apportioning the water of the South Platte River.

XIII. Any of the parties may apply at the foot of this decree for its amendment or for further relief. The Court retains jurisdiction of this suit for the purpose of any order, direction, or modification of the decree, or any supplementary decree, that may at any time be deemed proper in relation to the subject matter in controversy. Matters with reference to which further relief may hereafter be sought shall include, but shall not be limited to, the following:

(a) The question of the applicability and effect of the Act of August 9, 1937, 50 Stat. 564, 595-596, upon the rights of Colorado and its water users when and if water hereafter is available for storage and use in connection with the Kendrick Project in Wyoming.

(b) The question of the effect upon the rights of upstream areas of the construction or threatened construction in downstream areas of any project not now existing or recognized in this decree;

(c) The question of the effect of the construction or threatened construction of storage capacity not now existing on tributaries entering the North Platte River between Pathfinder Reservoir and Guernsey Reservoir;

(d) The question of the right to divert at or above the headgate of the Casper Canal any water in lieu of, or in exchange for, any water developed by artificial drainage to the river of sump areas on the Kendrick Project;

(e) Any question relating to the joint operation of Pathfinder, Guernsey, Seminoe and Alcova Reservoirs whenever changed conditions make such joint operation possible.

(f) Any change in conditions making modification of the decree or the granting of further relief necessary or appropriate.

XIV. The costs in this cause shall be apportioned and paid as follows: the State of Colorado one-fifth; the State of Wyoming two-fifths; and the State of Nebraska two-fifths. Payment of the fees and expenses of the Special Master has been provided by a previous order of this Court.

XV. The clerk of this Court shall transmit to the chief magistrates of the States of Colorado, Wyoming, and Nebraska, copies of this decree duly authenticated under the seal of this court.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 5 Original

THE STATE OF NEBRASKA, Complainant,

V.

THE STATE OF WYOMING, Defendant,

and

THE STATE OF COLORADO, Impleaded Defendant,

THE UNITED STATES OF AMERICA, Intervener.

ORDER MODIFYING AND SUPPLEMENTING DECREE OF OCTOBER 8, 1945.

The parties to this cause having filed a stipulation, dated January 14, 1953, and a joint motion for approval of the stipulation and to modify and supplement the decree entered on October 8, 1945 (325 U. S. 665) and the Court being fully advised:

The stipulation dated January 14, 1953, is approved; and

IT IS Ordered that the decree of October 8, 1945, is hereby modified and supplemented as follows:

1. In paragraph I (a) of the decree the figure "145,000" is substituted for the figure "135,000."

2. Paragraph XIII is amended by striking the first sentence and substituting for it the following:

> Any of the parties may apply at the foot of this decree for its amendment or for further relief, except that for a period of five years from and after [the date of the entry of this order to be inserted by the Court] the State of Colorado shall not institute any proceedings for the amendment of the decree or for further relief. In the event that within said period of five years any other party applies for an amendment of the decree or for further relief, then the State of Colorado may assert any and all rights, claims or defenses available to it under the decree as amended.

3. Two new paragraphs, as follows, are added to the decree:

> XVI. Whatever claims or defenses the parties or any of them may have in respect to the application, interpretation or construction of the Act of August 9, 1937 (50 Stat. 564-595) shall be determined without prejudice to any party arising because of any development of the Kendrick Project occurring subsequent to October 1, 1951.
>
> XVII. When Glendo Dam and Reservoir are constructed, the following provisions shall be effective:

(a) The construction and operation of the Glendo Project shall not impose any demand on areas at or above Seminoe Reservoir which will prejudice any rights that the State of Colorado or Wyoming might have to secure a modification of the decree permitting an expansion of water uses in the natural basin of the North Platte River in Colorado or above Seminoe Reservoir in Wyoming.

(b) The construction and operation of Glendo Reservoir shall not affect the regimen of the natural flow of the North Platte River above Pathfinder Dam. The regimen of the natural flow of the North Platte River below Pathfinder Dam shall not be changed, except that not more than 40,000 acre feet of the natural flow of the North Platte River and its tributaries which cannot be stored in upstream reservoirs under the provisions of this decree may be stored in the Glendo Reservoir during any water year, in addition to evaporation losses on such storage, and, further, the amount of such storage water that may be held in storage at any one time, including carryover storage, shall never exceed 100,000 acre feet. Such storage water shall be disposed of in accordance with contracts to be hereafter executed, and it may be used for the irrigation of lands in the basin of the North Platte River in western Nebraska to the extent of 25,000 acre feet annually, and for the irrigation of lands in the basin of the North Platte River in southeastern Wyoming below Guernsey Reservoir to the extent of 15,000 acre feet annually, provided that it shall not be used as a substitute for storage water contracted for under any existing permanent arrangements. The above limitation on storage of natural flow does not apply to flood water which may be temporarily stored in any capacity allocated for flood control in the Glendo Reservoir, nor to water originally stored in Pathfinder Reservoir which may be temporarily re-stored in Glendo Reservoir after its release from Pathfinder and before its delivery pursuant to contract; nor to water which may be impounded behind Glendo Dam, as provided in the Bureau of Reclamation Definite Plan Report for the Glendo Unit dated December 1952, for the purpose of creating a head for the development of water power.

(c) Paragraph III of the decree is amended to read as follows:

III. The State of Wyoming, its officers, attorneys, agents and employees, be and they are hereby severally enjoined from storing or permitting the storage of water in Pathfinder, Guernsey, Seminoe, Alcova and Glendo Reservoirs otherwise than in accordance with the relative storage

rights, as among themselves, of such reservoirs, which are hereby defined and fixed as follows:

First, Pathfinder Reservoir;
Second, Guernsey Reservoir;
Third, Seminoe Reservoir;
Fourth, Alcova Reservoir; and
Fifth, Glendo Reservoir;

Provided, however that water may be impounded in or released from Seminoe Reservoir, contrary to the foregoing rule of priority operation for use in the generation of electric power when and only when such storage or release will not materially interfere with the administration of water for irrigation purposes according to the priority decreed for the French Canal and the State Line Canals.

Storage rights of Glendo Reservoir shall be subject to the provisions of this paragraph III.

(d) Paragraph IV of the decree is amended to read as follows:

IV. The State of Wyoming, its officers, attorneys, agents and employees be and they are hereby severally enjoined from storing or permitting the storage of water in Pathfinder, Guernsey, Seminoe, Alcova and Glendo Reservoirs, and from the diversion of natural flow water through the Casper Canal for the Kendrick Project between and including May 1 and September 30 of each year otherwise than in accordance with the rule of priority in relation to the appropriations of the Nebraska lands supplied by the French Canal and by the State Line Canals, which said Nebraska appropriations are hereby adjudged to be senior to said five reservoirs and said Casper Canal, and which said Nebraska appropriations are hereby identified and defined, and their diversion limitations in second feet and seasonal limitations in acre feet fixed as follows:

Lands	Canal	Limitation in Sec. Feet	Seasonal Limitation in Acre Feet
Tract of 1025 acres	French	15	2,227
Mitchell Irrigation District	Mitchell	195	35,000
Gering Irrigation District	Gering	193	36,000
Farmers Irrigation District	Tri-State	748	183,050
Ramshorn Irrigation District	Ramshorn	14	3,000

(e) Paragraph V of the Decree is amended to read as follows:

V. The natural flow in the Guernsey Dam to Tri-State Dam section between and including May 1 and September

30 of each year, including the contribution of Spring Creek, be and the same hereby is apportioned between Wyoming and Nebraska on the basis of twenty-five per cent to Wyoming and seventy-five per cent to Nebraska, with the right granted Nebraska to designate from time to time the portion of its share which shall be delivered into the Interstate, Fort Laramie, French and Mitchell Canals for use on the Nebraska lands served by these canals. The State of Nebraska, its officers, attorneys, agents and employees, and the State of Wyoming, its officers, attorneys, agents and employees, are hereby enjoined and restrained from diversion or use contrary to this apportionment, provided that in the apportionment of water in this section the flow for each day, until ascertainable, shall be assumed to be the same as that of the preceding day, as shown by the measurements and computations for that day, and provided further, that unless and until Nebraska, Wyoming and the United States agree upon a modification thereof, or upon another formula, reservoir evaporation and transportation losses in the segregation of natural flow and storage shall be computed in accordance with the following formula taken from United States' Exhibit 204A and the stipulation of the parties dated January 14, 1953, and filed on January 30, 1953:

Reservoir Evaporation Losses.

Seminoe, Pathfinder and Alcova Reservoirs.

Evaporation will be computed daily based upon evaporation from Weather Bureau Standard 4 foot diameter Class "A' pan located at Pathfinder Reservoir. Daily evaporation will be multiplied by area of water surface of reservoir in acres and by co-efficient of 70% to reduce pan record to open water surface.

Glendo and Guernsey Reservoirs.

Compute same as above except use pan evaporation at Whalen Dam.

River Carriage Losses.

River carriage losses will be computed upon basis of area of river water surface as determined by aerial surveys made in 1939 and previous years and upon average monthly evaporation at Pathfinder reservoir for the period 1921 to 1939, inclusive, using a co-efficient of 70% to reduce pan records to open water surface.

Daily evaporation losses in second-feet for various sections of the river are shown in the following table:

TABLE

River Section	Area Acres	Daily Loss—Second Feet May	June	July	Aug.	Sept.
Alcova to Glendo Reservoir	6,740	43	61	70	61	45
Guernsey Reservoir to Whalen	560	4	5	6	5	4
Whalen to State Line	2,430	16	22	25	22	16

Above table is based upon mean evaporation at Pathfinder as follows: May .561 ft.; June .767 ft.; July .910 ft.; Aug. .799 ft.; Sept. .568 ft. Co-efficient of 70% to reducec pan record to open water surface.

Above table does not contain computed loss for section of river from Glendo Dam to head of Guernsey Reservoir (area 680 acres) because this area is less than submerged area of original river bed (940 acres) in Glendo Reservoir and is, therefore, considered as off-set.
Above table does not contain computed loss for section of river from Pathfinder Dam to head of Alcova Reservoir (area 170 acres) because this area is less than submerged area of original river bed in Alcova Reservoir and is, therefore, considered as off-set.

Likewise the area between Seminoe Dam and head of Pathfinder Reservoir is less than area of original river bed through Pathfinder Reservoir—considered as off-set. Evaporation losses will be divided between natural flow and storage water flowing in any section of river channel upon a proportional basis. This proportion will ordinarily be determined at the upper end of the section except under conditions of intervening accruals or diversions that materially change the ratio of storage to natural flow at the lower end of the section. In such event the average proportion for the section will be determined by using the mean ratio for the two ends of the section.

In the determination of transportation losses for the various sections of the stream, such time intervals for the passage of water from point to point shall be used as may be agreed upon by Nebraska, Wyoming and the United States, or in the absence of such agreement, as may be decided upon from day to day by the manager of the government reservoirs, with such adjustments to be made by said manager from time to time as may be necessary to make as accurate a segregation as is possible.