

The Rio Grande Compact and the Role of the Closed Basin Project

The Rio Grande Compact

During the late 1800's and early 1900's, much of the flow of the Rio Grande began to be diverted for irrigation in the upper part of the Rio Grande Basin, which caused concern to the downstream states. As a result, in 1939 The Rio Grande Compact was formed; which is an agreement that provides for the equitable apportionment of the waters of the Rio Grande between Colorado, New Mexico, and Texas. The Compact was necessary to fairly allocate the flows of the Rio Grande between the three states. It provides the framework for an equitable allocation and use of water in the Rio Grande and its tributaries from year to year.

The Compact requires Colorado to annually deliver a certain amount of water to the state line according to its delivery schedules. Colorado has a separate delivery schedule for the Rio Grande and for the Conejos River. Snowpack, rainfall, and the delivery schedules control the annual amount of water available to Colorado diverters. In any given year, from 20 to 60 percent of the water generated in the Rio Grande and Conejos River basins needs to flow to the downstream states. In a low water year, Colorado can use a higher percentage of the water, but in a high water year, Colorado must send a larger percentage of the annual water to the downstream states.

It is important to note that Colorado does not have to strictly adhere to the Compact's delivery schedules each year. The Compact allows for a system of credits and debits. This credit and debit accounting provision of the compact provides Colorado with some flexibility in managing water use from year to year.

Since 1939, the administration of the Rio Grande Compact in Colorado has been an evolutionary process marked by three distinct periods. The first period from 1939-1967 was a time when water rights were administered as they had been during the study period of 1927 to 1936. This administration worked well until 1952 when Colorado began to under-deliver on its obligations. By the mid 1960's, Colorado's debt to the downstream states exceeded 900,000 acre-feet. In 1966, the states of Texas and New Mexico sued Colorado in the U.S. Supreme Court to force Colorado to comply with the provisions of the Compact and to pay back the debt. In May of 1968, the Court granted a continuance of the case as long as Colorado met its Compact delivery obligation each and every year.

During the second period, from 1968 to 1985, Colorado administered the compact pursuant to that stipulation and was forced to begin curtailing water rights, i.e. shutting off ditches, specifically to meet the compact obligations. From approximately 1968 to the present, the Colorado State Engineer and the Court has directed that the Compact be administered as a two-river system (Rio Grande and Conejos) with each river responsible for its own delivery obligation. The State Engineer also directed that any curtailment of diversions would come from the junior water rights which would have otherwise been in priority on any given day of administration. Colorado met or exceeded its obligation each year from 1968 through 1984 because of the directive of the U.S. Supreme Court.

The third and current period began in June of 1985, when Elephant Butte Reservoir in Southern New Mexico spilled and eliminated Colorado's remaining debt pursuant to provisions of the compact. The lawsuit against Colorado was dismissed, and since that time Colorado has operated in accordance with the Compact and has met or exceeded its obligation.

Although some believe that the compact causes too big of a burden to Colorado water users, it actually

protects us and our water. Large cities downstream of us such as Albuquerque, El Paso, and Juarez are actively searching for more water. The downstream states also are always looking for more water to ease their endangered species, Indian water rights, and environmental issues. The compact offers a legal defense to these demands that Colorado send more water to quench the ever-growing thirst of the downstream states.

The Closed Basin Project

In order to help the State of Colorado meet its Rio Grande Compact obligations, the Rio Grande Water Conservation District with the help of the Bureau of Reclamation developed the Closed Basin Project. The Reclamation Project Authorization Act of 1972 was passed on October 20th, 1972 and gave authorization to the U.S. Bureau of Reclamation to construct, operate and maintain the Closed Basin Division in a series of five stages. The Closed Basin Division is located in Alamosa and Saguache Counties.

The large section of the San Luis Valley, north of the Rio Grande between Del Norte and Blanca does not have a surface outlet into the Rio Grande and is what coined the term "The Closed Basin Area." At the Southern end of the Closed Basin area is a hydraulic divide that separates the internal drainage area of 2,940 square miles from the Rio Grande mainstream. Although the Closed Basin area waters are still tributary waters, as dictated by laws set by the State of Colorado and the United States, they have been "duly appropriated for the project by the Rio Grande Water Conservation District (RGWCD)".

The purpose and first priority of the Closed Basin Project is to deliver water to the Rio Grande to assist the State of Colorado in meeting its delivery requirements under the Rio Grande Compact of 1939 and the Rio Grande Convention of 1906. The second priority of the project is to maintain the Alamosa National Wildlife Refuge (NWR), provided, that the amount of project salvaged water delivered to the NWR and The Blanca Wildlife Habitat Area (WHA) shall not exceed 5300 acre feet annually. The third priority is to apply to the reduction and the elimination of any accumulated deficit in deliveries by Colorado and is no longer applicable since the spill of Elephant Butte in 1985. The fourth and final priority is for irrigation or other beneficial uses in Colorado. The project also can deliver mitigation water to San Luis Lake complex and its recreational facilities.

The Closed Basin Project obtains its water from the salvaged unconfined aquifer ground water within the Closed Basin and is delivered to the Rio Grande by a 42-mile conveyance channel known as the Franklin Eddy Canal. The RGWCD owned the rights of up to 117,000 acre feet of water per year from the water that is salvaged from the Closed Basin Project. Due to inadequate water supply the RGWCD voluntarily reduced the right to 83,000 acre feet per year. Approximately 43,000 Acre Feet has been decreed absolute and the remaining 40,000 acre feet are still a conditional right. As of 2000 the total project delivery (amount of water delivered to the River and refuges (BLM and USFWS) has averaged approximately, 17,300 acre feet per year.