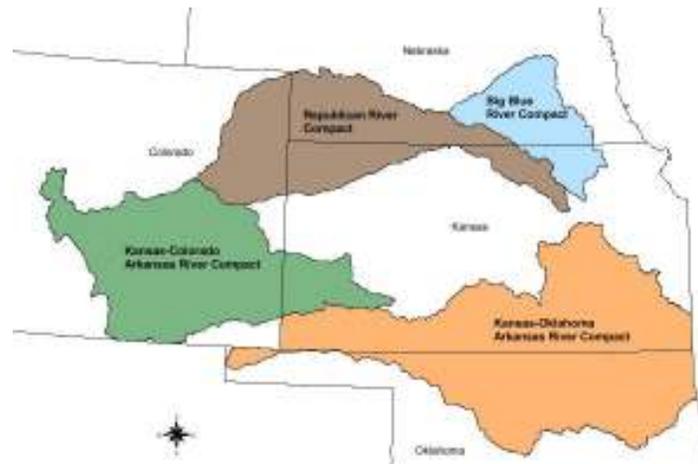


# Kansas Interstate River Compacts

From 1943 to 1971, Kansas entered into four different river water supply compacts with neighboring states, all of which are currently in use today. The four agreements and the participating states are listed below.

- Republican River Compact 1943 with Colorado and Nebraska
- Arkansas River Compact 1949 with Colorado
- Arkansas River Compact 1966 with Oklahoma
- Big Blue River Compact 1971 with Nebraska



The most common link found among all four compacts is the goal of member states to equitably divide the water supply and its uses, to promote the efficient use of water resources, to settle existing conflict among states, and to remove potential areas of future controversy. Based on these goals, the specifics of the compacts are agreed upon by state officials and the compact is then sent to the legislatures of participating states for ratification.

One important component in the process of adopting interstate river compacts is the role played by the federal government. Generally, compacts between states fall into two categories: those needing the approval of Congress and those that do not. The Compact Clause of the *U.S. Constitution* prohibits a state from entering into agreements with other states without the consent of Congress. The Supreme Court has since ruled, however, that not all compacts require Congressional approval, but those dealing with issues that could potentially encroach upon the power of the federal government, like interstate water policy, still require Congressional consent.

The following contains specific guidelines regarding the measurement and apportionment of a river's water, and included in greater detail are the various provisions relating to each individual compact.

## **Kansas-Nebraska-Colorado Republican River Compact 1943**

The Kansas-Nebraska-Colorado Republican River Compact was signed by the three participating states in 1942 and ratified by the Kansas Legislature the following year.

Its goals, as found in Article I, are to provide the most efficient uses of the river basin, to provide for an equitable division of the river's waters, to resolve present conflicts and to prevent future ones, to recognize that beneficial consumption by the states is the most efficient way to use the river, and, finally, to promote cooperation among the states and the federal government in order to encourage efficiency and to control destructive flooding. The text goes on to state that the Compact applies to the Republican River only, and its provisions are not applicable to any other interstate streams.

The River Basin is defined, in geographic terms, as all of the area in Colorado, Kansas, and Nebraska which is naturally drained by the Republican River. This area includes the river's tributaries, all the way to its junction with the Smoky Hill River in Kansas. The main stem of the Republican River extends from the junction of its North Fork and the Arikaree River near Haigler, Nebraska (located in the extreme southwest corner of Nebraska) to its junction with the Smoky Hill River near Junction City (Article II).

The next sections, Articles III and IV, outline the allocation of the Basin's water supply to the three participating states. The allocations are measured in acre-feet, a measurement found by determining the quantity of water required to cover a single acre to the depth of one foot, which is equivalent to 43,560 cubic feet. The amount of water allocated in acre-feet is computed from the average annual "virgin water supply" originating from designated drainage basins or their parts. "Virgin water supply" is defined as the water supply within the Basin not depleted by the activities of man.

Within each designated drainage basin, fourteen in total, specific allocations are made based on the computed average annual virgin water supply for each one. The Red Willow Creek drainage basin in Nebraska, for example, was expected to generate 21,900 acre-feet per year. If the future virgin water supply of any source varies by more than ten percent, the allocations will then be either increased or decreased relative to the future computed figures.

All three states are given a specified amount of water on an annual basis to be used for beneficial consumption. "Beneficial consumption," in this context, is defined as the Basin's water supply that is consumed through the activities of man and the water that is consumed by evaporation from any reservoir, canal, ditch, or irrigated area. Under the terms of the Compact, Colorado receives 54,100 acre-feet of water, Nebraska receives 234,500 acre-feet of water, and Kansas is allocated 190,300 acre-feet of water. In addition, Kansas is granted use of the entire water supply downstream from the southernmost river that crosses the Nebraska-Kansas state line.

The terms of the Compact also provide for the right of any person, entity, or lower state to use or participate in the construction of storage reservoirs or other works allowing for the

regulation of water allocated for use in the lower state. This right cannot be denied by an upper state as long as its own rights are not violated (Article VI).

Any person, entity, or lower state also has the right to acquire the necessary property in an upper state through the purchase of that property or through eminent domain so that there can be the construction, operation, and maintenance of the storage reservoirs, canals, and conduits required for consumptive use. When the property is acquired, however, the political subdivisions of the state in which the construction took place must be paid taxes that would have been received based on the assessed value of the land or any improvements made in the last ten years preceding construction (Article VII). All construction or improvements on facilities located in an upper state must be in compliance with the laws of that state (Article VIII).

Article IX explains how the Compact is to be administered. Each state will appoint an official who is charged with the management of the water supply, and the collection and analysis of the data that is necessary for the proper administration of the Compact. These officials can adopt rules and regulations as long as they are unanimous and consistent with the provisions of the Compact. In addition, the United States Geological Service or any other relevant federal agency may assist in the collection, analysis, and publication of water facts that are necessary for the proper administration of the Compact.

The federal government, as found in Article X, also mandates that no part of the Compact may impair or impact any rights, powers or jurisdiction of the United States or those acting under its authority in and around the Basin. No state can impair federal action to acquire rights in and to use the waters of the Basin. Article X also prohibits states from taxing federal property or agencies for their acquisition, use, or construction of various properties or equipment. In addition, no state law may take precedent over a federal law relating to the Compact.

For the Compact to take effect, it needed to be ratified by the legislature of each state and to be passed by Congress with additional criteria. First, any consumptive use by the United States in an individual state will be taken into account when determining that state's water usage. Next, the United States when exercising its rights regarding the Basin will take into account the objectives of the Compact and to consult with all interested federal agencies and state officials to provide for the best utilization of the Compact's waters. Finally, the federal government will recognize any local uses of the water that have been impaired by federal action providing the local uses meet state law, are of beneficial consumption, and conform to the Compact (Article XI).

The Compact was signed by state officials on December 31, 1942 and ratified by Congress and signed by the President on May 26, 1943.

## **Kansas-Colorado Arkansas River Compact 1949**

The Kansas-Colorado Arkansas River Compact was signed by the two participating states in 1948 and ratified by the Kansas Legislature the following year.

The major purposes of the Compact are to settle existing disputes and to prevent future disagreements between the States of Kansas and Colorado, and to equitably divide the waters of the Arkansas River and the benefits arising from the federally constructed and maintained John Martin Reservoir Project (Article I).

The provisions found in the Compact are based on the physical conditions of the Arkansas River, its natural drainage basins, and any connected irrigation or developed facilities. In addition, the Compact is based on the opinion of the United States in *Colorado v. Kansas* (1943) concerning the rights of the respective states to use the waters of the Arkansas River (Article II).

The Arkansas River, as defined in Article III, means the waters originating in the natural drainage basin of the Arkansas River, including its tributaries, but excluding waters brought in from other river basins.

Both states, Colorado and Kansas, recognize the Compact deals only with the waters of the Arkansas River as defined in Article III. The Compact does not involve the State of New Mexico and its use of the River. Regarding the John Martin Dam, the Compact states the Dam will be operated by the Corps of Engineers to store and release the waters of the Arkansas River for its authorized purposes. The Corps of Engineers also maintains the flood controls and the conservation pool that is operated for the benefit of Kansas and Colorado, both upstream and downstream from the Dam.

This Compact is not intended to impede or prevent the future beneficial development of the Arkansas River basin by federal or state agencies, or by private enterprise which could involve the construction of dams, reservoirs, and other works for the purpose of water usage and control. This also applies to the improvement of existing works. Any future construction or development, however, cannot materially deplete the quantity or availability of water for Kansas and Colorado (Article IV).

In Article V, Kansas and Colorado agree upon how the water from the Arkansas River should be both stored and allocated. Winter storage in John Martin Reservoir will begin on November 1<sup>st</sup> of each year and continue to March 31<sup>st</sup> of the following year. During this time, all water up to the available capacity will be stored provided that Colorado may demand the release of water that is equivalent to the “river flow,” not to exceed 100 cubic feet per second (c.f.s.). “River flow” is defined as the sum of the flows of the Arkansas and Purgatoire Rivers into John Martin Reservoir as determined by gauging stations along the Reservoir.

Summer storage in the reservoir begins on April 1 of each year and continues through October 31<sup>st</sup> of the following year. During this time, Colorado may demand the release of water

equivalent to the river flow up to 500 c.f.s., while Kansas can demand releases equal to that amount of river flow between 500 and 750 c.f.s.

Unless additional water is needed to meet extraordinary circumstances as determined by the Compact Administration, releases of water to Colorado will not exceed 750 c.f.s. and 500 c.f.s. to Kansas. When the water stored in the conservation pool is reduced to a quantity less than 20,000 acre-feet, separate releases of stored water to Colorado shall not exceed 600 c.f.s and releases to Kansas shall not exceed 400 c.f.s.

The release of water can be made concurrently or separately depending on the demand of each state, and all released water should be applied to a beneficial use unless storage is authorized by the Administration. When water is released, allowances are given by the Administration to take into account the amount of time required for the water to travel from John Martin Reservoir to various diversion points in Kansas and Colorado. There is also no accumulation of water use debits or credits for either state.

When the Administration finds that the conservation pool is at risk of being exhausted within the following fourteen days, water users in Colorado's Water District 67 will resort back to its priority rights before John Martin Dam was built. Colorado's priority use will continue until the Administration finds that water is again available in the conservation pool, thus allowing for its release under the terms of the Compact.

Nothing in the Compact restricts the jurisdiction of Kansas over the waters of the Arkansas River that either originate in Kansas or flow across the state line from Colorado. Also, Kansas is responsible for the operation of the Frontier Canal, located in Colorado, which provides irrigation water to Kansas only. Water carried across the state line in the Frontier Canal or any other similar canal will be considered part of the state line flow (Article VI).

Each state, Kansas and Colorado, is subject to the terms of the Compact. This also applies to any person or private entity asserting their right to use the water under the authority of that state. The Compact establishes guidelines for the use of the Arkansas River, but does not apply to any other interstate streams (Article VII).

The Arkansas River Compact Administration will administer the provisions of the Compact. It will have the power to adopt, amend, and revoke bylaws, rules and regulations. The Administration also has the authority to create procedures for how to carry out the policies of the Compact. All procedures relating to the John Martin Reservoir Project are subject to the approval of the District Engineer. In addition, the Administration must perform all functions necessary to the implementation and performance of the Compact.

Each state will appoint three representatives to serve as members of the Administration. They are appointed by their respective governors for a term not exceeding four years. Two of the representatives from Kansas must be residents and water-right owners in Finney, Kearny, or Hamilton counties. The other representative will be the chief state official charged with the administration of water rights in Kansas. A seventh, non-voting member of the Administration will be appointed by the President of the United States.

The state representatives are to be appointed within thirty days after the effective date of the Compact. The Administration will meet within sixty days of the effective date. A quorum at the meetings requires a total of four members to be present with at least two members from each state. Kansas and Colorado each have one vote, but every decision requires a unanimous vote. If a vote is split, the Administration may, by a unanimous vote, refer the matter for arbitration to the Representative of the United States or another arbitrator with the decision being binding upon the Administration.

If members receive a salary, the cost and other personal expenses are the responsibility of the state they represent. All other expenses relating to the administration of the Compact which are not paid by the United States are paid by the states themselves on the basis of 60 percent by Colorado and 40 percent by Kansas. In even numbered years, the Administration will adopt and submit its budget to the governor of each state. Included in the budget will be anticipated expenses for the next two years and the amount needed from each state. Kansas and Colorado will then appropriate and pay the amount due to the Administration.

The Administration is required to keep an accurate accounting of all its receipts and disbursements. This financial statement will be included with a certificate of audit by a certified public accountant in its annual report. Each state has the right to examine and audit Administrative accounts at any time.

Kansas and Colorado are responsible for providing the facilities, equipment, and other assistance needed by the Administration to carry out its duties. To supplement this assistance, the Administration may employ engineering, legal, clerical, and other aid that are necessary in the performance of its duties. These employees are paid by the Administration and are not considered employees of the state.

The Administration will cooperate with the state officials in charge of water rights and with federal agencies to gather and analyze data relating to the flow and diversion of the Arkansas River, John Martin Reservoir, and all related structures. They will cooperate in the development, compilation, and publication of all factual data involving the administration of the Compact without, in general, duplicating the measurements, observations, or publications of state or federal agencies. State officials are responsible for providing relevant factual data to the Administration upon its request. When needed, the Administration will collaborate with state and federal agencies to determine the location of gauging stations needed for the proper administration of the Compact. The Administration designates official records from these stations for their official use. In addition, the Administration requests that the U.S. Geological Survey, the Commissioner of Reclamation, and the Chief Engineers, U.S. Army, assist the Administration and state officials in the collection and analysis of data and the execution of other duties needed to properly administer the Compact.

The Administration, when necessary, may require the installation and maintenance, at the expense of water users, of measuring devices in a ditch or group of ditches diverting water from the Arkansas River in Kansas or Colorado. The chief official of each state managing the

administration of water rights is to supervise the execution of the Administration's requirements for such installations.

Violations of the Compact will be investigated in a prompt manner by the Administration. When applicable, the Administration will report any findings and recommendations from its investigation to the state official in charge of water rights for appropriate action. It is the intent of the Compact that the enforcement of its terms shall be accomplished through the state agencies and officials charged with the administration of water rights.

The Administration will submit an annual report to the Governors of the States and to the President of the United State regarding matters within its jurisdiction (Article VII).

The Compact became effective upon its ratification by the legislature of each state. In addition, it needed to be consented to by Congress with the following provision: Nothing in the Compact may impair or affect the sovereignty of the United States or any of its jurisdiction or rights over the area of waters which are included in the Compact. The Compact is to remain in effect until modified or terminated by unanimous action of the states. If modified or terminated, all rights established or recognized in the Compact will continue unimpaired (Article IX).

The Compact was signed by state officials on December 14, 1948 and ratified by Congress and signed by the President on May 31, 1949.

## **Kansas-Oklahoma Arkansas River Compact 1966**

The Kansas-Oklahoma Arkansas River Compact was signed by the two participating states in 1965 and ratified by the Kansas Legislature the following year.

The major purposes of the Compact are to promote interstate comity between Kansas and Oklahoma, to equitably divide and apportion the waters of the Arkansas River Basin, to promote orderly development of the Basin, to establish an agency administering the water apportionment agreed to in the Compact, and to encourage the maintenance of a pollution abatement program in each of the two states that seeks to reduce both natural and man-made pollution (Article I).

In Article II, the Arkansas River is defined as the portion of the Arkansas River from a point directly below the convergence of the Arkansas and Little Arkansas Rivers in the vicinity of Wichita, Kansas, to a point directly below the convergence of the Arkansas River with the Grand-Neosho River near Muskogee, Oklahoma.

“Arkansas River Basin” means all drainage of the Arkansas River as defined above, including all tributaries which empty into it between the upstream and downstream limits.

The physical and other conditions peculiar to the Arkansas River Basin constitute the basis for the Compact. Kansas, Oklahoma, and the U.S. Congress all acknowledge that the Compact applies only to the Arkansas River and to no additional interstate streams (Article III).

For the purposes of apportionment of water between the two states, the Arkansas River Basin is divided into the following subbasins: The Grand-Neosho River subbasin, the Verdigris River subbasin, the Salt Fork River subbasin, the Cimarron River subbasin, and the main stem of the Arkansas River Basin except for the areas mentioned above.

Kansas and Oklahoma recognize that portions of other states lie within the drainage area of the Arkansas River Basin and the water apportionment provided in this Compact is not intended to affect the rights of these other states and their use of the Basin (Article IV).

Article V allows the State of Kansas to have free and unrestricted use of the waters of the Arkansas River Basin within the Kansas borders subject to the provisions set forth in the Compact. Those provisions limit the amount of water that Kansas can store to offset potential losses by Oklahoma.

The State of Oklahoma is given free and unrestricted use of the waters of the Arkansas River Basin within Oklahoma with one exception. New conservation storage capacity in the Cimarron River subbasin within the State of Oklahoma will not exceed 5,000 acre-feet unless the plans for additional storage have first been approved by the Commission (Article VI). “Conservation storage capacity” is defined as the portion of the active storage capacity of reservoirs, including multi-purpose reservoirs, with a conservation storage capacity in excess of 100 acre-feet available for subsequent use.

The Commission determines the conditions under which one state may construct and operate for its own needs new conservation storage capacity units in another state. The construction of one of these units will allow the other state to construct an equal amount of new conservation storage in a subbasin agreeable to the Commission. Any new conservation storage capacity constructed by the United States or any of its agencies, or by a state or person(s) of that state will be charged against the state using the water. Within each subbasin, Kansas and Oklahoma each have the right to replace any conservation storage capacity made unusable by any cause.

Article VII concludes by explaining how a reduction in the storage capacity in Oklahoma does not impact the new conservation storage capacity of Kansas as outlined in Article V. This holds true provided that a subsequent reinstatement of the storage capacity will not be charged as an increase in Oklahoma's new conservation storage capacity.

When one state imports water, it has exclusive use of those waters when it is transferred from a major subbasin of the Arkansas River to another river basin, or from another major subbasin within the same state. When exporting water, new conservation capacity will apply against the subbasin from which the exportation is made. Any reservoir storage capacity which is required for the control and utilization of imported waters will not be accounted as new conservation storage. If a transbasin diversion of waters from the Arkansas River is made in one state for the benefit of the other state or both states, the Commission will determine the proper accounting of new conservation storage capacities (Article VIII).

The States of Kansas and Oklahoma agreed in Article IX to individual state efforts to decrease manmade pollution and to continue pollution abatement programs. This includes the investigation of alleged pollution when it is brought to their attention by the Commission. Both will enter into joint programs for the identification and control of sources of natural pollution within the Arkansas River Basin. Neither state can require the other to provide water for the purpose of water-quality control in place of adequate waste treatment. Each must use the provisions of the federal Water Pollution Control Act to resolve any pollution problems which cannot be solved by the Compact.

Article X outlines the membership and functions of the Kansas-Oklahoma Arkansas River Commission. The Commission will be comprised of seven members; three from each state and one representing the United States. The federal representative will serve as the presiding officer but will not have the right to vote on any matters coming before the Commission. One Kansas and one Oklahoma commissioner will be the state official responsible for the administering of their state's water laws. The other two commissioners from each state must reside in the Arkansas River Basin and will be appointed to four-year staggered terms.

A majority of the commissioners and the representative of the United State, if ordered, are needed to constitute a quorum. Each state is given one vote representing the majority opinion of the commissioners of that state.

The salaries and personal expenses of each commissioner are paid by the government they represent. All other expenses which are incurred by the Commission as a result of the

administration of the Compact are to be paid equally by the two states out of the “Kansas-Oklahoma Arkansas River Commission Fund.” The Fund will be initiated and maintained by the equal payments of each state. Disbursements will be made upon commission authorization. The Fund will not be subject to the audit and accounting procedures of each state, but all receipts and disbursements of funds handled by the Commission will be audited by a qualified independent public accountant at regular intervals. A report from the audit will be included in and become a part of the annual report of the Commission.

According to Article XI, the Commission has the power to employ the engineering, legal, clerical, and other personnel necessary for the performance of its functions under the Compact. It also gives the Commission the authority to enter into contracts with appropriate state or federal agencies for the collection, correlation, and presentation of factual data, the maintenance of records, and for the preparation of reports.

The Commission has the power to cooperate with federal agencies in the storage and release of water from all federal reservoirs, both existing and future reservoirs within the Arkansas River Basin. They can permit either state to impound water for subsequent release and use for any purpose approved by the Commission.

Additionally, their tasks will consist of collecting, analyzing, and reporting data about the stream flows, water quality, conservation storage, and other information necessary to the proper administration of the Compact. In addition, the Commission can establish, maintain, or operate streams, reservoirs, or other gauging stations that are necessary to the proper administration of the Compact. The Commission is required to submit an annual report to the governors of each participating state and to the President of the United States covering the activities of the Commission and the accounting of all funds received and expended in the course of its work. The governors of Kansas and Oklahoma will receive an annual budget covering the anticipated expenses of the Commission for the following fiscal year. The states’ governors, state agencies, or any authorized representative of the United States may request any information in the possession of the Commission.

Given what were the present limited uses of the Arkansas River Basin, the two states decided it was unnecessary to finalize any allocations of the new conservation storage capacity that would ultimately be required by either state (Article XII).

This provision and all others found in the Compact will remain in effect until changed or amended by unanimous action of the states (acting through their commissioners) and all changes must then be ratified by the states’ legislatures and approved by Congress. The Compact itself can be terminated at any time by the Legislatures of Kansas and Oklahoma. If amended or terminated, all rights established under the Compact will continue unimpaired.

Nothing in the Compact may impair or affect the powers, rights, or obligations of the United States or those claiming under its authority the waters of the Arkansas River Basin. Nor can it impair the rights of either state to regulate, within in its own boundaries, waters within that state unrelated to the obligations found in the Compact (Article XIII).

If any part of the Compact is declared invalid by a court, all other provisions and applications will remain in full force and effect (Article XIV).

Finally, Article XV notes the Compact became binding and obligatory when it was ratified by the legislature of each state and consented to by the Congress of the United States.

The Compact was signed by state officials on March 31, 1965.

## Big Blue River Compact 1971

The Kansas-Nebraska Big Blue River Compact was signed by the two participating states and ratified by the Kansas Legislature in 1971.

The Compact's purpose, as found in the Preamble, is to promote interstate comity between Kansas and Nebraska, to achieve an equitable apportionment of the waters of the Big Blue River Basin, to promote orderly development of the Basin, and to encourage a continuation of the active pollution abatement programs in each of the two states, and, finally, to seek further reduction in the levels of both natural and man-made pollution.

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. When referring to the Big Blue River Basin in Nebraska, the Compact is referring to all of the drainage basin of the Little Blue River in Nebraska (Article I).

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 Basin is in Nebraska, while the remainder is in Kansas. The River and its principal tributary, the Little Blue River, join near Blue Rapids, Kansas. From there, the Big Blue River flows primarily southward to join with the Kansas River near Manhattan, Kansas.

Much of the upper portion of the Basin located 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 found in Kansas lack significant ground-water supplies except within the major stream valleys (Article II).

Article III outlines the administration of the Compact. Managing the Compact is the "Kansas-Nebraska Big Blue River Compact Administration." Members of the Administration include one *ex officio* member and one advisory member from each state, plus a federal member if the President desires to appoint one. The *ex officio* member is the official from each state charged with the duty of administering the water rights laws in their respective state. This official may designate a representative to serve in the official's place during meetings of the Administration. The advisory member from each state is to reside in the Big Blue River Basin and may serve in any capacity within the Administration. The Governors of Kansas and Nebraska appoint the advisory member from that state for a term of four years.

The Administration is required to meet at least annually once the Compact takes effect. At meetings, the federal member, if appointed, will serve as chairman, but without a vote. If no federal representative is appointed, the Administration will select a chairman. A meeting quorum requires the presence of each *ex officio* member or their designated representative. All actions require the approval of each *ex officio* member or their designated representative. Minutes of each meeting are made available for public inspection.

The Administration has the power to adopt rules and regulations consistent with the provisions of this Compact, to enforce such rules and regulations, and to carry out all other necessary responsibilities. It also is able to bring about legal action under its own name to compel compliance with the rules and regulations it adopts.

To assist in the carrying out of the Compact, the Administration may employ technical and clerical staff, attorneys, engineers, or other consultants. In addition, it may purchase the necessary equipment and services to carry out its functions. The Administration has the authority to accept funds from local, state, and federal sources. It may enter into cooperative agreements and contribute funds to support any necessary data-collection and analysis programs.

The Administration is required to publish an annual report including a review of its activities and financial status, with the option of preparing other reports and publications that it finds relevant to the Compact.

In order to provide a sound basis for carrying out the apportionment provisions of the Compact, the Administration is authorized to establish stream-gauging stations, ground water observation wells, and other data-collection facilities. These installations will be used to measure any changes in the flows of the Big Blue and Little Blue Rivers at the Nebraska-Kansas state-line as a result of well pumping.

Article IV lists the responsibilities of the States of Kansas and Nebraska. Each state and federal member of the Administration is to be compensated for all relevant expenses from the government which they represent.

Each year, the Administration will prepare a budget covering their anticipated expenditures for the following fiscal period. It is then the responsibility of each state to include provisions in their budget allocating funds to pay its share of the Administration's expenses. These expenses will be divided equally between the states.

The Compact requires Kansas and Nebraska to cooperate with the Administration to provide any necessary records, information, plans, data, or assistance that are reasonably available. The States must keep the Administration advised of federal activities in connection with the planning, design, construction, operation, or maintenance of water-resource projects in the Big Blue River Basin. This also applies to any local, public, or private agency that must keep the Administration advised of its investigations and of any proposed changes or additions to existing projects or facilities. The same agencies are required to submit any plans for new projects affecting the water flowage and quality to the Administration for review.

Article V details the water apportionment provisions of the Compact. This apportionment applies to Big Blue River Basin only, all other waters are excluded.

Both Kansas and Nebraska agree to include storage for low-flow regulation in reservoirs constructed by the U.S. Bureau of Reclamation and the U.S. Army Corps of Engineers. The low-flow regulation must remain available in the stream so that it can accomplish its intended purposes.

The State of Nebraska has free and unrestricted use of the waters of the Little Blue and Big Blue River Basins in Nebraska with the limits included in the Compact. From May 1-September 30, Nebraska must regulate the flow of water, as identified in the Compact, in order to maintain minimum daily flows at the state-line gauging stations. The regulation can range from 45 c.f.s. in the earlier months to 60-65 c.f.s. in later months. To maintain this schedule, Nebraska must limit the diversions of natural-flowing water and regulate withdrawals of water from irrigation wells installed prior to 1968. "Natural-flow" being the flow in a natural stream that consists of runoff from precipitation on the land surface, ground-water infiltration, return flow from other uses, and releases from storage for no designated use.

The amount of water flowing from Nebraska will be in compliance with the Compact upon its passage of state-line gauging stations in the scheduled amounts.

The storage capacity allowed in the reservoirs in the Little River Basin in Nebraska is limited to 200,000 acre-feet. The Big Blue River Basin is allowed 500,000 acre-feet. The limitations do not apply to the storage capacity of water that is imported into Nebraska, capacity allotted for sediment and flood control, water used for the improvement in water quality, small-level storage projects, or water used to meet the flow schedules mentioned above.

The state of Kansas has free and unrestricted use of all waters of the Big Blue River Basin flowing into Kansas from Nebraska in accordance with the Compact and all waters of the Basin originating in Kansas (except waters which may in the future flow from Kansas into Nebraska). Both states must seek Administration approval before exporting any waters originating in the Big Blue River Basin.

Article VI puts forth the water quality control guidelines. The two states agreed to individual state efforts to control both natural and man-made pollution, and to continue supporting water pollution control programs. Kansas and Nebraska must cooperate through the appropriate state agencies to investigate and control alleged interstate pollution whenever it is called to their attention by the Administration.

In addition, the two states agreed to cooperate in maintaining the quality of the waters of the Big Blue River Basin at or above the adopted water quality standards. Neither state is allowed to request water from the other for the purpose of water quality control as a substitute for adequate waste treatment.

The State of Kansas or any person, corporation, local agency, or entity in Kansas has the right to construct or assist in the construction and use of any storage reservoir or diversion work in the Big Blue and Little Blue Basins of Nebraska for the purpose of regulating water to be used in Kansas. This right is subject to the laws of Nebraska. Any storage kept by Kansas will not be deducted from Nebraska's storage limits. Releases of water from the storage provided by Kansas interests in the State of Nebraska will not be counted toward meeting the minimum flow requirements at the state-line and will not be deducted from Nebraska's storage limits.

Nothing in the Compact can impair or affect any right or power of the United States or its agencies. Nor does the Compact subject federal property or rights to the laws of Kansas or Nebraska unless they were in effect prior to the adoption of the Compact. Kansas and Nebraska can each regulate, within their boundaries, the appropriation, use, and control of waters as long as those regulations are consistent with the provisions of the Compact.

If one provision of the Compact is determined to be invalid by a court, all other provisions will continue in full force and effect.

The Compact and its provisions are reviewed five years after its effective date, and can, at any time, be reviewed upon the request of either state. All provisions will remain intact until changed or amended by a unanimous vote of the Administration and the ratification by each state's legislature paired with the consent of Congress. The Compact can be terminated at any time with the appropriation action by the Legislatures of Kansas and Nebraska. If amended or terminated, the Compact's provisions will continue unimpaired (Article VII).

The Compact became effective upon its ratification by each state's legislature and when consented to by Congress. The Compact was signed by state officials on January 25, 1971.