

October 2020

Introduction. Some of Kansas' earliest irrigation development in the Arkansas River valley occurred in southwest Kansas. Six active irrigation ditches remain between the Colorado-Kansas stateline and Garden City. Kansas and Colorado (States), as well as their residents, have a long history of disputes and litigation over the apportionment of Arkansas River waters, including a 1902 case before the U.S. Supreme Court. The [Arkansas River Compact](#) (Compact) was negotiated in 1948 between the States with two major purposes: 1) Settle existing disputes and remove causes of future controversy and 2) Equitably divide and apportion the waters of the Arkansas River between the States. The Compact marked the culmination of decades of failed settlements and temporary agreements.

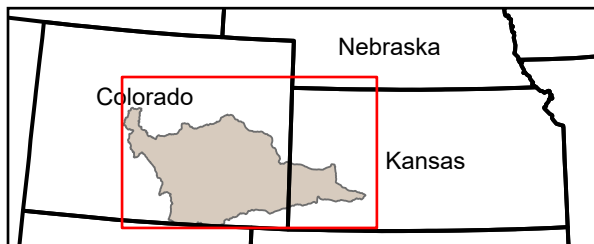
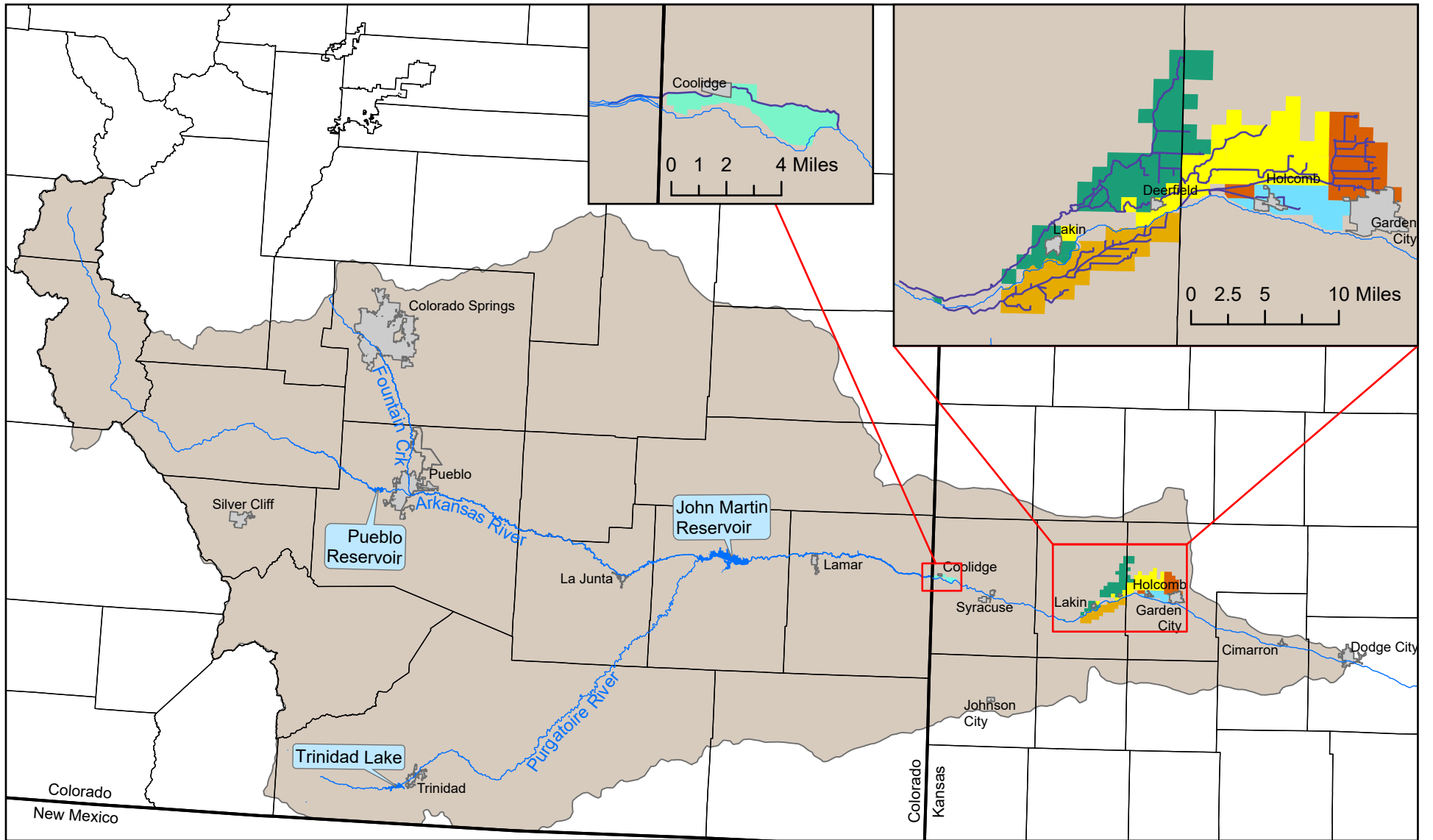
How the Compact Allocates Arkansas River Water. Principally, the Compact seeks to protect the status quo as of 1949 and to allocate the benefits of the remaining water supply and Compact water stored in John Martin Reservoir (JMR). The Compact stipulates that any future development should not materially deplete flows that would otherwise be available to Kansas. Rather than provide a specific allocation of water to the States, the Compact allowed each state to call for water to be released from JMR up to a maximum rate, regardless of any similar call by the other state. Without specific allocations, both Kansas and Colorado sought to use any stored water quickly, before the other state used it all, in what became known as the "race to the reservoir." In the late 1970s, the States realized that conservation storage in JMR (Compact waters) could be used more effectively and developed a system of storage accounts. The [1980 Operating Plan](#) provides that Compact waters stored in JMR be allocated 40 percent to Kansas and 60 percent to Colorado and lays out provisos for the other accounts in JMR. Kansas irrigation ditches benefit from this plan since they can call for water during peak demand by summer crops, usually in July, rather than April or May, as they had done before the plan was developed.

Litigation Regarding the Compact. After the Compact was adopted by the States and Congress, Colorado allowed high-capacity irrigation wells to be developed in the Arkansas River Valley. The well pumping reduced river flow and materially depleted water that would have been available to Kansas. Kansas filed *Kansas v. Colorado*, No. 105, Original, in 1985 to enforce the terms of the Compact. The U.S. Supreme Court appointed a special master who heard this case and made recommendations to the Court. In 1995, on the special master's recommendation, the Court found that Colorado's post-Compact well pumping violated the Compact. During the remedies phase, damages for Colorado's past violations were determined. In April 2005, Colorado paid Kansas more than \$34 million in damages for Colorado's Compact violations from 1950 through 1999, followed by more than \$1 million in legal costs in June 2006. Some of this money was and will continue to be used for water conservation projects in the affected area within the Upper Arkansas River Basin until those funds are exhausted. Following extensive negotiations between the States based on the rulings of the Court, the special master submitted the judgment and decree to the Court in 2008. In March 2009, the Court approved entry of the judgment and decree. The special master's reports and final decree can be found on the U. S. Supreme Court's website:

<https://www.supremecourt.gov/SpecMastRpt/SpecMastRpt.aspx>.

Compact Compliance Efforts. The judgment and decree includes the use of a hydrologic-institutional model (H-I Model or HIM) and accounting procedures to determine if Colorado is in compliance. Division of Water Resources staff and technical experts monitor Colorado's efforts on an ongoing basis. Each year, the accounting for the prior calendar year period is reviewed, and a rolling ten-year sum is used to determine if Colorado is in compliance. To date, Colorado has been in compliance with the ten-year accounting.

Arkansas River Basin Above Dodge City, KS



KS Ditch Service Area Arkansas River Basin Above Dodge City

- Amazon
- Farmers
- Frontier
- Garden City
- Great Eastern
- South Side

- Municipal Area
- Stream

0 25 50 100 Miles



Kansas Department of Agriculture
Division of Water Resources
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