
**IN RE: NON-BINDING ARBITRATION PURSUANT TO THE FINAL
SETTLEMENT STIPULATION, KANSAS v. NEBRASKA and COLORADO,
NO. 126 ORIGINAL**

BEFORE MARTHA O. PAGEL, ARBITRATOR

Nebraska's Crediting Dispute

**COLORADO'S NOTICE AS TO WHETHER IT WILL ACCEPT, ACCEPT AND
REJECT IN PART, OR REJECT THE ARBITRATOR'S DECISION**

For the State of Colorado:

Peter J. Ampe
First Assistant Attorney General
Autumn Bernhardt
Assistant Attorney General
Federal and Interstate Water Unit
Natural Resources and Environment Section
State of Colorado, Office of the Attorney General
1525 Sherman St., 2nd Floor
Denver, CO 80203

Pursuant to the Time Frame Designation, attached as Exhibit D to the Arbitration Agreement (April 9, 2010), and Paragraph VII.B.6 of the Final Settlement Stipulation, *Kansas v. Nebraska and Colorado*, No. 126 Original (December 15, 2002), the State of Colorado provides notice to the State of Kansas, the State of Nebraska, and the United States as to whether it will accept, accept and reject in part, or reject the Arbitrator's decision regarding the Nebraska Crediting Dispute (October 7, 2010).

Colorado's acceptance of certain legal decisions and recommendations, in whole or in part, made by the Arbitrator does not represent a concession that Colorado accepts the Arbitrator's underlying analyses and findings that lead to the legal decision or recommendation. Nor shall the acceptance or rejection of any decision be binding upon the State of Colorado in any future proceedings.

I. Ultimate Findings and Conclusions

- A. Colorado rejects Ultimate Finding and Conclusion 1.
- B. Colorado rejects Ultimate Finding and Conclusion 2.
- C. Colorado accepts Ultimate Finding and Conclusion 3.
- D. Colorado accepts Ultimate Finding and Conclusion 4.
- E. Colorado rejects Ultimate Finding and Conclusion 5.
- F. Colorado accepts Ultimate Finding and Conclusion 6.

II. Final Conclusions and Recommendations

- A. Colorado accepts Conclusion and Recommendation 1.
- B. Colorado accepts Conclusion and Recommendation 2.
- C. Colorado accepts Conclusion and Recommendation 3.
- D. Colorado rejects Conclusion and Recommendation 4.

- E. Colorado rejects Conclusion and Recommendation 5.
- F. Colorado rejects Conclusion and Recommendation 6.
- G. Colorado accepts in part and rejects in part Conclusion and Recommendation 7. While Colorado agrees that the three States could agree to a one-time negotiated settlement of monetary damages as an alternative to the Crediting proposal, the exact amount of Nebraska's past over-use remains in dispute.

Dated this 1st day of November, 2010.

FOR THE STATE OF COLORADO:

JOHN W. SUTHERS

s/ _____
Peter J. Ampe
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s/ _____
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I caused a copy of the foregoing COLORADO'S NOTICE AS TO WHETHER IT WILL ACCEPT, ACCEPT AND REJECT IN PART, OR REJECT THE ARBITRATOR'S DECISION (Crediting Issue) to be served upon all parties herein by email pursuant to section E.3 of the Arbitration Agreement, at Denver, Colorado, this 1st day of November, 2010 addressed as follows:

jdraper@montand.com
samuel.speed@ksag.org
justin.lavene@nebraska.gov
don@aqualawyers.com

and by U.S. Mail, addressed as follows:

James J. DuBois, Esq.
Natural Resources Division
U.S. Department of Justice
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s/ _____
