

Division 2 Annual Report
2012



Steven J. Witte
Division Engineer
Division 2

May 1, 2013

Water Division 2 • Pueblo

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DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John W. Hickenlooper
Governor
Mike King
Executive Director
Dick Wolfe, P.E.
Director/State
Engineer
Steven J. Witte, P.E.
Division Engineer

May 1, 2013

Mr. Dick Wolfe
State Engineer
Colorado Division of Water Resources
1313 Sherman St.
Denver, CO 80203

Dear Sir,

Please accept this executive summary report describing some of the principle activities and accomplishments of Division 2 personnel during 2012.

I want to thank you for your untiring support and assistance to me throughout the year. Your leadership and personal involvement have contributed significantly to the accomplishment of our shared objectives.

I would also like to publicly acknowledge and thank the men and women of Division 2 who have worked faithfully and diligently to provide such excellent service to the people of Colorado. As you know, we are indeed fortunate to have such talented and committed staff members. While there is always a risk of inadvertently failing to specifically acknowledge the commendable efforts of certain individuals, I have attempted to give credit where particularly due throughout the report.

As we are now almost half through what is proving to be the second successive year of drought in the Arkansas River Basin, please be assured that we will continue to do our best on your behalf and for the citizens of Colorado.

Very Truly Yours,

Steven J. Witte
Division Engineer

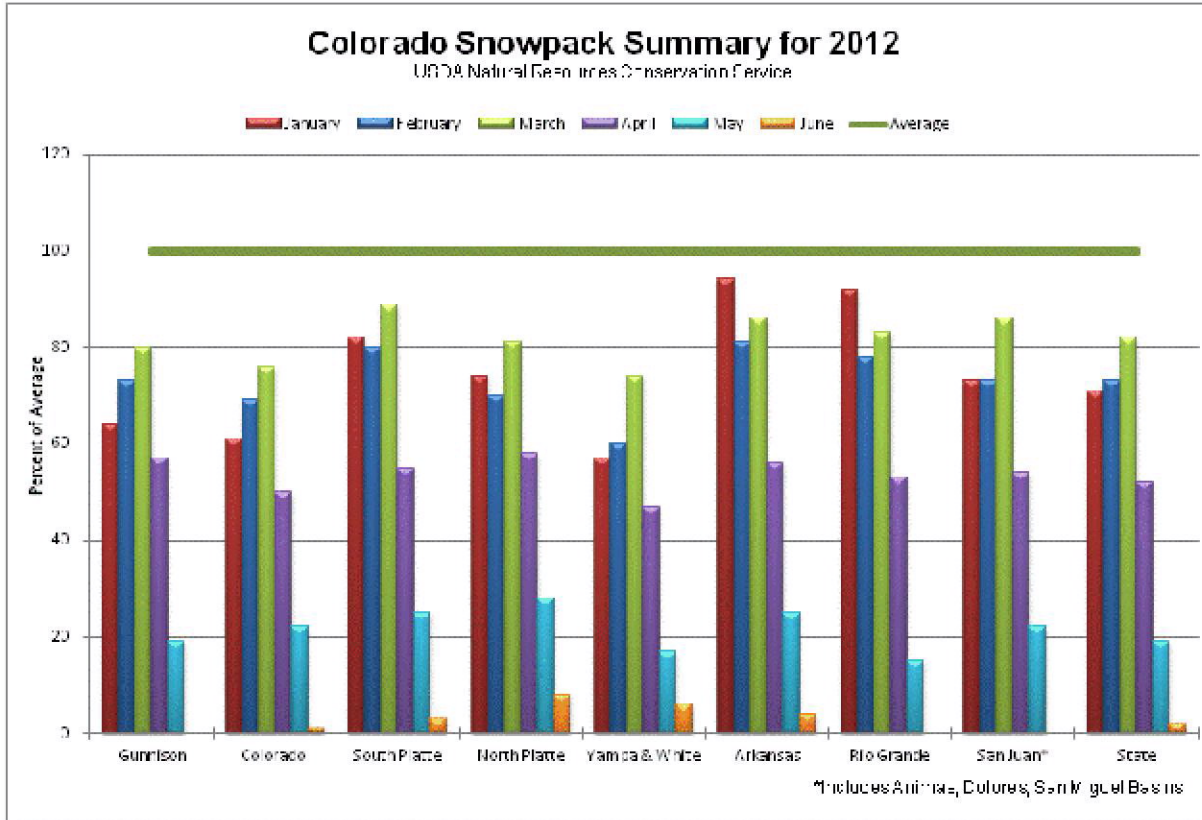
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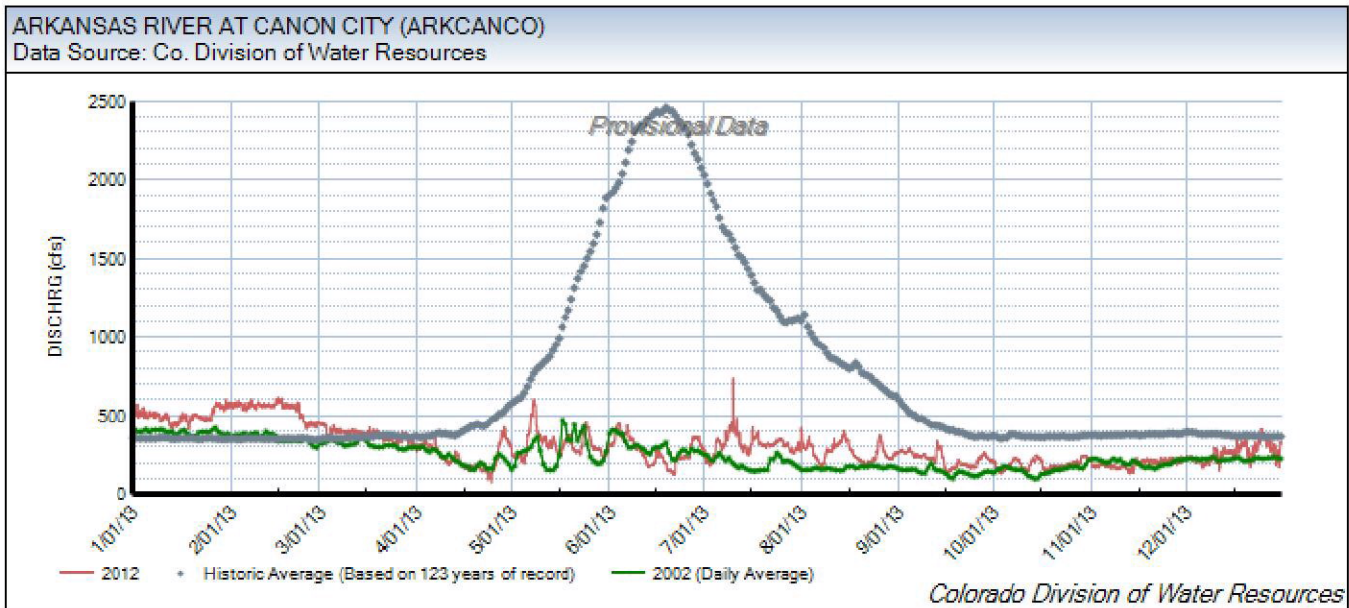
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Section 1 – General Description of 2012 Operations

Snow pack in the Arkansas River Basin for 2012 was below average as shown by the comparison graph below:



As a result, the runoff as measured at Canon City reflects flows comparable to those which occurred in 2002, a year of notable drought.



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The below-average snowpack in the Arkansas River Basin corresponded with below-average snowpack in the Upper Colorado River Basin, namely the Frying-Pan River Basin, which is the source of water imported by the Fryingpan-Arkansas Project.

The Bureau of Reclamation provided the information in the following table in their 2012 annual report of the Fryingpan-Arkansas Project activities:

Fryingpan-Arkansas Project Imports
Charles H. Boustead Tunnel Outlet
Unit: 1,000 Acre-feet

Year	Imports	Accumulated Imports	Twin Lakes Exchange	Allocations
2002	13.2	1,500.7	1.5	8.5
2003	54.9	1,555.6	2.4	37.5
2004	27.4	1,583.0	1.3	15.3
2005	54.6	1,637.6	3.0	40.8
2006	61.2	1,698.8	3.0	49.2
2007	54.2	1,753.0	3.0	40.4
2008	90.0	1,843.0	3.0	83.0
2009	82.7	1,925.7	3.0	78.0
2010	56.5	1,982.2	3.0	44.0
2011	98.9	2,081.1	2.9	75.0
2012	13.4	2,094.5	1.5	9.9

The 13,400 acre-feet of Fry-Ark Project imports was the fourth lowest import by the Fry-Ark Project and comparable to that imported in 2002.

There were no runoff-events which justified storage in John Martin Reservoir at any time in 2012 and stream conditions below John Martin were sufficiently inefficient so as to cause Kansas to defer from calling for any release of stored water from the reservoir.

Well pumping in 2012 was higher than in the previous ten years except for 2011. The 2012 calendar year actual pumping and stream depletions for AGUA, CWPDA and LAWMA were as follows:

Plan	Actual 2012 Calendar Year Pumping (AF)	Actual 2012 Calendar Year Rule 3 Irrigation Pumping (AF)	Actual 2012 Calendar Year Stream Depletions (AF)
AGUA	8,987	7,357	5,098
CWPDA	47,926	38,259	23,879
LAWMA	53,755	48,431	17,364
TOTALS	110,688	94,047	46,341

The AGUA, CWPDA and LAWMA plans were operated for calendar year 2012 in substantial compliance with the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin, Colorado and operations were intended to ensure protection of senior vested water rights and compliance with the Arkansas River Compact.

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Section 2 – Compact Issues

Colorado remains in compliance with the requirements of the Arkansas River Compact. At the meeting of the Arkansas River Compact Administration, held December 5, 2012 a copy of the Ten-year Accounting of Depletions and Accretions to Usable Stateline Flow for the period 2002-2011 was submitted into the record which shows that for the most recent compliance period, Colorado is credited with an accretion of 57,604 acre-feet.

Rules pertaining to improvements to surface water irrigation practices were implemented in 2011 to insure continued compliance with the Arkansas River Compact. These will be discussed at greater length in the Highlights of 2012 section of this report.

Appendix A. 4. of the final decree in Kansas v. Colorado No. 105 Original specified that Colorado and Kansas were to conduct a joint review of the Offset Account Resolution, the Offset Account Crediting Agreement and of Appendix A. 4. at five year intervals beginning in 2012 for the period 1997 through 2011 and that a report was to be delivered to the Arkansas River Compact Administration. The first such report was delivered at the December 6, 2012 meeting of the Administration held in Garden City Kansas. The principle authors of the report were Kevin Salter, Rachel Duran, Kelley Thompson and Bill Tyner. This report is recommended reading to any who wish to understand how this account is utilized as being far more readable and understandable than are the primary documents.

Presumptive Depletion Factors are used to determine the amount of replacement water required of Colorado well users under the Arkansas Ground Water Use Rules. Appendix A. 4. of the final decree in Kansas v. Colorado No. 105 Original, requires an annual review and potential adjustment of the presumptive depletion factors according to a prescribed procedure. According to the analysis performed principally by Kelley Thompson, the presumptive depletion factor for supplemental flood and furrow irrigation was determined to be 38.1% for 2013 and Kansas accepted the result of this analysis.

Kansas has identified a number of issues that have been compiled into what has been named the Water Issues Matrix. There are currently eleven issues pending, six have been removed and eighteen have been resolved. No substantial progress was made toward resolution of the remaining eleven during the past year.

Due to dry river conditions, limited account water available to Kansas and the lack of summer precipitation which prevented runoff from occurring to enhance stream flow efficiency, Kansas elected to refrain from placing a call for water stored in John Martin Reservoir that was available to them. This decision was reached after meetings between the Kansas Division of Water Resources and Kansas water users in which the expected transit losses were compared to the anticipated evaporative losses from John Martin and determined to be essentially the same. Therefore a decision was made to defer making a release of stored water until conditions improved and that failed to occur during the remainder of the Compact Year. The result of this decision insofar as Colorado is concerned is mixed, on one hand Colorado was not placed in a position of having to indemnify Kansas for the high transit-loss that would have occurred on water released from the Kansas Section II account, however, the lack of Kansas' water in the stream reach below John Martin contributed to even higher transit losses on replacements of water made to negate the effect of in-state well depletions.

Section 3 – Problems Solved

Substitute Water Supply Plan Backlog Resolved: Monthly meetings of staff members, including field personnel, either in person or by telephone, continue to provide an effective means of addressing water administration issues. This meeting, referred to as the Orders Committee, allows for new issues to be discussed for strategy to be developed to accomplish principled, consistent remedies to problems encountered in the field. These

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meetings also promote communication and accountability between office and field staff regarding the execution of agreed upon plans to address problems.

The legislature has acknowledged a need for water users to have a more expedient means for obtaining approval for certain types of water use operations than is often available through the Water Courts. As a result statutory authority was created for the State Engineer to temporarily approve changes of water rights and plans for augmentation. These types of operations are reviewed and acted on through a process that has commonly become known as the Substitute Water Supply Plan (or, SWSP) review process. Over time action on some SWSPs had become so protracted that plans were being approved for years in the past. In an effort to bring more discipline to the review process and therefore to produce more timely decisions periodic telephonic meetings between Division 2 and Team 327 members of the State Engineer's staff in Denver, known as Technical Advisory Committee meetings were instituted and proved helpful in eliminating the backlog of pending SWSPs and will hopefully prevent the reoccurrence of such backlogs.

Section 4 – Community Involvement



Throughout 2012, Division 2 personnel sought to be accessible to the citizens of Colorado. For example, in response to concerns regarding administrative decisions by the Upper Arkansas Water Conservancy District near the end of the growing season concerning the use of split calls and how exchanges are implemented to prevent injury, Division Engineer Steve Witte accepted the District's invitation to make a presentation to the District's board of directors. River Operations Coordinator, John Van Oort and Lead Water Commissioner for Water District 17 agreed to accompany and lend support to the effort to describe the principles and procedures used to safeguard the interests of all water users. In addition and quite unexpectedly, superintendents of the Amity, Fort Lyon, Catlin, Oxford and Highline canal's also made the trip to Salida to attend the meeting. After over an hour of explaining, answering questions and defending recent administrative decisions, much of the crowd remained somewhat skeptical. However, the tide turned when each of the superintendents stood in turn to offer testimonials to Lonnie Spady's efforts during the year to provide

rational justifications for any and all administrative decisions he makes. This was a resounding endorsement for any public servant, especially at the end of a very difficult and challenging year!

Section 5 – Highlights of 2012

Surface Water Improvement Rules

During the first year of operating the Lower Arkansas Water Conservancy Districts Compact Compliance Plan (April 1, 2011 through March 31, 2012), the District's estimated maintenance obligation was 1058 acre-feet, not including transit-losses. Three releases totaling 1888 af were made during the plan year to maintain return flows. As expected the return flow deficit resulting from the use of more efficient means of delivering surface water for irrigation was calculated to be much lower for a dry year, such as 2012. The total return flow deficit was determined to be 954 af through 4/30, 2013. More frequent and timely maintenance releases were achieved in 2012 than in the previous year.

Abandonment

In July 2010 a listing of 362 water rights believed to meet statutory criteria evidencing abandonment was published. Persons wishing to do so were afforded an opportunity to object and provide a basis for their

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objections. By the July 1, 2011 deadline, 143 such objections were received. These were evaluated and a revised abandonment list containing 326 rights was published and a petition for abandonment of those rights listed on the revised list was filed with the Division 2 Water Court in Case 11CW83 in December 2011. A total of 51 individual cases were filed with the Court protesting the revised abandonment list by the June 30, 2012 deadline. Of these approximately 18 cases have been withdrawn or abandonment agreements have been reached and settlements have been reached in 11 other cases. Trial dates have been set for remaining cases.

Super Ditch



The Lower Arkansas Valley Super Ditch Company, Inc. submitted an application for approval of a SWSP under C.R.S. 37-92-308(5) on March 8, 2012. Essentially, the Super Ditch concept is a rotational fallowing proposal. The Lower Arkansas Valley Water Conservancy District has identified and promoted the idea of having the major canal companies in the region organize and implement rotational fallowing as a viable alternative to permanent dry-up of irrigated agricultural land to change the use to provide for municipal needs and to provide a new source of agricultural revenue from temporary leases of water to municipalities. Previously, in 2004 and 2005, the City of Aurora explored this concept through leases of 840 of the total 2250 shares owned by Rocky Ford Highline Ditch Company shareholders with very little opposition. This was not to be the case for the Super Ditch Pilot Program. Fifteen parties filed comments in opposition to a comparatively modest proposal involving 286.7 shares of the Catlin Canal. The major issues were whether the operations of the proposed plan could all occur within a single year, whether all delayed return flows could be delivered within five years as required by the authorizing statute under which the plan was requested. An eighteen page conditional approval containing forty-five conditions was finally awarded on May 8, 2012. Among the conditions was a requirement to construct and demonstrate the performance of recharge basins. Certain lands were disallowed because of the return flow timing exceeded five years. However, the plan failed because the conditions of approval were not met. A complaint was lodged against the State Engineer alleging that his authority had been exceeded in granting approval in case 12CW46, however, the case was dismissed.

Section 6 – Organizational Changes

In 2012 there were several personnel changes. Joshua Kasper transferred to Water District 67 from the Division 4 office. Pete Kasper also transferred to our division from Division 7 and took on Water Districts 14/15/79. Andrew Flor was a new hire to the agency and assigned to the groundwater group. We had several changes through transfer or new appointment within the division. They included a transfer of Charles DiDomenico from Lead Hydrographer to Augmentation Coordinator and the appointment of Steve Stratman to the groundwater enforcement group which created a vacancy in the position he previously held as Deputy Water Commissioner in Water District 12. Mike Reed was able to secure a position reallocation from EPSA II to EPSA III and Josh Kasper completed his training plan and was promoted from EPST I to EPST II. Supervision of the Groundwater Enforcement group was assumed by Julie Pearson. Robert Lucero worked as a temporary employee in Water District 19 filling the deputy position in that area and Don Morton returned as a temporary employee to the groundwater group for the busy well administration season. Other personnel changes included resignations by Steve Anselmo, Justin Zeisler and James Swank (who transferred to Division 1). Ray Garcia retired at the end of 2012. A copy of the organizational chart as it existed at the end of 2012 is included following this section. At year's end, five positions were vacant. It is expected that all of these positions will be filled in 2013.

Doug Hollister was recognized at the Water Commissioner of the Year for his ongoing successes and dedication in Water District 10. He was recognized at the division's Fall 2012 Staff Meeting.

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