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### An Act Providing for the Extension of the Present Rio Grande River Compact

Colorado General Assembly

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## CHAPTER 188

## RIO GRANDE COMPACT

## EXTENSION

(Senate Bill No. 37. By Senator Headlee and Representatives  
Harney, Divers and Atencio)

## AN ACT

AN ACT PROVIDING FOR THE EXTENSION OF THE PRESENT RIO GRANDE RIVER COMPACT.

*Be It Enacted by the General Assembly of the State of Colorado:*

Section 1. Whereas, the Twenty-seventh General Assembly of this State by an Act entitled 'An Act to approve the Rio Grande Compact,' approved April 9, 1929, and being Chapter 154, Session Laws of Colorado 1929, duly ratified a certain compact concerning the use of the waters of the Rio Grande as theretofore executed by duly accredited Commissioners of the State of Colorado, New Mexico and Texas, respectively, and which Compact was likewise duly ratified by the Legislatures of said States of New Mexico and Texas, respectively, and was thereafter approved and consented to be appropriate action of the Congress of the United States, and thereby became binding and effective as a Compact between said States, and which Compact is as follows:

Declaration

## RIO GRANDE COMPACT

Compact

The State of Colorado, the State of New Mexico, and the State of Texas, desiring to remove all causes

of present and future controversy among these States and between citizens of one of these States and citizens of another State with respect to the use of the waters of the Rio Grande above Fort Quitman, Texas, and being moved by considerations of interstate comity, have resolved to conclude a Compact for the attainment of these purposes, and to that end, through their respective Governors, have named as their respective Commissioners:

Commissioner

For the State of Colorado—Delph E. Carpenter,

For the State of New Mexico—Francis C. Wilson,

For the State of Texas—T. H. McGregor,

who, after negotiations participated in by William J. Donovan, appointed by the President as the representative of the United States of America, have agreed upon the following articles, to-wit:

#### ARTICLE I

Terms Defined

(a) The State of Colorado, the State of New Mexico, the State of Texas, and the United States of America are hereinafter designated 'Colorado,' 'New Mexico,' 'Texas,' and the 'United States,' respectively.

(b) The Term 'Rio Grande Basin' means all of the territory drained by the Rio Grande and its tributaries in Colorado, New Mexico and Texas, above Fort Quitman, Texas.

(c) The term 'tributary' means any water course, the waters of which naturally flow into the channel of the Rio Grande.

(d) The 'Closed Basin' means that part of the San Luis Valley in Colorado where the streams and waters naturally flow and drain into the San Luis Lakes and adjacent territory, and the waters of which are not tributary to the Rio Grande.

(e) 'Domestic' use of water has the significance which attaches to the word 'domestic' in that sense at common law. 'Municipal' use means the use of water by or through water works serving the public. 'Agricultural' use means the use of water for the irrigation of land.

(f) The term 'power' as applied to the use of water means all uses of water, direct or indirect, for the generation of energy.

(g) 'Spill' or waste of water at a reservoir means the flowage of water over the spillway, or the release of water through outlet structures other than for domestic, municipal or agricultural uses, and losses incident thereto.

The provisions hereof binding each signatory State shall include and bind its citizens, agents and corporations, and all others engaged in, or interested in, the diversion, storage or use of the water of the Rio Grande in Colorado or New Mexico, or in Texas above Fort Quitman.

Citizens Bound  
by Compact

## ARTICLE II

The State of Colorado, New Mexico and Texas hereby declare:

Declaration  
by States

(a) That they recognize the paramount right and duty of the United States, in the interests of in-

ternational peace and harmony, to determine and settle international controversies and claims by treaty and that when those purposes are accomplished by that means, the treaty becomes the supreme law of the Nation;

(b) That since the benefits which flow from the wise exercise of that authority and the just performance of that duty accrue to all people, it follows as a corollary that the Nation should defray the cost of the discharge of any obligation thus assumed;

(c) That with respect to the Rio Grande, the United States, without obligation imposed by international law and 'being moved by considerations of international comity', entered into a treaty dated May 21st, 1906 (34 Stat. 2953) with the United States of Mexico which obligated the United States of America to deliver from the Rio Grande to the United States of Mexico, 60,000 acre feet of water annually and forever, whereby in order to fulfill that promise the United States of America, in effect, drew upon the States of Colorado, New Mexico, and Texas a draft worth to them many millions of dollars, and thereby there was cast upon them an obligation which should be borne by the Nation;

(d) That for the economic development and conservation of the waters of the Rio Grande Basin and for the fullest realization of the purposes recited in the preamble to this Compact, it is of primary importance that the area in Colorado known as the Closed Basin, be drained, and the water thus recovered be added to the flow of the river, and that a reservoir be constructed in Colorado upon the river, at or near the

site generally described as the State Line reservoir site. The installation of the drain will materially augment the flow of the river, and the construction of the reservoir will so regulate the flow as to remove forever the principal causes of the difficulties between the States signatory hereto;

(e) That in alleviation of the heavy burden so placed upon them, it is the earnest conviction of these States that without cost to them, the United States should construct the Closed Basin Drain and the State Line Reservoir described in (d).

The signatory States agree that approval by Congress of this Compact shall not be construed as constituting an acceptance or approval, directly, indirectly or impliedly, of any statement or conclusion appearing in this Article.

### ARTICLE III

(a) Colorado, under the direction and administration of its State Engineer, shall cause to be maintained and operated, an automatic recording stream gauging station at each of the following points, to-wit:

Colorado  
Maintain  
Gauging Stations  
—Where

(1) On the Rio Grande near Del Norte at the station now maintained, known and designated herein as the Del Norte Gauging Station, (the water records from this station to include the flow diverted into the canal of the Del Norte Irrigation System);

(2) On the Rio Conejos near Mogote, a station known and designated herein as the Mogote Gauging Station;

(3) On the Rio Grande at or near the Colorado-New Mexico Interstate line, a station known and designated herein as the Interstate Gauging Station;

(4) Such other station or stations as may be necessary to comply with the provisions of this Compact.

New Mexico  
Maintain  
Gauging Stations  
--Where

(b) New Mexico, under the direction and administration of its State Engineer, shall cause to be maintained and operated, an automatic stream gauging station at each of the following points, to-wit:

(1) On the Rio Grande at the station known as Buckman;

(2) On the Rio Grande at San Marcial;

(3) On the Rio Grande at the Elephant Butte Reservoir outlet;

(4) Such other station or stations as may be necessary to comply with the provisions of this Compact.

Texas Maintain  
Gauging Stations  
--Where

(c) Texas, under the direction and administration of its duly constituted official, shall cause to be maintained and operated an automatic stream gauging station at each of the following points, to-wit:

(1) On the Rio Grande at Courchesne;

(2) On the Rio Grande at Tornillo;

(3) On the Rio Grande at Fort Quitman.

(d) New Mexico and Texas shall establish and maintain such other gauging station or stations as may be necessary for ascertaining and recording the release, flow, distribution, waste and other disposition of water at all points between the Elephant Butte Reservoir and the lower end of the Rio Grande Project, both inclusive; *Provided, however,* that when the United States shall maintain and operate, through any of its agencies, an automatic gauging station at any of the points herein designated, it shall not be necessary for the State within which said station is located to maintain a duplicate gauging station at such point, whenever the records of such Government stations are available to the authorities of the several states.

New Mexico and  
Texas Maintain  
Gauging Stations

(e) The officials in charge of all the gauging stations herein provided for shall exchange records and data obtained at such stations for monthly periods through the operation thereof, or at such other intervals as they may jointly determine, and said officials shall provide for check ratings and such other hydrographic work at the designated stations as may be necessary for the accuracy of the records obtained at such stations and to that end may establish rules and regulations from time to time.

Officials  
Exchange  
Records

#### ARTICLE IV

The State Engineer of Colorado, the State Engineer of New Mexico and such officer of Texas as the Governor thereof may designate shall constitute a Committee which may employ such engineering and clerical aid as may be authorized by the respective State Legislatures, and the jurisdiction of the Com-

Commissioners  
Constitute a  
Committee—  
Jurisdiction of



mittee shall extend only to the ascertainment of the flow of the river, and to the prevention of waste of water, and to findings of fact reached only by unanimous agreement. It shall communicate its findings of fact to the officers of the respective states charged with the performance of duties under this Compact. Its findings of fact shall not be conclusive in any court or other tribunal which may be called upon to interpret or enforce this Compact. Annual reports compiled for each calendar year shall be made by the Committee and transmitted to the Governors of the signatory States on or before February 1st, following the year covered by such report.

#### ARTICLE V

Water Supply at  
the Interstate  
Gauging Station  
Not to Be  
Impaired

It is agreed that to and until the construction of the closed basin drain and the State Line Reservoir herein described but not subsequent to June 1, 1935, or such other date as the signatory States may hereafter fix by acts of their respective State Legislatures, Colorado will not cause or suffer the water supply at the Interstate Gauging Station to be impaired by new or increased diversions or storage within the limits of Colorado unless and until such depletion is offset by increase of drainage return.

#### ARTICLE VI

State Engineer  
of New Mexico  
Give Notice  
of Estimated  
Amount of  
Spill at Elephant  
Butte Dam

To the end that the maximum use of the waters of the Rio Grande may be made, it is agreed that at such times as the State Engineer of New Mexico under the supervision and control of the Committee shall find that spill at Elephant Butte Dam is anticipated he shall forthwith give notice to Colorado and New Mexico of the estimated amount of such spill, and of

the time at which water may be impounded or diverted above San Marcial, and thereupon Colorado and New Mexico may use in equal portions the amount of such estimated spill so found by the State Engineer of New Mexico, and on notice from the said State Engineer of New Mexico that the period of said spill, or estimated spill, is terminated, Colorado and New Mexico shall desist from such increased use.

#### ARTICLE VII

(a) On or before the completion of the closed basin drain and the State line reservoir, and in any event not later than June 1, 1935, a commission of three members shall be constituted to which the Governor of each of the signatory States shall appoint a commissioner for the purpose of concluding a Compact among the signatory States and providing for the equitable apportionment of the use of the waters of the Rio Grande among said States. The Governors of said States shall request the President of the United States to name a representative to sit with said Commission.

Governors of  
Signatory States  
Appoint  
Commission to  
Conclude  
Compact for  
Apportionment  
of Waters of the  
Rio Grande—  
When

(b) The Commission so named shall equitably apportion the waters of the Rio Grande as of conditions obtaining on the river and within the Rio Grande Basin at the time of the signing of this Compact and no advantage or right shall accrue or be asserted by reason of construction of works, reclamation of land or other change in conditions or in use of water within the Rio Grande Basin or of the Closed Basin during the time intervening between the signing of this Compact and the concluding of such subsequent Compact to the end that the rights and equities of each State

Commission  
Equally  
Apportion  
Waters of  
Rio Grande

may be preserved unimpaired; *Provided, however,* that Colorado shall not be denied the right to divert, store, and/or use water in additional amounts equivalent to the flow into the river from the drain from the closed Basin.

Compact to  
Be Ratified

(c) Any compact concluded by said Commission shall be of no force or effect until ratified by the legislatures of each of the signatory States and approved by the Congress of the United States.

#### ARTICLE VIII

Colorado  
Consents to  
Construction  
of Reservoir

(a) Subject to the provisions of this Article, Colorado consents to the construction and use of a Reservoir by the United States and/or New Mexico, and/or Texas, as the case may be, by the erection of a dam across the channel of the Rio Grande at a suitable point in the Canyon below the lower state bridge, and grants to the United States and/or to said States, or to either thereof, the right to acquire by purchase, prescription or the exercise of eminent domain such rights of way, easements and/or lands as may be necessary or convenient for the construction, maintenance and operation of said Reservoir and the storage and release of waters.

Reservoir—How  
Constructed and  
Operated

(b) Said reservoir shall be so constructed and operated that the storage and release of waters therefrom and the flowage of water over the spillway shall not impede or interfere with the operation, maintenance and uninterrupted use of drainage works in the San Luis Valley in Colorado or with the flow and discharge of waters therefrom.

(c) The construction and/or operation of said Reservoir and the storage and regulation of flow waters thereby for beneficial uses or otherwise shall not become the basis or hereafter give rise to any claim of appropriation of waters or of any prior, preferred or superior right to the use of any such waters. The purpose of said Reservoir shall be to store and regulate the flow of the river.

Purpose of  
Reservoir  
to Regulate  
Flow of River

(d) The United States, or the signatory States, as the case may be, shall control the storage and release of water from said Reservoir and the management and operation thereof, subject to a Compact between the signatory States.

U. S. and  
Signatory States  
Control Storage  
and Release  
of Water

(e) Colorado reserves jurisdiction and control over said Reservoir for game, fish, and all other purposes not herein relinquished.

Colorado  
Reserves  
Jurisdiction for  
Other Purposes

(f) Colorado waives rights of taxation of said Reservoir and appurtenant structures and all lands by it occupied.

Colorado  
Waives Rights  
of Taxation

#### ARTICLE IX

Nothing in this Compact shall be construed as affecting the obligations of the United States of America to the United States of Mexico, or to the Indian Tribes, or as impairing the rights of the Indian Tribes.

Contract Not  
to Affect  
Obligations  
of U. S.

#### ARTICLE X

It is declared by the States signatory hereto to be the policy of all parties hereto to avoid waste of waters, and to that end the officials charged with the performance of duties hereunder shall use their utmost efforts to prevent wastage of waters.

Policy to Avoid  
Waste of Water

## ARTICLE XI

Waters May Be  
Impounded for  
Power Purposes

Subject to the provisions of this Compact, water of the Rio Grande or any of its tributaries, may be impounded and used for the generation of power, but such impounding and use shall always be subservient to the use and consumption of such waters for domestic, municipal and agricultural purposes. Water shall not be stored, detained nor discharged so as to prevent or impair use for such dominant purposes.

## ARTICLE XII

Prior Vested  
Rights Above  
and Below  
Elephant Butte  
Reservoir Not  
to Be Impaired

New Mexico agrees with Texas, with the understanding that prior vested rights above and below Elephant Butte Reservoir shall never be impaired hereby, that she will not cause or suffer the water supply of the Elephant Butte Reservoir to be impaired by new or increased diversion or storage within the limits of New Mexico unless and until such depletion is offset by increase of drainage return.

## ARTICLE XIII

Physical  
Conditions  
of Rio Grande  
Actuated  
Compact

The physical and other conditions characteristic of the Rio Grande and peculiar to the territory drained and served thereby and to the development thereof, have actuated this Compact and none of the signatory States admits that any provision herein contained establishes any general principle or precedent applicable to other interstate streams.

## ARTICLE XIV

Compact May Be  
Terminated by  
Legislative  
Action

This Compact may be terminated, or extended, at any time by the unanimous legislative action of all the signatory states, and in that event all rights established under it shall remain and continue unimpaired.

## ARTICLE XV

Nothing herein contained shall prevent the adjustment or settlement of any claim or controversy between these States by direct legislative action of the interested States, nor shall anything herein contained be construed to limit the right of any State to invoke the jurisdiction of any court of competent jurisdiction for the protection of any right secured to such State by the provisions of this Compact, or to enforce any provision thereof.

Compact Not  
to Prevent  
Adjustment or  
Settlement of  
Claim or  
Controversy

## ARTICLE XVI

Nothing in this Compact shall be considered or construed as recognizing, establishing or fixing any status of the river or the accuracy of any data or records or the rights or equities of any of the signatories or as a recognition, acceptance or acknowledgment of any plan or principle or of any claim or assertion made or advanced by either of the signatories or hereafter construed as in any manner establishing any principle or precedent as regards future equitable apportionment of the water of the Rio Grande. The signatories agree that the plan herein adopted for administration of the water of the Rio Grande is merely a temporary expedient to be applied during the period of time in this Compact specified, is a compromise temporary in nature and shall have no other force or interpretation and that the plan adopted as a basis therefor is not to be construed as in any manner establishing, acknowledging or defining any status, condition or principle at this or any other time.

Compact—  
Temporary  
Expedient

## ARTICLE XVII

Consent of  
Signatories to  
Extension of  
Time for  
Construction  
of Reservoirs

The signatories consent and agree to the extension of time for construction of reservoirs on sites covered by approved application during the time of this Compact and for a reasonable time thereafter.

## ARTICLE XVIII

When Compact  
Operative

This Compact shall become operative when approved by the legislature of each of the signatory States and by the Congress of the United States. Notice of approval shall be given by the Governor of each State to the Governors of the other States and to the President of the United States, and the President of the United States is requested to give notice to the Governors of each of the signatory States of its approval by the Congress of the United States.

IN WITNESS WHEREOF, the Commissioners have signed this Compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

Done at the City of Santa Fe, in the State of New Mexico, on the 12th. day of February, in the year of our Lord, One Thousand Nine Hundred and Twenty-nine.

Signatures

DELPH E. CARPENTER,  
FRANCIS C. WILSON,  
T. H. MCGREGOR.

Approved:

WILLIAM J. DONOVAN.

Section 2. And, whereas, a Commission of three members, consisting of duly authorized and accredited representatives of said respective States, together with a duly authorized and accredited representative of the United States, convened, pursuant to Article VII of said Compact and for the purposes therein stated, at Santa Fe, New Mexico, and on January 30, 1935, unanimously adopted a resolution recommending to said States the extension of said Compact until June 1, 1937;

Adopt  
Resolution

Section 3, Now, therefore, for the purpose of effectuating the object sought by said resolution and of extending said Compact as thereby recommended, and in pursuance of the provisions of Article XIV of said Compact, Article V thereof is hereby amended to read as follows:

Article Amended

#### ARTICLE V

It is agreed that to and until the construction of the closed basin drain and the State Line Reservoir herein described but not subsequent to June 1, 1937, or such other date as the signatory States may hereafter fix by acts of their respective State Legislatures, Colorado will not cause or suffer the water supply at the Interstate Gauging Station to be impaired by new or increased diversions or storage within the limits of Colorado unless and until such depletion is offset by increase of drainage return.

Water Supply  
at Interstate  
Gauging Station  
Not to Be  
Impaired Prior  
to June 1, 1937



## Article Amended

And that Paragraph (a) of Article VII of said Compact is hereby amended to read as follows:

## ARTICLE VII

Governors of  
Signatory States  
Appoint  
Commission for  
Apportionment  
of Waters

(a) On or before the completion of the closed basin drain and the State line reservoir, and in any event not later than June 1, 1937, a commission of three members shall be constituted to which the Governor of each of the signatory States shall appoint a commissioner for the purpose of concluding a Compact among the signatory States and providing for the equitable apportionment of the use of the waters of the Rio Grande among said States. The Governors of said States shall request the President of the United States to name a representative to sit with said Commission.

Compact  
Continue in  
Force and Effect

Section 4. That said Compact as so amended, and each and every Article, paragraph, stipulation and provision thereof shall continue in full force and effect in like manner as if such amendments had constituted a part of said Compact as originally entered into.

Act Become  
Operative—  
When

Section 5. This Act shall become operative if and when the Legislatures of the States of New Mexico and Texas, respectively, shall extend said Compact to June 1, 1937, and continue said Compact in full force and effect as so extended. And it shall be the duty of the Governor to notify the Governors of the States of New Mexico and Texas, respectively, of the passage and approval of this Act, and upon the request of the Governor, the Secretary of State shall furnish to the Governor of each of said States a duly certified copy of this Act.

Section 6. The General Assembly hereby finds, Safety Clause  
determines and declares that this Act is necessary for  
the immediate preservation of the public peace, health  
and safety.

Section 7. In the opinion of the General Assem- Emergency  
bly an emergency exists; therefore this Act shall take  
effect and be in force from and after its passage.

Approved April 13, 1935.