

No. 126, Original

In The
Supreme Court of the United States

—◆—

STATE OF KANSAS,

Plaintiff,

v.

STATE OF NEBRASKA

and

STATE OF COLORADO,

Defendants.

—◆—

DECLARATION OF JAMES C. SCHNEIDER

—◆—

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June 15, 2012

COMES NOW, James C. Schneider, Ph.D., pursuant to 28 U.S.C. § 1746, and states as follows:

1. I am a resident of Lancaster County, Nebraska and am over eighteen years of age.
2. I am the Deputy Director of the Nebraska Department of Natural Resources and Nebraska's representative on the Republican River Compact Administration (RRCA) Engineering Committee.
3. In this role, I am the individual in Nebraska responsible for the RRCA annual accounting as well as evaluating the applicable Republican River Compact compliance tests.
4. Due to my service as the Deputy Director and on the RRCA Engineering Committee, I have personal knowledge of the matters discussed herein.
5. Water short year administration was not in effect during 2008, 2009, 2010, and 2011. Therefore the applicable compliance test for Nebraska in these years involves comparing the five-year average of Nebraska's Compact allocation to the five-year average of Nebraska's Computed Beneficial Consumptive Use less the five-year average of Nebraska's Imported Water Supply Credit.
6. This comparison is found in Table 3C of the RRCA accounting spreadsheet; these are included as Attachment A to this Affidavit. The result of this comparison for these years, using the currently approved RRCA Accounting Procedures (revised August 12, 2010), is summarized below.

Period	Average Annual Balance (acre-feet/year)
2004-2008	1,410
2005-2009	10,630
2006-2010	42,470
2007-2011 ¹	63,340

¹ The accounting information for 2011 is based on provisional data exchanged between the states on and since April 15, 2012.

7. These results demonstrate that Nebraska was in compliance with the Republican River Compact and the Final Settlement Stipulation in 2008, 2009, 2010, and 2011.

8. Water short year administration is not projected to be in effect for 2012 as determined by the U.S. Bureau of Reclamation. See Attachment B. The five year average that will determine Nebraska's compliance in 2012 will include the years 2008-2012.

9. Given the annual values for 2008-2011, and current water supply conditions in the Republican River Basin, there is essentially no chance that Nebraska will have a negative five-year average for the 2012 compliance test.

I declare under penalty of perjury that the foregoing is true and correct.

6-14-12
Date


James C. Schneider

Attachment A

Table 3A: Colorado's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2004	21,540	33,670	NA	(12,130)
2005	25,040	35,460	NA	(10,420)
2006	21,260	31,280	NA	(10,020)
2007	24,520	32,850	NA	(8,330)
2008	26,690	32,420	NA	(5,730)
Average	23,810	33,140	NA	(9,330)

Sum (46,630)

Table 3B: Kansas's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2004	137,450	38,120	NA	99,330
2005	136,820	44,310	NA	92,510
2006	124,830	55,630	NA	69,200
2007	169,830	60,040	NA	109,790
2008	251,070	53,370	NA	197,700
Average	164,000	50,290	NA	113,710

Sum 568,530

Table 3C: Nebraska's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2004	205,630	252,650	10,381	(36,639)
2005	199,450	253,740	11,965	(42,325)
2006	187,090	228,420	12,214	(29,116)
2007	244,390	235,640	21,933	30,683
2008	314,630	256,220	26,050	84,460
Average	230,240	245,330	16,510	1,410

Table 3A: Colorado's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2005	25,040	35,460	NA	(10,420)
2006	21,260	31,280	NA	(10,020)
2007	24,520	32,850	NA	(8,330)
2008	26,690	32,420	NA	(5,730)
2009	32,580	38,090	NA	(5,510)
Average	26,020	34,020	NA	(8,000)

Table 3B: Kansas's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2005	136,820	44,310	NA	92,510
2006	124,830	55,630	NA	69,200
2007	169,830	60,040	NA	109,790
2008	251,070	53,370	NA	197,700
2009	207,800	56,560	NA	151,240
Average	178,070	53,980	NA	124,090

Table 3C: Nebraska's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2005	199,450	253,740	11,965	(42,325)
2006	187,090	228,420	12,214	(29,116)
2007	244,390	235,640	21,933	30,683
2008	314,630	256,220	26,050	84,460
2009	273,810	287,100	22,743	9,453
Average	243,870	252,220	18,980	10,630

Table 3A: Colorado's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2006	21,260	31,280	NA	(10,020)
2007	24,520	32,850	NA	(8,330)
2008	26,690	32,420	NA	(5,730)
2009	32,580	38,090	NA	(5,510)
2010	28,560	32,100	NA	(3,540)
Average	26,720	33,350	NA	(6,630)

Table 3B: Kansas's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2006	124,830	55,630	NA	69,200
2007	169,830	60,040	NA	109,790
2008	251,070	53,370	NA	197,700
2009	207,800	56,560	NA	151,240
2010	299,450	50,130	NA	249,320
Average	210,600	55,150	NA	155,450

Table 3C: Nebraska's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2006	187,090	228,420	12,214	(29,116)
2007	244,390	235,640	21,933	30,683
2008	314,630	256,220	26,050	84,460
2009	273,810	287,100	22,743	9,453
2010	357,490	265,400	24,766	116,856
Average	275,480	254,560	21,540	42,470

Table 3A: Colorado's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2007	24,520	32,850	NA	(8,330)
2008	26,690	32,420	NA	(5,730)
2009	32,580	38,090	NA	(5,510)
2010	28,560	32,100	NA	(3,540)
2011	26,700	32,000	NA	(5,300)
Average	27,810	33,490	NA	(5,680)

Sum (28,410)

Table 3B: Kansas's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2007	169,860	60,070	NA	109,790
2008	251,070	53,370	NA	197,700
2009	207,800	56,560	NA	151,240
2010	299,450	50,130	NA	249,320
2011	268,870	47,800	NA	221,070
Average	239,410	53,590	NA	185,820

Sum 929,120

Table 3C: Nebraska's Five-Year Average Allocation and CBCU

Year	Allocation	Computed Beneficial Consumptive Use	Imported Water Supply Credit	Allocation - (CBCU - IWS Credit)
2007	244,390	235,640	21,933	30,683
2008	314,630	256,220	26,050	84,460
2009	273,810	287,100	22,743	9,453
2010	357,490	265,400	24,766	116,856
2011	326,850	275,340	23,730	75,240
Average	303,430	263,940	23,840	63,340