

Appendix I

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT BY AND BETWEEN THE STATES OF COLORADO, KANSAS, NEBRASKA AND THE UNITED STATES

WHEREAS, the State of Kansas, as Plaintiff, has filed a Bill Of Complaint in the United States Supreme Court naming the State of Nebraska and the State of Colorado as Defendants in an Original Action (the "Action") arising out of the Republican River Compact and the United States has appeared as amicus curiae; and,

WHEREAS, the States of Colorado, Kansas and Nebraska and the United States have indicated a willingness to discuss resolution of issues related to the Action and the administration of the Republican River Compact; and

WHEREAS, the States of Colorado, Kansas and Nebraska and the United States have initiated discussions, relating to the resolution of issues related to the Action and the administration of the Republican River Compact on October 4, 2001.

THEREFORE, in consideration of the mutual agreement of the States of Colorado, Kansas and Nebraska and the United States that these discussions are dedicated to the purpose of resolving all disputes between the States, including but not limited to those identified in the Action; the States of Colorado, Kansas and Nebraska and the United States hereby agree, by and through their undersigned representatives, to the following terms concerning the discussions so as to encourage a frank and meaningful exchange of information in order to facilitate the resolution of any and all disputes:

RELEASE OF INFORMATION TO THE MEDIA

No State nor the United States will disclose or report any substantive information, exchanged or revealed by any other State or the United States, to members of the press or other public information dissemination media. Likewise, no State nor the United States will unilaterally disclose or report any substantive information regarding the status of the discussions and any progress made or not made during the course of said discussions to members of the press or other public information dissemination media. Only upon the prior agreement of all of the States and the United States may substantive matters or reports on the progress of discussions be released to the press or other news media. The States and the United States agree to work together in good faith to agree on the extent to which any disclosure to the media will be made.

USE OF INFORMATION OBTAINED DURING SETTLEMENT DISCUSSIONS IN THE ACTION IS PROHIBITED

In the event the discussions should fail, no information provided, exchanged or distributed during the course of the discussions shall be used against the State, ^{or the United States} that provided such information or any other State, EXCEPT when said information is otherwise independently discovered through the course of discovery as provided for in the Comprehensive Case Management Plan attached to CMO 6 and as amended. Modeling information made available by the U.S.G.S to the States in advance of release of the final report shall not be used by any State for any purpose other than

^{or the United States}

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settlement discussions. All information, material and data developed jointly by the States and the United States shall not be used for or against any State or the United States. Likewise, the fact that any State or the United States participated in the creation, collection, and computation of such jointly developed information, material and data shall not be used for or against any State or the United States. Neither information developed by the States or the United States for the purposes of settlement discussions nor the content of any settlement discussions shall be discoverable.

RELEASE OF INFORMATION TO THE PUBLIC

Each State and the United States has statutes which it believes are adequate to protect the confidentiality of all documents, materials and communications made for or in connection with the Republican River discussions, whether verbal, written, or electronic in form, and each State and the United States will utilize such laws to the fullest extent permitted to protect such confidentiality except as otherwise agreed by all of the States and the United States.

EFFECTIVE DATE

This agreement shall date back so as to include the discussion meeting held on October 4, 2001, and all subsequent meetings.

SO AGREED TO THIS 19th DAY OF OCTOBER, 2001


On behalf of the State of Colorado


On behalf of the State of Kansas


On behalf of the State of Nebraska


On behalf of the United States of America