

Water ruling favors Kansas

Colorado would pay Kansas millions of dollars in damages for Arkansas River Compact violations under guidelines set forth in a draft report by a special master of the U.S. Supreme Court.

Colorado Attorney General Ken Salazar released a copy of Special Master Arthur Littleworth's findings in the long-standing water dispute between the neighboring states.

In 1995, the U.S. Supreme Court adopted Littleworth's findings that Colorado had depleted flows in the Arkansas to the detriment of farmers in southwestern Kansas.

In the draft proposal, Littleworth recommends the court award Kansas \$9 million in damages on the present-day value of farm irrigation losses caused by water depletions at the state line, as well as interest.

The findings do not indicate an interest amount, but Littleworth said interest would go back only to 1968. Kansas had sought \$53 million of interest back to 1950.

Littleworth confined his report to the legal issues and methods for calculating damages.

He said neither state knew as early as 1950, the first year the compact was in operation, that Colorado wells would deplete the Arkansas River flow at the Kansas state line.

But by 1968, Colorado should have known its wells would harm farmers in southwestern Kansas, according to the special master.

In a key ruling, Littleworth rejected Colorado's argument that the lawsuit violates the 11th Amendment to the U.S. Constitution, barring *citizens of one state* from suing another sovereign state.

THE DENVER POST

7/7/68