

MINUTES OF
ARKANSAS RIVER COMPACT ADMINISTRATION

SPECIAL MEETING

June 2, 1965

1525 Sherman Street

Denver, Colorado

RECEIVED

AUG 13 1965

DIVISION OF WATER RESOURCES
GARDEN CITY

Attendance:

For Colorado:

Hacket Smartt, Lamar
George F. Reyher, McClave
Felix L. Sparks, Denver

For Kansas:

Robert V. Smrha, Topeka
Carl E. Bentrup, Deerfield

For the United States:

Francis M. Bell, Denver

Absent:

Logan N. Green, Garden City

Others Attending:

Ross W. Moor	U.S.G.S.	Lamar, Colo.
J. W. Odell	U.S.G.S.	Denver, Colo.
Donald H. Henderson	Asst. Atty. Gen., G.F.&P.	Denver, Colo.
Ed Shaw	Chief Engr., G.F. & P.	Denver, Colo.
Robert A. Buchhagen	Corps of Engrs., John Martin Res.	Hasty, Colo.
Ralph L. Strother	Corps of Engrs.	Albuquerque, N.M.
Harry C. Nevius	Amity Mutual Irr.	Lamar, Colo.
Carter E. Hutchinson	C.W.C.B.	Denver, Colo.
W. R. Randle	City of Lamar - Water Dept.	Lamar, Colo.

R. E. Northrup	Mayor, City of Lamar	Lamar, Colo.
Mike Nolan	U.P.I.	Denver, Colo.
Bert Hanna	Denver Post	Denver, Colo.
Leo Gamble	U.S.B.R.	Pueblo, Colo.
P. T. Barrows	Colo. G.F. & P.	Denver, Colo.
Stanley A. Miller	C.W.C.B.	Denver, Colo.
Carl R. Welsh	Colo. G.F. & P.	Colo. Spgs. Colo.
Charles N. Henson	Kansas Asst. Atty. Gen.	Topeka, Ks.
R. T. Eckles	Colo. Nat. Res.	Denver, Colo.
J. D. Geissinger	Colo. Asst. Atty. Gen.	Denver, Colo.
Donald H. Hamburg	C.W.C.B.	Denver, Colo.
Fred Boydston, Jr.	C.W.C.B.	Denver, Colo.

Chairman Bell called the meeting to order at 9:30 A.M., in Room 100, State Services Building, Denver, Colorado. He noted that Mr. Green was the only member of the Administration absent, but that a quorum was present.

He pointed out that this was a Special Meeting called by the Chairman under the By-Laws and under Article VIII-H of the Compact.

Mr. Bell then asked for approval of the Minutes of the meeting of December 8, 1964. Mr. Smrha suggested two minor corrections after which Mr. Bentrup moved, and Mr. Smartt seconded that the Minutes of December 8, 1964 be approved as corrected. The motion passed.

Mr. Bell then gave the Chairman's report as follows:

On April 9, 1965 he received a call from Mr. Smrha complaining that Colorado was in violation of the Compact. He forwarded this information to the Bureau of the Budget and contacted Mr. Eckles from Colorado. Newspaper clippings on this subject were later sent to the Bureau of the Budget, and on April 30, the Chairman met with the Kansas members of the Administration, Governor Avery and the Kansas Attorney General. He noted that his first two attempts to arrange a meeting of the Administration were unsuccessful because it was impossible to find dates agreeable to both states. Therefore, today is the first day it was possible to have a quorum present.

Mr. Smartt gave the Secretary's report as follows:

SECRETARYS REPORT

December 8, 1964 to June 2, 1965

Early in January 1965, the Secretary mailed a letter to the District Engineer at Albuquerque, regarding the cost of relocating the gaging station on the Arkansas River near Las Animas, Colorado. A reply was received, dated January 14, 1965, signed by Colonel Homann, District Engineer of Albuquerque, which I have at hand and will present at your pleasure.

On March 9, 1965, the Secretary met at the office with Mr. Lane Hackett and Mr. Howard Corrigan to discuss ways to deliver water to the state line with the very small amount of water that was in sight at that time for the April 1st delivery. There was no solution found. We also inspected the diversion stations of the ditches below the reservoir to Lamar.

The Annual Reports were received about March 1st, and distributed to Ditch Boards, the A.V.D.A. at Pueblo and others upon request.

On Friday, May 14th, Mr. George Reyher, Mr. George Russell, Mr. Ralph Eaton, the Secretary and Mr. C. V. Mills made a trip to the dam that is being constructed on Clay Creek southeast of Lamar where we got some first-hand information on what was being done.

The Secretary has also answered correspondence, paid bills and prepared the reports for this meeting. This concludes my report.

Respectfully submitted,

/s/ HACKET SMARTT
Secretary

Mr. Bell ruled that without objections, the report of the Secretary will be accepted. Mr. Smartt then gave the Treasurer's report as follows:

TREASURERS REPORT

Disbursements by the Administration - 1965 Fiscal Year

DATE	VOUCHER NO.	PAYEE & PURPOSE	AMOUNT
		Balance on Hand December 8, 1964	\$ 8,885.30
1-2-65	416	November & December Telephone Bill	29.70
1-4-65	417	Treas. of the U.S. Social Security	21.75
1-11-65	418	Lamar Daily News, Print Letterheads	9.20
1-14-65	419	U.S.G.S. 2nd Quarter Agreement	2,450.00
12-31-64	420	Hacket Smartt, 1964 4th Quarter salary less \$10.88 Social Security	289.12
2-11-65	421	A. Marvin Strait, Auditing, 1964	75.00
2-23-65	422	Peerless Printing Company	648.00
2-23-65	423	January & February Telephone Bill	26.91
4-5-65	424	March Telephone Bill	13.95
4-5-65	425	Hacket Smartt, 1965 1st Quarter salary less \$10.88 Social Security	289.12
4-5-65	426	Treas. of the U.S. Social Security	21.75
4-20-65	427	U.S.G.S. 3rd Quarter Agreement	2,450.00
5-3-65	428	April Telephone Bill	21.42
		Withheld by bank for stopping payment on two vouchers	<u>1.00</u>
		TOTAL DISBURSEMENTS	\$6,346.92
		PRESENT BANK BALANCE	\$2,538.38

Mr. Smrha moved that the Treasurer's report be approved. The motion was seconded by Mr. Reyher and passed by vote of the states. Mr. Smartt then read the Minutes of the Special Telephonic Meeting as follows:

SPECIAL TELEPHONIC MEETING

April 1, 1965

A Special Telephonic Meeting was held by the Administration on April 1, 1965 in accordance with Article IV, 3B of the By-Laws of the Administration for the purpose of finding the reservoir empty. As a result of this meeting, the reservoir was declared to become empty on April 3, 1965. Notice was given to the State Engineer of Colorado, and Division Engineer J. C. Patterson of Pueblo, Colorado.

The reservoir became empty at 9:00 A.M. on April 3, 1965.

Members participating were:

For Colorado - Mr. Smartt and Mr. Reyher.

For Kansas - Mr. Green and Mr. Bentrup.

/s/ HACKET SMARTT
Secretary

Mr. Bentrup's motion, seconded by Mr. Smartt to approve the Minutes of the Telephonic Meeting was passed by the states.

Mr. Reyher said that he had no report to make for the Administrative and Legal Committee.

Mr. Bentrup gave the Operations Committee report as follows:

OPERATIONS COMMITTEE REPORT

December 8, 1964 to June 2, 1965

The gates at the Reservoir were ordered closed on December 15, 1964 at the request of Colorado Water Users, and remained closed until 3:00 P.M., February 3, 1965. At this time they were ordered open to discharge 14 c.f.s. of river flow which was requested by the Secretary of the Lamar Canal.

The gates remained open to discharge 14 c.f.s. of river flow until April 1, 1965, when they were ordered open to discharge 1000 c.f.s. from the Reservoir until the Reservoir was empty at 9:00 A.M. on April 3, 1965. They have remained open for river flow since that time.

Amount in Reservoir, April 1, 1965 - 3,784 Acre-Feet.

Deliveries to the state line were made in the following amounts:

April 3 - 75 c.f.s. for sixteen hours.

April 4 - 151 c.f.s. for twenty-four hours.

April 5 - 25 c.f.s. for nine hours

The average state line flow was 103 c.f.s. Kansas received only slightly more than one-fourth of the water to which it is entitled under the Compact.

Respectfully submitted,

CARL BENTRUP, CHAIRMAN
HACKET SMARTT, MEMBER

Mr. Smrha said that the problem assigned to the Special Committee on deliveries of John Martin Reservoir water had not been sufficiently studied, but he hoped that the Committee will resolve this problem in the near future. Mr. Sparks asked what the apparent solution might be, and a general discussion followed on reservoir releases, and where the measurement of reservoir releases for Kansas and Colorado should be made.

A discussion was also held on the "equivalent amount of state line flow" demands by Kansas. Mr. Sparks and Mr. Smrha discussed losses between the dam and the state line. Upon being questioned about measuring devices in Colorado, Mr. Bentrup stated that after the investigation made by the Operations Committee, there had been no further complaints. Mr. Sparks remarked that before John Martin is in operation again, there should be some agreement on deliveries; and suggested that the Special Operating Committee have a report ready by September or October so that a Special Meeting of the Administration could be held. Mr. Bell directed the Secretary to contact Mr. Lane Hackett and attempt to complete the report by fall.

A general discussion of operations of the Reservoir ensued. The Chairman said that unless there were objections, the Operations Committee report would be accepted.

Mr. Smrha said that there had been no meeting of the Engineering Committee, but the correspondence contained in the Minutes of the last meeting had been augmented by letters from Mr. Smrha, dated February 16, 1965, and a letter of response from Mr. Boydston, dated March 12, 1965. Mr. Smrha requested that this additional correspondence be entered into the record. There being no objections, the correspondence is as follows:

February 16, 1965

Mr. Fred L. Boydston, Jr.
Sr. Water Resource Engineer
Colorado Water Conservation Board
215 State Services Building
1525 Sherman Street
Denver, Colorado 80203

Dear Fred:

Review of the operational studies and other information pertaining to the Clay Creek reservoir which accompanied your letter

of November 25, 1964, has been completed and the following comments are submitted for your consideration.

In your latest studies "A" and "B" there should have been spills of 1200 acre-feet in May 1957, the initial month. This would also be the total spills for the year 1957 and raise the average spills under study "A" to 677 acre-feet and under study "B" to 902 acre-feet.

The suggested operational criteria for study "A" was that at anytime the inflow to the reservoir exceeded 500 c.f.s. the entire inflow would be by-passed rather than just the increment above 500 c.f.s. At such time as the inflow was greater than 1800 c.f.s. the increment above 1800 c.f.s. would be available for storage. Computations were made by this office on this basis and are summarized as Operation "A" Revised in the attached table together with results of your studies "A" and "B".

The summary of results of the three studies shows the average annual runoff at the mouth of Clay Creek would be depleted 1200 to 1300 acre-feet (72% to 80%) by the operation of the proposed reservoir. The results of the studies are of comparable magnitude and since much of the data is of questionable accuracy, it would appear further operational studies are not justified.

As to your suggestion that a 24-inch outlet pipe would be sufficient, it is quite apparent that discharges through such a small outlet would in all probability infiltrate into the streambed below the dam causing even greater depletions than shown by the operational studies. It is also apparent that one 8-foot diameter pipe would not have sufficient capacity to by-pass the required 1800 c.f.s. In fact it appears that a minimum of three 8-foot pipes would be required.

In the second paragraph on page two of your letter you expressed the opinion that the cost would be excessive to provide one 8-foot pipe. In my judgment the justifiable cost of a structure to by-pass the necessary flows should be based on the value of the water to be delivered.

While precise economic values of water are difficult to arrive at, Mr. William Howland, Superintendent, The Amity Mutual Irrigation Co., in his paper "The Case for the Opposition to a Permanent Pool in John Martin Reservoir" stated "If one assumes a value of \$30.00 per acre foot for clear water then muddy water would be valued at \$45.00 per acre foot. These values are recognized as being lower than those which most irrigators assume."

Applying the lower of the figures given by Mr. Howland to the computed depletion of Clay Creek by the reservoir would give a value of \$36,000 to \$39,000 annually. If this amount of money was capitalized at say 3%, it would permit an initial investment of over \$1,000,000. From this it appears that a structure of sufficient size to by-pass 1800 c.f.s. is not unreasonable.

Study and discussion of the Clay Creek reservoir project has to-date been at staff level of our respective state agencies. If you agree with the comments given above, the plans for the proposed project should be revised accordingly and be referred to the Engineering Committee for further consideration.

Very truly yours,

R. V. SMRHA
Chief Engineer

RVS:ch

Enc.

cc: Mr. Francis M. Bell, Chairman
Arkansas River Compact Administration
Building 25, Federal Center
Denver, Colorado 80225

SUMMARY OF OPERATIONS

CLAY CREEK RESERVOIR

	1957	1959	1960	1961	1962	Average	
OPERATION "A"							
Historical flow at mouth of Clay Creek	4,690	520	720	0	2,360	1,658	
Flow at mouth of Clay Creek with res.	620	0	0	0	1.073	339	
Depletion at mouth due to reservoir	4,070	520	720	0	1,287	1,319	(80%)
OPERATION "B"							
Historical flow at mouth of Clay Creek	4,690	520	720	0	2,360	1,658	1 1
Flow at mouth of Clay Creek with Res.	620	0	0	0	1,199	404	
Depletion at mouth due to reservoir	4,070	520	720	0	1,161	1,294	(78%)
OPERATION "A" REVISED							
Historical flow at mouth of Clay Creek	4,690	520	720	0	2,360	1,658	
Flow at mouth of Clay Creek with Res.	620	0	670	0	1,040	466	
Depletion at mouth due to reservoir	4,070	520	50	0	1,320	1,192	(72%)

March 12, 1965

Mr. R. V. Smrha, Chief Engineer
1026 - S State Office Building
Topeka, Kansas 66612

Dear Bob:

Your letter of February 16, 1965 is herewith acknowledged.

The Colorado Game, Fish and Parks Department awarded the contract for construction of Clay Creek Dam on February 16th. Mr. Shaw, their Engineer, informs me that changes in design of the dam are to include a 48-inch outlet tube instead of the 24-inch one previously contemplated, and increase the width of the spillway to 100 feet.

I cannot agree that provisions should be made to pass 1800 c.f.s. through Clay Creek Reservoir. It was my understanding that the 1800 c.f.s. figure was estimated to be the total flow which could be diverted by ditches in Kansas from the state line to Garden City, and it would be ridiculous to place the entire burden for supplying this flow on Clay Creek. In fact, Plate I sent to you with my letter of November 25, 1964 indicates to me that it would be reasonable to expect about 1800 c.f.s. at the state line whenever the flow of Clay Creek was approximately 625 c.f.s.

Very truly yours,

/s/ FRED L. BOYDSTON, JR.
Sr. Water Res. Engineer

Mr. Smrha said that before the Engineering Committee could act on the Clay Creek Project, it had been placed under construction and further actions of the Engineering Committee had come to a halt. Chairman Bell said that unless there were objections, the report of the Engineering Committee would be accepted.

UNFINISHED BUSINESS

Mr. Smrha referred to the Clay Creek Project and stated that a suit had been filed May 24, 1965 in the Supreme Court of the United States, with the state of Kansas as Plaintiff against the state of

Colorado as Defendant. He wished to enter into the Minutes of this meeting the prayer of Kansas in this suit as follows:

Construction and operation by the State of Colorado of the dam and reservoir project as above described will result in a violation of Article IV (D) of the compact between the States and cause irreparable injury to the State of Kansas, for which there is no adequate remedy at law.

WHEREFORE, Plaintiff prays: (1) That a decree be entered enjoining the State of Colorado from construction and, or operation of the dam and reservoir now being constructed on Clay Creek in a manner that will materially deplete the waters of the Arkansas River in usable quantity and availability for use by water users of the State of Kansas. (2) That a decree be entered requiring the State of Colorado provide for outflow through the dam being constructed sufficient to allow water from Clay Creek usable by water users in the State of Kansas to reach said users. (3) For such other relief as this Court may deem proper and necessary.

He said that the Clay Creek matter has therefore resolved into a controversy before the Supreme Court, and Colorado has a certain time to reply to this. He called upon Mr. Henson of the Kansas Attorney General's office to describe the legal procedure. Mr. Henson then said that after the Complaint is filed, the Defendant has 60 days to reply as to why the Complaint should not be filed. After this time the Court decides whether or not to take jurisdiction of the case. The present status is that they are waiting for the reply of Colorado. Mr. Smrha said this constitutes the status of the suit as filed by Kansas.

Mr. Smrha related that on May 26, 1965 he had sent letters to the Colorado members of the Compact Administration as follows:

May 26, 1965

Mr. Felix L. Sparks, Member
Arkansas River Compact Administration
Denver, Colorado

Mr. Hacket Smartt, Member
Arkansas River Compact Admin.
Lamar, Colorado

Colorado Representatives
Arkansas River Compact
Administration

Mr. George F. Reyher, Member
Arkansas River Compact Administration
McClave, Colorado

Gentlemen:

Reference is made to the Special Meeting of the Arkansas River Compact Administration called by the Chairman to be held at Denver, Colorado, on June 2, 1965.

While the purpose of the meeting is not stated in the notice, there no doubt will be consideration of the Clay Creek Reservoir project, which is being constructed by the Colorado Game, Fish and Parks Department. So far as the Administration is concerned with this project, the question of depletion of usable quantities of water at the state line has not been resolved. You are no doubt aware that the Attorney General of the State of Kansas has brought suit in the U. S. Supreme Court seeking to enjoin construction of the project and, or operation of the dam in such a manner as to deplete usable water.

The purpose of this letter is to advise you that Kansas members of the Administration would be willing to consider a proposal for arbitration of the Clay Creek matter as provided in the Compact with assurances that the result of arbitration would be observed by the State of Colorado and its agencies. In order that this approach may be explored, it is suggested that you may wish to give it consideration prior to the meeting of the Administration to be held at Denver on June 2, 1965.

Very truly yours,

/s/ R. V. SMRHA, Member
Kansas Representative
Arkansas River Compact Administration

Mr. Smrha continued that a procedure by means of arbitration might be a better way of settling this instead of a suit. Mr. Sparks said that there has been no action by the Administration, and the Engineering Committee has been quite lax since no formal report has been made by that Committee and he thinks that a report should be made by the Engineering Committee before any action is taken. He said that Colorado is obligated to answer the complaint and expects to do so within 60 days. He said that the operation of Clay Creek Reservoir should be further explored to determine if the reservoir will fulfill its purpose.

A discussion on operations of Clay Creek Reservoir ensued with Colorado members of the Administration agreeing that further investigations of operating procedures are necessary. Mr. Sparks told the Administration that no record has been kept on this stream and that any operations which have been assumed so far are

merely 'educated guesses' derived from sketchy information. He said that Colorado will measure or operate the Reservoir in any reasonable manner, and that there are U.S.G.S. personnel and a water commissioner in Lamar so that measurements and operating procedures are possible.

Mr. Bentrup said that he has no objection to the Clay Creek Project as such, but only wants the Commission to approve the Project or any other similar projects which might be constructed. He said that this small reservoir has been built without the permission of the Compact and it may lead to others being constructed. He thinks that Colorado should make available to the Administration a plan of operation for the reservoir.

Mr. Sparks said that Kansas has been furnished with all the information contained in a loose-leaf notebook which he showed to the Administration, at great expense to Colorado, and actual methods of operation have been studied which show no damage to Kansas. He offered to review the matter and negotiate further with Kansas through the Engineering Committee.

Mr. Bentrup asked why the dam was built before the Compact Administration had considered it. Mr. Sparks replied that after two years and much study, the studies were completed as far as Colorado was concerned and that he had therefore advised the Colorado Game, Fish & Parks Department that he could see no reason for not constructing the Reservoir, since when there are flows in Clay Creek available for storage, there are usually flows sufficient at the state line to satisfy the decreed rights in Kansas.

Mr. Smrha acknowledged that a great volume of studies had been completed by Colorado, but he did not agree with the results. He said that the City of Lamar had made a filing on the Reservoir in 1956 and that this plan was the only one that had been furnished to Kansas. In March of 1963 an oral presentation was made by Lamar and at that time a written proposal was requested so that the project could be considered by the Administration. On May 9, 1963, the proposal was submitted by Lamar and a supplementary proposal was made in April, 1964. The first operation study was reviewed by Kansas and certain objections were made. Mr. Smrha then related the history of actions, letters and meetings that Kansas had with Colorado, and said that 22 months and 21 days had passed between the time the proposal was first given to the Administration and the letter of February 16, 1965 when Kansas was informed that a contract had been let for

construction. During that time Colorado had the studies 70% of the time. He noted that the project is now virtually complete with the 48-inch diameter outlet pipe. In his letter to Mr. Boydston of February 16, 1965, he had indicated that an outlet tube large enough to pass 1800 c.f.s. was not unreasonable. He further said that a 48-inch pipe could not pass this amount and that somewhere in between the two amounts is where the probable outlet size should be. Kansas, therefore, proposes arbitration.

Mr. Bell asked how Kansas had arrived at the figure of 1800 c.f.s.

Mr. Smrha replied that the usable flows at the state line were approximately 1200 c.f.s., which figure plus the losses which would total about 1800 c.f.s. Mr. Bell asked if Colorado had issued a storage permit under the original filing for the reservoir made in 1956.

Mr. Sparks replied that Colorado did not issue storage permits, they only received filings.

Mr. Smrha said that as far as he knew, the project had been under consideration seven years before it was brought to the attention of the Administration, and wondered why it could not have been brought to their attention before that time.

Mr. Sparks replied that in Colorado, many people have many projects under consideration and that what is considered and what is actually constructed many times are entirely two different things.

Mr. Smrha stated that Lamar, and not the Game, Fish & Parks Department had made the filing with the State Engineer.

At this point, Mr. Bentrup questioned if 22 months was too long to consider a project of this size.

Mr. Sparks said that the Game, Fish & Parks Department had been advised that the dam would not injure Kansas and that the decision to construct the reservoir had been made by that agency.

Mr. Smrha said that Kansas was willing to consider an approach by arbitration. Mr. Bell then asked what he wanted to arbitrate and Mr. Smrha replied the flows and outlet sizes.

Mr. Smartt asked what flows would pass through the present outlet. Mr. Smrha then read from Page 6 of the Complaint as follows: "This flow will range from 120 cubic feet per second to about 350 cubic feet per second depending on the level of water in the reservoir."

Mr. Smartt questioned why 1800 second feet need to be released at Clay Creek Dam site to get 1200 c.f.s. to the state line, since they expected him to get 500 c.f.s. releases from John Martin Reservoir to the state line with only 500 c.f.s release.

Mr. Smrha read from the Complaint that the seepage losses below the Clay Creek Dam were 480 acre-feet and emphasized that this figure had been supplied by Colorado. He further said that there are five ditches below the mouth of Clay Creek with total decrees of 285 c.f.s. These diversion possibilities make quite a difference in the flows between Clay Creek and the state line.

Mr. Bentrup said that the only basis for the Engineering Committee to meet would be the possibility of installing larger outlet tubes at the dam. He then questioned what the spillway capacity was.

Mr. Sparks said the spillway was of sufficient size to pass more than the largest flood of record which was 27,000 c.f.s.

Mr. Bell remarked that after the Reservoir was filled, the remaining flows would spill over and go on down to Kansas anyway.

Mr. Sparks said that Colorado will observe the flows of Clay Creek and the Arkansas River this summer in order to plan the operation of the reservoir. He said that Colorado will measure the flows above and below the dam, and would be willing to forego operation until the study can be completed.

Mr. Smrha said that flows at Clay Creek in usable amounts are of concern to Kansas, and anything over and above those usable flows is storable.

Mr. Bell asked if some small flows could not be stored, and also those flows when the state line flows were sufficient for Kansas demands. Mr. Smrha agreed.

Mr. Smartt said it was his observation that when Clay Creek was flowing nearly all the other creeks in the area were also flowing. Mr. Sparks questioned why Kansas had specified 1800 c.f.s. at the state line for operation purposes when the Complaint only specified 1150 c.f.s.

Mr. Smrha said that the original operation study had assumed that only 500 c.f.s. at the state line was usable, and this was in error. He further remarked that 'sketchy information leads to sketchy conclusions'.

Mr. Bentrup read a letter in the Minutes of the last meeting from the Manvel Canal, and remarked that the dam would make the flows of Clay Creek more usable by the canals. He said that he agreed that there may be times when the usable flow at the state line would be enough without Clay Creek.

Mr. Sparks said that when there are floods on Clay Creek there are also state-line flow records which we have been able to correlate. He observed that peak flows in Colorado are often also not usable in Kansas. A discussion was held on the ability of the Manvel Canal to take flood waters.

Mr. Bentrup observed that there appeared to be no solution but to install larger outlet tubes.

Mr. Sparks said that we now have an opportunity to observe the effects this year and said that here we have an existing situation where formerly we could only predict how an operation would be performed.

Mr. Smrha said that Kansas can not sit by and wait when there are flows which may be stored that could be usable by Kansas, and that their only choice is for arbitration or a court decision.

Mr. Bell suggested that perhaps an agreement could be reached whereby Colorado could install gages and agree not to store flows unless the state-line flow was in excess of some figure - possibly about 1500 c.f.s.

Mr. Bentrup observed that it would be almost impossible to make an observation study for future operation on the basis of only one year's records.

Mr. Sparks replied that records of even one flood would be of benefit.

Mr. Bell asked if Colorado ditches could call on the flows of Clay Creek. Mr. Sparks replied, 'yes'.

Mr. Bentrup stated that his objection to the project is that it was built before any commitments had been determined by the

Administration. Mr. Bell called upon Mr. Moor to give the results of their last flood measurements.

Mr. Moor said that last week at a point five miles south of Lamar, Clay Creek had been 213 c.f.s. peak and at the mouth this had reduced to about 100 c.f.s. peak. He had no idea as to the duration or volume of the flow. Other streams between Las Animas and the state line had been measured after the last storm. The resulting peak flows were:

Mud Creek	1,000 c.f.s.
Caddoa Creek	1,800 c.f.s.
Cheyenne Creek	100 c.f.s.
Wild Horse	54 c.f.s.
Buffalo	None
Wolf Creek	10 c.f.s.
Big Sandy	1,050 c.f.s.
Willow Creek	100 c.f.s.
Graveyard Gulch	150 c.f.s.
Arkansas at Lamar	1,810 c.f.s.
Arkansas River at the State Line	977 c.f.s.

Mr. Sparks said that further discussion appeared to be fruitless, and that Colorado will have to file an Answer to the Complaint filed by Kansas. He said that Colorado will make studies on Clay Creek this year and Kansas is invited to enter into these studies with Colorado if it will withdraw the lawsuit; but that if Kansas continues with the suit, it is not invited to participate in the studies. He said he considered that there was nothing to vote on, and therefore no arbitration seemed possible.

Mr. Smrha said that the Administration could go through the motions of voting, but evidently Mr. Sparks was not interested in arbitration.

Mr. Sparks replied that we do not know the actual effect of the reservoir, and therefore do not have anything specific to vote on.

Mr. Smrha said that he was afraid that a precedent might be set if projects are constructed without considering what their effect may be in Kansas.

Mr. Reyher said he wanted the studies made on a trial basis, and felt sure that it would show benefits to both Colorado and Kansas. He emphasized that seepage and evaporation would be the only losses, and that Lamar could probably benefit to a certain degree through well recharging.

Mr. Smartt said he is in favor of arbitration because he would hate to have a lawsuit; but, we must have something concrete to arbitrate.

Mr. Bentrup said he would like to have something done to prevent Colorado from building any projects until the Compact Administration had a chance to make a decision on them. Unless something is done to prevent future controversies, Colorado could go on and build dams like this on several tributaries.

Mr. Sparks said that the Reservoir was proposed by the Game, Fish & Parks Department and that his Department had only given them advice, saying that it would not damage Kansas. Actual operations in Colorado are not up to the Compact Administration. He believes the Administration could get an injunction in the State Courts if this would deplete the flows. He continued that he does not think this will set a precedent unless an impasse occurs, and Colorado will make every possible effort to have the compact work. He referred to the new ground water law as an aid to delivery of water at the state line; and said that if an impasse is reached, it will have to be reconciled through the courts, because Colorado will not be stymied in its future development. He said that the question was how to proceed from here. We can either make studies to defend the suit, or make studies as if the suit had not been filed. It had to be one of the two courses.

The Administration recessed for lunch at 11:50 P.M.

AFTERNOON SESSION

Chairman Bell called the Administration to order after recess at 1:00 P.M.

Mr. Smrha said that Mr. Sparks has stated the position of Colorado and that the State of Kansas wants to clarify its position. He therefore made a motion that on the basis of information presented to the Administration; we find that Clay Creek Reservoir, as constructed by the Colorado Game, Fish & Parks Department, would at times materially deplete the usable water supplies of the Arkansas River at the Colorado - Kansas state line. For that reason, the Administration does not approve the project.

Mr. Bentrup seconded the motion.

In the discussion that followed, Mr. Sparks said that no such information has been presented to the Administration.

Mr. Smartt said he doubted if the Administration was ready to vote on the information that had been presented so far; and that since a suit is pending, he did not think a vote should be called for.

Mr. Bell also said that the Administration, as such, has not been furnished the information that has been stated in the motion.

Mr. Smrha said that on the basis of the information before it, the Administration should make a decision.

Mr. Smartt said it is hard for Colorado to find that the Project will deplete the flows when we are not sure of the operation, and therefore he would hesitate to vote on this motion.

Chairman Bell said that a vote on this would at least put the Administration on record of voting for something on the Clay Creek Project.

By vote of the states, Kansas voted 'Aye', Colorado voted 'No'. The Chairman ruled there was still no decision. Mr. Smrha then moved that the question of depletion of the water supply of the Arkansas River at the state line, and the adequacy of the outlet works in the Clay Creek Project, and conditions governing operation be determined by the representative of the United States in proceedings by arbitration as provided in the Compact, on condition that the agencies of the State of Colorado, including the Game, Fish & Parks Department of Colorado, comply with and

abide by the decision of the arbitrator on this matter.

Mr. Bentrup seconded this motion.

Mr. Sparks said that it was an improper point of order since the Administration can not bind any other agency of Colorado. He said the Compact states that ". . . shall be binding on the Compact Administration".

Mr. Henson said that it was his opinion that the Administration speaks for the two states which are parties to the Compact, and that the Colorado Commissioners speak for the State of Colorado and all of its agencies. He further stated that decisions by the Administration are binding on the agencies represented on the Compact.

Mr. Sparks said he didn't wish to argue on the interpretation of the Compact, but only wished to state the words contained in the Compact.

Mr. Henson suggested that maybe Colorado should seek legal counsel.

Mr. Geissinger was consulted, and said he did not believe this should be brought into the discussion.

Chairman Bell read that part of the Compact and said that he thought it would be improper to include another agency in the motion.

Mr. Smrha therefore amended his motion, deleting the last half so that the motion now reads: "that the question of depletion of the water supply of the Arkansas River at the state line, and the adequacy of the outlet works in the Clay Creek Project, and conditions governing their operation be determined by the representative of the United States in proceedings by arbitration as provided in the Compact".

Mr. Bentrup seconded the amended motion.

In asking for discussion on the motion, Chairman Bell said he wanted it made clear that the representative of the United States does not have to be the arbitrator -- that it can be a representative from each state.

Mr. Bentrup said he could see no reason for having more than one person on the Arbitration Committee.

Mr. Smartt questioned that since a suit is pending, can we act on a motion for arbitration. Mr. Smrha called on Mr. Henson for an explanation which he made as follows:

It has been the feeling that the two states can work this out by arbitration. If the results of the arbitration will be observed by Colorado, then the suit would be dismissed.

Mr. Sparks then proposed two amendments to the motion.

1. That the Arbitration Committee consist of the United States representative and two other members. Colorado and Kansas to each submit three names of competent engineers, and the United States representative would pick one from each state for the Arbitration Committee.
2. That the Arbitration Committee be established only after the suit in the Supreme Court has been withdrawn.

Mr. Henson said that many times lawsuits are settled by arbitration before they are withdrawn. A general discussion ensued on whether it would be proper to set up an Arbitration Committee with the case pending in court, and whether an Arbitration Committee could come up with a decision in this case.

Mr. Smartt seconded both Amendments, and on voting on Amendment No. 1, Kansas voted 'No', Colorado voted 'Aye'. On Amendment No. 2, Kansas voted 'No', Colorado voted 'Aye'.

Chairman Bell said that the original motion still stood, and called for a vote. Kansas voted 'Aye', Colorado voted 'No'.

The Chairman ruled that this concluded consideration of this item.

Chairman Bell called for a discussion of New Business, and wanted to know about the Trinidad Project. He said it was his recollection that in 1956 the Administration had made a determination 'that the Project would not deplete the flows to the Arkansas River under certain conditions'. He asked Mr. Sparks what the present status of the project is.

Mr. Sparks said that no construction has started on the project. He stated that a conditional decree had been entered in Las Animas County to move the decree of the Model Reservoir Company. No agreements have been signed yet, so a contract

can not be entered into with the United States. Upon questioning, he said he had no idea when a contract can be entered into.

Mr. Smrha then brought up the subject of the budget, and requested that the budget be considered at an early date. Mr. Odell gave the overall plans of the gaging stations, and said that in the 1966 Budget, \$4,000 had been allocated to new gaging stations, and Operations and Reports had been increased from \$1,800 to \$2,000.

Mr. Smartt said he thought that the Administration could get by on the same amounts as this year. Both Colorado and Kansas expressed a desire to have the budget available by July. Mr. Odell said that if this was considered for the 1967 Budget, he thought that only \$2,000 would be necessary since the gages would be installed from the 1966 Budget.

Mr. Bell asked Mr. Smartt to furnish both states a copy of the budget in early July.

Mr. Smrha then requested that preliminary copies of these minutes be transmitted as soon as possible. In a discussion which followed, Mr. Sparks said he thought they could be ready in two or three weeks.

A discussion was held on the need for a meeting before the annual meeting. No decision was reached.

Mr. Smrha said he wished to thank Colorado for their courtesy in receiving them, and for the facilities of the meeting room.

Mr. Smartt said that he was sorry that they couldn't bring about an arbitration to the Clay Creek Project.

The Chairman then adjourned the meeting at 1:55 P.M. subject to call or an Annual Meeting.