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COLORADO WATER
CONSERVATION BOARD

ARCA Meeting - May 5, 1976

KANSAS-COLORADO WATER CONSERVATION BOARD

JUN 14 1976

TRANSCRIPT

COLORADO WATER
CONSERVATION BOARD

Proceedings had before the Compact Commissioners at 1513
4 East Fulton Terrace, Garden City, Kansas, 67846, on the 5th
5 day of May, 1976, beginning at 9:30 a.m.
6

7 CARL BENTROP: We are ready to start the meeting.
8 It's been about three years since we had a Federal repre-
9 sentative and we have one now. I would like to introduce
10 Mr. Frank Cooley.

11 MR. COOLEY: Thank you, Carl. We will call this
12 meeting of the Compact Commission to order pursuant to
13 notice. This morning we have present here representing
14 Colorado in the center of the table to my left Mr. Felix
15 L. Sparks, Executive Director of the Colorado Water
16 Conservation Board. Furthest on the end is Robert Tempel
17 nearest to me is Harry L. Bates, Jr. of the Colorado
18 members of the Commission, furthest to my right is Guy
19 Gibson who is the Chief Engineer of the Division of Water
20 Resources of the Kansas State Board of Agriculture and
21 immediately to my right known to all of you is Carl E.
22 Bentrop, who are today representing the State of Kansas.
23 Mr. Reeves is unavoidably unable to be here due to a
24 conflict of engagements. Immediately on my left is Lane
25 Hackett, who is the Secretary of the Commission and I would

1 like to hand to you a xerox copy of my letter of appoint²
2 ment by -- signed by the President to put with the records
3 of the Commission. I do want to make one remark before we
4 get to business. Yesterday most everyone in the room was
5 on a tour of the river from Colorado down to Garden City.
6 We encountered a great deal of hospitality along the way
7 and many people expressed their pleasure that there was a
8 Federal representative and it was very gratifying, a little
9 embarrassing and it's exactly in point about the story
10 of the fellow who was in the minor leagues at a farm club
11 in Georgia and he had a pretty good glove, but he really
12 couldn't hit and he hung along in the minors for a couple
13 of years and he had a year in which he batted two ninety
14 and they thought there might be hope with bringing him up
15 from the farm team and letting him play with a parent
16 organization, so he went down to Florida for spring
17 training and looked all right and the first game he had
18 ever played as a major leaguer he was in the second inning
19 came up to bat and he popped out a single and this was --
20 it just made him nervous and kind of a nice omen and he
21 got up, came to bat again in the fourth inning and he
22 connected and got a double and this was really really
23 something. Well, he rocks along and the ninth inning comes
24 along and the game is tied and there are two men on base
25 and he comes to bat and his heart is just in his throat

1 and the ball comes right over the plate, he connects with 3
2 the thing and knocks it over the left field fence and as
3 he rounds the third bag and heading for home plate, he
4 hollers to the dug out, he says, "Trade me now, I ain't
5 that good." (Laughter) So that is about the way I feel
6 with this appointment. What matters are necessary pro-
7 cedurely to get down to the agenda? Lane, I understand
8 that since this is a special meeting that it is inappropriate
9 at this time that we review minutes or go into detail in
10 those matters of housekeeping that we would do at a reg-
11 ular meeting, is that correct?

12 MR. HACKETT: I think that is correct.

13 MR. BATES: I think that you should refer to the
14 minutes that agree to call this special meeting in regards
15 to your -- you have a motion in the minutes referring to
16 this special meeting.

17 MR. COOLEY: Well, I think that is highly important
18 and therefore we will ask you, Mr. Hackett, to go to those
19 portions of the minutes having to do with this meeting
20 and not for the purpose of reviewing the minutes, but just
21 simply to partly to educate me.

22 MR. HACKETT: Yes, sir. It may take me a moment.

23 MR. BATES: It's the next page, Lane. This right
24 here is the paragraph that refers to this.

25 MR. HACKETT: It is minutes of the Arkansas River

1 Compact administration meeting held at the Cow Palace
2 Motel, Lamar, Colorado, December the 9th, 1975, and this
3 particular paragraph, Mr. Reeves moved that the proposed
4 resolution for the permanent pool at John Martin Reservoir
5 including study of Muddy Creek storage rights be deferred
6 to be referred to special engineering committee created
7 in 1972 and that such committee be asked to submit a
8 report by April the 1st, 1976, to the members of the
9 Compact Administration in Garden City and that such
10 report be considered at a meeting to be held in Garden
11 City, Kansas, May the 5th, 1976; motion seconded by Mr.
12 Tempel and passed by the states. Mr. Sparks moved that
13 Mr. Duane Helton of Colorado be appointed chairman;
14 committee seconded by Mr. Gibson and passed by the states.

15 MR. COOLEY: Fine. A couple of housekeeping items,
16 has some one got a pad that we can hand to C. V. for
17 attendance and will you please bring it up when it reaches
18 the back row, will you please bring it back up when it
19 gets to you. Just a comment here. At anytime I don't
20 understand, which will be all too frequently for a while,
21 what is being said or what procedures are under way, I
22 will politely as I can interrupt to get clarification and
23 until the point when that kind of a procedure interferes
24 with us, please members of the Commission be free to do the
25 same just in order that none of us miss a codical all too

1 often. With that reading, I think it would be appropriate 5
2 that we, would it not, that we ask to hear from Duane
3 Helton of the Engineering Committee.

4 MR. BENTROP: May I? Mr. Jesse (sp.) from the
5 Colorado State Engineer has a review of the Colorado ^{winter storage program}
6 Would it be preferable to have that first? If I know the
7 other, it may go into quite a lengthy discussion, I would
8 think, is that agreeable with the rest of you?

9 MR. TEMPEL: Fine.

10 MR. BATES: I understand that we need to get through
11 with our report.

12 MR. COOLEY: Mr. Jesse (sp.) of the Colorado State
13 Engineer's office.

14 MR. JESSE (sp.): We have kind of a two part thing.
15 Tommy here has a brief statement he wants to make and then
16 I will go into the details of it. Do you want to go
17 ahead?

18 MR. COOLEY: Now, all sneakers today will identify
19 themselves to Jane Lee. Mr. Thom/son (sp.) of the South-
20 east Colorado Water Conservation District.

21 MR. THOM/SON (sp.): Very briefly I wish I would
22 have been a betting man about a year ago because I could
23 have really cleaned up. We were talking about a winter
24 storage program as part of the Arkansas Project and I had
25 more people wanting to bet me that we couldn't get all the

1 irrigators in Colorado together to cooperate in the pro 6
2 gram. Well, from not being a betting man I didn't take
3 any of them up on it, but the program did begin on
4 December the 1st of 1975 and concluded on February the
5 29th of 1976. It was an experimental program for the
6 first year. Very briefly, Mr. Chairman, members of the
7 Compact, the idea started way back in the twenties when
8 the ~~Fryingpan~~^{Reclamation}-Arkansas Project was first conceived as a
9 flood control project, it was being studied about the
10 same time as the John Martin Dam was being studied by
11 Pearl and Sudgley as a flood control project and even
12 then in the thirties the people in the Arkansas Valley
13 studied the ~~regional~~^{Reclamation} Lamames law of 1902 and determined
14 that in addition to flood control they could incorporate
15 and should incorporate an irrigation agriculture as an
16 intrical part of the project. Then during the fifties
17 they incorporated municipal water and of course, in the
18 sixties when the project was finally authorized by
19 Congress, recreation became a part of the multi-purpose
20 project, but while they were talking about the irrigation
21 part of it in the thirties and the forties, the agricultural
22 people in the Valley in Colorado suggested that in addition
23 to the concept of importing Colorado River Basin water that
24 we would also talk about management of the existing water
25 decrease in the Arkansas River. Now, changing the or not

1 changing the water loss of the State, not changing anybody's
2 decrease, not developing a compact just work out some kind
3 of a program. Well, starting in 1969 the project was
4 authorized in '62, construction began in 1964 with our
5 collection system in the Colorado River base, and by in
6 1969 we started traveling up and down the Valley meeting
7 with representatives from the thirteen irrigation and
8 canal companies between the Pueblo Dam and John Martin Dam.
9 The Bureau of Reclamation had completed a study of thirty-
10 four years of records of historic diversions of each of
11 those companies and it was thought that perhaps the most
12 equitable way to get a storage program would take an average
13 of a given amount of the thirty-four years historic diversion
14 and so they did computer studies and amazed a tremendous
15 amount of material as to how much each of the companies
16 would have been able to store under a thirty-four year
17 average. Well, we started meeting with the companies and
18 we found that while the idea was still good from their
19 stand point, they were afraid of the computer study, they
20 were afraid of averages, they were afraid of historic
21 diversions because they feared perhaps their neighbor might
22 have padded it a little bit. In other words, diverted more
23 than they really needed just to build up an historic average
24 or whatever. So, we did meet constantly with the companies,
25 attended their annual meetings, described the idea. The

1 Pueblo Dam was then under construction and incorporated
2 in Pueblo Dam with sufficient capacity for the storage of
3 decreed water during the winter months and that if the
4 farmers didn't develop a cooperative program then the
5 costs of the project water would have to go up considerably
6 because we would have to pay for that extra space in
7 Pueblo Reservoir and in the Dam. They wanted it, but
8 they were afraid of it and particularly because of the
9 computer idea and the idea of garbage in, garbage out and
10 so on and this was still not necessarily distrust, but
11 concern between the companies. They were afraid the other
12 company was going to get more out of it than they would
13 at their expense or whatever the case may be, so we realize
14 that they wanted the program, but we weren't really getting
15 any where because we had worked for five years with these
16 people. Well, I was talking to Bob Jesse (~~was~~), then in
17 the fall of 1974. Bob had had a lot of experience up on
18 the *Platte River* ~~flat~~ where they had what is known as a gentleman's
19 agreement which Larry is very familiar with. Ted Gilwood
20 (~~was~~) talked about it for hours and Bob knew of this
21 program which was tried to their distress, not a historic
22 average or anything like that but actually the decrease, so
23 Bob and Jim Cassick of his staff developed a very inter-
24 esting program which he will explain to you. Now, that
25 was in the fall of '74 and I had been beating the trail up

1 and down the Arkansas Valley for six years. Prior to 9
2 that time everybody wanted a program, but they didn't want
3 that kind of a program. Anyway, Bob developed this pro-
4 gram and started out and we had more meetings than I
5 think either he or Jim or I want to talk about and, of
6 course, Dick Fidler is with us in the U.S. Geological Survey
7 and they did a lot of work for us. A year ago in 1975 if
8 I would have been a betting man I could be pretty wealthy
9 right now because people were still willing to bet that
10 there was no way that we were going to get the irrigators
11 in Colorado to agree among themselves without a court order
12 or a compact or something like that that they would store
13 their water in Pueblo Reservoir during the months of
14 December, January and February, but they did starting on
15 December the first and now Bob Jesse (~~is~~) can explain
16 the program.

17 MR. JESSE (~~is~~): I have a copy of the program itself
18 that I will leave with the Secretary. I have a copy of
19 the ^{accounting} ~~acting~~ sheet that is a summary that I will leave with
20 you. The whole program is pretty complicated to try to
21 explain in any detail. It is temporary, it is a provisional
22 it was for one year only. It began in December of '75 and
23 ended the first of March in '76, so the program itself
24 has been completed. The next year or what happens next
25 year will be another story. The whole concept was based

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in some part on the gentleman's agreement of the plat,
on the historic diversions, on the priority system, on
the practices of the past. We tried to incorporate as all
of the experience or the knowledge that anybody had gained
in any of these other programs. It is not quite like any
of them, but it does incorporate elements of the priority
system which seemed to satisfy some of the ditch owners.
It incorporates some qualities of the historic diversions
which pleases some of them, but the main departure from
the former plan was the fact that we incorporated the
priority system into it. The ditch companies were a little
shy about any plan that was based entirely on historic
averages because it seems like that average only works in
an average year and you never get an average year, so it
wasn't readily translatable. The priority system was easily
understood; in a wet year you get a lot of water and a dry
year you don't and whether you got any or not depended on
the priority and that was one of the main concepts of the
way it boiled down was that any ditch company or any water
right owner would store fifty percent of what he could
have diverted had he been in priority and he would not
divert it all. The ditch companies started on the first
of December. They had three options then. The first of
December they could either continue to irrigate like they
had in the past, they could begin storing fifty percent of

1 their water in Pueblo Reservoir, they could store water 11
2 in their own ^{off-} channel reservoirs. The ditches, there was
3 some of them elected to do all three, some of them elected
4 to store only in Pueblo, some of them stored in their own
5 reservoirs and direct irrigated. The entire thing is
6 based on priority system so we would take the flow and
7 inflow of the reservoir and we would prorate that out in
8 the priority system and with the fall in, it would be the
9 most junior right that was getting water. The Fort Lyon
10 was the furthest down stream ditch that was taking water
11 in its own system and they had a guaranteed amount or a
12 -- we didn't use the word guarantee, it was a goal. It
13 did meet the goal or within a half a percent or so. The
14 next up stream canal elected to store in their own reservoir
15 and store some water in Pueblo Reservoir. The other up
16 stream reservoir elected both to store in their reservoir
17 and some in Pueblo Reservoir. The other ditches simply
18 took a fifty percent of what they would have been in priority
19 for. The -- I don't know if they are going to put out
20 copies of the operating principal^{le}, I am sure the Board will
21 get enough of them if you want copies, they will get them
22 for you. The only problem we had within the weather the
23 month of December was fairly wet most of the goals were
24 more than met in December. January turned out to be dry.
25 We came close to meeting the goals. The month of February

1 was also pretty dry and we fell quite a bit short of the
2 goals, but the over all goals were met. The thing we set
3 out to do we wound up doing. I don't have a total on
4 here, but there was somewhere in the excess of fifty
5 thousand acres stored in Pueblo Reservoir ^{for} in the ^{various} varying
6 ditches. There was fifty-four thousand delivered to the
7 Fort Lyon Canal and they got other amounts on here, the
8 Fort Lyon I think is the biggest single number on here.
9 One of the ditches elected to continue operating as ^{it} had
10 in the past, that ^{was} ~~would be~~ the Rocky Ford. They didn't
11 divert ~~at~~ the total amount they could have diverted, but
12 maintained their historic practice. The entire thing was
13 a cooperative effort. All the ditches did agree to it.
14 It was for one year only. It did appear we did appear to
15 meet the goal that we set out to. Whatever they decide
16 next year will be up to them, but in a nut shell, that's
17 pretty well it and I will answer any questions anybody has.

18 MR. COOLEY: We have a question from the back of the
19 room.

20 EDWARD (LAST NAME INAUDIBLE), FINNEY COUNTY: Did
21 you make a study of how this ^a affected the in flow into
22 John Martin Reservoir?

23 MR. JESSE ~~(NAME)~~: We did not. The State did not, the
24 Conservation District in cooperation with the USGS did
25 and Dick is here. We might ask --

1 MR. THOMSON (~~sp.~~) (Interrupting) Why don't you
2 just report, Bob, that the general

3 MR. EDWARD (?): As compared to last year when we
4 didn't have it in effect, what is your notes on it?

5 MR. HACKETT: I didn't bring my work copy of the
6 particular period, but I did make a study of the three
7 months that Pueblo was storing water beginning December
8 the 1st, 1975, to March the 1st of 1976, and a comprable
9 year compared to a year ago. I come up with fifteen
10 hundred acres more stored in John Martin Reservoir with
11 the storage program in process or in operation than we did
12 a year ago with the no storage in PUEbelo going on. It
13 was a river flow, a year ago and this year we had at the
14 end of the same period, we had fifteen hundred feet more
15 in storage in John Martin, but let me remind you that
16 there are lots of variables that I possibly overlooked in
17 my figuring the records for that.

18 MR. JESSE (~~sp.~~): I didn't bring the study with me,
19 but you can correct me if I am wrong, the general way the
20 trend of the GS study was that there would probably be
21 more water available to John Martin, there would probably
22 be more total water crossing the state line, there would
23 be a slight decline in the ground water table near
24 La Junta if they stored and did not irrigate. Now, one
25 of the assumptions the GS made was that they would store

1 rather than irrigate in the La Junta area, but they
2 actually did a little of both.

3 MR. COOLEY: Mr. Gibson has a question.

4 MR. GIBSON: I believe the question from the floor
5 was a study made and when I held up my hand I think you
6 answered yes there had been one made by the Bureau of
7 Reclamation and the Conservatory District. Then we got
8 into Mr. Hackett and I was going to ask you to go into
9 detail with that. My question is, is that report available?
10 Can we obtain a copy of that study?

11 MR. JESSE (~~ar~~): I will defer to Mr. Fidler again.

12 MR. FIDLER: I'm Dick Fidler, Pueblo Sub-District
13 Geological Survey. There was a letter, administrative
14 type report made as a prediction on what the effects of
15 the winter storage program would be. However, I do know
16 that as a result of the plans that went into this final
17 winter storage program that there were some changes made
18 in the overall operating procedures that we have not
19 tested and now I'm not sure that they are going to make a
20 noticeable difference in the final particularly compact on
21 John Martin Reservoir, but it was just in the procedures.
22 In other words, when we did it we did not know how many of
23 the canal companies would go along with the storage pro-
24 gram. I believe we assumed all of them would go along
25 with the storage of fifty percent of their water, but I'm

1 not absolutely sure, but I do know that we were speculating
2 on what their plans would be and these things changed all
3 through for about a seven or eight month period there
4 until we reached December 1 and finally arrived at a pro-
5 gram. So it would not be difficult to once again make
6 that computer study by putting in the real figures.

7 MR. GIBSON: Do you anticipate or is there any
8 plans in progress to make this additional study?

9 MR. FIDLER: I would say so.

10 MR. GIBSON: You would think so, but do you know of
11 any plans under way?

12 MR. FIDLER: I have every good intention of doing it
13 I should say.

14 MR. GIBSON: I don't want to put the bind on you,
15 but I wonder if a letter from the Commission here would
16 encourage such a study here.

17 MR. FIDLER: We will do this if we are asked to do
18 this, yes.

19 MR. GIBSON: Okay.

20 MR. COOLEY: Just let me interrupt at this stage,
21 would, Harry, would Colorado be ready to informally without
22 formal Commission action join in a request that such a
23 study be made, would that be appropriate?

24 MR. SPARKS: I think that is appropriate. This is
25 what we intended to do and that is why we discussed at the

1 December meeting that we intended to pursue this matter 16
2 in the future on a yearly basis to determine what was
3 happening at Pueblo Reservoir and the relationship of
4 those events to storage in John Martin.

5 MR. COOLEY: Is this all right with you, Bob?

6 MR. TEMPLE: I think so. I think it should be done.

7 MR. COOLEY: Harry?

8 MR. RATES: Yes.

9 MR. COOLEY: Would you prefer formal action or do
10 you think informal action that represents the desires of
11 the Commission would be sufficient, apparently we can go
12 either way you want. I am addressing Mr. Gibson specifically
13 on this.

14 MR. GIBSON: Well, I think if informal action will
15 accomplish what we want, I think that is satisfactory.

16 MR. COOLEY: Fine, all right. I would entertain
17 your motion that we informally request the USGS to make
18 such studies and is this satisfactory with the State of
19 Kansas?

20 MR. BENTROP: Yes.

21 MR. COOLEY: Kansas votes yes, is this satisfactory
22 with Colorado?

23 MR. RATES: Yes.

24 MR. COOLEY: You will receive, Dick, such a letter
25 from the Commission requesting that that study be made

1 and pointing out that the request is that of the Commission 17
2 upon informal action and joined in by both states.

3 MR. THOMSON (sp): Mr. Chairman, in this regard
4 and of course our District is also going to have USGS
5 doing this study on the something because it is an ^{integral} intricate
6 part of our project and as Dick pointed out and Bob, they
7 studied just the native waters, but in addition to those,
8 we are importing waters from the Colorado River Basin
9 which adds to the overall water play in the Arkansas River
10 and some of the project waters will accrue in John Martin.
11 so we are not taking anything from the river system itself
12 just being managed better. I would like to point out that
13 a year ago as Bob pointed out this last winter was a very
14 dry winter in Colorado; the year before was a very dry
15 winter in Colorado; a year ago right now and ^{Don} ~~John~~ Miles
16 could speak on this better than I, the farmers in the
17 valley weren't even able to plant or didn't dare plant
18 until late April because the ground moisture was so nil.
19 This year it was equally dry but they had water stored in
20 Pueblo Reservoir so they were able to plant with bringing
21 their water out of Pueblo Reservoir whereas a year ago
22 they had to wait until they had some project water available
23 for them in May.

24 MR. COOLEY: I think the legitimate concern in Kansas
25 would be that managed better for Colorado wouldn't necessari-

1 be managed better for the State of Kansas and I think 18
2 this is something that would be a natural concern and one
3 that should be studied to the extent possible.

4 MR. JESSE (~~sp.~~): We did retain the USGS to do the
5 initial program and it is an ongoing program.

6 MR. SPARKS: You might say that the interest of
7 Colorado and water users are very much the same as far as
8 the lower water users in Colorado are concerned. The
9 district 67, for instance, has exactly the same interest
10 in the storage of John Martin that the people of Kansas
11 do.

12 MR. COOLEY: That's right.

13 MR. SPARKS: So it is not an isolated problem
14 between the two states, it is a joint problem as far as
15 the total river is concerned. I think there are a few
16 questions that I have about this program that perhaps we
17 could clarify. Did ^{the} Fort Lyons, did the Fort Lyons divert
18 all the historically diverted --

19 MR. JESSE (~~sp.~~): (Interrupting) The number arrived
20 at was a negotiated number and they did divert what we
21 agreed to supply to them.

22 MR. SPARKS: Would that let's suppose we didn't have
23 any agreement, do you know what the relationship was
24 between their actual diversion and what they would have
25 diverted without an agreement?

1 MR. JESSE (sp.) It would be speculation, but I
2 would probably suppose that with an very open winter we
3 had it would probably have been either near the same or
4 somewhat less.

5 MR. SPARKS: Well, the Fort Lyon~~x~~ is a problem opening
6 when you look at any figures. We have a saying in Colorado
7 that I think most everyone is familiar with; ^{the} Arkansas
8 River originates on the front range of the Rocky Mountains
9 near ^{Lead} Leadville and terminates in the Fort Lyon~~x~~ canal.
10 (laughter)

11 MR. TEMPEL: We agree.

12 MR. SPARKS: So the Fort Lyon~~x~~ is a separate problem
13 that I think that we are finally going to have to come to
14 grips with because it is the biggest diverter on the
15 river and the efficiency of those winter diversions in that
16 canal are extremely low. Probably not exceeding twenty-five
17 percent, which means roughly a seventy-five percent loss
18 and most all that water gets around John Martin Reservoir
19 and it seems to me that as a part of the particular study
20 of this problem that we should bring into play studies by
21 the geological survey, by the District Engineer's office
22 and by our Board and by the Southeastern District looking
23 towards a much greater efficiency in the water which is
24 now being diverted ^{by} like the Fort Lyons canal and to that
25 end one of the possible methods is a modification of a

1 compact and the proof of storage of water now going to
2 the Great Plains Reservoir and John Martin. We have
3 talked about this problem for years, but I think now
4 since we are intensifying studies on John Martin as a
5 result of it and the general situation of the river that
6 is the next matter that we must bring into focus, winter
7 diversions out of Fort Lyon system and whether or not
8 the -- Mr. Thompson (~~sp.~~) mentioned that there is some
9 distrust on the part of the ditch companies down there
10 and then he changed that, what did you say in place of
11 distrust?

12 MR. THOMSON (~~sp.~~): Concern.

13 MR. SPARKS: Your first word was correct.

14 MR. THOMSON (~~sp.~~): I live there.

15 MR. BATES: What he meant was it was sufficient.

16 (Laughter)

17 MR. SPARKS: But it seems to me that we all recognize
18 that we are not getting the most efficient use out of
19 John Martin Reservoir and I would suggest that we take a
20 hard look at the possibility of a rather detailed study
21 of the Fort Lyon operation, not only Fort Lyon there are
22 other off-~~can~~ ^{channel} reservoirs where great amounts of water are
23 diverted and only a small amount is actually applied back
24 to growing crops. I want to simply throw that out and I
25 think that is something that we have got to identify and

1 come to grips with. I think we have just let it go too
2 long and I don't know how the other Commissioners feel
3 about it, but I feel quite strongly about it. Just look
4 at these figures here. They are still illustrative of
5 what is happening to the river ^{at the} Fort Lyon. We are diverting
6 almost the entire river ⁱⁿ to Fort Lyon.

7 MR. TEMPEL: May I ask a question? Of the thirteen
8 irrigation canals in the eastern part of Colorado, how
9 many of those canal systems were in the winter storage
10 program?

11 MR. GIBSON: The Fort Lyon and which other?

12 MR. THOMPSON (~~sp.~~): Fort Lyon participated cooperatively
13 They got water for the Great Plains through the Fort Lyons
14 working up. In other words, we had the amount at the --
15 the Fort Lyon, ^{the} Consolidated, the Holbrook, Colorado, ~~Otero~~
^{High Line} ~~entire~~ line, Basemer, Colorado, did I say that? The
16 Oxford --
17

18 MR. JESSE (~~sp.~~): (Interrupting) The Oxford, the
19 ~~Otero~~ was involved. ^{They} ~~Their~~ all here, the ones --

20 MR. HACKETT: (Interrupting) Consolidated?

21 MR. JESSE (~~sp.~~): Yes.

22 MR. COOLEY: Are there any more questions for Mr.
23 Jesse (~~sp.~~)? Yes, we have ones back there. Would you
24 identify yourself, please.

25 MR. COYNE: I'm Jess Coyne from the Fort Lyon canal.

1 I would like to know --

2 MR. COOLEY: (Interrupting) You want equal time?

3 MR. COYNE: I don't need so much -- I just want to
4 know where the gentleman came up with that twenty-five
5 percent additional use that the Fort Lyons --

6 MR. SPARKS: (Interrupting) I'm talking about the
7 Great Plains itself. Not only the Fort Lyon~~X~~. I stated
8 its mostly ^{the} Great Plains reservoirs.

9 MR. COYNE: Well, you must have some figures to back
10 that up with.

11 MR. SPARKS: Yes, we have done some fairly exhaustive
12 studies on the efficiency of the Great Plains reservoirs.

13 MR. COYNE: Yeah, but you said the Fort Lyon~~X~~.

14 MR. SPARKS: Well, I said Fort Lyon~~X~~ and all the
15 off-channel reservoirs.

16 MR. COYNE: I'm afraid you would have an awful time
17 convincing the farmers up there. They only got twenty-
18 five percent additional use out of the water they used in
19 the winter time.

20 MR. SPARKS: That is a problem.

21 MR. COYNE: I think that was a little strong on it
22 and even twenty-five percent on the Great Plains, I feel
23 that is a little strong. There are probably times when
24 that might be right, but when the water is put on a day
25 like last winter and you got this spring that would be

1 way strong on it --

2 MR. SPARKS: (Interrupting) The overall efficiency
 3 is extremely low. It is less than fifty percent and it
 4 varied from system to system. Some of those reservoirs
 5 are fairly efficient and others are very inefficient and
 6 you take an average figure. It always comes out much
 7 less than fifty percent efficiency, but that's irrigation
 8 efficiency in general. We are never going to get a hundred
 9 percent. There is no way it can be done. The only thing
 10 we can do is -- even a fifteen or twenty percent increase
 11 in efficiency makes a hell of a lot more water available
 12 at the time that it's needed.

13 MR. COOLEY: There is one more question from the
 14 back of the room.

15 MR. HUND: I'm Bill Hund from the Amity Canal. We
 16 own the Great Plains reservoirs and in the interest of
 17 clearing this up, Mr. Sparks, I think that it would be
 18 well for us to note that we have run a thirty-six year
 19 study on the Great Plains reservoirs, the diversions in,
 20 the diversions out and the diversions to the head banks on
 21 it and the canal, our figures show that we received fifty-
 22 one percent of the water out of the reservoir that we
 23 diverted into them. I don't know who ran your study, but
 24 I wish he would come down and talk to me and look over my
 25 figures because twenty-five percent is exceedingly low.

1 Fifty-one percent is not all that great, but it's at 24
2 least twice as good as your twenty-five percent.

3 MR. SPARKS: Are you taking the diversion out of
4 the river or out of the reservoir?

5 MR. COYNE: Out of the river into the reservoir.

6 Also, while I am on my feet I would like to address Mr.
7 Jesse ~~(S)~~ as to the question of efficiency on the river
8 Dick Fidler and the ^{USGS} ~~SCS~~ people made a pretty comprehensive
9 study of transmission losses down the river last fall,
10 but I understand you're not using the new transmission
11 losses that the ^{USGS} ~~SCS~~ came up with. Now, I just wondered
12 why you are not using these transmission loss figures.

13 MR. JESSE ~~(S)~~: Well, I don't know if that is a
14 matter that concerns this compact, but --

15 MR. COYNE: Excuse me. I would like to say I believe
16 it is.

17 MR. COOLEY: You have opened it up, why don't we --
18 can you give a brief answer to the question.

19 MR. JESSE ~~(S)~~: Yes. In the first place the GS
20 study is not complete yet. We have not yet received a
21 final copy. It could be subject to revision and in the
22 interests of the valley, why it was felt that we should
23 wait until we get a final study on the thing.

24 MR. COYNE: How long do you suppose that will be?

25 MR. JESSE ~~(S)~~: I don't know. We had to make the

1 decision this spring. The study only concerns the area
 2 above John Martin and does not concern the area below
 3 John Martin.

4 MR. COYNE: I have to take exception to that. I
 5 think it concerns even Kansas because when you release
 6 water from the Pueblo Reservoir and transport the water
 7 down the Arkansas River, if you have an incorrect trans-
 8 mission loss, if the loss factor you use is too low then
 9 you are in effect using some water that would eventually
 10 arrive at John Martin Reservoir.

11 MR. JESSE (~~sp~~): I tend to disagree with that.

12 MR. COYNE: I'm sure that you do.

13 MR. JESSE (~~sp~~): The way the priorities are set up
 14 in a normal stage of the river up until a pretty high
 15 inflow in the Pueblo, the river call or the most junior
 16 ditch receiving water is above John Martin. Now, if there
 17 is an error in the transmission loss, whichever way the
 18 injury or the benefit would accrue to that ditch on which
 19 the river call is at the time. Now, there is three kinds
 20 of ditches. They are either very senior and you are in or
 21 very junior and you are out or the third kind is the ditch
 22 that is on the call or the swing. You do not have your
 23 complete water right and that is the ditch that would
 24 suffer from this. This call is ordinarily above John
 25 Martin. It is right now on the Rocky Ford canal, which is

1 an 1874 priority and if the transmission loss is in error 20
2 that is the canal that would suffer either from it or
3 benefit from it if it is the other way.

4 MR. COOLEY: What ditch is it that is most junior?

5 MR. JESSE (sp.): The Rocky Ford canal, and its year
6 is 1874. I don't know off hand what its month and day is

7 MR. COOLEY: Do the members of the Commission have
8 any further questions of Bob Jesse (sp.)?

9 MR. BENTROP: No.

10 MR. COOLEY: Mr. Jesse (sp.) and Mr. Thompson (sp.)
11 thank you very much. I for one very much enjoyed and
12 appreciated your remarks and subject to later discussion
13 of the Commission, I think it would be appropriate at the
14 next meeting of the Commission if we heard more on what
15 the results were month by month during this year in order
16 to follow the progress of something that appears to be
17 something in which might have additional effects on all the
18 water users of the valley and on behalf of the Commission.
19 I want to thank both of you for a very fine presentation.

20 MR. THOMPSON (sp.): Yes. I would like to say in
21 that regard, Mr. Chairman, we have an organization we call
22 the Board of Trustees and there is one representative from
23 each of the participating companies on that Board and during
24 the -- when the program is in progress, they meet every
25 month in La Junta. We will meet again in June and then

1 in August and September and so we will have those progress 27
2 reports. I am the Chairman of that Board of Trustees and
3 so we would certainly be glad to share it.

4 MR. COOLEY: Are those open to the public?

5 MR. THOMPSON (~~sp~~): Yes, sir.

6 MR. COOLEY: Are they advertised in advance?

7 MR. THOMPSON (~~sp~~): They are publicized.

8 MR. COOLEY: Where may those interested obtain notice
9 of the date and the place of the meeting?

10 MR. THOMPSON (~~sp~~): Well, it's adequately publicized
11 in all the news media in the valley, Mr. Chairman.

12 MR. COOLEY: Thank you very much. In reading of the
13 Commission I have been guilty of an oversight which was
14 unintentional. Mr. Fidler, are you the representative of
15 the Director of the US Geological Survey here present?
16 Are you that person under the compact, the Director of
17 the USGS, is requested to collaborate with the Administrator
18 of this and I wondered if you are the senior USGS man
19 present.

20 MR. FIDLER: I would say I am the senior USGS man
21 present from Colorado, but I am not sure I represent the
22 Director, is that what you said?

23 MR. COOLEY: Yes, that is in essence what I requested
24 and thank you then. Is there some^{one} ~~where~~ here from the
25 US Bureau of Reclamation? Often times I understand there

1 is representatives and delegates of the USGS at these 28
2 meetings, is that not so?

3 MR. SPARKS: Not if they can get out of it.

4 MR. COOLEY: I think I am going to try to deny them
5 that privilege. Is there someone here from the Corps of
6 ~~Directors~~ ^{Engineers} of the United States Army? Would you please
7 stand and introduce yourself?

8 MR. ^{JD}COOTWORTH: My name is ART ^{vd}COOTworth, I am from
9 the Albuquerque District of Corps of Engineers.

10 MR. COOLEY: Fine. We will look forward to seeing
11 you at further meetings, thank you sir. Has the list
12 completely circulated? If necessary we can have xeroxes
13 of this I am sure for are there members of the press who
14 have to have a copy of the attendance list, CV does and
15 there is a lady in the rear. I wondered if you would make
16 one for each of the persons at the table and the two
17 people at the press.

18 MR. BATES: Mr. Chairman?

19 MR. COOLEY: Yes.

20 MR. BATES: I hate -- I would like to complete one
21 item that we have been discussing and that is this inves-
22 tigation of the transmission losses on the river. I think
23 that it behooves this Commission to urge as prompt a reply
24 report from these people on this transmission losses
25 that they are working on. I feel that this is -- that there

1 is some delay in this thing, for what reason I do not
2 know, but it creates suspicion and I feel that this compact
3 Commission should urge speedy answers to this problem.
4 I think that they are holding off on it. I feel that it
5 is pertinent that they do so or give us some reason for
6 not finalizing their report.

7 MR. COOLEY: Mr. Bates, there are two items as I
8 have followed this that even though this be a Special
9 Meeting, a limited one to those matters on the agenda that
10 deserve further attention today. One of them is the
11 question raised by Mr. Sparks which struck a certain response
12 in the meeting and the other is the transmission losses
13 and prior to a couple of housekeeping items that I intend
14 to bring up at the end, I intend to come back to these.

15 MR. BATES: Okay.

16 MR. COOLEY: And to develop what items are particularly
17 appropriate for us for the Commission to encourage at this
18 meeting and this day and I intend to do so if that is all
19 right.

20 MR. BATES: Thank you.

21 MR. COOLEY: The next item on the agenda as I under-
22 stand it will be the report of the engineers and their
23 committee of which Duane Helton is the chairman, but may I
24 point out to everybody here first that the four members of
25 the committee are sitting together in the first row on the

1 right and from the aisle they consist of Bob McCabe
2 Duane Helton from Colorado who is Chairman, Mr. Gerald
3 E. Helms from the State of Kansas and his superior, Mr.
4 Harris ~~Moore~~ ^{Mackey} of the State of Kansas, and I know all of
5 you know them, but it is clear that the Committee has a
6 lot of hard work and we are all looking forward to the
7 report which will be the major activity this morning.

8 MR. HELTON: Mr. Chairman, our Committee met on
9 this March 31st and we prepared a formal report of which
10 copies have been made available to the administration.
11 I will recommend that each representative take a copy
12 and pass the others on because I didn't bring very many.
13 My report will be pretty short. We considered --

14 MR. COOLEY: (Interrupting) You hope it will be
15 pretty short.

16 MR. HELTON: Well, I am sure the items won't be
17 short, but my report will be. We considered the whole
18 permanent pool situation in our meeting on March 31st and
19 particularly we considered the implementation of the
20 Muddy Creek decree. The division of law that allows us
21 storage of water to Muddy Creek from John Martin Reservoir
22 and we considered this in the context that it was one part
23 of a total water supply, total permanent pool situation.
24 Particularly we made some determinations regarding the
25 Muddy Creek decree. We reviewed a resolution that was

1 proposed to the members of the administration last 31
2 December and we looked at some permanent pool operating
3 criteria, and this is all included in this handout. Our
4 determination's as far as the Muddy Creek decree were
5 concerned -- maybe I should just read them, that would be
6 the easiest. The Committee concluded ^{Number one:} ~~one~~: Colorado owns
7 a valid water right -- as decreed in Civil Action 1434,
8 June 13th, 1968, Bent County District Court -- that will
9 allow annual storage of up to five thousand acre feet of
10 water from Muddy Creek in John Martin Reservoir for
11 permanent pool purposes. This water right has an appropriate
12 date of April 18th, 1915, and an adjudication date of
13 June 3rd, 1922, and therefore, this water right predates
14 the Arkansas River Compact. Implementation of this water
15 right for a permanent pool will not reduce the water
16 supply from that contemplated by the Arkansas River Compact.
17 Number two: The Muddy Creek water used for a permanent
18 pool will be accurately gaged as provided in the above
19 mentioned decree so that Colorado will not obtain water
20 to which it is not entitled. Three: Adoption of the
21 resolution and operating criteria attached herewith will
22 allow the conservation pool to be operated as if the
23 permanent pool had not been created and will not reduce
24 the Compact water supply. Provisions in the operating
25 criteria insure that the State of Colorado will not use

1 or obtain credit for unmeasured inflows into the reservoir 32
2 area. Four: Colorado owns or controls other valid water
3 rights it intends to include in the permanent pool water
4 supply when the use of these water rights for the permanent
5 pool is decreed by the District Court for Water Division
6 Two. Those basically are our determinations. Now, we ~~can~~
7 ~~maintain to~~ discuss the operating criteria. Would you like
8 me to read the operating criteria?

9 MR. COOLEY: Just a minute. The operating criteria
10 are the three pages consisting of nine paragraphs. Does
11 anyone on the Commission have any discussion as to pro-
12 cedure to review of the operating criteria? Mr. Gibson,
13 do you have?

14 MR. GIBSON: Mr. Chairman, I would like to have the
15 opportunity to review the operating criteria practically
16 paragraph by paragraph and make appropriate comments.

17 MR. COOLEY: I am sympathetic to that discussion.
18 Mr. Sparks, do you have any comments on procedure of how
19 we should procedurally work this morning on these matters?

20 MR. SPARKS: Well, if Mr. Lorán Green were still a
21 member of the Compact Administration and one of the
22 community attorneys in this area I would accuse him of
23 being a member of a law firm of Shilly, Shilly, and Delay,
24 but since Mr. Green is no longer a member of the Administration,
25 I won't make that accusation. I understand the complexity

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of this problem and we have toyed with it now for some
five years, but this is the first time that we have
actually had a court decree that involves storage in
John Martin and that part of it is completely new to the
Administration. I have no -- while we are extremely
anxious to get this matter determined, the State of
Colorado has already spent in excess of a million dollars
on this problem, I don't think a few more months are going
to make any difference and I suggest however, that as we
look at these operating principles that as a part of it
and we also have on review the court decision or decisions
as they may be rendered in the future concerning the change
of storage rights from one agreed point to John Martin
Reservoir. The District ^{Court} in Colorado put some very severe
limitations upon this transfer proceeding to protect water
users in Colorado and by the same token water users in
Kansas to the effect that the Court only allowed under
normal circumstances a transfer of about a third of this
decree and that is based under our formula that any chance
increase can be a detrimental effect on other water users,
but under our system we figure on taking about at least a
fifty percent loss and any decrees that are transferred
to John Martin, the remaining fifty percent are going back
to the river for the protection of other decree holders
in the case of the Huddy Creek decree that restriction was

1 even more severe than fifty percent. So, everything in
2 the way of operating principals or agreements on John
3 Martin have to be reviewed in the light of the Court
4 decrees that are granted and they have to be regarded as
5 a immediate part of the operation because we must observe
6 those decrees in Colorado and every case where we will
7 have any transfer ~~X~~ proceedings numerous objectors
8 appear in Colorado, whether on the Arkansas or any other
9 place, and the Court then is bound to take into consider-
10 ation their views and our laws as such, that transfer of
11 storage or transfer of use or transfer of place or point
12 of diversion can not be granted unless the Court attaches
13 conditions to that transfer that fully protect other
14 property owners and to that extent Kansas has the benefit
15 of rather severe laws on the change and use and change of
16 point and diversion and with that I just want to point out
17 that our Court decrees have to be incorporated into any
18 review of operating principals for John Martin because
19 those Court decrees in themselves will grant, I think, all
20 the protection that the down stream water users will need.

21 MR. COOLEY: All right. With those comments I
22 think what in fact we will be doing is studying a kind of
23 committee as a whole and we will then consider the criteria
24 item by item, of course, with the understanding that when
25 we hammer out paragraphs one, two, three, four and five,

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but that does not in and of itself constitute the approval of either state of the overall thing.

MR. HELTON: Paragraph one says the provision, "These provisions will allow the State of Colorado to create a permanent pool in John Martin Reservoir for recreational and fish and wild life purposes."

MR. GOOLEY: Are there any questions on paragraph one?

MR. GIBSON: No questions as such, except that the Compact fully understands that we are now starting the process of creating a permanent pool below flood -- below the flood control pool itself, are these operating criteria is that not correct?

MR. HELTON: With the exception as provided in paragraph two ^{and} ~~that~~ public law 89-209.

MR. GIBSON: That applies to storage in the flood control pool?

MR. HELTON: Up to ten thousand ^{acre-feet} ~~feet~~.

MR. GIBSON: What we have, we are trying to establish a permanent pool below the flood control pool.

MR. HELTON: I am not sure I can agree with your phrase below the flood control pool.

MR. SPARKS: It may or may not be below, it may be above the flood control pool if the conservation pool is filled.

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MR. GIBSON: Yes.

MR. SPARKS: We have the authority under the Act to invade the flood control pool, but not the conservation pool.

MR. GIBSON: You have stated more plainly than I have that we are creating the authority so to me to invade and allow a permanent storage in the conservation pool when the reservoir is not that so the permanent pool is in the flood control pool, right?

MR. SPARKS: Yes, but under no circumstances it can not invade the conservation pool.

MR. COOLEY: Carl, do you have any comments?

MR. BENTROP: No.

MR. COOLEY: Any questions? Apparently he escaped with paragraph one.

MR. HELTON: Paragraph two says "The permanent pool shall ~~ride~~ ^{ride} on top of the conservation pool to a maximum size of fifteen thousand acre-feet. It shall be limited by public law 99-298 so that flood control storage in the reservoir can not be invaded by more than ten thousand acre-feet. The operation of the conservation pool is prescribed in the Arkansas River Compact and ~~should~~ ^{shall} continue as if the permanent pool were not created."

MR. COOLEY: Mr. Gibson, you may lead off.

MR. GIBSON: Well, it's been previously mentioned

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Pl. 89-298 provides that flood control storage in the reservoir can not be invaded by more than ten thousand acre feet. We basically have here an operating criteria for water for Muddy Creek and that is about some five thousand acre-feet of water involved. I am not certain where this fifteen thousand acre-feet came from, it appears in the minutes a few years ago, I think in '74 minutes. I would say that the Compact Commission would want to give serious consideration to striking that first sentence of two in as far as the fifteen thousand acre ~~foot~~ ^{feet} number it gives.

MR. COOLEY: And for my benefit, you feel that it would be a precedent that might later embarrass the Compact?

MR. GIBSON: Well, I think we got into the question that if we have a fifteen thousand acre feet in storage and we are down below flood control pool, we have inflow it goes up into the flood control pool part way. Is the permanent pool being invaded in some shape or form or another here by this additional five thousand acre feet. Now, I fully realize further on in the operating criteria there is some effort made to compensate or allow for compensation when this occurs, but I think the Compact Commission should fully realize what they are doing here if they are going to adopt and create a conservation pool

1 on the extent of five thousand acre feet.

2 MR. COOLEY: Is there any comment from the Committee?

3 MR. BATES: Mr. Chairman, I think it would be wise
4 to get some explanation of where this extra five thousand
5 feet came in here. I know that it has been brought up
6 before and to my knowledge it has never been clarified how
7 it came to be increased from the ten to the fifteen and
8 that if there is anyone here available who might be able
9 to answer this question --

10 MR. SPARKS: (Interrupting) Everyone realizes that
11 it is not possible to operate any reservoir based upon
12 a precise amount of water. It depends on the availability
13 in order to keep the pool somewhere on any reservoir
14 around any given level, it has to fluctuate because the
15 water supply is not certain enough so that you can put a
16 given amount in each day so the pool fluctuates upwards
17 and downwards. It will go below ten thousand as well as
18 go above. It may go down to five thousand depending again
19 upon the water supply so there has to be some -- there is
20 no method of operating a reservoir with the water supply
21 on the Arkansas River at a precise level. Again, this
22 does not invade the conservation pool any extent. The
23 only risk is assuming that the conservation pools were
24 nearly filled and there is fifteen thousand decreed to the
25 permanent pool, the flood waters come in there, the law

1 said it has to be. It occurs to the permanent pool
2 because water would have to be evacuated in order not to
3 invade the flood control pool more than ten thousand feet
4 so any loss that will occur which could have occurred in
5 1965 would occur ^{to} ~~through~~ the permanent pool and not the
6 conservation pool and under no circumstances can there be
7 any loss to the conservation pool regardless of the volume
8 of water in there for the permanent pool, but the extra
9 five thousand is simply paying the device that when the
10 water is available it is put in there and it is charged
11 to the permanent pool and that will go below ten thousand
12 perhaps more often than it will exceed it. Well, I'm
13 sure of that.

14 MR. BATES: All Right. Then, Felix, when we get
15 down to a dry conservation pool and we have the remainder
16 in there of the permanent pool, fifteen thousand acre
17 feet, now is this five thousand feet, are you saying this
18 five thousand acre feet pool will fluctuate from ten to
19 fifteen?

20 MR. SPARKS: And down to five.

21 MR. BATES: From five to twenty?

22 MR. SPARKS: No. In order to arrive at these figures
23 you have to work out an operating study based upon the
24 historic inflow so the fluctuation in your curve goes up
25 and down depending upon the water supply so to keep a

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1 pool at ten thousand feet because of the constant evap-
2 oration at times you have to go above ten thousand feet
3 in any given year in order to have ten thousand feet in
4 there in December or what ever it may be. Let's say there
5 are only very rare occasions where you would go above ten
6 thousand feet and that is in pretty good water years you
7 could exceed ten thousand feet, but that fifteen thousand
8 or what is above ten thousand never lasts very long. It's
9 only a matter of a few months until you're evaporation
10 catches up with you again, but if you try to hold it at
11 ten thousand feet constantly well, you can't do it. You
12 got down below ten thousand feet most of the time.

13 MR. BATES: You're talking about now you referred to
14 winter, during the winter, those gates are closed by our
15 Compact at the present time, the gates are closed. There
16 are no releases except river flow and every winter we have
17 of course, some water and without any study I am sure that
18 we have been storing some water to off set the -- apparently
19 to off set any evaporation loss which would occur on a
20 ten or five thousand acre pool and so during the winter
21 months then there should not be any drop as far as your
22 permanent pool is concerned, it should increase.

23 MR. SPARKS: Your permanent pool is charged daily
24 for evaporation three hundred sixty-five days out of the
25 year.

1 MR. PATES: But there is no charge from the dam during
2 those winter months. There is no flow, there is a certain
3 amount of inflow even in the dryest of years it should
4 take care of that part.

5 MR. SPARKS: Not if we depend -- that is what Harry
6 ~~Neveus~~ ^{Nevius} used to complain about if you will recall.

7 MR. COOLEY: The question is the --

8 MR. SPARKS: (Interrupting) Inflow does not go to
9 the permanent pool, the permanent pool takes its water.

10 MR. PATES: I appreciate this, but anyhow it's there,
11 it's still under your ten thousand or fifteen thousand
12 acre feet in there, whatever it was and if you can you're
13 going to take your losses off that and put this maybe on
14 the total amount. You may not have, of the total that
15 Colorado owns, maybe the ten thousand foot or the fifteen
16 thousand acre feet, but as far as to get half of the water
17 in the pool during the winter months are concerned are
18 going to be increased, but the storage part of that will
19 belong to the conservation pool. I will agree there and
20 you will take your loss to next spring and by that time
21 you can replenish them.

22 MR. SPARKS: Well, let me give you an illustration.
23 The water for the permanent pool will only come during
24 certain times and that is measured in, that has to be
25 measured in at upstream gaging stations and from that

1 subtracted the transmission losses so when we close the
2 gates on John Martin and there is ten thousand feet in
3 there decreed to the permanent pool and no more inflow
4 comes into the permanent pool, the storage season is over
5 as far as the permanent pool is concerned or it may or
6 may not be depending on what we measure the upstream
7 gaging stations, but let's assume that there is ten thousand
8 feet in there and no more water can be decreed to the
9 permanent pool. Permanent pool then on a daily basis is
10 reduced. Storage in a conservation pool is going to in-
11 crease, so what you start out with, let's say there is
12 ten thousand feet in the conservation pool that belongs
13 to the irrigator and ten thousand feet in the permanent
14 pool and no storage during the winter months is attributed
15 to the permanent pool, so you may end up, you both started
16 out at ten thousand feet on the first of October and come
17 first of March there is thirty thousand feet in there or
18 the conservation pool and only six thousand for the
19 permanent pool. The permanent pool took a loss, the
20 conservation pool didn't lose anything it increased.

21 MR. COOLEY: I understand your comments. I think
22 where we are in paragraph two is that Mr. Gibson has
23 suggested rather than mandated that the first sentence of
24 the paragraph be dropped as one causing potential mischief
25 and Mr. Sparks over simplified stated in over simplification

1 indicated that this was desirable for the matter of
2 fluctuation above and below the targeted goal of ten
3 thousand. Does anyone on the Committee of the four have
4 anything to say about this Compact question before we
5 move on? We haven't really --

6 MR. GIBSON: Mr. Chairman.

7 MR. BENTROP: Mr. Chairman.

8 MR. COOLEY: Yes.

9 MR. GIBSON: Go ahead, Carl.

10 MR. BENTROP: My question is ten thousand has always
11 been the figure you have been asking for in the permanent
12 pool, now you are asking for fifteen? Now or some here
13 there has to be a maximum on the permanent pool.

14 MR. SPARKS: I think you have to look at the rest
15 of our operation study to see how the thing operates.
16 There is not -- we can't operate a permanent pool in the
17 State of Colorado. We have a number of them on an absolute
18 fixed basis and we have authority in most reservoirs to
19 maintain fifteen or twenty thousand feet. Now, we fluctuate
20 those up and down depending on the operating agreement
21 on the reservoir owner and either the Bureau of Reclamation
22 or the ^{Corps} Bureau of Engineers. In order to approximate a
23 ten thousand or twenty thousand foot pool there are times
24 when the water is available when we're above that as long
25 as we don't violate the capacity that the other purposes

1 for which the reservoir is constructed and there is
2 simply no way, there is no way without a constant river
3 flow of maintaining any kind of a pool on any reservoir
4 on a static basis, it can't be done so you have to make
5 out a reservoir operation study based on an historic
6 flow into the reservoir and you will see how the curve
7 goes up and down. You couldn't do it in Kansas either and
8 what we are trying to do is approximate as nearly as we
9 can the ten thousand foot pool. The more often than not
10 it will be below ten thousand more than it will be above
11 it.

12 MR. TEMPEL: As I --

13 MR. GIBSON: Mr. Chairman.

14 MR. COOLEY: Mr. Gibson has the floor.

15 MR. GIBSON: Might we have a clarification in here
16 that it was my intention that we would express our thoughts
17 on this operating criteria with a long range plan, that
18 the criteria then can be referred back to the Engineering
19 Committee, that the Committee would then have the benefits
20 of the thing and the comments of the Commission at this
21 meeting to help them guide in redirecting a revised, if
22 you care to call it that, operating criteria to be presented
23 at a special meeting or whatever it might be that the
24 Compact would desire in the future. I doubt very much if
25 we are going to answer all these questions today and hammer

1 them out here at this time.

2 MR. COOLEY: Well, Mr. Gibson, my own view on the
3 thing is I would sure like to try and if it could be done
4 that actions such as this probably is the purpose of the
5 Commission and if we can work it out with the accord of
6 both states, that it be desirable to give it a go.

7 MR. GIBSON: I agree to give it a go.

8 MR. BATES: Mr. Chairman, I am not in any and I don't
9 believe that.

10 MR. COOLEY: Colorado is ready to accept a decision
11 of any ten, fifteen or twenty size pool and I think we
12 should move along and see what material is here and maybe
13 come back as far as this sentence to paragraph two --
14 well, let's hear from Pop.

15 MR. TEMPEL: I would like to comment as I read this
16 we are talking about a ten thousand acre permanent pool
17 within maximum of fifteen so I think what we are talking
18 about is an average of a ten thousand. I know Mr. Sparks
19 has said from five to fifteen with a maximum of fifteen
20 so you know, I think what he is really trying to tell us
21 is an average pool of ten thousand acres ^{feet} or somewhere
22 in that neighborhood, but it has a maximum amount of
23 fifteen thousand feet and it says that to continue the
24 permanent pool as created so you couldn't, you know, there
25 will be no way to go above the ten thousand as it was asked

1 somebody here a while ago.

2 MR. SPARKS: Now, the law only provides that we shall
3 not invade the flood control space to more than ten
4 thousand feet and we can't go to fifteen thousand feet in
5 the invasion in the flood control space, we can go to
6 ten-only but that does not -- I thought it was pretty
7 well recognized at the very beginning there is no way you
8 can maintain a ten thousand foot pool in there. All we
9 are doing was trying to get an average of ten thousand
10 feet and under the laws that we can not invade the flood
11 control pool to more than ten thousand feet, but the law
12 does not prescribe the exact size of the pool and that is
13 impossible. You can't do it by law because nature does
14 not cooperate to that extent.

15 MR. COOLEY: Mr. Gibson.

16 MR. GIBSON: Mr. Chairman, I don't think we are going
17 to come to a conclusion here. I think that some of the
18 things that has been made mentioned to needs to be set
19 forth in more detail and the operating criteria than
20 there is. Therefore, I would like to proceed at this
21 time with item number three of the operating criteria.

22 MR. COOLEY: Fine. We will do so. Before we do and
23 should this be referred back to the Engineering Committee
24 which I will seek to avoid, but should that be the result
25 I would like the record to have your concerns spelled out

1 to the degree that you care to spell them out at this
2 time on the first sentence before we move on to item
3 three.

4 MR. GIBSON: All right. I feel that further on and
5 I will cover it later on in my discussion of the operating
6 criteria this matter of how this fifteen thousand acre
7 feet maximum amount of storage in the conservation pool
8 is proposed to be carried out. I have many questions
9 regarding this proposal as to whether the operating criteria
10 sets forth in sufficient detail for the Compact to administer
11 their criteria and I will take up this matter further in
12 the other sections of the operating criteria.

13 MR. COOLEY: All right and we will go to section
14 three.

15 MR. HILTON: Paragraph three says the permanent
16 pool shall be established and evaporation losses replaced
17 by the storage of water from Muddy Creek as provided in
18 the decree of Civil Action 142 of June 13th, 1968, Bent
19 County District Court.

20 MR. COOLEY: Are there any questions or comments
21 about paragraph three of the criteria?

22 MR. GIBSON: Mr. Chairman.

23 MR. COOLEY: Yes, sir.

24 MR. GIBSON: It would seem to me that while I concu-
25 sively with Mr. Sparks that we must pay attention and are

1 bound by the decree that in an operating criteria it
2 be as complete an operating criteria as possible and
3 therefore I suggest that certain parts of that decree be
4 set forth in detail in the operating criteria so that if
5 somebody calls and wants to know about the operating
6 criteria you are not trying to find this document and
7 then another document or another document. You can
8 basically pick up your operating criteria and it is spelled
9 out in detail so my only recommendation there is that the
10 Commission may desire to have paragraph marked number
11 three expanded and include those pertinent parts of that
12 decree in the operating criteria.

13 MR. SPARKS: I would certainly agree with that
14 suggestion and perhaps to go further to say that we
15 incorporate the decree as part of the operating principles
16 so that we don't get any arguments about whether we have
17 mislisted portions of the decree or misinterpreted portions
18 of the decree.

19 MR. COOLEY: How long is the decree?

20 MR. GIBSON: Nine pages, sir.

21 MR. COOLEY: I don't think that would be excessive
22 and I would suggest that we put in a language similar to
23 incorporated herein by reference exhibit A or I think it
24 would be more desirable in talking about style now, Mr.
25 Gibson, that it be stapled to the back of the criteria and

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a part of it rather than nine pages in the middle of it.

How does that strike you?

MR. GIBSON: As long as it's a part of it.

MR. TEMPEL: Just included as an exhibit.

MR. COOLEY: A part of the criteria and for the benefit of the Engineering Committee it seems to me that this is a concensus of all of the members present here this morning. Is there anything else on paragraph three that requires further discussion? We have done pretty good. We have made the criteria ^{nine} pages longer already. I think we are moving right along.

MR. BATES: Well, that is kind of a misleading statement, Mr. Chairman, and the permanent pool it should be established when the water evaporates, it shall be increased when there is no possibly and you have got a five thousand acre foot limitation to begin with is all that you can use, you can not establish a fifteen thousand acre foot.

MR. COOLEY: Yes, indeed. Else where in the criteria we will refer to --

MR. BATES: (Interrupting) Referring to Muddy Creek.

MR. COOLEY: I understand.

MR. SPARKS: What is misleading? This statement has to be revised. Let it reflect that Muddy Creek is only one source.

1 MR. COOLEY: Why don't we get that language
2 hammered -- well, I realize now that is a lengthy point.

3 MR. SPARKS: He can cover it a little later, but --

4 MR. GIBSON: It's covered later and I have recommenda-
5 tions there of what the Commission might do on it.

6 MR. SPARKS: That sentence in itself is misleading.

7 MR. GIBSON: Yes, it is.

8 MR. COOLEY: Well, let's straighten that one out
9 right now.

10 MR. TEMPEL: After Muddy Creek you can also put
11 "and other appropriate water sources".

12 MR. GIBSON: Are you willing to put your word on
13 the line that fifteen, twenty, thirty, forty, fifty years
14 from now that whatever might come up in the way of
15 storage and stuff that you said you have indicated here
16 whatever or do you want to reserve the right as a Commission
17 to review those things as they come up.

18 MR. SPARKS: I think that each decree as it comes
19 up has to be reviewed by the Administration.

20 MR. COOLEY: Let me offer a suggestion for the
21 Commission. It seems to me that we could add one word to
22 the sentence and solve this problem and let me try it out
23 The permanent pool should initially be established and
24 so forth by Muddy Creek and making the word initially
25 would seem to indicate that there may be others as the

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criteria, say further on, Mr. Gibson, would that solve that problem?

MR. GIBSON: As a Compact has to vote as a state I would like to consult with the other representatives of the State of Kansas.

MR. COOLEY: Sure.

MR. GIBSON: Kansas is okay.

MR. FATES: I think if you are going to do this you should add another word in there, the permanent pool should be initially established to such extent as possible from this because --

MR. GIBSON: Would you please state that again?

MR. FATES: To the extent possible should be included in there because --

MR. GIBSON: (Interrupting) To the extent possible?

MR. TEMPEL: Well, if there is no water you don't establish it anyway.

MR. FATES: You can't establish the permanent pool if you have got a fifteen thousand permanent pool.

MR. GIBSON: Muddy Creek Pool is only five thousand sec.

MR. SPARKS: Less than five thousand the way the Court decree is.

MR. COOLEY: Would Colorado want a caucus on that?

MR. SPARKS: I think the point -- I think that is a

1 little misleading and I think we -- the redraft of this 57
2 we are going to have to make it clear that the Administration
3 is at this time considering only the Muddy Creek decree
4 and that as other decrees are going to come up that the
5 Administration are going to have to review the decrees
6 of the District to determine whether or not they appear
7 to be in accordance with the other intent to separate this
8 permanent pool. In other words, the Administration I
9 think it is a valid point we just simply can't accept the
10 decrees of the District in Colorado as being binding upon
11 the Administration.

12 MR. COOLEY: Yes. What you have implied is that when
13 we got to paragraph eight where it speaks of Colorado future
14 intentions that you may in paragraph eight add language to
15 the nature that at each such time the Compact should vote
16 upon these matters and amend the criterias as appropriate
17 in the future that they will be automatic without a Compact
18 action in paragraph eight.

19 MR. SPARKS: Correct.

20 MR. TEMPEL: Why couldn't you just say Muddy Creek
21 water will be used? You can't say establish because you
22 got yourself back into the being used as --

23 MR. GIBSON: (Interrupting) I think this is going
24 to be mostly -- it is going to have to go on the hearing
25 committee and they have on the record our comments here

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and they will have some other time to decide some language or what not.

MR. COOLEY: I hate to give up so easily, but it looks like you are going to win this, Mr. Gibson.

MR. BENTROP: The word initially would take care of it.

MR. HACKETT: It sure seems like it would.

MR. GIBSON: Well, I think the word initially would but it is going to be basically to the Committee. Mr. Chairman, shall we proceed with number four then?

MR. COOLEY: I guess there is a consensus that we move along to paragraph four.

MR. NELTON: Paragraph four: net evaporation from the additional reservoir surface area caused by adding the permanent pool to the conservation storage shall be charged against the permanent pool storage and the net evaporation shall be seven tenths of the measured pan evaporation less the measured precipitation. During times when no conservation water is in storage, the permanent pool shall be charged with all the evaporation.

MR. COOLEY: You left out the word rate at net evaporation rate shall be seven tenths -- now, comments from the Commission on paragraph four.

MR. GIBSON: Mr. Chairman.

MR. COOLEY: Yes sir, Mr. Gibson.

1 MR. GIBSON: I would like to call to the attention
2 of the Commission that the net evaporation rate of seven
3 tenths, I believe, is an annual conversion factor and
4 not a truly daily conversion factor and later on when we
5 discuss future paragraphs in the operating criteria I
6 will point out what might be expected to happen in the
7 actual operation of the reservoir. No further comments
8 where I have on four.

9 MR. COOLEY: In essence then, some of your comments
10 on four will come up later in the discussion this morning.

11 MR. GIBSON: Right, and we will include this matter.

12 MR. COOLEY: Are there any further comments? My
13 intention being that we proceed on and get back to this
14 after Mr. Gibson's later comments on criteria. Paragraph
15 five.

16 MR. PELTON: The Secretary of the Arkansas River
17 Compact Administration shall make a daily accounting of
18 water in the conservation and permanent pools to insure
19 that the same amount of water will flow out of the reser-
20 voir as if the permanent pool were non-existent. Total
21 storage in the reservoir shall be determined from reservoir
22 staff gage. Permanent pool storage shall be calculated by
23 adding the permanent pool inflow during the previous day
24 to the permanent pool storage at the beginning of the
25 previous day and deducting the net evaporation during the

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previous day.

MR. COOLEY: All right, stop right there. Paragraph five has two sub-paragraphs I would like to discuss the main paragraph first. Mr. Gibson, do you have any comments?

MR. GIBSON: Yes. Where it says the Secretary of the Arkansas River Compact Administration. I cast no reflection by my following comment on the present Secretary and the job he's been doing, however I would wonder if the Commission might not want to consider the fact that the language be changed so that the Commission would not be bound to the Secretary that they could have who ever they might select to do this. They might want to ask the Secretary to do it, it may become such an involved and such a large job that he will not be able to handle all of it and they might want to hire somebody else to do it and therefore I would think that the consideration be given to the Arkansas River Compact Administration shall employ and designate a person to make a daily accounting of the water, etc. etc., or something along this line.

MR. TEMPEL: Mr. Chairman, as I understand it those computations should be made ~~to~~^{by} the Corps of Engineers.

MR. GIBSON: Well, I don't know if I am willing with all due respect to the Corps of Engineers, I have had some trouble with them sometimes, also.

MR. SPARKS: Well, suppose we resolve that point by

1 taking out the word Secretary and putting the Administra- 50
2 tion shall cause a daily accounting of water to be made.

3 MR. GIBSON: That is all right. Just so that they
4 are not bound to have the Secretary.

5 MR. COOLEY: Well, there is a concensus here that
6 a very desirable change and I have got one that I would
7 like to slide in on your coat tail if I can get away with
8 it. After the words permanent pool would the sentence
9 be more clear or better grammatically if it said in order
10 to insure that the same amount of water, because certainly
11 the measurement doesn't insure anything but the measurement
12 is to be made in order that the same amount flows in as
13 out. It's a minor one.

14 MR. GIBSON: I think it's a good suggestion.

15 MR. COOLEY: There seems to be a concensus that that
16 trivial amendment be considered by the Committee in order
17 to insure. The present wording is the Secretary of the
18 Arkansas River Compact Administration shall cause a daily
19 accounting of water to be made in the conservation and
20 permanent pools in order to insure that -- are there any
21 other comments on the first part of paragraph five?

22 MR. GIBSON: Fr. Chairman.

23 MR. COOLEY: Yes.

24 MR. GIBSON: The following sentence, the total
25 storage in the reservoir shall be determined from reservoir

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staff gage. I am not sure what they had in mind there, but if it's like some staff gages that I have tried to read when there is high waves and wind and things you have trouble determining what the stage is and I would think that the Commission would desire to have a continuous recording gage installed to take care of this and I understand there is at the present time or should be a continuous recording gage available, so I think actually it's just a matter of wording here.

MR. COOLEY: Would the elimination of the words staff so it would read from reservoir gage solve your objection?

MR. GIBSON: Well, I think more than a reservoir gage. That can mean a -- that is rather broad. Could it say from the continuous recording gage, something worded like that? Would that be suitable?

MR. COOLEY: Best available data.

MR. GIBSON: No, not best available data, no because that gage goes out and it doesn't get repaired and the best available data today may be somebody holding their finger up, you know, so I would think it would be continuous recording gage.

MR. COOLEY: From continuous recording gage?

MR. GIBSON: From a continuous recording gage, would that do it?

1 MR. COOLEY: Is there any Colorado comment? It is
2 desirable the change then the word reservoir and staff
3 are deleted from continuous recording substituted. From
4 continuous recording page is my reading. Now, what would
5 you suggest?

6 MR. BELTON: Continuous recording stage measurements.

7 MR. GIBSON: Yeah, that is all right.

8 MR. COOLEY: Do you accept Colorado continual
9 recording stage measurements? Anything else?

10 MR. GIBSON: Yes, I at this time would like to make
11 a comment if I may. What is implied in many places there
12 is no approaches actually set forth in any detail in the
13 operating criteria as to who will pay for the costs of
14 collecting the daily accounting of water etc., and making
15 a daily account, maintaining adequate records for the
16 Compact Commission, the additional cost imposed on the
17 Compact to furnish, say weekly reports to the State of
18 Colorado and the State of Kansas and the office of the
19 divisional office Statutory Board of Agriculture who's
20 responsible in Kansas to coordinate the ditch diversions
21 between Garden City and the state line and it seems to me
22 that any additional charges -- and it is implied that any
23 additional costs as a result of the permanent pool should
24 be born by either the State of Colorado or the Colorado
25 Game Fish and Park Commission that such costs be included

1 in the budget of the Commission and such funds be trans-
2 mitted to the Compact Commission to be under control of
3 the Commission in the same manner as the present funds
4 are.

5 MR. SPARKS: Well, of course the actual work from
6 day to day, the records of the John Martin Reservoir are
7 maintained by the Corps of Engineers and all we have got
8 to do is pick up those records. Now, if anybody wants to
9 monitor the Corps of Engineers, that is a privilege that
10 is available today regardless of the permanent pool, but
11 the record keeping is a responsibility of the Corps of
12 Engineers. All we are going to determine is from the
13 records kept by the Corps of Engineers as to how much
14 water is in the permanent pool.

15 MR. GIBSON: On a day to day basis somebody is going
16 to have to find out the inflow in the reservoir, what
17 part of that inflow is Compact water, what part of it is
18 permanent pool water, make a calculation as to the evap-
19 oration losses, etc., and compute records and so on and
20 keep a record.

21 MR. FENTROP: The Corps -- pardon me.

22 MR. GIBSON: Are we going to have the Corps doing
23 this and enter it into some kind of a contract that they
24 are going to do it for -- they will furnish the records
25 to the states?

1 MR. COOLEY: A gentleman from the Corps just raised 60
2 his hand and I think he means that he would be glad to
3 undertake all expenses. (Laughter) I am sure that is
4 the reason the hand went up from the gentleman from the
5 Corps, so apparently we have solved that question and go
6 on to the next.

7 *Cudworth* *A.G. Cudworth*
8 MR. ~~COOTWORTH~~: I'm ~~Mr. Cootworth~~ from the Corps
9 of Engineers. As far as doing any of the computations
10 that you are alluding to, no way.

11 MR. GIBSON: I know the --

12 MR. SPARKS: (Interrupting) It should take all of
13 ten minutes to do it and Colorado will bear the expenses
14 of it.

15 MR. GIBSON: I'm sure it's explained that Colorado
16 is and they have indicated through out that they are, but
17 I think it is a matter of setting forth some place in the
18 practicing procedure a small paragraph that this will be
19 done and how it will be done.

20 MR. COOLEY: Colorado has agreed to bear that expense
21 and I doubt that Kansas would object to that kind of offer
22 and is there anything else in that first part of the
23 paragraph? I will suggest also that this matter be in a
24 separately numbered paragraph. I am sure that is your
25 intent.

MR. SPARKS: Let me state that we have revised this

1 to say that the Arkansas River Compact shall cause a
2 dally account of water to be made and that would have to
3 be in agreement with the Administration as to who is to
4 do it, so we are provisionally agreeable to arriving at
5 a procedure as to how it will be done and that that be
6 done without any additional expense to the Administration.

7 MR. COOLEY: I take it --

8 MR. SPARKS: (Interrupting) I hope to throw the
9 burden on the State Engineer's office since he is not here.
10 He does have some representatives here.

11 MR. COOLEY: I take it, Mr. Sparks, that one of the
12 reasons for this offer on behalf of the State of Colorado
13 is your anticipation that these particular costs would be
14 modest.

15 MR. SPARKS: It's only peanuts in our opinion, but
16 we don't like to argue about peanuts, so we will take
17 a --

18 MR. COOLEY: (Interrupting) All right. Mr. Gibson
19 anything else?

20 MR. GIBSON: Mr. Chairman.

21 MR. COOLEY: Yes, sir.

22 MR. GIBSON: It would appear to me that the last
23 sentence of the first paragraph in A and B deal with one
24 and the same matter and I wonder if you would care to go
25 ahead and include A and B now in with that last sentence.

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MR. COOLEY: You think there is a redundancy?

MR. GIBSON: Yes.

MR. COOLEY: With that comment being made, Duane, if you would please read the, read it more slowly beginning with the words permanent pool then A and B.

MR. HELTON: Permanent pool storage shall be calculated by adding the permanent pool inflow during the previous day to the permanent pool storage at the beginning of the previous day and deducting the net evaporation during the previous day. Paragraph A: During times when there is water in conservation storage the volume of conservation storage shall be determined by deducting the calculated volume of permanent pool storage from the total storage. Releases of both stored water and river flow shall be made as provided in the Arkansas River Compact. B. During times when the conservation pool is empty, the reservoir release rate shall be adjusted to make the total storage equal the calculated volume of permanent pool storage.

MR. COOLEY: Mr. Gibson.

MR. GIBSON: Mr. Chairman, you will notice this matter has been read here, the words permanent pool storage shall be calculated by adding the permanent pool inflow during the previous day. Well, this is one factor that has to be taken into consideration the permanent pool inflow. What part of the inflow was for permanent

1 flow and what part of the inflow was for Compact water, 63
2 and then you go to that item marked five A and you begin
3 to talk about permanent pool storage in the reservoir you
4 are going to use that. Now, there is a reservoir capacity
5 table and it is only accurate as the original survey for
6 the capacity of the reservoir. How much silt has taken
7 place, etc., in the meantime. You also need to take in
8 and talk about this matter of evaporation, this seven
9 tenths factor. I think my question is let's say we have
10 X number of amount of water inflowing. We determine from
11 the evaporation ~~span~~ seven tenths factor that so much
12 evaporated that day. You take that if the amount that
13 would inflow, you go over four which would show how much
14 water you should have in storage, you go to your area
15 capacity table and you find out there is more water in
16 storage by that and to start by a day by day accounting of
17 water right then, if there is more water in storage and
18 all these theoretical things are thrown in and the meas-
19 urements are shown, does the additional water that is
20 in storage become the water of the Compact?

21 MR. SPARKS: Yes, most generally.

22 MR. GIBSON: Could you tell how much there had been
23 in there?

24 MR. SPARKS: Most certainly it does. That is the
25 reason we have been most careful throughout here. The

1 permanent pool is decreed only with certain measurable
2 inflow. We know that there is going to be inflow in
3 addition to that unmeasurable inflow and whatever that is
4 becomes Administration water because we are always limiting
5 the permanent pool to the amount of measurable inflow
6 and attributable on the total permanent pool, so what ever
7 else comes in there is Compact water automatically and
8 we must certainly, there should always be a difference in
9 the gage height occasioned by that unmeasurable inflow
10 and that is Compact water.

11 MR. GIBSON: I understand that, but if any of you
12 have ever worked into these problems -- but you realize
13 that when you get into that capacity of the inaccuracy of
14 gage you start the next day then and as I understand that
15 is the additional stage it is shown would be credited to
16 the Compact water. Now, what if sometimes in certain
17 stages of a reservoir and I am not familiar with John
18 Martin and what might show up, but I merely point out
19 there may come a time when you had so much coming in, you
20 subtract it. Your evaporation shows you should have so
21 much in storage and you go to your area capacity table and
22 you find out there is less water in storage. Now, is that
23 amount to be deducted from the permanent pool then? These
24 things I am sure will show up and I think they should be
25 covered in the operation schedule as to how they are to be

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managed and that is by general comments.

MR. COOLEY: Does the Engineering Committee have response to that later comment of Mr. Gibson's?

MR. NELTON: You are talking about times when the total storage -- let me start over. Paragraphs A and B are separated so that in the case of Paragraph A, you are calculating what the conservation storage is, Paragraph B ^{you are} ~~who~~ calculating what the conservation release of the river flow should be under the Compact, so you have two different descriptions and that is why they are separated and it is my belief that you should incorporate any adjustment that you have to make from the inaccuracy of the adjustment and such in the following days adjustment.

MR. GIBSON: I agree with you, sir, but I think it should be spelled out in the operation schedule that as to whether or not depending on what the inaccuracy of the tools you have to work with, whether that water is -- if it shows there is more water in then if the next day it is a credit to the Compact if it shows less it is a debit to the permanent pool.

MR. NELTON: Well, I think that is what we say here.

MR. GIBSON: Well, I don't think it is clear though to me. You could argue here that it wasn't considered that it will be any different. Now, as long as it comes out exactly on the table why that is it.

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MR. HELTON: Well, let's take a time now when there is no water in conservation storage and we have calculated the volume for the permanent pool storage, but that is not the same volume as what it says on the staff gage, well, we make an adjustment to make sure that the release reflects that change. I think we are recognizing that problem that you are bringing up in here and I think we do it for the -- at the sametime for times when there is water in conservation storage when we compare the calculated ^{value} theory to the staff gage. The staff gage is the ultimate authority for what water is in the reservoir and so we have to --

MR. GIBSON: (Interrupting) Would you concur then in a statement that as Chairman of the Engineering Committee that if the staff -- you call it staff gage or whatever gage is used, showing the capacity of the reservoir to be the governing factor in the long run and that if we at the end of the daily tab there is more water shown on the staff gage and all these theoretical gages and tools show that water belongs to the Commission, if there is less than that it is subtracted to the less daily calculation from the permanent pool.

MR. HELTON: No, I would not object to that, but I don't think it is necessary because I think it says right here all right.

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MR. SPARKS: There is no question on that, that is what we intended all the time. What we know about the operation of John Martin Reservoir, which is quite a bit, we expect that the staff gage will always show a higher figure than it decreed to the permanent pool. It should always show a higher figure. Now, the difference occurs for two reasons. One, the unmeasured inflow when it is measured or unmeasured there is water coming into the reservoir which is not attributed to the permanent pool so whatever that is, that has to be released. Any water there in addition to what is computed to the permanent pool is conservation pool water and has to be released. Now, let's assume that the staff gage is lower than what we compute is there in a permanent pool. That can reflect assuming there was no inflow at all in the John Martin, no unmeasured inflow, the staff gage should be lower the following day because of evaporation is charged to the permanent pool.

MR. GIBSON: If it isn't lowered you have certainly got a fortune made because you are manufacturing water some where or another.

MR. SPARKS: No, we are not manufacturing it.

MR. GIBSON: Well, you said there wasn't any inflow and it would be lower.

MR. SPARKS: Well, that's right, it's certain to be

1 lower.

2 MR. GIBSON: That's right, if it is lower you are
3 making water someway.

4 MR. SPARKS: But in order for the permanent pool
5 not take credit for that unmeasured inflow regardless of
6 what the staff gage shows, the staff gage may be stayed
7 exactly the same. This is possible if the gage could
8 remain exactly the same. However the less, the permanent
9 pool is credited with less water than what shows on the
10 staff gage because of the evaporation factor.

11 MR. COOLEY: So it would be a release.

12 MR. SPARKS: It would have to be a release accordingly
13 but that is what we are trying to get at if it is not
14 clear here.

15 MR. GIBSON: Well, I think it is not clear here and
16 I think we all understand what it is and I think it is
17 merely a misunderstanding of wording.

18 MR. SPARKS: Well, we will work that out and see if
19 we can't make it more acceptable.

20 MR. COOLEY: But let's do this. Can that word be
21 thrashed out in the next five minutes?

22 MR. GIBSON: No.

23 MR. SPARKS: No, I don't think so. We have got to
24 redo this in any event, I think we are just trying to get
25 some ideas here.

1 MR. COOLEY: I don't want to give up so easily, but 69
2 I will have to.

3 MR. GIBSON: I think we have to face the situation
4 we have before us here.

5 MR. COOLEY: Yes, certainly it's getting clear even
6 to me. (Laughter)

7 MR. SPARKS: We don't want to make this too simple,
8 it would be disappointing to all of us.

9 MR. COOLEY: I have a gratuitous comment on
10 paragraph five over all at this moment you have two
11 paragraphs A and B, sub-paragraphs. I don't know what
12 anyone else thinks about it, but during this discussion
13 it seemed to me that the permanent pool in the middle of
14 the first paragraph would lend itself to a lettered
15 paragraph as well and that it might become A, B and C,
16 unless that is vital logic. Is there any comment?

17 MR. SPARKS: No, I think this draft was put together
18 by engineers and now let us lawyers get a hold of it and
19 see if you can understand it.

20 MR. COOLEY: You think this is acceptable?

21 MR. GIBSON: Yeah, that is a good suggestion.

22 MR. COOLEY: That suggestion for your benefit seems
23 to answer the sarcastic remarks of Mr. Sparks.

24 MR. WELTON: If I remember correctly we even con-
25 sidered that ourselves.

1 MR. COOLEY: Paragraph six.

2 MR. NELTON: Water delivered to the permanent pool
3 that would cause it to exceed its maximum allowable storage
4 becomes part of the conservation pool when there is water
5 in the conservation storage. When the conservation pool
6 has been declared empty, it may be released to satisfy
7 river flow demands.

8 MR. COOLEY: All right, comments? Mr. Gibson, I am
9 going to let you start off.

10 MR. GIBSON: All right. In the last sentence there,
11 "When the conservation pool has been declared empty, it
12 may be released to satisfy river flow demands." I think
13 I know and understand what was meant by the Engineering
14 Committee, however I wonder if it might when I ask some
15 people they said that they didn't quite understand exactly
16 what was meant there and if there might be some clarifi-
17 cation in that last sentence saying that all river flows
18 into the reservoir should be released and passed through
19 the reservoir as directed by the Commission except for the
20 part of the inflow from Muddy Creek entitled to be stored
21 in the permanent pool. Is that what was intended to be
22 there?

23 MR. NELTON: Would you read that again for me,
24 please?

25 MR. GIBSON: All river flows into the reservoir

1 should be released and passed through the reservoirs as
2 directed by the Commission except for that part of the
3 inflow from Muddy Creek which is entitled to be stored in
4 the permanent pool. In other words, if the conservation
5 -- there is no water in the conservation pool, but there
6 is some conservation water flow then the Commission could
7 ask for it to be passed right on through if they wanted
8 it to or they could ask for it to be stored and released
9 later on as provided in the Compact.

10 MR. SPARKS: That is confusing in what this para-
11 graph is trying to say goes to the point that there are
12 decrees which belong to the permanent pool which water
13 will not otherwise be available to the conservation pool,
14 but we've -- in order to get and maintain ten thousand
15 feet in here, the State of Colorado has had to ^{buy} decrees
16 which many times exceeded the amount of water necessary
17 for the permanent pool and during that time then the
18 down stream users get the benefit of the decree which they
19 never had before because we can't use it and that is what
20 this is addressed to and it is not too clear. It is really
21 a decree for the person that we can't use it because it
22 exceeds our need for the permanent pool, but it is a decree
23 which the State of Colorado has and we are saying in those
24 cases what in effect we are going to do is run it on
25 through the reservoir.

1 MR. GIBSON: But I think it needs to be elaborated 72
2 on. You see as it now operates when it is empty there is
3 no permanent pool and the gate is left open and when any-
4 thing flows in it flows out. When you got a permanent pool
5 you shut those gates and when you shut those gates are we
6 going to get to your friend the Corps of Engineers and
7 the Bureau of Reclamation sometimes today there is a little
8 inflow of Commission water so now it jumps back under the
9 control of the Commission, tomorrow there has been a little
10 release or something and evaporation and what they want
11 goes back to the conservation pool entity under the control
12 of the State Engineer. I am trying to get around from this
13 possibility of all this joking that takes place.

14 MR. SPARKS: I agree with you. We can't account for
15 it and I think this sentence has got to say it shall be
16 treated as river flow.

17 MR. COOLEY: The mischief here is that the word it
18 has no antecedent and it is going to have some party
19 answer. Let's take a brief recess.

20 (WHEREUPON, A BRIEF RECESS WAS TAKEN AFTER WHICH THE
21 FOLLOWING PROCEEDINGS WERE HAD.)

22 MR. COOLEY: Gentlemen, I propose that we work well
23 into the noon hour and get in another hour's work before
24 we break unless there is objection.

25 MR. BATES: Whose noon hour?

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MR. COOLEY: Kansas noon hour.

MR. BATES: That's fine with me. No objection from Colorado.

MR. COOLEY: I think that the rule is that when in Rome do as the Romanians do. We'll do that and then it is apparent to me that there will be items not on the agenda today we will afford an opportunity to be heard to those persons who have come to this meeting wishing to be heard and there will be a time at the end of the program which is for that and it seems to me inevitably after lunch for us to attend to housekeeping details. I know many people did not program a lot of time on this and we have not gone through this criteria rapidly, but I do think that the work that we are doing is to the benefit of all of us.

MR. SPARKS: Mr. Chairman, after we shoot the Kansas noon hour, I'm willing to go into the Colorado noon hour.

MR. BENTROP: Objection.

MR. COOLEY: Well, in any event we can get to work. Paragraph number seven.

MR. BELTON: These operating criteria maybe modified by mutual consent to the Arkansas River Compact Administration, ^{Corps of Engineers} the US Army ~~Engineering~~ Corps, the Colorado State Engineer and the Colorado Water Conservation Board.

MR. COOLEY: All right. Mr. Gibson, you lead off. Fine Carl, go right ahead.

1 MR. BEHTROP: Frankly, we thought there should be 74
2 an addition there to include the counterpart of the
3 Colorado State Engineer in Kansas, so just to include the
4 Chief Engineer, Division of Water Resources, Kansas State
5 Board of Agriculture.

6 MR. COOLEY: I note the addition. Let me ask a
7 question of the Committee. The criteria under the Compact
8 which has been passed by the legislators of both states
9 approved by the Congress of the United States and signed
10 by the President call for operating criteria to be estab-
11 lished by this Commission, which after all is made up
12 of both states and the appropriate water engineers of both
13 states with the counsel, that is not the right word, of
14 the Corps of Engineers, the US Geological Survey, why do
15 the criteria have to be modified by a greater number of
16 participants than those who can establish the criteria?

17 MR. HILTON: Would you like me to answer that?

18 MR. COOLEY: Would you before Felix does.

19 MR. SPARKS: I am not going to answer because I
20 don't know.

21 MR. HILTON: The reason that that, those individual
22 approval was required was because it was also required
23 in ^{P.L.} Public 89-298 and I can show you that.

24 MR. COOLEY: Beware of a young lawyer with a book.

25 MR. BATES: Engineer.

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MR. PELTON: I have been handed a xerox copy of Public Law 89-298 and it seems to require the concurrence of those officers. Well, then it would seem to me as long as it is wide that if --

MR. GIBSON: (Interrupting) Mr. Chairman, may I make a comment?

MR. COOLEY: Go ahead.

MR. GIBSON: While Public Law 89-298 says a tenth of these officers in operating criteria. If you are going to put something in, it would seem to me that you might just simply want to state that the Compact Commission itself should decide whether or not there is need for modification. Then if there is why you have to proceed with these other public laws and you have to proceed as they say, other public laws indicate and the Court decree and so on that the Compact itself retain so to speak, jurisdiction and the matter for us to decide is whether or not there is a change in this operation criteria that they are adopted.

MR. SPARKS: Why don't we just stop the paragraph and put a period after the Arkansas River Compact Administration?

MR. COOLEY: I think the paragraph as it now exists is a step backward and that Mr. Sparks' suggestion doesn't do us any self inflicted harm and I am sympathetic to that.

1 Mr. Gibson, would you care to comment?

2 MR. GIBSON: Well, I think that is basically what
3 I said, only he put it in a better way than I did.

4 MR. COOLEY: It would be the concensus of the
5 meeting that it would be ended there. At this time,
6 however, I do wish to state this. That a careful reading
7 of the compact case that operating criteria for John
8 Martin does require the concurrence of the Corps of
9 Engineers and at an appropriate time else where in the
10 report I am going to make this comment, but for right
11 now as to paragraph seven unless there is objection we
12 will proceed. Paragraph eight.

13 MR. HELTON: The State of Colorado has other water
14 rights it intends to use for the permanent pool. As the
15 use of these water rights for the permanent pool it is
16 approved by the District for Water Division Two, these
17 operating critera will be expanded, consistent with gen-
18 eral principles expressed herein to include these sources
19 subject to the approvals contained in paragraph seven.

20 MR. COOLEY: I have got some comments, I am sure
21 Mr. Gibson does as well.

22 MR. GIBSON: Yes, I had some comments, however, by
23 striking and changing paragraph seven as we now have pro-
24 posed I have deleted some of my comments in eight. As
25 previously it has been indicated here by Mr. Sparks that

1 we are going to have some more Court decrees and things
2 coming down the line and that at that time we need to
3 examine those and the operating criteria to acquitate those
4 decrees and I want to simply be sure that our counter part
5 is in the future, however, they might be when this takes
6 place, that it doesn't put them in a position that they
7 think that it's just a simple modification of something
8 here, they just kind of add that what will be needed for
9 to adopt a detailed comprehensive criteria for any further
10 chances and operation depending on future court decrees.

11 MR. COOLEY: I think this was, if I'm not mistaken,
12 this was already agreed to in principle this morning at
13 an earlier stage. I would suggest therefore that three
14 lines up from the bottom that the word 'will' be changed to
15 'may'. These operating criteria may be expanded and so
16 forth and that some sentence be added that it is contemplated
17 that an addition of other decrees will necessitate further
18 criteria to be adopted by the Commission. Something to
19 show in whatever words you choose that this is not a self-
20 inacting, that there would be a further consideration by
21 the Commission and such time as Colorado added. Do you
22 have any other comments?

23 MR. GIBSON: No more comments.

24 MR. COOLEY: Any comment over here? I have got a
25 couple of questions I would like to throw out. In limiting

1 and I must confess I don't know the limit of the juris-
2 diction of Water Division Two, it maintains the entire
3 valley but by limiting by the phrase by the district for
4 Water Division Two, is this sentence improved or would it
5 be just as well if that were out so that you might add
6 decrees from whatever source if properly added to the
7 system? Is there any advantage to those apparent advantages
8 to that limiting phrase?

9 MR. SPARKS: It probably should be by Court of the
10 appropriate jurisdiction.

11 MR. TEMPEL: That is more engineering language.

12 MR. COOLEY: That is more engineering language? I
13 am going to get in trouble before the day is over with,
14 I'm already in trouble and consistent with the meeting
15 in the first sense, water rights which it intends to use
16 for the permanent pool and I wonder if you are not talking
17 about adding to the permanent pool. These trivial comments
18 I'm sure can be considered by the engineers.

19 MR. RATES: When that time comes, Mr. Chairman, I
20 think that we will have no problem.

21 MR. COOLEY: Fine. Paragraph nine.

22 MR. GIBSON: I have no comments, Mr. Chairman, on
23 paragraph nine at this time I think that it is a standard
24 phrasology.

25 MR. COOLEY: Does Colorado have any comment?

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MR. SPARKS: No.

MR. COOLEY: There will be an additional paragraph as to the expense of it.

MR. GIBSON: Mr. Chairman.

MR. COOLEY: Yes, sir.

MR. GIBSON: Relating to paragraph five, I intentionally proceeded with the proposed operation, but in connection with paragraph five I would like to refer to page eight of the Civil Court decree.

MR. COOLEY: Would that be indicated as Item C here? I think this is, not that I am criticizing what is here, I am simply asking for an illustration from the Engineering Committee or so that we all understand exactly what we are talking about here. In checking with different people I originally came up with different responses.

MR. GIBSON: Now, subject to the other provisions, conditions of this decree, the petitioner may hear after store in John Martin Reservoir at such time as a Muddy Creek Reservoir storage right is entitled to water under priorities then in effect and amount of water equal to but not more than five thousand -- thirteen thousand four hundred and twenty-five. That reduces to say a figure of around 37.2 % if my arithmetic is right. The flow of water being measured at that time by the Muddy Creek gage plus the amount of the transmission plus the loss in

1 Muddy Creek and Fula Creek between Muddy Creek Reservoir 80,
2 and the John Martin Reservoir. Now, rather than read
3 actually the next part more or less indicates that if such
4 losses are less than thirty percent they will be charged
5 thirty percent for it against the permanent pool water
6 if it's more. Now, if the four major pool at anytime should
7 be less than seventy percent of the water then the trans-
8 mission loss shall be considered to be the actual diff-
9 erence in the said measurements. Now, on page four of
10 the Court decree, Item six noted thereon, it lists the
11 ditches and other structures taking water from Muddy
12 Creek or from Rural Creek. Now, I wonder if it would be
13 possible for the Chairman of the Engineering Committee to
14 give us an illustration. We have a blackboard here and
15 I think there is some chalk there, a theoretical set up
16 to show that there is so much water measured at the
17 Muddy Creek gage, there is so much measured at the Rural
18 Creek gage and if it is intended that to start with that
19 the amount of up there on the Compact, I don't mean Compact
20 I mean the permanent pool for the permanent pool there is
21 thirty seven and two tenths percent and take that times
22 that and that is the amount of water up there. Then if
23 you come down and finish it out that there is less water
24 here, what happens? If there is more water down here
25 what happens? If there is diversions by these canals

1 what happens? So that the Commission fully really under-
2 stands it, this manipulation that is going on takes place
3 here. Now, maybe I am the only one on the Commission that
4 doesn't understand it, maybe all the rest of them under-
5 stand it fully and could explain it to me in great detail
6 and they might not desire to have this done.

7 MR. COOLEY: Go ahead, please.

8 MR. HELTON: I think it is important to remember
9 that this Muddy Creek ^{decree} ~~control~~ and
10 about the only time you'd get any water out of it is had
11 you got a fairly good thunder storm, these hypothetical
12 situations that we are going to draw up here will probably
13 never happen. (Mr. Helton is drawing an illustration on
14 the blackboard.)

15 MR. FATES: You don't have an average on that you
16 could use?

17 (WHEREUPON, MR. GIBSON LEFT THE ROOM.)

18 MR. COOLEY: It would be pointless for you to pro-
19 ceed with Mr. Gibson having to take a long distance
20 telephone call. It might not be pointless, but it wouldn't
21 be as productive as it should otherwise be.

22 (WHEREUPON, A BRIEF RECESS WAS TAKEN AFTER WHICH THE
23 FOLLOWING PROCEEDINGS TOOK PLACE.)

24 MR. COOLEY: Mr. Helton, if you will proceed now
25 with your explanation.

1 MR. BELTON: This is John Martin Reservoir, this
2 is ^{Rule} ~~sub~~ Creek and this is Muddy Creek. We have a gaging
3 stage up here on Muddy Creek. Gaging station down here
4 on Rural Creek and this decree provides that if we're
5 measured two hundred second feet on our Muddy Creek gage
6 then this fraction thirty-seven percent of that water,
7 thirty-six percent can be stored in John Martin Reservoir
8 for transmission losses. This means that we can store
9 seventy-two second feet of this water providing transmission
10 losses wouldn't deplete it. The hypothetical situation
11 is now as this decree provides for thirty percent trans-
12 portation losses unless more are measured. If we had
13 fifty second feet passing this gage and then the loss
14 would be seventy-five percent as decreed to then we could
15 only store seventy-five percent of this water right here
16 or approximately twenty-two feet.

17 MR. GIBSON: Now that is with no -- your example
18 shows no withdrawal from any ditches? They are not an
19 operation?

20 MR. BELTON: That's right.

21 MR. COOLEY: Is that all there is to it?

22 MR. GIBSON: That's about as simple you have and
23 that is all there is to it if that is all that is involved,
24 right?

25 MR. SPARKS: That is correct. Now, the only reason

1 these ditches came in here is they happen to be different 83
2 in the point of diversion and now the whole system is
3 regulated on a priority regardless of water and the decree
4 says only that water that would be available to the Muddy
5 Creek decree under its decree can be credited to these
6 other ditches for three of them are junior to Muddy Creek
7 and they can not affect a Muddy Creek decree and one is
8 senior so it is going to call for water that reduces the
9 amount of water that will be available up at the Muddy
10 Creek storage site and that would not be credited then to
11 the Muddy Creek.

12 MR. BATES: Then it affects storage rights?

13 MR. SPARKS: There is a direct quota that we can
14 store at anytime up there as long as we are in priority
15 and they are junior. We don't make any distinction between
16 storage and direct flow rights on preort, they take a
17 preort, whatever the hell that is.

18 MR. GIBSON: Let's just for illustrative purposes,
19 these ditches can operate right? They are in operational?
20 They could possibly be operating sometime in the future?

21 MR. SPARKS: If they can rush at there when a flood
22 occurs, they operate, they are dry ninety-nine percent
23 of the time, but I think probably five of that --

24 MR. HACKBETH: They have diverted in the past few
25 years up to five six feet.

1 MR. GIBSON: Let's put them up there. And twenty
2 CFS out or whatever it is.

3 MR. HACKETT: They are entitled to so much, but they
4 haven't been used.

5 MR. GIBSON: Now, that is going to change what you
6 are going to have down at the lower gage, right?

7 MR. SPARKS: Yes, it is going to change it but what
8 is available up here if there is a senior decree down here
9 taking out water, that is subtracted from the amount of
10 water available to this company up here.

11 MR. GIBSON: All right. So you subtract the twenty
12 CFS for the hundred to the two hundred CFS leaving a
13 hundred and eighty up there and then you take thirty-six
14 percent or whatever it is from the hundred and eighty and
15 measure it down below and that is the way to go about it.

16 MR. SPARKS: That's right, so there may be times when
17 there is a small flow up here on which you have got no
18 credit for because of the senior decrees down stream it
19 may be the empty or whoever down stream just because there
20 is water here doesn't mean it is available to the Muddy
21 Creek decree.

22 MR. GIBSON: I'm sure you folks understand, but I
23 am not sure everyone on the Committee does.

24 MR. SPARKS: It's possible that the State Engineer
25 says there is water available under the rate only in

1 priority and there are times when there is water there,
2 but the State Engineer says there is none available for
3 Muddy Creek decree, that belongs to the senior streams
4 down stream.

5 MR. GIBSON: When the State Engineer says that does
6 he issue some kind of an order or something that the
7 Compact Commission would have a copy of?

8 MR. SPARKS: No, that is a daily administrative
9 problem if the State Engineer -- if there is a call on
10 the river which there always is, the State Engineer
11 only allows certain decrees to divert and that is why
12 they have got a whole flock of deputies running around the
13 state trying to regulate these head gates.

14 MR. GIBSON: I understand sir, but I also understand
15 when who ever is going to make this computation needs to
16 know whether those ditches are with drawing or have been
17 with drawing or whether they did with draw that day and
18 how much they with drew. Now, how much do these ditches
19 have? They are required to have the appropriate measuring
20 devices so that those records can be furnished to the
21 Compact to show how much they with drew aren't they?

22 MR. SPARKS: Yes.

23 MR. HACKETT: That is my other half, Mr. Gibson, is
24 water commissioner and to see that ditches are in priority
25 on divisions and records to back them up.

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MR. COOLEY: Mr. Helton, I would like you before you leave the room to reproduce the blackboard diagram on a sheet of paper and give it to the Court Reporter so that she may produce it with the minutes of this meeting so that this discussion will have meaning to those people later who are trying to follow the record.

MR. HELTON: Okay.

MR. COOLEY: Do you have any other comments on the criteria before we move on?

MR. GIBSON: I think that Mr. Bantrop would like to make on.

MR. COOLEY: Mr. Bantrop.

MR. BENTROP: No further comments. I'm glad Duane cleared up that. In other words, one question you could have two hundred feet at the Muddy Creek gage and there can be say a hundred and eighty measured into the reservoir that would not be decreed with a hundred eighty feet.

MR. SPARKS: No.

MR. BENTROP: It's the percentage.

MR. SPARKS: Whatever is available under the decree less the transportation losses.

MR. BENTROP: I have no further questions.

MR. COOLEY: All right. I will direct this to the Colorado group. Does the discussion so far adequately clarify the decree? Are there any other comments you want

1 for a full understanding in the record of that decree?

2 MR. BATES: I would like to make a statement to the
3 effect that the only time that I can see any real possibility
4 of this decree being available to on the priority system
5 to Colorado for a permanent pool would be a time when the
6 John Martin gates are closed and there is a conservation
7 pool established behind John Martin because at the time
8 the conservation pool is empty and they are on the priority
9 system and the river below John Martin, there are many
10 senior priorities on the river, there could be no poss-
11 ibility of them exercising their right to store any
12 water, would have no --- their priority would not be in
13 effect, there would be so many other senior priorities
14 on call on the river that there would be no point of them
15 storing any of this water, have a right to any of this
16 water at anytime. It would be a very remote situation.
17 It might be in the middle of the night some night when we
18 get a tremendous rain storm and it is coming in from all
19 directions. Certain periods in time that we might have
20 that right, but I mean it's kind of a remote thing.

21 MR. SPARKS: Yes, I think the only times this decree
22 would ever be exercised is when we are going to close the
23 gates on John Martin.

24 MR. COOLEY: Thank you Mr. Bates and Mr. Sparks.

25 MR. BATES: I have another just for clarification.

1 rather than to read through this thing, but as I recall
2 the Court decision as I recall I thought there was a
3 gage station supposed to be at this point right here.

4 MR. COOLEY: You're indicating the other fork?
5 What is that river?

6 MR. GIBSON: That is Rural Creek. It is really
7 bigger, it's the main, I think it's kind of the main
8 stream and Muddy Creek just is a tributary.

9 MR. SPARKS: Well, but you see one gaging station
10 should do it. One on Muddy and one on Rural. I don't
11 know why we would need another one. It wouldn't serve
12 any purpose.

13 MR. PATES: I just had it in my head that there was
14 (WHEREUPON, THERE WAS A BRIEF OFF THE RECORD DISCUSSION.)

15 MR. COOLEY: All right. Back on the record. As to
16 the criteria, are there any further comments from anyone?
17 There are two representatives from the Colorado Division
18 of Wild Life here. Do you have anything you wish to say
19 at this time?

20 MR. GIBSON: Mr. Chairman, does the record need to
21 show that this is to be referred to the Engineering
22 Committee for further --

23 MR. COOLEY: (Interrupting) I have about given into
24 the inevitability and this matter will be referred back
25 to the Engineering Committee.

1 MR. STEVENS: I'm Donald Stevens of the Regional
2 Wild Life and I don't think we have anything. We are here
3 to listen.

4 MR. COOLEY: We are very happy to have you here
5 today. Do you want to proceed Duane with the proposed
6 resolution?

7 MR. FELTON: There is no point in it now if we haven't

8
9 MR. COOLEY: (Interrupting) I can see one point.
10 I think it needs a good deal of work on it and I would
11 like to do some of the work right now because it would be
12 a shame to agree to everything else at a subsequent meeting
13 and not have enough work done on the resolution to be able
14 to proceed if that is consistent with the attitude of the
15 members of the Commission. Do you concur?

16 MR. GIBSON: Yes.

17 MR. COOLEY: There seems to be a concurrence that we
18 ought to go to work on it and get some of it done now. Do
19 you want to -- would you like to tackle the first paragraph
20 please.

21 MR. FELTON: Whereas, the sovereign states of Colorado
22 and Kansas entered into the Arkansas River Compact to settle
23 disputes and remove future controversy between the states
24 which might arise --

25 MR. COOLEY: (Interrupting) Now, these whereas clauses

1 aren't very important, but never the less to kick things 95
2 off the Compact didn't use the word sovereign states and
3 sovereignty is a sticky issue. I would suggest as a
4 question of still absence the objection of anyone, that
5 you delete that in the final draft, the words of the
6 Compact are to remove causes of controversy, rather than
7 to remove controversy. There is a comma after the word
8 states, which doesn't help, in fact it hurts. Is there
9 any other --- does anybody else want to join the fly speck
10 that the Chairman is engaging in or would you rather
11 proceed to the next paragraph?

12 MR. GIBSON: Proceed to the next paragraph.

13 MR. COOLEY: Go ahead to the next paragraph.

14 MR. HELTON: Whereas, said Compact specifically
15 provides for the equitable division, apportionment and
16 utilization of the waters of the Arkansas River between
17 the aforesaid states, as well as the benefits arising
18 from the construction, operation and maintenance by the
19 United States of John Martin Reservoir project for flood
20 control and water conservation purposes.

21 MR. COOLEY: I thought the phrase the aforesaid
22 states was not valid as Colorado and Kansas might be
23 substituted. Again, any other comments on that? We
24 should proceed to the third paragraph.

25 MR. HELTON: Whereas, Public Law #9-208 authorizes

1 the establishment and maintenance of a permanent pool
2 for fish, wild life and recreational purposes not to
3 exceed ten thousand acre feet of the reservoir flood
4 control storage space.

5 MR. COOLEY: Okay. Any comments here? Apparently
6 no comments, proceed to the next paragraph.

7 MR. HELTON: Whereas, benefits to the people of the
8 states of Colorado and Kansas and generally the people
9 of the United States can arise by the Compact Administration
10 approval of a permanent pool for recreational purposes
11 sufficient in size to justify continued stocking of said
12 pool with fish and the building of recreational facilities.

13 MR. COOLEY: Hold on, that's the paragraph. Do
14 you have any comments?

15 MR. GIBSON: Well, he said recreational facilities.

16 MR. HELTON: Recreational features, I'm sorry.

17 MR. COOLEY: Recreational purposes is a wierd word;
18 future is more desirable there. That was your comment,
19 wasn't it?

20 MR. GIBSON: Well, he didn't read the word features
21 I thought maybe he had changed his on it.

22 MR. HELTON: On the last line I apparently read
23 facilities rather than features, it was just a blunder.

24 MR. PENTROP: Just briefly I might say the benefits
25 of the State of Colorado and Kansas in the permanent pool

1 there would be very little benefit to the State of Kansas 92
2 I wouldn't press that point too much.

3 MR. SPARKS: Don't you people in Kansas hunt our
4 geese? (Laughter)

5 MR. BENTROP: No, I wouldn't press it. I just wanted
6 to point that out to you.

7 MR. COOLEY: I have a comment on this, one that I
8 want to make and I think it may go to the substance rather
9 than form. The Article 2 of the Compact specifically
10 gives power to the Administration and the powers that the
11 Administration has are as follows: Prescribe procedures
12 for the administration of this Compact provided that where
13 such procedures involve the operators of John Martin
14 Reservoir they shall be subject to approval of the District
15 Engineer. The powers granted to the Commission are just
16 those prescribed powers for the Administration. I felt
17 that even this whereas clause would be more strongly
18 stated if you added the words the approval of procedures
19 for the Administration of a permanent pool in John Martin
20 Reservoir. With that thought in mind, is that facing any
21 kind of a challenge or test if we paraphrase the authorities
22 granted by the Compact and the language of the enabling
23 resolution that the question could not then be raised?

24 MR. HELTON: Are you suggesting a new paragraph or
25 just ---

1 MR. COOLEY: (Interrupting) No, I am just suggesting
2 and I will show you later, any member of the Commission
3 that we add certain phrases within this paragraph that are
4 taken from the Compact and if one of the few things the
5 Commission is able to do is to prescribe procedures then
6 the whereas clause, I think we ought to say what we are
7 doing is prescribing procedures and paraphrasing. There
8 is a consensus it seems to be a consensus on that. Next
9 paragraph on the top of the second page.

10 MR. GIBSON: We don't own at this time sufficient --

11 MR. SPARKS: (Interrupting) We do own sufficient --

12 MR. GIBSON: (Interrupting) You have Court decrees.

13 MR. SPARKS: We own it. We don't -- well, we own it
14 and control it, what we don't have is the permission to
15 start on John Martin Reservoir.

16 MR. GIBSON: All right.

17 MR. COOLEY: You haven't read it, but we are moving
18 right along. I think rather than maintain evaporation losses
19 you are rephrasing evaporation losses on the third line,
20 are you not?

21 MR. SPARKS: Right.

22 MR. COOLEY: Is there a consensus on that one? Read
23 the next paragraph.

24 MR. NELSON: Whereas, the State of Colorado desires
25 to create a permanent pool of water for the use of

1 Muddy Creek as provided in the decree of Civil Action 94
2 1434, June 13th, 1969, Bent County District Court, and at
3 a later date include other water rights into the permanent
4 pool water supply.

5 MR. COOLEY: Are there any questions as to this
6 paragraph? I substituted the word add for the word in-
7 clude, but that is trivial. We will move on to the next
8 paragraph. Go ahead, read it if you want.

9 MR. HELTON: Whereas, operating criteria for a
10 permanent pool have been formulated and are attached
11 herewith and assure the rights of irrigators in the
12 states of Colorado and Kansas to those waters available
13 to them under the terms of the Arkansas River Compact and
14 under the laws of their respective states.

15 MR. COOLEY: I have got some comments on one, but
16 Mr. Gibson, do you have any?

17 MR. GIBSON: No. Is that the Arkansas River or is
18 that the Arkansas River?

19 MR. HELTON: I will argue about that.

20 MR. COOLEY: In the second line, "assure the rights
21 of irrigators in the states" and so forth, don't -- isn't
22 what you mean "assured the owners of water rights in the
23 states".

24 MR. GIBSON: That's right.

1 interested in the protection of the owners of water
2 rights as distinguished from irrigators? 95

3 MR. HELTON: Water users.

4 MR. COOLEY: Well, water users is fine, but I'm more
5 interested in the ones that own it, than the ones that use
6 it. "The owners of the water rights in the states of ..."
7 Now, we get to the important paragraphs that mean some-
8 thing and deserve our attention. If you would read the
9 first one, please.

10 MR. HELTON: NOW, THEREFORE BE IT RESOLVED that this
11 Compact Administration approves the creation of a
12 permanent pool with Muddy Creek water and adopts the
13 operating criteria attached herewith.

14 MR. COOLEY: Okay. I have got some here, but Mr.
15 Gibson, do you have anything on that?

16 MR. GIBSON: I have none on that, no.

17 MR. COOLEY: Let me try a couple. Does it not work
18 better to say approves the creation in John Martin Reservoir
19 of a permanent pool? This is after all the important
20 part of the resolution.

21 MR. GIBSON: Yes.

22 MR. COOLEY: Further on, if we are going to adopt
23 something I suggest that we follow and this was the con-
24 sensus before the exact language of the Compact itself and
25 therefore we would adopt as procedures for the administration

1 of John Martin Reservoir, the operating criteria and
 2 adopt as procedures for the administration of John Martin
 3 Reservoir. Now, I have got one I'm not hunting or
 4 suggesting, I'm asking since the Compact says that in these
 5 matters we must have the approval of the District Engineer,
 6 should we add the words with the approval of the District
 7 Engineer? I think it should be in here somewhere, but I
 8 haven't figured out how it should be stated. Is there
 9 another lawyer present? I want to give him a crack at it.

10 MR. SPARKS: I don't know whether we have to have it
 11 in the resolution. We know what we have to do. We could
 12 just adopt it when we do adopt it and submit it to the
 13 District Engineer.

14 MR. COOLEY: Then, what you are saying is when we --
 15 that at the bottom of the thing in the signature lines we
 16 include even in the draft form an approval by the District
 17 Engineer so that it be shown on the face of the resolution?
 18 Would that --

19 MR. SPARKS: (Interrupting) We can adopt it subject
 20 to the approval of the District Engineer.

21 MR. COOLEY: Fine. That is one of the answers I had;
 22 subject to the formal approval of the District Engineer as
 23 a phrase in there, but if it's required by the Compact and
 24 we take action I think we should in our correspondence
 25 paper by which we take action, we ought to recognize why

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we knew that we had to get the approval.

MR. STAPKS: Well, the Act, the enabling Act itself requires the consent of the Corps of Engineers.

MR. COOLEY: Right.

MR. BENTROP: You mentioned District Engineer's, you meant ---

MR. COOLEY: (Interrupting) The language of the Compact is the District Engineer.

MR. HELTON: Corps of Engineers.

MR. COOLEY: That is the District Engineer, meaning of the Corps of Engineers, but the exact language is the District Engineer of the Corps of Engineers.

MR. HELMS: I don't think you could want a signature line on this document for the District Engineer.

MR. COOLEY: Then we would say subject to the approval, would that be better?

MR. HELMS: You could say that, yes. We are going to have to get that before he is going to let us put the pool in there?

MR. COOLEY: Oh sure, I'm just talking still. Read the last paragraph, please.

MR. HELTON: BE IT FURTHER RESOLVED that water deliveries from other valid water rights may be added to the permanent pool water supply with expanded operating criteria consistent with the general principles detailed therein.

1 MR. GIBSON: Well, these "general principles", 97
2 again I don't know, I'm not sure whether this adds any-
3 thing or whether it just actually complicates things.

4 MR. BENTROP: I don't know, I would just as soon
5 delete this paragraph because this resolution here deals
6 with only Muddy Creek water and any additional water or
7 Court decrees are presented to us then we would consider
8 them separately.

9 MR. COOLEY: That would be one solution, Mr. Bentrop,
10 what would you think about the addition of the words such
11 as to be adopted criteria to be adopted by the adminis-
12 tration consistent with so and so, making it clear beyond
13 any question that there would be a future action required
14 by the administration.

15 MR. BENTROP: For any additional waters.

16 MR. GIBSON: I would buy something like that if it
17 can be worked up to be suitable.

18 MR. SPARKS: I think perhaps if you are going to
19 take a hard look at this thing and not try to tie any
20 resolution to any particular decree, I think it may be a
21 mistake we brought in the Muddy Creek decree here. The
22 principles probably ought to or whatever resolution we
23 should adopt should state that any decrees that are con-
24 tracted would be subject to review to determine whether or
25 not they are in accordance with these principles whatever

1 if it's Muddy Creek or whatever it is and that is what 96
2 I think the point is we are getting at is that we want
3 to review each decree and so it's probably -- we should
4 adopt a resolution that doesn't make any resolution to
5 this specific decree and state in the resolution as
6 specific decrees are fronted they are subject to approval
7 by the administration.

8 MR. GIBSON: You are recommending to delete this
9 paragraph or modify this paragraph of here that goes into
10 considerable detail about Muddy Creek?

11 MR. SPARKS: Yes. I don't see any mencing of that
12 at all. Some of this may become moot anyway and we are
13 either going to get enough water all at once or we ain't,
14 so this Muddy Creek is the only thing that is appropriate
15 at this point, but since we are not going to adopt it at
16 this point we are going to have to consider what happens
17 at this meeting.

18 MR. COOLEY: Well, if I understand what is going on
19 you have opened the door to two different ways of handling
20 the same problem. The one way would be a general resolution on
21 with consideration by the administration for each water
22 right to be added. The second alternative would be to
23 work up this resolution which also would say that the next
24 time we have a water right we will talk about it.

25 MR. SPARKS: Well, I think that is the concensus that

1 we want to look at each water right.

2 MR. GIBSON: Yes.

3 MR. BENTROP: Yes.

4 MR. COOLEY: Either way the same result is achieved,
5 namely that the administration considers each addition
6 to the pool as it comes up.

7 MR. SPARKS: Well, we are trying to adopt an operative
8 criteria that operating criteria shall apply to any decrees.

9 MR. BENTROP: Oh, yes, there is no question about
10 that. We have to agree on an operating criteria, but also
11 as each water right is obtained and we should have the
12 right to --

13 MR. SPARKS: (Interrupting) Correct.

14 MR. BENTROP: But the operating principles apply to
15 all decrees.

16 MR. COOLEY: Is there anything further to come before
17 the administration on the engineering reports, those nine
18 paragraphs with one additional resolution? Do you have
19 anything more on that subject?

20 MR. GIBSON: You have the Engineering Corps that
21 wants to, but I don't at this time.

22 MR. COOLEY: Does Colorado have anything else at
23 this time?

24 MR. SPARKS: No.

25 MR. COOLEY: Yes, I'm embarrassed, the Corps of

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Engineers, was, Mr. ~~Cudworth~~ ^{Cudworth} from the Corps of Engineers.

~~MR. CUDWORTH~~ ^{CUDWORTH}: I just have one short comment here. Since this enabling legislation does require the approval of the District Engineer I would encourage you to transmit a draft or revised draft of the operating principles, operating criteria, whatever you choose to call them, together with the latest operating study and I take it the one that is included in this report dated January 1976, has been updated, at least this is the inference. Has this been updated at all?

MR. WELTON: No.

~~MR. CUDWORTH~~ ^{CUDWORTH}: Well, we have the operating study, but I would encourage you to transmit the operating criteria so this can be reviewed in light of the operation study. There is one additional point that comes to my mind with the fifteen thousand acre foot maximum storage provided for. As far fetched as it might seem, I can envision a possibility where we could get caught with fifteen thousand acre feet of water in the reservoir and crouch upon the flood control storage of the reservoir and be unable to evacuate that five thousand acre feet in the excess of the ten thousand acre feet, this is one item that we want to take consideration to.

MR. SPARKS: That is far fetched.

1 MR. ~~COOLEY~~^{CUDWORTH}: Well, take a look at it.

2 MR. COOLEY: Well, I have a question, Mr. ~~COOLEY~~^{CUDWORTH},
3 if invited by the Engineering Committee to meet with that
4 Committee, would the Corps meet with the Engineering
5 Committee and its deliberations?

6 MR. ~~COOLEY~~^{CUDWORTH}: Absolutely and we have met with
7 them once or twice in the past couple of months.

8 MR. COOLEY: Are there any other comments? An
9 opportunity to be heard will be afforded to everyone here
10 that wishes to be heard, but are there any comments from
11 anyone now in the audience specifically on the matters
12 just considered by the Commission?

13 MR. GIBSON: Mr. Chairman, did I understand correctly
14 you said that you have met in the last couple of months?
15 With who? A time or two?

16 MR. ~~COOLEY~~^{CUDWORTH}: Yes, I have had one of my people
17 down meeting with Duane Helton.

18 MR. GIBSON: But not as a Committee. You have met
19 with a Colorado representative, but not as a Committee.

20 MR. ~~COOLEY~~^{CUDWORTH}: That is right providing data,
21 providing input data to their study and that alone.

22 MR. COOLEY: It appears to me that it would be
23 beneficial at the next working session of the Engineering
24 Committee if the Corps of Engineers were given notice and
25 invitation to participate, but it's just an observation.

1 What other business is before this Commission before we
2 hear from visitors? The agenda today had another business
3 item which we restricted, of course, in the special
4 meeting. Do you have anything? We do have some house-
5 keeping things, but would --

6 MR. HFLTON: (Interrupting) Have we been directed
7 to formulate general operating criteria and a specific
8 resolution towards Huddy Creek? I would just like to
9 understand if that is what we have been directed to.

10 MR. SPARKS: No, I think what we need is the criteria
11 needs to apply to everything and a resolution adopting
12 that criteria, but in that resolution we want to recite
13 as specific decrees come on the line then that is the
14 subject. Whether or not they fit in with the general
15 criteria and the resolution, but to start out with it
16 seems to me that we just need a resolution adopting a
17 building criteria or an operating criteria. With the
18 further stipulations that as each source of water is
19 decreed by the Colorado courts to the John Martin Reservoir,
20 then the administration reserves the right to determine
21 whether or not the proposed operation of that source and
22 the Court decree is in accordance with the operating cri-
23 teria. That is what we want to insure.

24 MR. COOLEY: I note that none of the important
25 ditches on the river have representatives here today.

1 Mr. ^{Higbee} ~~Higbee~~, it is my understanding that you wish to address 10'
2 this group.

3 MR. HIGBEE: Yes sir, Mr. Chairman. We have had
4 several discussions in connection with the operations of
5 the comeback when the storage gets down to twenty thousand
6 acre feet, not considering a permanent pool arrangement
7 then the release of the water is not sufficient to take
8 care of any water what so ever in the Manvel~~X~~ Canal. Now,
9 we would like to suggest that the twenty thousand acre
10 feet will be amended so that at least the Manvell Canal
11 can get its prorated share from which I think and several
12 of the ditch companies expressed this. This is not an
13 unusual request. This would be a percentage of the Colorado
14 water. At the present time the Secretary, Lane Hackett,
15 says that, always says that there is not enough water
16 released for the Manvel~~X~~ Canal to get any, so we basically
17 loose out on whenever there is only or less than twenty
18 thousand acre feet of water in the dam and certainly some
19 of the water stored in there would be entitled to it by
20 the Manvel~~X~~ Canal. I would like to suggest that not try
21 to settle it today perhaps, but put it on your agenda at
22 the next meeting since everybody is pretty well spent their
23 energy in this mornings session. Second request that I
24 would like to make is that the Manvell Canal and irrigation
25 company be permitted to store two thousand acre feet not

1 to be filled from run off necessarily and that proposal 1.05
2 would be -- would permit us to develop a watershed pro-
3 ject for the Smith Creek, which destroyed my best friend's
4 home because of the flood and then the railroad and the
5 highway is added to the hazard by raising a highway and
6 the railroad so that it goes back into that particular
7 area and this would be developed with relatively limited
8 costs and I am positive, I am sure that with the Pueblo
9 Canal or Pueblo Dam, people here they would like to store
10 it in Pueblo, but I don't think it would ever get down to
11 the Manvel~~X~~ Canal so I would like to leave these two
12 requests with you and suggest that they be included on the
13 agenda today for your next meeting.

14 MR. COOLEY: Without objection from anyone here I
15 would be pleased to suggest to the Commission that these
16 matters be included on the agenda at the next meeting. Just
17 as a matter of procedure, are there any -- these seem to be
18 almost singularly Colorado problems, although they may and
19 I recognize it affects the Commission. Is there any work
20 or report that could be done by the Water Board or its
21 engineers that would be helpful as establishing a factual
22 basis of these requests?

23 MR. SPARKS: Well, of course the problem raised by
24 Mr. H^{ee}iby is not a rule of this administration. It is a
25 part of the Compact, the Compact prescribes the releases

1 and there is nothing the administration can do to alter
 2 those releases unless without a modification of the Compact.
 3 Oh, I assume in a joint agreement between two states we
 4 could vary the release, but the later seems to imply that
 5 the twenty thousand acre foot is a rule of the Compact
 6 Administration and it's not. It's in the Compact and the
 7 Compact provides that when the conservation pool gets to
 8 twenty thousand feet the release to Colorado and Kansas
 9 shall be six hundred and four hundred second feet respectively
 10 and I don't know how we can vary that by agreement of
 11 the administration and I just don't think we can do it,
 12 but we would be glad to look at the problem.

13 MR. COOLEY: Well, what I am asking, [✓] Verry, is that
 14 can a position paper two or three pages be prepared for my
 15 benefit and the benefit of the Commission prior to our next
 16 meeting so that we have a better understanding of the
 17 problem and the request and what remedies if any are
 18 available.

19 MR. SPARKS: Well, I think that is certainly -- we
 20 are not making the best possible use out of the water flows
 21 of the Arkansas River, but there is room to improve and
 22 there is room for improvement in the Compact and yes I
 23 think a position paper indicating whether or not the Compact
 24 has to be changed or whether we can alter our operating

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1 of the Commission to keep trying to make improvements 107
2 when it's possible for the joint benefit of both states
3 and I don't see anything wrong with that. We would be
4 glad to work on it.

5 MR. GIBSON: Don't we have some committees that we
6 actually could refer something like this with a report
7 to the Commission?

8 MR. COOLEY: I don't know.

9 MR. GIBSON: We have certain committees, legal
10 committee, engineering committee and operating committee.

11 MR. BATES: This would be in the jurisdiction of
12 the engineering committee that could work it out.

13 MR. GIBSON: I believe that is -- your question
14 could be referred to a committee so the next time we meet
15 we have something before us.

16 MR. SPARKS: Actually both committees would be
17 involved here. The legal committee would be involved in
18 the interpretation of what the Compact Administration
19 can actually do legally, it would be very helpful, and
20 the engineering committee could pose certain questions
21 to the legal committee and we could take it from there.

22 MR. HIGBY: ^{ee} At the present time we feel that all the
23 people of the Manvel Canal feel that we are being dis
24 criminated against because we are certainly entitled to
25 some of the water and we haven't got any water out of the

1 Canal reservoir for three years.

2 MR. SPARKS: This raises one question, Mr. High^{ee},
3 at times when they're over twenty thousand feet in John
4 Martin in the conservation pool and then the releases go
5 up to seven hundred and fifty for Colorado, would a seven
6 hundred and fifty feet release help the Navvelli?

7 MR. HIGH^{ee}: Well, I think it would be and we get
8 some water when the storage is over twenty thousand feet,
9 but the last three years there hasn't been over -- well,
10 I guess three years ago there was over twenty thousand
11 acre feet stored in the ^{Pueblo}Tuttle and the other fear is when
12 Pueblo gets to storing their water up there, ^{Canis}cattle
13 reservoir may not get any more other than twenty thousand
14 feet during the entire winter and, of course, that is fear
15 again, I guess, but again I would agree with Mr. Coyne
16 here that the loss on the reservoirs there is other things
17 to be considered for instance wells under the area, if the
18 shale is less than forty feet down above the surface of
19 the ground then the amount of water is quite limited and
20 with more water running the Navvelli Canal would increase
21 the underflow into the area which would Pueblo Canal draw
22 and then if we store the thirty thousand acre feet, why
23 that would be water that comes down and flood water type
24 that comes down and destroys the property and roads and
25 highways and other things and so I would just like to really

1 encourage you to take a good look. Now, I have been told. 10
2 several times that these are rules and regulations made
3 by the Compact and I am not -- my lawyer don't -- I asked
4 my lawyer whether they can legally be changed or not and
5 we are seeing that they can and if the Colorado people
6 would get together and get an agreement, but we don't have
7 anything to offer. We can't say we will give you part of
8 the water, we don't have any ~~money~~^{water} to give you, we can't
9 give money cause that would be a bribe and the only thing
10 we can do is beg and that is why I am trying to do here
11 this morning.

12 MR. SPARKS: No. We consider it perfectly legal
13 for you to bribe the Buffalo if you would like.

14 MR. COOLEY: Mr. Higby^{ee}, if there is one thing we
15 have learned in the last twenty years, it's when a fellow
16 says he thinks he is being discriminated against you
17 better pay attention to him.

18 MR. HIGBY: I don't mean to use that archaic word
19 but you are getting -- if you didn't get any drinking
20 water for you in a pipe line you would sure complain a
21 little bit, wouldn't you? Well, this is just as important
22 as drinking water.

1 this matter to the engineering committee with the request 12
2 that they analyze the problem of it and state the problem
3 in terms that the Chairman might understand and express
4 any legal questions that they think are -- that appear to
5 them to be related to the problems posed by Mr. High^{ee}.

6 MR. HICKEY^{EC}: I would just like to make one additional
7 comment. I worked with some real good lawyers and I think
8 these lawyers here on your Committee are real good, but
9 whenever I ask my lawyers to say how can we work this out
10 they always found a way and so I would encourage the legal
11 group to take a constructive look at it, rather than a
12 restrictive look at it, which I am sure you will and I
13 would also like to say that you gentlemen have a big job
14 administrating the water sometimes which you don't have.

15 MR. COOLEY: Mr. High^{ee} we have given you the best
16 possible solution. We have kept it out of the lawyer's
17 hands for the first ~~inning~~^{inning} and that may be -- and that may
18 be the kindest thing we can have done. Are there any
19 other of the visitors here this morning that have anything
20 to say? We have some housekeeping matters that we are
21 going to get into.

22 MR. HACKETT: Mr. Chairman, may I say a word along
23 the line that we are just about to leave? Actually in
24 Water District Number 67, the ditches were without a per-
25 centare agreement at one time. The Maxwell Canal was able

1 to draw some water under the Compact release that any
2 ditch could break that percentage agreement and it was
3 broken and I instigated another one and it didn't stand
4 up. Some of the ditches ~~wasn't~~^{were not} happy so under the Compact
5 terms we have to go to a priority system and under the
6 priority system of administering Compact water or any
7 river water for Water District 67, it takes better than
8 eight hundred feet to put the Marvel~~X~~ Canal in priority,
9 therefore your seven hundred fifty maximum release in
10 John Martin will not include Marvel~~X~~ without a lot of
11 tributary and help or good river conditions below the
12 John Martin.

13 ^{DEE} MR. HIGHT: I would like to suggest if it's needed
14 a changing of the Compact that we pursue the possibility
15 of getting it changed. I am in a position where even
16 Congress will yield to logical thinking and we have gotten
17 a number of changes to benefit rural areas. If this is
18 necessary why we will help get that changed also.

19 MR. SPARKS: I would like to point out, you can tell
20 Mr. Hight^{cc} is an old timer. He still refers to it as
21 ~~Caddo~~^{Caddo} cattle well and that is the reason that we got it changed
22 and the reason we changed it was when Congress got in the
23 act.

24 MR. KAISER: I just want to make a comment that the
25 irrigators in Kansas are aware that we didn't get our.

1 forty percent from John Martin this year. 11

2 MR. COOLEY: Are there any other comments from the
3 audience? I would be glad to hear from anyone that came
4 here who wishes to say anything. We are now ready to
5 get into some housekeeping activity. I know there is some
6 conversation of work for the engineering committee, a
7 question of studies and then the selection of the next
8 meeting date. I am perceptive enough that I can recognize
9 the signs of gathering papers together and shuffling that
10 more people than myself are ready to break for lunch, but
11 I think another five or ten minutes could be of benefit
12 to us.

13 MR. SPARKS: Do we have anything further? I mean
14 are we talking about adjourning for lunch or concluding
15 the meeting?

16 MR. COOLEY: That was what I was hoping that we would
17 do.

18 MR. PENTROP: This is not come up for discussion,
19 the Catlan Transfer Plan.

20 MR. SPARKS: No, not until we -- I don't see any
21 point in it until we got it resolved in Court. It may be
22 a moot problem.

23 MR. GIBSON: I think we can adjourn then in another
24 fifteen or twenty minutes.

25 MR. COOLEY: If I can rocket ahead for another fifteen.

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MR. GIBSON: All right.

MR. COOLEY: First of all in the conversations yesterday there appeared to me and they were expressed by Mr. Sparks and others, areas where further improvement of the Compact and Compact Administration might be indicated desirable necessary and it also appears to me that the forward work, a substantial part of it is being done by the Engineering Committee whose report I believe to be extraordinary and what is going through my mind is this, that the Committee is going back to make further revisions of the criteria for the storage of the Muddy Creek water, but are there not other matters which might not probably be referred to them at this time so that they can do that preliminary cutting of brush that would be necessary for this Commission to obstruct and move on to benefit of both states.

MR. BATES: Mr. Chairman, one of the things and there has been a lot of discussion and the thing that you were referring to yesterday was this better utilization of the waters behind John Martin Dam, which are Compact waters? The discussion came up many times how we might be able to change some of the operating principles of the Commission, better utilize this water but one of the major stumbling blocks that I have seen, and I have heard and I don't know -- and I am very curious about if we open this

1 up for major changes of exactly what might in the end 11'
2 wind up? Will we be open to a complete review and a
3 complete change in the operation, possible ownership of
4 water involved in Colorado Kansas Compact waters? It is
5 a question that deserves, I think, possible both sides of
6 this thing that both Colorado and Kansas before we break
7 it open and start making some changes, I think this is a
8 part of the study that should be included in the study and
9 report on what we might do and one of the things I am
10 referring to I am sure that your ditch companies realize
11 this and know this, that if they could own these for an
12 irrigation season that portion of water which they are
13 entitled to under the close system, the direct close system,
14 we have at the present time that they could own this water
15 and call for this water at their discretion at a time that
16 they could get more beneficial use from it and we could
17 utilize it, get a lot better use from the water stored
18 behind John Martin. I would like to see a study made on
19 this of how we might do this and also I would like to know
20 when we break this thing open just exactly what position
21 we are in.

22 MR. COOLEY: Well --

23 MR. RATES: (Interrupting) I don't know whether I
24 made myself clear.

25 MR. COOLEY: I don't know whether it's for me to

1 respond, but you have expressed two things it seems to me 115
2 One is a concern that there might be dangers and risks
3 in any further activity and secondly, an interest in the
4 question of timing of releases which I will get to in a
5 minute. As far as ^{the} ~~the concern~~ is concerned, I will go as
6 far as or as slow as you wish. The only action that this
7 Administration can take is by the unanimous consent of
8 both states and as affecting ownership of water or a
9 change of priority rights. I don't really think that is
10 in the cards with the understanding that anything that you
11 might ultimately do would take the consent of both states.
12 I would say to the extent it's proper for me to do so
13 would encourage you with questions that where you think
14 the water can be better used to the advantage of the
15 owner of the water rights that you investigate those
16 such as are there are ways in which the timing of releases
17 can be better effected to greater benefit to the water
18 owners.

19 MR. BENTROP: The way the Compact is set up there are
20 no debits or credits for water. You say like Kansas doesn't
21 want this water now, but we are entitled to forty thousand
22 acre feet and we leave it up there, we are just entitled
23 to a percentage of the water and that Colorado calls for
24 water, we have to call for water if we can use it without
25 waste and we very seldom, anyway to my knowledge, any stored

1 water has ever bypassed the last diversion. We have been 11
2 very careful about wasting the water. I don't know how to
3 word it. I would hate to try, maybe it could be studied
4 to see if that would work, but I think the debits or credits
5 would be a little hard to handle. One of the things I
6 would like to see is like we have had two examples of it
7 in the spring when we have just a very small amount of
8 water in John Martin, this spring right at ten thousand
9 feet is both states. Just to call for the water, we have
10 hardly got any of it in Kansas to deliver forty percent
11 of the water to Kansas, Colorado would have hardly gotten
12 any with a dry river. Of course, that is the way it did,
13 we did accept the water, but we didn't get it.

14 MR. PATES: I feel that and I would like to see a
15 study made on this thing and some notes made. I know that
16 one of the first things that has to be done to get this
17 job done within Colorado and the laws of our system as long
18 as there is a conservation pool in the John Martin, the
19 river ends at Fort Lyons Canal. The ditches below John
20 Martin have no right to river flow during that period of
21 time. One of the things that expedites the use of the
22 waters behind John Martin possibly at times when you know
23 it might not be the most beneficial.

24 MR. COOLEY: Let me --

25 MR. PATES: (Interrupting) And I think we all realize

1 this. I am saying some things possibly today a lot of
2 people know and a lot of people think, but they hesitate
3 to say, so but I feel that there is certainly some way
4 along the line that we can possibly utilize this thing to
5 a better advantage and I realize also that it is a kind
6 of a give and take proposition and to do this we are going
7 to have to ask for some of those possibly above John Martin
8 to give a little and we will possibly have to give a little,
9 but in the long run I think the whole system might benefit.
10 I would like to see some studies and some proposals pre-
11 sented in legal and engineering.

12 MR. COOLEY: With that in mind I would like to ask
13 Mr. Sparks and Mr. Gibson each two questions and they are
14 these together. First, are there areas that you deem
15 worthy studying and secondly, would defining such studies
16 now be as benefit or is the timing bad?

17 MR. SPARKS: Well, yes I think we have already done
18 some studies. We there fore did bring them to a conclusion
19 because the factors were extremely complex. It's just not
20 simple. We have some very efficient irrigation systems on
21 the Arkansas in Colorado, we have some inefficient ones and
22 have the same problems. It is one of timing and one of
23 adequate storage at the proper place and this is, of course,
24 at the upper end of the river, this is one of the purposes
25 of trying the Arkansas Project actually was to try to make

1 MR. SPARKS: Well, no I am talking about a study I 11
2 believe better utilization of the John Martin Reservoir
3 capacity and our studies would necessarily have to include
4 Kansas. No matter what we do we would have to include
5 what if there is no benefits to Kansas, then there is no
6 point in making a study, so our studies would have to
7 include that necessarily.

8 MR. GIPSON: Well, I am sure that we would be
9 interested in that.

10 MR. SPARKS: As far as delivery at the state line is
11 concerned from there on.

12 MR. GIPSON: And we would want to participate to the
13 extent that we were capable of doing.

14 MR. BENTROP: Yes.

15 MR. COOLFEY: We will have have conscience of the
16 sort of veto mechanism that is cracked into the Compact
17 and it would seem to me then to be appropriate to allow
18 the framing of such studies to go to the Engineering
19 Committee, which would be tied to that and I would think
20 that the word timing has come up in most of the remarks
21 from both sides, but they will be able to at least formulate
22 those areas that they considered worthy of going on and
23 frankly, the importance for this is the fact that this first
24 engineering report that I got in the mail is the first
25 correspondence I had was a very impressive document and if

1 water available on a better time basis to the irrigators 119
2 in the Arkansas Valley.

3 MR. SPARKS: We will be willing to fund a considerable
4 study looking to better utilization and as I say we have a
5 tremendous amount of work done on it already, but one of
6 the problems that we have and we turn our engineers loose
7 on a study I believe we get the Geological Survey or the
8 Bureau of Reclamation, they don't really lead to much unless
9 the people involved also participate in the study. This
10 has been one of the weaknesses of these studies being done
11 by federal and state agencies, nobody believes in them.
12 If we can, in fact, detect some interest on the part of
13 the irrigators and have some participate in these studies,
14 we would be willing to fund such studies as far as Colorado
15 is concerned and we can move immediately on that line and
16 we will probably bring in rather than our own staff which
17 is small, we would probably bring in some consulting firms
18 on a contract basis.

19 MR. COOLEY: I would like to pose the same two ques-
20 tions now to Mr. Gibson. The questions were, of course,
21 are there areas worthy of study and two, concerning such
22 studies how be of benefit?

23 MR. GIBSON: Well, I presume that Mr. Sparks reference
24 is up above John Martin at the present time in general is
25 that not right?

1 they could do this with the one problem, it was apparent 120
2 that there was the capability of handling other problems.
3 If that's so, would anybody, either state care to recommend
4 to the Engineering Committee that they proceed with a
5 formulation of studies to be made to the benefit of the
6 river system.

7 MR. BATES: I would move that they be requested to
8 make such a study.

9 MR. COOLEY: Is this consistent with Colorado? Is
10 this a Colorado consensus on such a motion?

11 MR. SPARKS: Yes.

12 MR. GIBSON: We second it. We are in favor of it.

13 MR. COOLEY: Both states are in favor. I don't
14 think any further action will be necessary and you will
15 report back at the next meeting.

16 MR. HELTON: That is our group?

17 MR. MACKENZ: That is the Special Engineering Committee
18 or our Committee?

19 MR. HELTON: There is an Engineering Committee in
20 the Compact with the Administration composed of members of
21 the Administration.

22 MR. COOLEY: Do you wish this Special Committee or
23 the Engineering Committee?

24 MR. SPARKS: I think it should be the Special
25 Engineering Committee.

1 MR. COOLEY: All right, it will be the Special
2 Engineering Committee. Aren't you glad you raised the
3 question? Now, the last item I have that I want to bring
4 up before the selection of a date for the meeting, the
5 next meeting is this. Without being so crude as to say
6 why are the fundings for -- federal fundings of studies
7 and investigations for the Corps of Engineers, at this
8 time and I wonder, Harry, you sound as if your cup is
9 running over as far as availability for -- as money for
10 funds and I don't know if that is the same situation in
11 the State of Kansas.

12 MR. TENPEL: That isn't what I have heard of the
13 Joint Budget Committee in Denver.

14 MR. SPARKS: We have ways of coming up with money
15 that I would rather not discuss here.

16 MR. COOLEY: But, in any event, this cup runneth over
17 situation does not either physically or metamorphically
18 occur in the State of Kansas right now?

19 MR. GIBSON: No.

20 MR. COOLEY: And I would suggest that if you have
21 any studies that are presently formulated that you would
22 desire support for funding, that you would mention it.

23 MR. GIBSON: We are in the process of a study on the
24 river in Kansas, particularly relating to losses in the
25 river in the State of Kansas. We are visiting with --

1 I'm not sure what you would call what your reference is to 12
2 federal funds, but it is a joint project like what we
3 mentioned were some percentage of this they would put in
4 a percentage you see.

5 MR. COOLEY: This is limited to the Valley?

6 MR. GIBSON: This would be limited to the effect of
7 say well planting and so on on the surface.

8 MR. COOLEY: Within the drain and this is of the
9 Arkansas Valley?

10 MR. GIBSON: Within that area of the Court decree in
11 Kansas covering ditching from the state line to say Garden
12 City.

13 MR. COOLEY: Do you wish the support of the endorsement
14 of this Commission for that?

15 MR. GIBSON: I think we would appreciate it.

16 MR. COOLEY: Is there consensus in Colorado that we
17 would do this?

18 MR. SPARKS: Yes.

19 MR. COOLEY: Colorado endorses such a study and the
20 Secretary will document the endorsement. I think I will
21 of that study.

22 see the transmit features of the frying pan Arkansas Project
23 which are in my back yard, but which I have not been over in
24 detail and suggest to you that a tour of those might be
25 appropriate to this Commission and might well be tied to the

1 next meeting. At the same time it's not necessary, but I
2 do think that with the Special Engineering Committee
3 meeting that the next meeting shouldn't be too long delayed.
4 What is your pleasure?

5 MR. TEMPEL: Why don't we ask the engineering staff
6 and the legal staff as to the time frame that it is going
7 to take them to put together the operating criteria and
8 the resolution.

9 MR. NELTON: We should be able to complete that
10 within a month, I would say.

11 MR. GIBSON: The man back there is reaching for
12 his calendar. He says he is booked solid for a month on
13 your committee.

14 MR. TEMPEL: He ain't the only one.

15 MR. GIBSON: I think whenever the Committee has a
16 report ready that we would be ready to meet again, but I
17 think that they will have to look at their calendars a
18 little bit there.

19 MR. COOLEY: What dates are you mulling about among
20 yourselves in the months of July or August or September?

21 MR. NELTON: Well, our task is to incorporate the
22 changes that we have discussed this morning into the
23 operating criteria and the resolution and that shouldn't
24 take a great deal of time. What we can do is when we go
25 back to the office we can make those changes, mail them

1 to Jerry and Harris and then after they have had ample 10
2 time to review them we can get together.

3 MR. GIBSON: Yeah, but I think once they review them
4 and you get your final draft there needs to be some time
5 for the members of the Compact to take a review of them.
6 What you are talking about is a month, I think, your
7 recommendation are here of sometime in August, July or
8 August.

9 MR. COOLEY: That would be -- Harry, what is your
10 schedule in July and August?

11 MR. SPARKS: Well, the last two weeks of August I
12 have open right at the present time.

13 MR. GIBSON: August would, would the idea of putting
14 down August 20th and 21st with a question mark be approp-
15 riate to the members of the Commission?

16 MR. BENTROP: That would be all right with me.

17 MR. TEMPEL: All right with me.

18 MR. COOLEY: Any objection?

19 MR. HELMS: I object to the 21st.

20 MR. COOLEY: The 21st, okay, the 19th and 20th with
21 a question mark. This is all subject to confirmation.
22 Thursday and Friday, the 19th and 20th of August, subject
23 to further notice for a meeting of the Commission.

24 MR. HACKETT: Where?

25 MR. COOLEY: Possibly in Aspen, Colorado. Well, I'm

1 -- I want the public to understand the audience in
2 this there is a lot to be seen on it. The amount of money
3 in millions of dollars on the transit features of the
4 friving pan are there?

5 MR. THORNTON (---): Have been spent, about the
6 hundred seventy-five million out of five hundred and
7 five.

8 MR. COOLEY: They have spent two hundred seventy-
9 five million of our money on something that concerns our
10 Commission very much and I think it would be worth while
11 to go over there and if we do go over, you can be sure
12 that the Bureau of Reclamation will have people present
13 and not only that, but that they will be in detail going
14 over the system with us and with any of you that want
15 attend and the meeting will be adequately publicized.
16 What else must now come before us?

17 MR. BATES: This item we discussed a while ago that
18 I brought up about reporting back on this transmission
19 losses and you said that you were going to --

20 MR. COOLEY: (Intermittent) You bet I did, you bet
21 I did and I lost sight of it a while. I believe you
22 heard that I was going to get back to the question of
23 transmission losses. What studies, if you please, are
24 under way in this area?

25 MR. BATES: The study was made last spring that was

1 at the time of the study...
2 ditch, and the first part of the study...
3 one run of a thousand acre field and they are being double
4 checked. There are some people who think the study is
5 complete by virtue of that one run, but it isn't complete.

6 MR. BATES: Well, when so far as any report on that
7 data of your investigation, there is nothing further to be
8 reported then?

9 MR. THORNTON (cont.): At this time they are putting
10 more data into an area and they will be reporting to the
11 Board, to the ditch association and so on as that is
12 developed.

13 MR. COOLEY: Let me ask a question of the members of
14 the Commission. At least one of the members of the
15 Commission obviously is concerned for the publication and
16 release of data on transmission losses. Is this an area
17 of interest and concern generally, or is Mr. Bates alone
18 in this interest?

19 MR. BENTROP: Oh, no. We are all concerned about it.

20 MR. SPENCE: Kansas wants to know what happened to
21 their four hundred second...
22 Martin.

23 MR. HACKETT: So does Lee.

24 MR. COOLEY: That being so, Mr. Fidler, what action
25 however simple or however far-reaching of this Agency would be

1 useful or desirable. The idea is to get better so that
2 reports could be issued or put in either or all in form
3 that would get wider circulation?

4 MR. FIDLER: Well, the plan right now we will have
5 a preliminary report by the end of June on the results
6 to date and that is what our plan is. It will not be a
7 final report because that is -- the life is very difficult.
8 It's a very difficult study of an awful lot of data we are
9 collecting during this test release period and right now
10 we have presented several reports on the breast cancer portion
11 of the study only. There is a transmission line program
12 that has not been thoroughly analyzed and this would be
13 a part of that report and this is one reason that report
14 won't be a final product, but that is not to say the
15 data will not be made available. It will be summarized as
16 we have it to date and we can expect that by the end of
17 June.

18 MR. COOLEY: Well, I have got two requests. The
19 first is that the members of this Commission be put on the
20 mailing list for the first release of that report so that
21 they know that they are getting a copy of it. The second
22 so to speak, and secondly that you consider if you would
23 the invitation of this Commission to make a presentation
24 at the next meeting of the Commission to give your findings
25 together with slides, talks, illustrations, that over.

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MR. CHAIRMAN: ...
of what you have determined.

MR. FIDLER: I think we have a very fine presentation that will clarify a lot of the ...

MR. COOLEY: It is quite possible that I can say that this board would like to have that presentation at its next meeting.

MR. FIDLER: He will be pleased to give it.

MR. COOLEY: Are there anything else that should come before this group? If we have any budget problems, let us talk about them.

MR. BATES: Well, you can do it.

MR. WACKER: Well, first of all, I want to say we are operating for 1975 and 1976 and we do not know what has happened since then, but to hold this special meeting today we need authorization in the budget within the budget to a travel ...
the ...
care of it. We are ...
in the ...

MR. CHAIRMAN: ...
we are not restricted to an item by item budget, but we might transfer through funds.

MR. BATES: That is correct. ...

1 ... that
2 ... will be paid by the districts, by the counties, by the cities,
3 ... not by the Administration.

4 MR. PATTON: I would like to differentiate here what
5 ... we are talking about and what we are talking about for
6 ... the House last night, I think. I think the point is that
7 ... your committee in Kansas and elsewhere and I think this is the
8 ... item I think that we are talking about.

9 MR. COOLEY: That being so I would like to make a request
10 ... of the House members of what the House did in the State
11 ... of Kansas in 1917 do not know. Are you restricted to a
12 ... line by line budget or are you able within your own
13 ... Administration to transfer from one pocket to the other
14 ... within the overall budget?

15 MR. ALLEN: Within the budget of the Division of
16 ... Water Resources we are not restricted to a line by line
17 ... item. There are agencies in Kansas that are, but we are
18 ... not.

19 MR. COOLEY: The Compact Commission is not quite
20 ... like anything else. It has certain authority and our
21 ... authority derives from the compact with the State
22 ... law and we are authorized to adopt laws and govern
23 ... ourselves accordingly. Is it satisfactory with the Kansas
24 ... delegates that the transfers be made within the overall
25 ... budget to activate the bills that are before the Commission?

1 MR. WENTROP: Sure.

2 MR. COOLEY: Satisfactory with Colorado?

3 MR. SPARKS: Yes.

4 MR. COOLEY: I think that disposes of that problem.
5 Are there any other problems?

6 MR. BACKETT: We have another meeting scheduled for
7 August and I am afraid that we will be pretty short of
8 funds. We will be over into another budget year.

9 MR. SPARKS: I see no problem. Put it on an individual
10 basis. The Compact Administration doesn't bear any of the
11 expenses.

12 MR. PATES: This is the way we need to handle this.
13 Under the Compact it expresses the fact that the individual
14 states will bear the costs and expense of the members of
15 the Compact and so I think that if we handle this thing
16 right there is no problem.

17 MR. COOLEY: I am aware of the Kansas budget problems
18 but I suggest that this isn't the place where those pro-
19 cedures be thrashed out. At least there are two things
20 that we grown men should ever see and one of them is a
21 butcher making ^{Sausage} ~~saus~~ and the other is a politician making
22 bread and those two we will leave out. Is there anything
23 else? (Laughter)

24 MR. COOLEY: There will be nothing to come before the
25 meeting. This meeting is adjourned.

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PLUMBY COUNTY)
)SS:

I, Mary Jane Lee, a Certified Shorthand Reporter
and stenographer for the State of Nevada, certify that the above
is a true and correct transcript of the proceedings in this matter
at the aforementioned time and place.

IN WITNESS WHEREOF, I have hereunto set my hand
and official seal at my office, this 21st day of May, 1917.

Mary Jane Lee
Mary Jane Lee, R.R. 1,
Plumby, Nev.

CHARGES: \$ 214 00