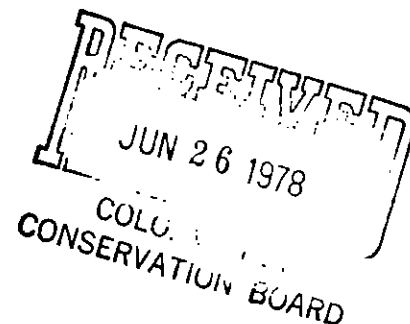


~~ORIGINAL~~  
MEETING OF THE

ARKANSAS RIVER COMPACT ADMINISTRATION

U. S. GEOLOGICAL SURVEY

STATE OF COLORADO



Thursday, May 11, 1978

Pueblo West Inn

Pueblo, Colorado

Reported By

PATRICIA S. NEWTON, C.S.R.  
Kirkpatrick & Meek Reporting Service  
226-A Independence Building  
Colorado Springs, Colorado

APPEARANCES

For the Arkansas River Compact Administration

3	Frank G. Cooley, Chairman	Carl E. Bentrup Kansas Representative
4	Lane L. Hackett, Secretary	
5	Leo Idler Colorado Representative	Guy E. Gibson Kansas Representative
6		W. F. Stoeckley Kansas Representative
7	Kent A. Reyher Colorado Representative	
8	Duane Helton (for Felix L. Sparks) Colorado Water Conservation Board	

Also Present

10	C. V. Mills, Daily News	Jim Sherwood Amity Canal Company
11	Joe Marcotte U.S. Bureau of Reclamation	Leo J. Pollart Amity Canal Company
12		
13	Harlan Miller U.S. Bureau of Reclamation	Clifford Verhoeff Amity Canal Company
14		
15	John Dumeyer Hydro Engineering	William Howland Amity and Buffalo Canals
16	Hayes Grubb U.S. Geological Survey	Elsie Howland Amity and Buffalo Canals
17		
18	Richard Fidler, U.S. Geological Survey	Jim Twedt CF&I Steel Corporation
19	Robert Jesse State of Colorado Engineers' Dept.	Harlan Gerten Fort Lyon Canal Company
20		
21	Jim Kasic State of Colorado Engineers' Dept.	Darryl Todd Division of Wildlife
22	Wayne B. Schroeder Attorney at Law	
23	Vranesh, Rausch & Schroeder	

1 I N D E X

2	<u>MORNING SESSION:</u>	<u>Page</u>
3	Introduction of members	4
4	Discussion on adoption of December minutes	5
5	Motion to adopt minutes	7
6	Comments by Duane Helton	9
7	Comments by Wayne Schroeder	10
8	Comments by Darryl Todd	16
9	Comments by Robert Jesse	16
10	Comments by William Howland	24
11	Comments by Wayne Schroeder	27
12	<u>AFTERNOON SESSION:</u>	
13	Comments by Wayne Schroeder	32
14	Discussion of tour	34
15	Comments by Wayne Schroeder	39
16	Discussion of letter to Corps of Engineers	49
17	Motion for Mr. Cooley to write letter to Corps of Engineers	52
18	Comments by Richard Fidler	64
19	Comments on requests by Mr. Cooley	75
20	Motion for construction of gage at Rule Creek	77
21	Motion to work up cost figure	82
22	Comments by Leo Pollart	107
23	Comments by Clifford Verhoeff	108
24	Budget Meeting	111
25	Motion for special assessment of both states	122
	Motion to adopt budget	140

1 PUEBLO, COLORADO; THURSDAY, MAY 11, 1978; 10:00 A.M.

2  
3  
4 MR. COOLEY: The May meeting of the Arkansas  
5 River Compact Administration is called to order pursuant to  
6 notice and, for the benefit of the court reporter and everyone  
7 present, we will ask for the members of the Compact Administra-  
8 tion to identify themselves, recognizing as well, in a minute,  
9 Mr. Gibson, that Mr. Helton is sitting in for the State of  
10 Colorado, as he has on occasion in the past.

11 Won't you please start.

12 MR. STOECKLY: W. F. Stoeckly from Garden City;  
13 Compact.

14 MR. COOLEY: S-t-o-e- --

15 MR. STOECKLY: -- -c-k-l-y.

16 MR. COOLEY: Fine.

17 MR. GIBSON: Guy Gibson, Chief Engineer-Director,  
18 Division of Water Resources, Kansas State Board of Agriculture,  
19 Topeka, Kansas.

20 MR. BENTRUP: Carl Bentrup, member from Kansas,  
21 Deerfield.

22 MR. COOLEY: Frank Cooley, Chairman, from  
23 Meeker, Colorado.

24 MR. HELTON: Duane Helton, Colorado Water  
25 Conservation Board. I am representing Mr. Sparks and, as

1 Mr. Cooley pointed out, from Denver.

2 MR. REYHER: Kent Reyher from Las Animas, Colorado.

3 MR. IDLER: Leo Idler, member, from Prowers County.

4 MR. HACKETT: Lane Hackett, Secretary, from  
5 Lamar, Colorado.

6 MR. COOLEY: All right, the first order of  
7 business is the adoption of the minutes of the December meeting  
8 and I have a problem -- I have two problems with those minutes:  
9 The first is that, as you recall, we dispensed with the verbatim  
10 transcript of that meeting. Related to that is the fact that  
11 Lane Hackett, our Secretary, attempted to keep those notes with  
12 a tape by a portable machine and, at the same time, we had a  
13 number of issues that were of concern and interest and some  
14 heat at the meeting.

15 The second problem is the fact that although I  
16 promised Lane that I would spend the two or three nights required  
17 to try to work over those minutes, I have been unable or at  
18 least I failed to accomplish this, to my embarrassment, and  
19 what I would suggest, particularly in the absence of Mr. Sparks,  
20 is this: That I think it would be appropriate if, in some  
21 manner, the Compact adopted those minutes as being a reasonable  
22 reflection of what was said but that the minutes of that meeting  
23 not be adopted as the final record of the activities of the  
24 Compact Administration at the December meeting.

25 Now, we will open this matter for discussion. I

1 see Mr. Gibson has some notes.

2 MR. GIBSON: Well, I have the minutes here and  
3 I concur with the Chairman. It would appear to be desirable if  
4 we could adopt some procedure whereby maybe tentative approval  
5 of the minutes could be exercised subject to the Compact members  
6 and the Chairman submitting to the Secretary any questions or  
7 revisions, suggestions, to the minutes, to be further acted on  
8 at the next session of Compact.

9 MR. COOLEY: I like what you have said and I  
10 think this might be even better, an improvement on my suggestion.

11 There was obviously no intent on Lane Hackett's  
12 part, or anyone else, that the minutes not be fully felicitous  
13 but a lot of difficult matters were touched on there and the  
14 minutes in some places simply don't ring quite in harmony with  
15 my recollection of that. Fortunately, my recollection is getting  
16 dimmer each month.

17 Does anyone from Colorado want to speak to the  
18 question of the minutes?

19 MR. IDLER: Well, I don't remember anything that  
20 was too controversial, so I would suggest that we follow Mr.  
21 Gibson's idea.

22 MR. COOLEY: All right, fine.

23 The minutes have not, furthermore, been distributed  
24 as well as they might have been. So with that being so, I  
25 would entertain a motion from either -- Yes.

1 MR. REYHER: That's just what I was going to do.

2 MR. COOLEY: Okay, I would entertain a motion  
3 from either state that the minutes of the December meeting be  
4 adopted with the following reservations: First, that at this  
5 time they do not, with full clarity, reflect the actions taken  
6 at that meeting..

7 Secondly, that we will attempt to circulate  
8 revisions among the members of the Compact Administration prior  
9 to the next meeting.

10 Thirdly, that we should recognize at this time  
11 that we do not desire the acts of the Compact Administration  
12 to be bound by the minutes in their present form.

13 Finally, yet the minutes do reflect a sincere  
14 effort to state what happened at that meeting.

15 Is that a fair -- Will you accept that statement  
16 of the motion, of your motion?

17 MR. REYHER: Yes.

18 MR. COOLEY: The motion has been made. Is there  
19 a second?

20 MR. BENTRUP: I will second it.

21 MR. COOLEY: All right, there has been a motion  
22 and a second.

23 I've got to interrupt this orderly procedure at  
24 this time to ask, for the record, for the renewed acquiescence  
25 of the State of Kansas for Mr. Helton to be sitting here in

1 place of his boss, the State Engineer of the State of Colorado.

2 I am going to interrupt the ordinary -- Not the  
3 State Engineer -- I got a big grin out of Bob Jesse on that  
4 one. -- Larry Sparks of the Water Board.

5 MR. BENTRUP: Colorado has a quorum anyway, so  
6 there would be no objection.

7 MR. STOECKLY: Fine.

8 MR. COOLEY: All right, there seems to be  
9 acquiescence of Mr. Gibson of Kansas and the Board will note  
10 that we are now ready for the vote on the minutes.

11 Is Kansas ready to vote?

12 MR. BENTRUP: Yes. We vote aye.

13 MR. COOLEY: Kansas votes aye.

14 Is Colorado ready to vote?

15 MR. REYHER: Yes.

16 MR. IDLER: Colorado votes aye.

17 MR. COOLEY: Colorado votes aye.

18 So the minutes have been adopted with those  
19 four provisos.

20 One of the purposes of this meeting is to get  
21 an understanding of the Fryingpan-Arkansas features on this  
22 side of the Continental Divide, and Joe Marcotte with the  
23 Bureau of Reclamation is here to give us a presentation.

24 Joe, I am concerned about the -- And, Madam  
25 Reporter, you will not need to take anything during Mr. Marcotte's



1 presentation and from now on. We will say something when we go  
2 back on.

3 (Whereupon a slide presentation was made by  
4 Mr. Marcotte.)

5 MR. COOLEY: I think one of the things we wish  
6 to do this morning is to get brought up to date on what the  
7 status is of the permanent pool in John Martin and I think Duane  
8 is capable as anyone here of bringing us up to date, but I hope  
9 that we also hear from Darryl Todd and anyone else who may be  
10 able to make a contribution in this area.

11 Duane.

12 MR. HELTON: Well, there's really nothing definite  
13 to report. The Wildlife Commission made an offer to the Fort  
14 Lyon Canal Company, an offer to exchange their Catlin shares  
15 in return for annual water deliveries to the permanent pool.  
16 The Wildlife Commission approved the offer in March.

17 I think sometime in April the offer went to the  
18 Fort Lyon Board and I am not sure where it stands with respect  
19 to Fort Lyon, but we worked pretty hard with the Fort Lyon  
20 Board and their attorney before the Wildlife Commission approved  
21 their agreement, so we are optimistic about it.

22 MR. COOLEY: Who was their attorney?

23 MR. HELTON: Wayne Schroeder is handling that  
24 particular water matter for them.

25 A VOICE FROM THE AUDIENCE: Mr. Helton, Wayne just

1 walked in.

2 MR. HELTON: He did.

3 MR. COOLEY: Wayne, come on forward, if you'd  
4 be kind enough. Your name was just mentioned. The timing is  
5 fortuitous.

6 I called on Duane for a report on the status of  
7 the permanent pool and negotiations and he mentioned negotiations  
8 that were going on with Fort Lyon. Is there anything you wish  
9 to discuss at this time with respect to the permanent pool or  
10 the negotiations with the Division of Wildlife?

11 MR. SCHROEDER: I can tell the Commission this:  
12 That the Fort Lyon Canal Company has, over the last several  
13 months, lost a superintendent. It has been involved in a  
14 lengthy process to secure a new superintendent. It has had some  
15 considerable problems with its own canal, and in general, it  
16 has not had, let's call it, sufficient and adequate time to  
17 give the proposed contract the kind of consideration, really,  
18 that it deserves.

19 I spoke with Mr. Prenzlowl just two or three  
20 days ago by telephone during the evening and told Mr. Prenzlowl  
21 that the regular monthly meeting of the Fort Lyon Board, which  
22 was this Wednesday, yesterday, during that meeting they would  
23 not be able to reach a decision, during that meeting they would  
24 not be able to vote. I expect that a vote will be held on the  
25 contract at the next monthly meeting, which comes up approximately.

1 the second week next month.

2 That's the status of the matter so far as the  
3 Fort Lyon Canal Company is concerned.

4 MR. COOLEY: That's fine.

5 If a favorable vote were made next month, would  
6 either of you gentlemen care to hazard a guess as to when water  
7 might be physically available for permanent pool, assuming, of  
8 course, a favorable vote?

9 MR. SCHROEDER: Assuming a favorable vote by the  
10 Board of Directors, the contract requires that the contract be  
11 submitted to the shareholders of the Fort Lyon Canal Company.  
12 At the earliest, I would assume that water could be available  
13 under the best of conditions two irrigation seasons from now,  
14 which would put it into 1980. During the winter of 1980 I  
15 suppose would be the first, under the best of conditions, that  
16 any water could be put into the reservoir.

17 MR. COOLEY: I don't want to go into any  
18 impropriety in this area, as you would --

19 MR. SCHROEDER: Nor would I.

20 MR. COOLEY: -- as you would understand, and  
21 please shoot me down at any time that I seem to be going out on  
22 thin ice.

23 Is there any practical way that, assuming a  
24 favorable vote again, that the actual storage could be moved up?  
25 Is there anything, for example, that the Compact could do to

1 assist in water storage?

2 MR. SCHROEDER: Well, the Company could do what  
3 the Compact suggests that it might do in the future, namely,  
4 authorize the storage of 15,000 acre-feet as opposed to the  
5 presently-authorized limit of 10,000 acre-feet. But that's not  
6 going to help put water, really, into the reservoir.

7 MR. HELTON: Another thing the Compact might  
8 consider before that time is consider approving that mechanism  
9 as a means for supplying water to permanent pool.

10 MR. SCHROEDER: I was going to suggest that,  
11 also, that the Compact could, if it had a copy of the contract  
12 before, for example, it could read the contract and put its  
13 endorsement, so to speak, on the contract as it stands before  
14 the Compact. I don't even know if you have a copy of it,  
15 frankly.

16 But that, again, is certainly not going to put  
17 wet water into the reservoir any sooner than it would otherwise  
18 get there.

19 It would perhaps, in terms of -- let's use the  
20 word, frankly, PR value -- it might lend some favorable  
21 consideration to the contract, proposed contract, which might  
22 detract from some of the criticism which the proposed contract  
23 has received in the past. A plus from the Commission, to para-  
24 phrase some of the testimony we heard recently over the last  
25 few days, might balance out over the negatives that some of the

1 criticism might properly be called. So that might physically  
2 put some real water into the reservoir because it might have  
3 the effect of convincing some people otherwise opposed to the  
4 permanent pool concept that at least in the opinion of the  
5 Commission the permanent pool and also the contract is favorable  
6 to the people and should meet with favorable approval. That  
7 much I think the Commission could do. It might in the long run  
8 have the effect of putting wet water into the reservoir a little  
9 sooner than otherwise.

10 MR. COOLEY: Well, I am going on the premise  
11 that since the Compact Administration has voted, necessarily  
12 by a unanimous vote, to establish the permanent pool, that any  
13 reasonable activity to accomplish what has already been voted  
14 would likely meet with the approval of the Compact. Nothing  
15 that you have said bears the slightest hint of any action to  
16 be taken today, nor -- at least I didn't understand you in that  
17 direction. But I would think that your submittal at the next  
18 meeting of the Compact of that contract for approval in whatever  
19 language you and Mr. Helton might recommend would be a proper  
20 item to come before the next meeting of the Compact Administration.  
21 The only caution I have, particularly now, to Duane Helton and  
22 to Mr. Hackett is that the proposed language be given to each  
23 of the members of the Compact Administration at least a month  
24 before the meeting so that they have an opportunity to analyze  
25 it and go over it and determine state positions.

1 MR. BENTRUP: We feel that the -- I am not an  
2 engineer. I think the Engineering Committee can vote, repre-  
3 senting both states, go over the proposed water yield, satisfy  
4 that it is a valid yield and how they plan to trade this water.  
5 It is completely new to the Compact. Is that true?

6 MR. GIBSON: Well, I think we'd better take a  
7 look at it.

8 MR. HELTON: Well, if there is blame to be a  
9 assigned for the Administration not seeing the contract, I  
10 think you can give it to me. I intentionally did not do it  
11 because I wanted to give Fort Lyon an opportunity to approve it  
12 before it went around. So as soon as it is approved, I will  
13 make sure that Compact Administration gets a copy.

14 MR. COOLEY: Fine, and I would think that probably  
15 the suggestion of Kansas would still be valid and, that is,  
16 that at that time, that it be bucked first to the Engineering  
17 Committee and that they report to the Compact Administration  
18 as a matter of procedure.

19 Carl, does that sound like the procedure you'd  
20 like to have followed?

21 MR. BENTRUP: Well, speaking for myself, yes.  
22 We don't want to be faced with making a decision and I'm not  
23 going to make a decision on an engineering problem. I'm not  
24 qualified to evaluate the value of those water rights.

25 MR. COOLEY: It, of course, sort of has overlays

1 with Colorado's internal problem that we all recognize. It is  
2 two levels of the onion here. Apparently the Colorado approach  
3 is, and I suppose necessarily, that they want to tackle their  
4 internal mechanics first but then that this decision and report  
5 be made to the Compact by way of the Engineering Committee.

6 Go ahead, Duane.

7 MR. HELTON: I will volunteer to submit our  
8 staff engineering evaluation of the contract with the contract.

9 MR. GIBSON: That would help.

10 MR. COOLEY: Now, Duane, it is my clear under-  
11 standing that we have taken no position on anything in the last  
12 ten minutes but that we are discussing ways in which this might  
13 best be handled in order to come before the Compact Administra-  
14 tion at the proper time.

15 Do you have anything else, Duane, on this area?

16 Wayne, notwithstanding the somewhat ambiguous  
17 position of where we are, I think myself that we have cleared  
18 the air some on this and have got a path set out to follow to  
19 get this squarely before the Compact Administration and we would,  
20 I think, in the event of an affirmative vote, look for your  
21 assistance in working first with Colorado and then getting  
22 matters before the Engineering Committee of the Compact in order  
23 that it be presented to the Compact Administration.

24 Darryl Todd, do you want -- Well, I am not  
25 going to ask you. I'd like some remarks from you and I'd

1 particularly like a remark having to do with the construction of  
2 the weirs on Muddy Creek that we visited here a year and a half  
3 ago.

4 MR. TODD: They are virtually complete. Bob can  
5 probably address this. I think he's been down here since I have,  
6 and Jack Viner. They are virtually complete. The main thing  
7 we're waiting on now is telephone lines to the recorders, but  
8 most of them are in place and pretty well ready to go based on  
9 the recording device, the telephone lines for the recording  
10 device. Bob may have some additional comments on that. But  
11 our Commission has passed, approved, the contract and, you know,  
12 contingent now on what Fort Lyon decides at its meeting next  
13 year.

14 MR. COOLEY: Anything you can do to assure  
15 there's two or three feet of precipitation in Muddy Creek would  
16 be appreciated as well.

17 MR. TODD: I'll go for that.

18 MR. COOLEY: Bob Jesse, your name has come up  
19 in the discussion here, somehow it seems to. I'd like to hear  
20 from you on that, on the weirs.

21 MR. JESSE: Well, I've been down to the stations  
22 themselves. They do exist. One of my men went down and he had  
23 a recorder installed. I brought along the decree, thought  
24 maybe you might want to discuss it. And I prepared some numbers  
25 to go through about what would happen if we did get a flood.



1 The decree is a little complex, but if anybody would like to  
2 go through the numbers, why, we can figure that out.

3 MR. COOLEY: I don't know about the rest of you,  
4 but I would be delighted to get into a discussion of Muddy  
5 Creek. It would be singularly appropriate for you to do a  
6 thorough job on this, Bob, at this time.

7 MR. JESSE: Well, can everybody hear me all right?

8 The court issued, on the 13th of June, 1968, a  
9 decree that changed the Muddy Creek -- a portion of the Muddy  
10 Creek water rights to John Martin storage, and I went through  
11 the decree and, as I understand it, they changed 5,000 acre-feet  
12 of the Muddy Creek reservoir rights and in the decree there was  
13 a number of conditions, but the major one was the construction  
14 of the two gages which we were discussing here that have been  
15 completed and, as I understand, are in operation. We are  
16 planning to monitor them as best we can.

17 MR. COOLEY: Bob, I want to interrupt. I've got  
18 a whole bunch of questions that are fundamental to this and I'd  
19 like not to put you on oath but I'd like to ask you five or ten  
20 quick questions just to lay the groundwork on this thing  
21 because if we don't get to the bottom of the barrel, then all  
22 your fine remarks on where we are today will have less bearing.

23 We were taken to a washed-out reservoir on  
24 Muddy Creek that had a large capacity. Is the right for that  
25 breached reservoir a valid water decree?

1 MR. JESSE: The water right, a portion of the  
2 water right, was conditionally transferred to John Martin by  
3 the court and I presume that the court considered abandonment  
4 and all other issues when it made the transfer, so I would  
5 presume this would be a valid water right now.

6 MR. COOLEY: About how much, roughly, was the  
7 capacity of the breached reservoir?

8 MR. JESSE: The decree speaks of 13,425 acres.

9 MR. COOLEY: About how much of this water was  
10 transferred to the John Martin Reservoir?

11 MR. JESSE: 5,000 -- 5,000 of the 13,000 was  
12 transferred.

13 MR. COOLEY: Do you know what the date of the  
14 5,000 acre-feet was?

15 MR. JESSE: I have the decree. I don't know  
16 offhand.

17 MR. COOLEY: Okay.

18 MR. HELTON: It was 1913, wasn't it?

19 MR. HELTON: I think so.

20 MR. JESSE: June the 3rd, 1922.

21 MR. HELTON: That was the adjudication date.

22 MR. JESSE: Its appropriation date is April  
23 the 18th, 1915.

24 MR. COOLEY: Missed it by two. You will still  
25 get an "A".

1                   Now, Bob, was this 5,000 feet, is this 5,000  
2 feet all the Muddy Creek water rights that are significant to  
3 storage in John Martin?

4                   MR. JESSE: They are the only ones in which a  
5 decree has been handed down. There is a proceeding now before  
6 the water court concerning the remainder of the water right,  
7 but that has not been decreed yet.

8                   MR. COOLEY: And about my last question, with  
9 this refreshment of my recollection, it seemed to me when we  
10 were out there you took us through it so thoroughly before that  
11 the only way in which John Martin would enjoy the benefits of  
12 the Muddy Creek decree was for there to be an unusual precipita-  
13 tion event in the Muddy Creek area or in one of the tributaries  
14 in Muddy Creek; is that right?

15                   MR. JESSE: Yes. The decree spells out the  
16 steps that it goes through that would become necessary before  
17 there could be water stored in John Martin, but there would  
18 have to be precipitation above the old Muddy Creek Reservoir  
19 before there could be.

20                   MR. COOLEY: Have I asked him the questions  
21 necessary to a fundamental understanding of the Muddy Creek  
22 thing?

23                   MR. HELTON: I believe so.

24                   MR. COOLEY: Okay, fine.

25                   Now, Bob, please go ahead, and I know you will

1 forgive the interruption.

2 MR. JESSE: Certainly.

3 No, any time, to make -- for any reason, why,  
4 try to make it as clear as I can.

5 The decree is a little complicated, but it  
6 required construction of two gaging stations: One of them below  
7 the breached dam and one of them below the confluence of Rule  
8 Creek and Muddy Creek. The paved road is below the confluence  
9 and the one -- you can see the dam from the other one.

10 Water can store in priority, according to the  
11 decree, 5,000 over 13,425, or approximately 37 percent of the  
12 flow in Muddy Creek, less transit losses which basically are  
13 30 percent. There's another condition on the transit losses  
14 that could make it higher, but as I read the decree, it could  
15 not be less than 30 percent.

16 I looked up an example. If, for example, the  
17 flow of Muddy Creek was 100 second-feet and the flow in Rule  
18 Creek at least 70 second-feet, then John Martin could store  
19 37 percent of 100 less 30 percent which would come out to 25.9  
20 cfs, assuming a 100 second-feet flow.

21 The water would be considered natural flow, it  
22 would be considered the property of the Wildlife. It would be  
23 accounted for in the same way we'd account for any other reservoir.  
24 The deduction and operation would be computed.

25 The water right itself would depend upon the two

1 measurements: The confluence gage has to meet at least 70  
2 percent of the Muddy Creek gage or then the actual difference  
3 is charged as a transit loss. But in any event, they only get  
4 37 percent of the flow less the 30 percent transit loss. So if  
5 you know the flow of the Muddy Creek gage, about 26 percent of  
6 that would wind up in John Martin, as I understand the decree,  
7 and it doesn't spell these numbers out, it talks in percentages.

8 If anybody would like to go over the decree in  
9 some detail, I brought a copy with me.

10 MR. COOLEY: A couple more quick questions for  
11 my own help.

12 Is it true that the larger the event, the greater  
13 the proportion that could be stored in John Martin, or would  
14 the proportions essentially remain the same?

15 MR. JESSE: The proportion would be the same.

16 Now, the decree uses the number 37 percent or  
17 they take 5,000 over 13,000, which means that the amount  
18 transferred is 37 percent of the amount that was there.

19 MR. COOLEY: The next question is this: Are the  
20 gages of sufficient design and construction so that they would  
21 accurately measure a very substantial flow?

22 MR. JESSE: Well, of course, I don't know until  
23 such an event occurs, but I would speculate that they would.  
24 There's only one way to find out if the gaging station works  
25 and that's to run a bunch of water by it, but they look like they

1 would.

2 MR. COOLEY: What is your guess of the design  
3 capacity on the upper end of the gages?

4 MR. JESSE: We have no rating tables or anything  
5 yet.

6 The flow in Muddy Creek during the '65 event  
7 was probably considerable and I don't know what -- I don't know  
8 if the bridge went out or not in '65. Maybe somebody can help  
9 me there.

10 MR. COOLEY: We saw stumps on hilltops, I recall,  
11 from '65. It would be some gage that would do it.

12 Yes, Mr. Schroeder.

13 MR. SCHROEDER: Mr. Chairman, Mr. Jesse has been  
14 talking about what might reach John Martin under present  
15 conditions and I think it might be helpful for the Commission  
16 to know what might reach John Martin assuming that the transfer  
17 application presently before the court and pending before the  
18 court is approved as written. That would probably give the  
19 Commission some information that might possibly be of more  
20 benefit than the information which he gives now based upon a  
21 fraction of the storage right. In short, there's a substantial  
22 fraction of the storage right remaining in Muddy Creek and that  
23 fraction is presently involved in a transfer proceeding to  
24 bring it to John Martin.

25 Now, if the decree is granted as requested,

1 Mr. Jesse could probably, off the top of his head, tell us  
2 the effect, in general terms, of that transfer.

3 MR. JESSE: Again, we would be speculating on  
4 what the court is going to do, but if we realize we are  
5 speculating and if we attach the same conditions to the remainder  
6 that is attached to the existing decree, why, there would be  
7 13,425 less 30 percent transit loss, assuming another condition  
8 existed and that would be that the Rule Creek flow was 70  
9 percent of the Muddy Creek flow, but that would be 14 less 30,  
10 which is whatever that is. I don't know what that is right  
11 offhand.

12 Assuming this other condition existed, that would  
13 be 9,000? About 9,000 or so acre-feet possible. That's assuming  
14 it is given priority and assuming these other conditions happen.

15 MR. COOLEY: Muddy Creek was the one with the  
16 breached dam; Rule Creek was the one on the paved road where  
17 we were bombed?

18 MR. JESSE: Yes, the one on the paved road is  
19 below the confluence. If you remember looking upstream, Muddy  
20 Creek went off to the right and Rule Creek went off to the  
21 left, that is, looking upstream.

22 MR. COOLEY: Any other questions of Mr. -- Yes.

23 MR. HOWLAND: I have some of my Board of Directors  
24 here and they have instructed me to make a few comments, so  
25 with your permission, I would like to make a few comments. I

1 think they are pertinent at this time.

2 MR. COOLEY: To the discussion of Muddy Creek?

3 MR. HOWLAND: Yes, sir.

4 MR. COOLEY: Go ahead, please.

5 MR. HOWLAND: Our company is presently involved  
6 in the litigation pertaining to the transfer of the remaining  
7 rights and we wouldn't want you to be misled and think that that  
8 is going to be an easy job to get that transferred. With that,  
9 I believe I'll leave that question as is.

10 But the present decree issued to the 5,000 acre-  
11 feet or a fraction of the flow at the Muddy Creek gage we feel  
12 leaves a little to be desired in its present form and there is  
13 a possibility that that might be attacked. I don't know that  
14 it will, but our concern is that in the initial negotiations,  
15 three gages were contemplated: The two presently installed  
16 and about to become operative and one just above the mouth of  
17 Rule Creek where it enters into John Martin Reservoir. Without  
18 this third gage, which hasn't been built, there is no practical  
19 way that you can figure the actual transit loss in either stream,  
20 especially for -- Well, you can figure the transit loss to  
21 the confluence of Muddy Creek and Rule Creek, however, that's  
22 a very short distance when compared to the whole distance from  
23 Muddy Creek Dam to John Martin Reservoir.

24 My point is, I guess, that the actual transit  
25 loss might become a major factor at times, especially in



1 situations where they might exceed the blanket 30 percent which  
2 the present decree enjoins.

3 I believe that my company would urge the Division  
4 of Wildlife and also the Compact Administration to at least  
5 study the possibility of constructing the third gage and do so  
6 with an open mind, recognizing that since the time the original  
7 decree was issued, these loss factors have become more important  
8 on the operation of the river and we have an entirely different  
9 situation than we had in 1968.

10 Thank you.

11 MR. COOLEY: Thank you, Bill.

12 MR. HELTON: May I respond somewhat?

13 MR. COOLEY: Please do.

14 MR. HELTON: If the issue of the third gage is  
15 raised, as I suspect it will be, and if my opinion is requested,  
16 I will advise the Commission to go ahead and construct the  
17 third gage on the condition that you do away with the 30 percent  
18 loss. It seems to me that if you construct a third gage, then  
19 you ought to charge actual losses, whatever they may be.

20 MR. HOWLAND: I agree.

21 MR. COOLEY: We don't want to approach pending  
22 litigation, but this third gage was the subject of much  
23 discussion on the field tour of the Muddy Creek and it was  
24 apparent, at least to one untrained observer, that there was  
25 a lot to be said for the third gage, the one that you have

1 described.

2 Bill, getting back towards fundamentals, is there  
3 any other basic information that you want to mention just, again,  
4 towards an understanding of the Muddy Creek decrees and the  
5 relationship of Muddy Creek to the John Martin, or have we  
6 pretty well aired it?

7 MR. HOWLAND: I think the only other thing that  
8 I might add is that that is mostly paper water, what we on the  
9 river call paper water, and it would be a very extraordinary  
10 event that would ever create any substantial amount of water  
11 in John Martin.

12 I don't believe I have anything else.

13 MR. IDLER: Now, Mr. Cooley, I'd like to ask a  
14 question.

15 MR. COOLEY: Yes, sir, Leo.

16 MR. IDLER: How can you transfer storage right  
17 of water that's not first stored and do it legally?

18 MR. COOLEY: Who wants to answer that question?

19 Go ahead, Bob.

20 MR. JESSE: The decree speaks for itself. The  
21 court can pretty well do whatever they want to and once they  
22 hand down a decree, why, it's certainly binding. What logic  
23 they use, or something, of the decree, I don't know, but I do  
24 know there is a decree and it is signed by the court and until  
25 the court modifies it, why -- I don't know what logic they

1 used in getting it, but that's the way it is and I certainly  
2 can't change it.

3 I think Wayne could probably explain that better  
4 than I can.

5 MR. SCHROEDER: I can offer a comment, anyway.

6 The decree, the 1968 decree, speaks of the transfer  
7 of 5,000 acre-feet subject to the terms that Mr. Jesse just  
8 outlined. It is not necessary to store that water at Muddy  
9 Creek before you can make what's called a reservoir run down to  
10 John Martin, which is perhaps what you have in mind. There is  
11 no reservoir run involved in the process. The location of the  
12 storage right has been shifted from the old Muddy Creek Reservoir  
13 site to a new site. 5,000 acre-feet of the old 13,300 some  
14 acre-feet has been transferred. The remainder of the right is  
15 in the process of transition and, as Mr. Howland mentioned,  
16 statements of opposition have been filed and that matter is in  
17 litigation.

18 If the decree should be granted transferring  
19 that storage right, then, similarly, there would be no necessity  
20 to capture it at Muddy Creek and then make what's called a  
21 reservoir run down to John Martin.

22 Physically and legally, the place of storage  
23 would have been transferred with respect to all of the right  
24 presently before the court or such portions as the court might  
25 determine. But with respect to the 5,000 acre-feet, the physical

1 place of storage of that 5,000 acre-feet has already been  
2 transferred.

3 MR. IDLER: Well, to me, it seems like that  
4 everybody that's for the permanent pool really doesn't use the  
5 water out of the dam to make a living; therefore, I question  
6 whether the measurements will give an accurate figure of what  
7 the Muddy Creek could actually store up there if the dam is not  
8 replaced.

9 MR. SCHROEDER: I am unable to address that point.

10 MR. IDLER: That's the way I feel like.

11 MR. COOLEY: Apparently the judge tried to address  
12 that problem, one would think, and I think maybe the decree  
13 sounds like it is an effort to answer that question. It might  
14 not be to anyone's satisfaction but it would sound to me like  
15 that was the intent of the court in trying to work out the  
16 answer to the riddle. He might have done what Alexander did  
17 when he was challenged to untie the Gordian knot: He got out  
18 his sword and chopped the damn thing in two and that was his  
19 way of untying a knot. No contempt of court here intended.

20 Wayne?

21 MR. SCHROEDER: One last point you mentioned was  
22 the court's effort to put in terms and conditions and,  
23 obviously, I think the court had some significant input, but  
24 in fact the applicant involved in that transfer proceeding and  
25 also the objectors to that transfer proceeding stipulated and

1 arrived at terms and conditions. So if there is some ambiguity  
2 built into the decree or some problem with the language, I don't  
3 think it would be entirely fair to attribute that ambiguity to  
4 the court; it was a stipulation.

5 MR. HOWLAND: Mr. Cooley, one more time, please.

6 MR. COOLEY: Yes, Bill.

7 MR. HOWLAND: I don't want to enter into an  
8 argument with my friend, Mr. Schroeder, but I believe the decree  
9 also stipulates that the court will have a continuing review  
10 process of that decree. I haven't seen it in quite some time,  
11 but it seems to me that it is still an open-ended decree. Isn't  
12 that so?

13 I don't care, I am asking either one of you.

14 MR. COOLEY: It retains jurisdiction.

15 MR. SCHROEDER: Well, the decree provides that  
16 it is interlocutory until such time as those required gaging  
17 stations are installed. Once the gaging stations are installed,  
18 the interlocutory provision is no longer in effect and is at  
19 that point a decree that is subject to the jurisdiction and  
20 administration of the division engineer. I am unaware of any  
21 further provisions for review.

22 MR. HOWLAND: It seemed to me there was a  
23 condition about a ten-year review period after these initial  
24 conditions were installed, but maybe I --

25 MR. SCHROEDER: Bill, that might be entered. I

1 haven't read it in some time. Mr. Jesse, if he has a copy with  
2 him, he can certainly tell you.

3 MR. HELTON: Well, I will show you the paragraph.  
4 (Whereupon a document was produced.)

5 MR. COOLEY: I suggest this: That we will continue  
6 this matter when we take up again this afternoon.

7 I am going to suggest that we break for lunch.  
8 It is nearly noon and we will aim at readjourning at -- not  
9 readjourning, reconvening, at one o'clock. We will all know  
10 how fast we were served. If it is convenient, why, we could  
11 adjust that hour.

12 We will then finish up on the Muddy matter.  
13 Then, immediately thereafter, we will discuss the proposal to  
14 the method for reviewing the Fryark features tomorrow, talk  
15 about times, itineraries, and so forth, and work that out with  
16 the Bureau, then go back into the agenda. Because Mr. Schroeder  
17 is here and others who are familiar with a couple of the  
18 decisions of the Supreme Court of Colorado, I think we might  
19 consider correcting one oversight in the agenda and, that is,  
20 getting up to date on the decree concerning the Model Reservoir  
21 and having a short discussion of the Trinidad decree because  
22 these two pronouncements of the Supreme Court have come down  
23 and there are people in the room, several of them are very  
24 familiar, cognizant, with these matters and they are now of  
25 great significance and importance to the operation of John Martin

1 and the Arkansas River and I think that we have treated some  
2 of these matters very gingerly while they were before the courts  
3 and we don't need to be -- The point is that it would be  
4 appropriate, in my judgment.

5 We will probably be calling on you, Wayne, and  
6 others on that, and if there's no objection, we will break and  
7 try to aim for one o'clock.

8 (Whereupon the noon recess was taken at 12:00 noon.)  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 PUEBLO, COLORADO; THURSDAY, MAY 11, 1978; 1:10 P.M.

2  
3  
4 MR. COOLEY: We will call the meeting back into  
5 adjournment, and where we were was, Mr. Schroeder was reviewing  
6 the decree on the storage right and the Muddy.

7 Is there any final word, or not final word, but  
8 is there any additional word on that that you want to discuss  
9 with respect to the review by the court?

10 MR. SCHROEDER: I just offer sort of a closing  
11 comment. The court always has the final comment, but my own  
12 closing comment would be, I have reviewed the decree. The  
13 decree provides that before it becomes operative, the various  
14 gaging stations have to be installed. There are some further  
15 provisions in it saying that any time those gaging stations  
16 become inoperative, the right to store sort of disappears on a  
17 temporary basis until they are made operative again.

18 Mr. Howland mentioned a very good point, one  
19 that I frankly had forgotten about. The decree has a final  
20 paragraph in it saying that the decree is interlocutory. That's  
21 sort of a standard provision, but it goes further and says that  
22 at the request of any party to the proceeding, that party can  
23 come before the court and say he has been injured. He has a  
24 duty under that paragraph to make what is called a prima facie  
25 showing of injury at which point the owner of the right -- in



1 this case, the Wildlife Commission -- would have the obligation  
2 to come forward and sustain its burden of proof that that party  
3 had not been injured. As a practical matter, it would be very,  
4 very difficult, I think, to show that somebody's been injured  
5 until such time as the right has been exercised.

6 MR. COOLEY: Yes. One question of you or Duane,  
7 either one of you. What does the decree say with respect to  
8 the number and location of gaging stations within the decree  
9 itself?

10 MR. HELTON: Two gages as described by Bob Jesse.

11 MR. COOLEY: Then, our discussions as to the  
12 desirability of the third gage were -- certainly without the  
13 third gage is not within the text of the decree, whether it be  
14 desirable, as some of us believe, or not.

15 Does anyone else want to say anything with respect  
16 to the Muddy right?

17 Now, with respect to this afternoon's agenda, I  
18 am going to touch again on the Corps of Engineer's designation  
19 of the 5,000 cubic feet per second measure at Avondale as being  
20 the flood stage of the Arkansas River and I think that I have  
21 asked, on your behalf, the Corps of Engineers to look at that  
22 and they have agreed to look at that but they privately have  
23 been candid enough to say that, yeah, it was in sequence, and  
24 at the rate they were going, in another 20 years they'd get to  
25 it. I think we might want to discuss that this afternoon as

1 well.

2 But let's now go to the tour tomorrow.

3 Tacitly, it seemed to me that it was assumed that  
4 the features of the Fryark that would be visited by us tomorrow  
5 would be those in the area of the Pueblo Reservoir, and this  
6 certainly wasn't in my imagination. I had, frankly, hoped to  
7 get off to an early start and go up and see the features around  
8 Twin Lakes and Leadville. The roads are all open and I presume  
9 dry by now. But what is the pleasure first of the Commission  
10 and then of anyone else?

11 Guy, would you make a comment on this, please?

12 MR. GIBSON: Well, I'm here for the tour, that's  
13 about all my comment can be, and I wasn't sure just what we had  
14 in mind, Frank.

15 MR. BENTRUP: About how much time are you talking  
16 about? Or I could leave earlier. I need to drive over 200  
17 miles. I don't care how early we start.

18 MR. COOLEY: Well, to give you an idea of what  
19 was in my mind, I have a plane reservation at about 3:30 at the  
20 Leadville airport. I figured we'd be through with this.

21 (Laughter.)

22 Bob, how many hours' driving time is it from  
23 here to, say, Twin Lakes?

24 MR. JESSE: Oh, it's probably four or so at least.  
25 It's a hundred miles to Salida. That's a good two hours, maybe

1 better, depending on how hard you want to get through the canyon,  
2 and another hour and a half. Maybe we'd be pushing to get there  
3 much before noon.

4 MR. COOLEY: All right, assuming we started as  
5 late as nine o'clock, it would be all morning.

6 MR. STOECKLY: Personally, I think that ought to  
7 be a separate meeting.

8 MR. COOLEY: Well, I am perfectly content to  
9 accommodate.

10 What are the features that are desirable to be  
11 seen here in the Pueblo area? The Pueblo Reservoir.

12 Yes.

13 MR. MILLER: And the related features, I mean,  
14 you know, of the marinas, and the dam itself would be about the  
15 only features here.

16 MR. COOLEY: The next other feature is essentially  
17 three and a half hours driving time away, isn't it?

18 MR. MILLER: Yes. The next thing is at Twin  
19 Lakes.

20 MR. COOLEY: We are talking eight hours driving,  
21 Carl, but we could get up before breakfast if it would help any.

22 MR. BENTRUP: There would be no point in driving  
23 unless you had some time to look and ask some questions.

24 MR. COOLEY: Of course. That's right.

25 MR. BENTRUP: You're wanting to get to Leadville

1 at 3:30, is that the problem? (Laughter.)

2 MR. COOLEY: No, no, that's not -- I'll accommo-  
3 date -- I really will accommodate whatever the --

4 MR. BENTRUP: In my opinion, it is too far to  
5 make.

6 MR. COOLEY: -- whatever everybody's wishes are.

7 MR. BENTRUP: We wouldn't do too much justice  
8 to the whole thing in one day.

9 MR. IDLER: I don't think Kent or I either one  
10 have been through Pueblo Dam itself.

11 MR. COOLEY: We ought to do that.

12 MR. IDLER: And I would appreciate the time to  
13 go through there.

14 We're also farmers at home and this time of the  
15 year is very important to be at home.

16 MR. COOLEY: All right, fine. I detect a  
17 consensus that let's do the Pueblo Reservoir and let's do it  
18 reasonably well. I don't think we need to see every marina,  
19 but especially the gaging, the operating, the reservoir features,  
20 we will want to see well.

21 Now, from now on --

22 MR. MILLER: Two hours, I figure, through the dam.  
23 By the time you get through all the galleries, answer questions,  
24 it will take two to two and a half hours to complete the tour,  
25 at a minimum.

1 MR. BENTRUP: Measure the water into the Pueblo  
2 Reservoir -- some definite interest to the Compact would be the  
3 measuring device into the Pueblo Reservoir and that is --

4 How far is that up, Bob?

5 MR. JESSE: Oh, Portland, that's 15 miles,  
6 probably. Take a good hour by the time you left Pueblo to get  
7 to there and back, I would think.

8 MR. GIBSON: Go up there first?

9 MR. JESSE: Yeah, that might be the way to do it.

10 MR. COOLEY: All right. Now, fine, I think we  
11 are more clearly reaching a consensus.

12 What about the time of departure? Is nine o'clock  
13 too late?

14 MR. GIBSON: Too late.

15 MR. COOLEY: Too late. All right. I think I  
16 agree with that.

17 8:00, is 8:00 satisfactory? Eight o'clock  
18 departure time, Kent?

19 MR. REYHER: That or 7:30, 7:30, 8:00.

20 MR. STOECKLY: We are all early risers.

21 MR. COOLEY: Almost everyone here is an early  
22 riser.

23 Let's aim for 8:00 sharp, let's aim for 8:00  
24 sharp, from the lobby. Well, the fact that we mean business,  
25 we mean to roll at eight o'clock. Everyone will breakfast and

1 we will be through prior to 12:00. How much prior to 12:00 --

2                   Okay, as far as I am concerned, that's taken  
3 care of the trip except that we are going to, since Mr. Gibson's  
4 assistant isn't here, we can safely play musical chairs with  
5 the cars. It won't be a business of having your automobile  
6 keys locked in a car that is 400 miles away at the end of the  
7 day.

8                   Okay. Now back to --

9                   MR. MILLER: One question.

10                  MR. COOLEY: Yes.

11                  MR. MILLER: Where's your rendezvous point to  
12 start?

13                  MR. COOLEY: The front door, right outside the  
14 lobby.

15                  MR. MILLER: Here?

16                  MR. COOLEY: Yes, sir. You can make it?

17                  MR. MILLER: Yeah, fine. I've just got to know  
18 where to be.

19                  MR. COOLEY: Fine, fine.

20                  Wayne Schroeder has been in Pueblo on the  
21 Bessemer case, eight days of it, I guess, and, Wayne, I would  
22 very much like to hear from you on the Trinidad decision. I'd  
23 also like to hear from you on the Model Reservoir decision,  
24 whatever the proper name of that might be, and I feel its  
25 implications are important. They may loom large in the Supreme

1 Court's treatment of the Trinidad case. And then if you'd  
2 care to say anything about the eight days on the Bessemer, we'd  
3 sure like to have you do that and anything else you might have  
4 to say.

5 MR. SCHROEDER: Well, Mr. Chairman, I will  
6 comment just very briefly on those three items, then I will  
7 leave and head back for my own office.

8 The reason I am here essentially is because we  
9 just did finish that trial and it happened to be very convenient  
10 to come up here and listen to the Commission and also to keep  
11 an eye on Mr. Howland to see what he was doing. It sometimes  
12 becomes necessary for the Fort Lyon Canal Company to check up  
13 a little bit on representatives of the Amity.

14 MR. HOWLAND: I object.

15 MR. SCHROEDER: But apart from that, the  
16 Bessemer litigation, I can't call it concluded but at least  
17 the trial and the reception of evidence has now been concluded.  
18 It started last week, Wednesday morning, at nine o'clock. It  
19 wound up, I guess, a couple of hours ago now. It involved an  
20 application by the Bessemer Ditch Company to store a portion  
21 of a 322 second-foot junior right in the Pueblo Reservoir and  
22 to pass down a portion of that right to satisfy downstream  
23 appropriators. In short, to make sure the downstream appropria-  
24 tors were not injured, they proposed to either store for the  
25 benefit of those downstream appropriators or to bypass it

1 immediately, the water, down to those downstream junior  
2 appropriators.

3 To sum up the judge's comments after the conclusion  
4 of the trial, the judge has said, and these are his words and  
5 I don't want to go beyond his words because somebody might  
6 think I am speaking for the judge and I certainly do not, he  
7 said he will probably find injury. He said those words following  
8 a Motion to Dismiss which I argued to him after the first five  
9 days of the trial and that was just two days ago.

10 Yesterday the objectors put on their case and,  
11 in addition to the objectors' case, a certain portion of  
12 rebuttal was put on yesterday.

13 This morning the last rebuttal witness was called  
14 and his testimony and his cross-examination was finished.

15 Following that, the judge again said that he  
16 would probably find injury. He has directed counsel for the  
17 applicant first to present proposed findings, conclusions, and  
18 judgment, and decree, to him within 30 days. Following that,  
19 all counsel for objectors are given another 30 days to present  
20 proposed findings, conclusions, and so forth, to him. Following  
21 that, there will be a decision made, findings and conclusions  
22 will be entered and a decree will be entered. The decree will  
23 provide that the applicant will have the opportunity to suggest  
24 terms and conditions to, let's say, correct or remedy whatever  
25 injury the water court eventually finds.



1                   So what I am suggesting to you is that the  
2 water court has, in its own words, determined that it will  
3 probably find injury. That determination was made following  
4 the conclusion of the case. Judge Statler said it again this  
5 morning, and we are all proceeding on the basis that he will  
6 find injury -- probably find injury, I should say -- from the  
7 storage of the water in the Pueblo Reservoir under the plan  
8 which was submitted to the water court and under the plan which  
9 actually was tried in court over the last seven days or so.

10                   Nothing is final, of course, until the water  
11 court enters its ruling and nothing is final until the applicant  
12 has had the opportunity to provide or to propose terms and  
13 conditions to offset the injury to downstream appropriators.  
14 Once that is determined, if it is determined adversely to the  
15 applicant, the case will almost certainly proceed to the Supreme  
16 Court of Colorado for final resolution.

17                   MR. COOLEY: Who were the principal litigants  
18 in the Bessemer case?

19                   MR. SCHROEDER: Well, on the one side, the  
20 principal litigant obviously was the Bessemer Ditch Company,  
21 which was the applicant.

22                   On the other side, the principal litigants were  
23 clients -- the one client which I represent in that case, the  
24 Fort Lyon Canal Company. Mr. Howland testified, as a matter  
25 of fact, on behalf of the Amity Irrigating Company.

1 The Holbrook Company was involved in it.

2 The Highland was involved in it and I think got  
3 out.

4 The Colorado Canal Company was involved in it.

5 In general, most of the major divergers downstream  
6 were lined up as objectors clear on down to Lamar. The Lamar  
7 Canal was one of the objectors also involved in it. So most of  
8 the irrigators downstream appeared in the case as objectors.

9 The only other point I'd add in connection with  
10 that is that some time ago -- oh, a year, year and a half ago,  
11 January 1977 -- the water court approved a stipulation among  
12 all parties at that time that the Bessemer could store on a  
13 temporary basis, without the benefit of a court decree, some  
14 water and would bypass some other portion of the water.

15 This morning, following the conclusion of  
16 evidence, the various parties moved to vacate that stipulation  
17 or the court granted that motion this morning and the water court  
18 directed me to prepare a ruling for his signature; in short,  
19 to put in written form what he told all of us from the bench  
20 this morning and to submit that to him within one week. It will  
21 be backdated to today's date.

22 So as of today, the so-called temporary storage  
23 arrangement which had been agreed to by all of the ditch  
24 companies has been vacated.

25 Moving to what you might call the Model Reservoir

1 case, that case has been argued in the Supreme Court. The  
2 Supreme Court has issued its decision. The Supreme Court issued  
3 what I would consider to be a very narrow decision and said,  
4 yes, the 1965 decree became final in 1965; it was not inter-  
5 locutory such as the Muddy Creek Reservoir appears to be on its  
6 face. The Supreme Court said that the Model Decree was not  
7 interlocutory. The question of abandonment was argued to the  
8 Supreme Court in that case but the Supreme Court knew when the  
9 case was argued that the question of abandonment had already  
10 been considered and resolved by Judge Statler in the Trinidad  
11 case. For whatever reasons the Supreme Court had, the Supreme  
12 Court did not mention at all abandonment, didn't use the word,  
13 it didn't get close to the word, it didn't use any variation  
14 of the word. I think the Supreme Court probably left open  
15 for argument in the Trinidad Reservoir case the question  
16 whether 13,800 acre-feet of storage space in the Trinidad  
17 Reservoir has been abandoned.

18 Mr. Chairman, I think you're absolutely right,  
19 the Purgatoire or the Model Reservoir case will have an impact  
20 on the second case. Only the Supreme Court knows how much  
21 impact it will have.

22 That case has now been briefed. Last week I  
23 received the last brief in my office from the appellants.

24 MR. COOLEY: Let me interrupt.

25 MR. SCHROEDER: Yes.

1 MR. COOLEY: If I am not mistaken, the Trinidad --  
2 and correct me if I am mistaken -- the Trinidad decree had not  
3 been decided and discussed at the December meeting, or am I  
4 just wrong on that?

5 MR. SCHROEDER: At your December meeting, the  
6 decision had not yet been issued. It came out sometime after  
7 your December meeting.

8 MR. COOLEY: That's what I thought, and that  
9 being so, I think it would be very beneficial if you'd spend --  
10 if you would be kind enough to spend between three and five  
11 minutes discussing the Trinidad decision in the district court  
12 before you appeal it, before you get into the appellate procedure.

13 MR. SCHROEDER: I think we've got some cases  
14 mixed up just a little bit.

15 The Model Reservoir case --

16 MR. COOLEY: If someone has cases mixed up, it  
17 is I.

18 MR. SCHROEDER: The Model Reservoir case -- Maybe  
19 just to interject --

20 MR. COOLEY: Of the Supreme Court.

21 MR. SCHROEDER: Okay, the Model Reservoir case  
22 involved a challenge, let's say, to the finality of the transfer  
23 from the Model Reservoir to the Trinidad Reservoir.

24 MR. COOLEY: All right.

25 MR. SCHROEDER: All right. The Las Animas County

1 District Court rejected the efforts of two downstream  
2 Purgatoire ditches to get involved, really, in the transfer  
3 case which the Supreme Court said actually did become final in  
4 1965. That case then proceeded to the Supreme Court strictly  
5 on a question of law whether Highland and Nine Mile were  
6 entitled to be parties to the Model transfer case.

7 The Supreme Court said, "Too late," essentially;  
8 they said the decree became final in 1965.

9 So then the right, such right as may be there,  
10 was transferred to the Trinidad Reservoir.

11 The litigation involving the Trinidad Reservoir  
12 began a year and about three months ago, roughly. That case  
13 involved an action brought by the Purgatoire Conservancy  
14 District and all of the member ditches in that district against  
15 the Highland Irrigation Company and against the Nine Mile Canal  
16 Company. The Amity Mutual Company intervened as a defendant,  
17 the Fort Lyon Canal Company intervened as a defendant. The  
18 case was tried to the court much as any other civil action was  
19 tried or is tried. The decision of Judge Statler in that case  
20 was essentially that the state water officials should be  
21 enjoined from doing what they were at that time doing and,  
22 furthermore, that a portion of the Model storage right had  
23 been abandoned prior to the transfer to the Trinidad Reservoir.

24 In short, Judge Statler has ruled and decreed  
25 that 13,800 acre-feet of storage right was abandoned prior to

1 the time that the transfer decree was entered transferring  
2 20,000 acre-feet to the Trinidad Reservoir. That much of it  
3 was reported to you at the December meeting.

4           Going from that point forward, the only thing  
5 really that's happened since then has been the decision, in  
6 chronological order now, the decision of the Supreme Court in  
7 the Model case saying in fact the Model transfer was final.  
8 Briefing has taken place.

9           The last briefs in the Trinidad case have been  
10 written, with possilby the exception of the United States which  
11 appeared as amicus curiae. At least the United States did file  
12 a brief as a, what we call, a friend of the court. They have  
13 an opportunity to reply to the answer brief which I filed on  
14 behalf of several companies. The last time I was in my office,  
15 which was last week, they had not yet replied, but if they  
16 have replied, that will be the last brief in. The case will  
17 be set for argument to the Colorado Supreme Court perhaps three,  
18 four, maybe even five months from now, and following that, the  
19 Supreme Court will issue its decision. Its decision will  
20 directly affect the 13,800 acre-feet of storage space, there's  
21 no question about that, it will have to rule on that question.

22           I suspect that the Supreme Court, knowing that  
23 the abandonment question was on its way up, decided deliberately  
24 to delay any decision on the abandonment question until it had  
25 the facts before it.

1                   So that's as much as I can tell you unless you  
2 have some questions.

3                   MR. COOLEY: I'm sure I speak for most of us  
4 when I say your summation was customarily brilliant.

5                   Are there any questions? I find myself  
6 strangely satisfied by that overview of some very complex issues.

7                   There surely are some questions here.

8                   MR. BENTRUP: The 13,000 acre-feet, now, originally  
9 that was transferred to Trinidad before the project was approved?

10                  MR. SCHROEDER: Yes, sir.

11                  MR. BENTRUP: Now, in my mind, did, then, the  
12 Trinidad people start using Model Reservoir again? Is that  
13 what brought this 13,000 feet? I thought they had 20,000 space  
14 in the Trinidad Reservoir.

15                  MR. SCHROEDER: Well, at least on paper, as I  
16 say, at least on paper the 20,000 acre-foot right transferred  
17 from the Model Reservoir to the Trinidad Reservoir. But as a  
18 result of Judge Statler's decision, that paper decree might  
19 actually be reduced, and according to his decision is reduced,  
20 to 6,200 acre-feet. So the excess of 13,800 acre-feet might  
21 strictly be what somebody referred to a little while ago as a  
22 paper right. It may not be there, it may not exist. The  
23 Supreme Court will decide that question in the next case to be  
24 argued to it.

25                  MR. COOLEY: Any other questions?

1 Thank you very sincerely on behalf of --

2 MR. SCHROEDER: Thank you very much for listening.  
3 I'm going to Boulder. Good-bye.

4 MR. COOLEY: -- from all of us.

5 The treatment of the river by the Corps of  
6 Engineers is important to the Compact and really to each of  
7 the interests represented here, and in the past, there's  
8 been wide belief that the selection of 5,000 feet at Avondale  
9 was just arbitrary and procrustean, if you will. Procrustes  
10 is the guy who had the iron bed. If the feet were too long,  
11 he trimmed you down, and if you were too short, he stretched  
12 you to fit the bed.

13 In any event, I recall that there was unanimous  
14 consent that we ask the Corps of Engineers to look at this and  
15 I don't want to go to the minutes to find out at what time this  
16 was done but I'm sure your recollection will be similar to  
17 mine and I am open to suggestion as to what, if anything, we  
18 should do.

19 I, with my customary hyperbole, exaggerated the  
20 number of years it was going to take the Corps of Engineers to  
21 look at this subject, but I can assure you that it is not high  
22 on their priority list, although they have no objection to  
23 looking at it.

24 MR. GIBSON: Check the Albuquerque office.

25 MR. COOLEY: Yes, sir.



1                   This 202 business has got their personnel  
2 stretched thinner than they have been stretched before.

3                   MR. GIBSON: I think we ought to follow it up --  
4 consider following it up with a letter to the Corps of Engineers'  
5 general -- I can't recall his name right now -- in Washington  
6 with a letter stating our problem, what the response is, and  
7 ask for some assistance from his office. I believe he is the  
8 man that used to be in, what, Tulsa or Albuquerque, which one?  
9 So he is somewhat, I think, familiar with this area.

10                  MR. COOLEY: No one is here from the Corps today,  
11 are they?

12                  We have been treated, of course, with courtesy  
13 and frankness by the Corps of Engineers, but that isn't the same  
14 thing as getting the job done.

15                  MR. GIBSON: Well, I am not saying Albuquerque --  
16 I don't mean to imply they are not doing a good job, but if  
17 they are loaded down, maybe by our prodding Washington a little  
18 bit they might be able to come up with some help in the situation  
19 or something.

20                  MR. COOLEY: I am willing to do that if there  
21 is consensus. I am not sure I want to put Duane on the spot,  
22 but how do you other Colorado people feel about it?

23                  MR. IDLER: Well, I'll concur with that thinking.

24                  MR. REYHER: It seems fine with me.

25                  MR. COOLEY: Well, I don't think it calls for a

1 vote or action, but it seems to me there is a consensus.

2 Yes, Leo.

3 MR. POLLART: Mr. Cooley, I am Leo Pollart,  
4 President of the Amity Mutual, and I believe it was sometime  
5 in March when the Bureau and the Corps of Engineers asked for  
6 a general meeting and presented the plans of operation, one  
7 thing and another, and asked for comments at that meeting here  
8 in Pueblo.

9 I have here copies of presentations given by  
10 myself and Mr. Howland on behalf of the Buffalo and the Amity  
11 that I would gladly give to the Commission if they care to look  
12 at them as to what our recommendations that day we felt that  
13 affected the river and, in essence, affects the Compact, and  
14 I would be glad to leave these with you for study and comments  
15 and would encourage the Compact Commission to, well, keep in  
16 contact and persist at both the Corps and the Bureau to get the  
17 channels large enough to at least take care of downstream  
18 priorities, the capacity at Avondale, that would satisfy all  
19 priorities downstream, at least within the State of Colorado.

20 MR. COOLEY: If any reaches Kansas, that's all  
21 right.

22 MR. POLLART: Well, it's got to reach Colorado  
23 before it gets to Kansas, I'll put it that way.

24 MR. COOLEY: Fine.

25 MR. POLLART: And I'm quite sure that the

1 statements in the Compact clarify and specify that no upstream  
2 installation will interfere with or affect the operation and  
3 use of John Martin Reservoir.

4 So on that basis, I would urge this Commission  
5 to keep pushing both the Bureau and the Corps to bring this job  
6 about. So if you --

7 MR. COOLEY: We, of course, will receive your  
8 paper, but I take it that in the paper there was some specific  
9 reference to the problem of the 5,000-foot measure at Avondale.

10 MR. POLLART: Yes, yes.

11 Rather than to read this for you, I'd just as  
12 soon give it to you and it's recorded and it was turned to them.  
13 This is a copy of what the presentation was, and if you see fit  
14 to use any figures that's in here, we're sure that they're  
15 right.

16 MR. COOLEY: Do you have more than one copy?

17 MR. POLLART: I have, yes, two copies.

18 MR. COOLEY: Well, if you will give one to Lane and  
19 one to myself, Lane will distribute copies to each of the  
20 members of the Compact Administration and I will directly go  
21 over yours and see if anything from here can be brought up with  
22 the Corps. I will pursue the thing further and I don't think  
23 we need any more discussion of it.

24 Kent, do you have --

25 MR. REYHER: Other than maybe I think we do need

1 something for the record that -- Well, I move that we instruct  
2 the Chairman to write a letter for Compact and of concern toward --  
3 the Washington office of the Corps of Engineers -- toward the  
4 study.

5 MR. COOLEY: On the Avondale 5,000-foot measure?

6 MR. REYHER: Well, their study which they were  
7 going to do, that's included in there. That wasn't the main  
8 request, was it?

9 MR. HELTON: I think we are openly getting down  
10 to the project, aren't we?

11 MR. COOLEY: We naturally drift from one right  
12 into the other, they follow sequentially is what you are saying.

13 MR. HELTON: Yes.

14 MR. COOLEY: I suppose that's right.

15 Yes, sir.

16 MR. BENTRUP: While we are on the river, I have  
17 a question I'd like to ask Bob Jesse.

18 I still don't have it clear in my mind how much  
19 before the reservoir was built, how large -- at Avondale, how  
20 large did the flow have to be before any reached John Martin  
21 Reservoir?

22 MR. JESSE: Well, it, of course, depends on the  
23 conditions in between and the water rights, how they break down,  
24 and without having a specific example, it is pretty tough to  
25 say what it would take. There was instances where there was

1 water in John Martin and the Avondale was down to minimum flow.  
2 We had that happen last year. We had the City of Pueblo  
3 curtailed in their diversion while we had water -- John Martin  
4 closed. So we could go from that extreme to any other extreme.  
5 It is difficult to say exactly what a number would be.

6 MR. BENTRUP: Well, say there's a flood in the  
7 Arkansas River above Pueblo Reservoir. Then, how would you  
8 determine whether any of that would be available to John Martin,  
9 on what -- well, you have a lot of different things to figure.  
10 What facts would you take into consideration?

11 MR. JESSE: You would have to consider the  
12 conditions in between, who was in priority, whether or not they  
13 were closed, the relative capacity of the ditches, and make  
14 some consideration for the continuation of the peak, and it  
15 would be quite a study to make, but --

16 MR. GIBSON: Well, really, if you had no rain  
17 below the reservoir and you have rain above it, it ought to  
18 operate -- it should be just the same as if the reservoir  
19 hadn't been there.

20 I'd restate the question this way, Bob: It is  
21 not the intent that that reservoir be operated if there's a  
22 flood upstream, if there's no rainfall, say, below the reservoir,  
23 that that water should be passed downstream in the same manner  
24 as if that structure had not been built except to control any  
25 flooding, excess flooding; is that not correct, sir?

1 MR. JESSE: That's correct, yes, sir.

2 MR. GIBSON: Now, I seem to be today a little  
3 bit confused in this 5,000 cfs. Now, the Corps has designated  
4 that as a channel capacity and that should not be exceeded,  
5 released out of Pueblo; is that correct, sir?

6 MR. JESSE: As I understand, the Corps' proposal  
7 is the 5,000 second-foot is the trigger number at Avondale that  
8 would cause curtailment in Pueblo Reservoir to prevent -- I  
9 don't know what it would prevent but that's -- they then assume  
10 control of the gates of the Pueblo Reservoir.

11 MR. GIBSON: Now we are getting down to the  
12 meat of it. Once it hits 5,000 there, the Corps takes over  
13 control of it; is that right?

14 MR. JESSE: That's what I understand.

15 MR. GIBSON: That's been my understanding, that  
16 that's the magic number; that they say, in other words, flooding  
17 would occur and, therefore, they being responsible for flood  
18 detention take control of the reservoir.

19 MR. JESSE: That's the way I understand it.  
20 Either Harlan or John could probably clarify that.

21 Is that how you understand it, Harlan? When it  
22 gets to 5,000 at Avondale, what are you going to do then?

23 MR. MILLER: Well, I understand that the Corps  
24 takes over operation then once we get water into the flood pool,  
25 but I'm not sure --

1 MR. GIBSON: That's where we take the chance.  
2 I'm not sure that's the way it is done in Colorado.

3 MR. MILLER: Under the flood control.

4 MR. GIBSON: That the Corps takes charge whenever  
5 it goes into the flood pool, the Corps has it.

6 MR. MILLER: That's the way I understand it.

7 MR. COOLEY: Okay, fellows, this is fine, but  
8 one at a time for the reporter. You can have all the colloquy  
9 you want, but one at a time.

10 MR. GIBSON: Well, I think what I'm trying to  
11 get at is, I hear the Bureau of Reclamation mentioned and I  
12 have been clarified now that really the Corps is the people we  
13 need to deal with insofar as the 5,000 figure at Avondale,  
14 that's the one. We need to get them to revise if it's not  
15 flooding at that stage or work improvements or whatever is  
16 needed.

17 MR. JESSE: The Corps is the one that established  
18 the 5,000, not the state, and they're the ones that would have  
19 the --

20 MR. GIBSON: They are the ones we are dealing  
21 with.

22 MR. BENTRUP: I have one more question, Bob.

23 Now, suppose a flood does occur and we have so  
24 much flood water in the Pueblo Reservoir. Now, if part of that  
25 could have gotten to John Martin, then that water would be

1 retained until it is determined how much would get there before  
2 any of the flood is released?

3 MR. JESSE: It would have to remain there  
4 pending the determination. We'd have to know whose it was, but  
5 that decision would have to be made fairly soon to make sure  
6 that in the event it was determined that the water belonged to  
7 John Martin, that it would have to be released at such a time  
8 that John Martin would receive it or it wouldn't have much  
9 value, like we did in the Model case. But it would be determined,  
10 I presume, if the Corps ordered it stored, the Corps would then  
11 be responsible for deciding whose water it was.

12 MR. COOLEY: No, no, not -- Now, that last  
13 statement of yours, Bob, seems to me to be inconsistent with my  
14 recollection of your previous discussions going back over the  
15 last couple of years. You don't mean to say that if the gates  
16 are shut by the Corps of Engineers, that when that stored flood  
17 is released, it is the Corps that determines who owns the water,  
18 do you?

19 MR. JESSE: I will accept the responsibility for  
20 any actions that I take, but I don't know if they can assign  
21 me the responsibility for someone else's actions. We --

22 MR. COOLEY: Well, hasn't the State of Colorado  
23 assigned you that obligation by statute and by the nature of  
24 your office?

25 MR. JESSE: We would certainly pursue any action



1 with the Corps, but if somebody comes out and slams the gates  
2 shut on Pueblo Reservoir, they are certainly going to share in  
3 whatever the consequences of that act are.

4 MR. COOLEY: I don't think you are going to like  
5 your remarks in the cold light of day tomorrow. I am a great  
6 one myself for trying to spread the blame. It is one of my  
7 techniques for surviving in the world, but it just does strike  
8 me that when the -- and I am not here to pass on legal or  
9 operational principles, that's not my job, but this one just  
10 has me fascinated, personally.

11 -- that when the Corps of Engineers captures  
12 the top of a flood, it is really, in my view, not the job of  
13 the Corps of Engineers when the gates are released and the  
14 flood is poured back into the Arkansas a little bit at a time  
15 whose ditch and headgate that former flood goes into but your  
16 job.

17 MR. JESSE: I don't know if I said that we were  
18 not going to assume that responsibility. If they cause any --  
19 Maybe I can rephrase that so I can ease everybody's mind.

20 I, of course, can't be responsible for anybody  
21 else's actions over which I have no control.

22 MR. COOLEY: We'd like to hold you to that some  
23 days but we understand that basic principle.

24 MR. JESSE: But in the event the Corps takes  
25 some action that injures someone, anyone, they will have to

1 assume whatever responsibility for their actions. If they injure  
2 some other ditch company, the ditch company will certainly have  
3 recourse against the Corps.

4 MR. COOLEY: Well, this may be a proper statement  
5 of policy and I don't want to argue theology with you, but when  
6 it comes time to releasing of stored flood waters when the storm  
7 is passed and when Pueblo is full to the brim and it comes time  
8 to cast that water down to the parched ranches and farms of  
9 the Arkansas Valley, it customarily has been your office to  
10 whom everyone would look to determine which gates will be  
11 open and for how long.

12 MR. JESSE: We are talking about two complete  
13 different things. We were talking about the storage of the  
14 water, now we are talking about the release of the water.

15 When the water is back in the river, we then  
16 would determine to who it would go.

17 MR. COOLEY: Okay.

18 MR. JESSE: But when it is stored, if someone  
19 unilaterally stores water --

20 MR. COOLEY: I'm back on the ground now.

21 MR. GIBSON: I'm not.

22 MR. COOLEY: Okay, fine, keep up.

23 MR. GIBSON: What do you mean "fine"?

24 MR. BENTRUP: We are interested in any water  
25 that might have gotten to John Martin had Pueblo not existed

1 and that's really all we are interested in. We would want that  
2 water. How are you going to determine it?

3 Now, we are in the same position as District 67  
4 is on that problem, the people who are entitled to water out  
5 of John Martin. As District 67, do you understand how it will  
6 be turned down to you if there's a flood by the dam?

7 MR. GIBSON: Let me simplify it in my own mind.  
8 If there's a flood on and there's storage in the flood pool,  
9 the Corps operates the structure. They will release that as fast  
10 as they can, it would seem to me from a practical standpoint,  
11 not creating any flood downstream to vacate it in case another  
12 flood comes along.

13 MR. HELTON: That's water stored in the reservoir  
14 flood control space.

15 MR. GIBSON: That's right.

16 MR. HELTON: This is water stored --

17 MR. GIBSON: No, let's just talk about the flood  
18 control space. They will release that as fast as they can and  
19 vacate it down to the state's conservation pool?

20 MR. JESSE: Right, which will be under the  
21 Colorado law.

22 MR. GIBSON: Then, that will come under Colorado  
23 law, the conservation pool?

24 MR. JESSE: The water in the river will be  
25 treated also under Colorado law, including the Compact. But

1 water stored in the conservation pool, there is a possibility  
2 that could be stored in priority.

3 MR. GIBSON: I understand that, but let's just  
4 get me straight on the flood pool. That the Corps' going to  
5 turn that loose and coming downstream at an amount that would  
6 not cause any flooding --

7 MR. JESSE: Right.

8 MR. GIBSON: -- until it gets down back to the  
9 conservation pool.

10 Then we come into a rather complicated process,  
11 depending upon what the condition of that structure was prior  
12 to the storm.

13 MR. JESSE: Right.

14 MR. GIBSON: Okay.

2 15 MR. JESSE: Yes, sir, that's basically correct.  
16 They would release at the rate of 5,000 feet at Avondale.

17 MR. GIBSON: Until it's down to the conservation  
18 pool?

19 MR. JESSE: Yes.

20 MR. GIBSON: All right, thank you.

21 MR. BENTRUP: I think we have to wait for a  
22 flood to have the question answered.

23 MR. COOLEY: Well, and the flood routing study  
24 about which we will not hear today but which I understand is  
25 underway.

1 The next matter --

2 MR. HOWLAND: Mr. Cooley.

3 MR. COOLEY: No, wait a minute.

4 Bill, go ahead.

5 MR. HOWLAND: I wasn't going to say anything  
6 more, but I cannot resist because I think the explanation is  
7 here as to why the Administration needs to take action and,  
8 fortunately, I don't have to be as diplomatic as Mr. Jesse at  
9 the moment.

10 The fact is that there are over 6,000 second-  
11 feet of rights in Colorado below Pueblo Reservoir, and the  
12 channel capacity, if retained at 5,000 second-feet, will not  
13 even satisfy the rights in Colorado; therefore, John Martin is  
14 being deprived of flood water.

15 MR. COOLEY: Bill, I think implicit in all of  
16 this is that water that's released from the flood pool has a  
17 special earmark or quality to it and the earmark or quality  
18 that water has, it appears to me, and I don't think it can be  
19 successfully disputed, is water which would be flood and,  
20 therefore, it would pass down the river and be distributed as  
21 if it had not been captured in Pueblo -- and Bob is still  
22 nodding his head as I reach this part of my sentence -- and,  
23 therefore, the 6,000 feet of decree in the river, notwithstanding  
24 the flood portion of that former flood water, would reach John  
25 Martin.

1 MR. HOWLAND: You didn't let me finish, Mr. Cooley.

2 May I finish?

3 MR. COOLEY: I'll give it thorough consideration.

4 Go ahead.

5 MR. HOWLAND: Thank you.

6 Bob Jesse is operating under a mandate from the  
7 Corps of Engineers because they have established a safe channel  
8 capacity of 5,000 cfs on the river channel at Avondale. Now,  
9 that was their establishment because their actual measurements  
10 show that the actual channel capacity is 6600 second-feet at  
11 Avondale.

12 It also shows that the capacity of the channel  
13 increases downstream to John Martin. So they are taking 1600  
14 second-feet off the river at Avondale when the capacity is  
15 already there, they do not have to channelize it or anything.

16 In addition to that, two major tributaries to  
17 the Arkansas come in above the Avondale gage but below Pueblo  
18 Reservoir. Therefore, if Fountain Creek or the St. Charles  
19 River were running in such a fashion as to create 5,000 second-  
20 feet at Avondale gage, Pueblo dam would be shut off completely  
21 and that would be a loss, I feel, to John Martin.

22 I didn't intend to interfere, but I've seen the  
23 master flood control plan and that's what it is. In effect, I  
24 believe -- Maybe I see it the wrong way, but the Corps of  
25 Engineers has, without any thorough hearings or any other thing,

1 taken upon themselves to establish a channel capacity at  
2 Avondale gage which is 1600 second-feet less than the actual  
3 capacity according to their own measurements and I really believe  
4 that this is wrong and I believe that the Compact Administration  
5 is duty-bound to take some action on that matter.

6 Thank you for your patience, sir.

7 MR. COOLEY: Fine. Well, the Compact has taken  
8 action and will take action on the subject. At the very least,  
9 that measurement creates an administrative burden. It appears  
10 to me to be the consensus of the Compact Administration, and it  
11 may be creating more mischief than just an administrative burden,  
12 but at the very least, it appears to create an administrative  
13 burden.

14 There is a motion without a second. I would  
15 say, with respect to the motion, and not trying to sound arrogant,  
16 I intend to write such a letter, whether supported by a motion  
17 or not, but I welcome any action the Compact would wish to take  
18 at this time.

19 MR. GIBSON: That's a letter to the Corps --

20 MR. COOLEY: Yes.

21 MR. GIBSON: -- generally?

22 I'd so move.

23 MR. COOLEY: We have already got that motion.

24 Do you want to second?

25 MR. GIBSON: I'll second it.

1 MR. COOLEY: The motion has been made and  
2 seconded.

3 Ready for a vote of the states?

4 Is Colorado ready to vote?

5 MR. IDLER: Colorado votes aye.

6 MR. COOLEY: Is Kansas ready to vote?

7 MR. BENTRUP: Aye.

8 MR. STOECKLY: Aye.

9 MR. COOLEY: Kansas votes aye.

10 So ordered.

11 Now, the next thing before us and one of the items  
12 properly on the agenda is the report from Mr. Grozier on the  
13 measurement of the flow in the Arkansas River.

14 Mr. Grozier could not be here today; however,  
15 Mr. Fidler is here and Mr. Fidler is very capable in this area  
16 and I would ask Dick to give that report at this time, and when  
17 you are through with that, anything else you might care to add.

18 MR. FIDLER: I think I'll go over here; is that  
19 all right?

20 MR. COOLEY: Fine.

21 MR. FIDLER: In your minutes from your December  
22 meeting, you should have found a request in there I think by  
23 Mr. Sparks, if I'm not mistaken, that we have a special meeting  
24 to discuss some of the needs of improved measuring devices or  
25 existing measuring devices relative to the area around John Martin



1 and below John Martin Reservoir, and I think the request came  
2 to Dick Grozier and, of course, I attended that meeting. There  
3 are several others in this group here today that attended that  
4 meeting and I'll appreciate any comments.

5 But what we did as a result of that meeting is  
6 put out a letter in an attempt to summarize what our discussions  
7 were.

8 The meeting was held on February 16th in Lamar  
9 and, principally, what we did there was talk about some of the  
10 problems we felt were with us relative to the Compact in the  
11 lower portion of the Arkansas River. So we have, I think,  
12 eleven items on this letter.

13 Now, I had a few copies. Some of you have  
14 received them in the mail, but I did give some to Mr. Cooley.  
15 I don't know whether there's enough to go around or not.

16 MR. COOLEY: I'm sure we have at least -- just a  
17 minute. We have four copies here for use by the audience and  
18 let's make sure they are distributed as equitably as you can.

19 MR. FIDLER: The main thing is, I am not going  
20 to read this as such, but I want to stress a couple of points.

21 MR. HACKETT: Mr. Fidler, may I offer a remark:  
22 that this was a study requested not just for the area of John  
23 Martin Reservoir, I think, if my recollection is correct, it  
24 was a request for the study of the Arkansas River improvement  
25 for measuring and communications. I could be wrong, but I think

1 that's it.

2 MR. FIDLER: I think our concentration, however,  
3 was generally the lower portion of the Arkansas.

4 MR. HACKETT: Yes, that is agreed.

5 MR. FIDLER: There are a couple of points I want  
6 to bring out, then I'm going to go through these items.

7 I think the last paragraph of this letter is  
8 what I wanted to stress. The intent of this meeting was not a  
9 proposal by the U. S. Geological Survey but merely to get down  
10 in writing some ideas among several people that the things that  
11 we feel are somewhat important on this relative to the Compact  
12 and I'd like to read this one paragraph because it says, "The  
13 above are items and estimated costs for improving the management  
14 of the water in the Arkansas River under the control of the  
15 Arkansas River Compact Administration. More specific costs  
16 can be supplied as projects are authorized. No priorities were  
17 established on doing any of the above work."

18 Now, what I think the purpose of the meeting was  
19 to get some of the items not in a priority but just get them  
20 down so we know they are there that we think might be useful  
21 in better administration of the waters, of particularly the  
22 lower Arkansas reaches.

23 One of those items was a discussion of the one  
24 we talked about this morning, Muddy Creek and Rule Creek. Now,  
25 there weren't any conclusions reached but it was an item that we

1 talked about and I think in our paragraph here that we mentioned  
2 that there might be a need for a gage at the lower end of Rule  
3 Creek. Now, I know there was some discussion on that. We did  
4 not, however, recommend that; we just merely indicated that was  
5 a topic.

6 I think that, Bob, don't you have a staff gage  
7 there some place in that lower reach?

8 MR. JESSE: Yes, there is a staff gage.

9 MR. FIDLER: So there is some concern about the  
10 lower portion of Rule Creek where it enters near to John Martin  
11 Reservoir.

12 One of the items that is of particular interest  
13 to my office is the gage that we operate under the Compact now  
14 at Las Animas. It is one of the radio-operated stations and  
15 I brought this up on some other occasions that we don't feel  
16 we're getting as good a records at that station as should be  
17 collected on the Arkansas River above John Martin and there are  
18 several reasons for that. One of them is that the channel there  
19 is extremely wide and it changes rather easily and, secondly,  
20 around the City of Las Animas there's a series of levies being  
21 constructed and this is going to divert water from that channel  
22 around the gage that we are not going to be measuring.

23 So this is one item, three, in this letter that  
24 mentions the fact that this is a problem that we think should be  
25 brought to your attention.

1 I know there are some possibilities and two of  
2 those are mentioned in here, is one upstream or one downstream,  
3 as some possibility of relocating them, but it would require  
4 your approval of change on that station.

5 MR. COOLEY: Question: I should know but I  
6 don't. Is the approval so fundamental that it would have to  
7 go to the essence of the Compact itself or would it just be the  
8 approval of the Compact Administration? Does it go to the heart  
9 of the Compact?

10 MR. FIDLER: I don't know the answer to that.

11 MR. COOLEY: I don't, either, but I should. Go  
12 ahead.

13 MR. FIDLER: I know we had talked about this and  
14 I don't think we are locked into the Las Animas site specifically  
15 that it is in now. It could be appropriately located, I think  
16 is the term -- Is that true, Lane?

17 MR. HACKETT: Pardon?

18 MR. FIDLER: -- appropriately located above  
19 John Martin Reservoir?

20 MR. HACKETT: Yeah, that's the terms of the Compact.

21 I'd like to also recommend to the Board along  
22 this line a thought: That with Mr. Fidler's hydros looking the  
23 river over below Las Animas, that it seemed possible or there  
24 might be a possibility -- correct me if I am wrong -- there  
25 would be a possibility of moving a station down around Fort Lyon

1 and catching Purgatoire and the Arkansas River at one measure-  
2 ment. However, I still think we need our station on the  
3 Purgatoire. But barring a full reservoir -- It might have  
4 some problems with a completely full reservoir, but that's  
5 been no problem in my time.

6 Tail water might back up into a station at a  
7 lower site on the Arkansas.

8 MR. FIDLER: Well, these are things we considered.  
9 I don't --

10 MR. HACKETT: They can be worked out. Apparently --  
11 My report was that there was a possibility of a pretty fair  
12 station.

13 MR. FIDLER: Well, that's also mentioned in the  
14 letter, too. We added that to our --

15 MR. HACKETT: Yeah.

16 MR. GIBSON: We are still on item three now?

17 MR. FIDLER: That's what we are talking about,  
18 yes.

19 If there are questions, please, because all I'm  
20 going to do was summarize this. This is exactly what we intended  
21 to do, was give you a written summary of what our discussion had  
22 been down there.

23 MR. BENTRUP: Items 1 and 2 would be the expense  
24 of the Fish and Game Commission because when they approved the  
25 permanent pool, that was one of the stipulations, that they pay

1 for the necessary gages.

2 MR. GIBSON: I think he indicated they could  
3 probably get that number 3 -- item number 2 in, right, Lane?

4 MR. HACKETT: I don't know whether Wildlife  
5 has consented to that or not. I don't hardly think so; not to  
6 my knowledge, Mr. Gibson.

7 MR. FIDLER: As far as our -- This is merely --

8 MR. HELTON: Our guess is, that is probably not --  
9 I think that's probably right.

10 MR. COOLEY: Let the record show Mr. Todd is  
11 wide awake.

12 MR. TODD: We are very dependent on Duane's  
13 advice and, like he said earlier, he would advise we put the  
14 gage in. I don't see any problem with that. Everything that's  
15 been put in required by the decree is in.

16 MR. HELTON: It just makes sense to me to have  
17 a gage down there. But, on the other hand, if we put that  
18 gage in, we should not have to adhere to that 30 percent rule.

19 MR. TODD: I agree with that, too.

20 MR. HELTON: Charged with whatever losses actually  
21 occur, so --

22 MR. COOLEY: One of the things that occurs to me  
23 in this colloquy is this: That apparently well in excess of  
24 a million dollars has been spent on these water rights and if  
25 more than a million dollars has been spent on the water rights

1 and the determination of the channel losses is an arbitrary  
2 30 percent, the cost of the gage appears to me at least to be  
3 minuscule in proportion to the efforts on the part of the State  
4 of Colorado.

5 MR. TODD: I agree.

6 MR. COOLEY: Later on I propose that the Compact  
7 Administration, when Mr. Fidler is through, start tackling these  
8 one by one to determine --

9 MR. GIBSON: Okay, let's go ahead.

10 MR. COOLEY: -- to determine which ones we can  
11 put teeth into and which ones are just merely theological  
12 questions and I will bring this point up again.

13 Will you please continue, Dick.

14 MR. FIDLER: Okay, let me go ahead and essentially  
15 get through with this and then we can go back on any one you  
16 want to talk about.

17 Another topic we concentrated on was other flows  
18 into John Martin and one of those is Gageby Creek and, again,  
19 all we've mentioned here is that it does exist and it is a flow  
20 that we know about and it typically flows, in other words, it's  
21 not just one of the more intermittent tributaries. So there  
22 was Rule Creek and Gageby Creek were the two side channels  
23 that came into John Martin that we talked about that might need  
24 some kind of measuring device and so that was the reason for  
25 this being measured.

1                   Number 5 on here are things that have now been,  
2 for all practical purposes, completed. We have four new radios  
3 on the four principal Compact stations: The two in Kansas,  
4 the two above John Martin. And we have four new repeaters  
5 and I talked to Lane this morning; with one exception, every-  
6 thing's working very well.

7                   MR. HACKETT: Right.

8                   MR. FIDLER: But this is something we have  
9 strived to get in there for, what, two or three years now  
10 through these meetings and they are essentially in operation  
11 there.

12                   Another item that Bob Jesse brought up was  
13 problems that we get with flows at the Purgatoire River, at  
14 Las Animas, on duration.

15                   Now, last year we had unusually high flows on  
16 the Purgatoire by itself rather than just the Ark- -- or,  
17 rather, combined with the Arkansas, and one problem with  
18 administering the water is that we don't know how long that  
19 flow is going to be at that one gaging station or how long it  
20 is going to be there to administer it downstream, and a  
21 suggestion was that maybe through one or two telemeters that  
22 points upstream from that gage it would give us a better idea  
23 on the duration of the flow and maybe we wouldn't even need to  
24 have the discharge measurements, we could just get some feel  
25 for what the gage height or the amount of water is at that



1 upstream point.

2 Now, isn't that generally what you had in mind,  
3 Bob?

4 MR. JESSE: Yeah, that would work, yes.

5 MR. FIDLER: And there was one station at one  
6 location up there where a telephone wouldn't be a problem.

7 MR. JESSE: Highland Dam.

8 MR. FIDLER: I can see this is a problem when  
9 you're trying to administer it when you've got one point to make  
10 your decisions. So we've mentioned Highland and Nine Mile, I  
11 thought. Both of them?

12 MR. JESSE: Yes.

13 MR. FIDLER: Okay. The next two items in  
14 general are along the same line: That when we do have high-flow  
15 events, it is very difficult to know what the flows are at these  
16 stations, particularly if you are operating out of Pueblo, like  
17 Bob has to, we don't know what the flow is at some of our  
18 principal gaging stations, and I think we find that many of our  
19 stations that are now operated with telemetering equipment are  
20 the ones we go to. We can call those up on the telephone and  
21 get a pretty good idea of what the flow is at that time.

22 So one suggestion was that we eventually might  
23 add telemetering equipment to our principal stations on the  
24 Arkansas River between Pueblo and all those stations downstream.

25 Another one that was talked about considerably,

1 now that we have the new radios in, the local ditch representa-  
2 tives would not have access to those records without calling  
3 Lane Hackett personally and we had thought about possibly putting  
4 some kind of a tape device in Lane's residence and he might  
5 record the flows at some time or some times during the day,  
6 that people could call in and get those flows at all the radio  
7 stations without people -- since they don't really have access  
8 to the radios, and I think this seemed like a real good idea  
9 at the time and I don't think that would be a very costly item,  
10 either, compared to what we've already got invested here.

11 Another big problem that we have that's something  
12 we need to do something about one way or another is Purgatoire  
13 gage. We have trouble with the beavers and one thought would  
14 be to construct a concrete structure there at a very substantial  
15 cost. But I think we will still have problems with the beavers  
16 and probably our best thing we can do is develop some program  
17 for cleaning that channel out periodically, dredging it, if we  
18 can get the dams out of there. But we do get, particularly  
19 during the low-flow period, relatively poor measurements because  
20 we get a lot of ponding and this is most of the time,  
21 unfortunately. It is a low-flow measurement in that area.

22 Now, those are the big items that we have talked  
23 about and they're all written here; essentially, it's all written  
24 down here, and I suppose the two big things that I can think of  
25 right now are relative to our U.S.G.S. gages, one on Las Animas --

1 MR. COOLEY: What numbers?

2 MR. FIDLER: That's number 3. That needs  
3 immediate attention, I believe.

4 MR. COOLEY: Okay, and what's the other one?

5 MR. FIDLER: Well, it would be number 11.

6 MR. COOLEY: Okay. Again, that could be a  
7 maintenance problem program and it may not be that difficult.  
8 I don't know, we've tried everything. We've tried to trap the  
9 beavers and whatnot. But it does give us a lot of trouble.

10 MR. COOLEY: All right, are you ready to turn  
11 it over?

12 MR. FIDLER: Yes, I am.

13 MR. COOLEY: All right, from now on, free-for-all  
14 conditions will prevail and we will try to get through the 11  
15 requests and determine what concrete measures to take on the 11,  
16 if any.

17 The number 1 item, it seems to me, doesn't require  
18 any action at all.

19 MR. BENTRUP: That's the State of Colorado.

20 MR. COOLEY: All right, we are going to pass --  
21 That was an observation only.

22 Number 2 -- Does anyone object to doing it  
23 sequentially?

24 MR. BENTRUP: Go right ahead.

25 MR. COOLEY: Fine.

Number 2 is really the question of the third gage on Rule Creek and we have all but an invitation from the Division of Wildlife to request this. Now, to be quite frank, would a vote or a resolution of this organization be more useful to the State of Colorado than just the request that the Compact Administration wants it? Formal action from us would be useful in getting this constructed; is that right?

MR. TODD: Mainly from Purgatoire's standpoint, if it is mandatory, it would be helpful, yes.

MR. COOLEY: Okay, fine.

MR. TODD: I don't know what Duane would feel from the state water engineers'.

MR. COOLEY: Well, Duane Helton, go ahead.

MR. HELTON: Let's not make it mandatory so that if we do get some water down Muddy Creek with the existing setup we can go ahead and put that into the reservoir, but let's take a commitment from the Division of Wildlife to put that gage in as soon as possible and get it operating as soon as they can within their --

MR. COOLEY: How would a short resolution from the Compact Administration strongly requesting the construction of that gage? All right.

MR. GIBSON: At the expense of --

MR. COOLEY: Yes, that is understood.

MR. GIBSON: Okay, get it in there, then.

1 MR. COOLEY: Oh, come on, Guy.

2 MR. BENTRUP: I move that the Administration  
3 request the Fish and Game Commission to construct a gage at  
4 Rule Creek.

5 MR. COOLEY: All right, there has been a motion.  
6 Is there a second?

7 MR. GIBSON: Would you add Fish and Game?

8 MR. COOLEY: He said the Division of Wildlife.

9 MR. GIBSON: They are going to do it but I think  
10 at their expense.

11 MR. COOLEY: Yes.

12 MR. TODD: Could the motion at this point include  
13 Duane's recommendation of dropping the 30 percent or is that --

14 MR. COOLEY: I wouldn't like that in the  
15 resolution for this reason: I think that would follow and that  
16 would be something that the State --

17 MR. TODD: That part of the decree at this point?

18 MR. COOLEY: -- the State of Colorado would then  
19 go in and have the decree adjusted.

20 The motion has been made and seconded. Is there  
21 any discussion before I call on a vote of the states?

22 MR. IDLER: I'd like to ask a question.

23 MR. COOLEY: You bet.

24 MR. IDLER: Once this gage goes into effect,  
25 does the Fish and Wildlife immediately plan on storing water?

1 MR. COOLEY: No. If the gage were constructed  
2 and there were no --

3 MR. IDLER: And the water flows -- When a rain-  
4 storm occurs above Muddy Creek, will we immediately be faced  
5 with the problem of the permanent pool?

6 MR. COOLEY: Yes, but you will be faced with the  
7 problem without the construction of that gage as well as under  
8 the criteria that you just gave. If you have a flood event,  
9 you are going to be governed by the decree and that water would  
10 be stored in John Martin with or without the new gage, if I  
11 understand what's going on.

12 MR. IDLER: Well, I see a very big problem of  
13 storing a small amount of water on a permanent basis there, an  
14 extreme loss of a percentage of evaporation on a very shallow  
15 lake.

16 MR. COOLEY: I think everyone in the room agrees  
17 with you and that is going to make your life more interesting  
18 in the next ten years.

19 I know I am being a little glib here but --

20 MR. IDLER: I realize you are facetious with the  
21 livelihood of my boys, Mr. Cooley; that's what they live on.  
22 And I really think that a small permanent pool will do irreparable  
23 damage to the first few ditches out of the river below.

24 MR. COOLEY: Well, I am sure we recognize the  
25 strongly-held belief and I would also be sure that you understood

1 that the action for the establishment of the permanent pool  
2 had been taken by the Compact Administration.

3 MR. IDLER: I realize that.

4 MR. COOLEY: I don't want to press too hard. You  
5 also recognize, I am sure, that my facetious remarks about the  
6 difficulty in the next ten years is what I believe to be the  
7 case, it is going to be, in my judgment, and I think you would  
8 agree, a difficult matter to administer from here on out.

9 MR. HELTON: This resolution would just eliminate  
10 one area of controversy on the problem, eliminate one of the  
11 little problems associated with it. Or the gaging station would;  
12 the resolution wouldn't.

13 MR. COOLEY: You would have a measurement rather  
14 than an estimate.

15 Is Colorado ready to vote?

16 MR. REYHER: Aye.

17 MR. IDLER: Aye.

18 MR. COOLEY: Colorado votes aye.

19 Is Kansas ready to vote?

20 MR. BENTRUP: Aye.

21 MR. COOLEY: Kansas votes aye.

22 No, we are dealing with bread and butter and I  
23 recognize that.

24 The next item is one of Mr. Fidler's two important  
25 items.

1                   Number three, the measurement of the stream at  
2   Las Animas. And you are correct, the Compact here simply says,  
3   under Article 3, letter "h", "The term 'river flow' means the  
4   sum of the flows of the Arkansas and the Purgatoire Rivers into  
5   John Martin Reservoir as determined by gaging stations appro-  
6   priately located above said reservoir," and I would take it  
7   there is implicit in that that there be a gaging station on the  
8   Arkansas River and that there be a gaging station on the  
9   Purgatoire River.

10                   But now back to you, Mr. Fidler. The first  
11   choice is -- Well, the threshold question is, "Should the  
12   Las Animas gage be moved?" And the second question after that,  
13   if the answer to that is "yes," "Should it be moved upstream  
14   or downstream?"

15                   Now, would you like to lead off on the first  
16   question of the moving of that gage?

17                   MR. FIDLER: This may be a personal opinion.  
18   My feeling would be that it should be moved downstream only  
19   without even considering the upstream location. We are going  
20   to continue to lose flows that we are losing right now if we  
21   attempt to go upstream. This, again, was a topic that we  
22   discussed, not necessarily recommended. Actually, the last  
23   paragraph is to move it upstream.

24                   But since our meeting in February, we actually  
25   feel, in checking the area downstream and as Lane mentioned a



1 moment ago, I think there is a station or a site location down-  
2 stream that would not necessarily be affected by a pool in  
3 John Martin Reservoir, and I also don't think it would be  
4 inundated in the event we had a lot of water at John Martin  
5 Reservoir.

6 We need to get the station far enough away from  
7 the Purgatoire, the mouth of the Purgatoire, so that we don't  
8 get backwater, for one thing.

9 MR. COOLEY: Whose station is it?

10 MR. FIDLER: It is the Compact's station. As far  
11 as the sum of the two stations, the difference would be sub-  
12 traction instead of an addition, that you subtract off the one  
13 from the other. I don't know that that is a problem in there  
14 but it is a rather confined channel and it is up high enough,  
15 I mean, the banks are high enough that a gage could be installed  
16 without it being in danger of flooding, which is also important.

17 MR. GIBSON: How many years do we have to have an  
18 overlap of both stations?

19 MR. FIDLER: I don't think you'd have to have an  
20 overlap at all. We'd have to get a rating on the site, but I  
21 don't think -- I don't think we're getting enough good record  
22 on those extremely low flows down there to make any difference.

23 Do you think so, Lane?

24 MR. HACKETT: No, I would agree with you.

25 MR. FIDLER: Now, one thing we would require is a

1 cableway which we don't have at the existing stations. We have  
2 a bridge. There is nothing there; it's just an open channel.  
3 And it's also accessible, I mean, we can get into it, which is  
4 also critical.

5 MR. BENTRUP: Mr. Chairman, on number 3, that  
6 the Compact station -- Mr. Fidler recommends that it be put  
7 below Las Animas. I move that they work up a cost figure for  
8 this station and we will vote on it at the next meeting.

9 MR. COOLEY: All right. There is a motion. Is  
10 there a second to the motion?

11 MR. REYHER: Second.

12 MR. COOLEY: The motion has been made and seconded.  
13 I am going to open this question up for a little more discussion  
14 before there is a vote on the thing.

15 Bob, do you have anything to add about the moving  
16 of that gage downstream from Las Animas?

17 MR. JESSE: I think the determination of the  
18 appropriateness of the location is up to the Compact. I don't  
19 know why we would enter something. There may be some advantage  
20 or disadvantage to measuring the inflow, something of that  
21 nature that we don't know anything about.

22 MR. COOLEY: Lane, you do it on a day-to-day  
23 basis. Do you have any input in this area?

24 MR. HACKETT: I would like to recommend that the  
25 U.S.G.S. comes up with a feasible site and, to this date, as of

1 now, I think we have pretty well surveyed it out to their  
2 station. I think it would be an asset to the Compact Administra-  
3 tion and also to the administration of John Martin Reservoir  
4 on inflows and records to have that station updated or moved  
5 downstream. I'd recommend it very highly.

6 MR. HELTON: Are we talking now about moving the  
7 Arkansas River gage but leaving the Purgatoire gage there? Is  
8 that -- We are just talking about the Ark River gage now?

9 MR. COOLEY: The only thing before us now is a  
10 discussion of the Arkansas River gage itself.

11 Is there any further discussion? We have a  
12 motion that has been seconded and we are discussing that motion.  
13 That would be for the next meeting and I would think it would  
14 take the activity of Lane Hackett and who else? Bob Jesse. And  
15 who else?

16 MR. GIBSON: Well, U.S.G.S.

17 MR. COOLEY: Okay, Dick Fidler and the U.S.G.S.  
18 would be in on that.

19 Is there any other discussion?

20 Is Kansas ready to vote?

21 MR. GIBSON: Question.

22 MR. BENTRUP: Aye.

23 MR. COOLEY: Kansas votes aye.

24 MR. IDLER: Colorado votes aye.

25 MR. COOLEY: Colorado votes aye.

1 All right, that disposed of three.

2 Four: Gageby Creek. You will recall the problems  
3 with respect to Gageby Creek at the December meeting of the  
4 Compact Administration.

5 Mr. Hackett -- pardon me -- Mr. Helton.

6 MR. HELTON: Well, my comments are that unless  
7 the Division of Wildlife and the Fort Lyon reach their agreement  
8 and work out some sort of arrangement, the Gageby Creek is  
9 unnecessary. If they reach an agreement, the Division of Wildlife  
10 will pay for it anyhow, so we should pass on.

11 MR. GIBSON: I would concur.

12 MR. COOLEY: It is the consensus that we move on,  
13 pass that item. Is there any --

14 MR. IDLER: Wait a minute, Mr. Cooley.

15 MR. COOLEY: Yes.

16 MR. IDLER: That is water that enters into  
17 Caddoa Dam unmeasured. I don't know the watershed of Gageby  
18 Creek, but at times it should be considerable and I believe all  
19 water flowing into the Caddoa Dam should be measured. Right  
20 now there's more water coming out of Caddoa Dam than is measured  
21 in and it has done that since the dam went dry. Mr. Hackett  
22 can tell you that, percentagewise, what that runs.

23 I therefore think there should be a gage on  
24 Gageby Creek.

25 MR. BENTRUP: Leo, is Gageby Creek the Verhoeff --

1 MR. IDLER: No, it is below.

2 MR. BENTRUP: It come in below.

3 Now, where is Gageby Creek?

4 MR. IDLER: You probably seen the dragline setting  
5 along the highway. They put a new bridge there.

6 MR. BENTRUP: Did some channel work?

7 MR. IDLER: I went across Gageby Creek on the  
8 road that's below 50, between Highway 50 and the Caddoa Dam, and  
9 the bridge that the water is supposed to go in is plumb full  
10 and the water is actually flowing across the road there.

11 MR. REYHER: It crosses Highway 50 approximately  
12 about four miles east of the Fort Lyon Administration Hospital.

13 That little creek itself is a losing-and-gaining  
14 creek even within its short distance of a mile. But the site  
15 where it does cross the highway I don't think would be that  
16 bad of a place. It would be only approximately a half mile onto  
17 the river from where it does cross the highway.

18 MR. HACKETT: It does flatten out, though, and  
19 meander around, any amount of water it spreads out down below  
20 the bridge there and --

21 MR. GIBSON: But there's no significant contri-  
22 bution in a flow below this gage site on this stream, on this  
23 little creek, you know, tributaries coming in, of significance.

24 MR. REYHER: If there was a heavy rainfall --  
25 There's two bridges in that stretch of highway, quarter-mile

1 stretch.

2 MR. GIBSON: Your question is, then, which bridge  
3 it should be put on; is that it?

4 MR. REYHER: It always runs down the east bridge,  
5 but if there was a flash flood through there, at that particular  
6 time there would be a problem with the gage on that one place.

7 MR. HACKETT: I think I mentioned probably in  
8 past discussion on this Gageby Creek that, in my observation,  
9 it looked -- almost seemed necessary that there should be some  
10 channelizing done there to actually get that water delivered.

11 MR. HELTON: I think that's right. If you  
12 measured above those cattails, you wouldn't get that much to  
13 stream and if you channelized it you would pick up a lot more  
14 water than which you are now.

15 Do you use it in your administration at all?

16 MR. HACKETT: Well, on outflow from John Martin,  
17 not inflow, because we don't know what it is.

18 MR. COOLEY: You can measure it. This was one  
19 of the problems at the December meeting.

20 MR. HACKETT: But it is there.

21 MR. HELTON: But the Gageby flow itself doesn't  
22 cause you to do any sort of action? You don't need to know  
23 that information for your administration?

24 MR. HACKETT: Yeah, I think it would be valuable  
25 for the administration, though.

1 MR. COOLEY: We had some people in December who  
2 said he needed to know. But if you recall, there's no gage.  
3 This is, you know, full circle sort of a thing. Without the  
4 gage there's no way to administer or quantify the water.

5 MR. HELTON: I would suggest that the Administra-  
6 tion postpone any action on this, at least until the next  
7 meeting, so you can see if Wildlife is going to install one.

8 MR. IDLER: On Gageby Creek?

9 MR. HELTON: Yeah.

10 MR. IDLER: Well, I agree with Mr. Helton on  
11 postponing the decision on Gageby Creek.

12 MR. COOLEY: Well, I think, Leo, you have been  
13 the most articulate spokesman on that one and if --

14 MR. IDLER: Mr. Cooley --

15 MR. GIBSON: I'd like to have some discussion  
16 of why the need for a postponement.

17 MR. IDLER: Because I seem to get an opposition  
18 and when you have opposition you generally retreat and try  
19 another approach.

20 MR. GIBSON: No, you call for a caucus.

21 MR. IDLER: Well, that's the same discussion.

22 MR. COOLEY: Do you want to go off the record  
23 for a minute or two?

24 Let's go off the record for a moment.

25 (There was a discussion off the record.)

1 MR. COOLEY: I think that the discussion off the  
2 record was clarifying on a number of issues and Mr. Fidler and  
3 Mr. Gibson are going to have a couple of things to say about it.

4 Go ahead.

5 MR. GIBSON: Well, I feel that there apparently  
6 is, based on information we have before us, a need for a gaging  
7 station on -- How do you pronounce that creek? Gageby Creek?

8 MR. FIDLER: Gageby.

9 MR. GIBSON: -- Gageby Creek. I would suggest  
10 that we ask the U.S. Geological Survey to make a survey as to  
11 the adequacy of a gaging station site and report back to the  
12 next Compact meeting.

13 MR. IDLER: Okay.

14 MR. COOLEY: There is a suggestion been made of  
15 what action would appear to be appropriate.

16 Is this satisfactory?

17 MR. IDLER: I approve the suggestion.

18 MR. COOLEY: Fine. Will you agree that we don't  
19 need a resolution on the thing?

20 MR. IDLER: Right.

21 MR. COOLEY: We will just follow through on that;  
22 is that satisfactory?

23 MR. GIBSON: Okay.

24 MR. COOLEY: There seems to be accord on that  
25 matter, so we will move on to the next item.



1 MR. STOECKLY: Mr. Chairman?

2 MR. COOLEY: Yes.

3 MR. STOECKLY: Are there any other tributaries  
4 that are unmeasured of any consequence that we haven't discussed?

5 MR. COOLEY: I believe there may be.

6 MR. IDLER: I don't know of any.

7 MR. HACKETT: There's small drainages, but I  
8 don't think there's anything that would justify station sites  
9 or measurements.

10 MR. COOLEY: Now, is that satisfactory?

11 MR. STOECKLY: That's all I --

12 MR. COOLEY: Number 5 has been taken care of.

13 Therefore, number 6, Mr. --

14 MR. GIBSON: Wait, wait, wait. Five's been  
15 taken care of?

16 MR. BENTRUP: Yes, that's just a statement of  
17 fact.

18 MR. GIBSON: Well now, is this money that <sup>KANSAS</sup>~~land~~  
19 is going to pay here in the record someplace?

20 MR. COOLEY: Yes.

21 MR. GIBSON: It is in the budget?

22 MR. COOLEY: Yes.

23 MR. GIBSON: That's coming up for approval?

24 MR. HACKETT: \$10,000 has been in the budget.

25 However, this --

1 MR. GIBSON: No, this would be an additional  
2 about \$1500 for <sup>KANSAS</sup> ~~Canada~~, right?

3 MR. HACKETT: Pardon?

4 MR. GIBSON: Is this in our budget?

5 MR. HACKETT: No, not this radio -- Well, we  
6 are not to that.

7 MR. REYHER: Number 5.

8 MR. GIBSON: Yes, we are, number 5, we just shot  
9 right by it.

10 MR. HACKETT: All but \$3,527.50 is covered by  
11 previous budgets. But on our budget today we should consider  
12 this number 5.

13 MR. GIBSON: It will be in our budget today,  
14 then?

15 MR. HACKETT: It should be considered in today's  
16 budget.

17 MR. GIBSON: If it is in today's budget, let's  
18 go on, then.

19 MR. COOLEY: Okay, fine.

20 Any other comments on 5 as we are shooting by?

21 Number 6. Mr. Jesse's suggestion of a gaging  
22 station at the Highland Dam.

23 Mr. Jesse, why don't you say a word or two about  
24 that. There are two more paragraphs on the next page,  
25 incidentally.

1 MR. JESSE: Well, of course, the two elements  
2 you have to have in determining the disposition of the water is,  
3 you have to know how much there is and how long it's going to  
4 last, and if you have only one gaging station, why, you have to  
5 speculate on the duration, and if you had, ideally, maybe every  
6 ten miles a gage, but in this case, there's a location up at  
7 the Highland Dam and the state has a gaging station at Nine Mile  
8 Dam and if we could get some means of remotely interrogating  
9 these gaging stations during the flood event, we could then make  
10 a more intelligent determination as to how much water is going  
11 to be there and how long it is going to last because that would  
12 affect the -- could affect the closing or leaving open of the  
13 gates, it could also affect the moving of the river call upstream.  
14 The closing of the John Martin gage is a pretty drastic change  
15 in the river system and it would be valuable to us, we could  
16 probably get by with just a remote sensor of some sort without  
17 having a full-blown gaging station, but it would require some  
18 kind of means remotely interrogating the station.

19 MR. COOLEY: I would guess, and this is only a  
20 guess, that there would be no question of the desirability of  
21 such a station, but the main question would be the resources  
22 of the Compact Administration on this one. If this not right?

23 MR. JESSE: Yes.

24 MR. COOLEY: This one doesn't go to basic  
25 fundamental principle, this one goes to tuning of the river

1 system.

2 MR. JESSE: I think that's a fair statement, yes,  
3 sir.

4 MR. GIBSON: How much is your agency putting in  
5 for carrying out their procedure under the law?

6 MR. JESSE: We haven't budgeted any funds for  
7 this particular operation. We have, however, updated and  
8 improved our Nine Mile gaging station as a matter of routine.  
9 We haven't budgeted any money for this. They asked us for  
10 suggestions and this is one.

11 MR. GIBSON: I appreciate your suggestion, but  
12 my question is, how much do you feel that you might be able to  
13 get in your next year's fiscal year budget for the Seven and  
14 the Nine Mile --

15 MR. JESSE: We could -- I could request the  
16 entire amount. I don't know what the disposition would be by  
17 our legislature. We could arrange to operate and maintain,  
18 perhaps, or something in that nature.

19 MR. COOLEY: Mr. Jesse's budget for the rest of  
20 this year requires him to travel throughout the district by  
21 bicycle..

22 MR. GIBSON: He's fortunate. I think we are  
23 going to have to go by hot-air balloons. Well, I'm serious.  
24 You know, I think that probably there's a need here. Who  
25 receives the benefits here and on a proportional share of what

1 should the Compact put into these things is my question.

2 MR. JESSE: I'm sure the Compact would receive  
3 some benefit from it.

4 MR. GIBSON: So, you know, who else would receive  
5 benefit?

6 MR. JESSE: Well, if the Compact benefited, the  
7 entire river has benefited. It's hard to assess exactly who  
8 would receive the benefit without knowing what's going to happen.  
9 If this gaging station, if the information from this specific  
10 incident were to cause a change in the river call that would  
11 not have been changed otherwise, you could then decide who got  
12 the water and how much and assign a value to it, but it's awful  
13 hard to do that. The system would benefit by -- The more  
14 information we have, the better off we are.

15 MR. IDLER: I believe Colorado benefits on low  
16 flows and Kansas and Colorado benefit on high flows is about the  
17 way you'd have to look at it.

18 MR. JESSE: It would depend on where the river  
19 was at the time. But it certainly wouldn't hurt anybody. I  
20 can't imagine why it would injure anybody.

21 MR. REYHER: I believe the main benefit is going  
22 to come on those flash flood instances which particularly  
23 happened a year ago when we had a lot of water in such a short  
24 time and no one had any idea of how long these were going to  
25 last and it's so hard then for the secretary to make a judgment

1 on how to administer the dam.

2 MR. COOLEY: I am ready to spend as much time  
3 as you are on item 6. It seems to me, as I said before, that  
4 the problem with 6 is it's almost exclusively a matter of  
5 dollars as distinguished from some of these other questions.

6 What is your pleasure?

7 MR. BENTRUP: I don't know how we can --

8 MR. GIBSON: Probably have to take it up at the  
9 next session.

10 MR. BENTRUP: We have so much money to spend in  
11 this year's budget, which is probably none, so we'd have to --  
12 at the next meeting I think we should decide which of these  
13 we're going to do and which we aren't. I don't feel like we  
14 should make a decision today.

15 MR. GIBSON: Well, I start budgets in the first  
16 of June for '79 and 1980 budget and if Kansas is going to have  
17 to come up with some money, why, we kind of need to know some  
18 indication of what we're looking at.

19 MR. COOLEY: We are going to go into the budgeting  
20 business at the end of the working session today and I would  
21 suggest, with your unanimous consent, that we move on to 8, 9,  
22 10, and 11, and then if there's interest, go back and determine  
23 where item 6 fits into the priority.

24 If there is no objection, we will move from 6  
25 directly to 8 since there ain't no 7 and we are talking about a

1 gage on the Arkansas River at Granada.

2 MR. BENTRUP: They don't mean Granada, do they?  
3 Don't they mean Coolidge or the state line?

4 Dick, is that what you meant?

5 MR. FIDLER: No, this is Granada.

6 MR. BENTRUP: Why would you need one there and  
7 also at the state line?

8 MR. FIDLER: Can you answer that, Bob, why that  
9 was brought up?

10 MR. JESSE: That, unfortunately, wasn't my  
11 suggestion.

12 MR. HACKETT: Mr. Cooley, I think I'll have to  
13 take the weight on that particular question or suggestion.  
14 That's the end of Colorado diversion point and it would be a  
15 very good checkpoint for me to make delivery or know where I'm  
16 at on delivery of Compact water to Kansas. It wouldn't have to  
17 be an elaborate station. Telemark would be great. But it  
18 would sure let me make adjustments plus or minus on fulfilling  
19 our commitments to the state line.

20 MR. COOLEY: I had thought that when you were  
21 making delivery to Kansas, you drove down with the water and  
22 turned it over personally at the state line, but --

23 MR. HACKETT: I didn't know how much I was turning  
24 over, though. This would be an asset to let me know how much  
25 I'm on the verge of delivering or not delivering. But it

1 wouldn't have to be anything elaborate and it would only be of  
2 benefit during Compact runs and for the administration of  
3 Compact water, and whether it justifies itself or not would be  
4 up to the administration. It would be a handy tool to the  
5 administration of Compact water, though.

6 MR. GIBSON: But that wouldn't be considered  
7 state line flow?

8 MR. COOLEY: No.

9 MR. HACKETT: Not unless we rewrite Compact.

10 MR. COOLEY: No.

11 MR. HACKETT: It would just be a checkpoint,  
12 Mr. Gibson, or regulation factor.

13 MR. COOLEY: Are the comments that we made on 6  
14 almost fair to be said for 8? It is a question of fine tuning  
15 of the river and a question of dollars and resources.

16 MR. BENTRUP: And getting some priorities. This  
17 would be a low priority thing, I would think.

18 MR. COOLEY: Is there objection to moving on to  
19 item 9 which appears to me to be possibly a matter of great  
20 interest?

21 The installation of telemarks on all the main  
22 Arkansas stations for the cost, apparently, of about \$7,000 plus  
23 telephone lines. What are we talking about in telephone lines:  
24 Two hundred fifty apiece or much more than that apiece?

25 MR. FIDLER: It varies considerably. It can be



1 very expensive.

2 MR. COOLEY: These are along the main channel  
3 of the Arkansas.

4 MR. FIDLER: I don't think they're real long,  
5 long distances here. I personally don't know.

6 MR. COOLEY: So a thousand or two might be  
7 sufficient?

8 MR. FIDLER: Yeah.

9 MR. COOLEY: We are talking about an item of  
10 possibly under ten thousand but one that might be significant.

11 All right, Mr. Hackett, I suppose.

12 MR. HACKETT: What was the question, sir? I  
13 didn't get --

14 MR. COOLEY: Well, the desirability of the  
15 telemarks at the four main stations.

16 MR. HACKETT: I think that would be an asset,  
17 definitely, for the administration of the river as far as  
18 Compact water is concerned, and even without Compact water, the  
19 state administration. So whether Bob would want to get involved  
20 in that or not, but it would be an asset to his division  
21 administration in conjunction with the administration of John  
22 Martin Reservoir. Am I right, Bob?

23 MR. JESSE: The more information we get, the  
24 better, and the quicker we get it, the better. The advantage  
25 of a telemark as opposed to the radio is that anyone can

1 interrogate the telemark. All he has to know is the phone  
2 number. Where if you get the information from the radio, you  
3 have to call Lane Hackett and he has to be home and to have read  
4 them.

5 MR. GIBSON: I thought we was going to take care  
6 of that in 10 so he wouldn't have to stay home. Going to do  
7 that for a thousand dollars. Get a tent.

8 MR. JESSE: Of course if we do that, that will  
9 take care of that observation. But today, at this time, the  
10 only way we can get access to the radio readings is by calling  
11 Lane Hackett; where the telemeters we can call any time.

12 MR. HACKETT: We do not have that available now,  
13 or I don't.

14 How much of these stations is there a telemark  
15 on, Bob?

16 MR. JESSE: None.

17 MR. HACKETT: None.

18 MR. JESSE: None of these that we are recommending.  
19 There are other stations that have them.

20 MR. GIBSON: Would item 10 give you the same  
21 information that 9 would?

22 MR. HACKETT: Definitely not because I don't  
23 have that information.

24 MR. GIBSON: Well, he calls you and you now  
25 have to run out and look, then?

1 MR. HACKETT: These stations that we are talking  
2 about now, with the exception of Lamar, are not in my district.

3 MR. GIBSON: Not in your district at all. Okay.

4 MR. HACKETT: But they are important to our  
5 district and also to the Compact Administration.

6 MR. GIBSON: After you once put them in, what  
7 would be the operating costs, the yearly cost of --

8 MR. JESSE: Just a phone bill.

9 MR. FIDLER: Not very big, not very expensive.

10 MR. IDLER: I think it would be well for Mr. Jesse  
11 to tell where his observation point is on the river above Caddoa  
12 Dam to Pueblo; then you'd realize maybe the need of these or  
13 not.

14 MR. JESSE: Well, we have gaging stations above  
15 Pueblo which is telemetered, the contents of Pueblo is tele-  
16 metered, the outflow has a telemeter. We have a telemetering  
17 station at Avondale and we have an observer who reads the gage  
18 at Nepesta and Catlin. We have another gaging station at  
19 LaJunta that is observed by the Water Commission. These stations  
20 are much in the same category as Lane's radio station. If  
21 Lane wants to know what's at these stations, he has to call  
22 the Commissioner or the Pueblo office and we have to call the  
23 observer and then call him back. He can't directly interrogate  
24 these Catlin, Nepesta, and LaJunta gaging stations. But he  
25 could, if he wanted, interrogate the in- and outflow of Pueblo

1 and Avondale from Lamar.

2 MR. GIBSON: Again, Bob, I ask you for an  
3 estimate of how much it is going to cost in dollars to maintain  
4 this system after we set it up, if it was set up: \$500 a year?

5 Now, we are not going to pay for the telephone  
6 bills. I am talking about the monthly telephone cost of having  
7 that hookup there.

8 MR. JESSE: Well, the phone bills are not very  
9 significant.

10 MR. GIBSON: Five dollars a month per phone  
11 there per station?

12 MR. JESSE: Forty or so? I don't know. What is  
13 the phone bill at Avondale?

14 A VOICE IN THE AUDIENCE: I think it's about  
15 forty.

16 MR. JESSE: Forty bucks a month and installation.

17 MR. GIBSON: So there's one, two -- That's four,  
18 five hundred dollars. And one, two, three, four -- that's  
19 two thousand dollars a year maintenance.

20 MR. BENTRUP: Mr. Chairman, I think we could  
21 concentrate on the Compact stations first because they are more  
22 necessary and, besides, the U.S.G.S. pays half the bill. On  
23 these other stations, if we entered into this we would be paying  
24 all of the bill. I am not convinced that any of the nine  
25 stations would help Kansas too much. But I do think we need to

1 concentrate on the Arkansas River measurements and the Purgatorie  
2 measurements into John Martin and any measurement in the state  
3 line of the gage.

4 Below John Martin is now in good operating  
5 condition, isn't it?

6 MR. FIDLER: Yes.

7 MR. BENTRUP: And then the state line.

8 These others, perhaps we should consider --  
9 outside of Gageby Creek, I think that's important -- should be  
10 considered later. So we need to get money in the budget anyway  
11 before we can approve them.

12 MR. COOLEY: I am sure that no one has lost sight  
13 of the fact that we have made very substantial gains in measuring  
14 and gaging the Arkansas River in the last three years as partly  
15 reflected by this report. This points us in the direction we  
16 may be able to go.

17 I would then, if there is no objection, consider  
18 10 as to the telephone equipment for Lane Hackett now and then,  
19 finally, go to 11 and going back to any that we need to.

20 The telephone equipment for Lane Hackett.  
21 Have you got a solid price on that, Lane?

22 MR. HACKETT: No, sir. Only what Mr. Grozier  
23 had worked into his report here.

24 MR. COOLEY: This isn't the average \$280 telephone  
25 answering device, this is --

1 MR. HACKETT: I don't know what he had in mind.  
2 Maybe Dick could clarify that.

3 MR. FIDLER: I don't know, either, just what we  
4 talked about.

5 MR. HACKETT: At our meeting there in February,  
6 this was discussed and he indicated he didn't think it would be  
7 too complicated or too expensive to have a hookup on our present  
8 receiver, the receiver that's in my office at home now, hooked  
9 up to this system and be available to anybody that wanted to  
10 call in and get the information that I'm receiving.

11 MR. FIDLER: Well, if I may.

12 MR. COOLEY: Go ahead.

13 MR. FIDLER: There was another point that I recall  
14 that was discussed was in Kansas; that some of the big companies  
15 had access to their radios in the past that no longer have that  
16 capability. Now, am I right? Do you recall that?

17 MR. HACKETT: I don't know too much about the  
18 Kansas situation.

19 MR. FIDLER: It seems to me by changing the  
20 repeaters in the radios down there that they have lost that  
21 capability of communicating with those recorders.

22 MR. HACKETT: Oh, you mean on the measuring  
23 station at Coolidge, the present condition?

24 MR. FIDLER: Yes.

25 MR. HACKETT: Yes, it has gone back to the factory

1 for repairs.

2 MR. FIDLER: No, what I am saying, Lane, that  
3 they used to have a capability of calling in on those radios  
4 some way down there which they don't have that, they cannot  
5 communicate.

6 MR. HACKETT: They used to, on the old communica-  
7 tions system, they had an audio radio established in their office  
8 and received that. But I don't think the ditch companies did,  
9 Dick, not to my knowledge, not unless they bought a radio  
10 receiver especially for that frequency.

11 MR. BENTRUP: Now, the Garden City office can  
12 use these stations now, Dick.

13 MR. GIBSON: Are we set up on that darned thing?

14 MR. HACKETT: You are, yes, sir.

15 MR. GIBSON: That's what I thought.

16 MR. HACKETT: You were in before my setup was.  
17 Mine became operable on May the 2nd from the Arkansas at  
18 Las Animas and also on the Purgatoire. They put in the relay  
19 station at John Martin Reservoir that boosted the signal or  
20 gage height signals on into my receiver on May the 2nd. But  
21 Garden City had theirs considerably, oh, probably in March.  
22 Theirs was operating in March into the Water Commissioner's  
23 office at Garden City.

24 MR. BENTRUP: Mr. Chairman, I believe number 10  
25 may be of value to Colorado ditches but I don't believe it would

1 help the Kansas ditches a bit. We get the Lamar radio reports  
2 and the Garden City company gets the Lamar paper and it gives a  
3 daily record of the diversions.

4 MR. COOLEY: Let's move to the last item here,  
5 if there is no objection, the Purgatoire near Las Animas, better  
6 stage discharge, twenty-five thousand bucks, cheap at half the  
7 price, and beaver, and you said you have had a history of trying  
8 to clean -- I recall you then trying to clean out beavers there  
9 for some time, the little varmits come back.

10 MR. FIDLER: I think the way the paragraph reads,  
11 we suggested this as a possibility but we are not pushing. It  
12 pretty well says we may not be able to justify any \$25,000  
13 expenditure on the thing and I think generally that's the way  
14 we feel about it, but it is one way to get a better control  
15 here. We are not encouraging it. We do need to do something  
16 about the Beaver Dam problem and --

17 MR. BENTRUP: Do you have any trappers?

18 MR. FIDLER: We tried that, not very successfully.

19 MR. COOLEY: Now, quickly to review where we are,  
20 in summary, -1 required no action.

21 On 2 we passed a motion.

22 On 3 and -- might as well say it -- on 5 as well,  
23 the Compact Administration wants further action and it looks  
24 to me as if the responsibility is in Lane Hackett, Mr. Jesse,  
25 and Mr. Fidler. Which of those three men should call that



1 meeting and prepare the report?

2 MR. GIBSON: Mr. Chairman?

3 MR. COOLEY: Yes.

4 MR. GIBSON: Did I understand on 5 -- I thought  
5 5 goes in for budget discussion.

6 MR. HACKETT: Pardon me, pardon me, my notes  
7 were too hastily drawn. There's another one on here. Let's  
8 stay with 3, let's stay with 3.

9 MR. GIBSON: 3 and 4 goes in --

10 MR. BENTRUP: 3 and 4.

11 MR. COOLEY: 3 and 4 are going to be brought  
12 before the Compact at the next meeting, probably by these three  
13 people.

14 Which one of those three, Lane, is most  
15 appropriate to call the meeting of the three of you and get  
16 the figures down?

17 MR. HACKETT: I would ask Dick's suggestion on  
18 that because his time and trip and all is probably -- I don't  
19 know about Bob, how his schedule would be. But I could fit in  
20 most any time that would be available to them.

21 MR. COOLEY: Well, Mr. Fidler has never let us  
22 down, so, Dick, if you would call the meeting of the three of  
23 you --

24 MR. FIDLER: All right.

25 MR. COOLEY: -- to firm this up and come back at

1 the next meeting of the Compact Administration with item 3,  
2 as to the Las Animas gage, and number 4, the Gageby.

3 Okay. Now, number 5 has been done.

4 Number 6 and number 8 were desirable to be done  
5 but they will come up at the budget discussion immediately  
6 following; is that not correct?

7 Number 9, similarly, is a matter for discussion  
8 in budget matters; however, the question is raised whether  
9 there's any benefit to Kansas.

10 Number 10, the question of benefit to the State  
11 of Kansas is, I would think, almost determinative of 10.

12 On 11, Mr. Fidler said that they weren't pushing  
13 it but it was a desirable thing and expensive and it would seem  
14 to me that would be long-range and a lower order of priority  
15 than the others.

16 Does anyone have any comments on the way we  
17 have gone through this list?

18 Is there any other comment other than that that's  
19 going to come up in the budget portion? Is there anything  
20 else to come before the Compact Administration at this time  
21 prior to our meeting on the budget where we are going to  
22 continue to be in session but we cannot imagine anyone in the  
23 audience wanting to hear as much as two minutes of budget  
24 discussion. That would just strain belief beyond any imagination.

25 Yes, Mr. Eiden.

1 MR. POLLART: Mr. Pollart.

2 MR. COOLEY: Pollart. Pardon me.

3 MR. POLLART: I might mention, as I recall, a  
4 hearing is to be heard on the 404 dredge permits concerning the  
5 Wildlife and their pools around the Fort Lyon area and it might  
6 behoove a representative, at least, from this Commission to  
7 attend and listen to this hearing because, well, the pools are  
8 established. There is a certain amount of transportation loss  
9 that's going to -- I feel going to be noted from this along  
10 with evaporation to the river bottom and I feel that quite  
11 possibly some person from this Commission should attend that  
12 hearing.

13 MR. COOLEY: Thank you.

14 MR. IDLER: Do you have any idea when that's to  
15 be held, Mr. Pollart?

16 MR. POLLART: I believe it's the 28th of May.  
17 I could stand corrected on this, but I believe that's right.

18 MR. TODD: 18th.

19 MR. POLLART: Is it the 18th?

20 MR. COOLEY: It seems to be of considerable  
21 interest.

22 MR. HACKETT: June? June, Bob?

23 MR. TODD: May the 18th in the evening. Is it  
24 in Las Animas?

25 MR. IDLER: Where will that be held?

1 MR. JESSE: It's in Las Animas. I don't  
2 remember knowing.

3 MR. TODD: I believe it's at the Courthouse,  
4 about 7:00.

5 MR. COOLEY: Mr. Idler, the thought has been  
6 expressed that some of the Compact members at least would be  
7 appreciative if you could attend that meeting on behalf of the  
8 Compact Administration. Would you be able to go?

9 MR. IDLER: I will try unless we get another  
10 six-inch rain.

11 MR. COOLEY: If we get another six-inch rain,  
12 what happens to the river won't be important.

13 All right, is there anything else to come --  
14 Yes.

15 MR. VERHOEFF: Yes, Mr. Cooley, I'm Clifford  
16 Verhoeff and I'm just kind of here as an interested spectator  
17 and irrigator under John Martin, and referring to one statement  
18 that was made here, and I think it ought to be considered very  
19 carefully when we consider the John Martin pool on your  
20 measuring devices, as Mr. Idler stated, that we are measuring  
21 less water in now with the dry reservoir than we are measuring  
22 out of John Martin which at times amounts to as high as 25 feet  
23 and I have often wondered what becomes of this gaining river  
24 when we establish the permanent pool in John Martin. Who is  
25 going to get credit for this water that -- and we have records

1 to show over the period of time; this is not just a thing today,  
2 this has went on for the last 18, 20 years. Anytime that the  
3 river is or the dam is dry, we gain water as we come through  
4 the John Martin. This is something we want to keep in mind as  
5 we go into this permanent pool project here.

6 Thank you for listening.

7 MR. COOLEY: Thank you for that thoroughly  
8 frightening comment.

9 MR. BENTRUP: Gageby Creek will take care of  
10 plenty of that.

11 MR. COOLEY: Yes.

12 MR. IDLER: Well, I'd like to make one comment  
13 before we close and that is that we have so-called established  
14 a permanent pool but nobody has come up with operating principles  
15 for us to look at. I really figure that we are getting the  
16 cart before the horse.

17 MR. COOLEY: We have adopted the operating  
18 criteria for the pool and --

19 MR. IDLER: Well, I haven't seen it.

20 MR. BENTRUP: The minutes of the Aspen meeting  
21 have -- everything with the measurements and the losses and the  
22 various things, we have that information.

23 MR. IDLER: You have it on record?

24 MR. BENTRUP: I don't think there's anything  
25 besides that, is there?

1 MR. COOLEY: No, but they are the basic criteria  
2 for operations.

3 MR. GIBSON: Well, Secretary, can't you furnish  
4 a copy of those minutes so they could --

5 MR. HACKETT: Right, anybody that needs them,  
6 I sure can. I have them, the operating criteria.

7 MR. COOLEY: But, nevertheless, this partly --  
8 I want to take part of the blame for this myself. I freely  
9 confess that I have been remiss in the amount of hours I have  
10 spent on the Compact since December. Northwest Colorado is  
11 going through a kind of firestorm and, if you recall, I wanted  
12 to get notebooks to each of the members and I have failed on  
13 this and I hope I don't continue to fail. It's been a little  
14 wild up in our country. And it would contain those criteria.  
15 You certainly should have them.

16 Anything else before we go to the excitement of  
17 the budget?

18 Well, I am afraid it is more than most of us  
19 are going to be able to stand and the nonbudget part of the  
20 meeting is over and we surely thank you all for attending. We  
21 will probably be here for another 45 minutes or so on the  
22 budget.

23 Do you want to take a five-minute break?

24 Let's take a five-minute break.

25 (Whereupon a brief recess was taken.)

1 MR. COOLEY: All right, we are going into a  
2 discussion of the budget. Right off the bat, to set the stage  
3 for this, we are in a terrible budget situation partly due to  
4 Kansas and partly due to Colorado in that the actions that are  
5 taken as to budget in the spring meeting may take as much as  
6 three years to come into effect.

7 I notice the first thing on there, the Secretary's  
8 salary of \$2,400.

9 Lane, right now would you tell us what your  
10 salary history has been and what effect there has been because  
11 of the action taken at the Aspen meeting two years ago with  
12 respect to your salary.

13 MR. HACKETT: Yes, sir. It started off about  
14 \$125 a month in 1965 and remained there and I don't recall  
15 just the exact year without going back through the records,  
16 but for the last -- it was raised to one hundred fifty a month,  
17 or four fifty quarterly, \$1800 a year, in, I'd say, oh, seven,  
18 eight years ago. At the Aspen meeting, Mr. Cooley mentioned  
19 it to the Administration that he thought it should be raised  
20 to two thousand and I'd be the last to object to that due to  
21 the fact that the workload has increased and personal expenses  
22 and so forth that I do not throw back on the Administration  
23 budget all the time; the major ones I do, but --

24 MR. COOLEY: Just a minute. Off the record.

25 (There was a discussion off the record.)

1 MR. COOLEY: Now you may proceed.

2 MR. HACKETT: Due to the fact that I was appointed  
3 with the sanction of the State Engineer in 1965 to be your  
4 Secretary, since that time there have been changes in the state  
5 administration and my secretary work for the Compact has been  
6 a club over my head promotionwise, salarywise, and every other  
7 way imaginable, or to be used as far as promotions and pay  
8 increases as the State Water Commissioner, and it seems like as  
9 long as I am going to be Secretary of the Compact, that I am  
10 stuck with the beginner's rate for the State of Colorado.

11 I have pursued that source, that avenue for  
12 consideration, but I've not been able to do too well and the  
13 reason -- the thing that I bump into is that I do have income  
14 from my position as Secretary to Compact.

15 MR. GIBSON: What would happen if we would do  
16 away with your salary; would they give you a raise?

17 MR. HACKETT: Well, that's questionable. But  
18 that's a club they have been using.

19 MR. GIBSON: Well, I wonder here if we'd write  
20 you an honorarium, what then?

21 MR. HACKETT: Well, I don't know, I really don't.  
22 But I have pursued the fact if my work wasn't justified for  
23 some recognition for the state, I hadn't ought to be even  
24 working for them after 14 years.

25 MR. COOLEY: We've got two problems mixed together



1 here: One of them is the concerted effort of some people in the  
2 State of Colorado to really create problems with respect to  
3 Lane's employment both for the Compact and for the State of  
4 Colorado and I think that Mr. Sparks' remark in December on that  
5 should have been conclusive and I have seen some slight improve-  
6 ment in that situation, or I hope there's been a slight improve-  
7 ment in the situation, but things were absolutely intolerable  
8 during the month of December for Lane. He was under intense  
9 pressure of the State of Colorado to either get fired or resign  
10 or whatever.

11                   The thing that is immediately before us, however,  
12 is compensation, and the compensation thing, in my view, and I  
13 hope I am not offending anyone here, is also unsatisfactory. I  
14 believe what he said about the impediment to his career in  
15 Colorado caused by this job is true and I also was hoping that  
16 he would state at what time it was that his salary increased as  
17 a result of our 1976 action. I think it's only been in the last,  
18 when?

19                   MR. HACKETT: It isn't in effect yet. It will  
20 be in effect the 1st of July.

21                   MR. COOLEY: Well, there you are. Action 24  
22 months ago and he hasn't received a dime out of that action and  
23 I just think that's awful.

24                   MR. HACKETT: That's because of the way we were  
25 working our budget. Our budget was being worked and approved two

1 years in advance of the budget year.

2 MR. BENTRUP: You are not getting twenty-four  
3 hundred or haven't gotten it yet?

4 MR. HACKETT: No, it's eighteen hundred. The  
5 1st of July I'm going to hit you for twenty-four hundred or go  
6 to work on the twenty-four hundred.

7 MR. COOLEY: On the 1st of July you're going to  
8 be hit with the twenty-four hundred that was approved for you  
9 two years ago.

10 MR. HACKETT: Right.

11 MR. GIBSON: Just like the rest of the state  
12 employees in Kansas, the same position. That's the way the  
13 budget system works.

14 MR. BENTRUP: Well, let's get to the amount.

15 MR. COOLEY: There is one other thing about it  
16 that I think we all have to consider, that is, that has two  
17 prongs to it: One is that it may become impossible for Lane  
18 to continue.

19 Secondly, if for any reason, health or trouble  
20 with Colorado or whatever, he should go out of that job, you  
21 are no longer going to be faced with the possibility of having  
22 a representative in anywhere near the kind of money that we  
23 are talking about and I would think that the action that you  
24 felt appropriate should have both of these items in mind.

25 MR. HACKETT: I hesitate to keep blowing my own

1 horn, but due to the fact that the lack of promotions through  
2 the state until the state administration is changed or a  
3 different line of thought is changed, as far as my state job  
4 is concerned, it is going to be a financial loss on retirement  
5 in future years on the fringe benefits of state work. But there  
6 is that possibility, and Frank's covered it pretty well, that  
7 there have been a lot of pressure in the last few years and  
8 contradiction of my position as Secretary, and the state has  
9 offered me all kinds of increases if I would move from John  
10 Martin Reservoir, or if I would take a position above the John  
11 Martin we'd be in pretty good shape. I couldn't see the  
12 justification. But I think it could be considered at a later  
13 date.

14 MR. IDLER: I think it has been put off too long  
15 already.

16 MR. COOLEY: Yes, we can't -- No, let's just  
17 stay off the record for a while and we can kick it around.

18 (There was a discussion off the record.)

19 MR. COOLEY: I have one suggestion to make to  
20 each of the states and that is this: Because of the budget  
21 delay and because of a number of uncertainties about Lane's  
22 ability or willingness to continue in the job, I think, from my  
23 limited knowledge of budgeting, it would be perfectly proper  
24 and permissible for this organization to adopt a budget with a  
25 figure of five or six thousand dollars there with no intention

1 that that be binding upon this man two years hence but that  
2 that decision be faced at that time, but still, the money be  
3 in the budget sufficient for you to get the kind of help you  
4 needed to get in 1980, because we are talking about July 1st,  
5 1980 in this one budget item.

6 MR. HACKETT: 1979, Mr. Cooley, 1979 now.

7 MR. STOECKLY: This proposed budget at that  
8 hearing.

9 MR. HACKETT: Since we have changed at Aspen,  
10 we changed the fiscal year.

11 MR. COOLEY: Fiscal year, and we wouldn't have  
12 the two-year delay.

13 Well, my remarks I will stand on but they are not  
14 quite as horrible an example.

15 MR. HACKETT: It would be a year's delay, actually.

16 MR. COOLEY: It would be 1979, if that had any  
17 merit or appeal to anyone here..

18 But the immediate question is, what should be  
19 done about the Secretary's salary on the budget item and really --

20 MR. BENTRUP: I would reject the five thousand  
21 figure. I think he is entitled to a raise. Colorado would look  
22 at that and -- I would object to the \$5,000 figure. I think  
23 that he is entitled to a raise.

24 MR. HELTON: Lane, how many hours a week do you  
25 think you would average on Compact business?

1 MR. HACKETT: Oh, I expect 36 to some -- well,  
2 on an average basis --

3 MR. HELTON: A week, now.

4 MR. HACKETT: At least, at the very least.

5 MR. COOLEY: Now, this is during the irrigation  
6 season?

7 MR. HACKETT: Yes. During the winter storage  
8 it isn't so bad. About all it is is record-keeping and your  
9 meetings. I attend every meeting up and down the Valley and  
10 that's one thing that has gotten me in a lot of trouble with  
11 the state. I have attended meetings, ditch meetings, upriver  
12 that I think might have some effect on either Water District 67  
13 or storage into John Martin and I've got up and talked when I  
14 probably should have sat and listened. I think that regardless  
15 of who is your Secretary, you are going to have to have somebody  
16 to do that for you and that's what has got me in trouble, to a  
17 big extent, with my state job, because they figured I was trying  
18 to make water for Kansas. I didn't feel that way about it.

19 MR. STOECKLY: You done a poor job, then. (Laughter)

20 MR. HACKETT: I'm the first to admit it, Fred.  
21 But any time I make water for you, we are going to get 60  
22 percent.

23 MR. COOLEY: What is your pleasure?

24 MR. GIBSON: I'd like to review the budget, come  
25 back to it.

1 MR. COOLEY: Fine.

2 The next item on the budget is professional  
3 services. It substantially consists of court reporting of our  
4 meetings, which has been -- I have determined a necessary  
5 expense till we can find a better way of doing it, Pat.

6 MR. GIBSON: That ought to take care of that?

7 MR. HACKETT: Annually? It depends on how many  
8 meetings.

9 MR. GIBSON: I didn't ask that question, I asked  
10 if \$500 would take care of it.

11 MR. HACKETT: Today I think it will.

12 MR. GIBSON: Thank you.

13 MR. COOLEY: Okay, anything else in the profession-  
14 al -- That is where the professional services --

15 MR. HACKETT: Yes, sir.

16 MR. COOLEY: We also have the audit as included  
17 in that.

18 MR. HACKETT: That's right, the audit is in there  
19 and it wasn't too bad. I brought a tabulation of what we have  
20 spent so far this year, but legal and audit so far this year  
21 has been \$199.

22 MR. GIBSON: Mr. Chairman, what was the legal  
23 fee he talked in reference to?

24 MR. HACKETT: That is part of the professional  
25 services, but --

1 MR. GIBSON: You said legal and audit was one  
2 hundred --

3 MR. HACKETT: That comes --

4 MR. COOLEY: What is the legal?

5 MR. GIBSON: But audit is all we've spent?

6 MR. HACKETT: Yes, audit is all we've spent. We  
7 have had no legal payments or expenses.

8 MR. GIBSON: Well, let me rephrase it. Will \$500  
9 take care of the audit and the meetings for --

10 MR. HACKETT: With one meeting a year with the  
11 official court reporters and our audit, \$500 probably will just  
12 barely cover it.

13 MR. STOECKLY: That is with one meeting?

14 MR. HACKETT: Yes, one meeting only. But if we  
15 go to two meetings --

16 MR. GIBSON: We will have to have at least one  
17 more.

18 MR. STOECKLY: If you have your year-ending --

19 MR. COOLEY: I think we've got enough business  
20 that we legitimately will be going to two meetings a year.

21 MR. GIBSON: You think one meeting next year is  
22 all that's anticipated?

23 MR. COOLEY: No, I think two.

24 MR. GIBSON: All right, then, how much more do  
25 we need beyond the \$500 here?

1 MR. HACKETT: I'd say you'd need \$500.

2 MR. GIBSON: For one extra meeting, another five  
3 hundred?

4 MR. HACKETT: Very near. It's going to run \$400  
5 at least today.

6 MR. GIBSON: Are we off the record here discussing  
7 something or is this all --

8 MR. COOLEY: This is going on the record. Let's  
9 go off the record now.

10 (There was a discussion off the record.)

11 MR. COOLEY: Let's leave it at a thousand dollars  
12 right now and go on to the U.S.G.S. Geological Survey Cooperative  
13 Agreement. Is that a fixed figure, four thousand eight hundred,  
14 U.S.G.S.? Does that take into account the additional tele-  
15 metering equipment that has been added to the system?

16 MR. HACKETT: No, sir.

17 MR. COOLEY: Well, it should, shouldn't it?

18 MR. BENTRUP: No.

19 MR. HACKETT: This should be added. I got  
20 Mr. Grozier's letter after we worked up this budget and I just  
21 made a note that it should be increased to cover that radio  
22 equipment, which is \$3527.50. So that should be added under  
23 the U.S.G.S. item.

24 MR. GIBSON: But now, that's not a Cooperative  
25 Agreement thing, that's a one-time --



1 MR. HACKETT: Yes, sir. Not under the Cooperative  
2 Agreement but under the U.S.G.S. expense.

3 MR. GIBSON: All right, that would be whatever  
4 it is, telemetering, item 5.

5 MR. STOECKLY: Well, how do you justify? That's  
6 already been spent. Now, how can you put that in this budget?

7 MR. GIBSON: Going to pay for it.

8 MR. STOECKLY: Well, who is carrying this until  
9 we pay for it?

10 MR. HACKETT: The U.S.G.S. is. We haven't paid  
11 a dime on it yet, on any part of that equipment, but we are  
12 going to get a bill which is going to put our bank account in  
13 very bad, sad shape until the next call for funds is received,  
14 which is generally the last of August or September, sometimes  
15 October. If I get a bill from the U.S.G.S. tomorrow, we may  
16 be in trouble in July and August financially.

17 MR. COOLEY: Now, that adds up to eight-three  
18 twenty-seven fifty. But there's no one in this room who wants  
19 a to-the-penny budget item here because they never work out  
20 that way. So the question, it seems to me, does that figure  
21 get written down as eight thousand five hundred or does it get  
22 written down as nine?

23 MR. GIBSON: Wait a minute, now, where is that  
24 nine thousand coming in from?

25 MR. COOLEY: Let's go off the record for a moment.

1 (There was a discussion off the record.)

2 MR. GIBSON: I would move that we make a special  
3 assessment in the amount of \$3,527.50 for the payment of the  
4 installation of the Syracuse-Lakin repeaters replaced by the  
5 Kansas District from operating funds -- let me back up -- for  
6 the installation of the Syracuse and Lakin repeaters --

7 Off the record.

8 (There was a discussion off the record.)

9 MR. GIBSON: -- installed by the United States  
10 Geological Survey effective March 1978, and with that special  
11 assessment, can Colorado write them a check and I will write  
12 them a check out of this year's funds and we can pay them?

13 MR. HELTON: I don't know if we could or not.  
14 I'd have to check that out when I get back to town.

15 MR. GIBSON: I can.

16 (There was a discussion off the record.)

17 MR. COOLEY: It is my understanding that someone  
18 is ready to move that there be a special assessment of both  
19 states in the amount of \$3,527.50 to be apportioned between  
20 the two states in the ratio of Colorado 60 to Kansas 40; that  
21 Kansas perhaps will be able to pay that special assessment at  
22 once; that it is likely that Colorado cannot but will make that  
23 payment as soon as it is able and in whatever budget year it  
24 is able.

25 Is there such a motion?

1 MR. GIBSON: I so move.

2 MR. COOLEY: Is there a second?

3 MR. IDLER: I will second it.

4 MR. COOLEY: Kansas votes --

5 MR. GIBSON: Aye.

6 MR. COOLEY: Colorado votes --

7 MR. REYHER: Aye.

8 MR. COOLEY: Colorado votes aye.

9 Okay, still on the record but not formally, then,  
10 the U.S.G.S. forty-one hundred stays the same; is that right?

11 MR. HACKETT: Yes, sir, that's a signed contract  
12 with them, Cooperative Agreement.

13 MR. COOLEY: All right, the capital outlay for  
14 office equipment has always been a source of trouble as far as  
15 I was concerned. What it amounted to was, we had an  
16 inefficient tape recorder. Is that the purpose of the one  
17 hundred in there now?

18 MR. HACKETT: No, sir, that isn't the purpose  
19 of it.

20 MR. COOLEY: What is the purpose of this hundred?

21 MR. HACKETT: That's just for small items,  
22 office items.

23 MR. COOLEY: Paper clips, \$100. All right.

24 MR. HACKETT: And such.

25 MR. COOLEY: Is there any discussion needed on

1 that one?

2 Maintenance and operation: The Treasurer's  
3 bond -- wait a minute, oh, I see, they add below.

4 The Treasurer's bond, seventy-five, is based on  
5 actual bond costs?

6 MR. HACKETT: Yes, sir, for a \$15,000 Treasurer's  
7 Bond.

8 MR. COOLEY: Swell.

9 MR. GIBSON: The what?

10 MR. HACKETT: Fifteen thousand. We increased  
11 it about a year ago from five to fifteen.

12 MR. COOLEY: Yes.

13 MR. IDLER: At the December meeting.

14 MR. HACKETT: All right. Whenever it was.

15 MR. GIBSON: Was that a position schedule bond  
16 or personal bond?

17 MR. HACKETT: Provisional.

18 MR. GIBSON: Position schedule?

19 MR. HACKETT: Yes.

20 MR. COOLEY: The printing is based on actual  
21 costs of our historic printing of the annual report.

22 MR. HACKETT: Mainly. But the stationary  
23 needs to be considered in there and I don't have any idea what  
24 your bill is going to be for that.

25 MR. GIBSON: Better add \$100.

1 MR. COOLEY: Okay, make that a thousand, make  
2 that a thousand.

3 Travel and meeting expense.

4 MR. STOECKLY: Can I bring in one item?

5 MR. COOLEY: Sure.

6 MR. STOECKLY: On your annual report, I would  
7 like to see the mailing list revised on these yearly bulletins,  
8 anything other than that, too, because our office is receiving  
9 two copies, which there's no need of it, and I'm sure that  
10 there's other excess mailings going out that's not required.

11 MR. COOLEY: I'm sure that's right.

12 MR. HACKETT: On the annual report, you are  
13 talking about, Mr. Stoeckly?

14 MR. STOECKLY: Yes.

15 MR. HACKETT: That has become quite a problem.  
16 I think they are running -- for 400 copies this last year was --  
17 if I can get oriented here -- was \$678.56 for 400 copies. So  
18 roughly, or a little better than, a dollar and a half a copy.  
19 But the requests that I have coming in for copies of this annual  
20 report is terrific. Colleges, law practices, loan firms.

21 MR. STOECKLY: There's a charge for it as far as  
22 I am concerned.

23 MR. HACKETT: There's no charge set up now for  
24 those, but I definitely think it would slow down a lot of traffic  
25 on them.

1 MR. REYHER: Would you add with that the explana-  
2 tion you gave us when we met on this proposed budget, that it  
3 costs just about the same amount for 250 as it would 400 --

4 MR. HACKETT: Right.

5 MR. REYHER: -- because of setting up the print?

6 MR. HACKETT: Right. It is not the number that  
7 we have printed, it is the setup, print setup, that we are paying  
8 for, and it gets -- and paper. The printer throws that at me  
9 every year on his increase or on his -- that the cost of paper  
10 is going up and the initial expense is the print setup for it.  
11 It is not the number that we receive, it is --

12 MR. COOLEY: We started off on the revision of  
13 the mailing list and now have got to the excess costs of  
14 printing and the efficiencies of scale and I think we are  
15 beginning to drift into the question of charging two bucks and  
16 a half for a copy. All of these things are worthy of considera-  
17 tion. I surely think that the mailing list probably does -- I  
18 am convinced it needs revision.

19 How should we tackle this animal? Let's go off  
20 the record for a little while.

21 (There was a discussion off the record.)

22 MR. COOLEY: Printing, a thousand.

23 You worked over telephone and telegraph and came  
24 up with eight hundred, Lane, or your committee did. Let's go  
25 back on the record. Eight hundred for telephone and telegraph.

1 MR. HACKETT: Eight hundred. And previous --  
2 the last budget, '78-'79 budget, we had six hundred fifty budgeted  
3 and see what we spent so far this year.

4 MR. REYHER: We were close to that figure, weren't  
5 we, already?

6 MR. HACKETT: Yes, we were crowding that figure.

7 MR. COOLEY: I know I've spent several hundred --  
8 a couple hundred dollars a year on the Compact telephone.

9 MR. HACKETT: It is quite an item. I think this  
10 last month we paid a one hundred some dollar telephone bill and  
11 it's like --

12 MR. GIBSON: What are we talking about? Isn't  
13 \$800 enough or not?

14 MR. HACKETT: It is not any too much. We  
15 considered that at our meeting with the Treasurer.

16 MR. GIBSON: Make it \$900.

17 MR. COOLEY: Fair enough. We ought to have some  
18 room for breathing.

19 MR. BENTRUP: Travel and meeting, we skipped  
20 that one.

21 MR. COOLEY: What about travel and meeting? Are  
22 you within the budget? Can you stay within the budget?

23 MR. GIBSON: Would a thousand dollars take care  
24 of it? We had thirteen fifty for this coming year.

25 MR. HACKETT: Let's see, I've lost it. What is it?

1 I get to shuttling papers and I'm lost.

2 MR. COOLEY: What about the thirteen fifty, Guy?

3 MR. GIBSON: That was for this year, starting  
4 July 1 we have thirteen fifty for travel. You are cutting it  
5 to a thousand?

6 MR. HACKETT: No, I don't think so.

7 MR. REYHER: Yeah, so, thirteen fifty, of course,  
8 we were assuming that we were going to have only one meeting  
9 at the very most.

10 MR. HACKETT: Yeah, I think that was probably  
11 it. We were assuming one meeting. The more meetings we have,  
12 the more expense we are going to have under that item.

13 MR. COOLEY: Well, the committee assumed it would  
14 be one meeting a year and I think that's not a good assumption.

15 MR. HACKETT: We have spent \$548 to date, not  
16 including this meeting today, out of the present budget.

17 MR. COOLEY: I think, myself, the thirteen fifty  
18 figure better be it.

19 Furthermore, I think we have seen the handwriting  
20 on the wall when it comes to administering a permanent pool.

21 MR. HACKETT: It definitely gets into that.  
22 There's going to be some leg work or travel work.

23 MR. GIBSON: I wanted \$10,000, you remember,  
24 put into the budget for that, to be paid by the State of Colorado.

25 MR. BENTRUP: It is not at the Compact's expense.



1 MR. COOLEY: That's right.

2 Well, thirteen fifty is where you were and that's  
3 not a bad figure, is all I was saying.

4 MR. BENTRUP: Let's leave it. If that is where  
5 it was, let's leave it in there.

6 MR. STOECKLY: That is travel and meeting?

7 MR. COOLEY: Yes.

8 MR. HACKETT: I think the reason is we decided  
9 at our January or February meeting that we were planning on one  
10 meeting a year and so I would agree with that thirteen.

11 MR. COOLEY: Okay, the telephone and telegraph  
12 is at nine from eight and the next item is office expense at  
13 five.

14 MR. GIBSON: That has been jumped \$200 for this  
15 coming year.

16 MR. COOLEY: It already has been jumped?

17 MR. GIBSON: Yes.

18 MR. COOLEY: So five is a fair -- You think  
19 maybe five hundred is a fair crack at it?

20 MR. GIBSON: I think that that --

21 MR. COOLEY: Any other discussion of that one?

22 Contingency here is for a thousand dollars. It  
23 is none too much.

24 MR. GIBSON: What is your estimated carryover?

25 MR. HACKETT: Well, if we get billed for -- hit

1 with that bill for our radio equipment, U.S.G.S. bill, it is  
2 going to be less than we figured it at back in January. We  
3 figured we probably would have a thousand dollars, but --

4 MR. GIBSON: No, you are asking for another  
5 thousand in the budget here.

6 MR. HACKETT: Yes, sir, but you suggested it  
7 when we set up the contingency item in our budget, that it  
8 should be two.

9 MR. GIBSON: All right. So you are still estimating  
10 a carryover of a thousand dollars?

11 MR. HACKETT: As of today, I wouldn't.

12 MR. GIBSON: All right, how much would you estimate?

13 MR. HACKETT: Very little. I'd say that you'd  
14 better --

15 MR. GIBSON: I can't write "very little" and figure  
16 it up into dollars.

17 MR. HACKETT: I'd say you'd better go fifteen  
18 hundred on contingency.

19 MR. GIBSON: In other words, you are going to have  
20 an estimated carryover of five hundred?

21 MR. HACKETT: Right, if any.

22 MR. GIBSON: All right, raise that to fifteen,  
23 then.

24 MR. COOLEY: Okay, now we go right back up to  
25 where we started. Where are we on Secretary's salary for the

1 fiscal year July 1, '79 to June 30th, '80?

2 MR. GIBSON: What do we have in the way of a  
3 total budget figure now as is?

4 MR. COOLEY: Well, off the record for a while.

5 (There was a discussion off the record.)

6 MR. COOLEY: We are going to discuss the  
7 measurement stations on the river insofar as they affect the  
8 budget.

9 Okay. The one was the Game and Fish -- Oh, okay,  
10 really where they were is 6, 8, and 9, were they not? Six, the --

11 MR. GIBSON: Item 4.

12 MR. COOLEY: Of course.

13 (There was a discussion off the record.)

14 MR. COOLEY: We have been discussing a very  
15 important matter and one of concern of the gage on Gageby Creek  
16 and it has already been determined that a committee is going to  
17 report back on the location of this. For the purposes of the  
18 budget, however, it appears that Mr. Helton indicates that the  
19 cutting of the channel is a necessary prerequisite to the placing  
20 of the gaging station and, furthermore, there's some indication  
21 that the Division of Wildlife will put in a gaging station.

22 Now, will you clarify where we are now, please,  
23 Mr. Helton?

24 MR. HELTON: I think you did it pretty well.

25 MR. COOLEY: Okay. So that would mean, I would

1 take it, that there was kind of a consensus that no action need  
2 be taken at this budget meeting with respect to the Gageby  
3 Creek gaging station; is that right?

4 MR. HELTON: In my opinion, that's correct.

5 MR. COOLEY: I think there seems to be a consensus  
6 that that would be all right for the purposes of this budget  
7 meeting.

8 MR. REYHER: The only additional thing to your  
9 comments would be that eventually there possibly will be two  
10 gages there: One at the head gage if so diverted out of Fort  
11 Lyon and one near the river which would be more for the purpose  
12 of the Compact.

13 MR. IDLER: The whole idea of a gaging station  
14 at Gageby Creek becomes vitally important when a permanent pool  
15 is considered, whether the water comes from Fort Lyon or whether  
16 it accrues naturally there. Now, the natural-accrued water  
17 there belongs to both Kansas and Colorado on a 40-60 basis.

18 Now, the water that's measured in from the Game  
19 and Fish is strictly Colorado water. So you have two divergent  
20 points of view there.

21 I understand Kansas' viewpoint, they don't want  
22 to pay any measurement for the Game and Fish.

23 MR. BENTRUP: Does Colorado?

24 MR. IDLER: Right.

25 MR. HELTON: Colorado pays for it anyway.

1 MR. IDLER: But are you, in essence, just going  
2 to donate Gageby Creek water to the permanent pool?

3 MR. COOLEY: The gaining Gageby Creek water to the  
4 permanent pool.

5 MR. IDLER: Uh-huh.

6 MR. HELTON: No. As a matter of fact, Leo, the  
7 Division of Wildlife would not try to claim any water that  
8 originated in Gageby Creek. They would only claim the water  
9 that was released out of the Fort Lyon canal under this agree-  
10 ment. That water would be measured and that is the water that  
11 the Division would claim credit in in the permanent pool. The  
12 rest of the water would flow in as it always did and would not  
13 be interrupted. As a matter of fact, by cutting the channel  
14 through there, the Division of Wildlife will eliminate some of  
15 the burden on the stream and I think increase the amount of  
16 water that naturally flows in from Gageby Creek.

17 MR. IDLER: It is water that accrues into the  
18 Caddoa Dam and it is not measured and Lane Hackett has the  
19 duty of operating the dam on measured inflow.

20 MR. HELTON: Well --

21 MR. REYHER: One other problem there is that  
22 additional water that supposedly is not going to be claimed by  
23 the --

24 MR. HACKETT: Wildlife.

25 MR. REYHER: -- Wildlife, the concern of the

1 canal below is that that water would be used up in that evapora-  
2 tion and transportation loss, so we need to have a record of  
3 it to make sure that it is not lost, unappropriated, so they know  
4 where it is.

5 MR. BENTRUP: Well, I agree, Kent, we need two  
6 gages and we need a clear channel. But right now we can't put  
7 down a definite amount for the cost of it, so it will have to  
8 be done in next year's budget.

9 MR. COOLEY: I don't know how you fellows feel,  
10 but I kind of feel that that statement carries a lot of weight  
11 as far as logic is concerned, that there's just too many things  
12 to come on before you can --

13 MR. IDLER: There's not much of a way of measuring  
14 it now at all.

15 MR. COOLEY: Yes, yes.

16 I really feel, unless someone interrupts me, that  
17 we are past that -- that we have gone as far as we can on that  
18 item on the budget.

19 Now, what other measuring stations need to be  
20 discussed at this meeting?

21 MR. HELTON: Number 3, maybe, but we don't have  
22 a cost estimate on that.

23 MR. GIBSON: Mr. Chairman?

24 MR. COOLEY: Yes, sir, Mr. Gibson.

25 MR. GIBSON: I would suggest on item number 3 that

1 consideration be given to a special -- possibility of a special  
2 assessment at the next meeting, U.S.G.S., and that committee  
3 comes in with an estimated cost.

4 Is Colorado in your budget -- Off the record,  
5 please.

6 (There was a discussion off the record.)

7 MR. COOLEY: We are on the record of the desirability  
8 of there being a budget item of \$5,000 for stream measurement  
9 improvement appearing to be needful to most of the Compact.

10 MR. HELTON: Would that, in effect, raise the  
11 Cooperative Agreement by \$5,000? Is that how we could handle  
12 that?

13 MR. HACKETT: Then, U.S.G.S. would have to answer  
14 that.

15 MR. HELTON: I think anything we do they'd do  
16 under our Cooperative Agreement, so the costs are 50-50.

17 MR. HACKETT: Yeah, we are talking about ten  
18 thousand total, then. If they agree --

19 MR. COOLEY: We want to make our dollars go as  
20 far as they can, but for the purposes of our budget, five  
21 thousand bucks would go in there for that purpose and if we can  
22 turn it into ten, we obviously would want to do so.

23 MR. HACKETT: I want to know where we are going  
24 to put this? Are we going to have a separate line on the budget  
25 for that not as a cooperative?

1 MR. GIBSON: A separate fund, fund number 14,  
2 to be set up only to be -- any expenditure from that fund in  
3 connection with what we have been discussing here on the five  
4 thousand.

5 MR. REYHER: Wouldn't this be under a separate  
6 item under U.S.G.S.?

7 MR. HACKETT: That's the way I think it should  
8 be.

9 MR. REYHER: Under that heading, I mean?

10 MR. GIBSON: No, I think it has to be a separate  
11 item down --

12 MR. COOLEY: Above "Contingency"?

13 MR. GIBSON: Above "Contingency," "Office," five  
14 thousand, and so on. Then, when we work it up, that would  
15 bring ten thousand in, matching funds.

16 MR. COOLEY: Yes.

17 MR. HELTON: It seems like we could figure out  
18 some nice bureaucratic phrase for it, like "Data Acquisition  
19 Improvement."

20 MR. BENTRUP: It might be something like that.

21 MR. COOLEY: Leo is laughing but that's as good  
22 a name as we are going to have today, Data Acquisition Improve-  
23 ment Program, five thousand clams American money.

24 MR. HACKETT: Data Acquisition what?

25 MR. COOLEY: Improvement Funds.



1 MR. HACKETT: Yes, sir, but that was two seconds  
2 ago.

3 MR. COOLEY: All right.

4 Now --

5 MR. HELTON: Now we are up to eighteen seventy-  
6 seven.

7 MR. COOLEY: All right, now we are right back --  
8 Oh, that really disposed of the water measurement, did it not,  
9 Mr. Gibson?

10 MR. GIBSON: I think so.

11 MR. COOLEY: All right, now we are right back to  
12 Secretary's salary.

13 It is not as desperate as I had believed because  
14 of the fact that this will be effective in '79, which is only  
15 one year away, but what is your pleasure? I am --

16 MR. HELTON: I will state an observation. If  
17 we increase the Secretary's salary by \$100 a month, we will  
18 bring our total budget right at \$20,000.

19 MR. HACKETT: Mr. Cooley, I'd like to make a  
20 correction on the statement. Sorry to interrupt your note there.

21 MR. COOLEY: Go ahead.

22 MR. HACKETT: But this \$2400 increase was subject --  
23 it was taken care of in the 1978-79 budget, so the first of July  
24 this year my salary will increase.

25 MR. HELTON: We understood that.

1 MR. COOLEY: Yes, we all knew that.

2 MR. HACKETT: I thought maybe there --

3 MR. COOLEY: We all knew that.

4 MR. HACKETT: Now then, on with your --

5 MR. COOLEY: All right, we have an observation  
6 from --

7 MR. GIBSON: How much did you say to give him  
8 there, make it how much?

9 MR. HELTON: Make it thirty-six hundred total and  
10 it should come out to about nineteen nine seven zero, if I've  
11 added correctly.

12 MR. IDLER: Will you go off the record a minute?  
13 (There was a discussion off the record.)

14 MR. COOLEY: I am going to do figures only now.  
15 \$3,600; next, two hundred twenty. The third figure goes from  
16 five to one thousand. The next figure is four thousand eight  
17 hundred. The next figure is one hundred. The next figure is  
18 \$75. The next figure is \$1,000. The next figure is \$1,350.  
19 The telephone is nine hundred. The office is five hundred. The  
20 special fund is five thousand. The contingency is one thousand  
21 five hundred.

22 What is the total, Lane?

23 MR. HELTON: \$20,045.

24 MR. REYHER: This here would be about two hundred  
25 forty-four.

1 MR. HACKETT: If those items are agreeable as  
2 you --

3 MR. COOLEY: Just a minute, Lane. What is the  
4 figure? I got eighteen zero four five; is that right?

5 MR. HELTON: I got twenty thousand forty-five.

6 MR. COOLEY: Twenty, twenty-thousand forty-five.  
7 I don't think there's anything to be gained by shaving or  
8 adjusting to make it come up to some predisposed thing, such  
9 as twenty even. I wouldn't like that very well if I were  
10 sitting in the Kansas budget office.

11 All right. Now I will hear you.

12 MR. HACKETT: I was going to say or suggest, if  
13 it would be an assist to the meeting, that if we have agreed on  
14 those final line figures, that I will retype the budget and  
15 send it to you if you wish to adopt it.

16 MR. COOLEY: Of course it will be retyped after  
17 this meeting.

18 MR. HACKETT: This way I will redo it and send  
19 it to each of you.

20 MR. HELTON: Send it to me.

21 MR. HACKETT: Pardon?

22 MR. HELTON: Send it to me.

23 MR. COOLEY: We are on the record.

24 We have not adopted any budget. We have gone  
25 down this line by line and reached consensus on items. I am

1 ready to --

2 MR. BENTRUP: Mr. Chairman?

3 MR. COOLEY: Yes, go ahead.

4 MR. BENTRUP: I move we adopt the following  
5 budget, insert the amounts.

6 MR. COOLEY: Just read off --

7 MR. BENTRUP: Yes.

8 MR. COOLEY: Which adds up to twenty thousand zero  
9 four five.

10 There's been a motion to adopt the budget in  
11 the figures we just rattled off up to twenty zero four five. Is  
12 there a second to that motion?

13 MR. STOECKLY: Aye.

14 MR. COOLEY: It has been moved and seconded.  
15 Is Kansas ready to vote on this?

16 MR. BENTRUP: Aye.

17 MR. COOLEY: Kansas votes aye.

18 MR. IDLER: Colorado votes aye.

19 MR. COOLEY: Colorado votes aye.

20 (There was a discussion off the record.)

21 MR. COOLEY: That budget is divided as 60-40.

22 In addition to that budget and separate from the  
23 budget is the item of \$3,527.50, which is not a part of the  
24 budget but which is a special assessment.

25 MR. BENTRUP: We had already acted on that.

1 MR. COOLEY: Yes, but I am saying this for  
2 clarification of the record is all.

3 (Whereupon the proceeding was concluded at  
4 5:00 p.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

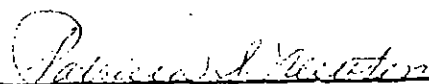
25

## REPORTER'S CERTIFICATE

I, PATRICIA S. NEWTON, Certified Shorthand Reporter within and for the State of Colorado, do hereby certify that the foregoing proceeding was stenographically reported by me at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form under my supervision, and the foregoing is a true and correct transcription of my stenotype notes then and there taken.

I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the event of the within action.

Dated this 5<sup>th</sup> day of June, 1978.

  
PATRICIA S. NEWTON  
Certified Shorthand Reporter