

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

M I N U T E S

OF

SPECIAL MEETING

OF THE

ARKANSAS RIVER
COMPACT ADMINISTRATION

ON

FRIDAY, JULY 12, 1985
(12:30 P.M.)

AT

COW PALACE INN
LAMAR, COLORADO

PRESENT:

FRANK G. COOLEY,
CHAIRMAN

LEO IDLER, CARL G. GENOVA
and J. WILLIAM McDONALD
for Colorado

CARL E. BENTRUP, DAVID POPE,
and RONALD OLOMON
for Kansas

(P R O C E E D I N G S)

1
2 THE CHAIRMAN: This is a special meeting of the
3 Compact Administration held Friday, June 12th, at
4 Lamar, Colorado, pursuant to notice.

5 From the view of the audience, the person furthest
6 to your right is David Pope, who is ex officio and the
7 chairman of the delegation from the State of Kansas.
8 Next to him is Ron Olomon, and next is Carl Bentrup,
9 the Vice-Chairman of the Compact Administration. My
10 name is Frank Cooley. Seated next to me is--it says
11 here, "J. William McDonald"--a guy named Bill McDonald,
12 who is ex officio and the chairman of the Colorado
13 delegation.

14 I speak for everyone in the room to note with
15 great pleasure that next to him is Leo Idler, and
16 Leo, we are delighted that you are with us and I am
17 proud that you are doing so well.

18 To his right is Carl Genova, the other Colorado
19 representative.

20 Again, we have many distinguished persons in the
21 audience. I was informed by Kansas when they saw
22 that bill for the last meeting for the court reporter
23 that remarks would be kept to two sentences each from
24 anyone at the meeting today in order to keep the
25 reporting fees within the budget.

1 An agenda has been circulated by Mr. McDonald
2 consisting of thirteen items. (Exhibit C)

3 Mr. Pope, as far as you know, is the agenda
4 acceptable to Kansas?

5 MR. POPE: Yes, I believe so, Mr. Chairman.

6 THE CHAIRMAN: Without objection, we will proceed
7 on the agenda for this meeting as circulated.

8 There is a proposal which has been circulated on
9 amendments to the bylaws concerning minutes of the
10 meetings, and I believe, Mr. McDonald, that what was
11 circulated was a clear articulation and statement of
12 really what it was that we determined to do at Garden
13 City at the last meeting. (Exhibit D)

14 Has each of you received the proposed amendment
15 to the bylaws?

16 Mr. McDonald, how do you suggest we proceed on
17 the amendment about the minutes of meetings?

18 MR. McDONALD: Can I put the matter in order with
19 a motion? If it finds a second, I think perhaps David
20 and his colleagues want to suggest one change, which
21 I will be glad to entertain. I would move the adoption
22 of the proposed amendments to the bylaws as
23 I have distributed them to the members of the
24 Administration, and that would be an amendment to
25 Article IV. 5, and an amendment by way of deleting

1 the last sentence of Article IV. 2. (b), and I would
2 further move that the amendments to the bylaws supersede
3 and replace the policy and procedure with respect to
4 minutes which was adopted at the March 28, 1985, special
5 meeting of the Administration.

6 THE CHAIRMAN: There is a motion. Is there a
7 second?

8 MR. BENTRUP: I will second that.

9 THE CHAIRMAN: Motion has regularly been made and
10 seconded. The matter is now open for discussion.

11 Mr. Pope?

12 MR. POPE: Thank you, Mr. Chairman.

13 The proposed change to the bylaws appears to be
14 well written and acceptable to us. I would, however,
15 suggest one minor rewording at the very end that would
16 be on what is numbered page 3, the last line of the text
17 where it says "recording"--we are speaking of the tapes
18 of the meetings that might be transcribed rather than
19 held by court reporter--that last line would say
20 "recording shall no longer be preserved." I would
21 suggest we change that to "recording shall be preserved,
22 but will not be considered as minutes for the meeting."

23 MR. McDONALD: David, could I suggest--I think I
24 got your words down--what we would do is in the materials
25 that I passed out, delete at the end the words "until

1 the Administration has approved the official minutes
2 of the meeting, whereupon such recording shall no longer
3 be preserved," and insert in lieu thereof, "but shall
4 not constitute the official minutes of a meeting." So
5 that that last sentence in its entirety would read:
6 "The electronic recording of a meeting shall be preserved
7 by the recording secretary, but shall not constitute
8 the official minutes of a meeting."

9 MR. POPE: I think that's acceptable.

10 MR. McDONALD: It's briefer.

11 THE CHAIRMAN: All right. Mr. Pope, is that your
12 present amendment?

13 MR. POPE: Yes. If I can get Bill to read that
14 one more time, I think I will--

15 THE CHAIRMAN: One more time.

16 MR. McDONALD: Yes. The last sentence would
17 read: "The electronic recording of a meeting shall
18 be preserved by the recording secretary"--delete what
19 is printed and insert--"but shall not constitute the
20 official minutes of a meeting."

21 MR. POPE: Mr. Chairman, I would be willing to
22 accept that as an amendment to my motion. I would
23 move, I guess, the amendment to Bill's motion to include
24 that language.

25 THE CHAIRMAN: Okay. Fine. Does the person

1 making the second accept the amendment to Mr. McDonald's
2 motion?

3 MR. BENTRUP: Yes.

4 THE CHAIRMAN: Okay. We now have before the
5 Compact Administration the proposal as to the bylaws
6 as circulated and summarized in Mr. McDonald's motion
7 with the change, amendment or correction of the last
8 sentence.

9 Is Kansas ready to vote?

10 MR. BENTRUP: Yes. Kansas votes aye.

11 THE CHAIRMAN: Kansas votes aye.

12 Is Colorado ready to vote?

13 MR. McDONALD: Colorado votes aye.

14 THE CHAIRMAN: Changes are approved.

15 We now go to minutes of meetings of May 10,
16 1984, December 11, 1984, March 28, 1984. The March
17 28th, if I said "1984," I meant 1985 on the March
18 28th one.

19 These have been circulated. Are there any
20 corrections or amendments to the minutes of May 10,
21 1984?

22 MR. POPE: Mr. Chairman, I think we are unfortunately
23 still not ready to act on those. We have received
24 as of our--I think it was the--June meeting in Kansas
25 City, the tapes, but we really simply just didn't

1 get those reviewed and put into final form.

2 THE CHAIRMAN: Okay. I don't like leaving
3 orphans, but where are you on the annual meeting or
4 the March meeting?

5 MR. McDONALD: I am no better off.

6 THE CHAIRMAN: That takes care of that one.

7 The next item on the agenda is the--

8 MR. POPE: Wait a minute. I think we have the
9 March 28, '85, minutes ready to go, but not the
10 December 10th. I don't believe we received the December
11 11th. I mean--

12 MR. OLOMON: It is December 11th of '84 which I
13 have not yet--

14 THE CHAIRMAN: Well, there is rejoicing in heaven.
15 Apparently we are ready for March 28, 1985.

16 MR. McDONALD: Reverse order.

17 THE CHAIRMAN: Are there any discussion, correction
18 or amendments to the transcribed minutes of the meet-
19 ing of March 28, 1985?

20 MR. POPE: Mr. Chairman, assuming that the copies
21 that have just been presented to us are the same as
22 we had agreed upon the corrections to between Bill
23 McDonald and I, I would be happy to move the adoption
24 of them as minutes of the meeting.

25 THE CHAIRMAN: Well, let me ask you a question.

1 Are you ready to make the assumption that they are the
2 same and that the Xerox machine was functioning
3 properly?

4 MR. POPE: I think so.

5 THE CHAIRMAN: Okay. I will accept a motion that
6 we unqualifiedly accept these as the minutes of March
7 28, 1985.

8 MR. BENTRUP: Mr. Chairman, I so move.

9 THE CHAIRMAN: Motion. Is there a second?

10 MR. OLOMON: I will second.

11 THE CHAIRMAN: Colorado?

12 MR. IDLER: Votes aye.

13 THE CHAIRMAN: Colorado votes aye. Kansas?

14 MR. BENTRUP: Aye.

15 THE CHAIRMAN: Kansas votes aye.

16 We have approved the March 28th minutes.

17 The treasurer's report.

18 Gee, at this rate, we will be through in another
19 forty-three minutes.

20 MR. IDLER: Under the agenda that I handed out
21 here is the copy of the checks that has been written
22 since March 28th and the amount of money on hand at
23 the present day.

24 THE CHAIRMAN: The essence of the treasurer's
25 report has been circulated. Is there any question or

1 comment concerning the treasurer's report as circulated,
2 and the date on this was as of June 28, 1985?

3 I would accept a motion that we approve the
4 treasurer's report as of--why not as of the date of the
5 bank statement, June 28, 1985? Brings us reasonably
6 up to date. I would accept such a motion.

7 MR. McDONALD: I would so move and have it
8 incorporated as Exhibit A into the transcript.

9 THE CHAIRMAN: You have heard the motion. Is there
10 a second?

11 MR. BENTRUP: Do you have any problem with it?

12 MR. POPE: I don't have any problem with it.

13 MR. OLOMON: I will second it.

14 THE CHAIRMAN: Kansas ready to vote?

15 MR. BENTRUP: Kansas votes aye.

16 THE CHAIRMAN: Colorado?

17 MR. McDONALD: Colorado votes aye.

18 THE CHAIRMAN: Treasurer's report is approved.
19 The operation secretary's report.

20 MR. JESSE: You want me to speak from here or
21 should I step up to the mike?

22 THE CHAIRMAN: I think you should step up to the
23 mike. Some people might have brought vegetables or
24 whatever, Mr. Jesse.

25 MR. JESSE: I am getting a little nervous. I will

1 try to make my report as short as possible and cover
2 operations more in the narrative fashion. I have
3 prepared--I have some more detailed sheets with some
4 numbers and that sort of thing on them that might
5 be too dry to read here that I will give to the
6 commissioners if they want them, but I won't go through
7 all the reading of them.

8 If anyone wants an exact number or date, why,
9 Bill Howland or Jim Kasic or Danny Markus can get it for
10 you, but I don't have reams of material here with me to
11 report.

12 First, I would like my financial report on funds
13 allocated to the operations secretary. I know there
14 has been some interest in this. Last year, we purchased
15 a typewriter for my office, and this year, we purchased
16 a service contract which will allow for the maintenance
17 or servicing of the typewriter. That's one of the items
18 in Leo's report and I got a little breakdown on that if
19 anyone wants to see it.

20 I also have purchased three remote terminals that
21 will be assigned to the Lamar, the Las Animas, and the
22 Pueblo offices for use in the operations people
23 interrogating the Sutron system mainly.

24 I also have contracted for the computer programmer
25 to come in and set up both some hardware and some
software, which is the program, and then train Bill

1 and my staff in the operations of the computer that
2 we bought two years ago, the Osborne that is now in
3 the Las Animas office, and I got those numbers here.
4 They are all in the checks and all of that has been
5 expended except for the \$163 and miscellaneous computer
6 paper and that sort of thing that we still have out-
7 standing.

8 We do not have the computer program on line now.
9 We should have it by the December meeting for sure and
10 maybe I can have some of them printouts that we can
11 show you how the accounting is done, maybe in a little
12 different form, but the same manner we have here.

13 THE CHAIRMAN: May I interrupt you, Bob?

14 MR. JESSE: Certainly.

15 THE CHAIRMAN: Is the apparatus sufficient so
16 that you can obtain readouts at this time from the
17 various stations on the river through the equipment?

18 MR. JESSE: We have access in our office now to
19 the Sutron system. We are using it now in my
20 commissioners' and my offices. These remote terminals
21 will permit the field people to also interrogate the
22 Sutron system. It's coming along very nicely and I
23 am sure there might be more said about it later, but
24 we are now using the stream gages. We are getting
25 the Kansas station, or we were the day before yesterday,

1 so we have a pretty good report for a pretty good
2 success ratio with our Sutron, and this equipment
3 will simply allow more people to interrogate the
4 equipment we are purchasing this year, as well as the
5 computer which will do the accounting mainly.

6 THE CHAIRMAN: In a sentence or two, what is
7 the--and you will have to speak louder--in a sentence
8 or two, what is the further capability that you are
9 hoping for later this fall?

10 MR. JESSE: I don't anticipate that we will
11 increase any of the detail or the accuracy of the
12 accounting procedures we use because hopefully we don't
13 have that many mistakes now. The computer will make
14 it faster and easier and will make possible more
15 detailed reports. Should someone want a report of a
16 particular account, for example, now you have one sheet
17 of paper that has them all on, we could maybe spread
18 that out and devise a program that would permit us to
19 simply print out what a person wants. Kansas may not
20 want the whole nine yards, they might only want some
21 item, and now we only have one form. It would improve
22 it that way, but it will not change the detail or the
23 accuracy of the accounting itself or the methods. We
24 are simply going to reproduce on the machine what we
25 are doing by hand.

1 THE CHAIRMAN: I have used up my two sentences.
2 Thank you. And back to your report, if you would.

3 MR. JESSE: Okay. Well, on John Martin, since
4 April the 1st, I made a report of the winter in March,
5 so I won't go into that.

6 In case anyone wants more detail or exact numbers,
7 why, Bill has got his briefcase and we can give you
8 the numbers there, and I think everyone has the account-
9 ing sheets.

10 Beginning April, we had a series of releases to
11 Colorado ditches and Kansas. The Kansas run 500 feet
12 starting on April the 12th and run until the 30th.
13 The delivery of 17,800 acre-feet was made with about
14 1,300 acre-foot of transit loss. That run, of course,
15 is now concluded.

16 The reservoir entered the flood pool on May the
17 26th. The Corps assumed control and began releasing
18 inflow about 2,500 or so CFS.

19 The flood pool at its maximum on June the 18th
20 contained 362,000 acre-foot. It has got 330,905 in
21 it right now, if that's of interest to anyone, and the
22 spill from the accounts went in accordance with the
23 December agreement. I can give you all these numbers
24 if you like and I will to the Compact commissioners.
25 I have got a little sheet prepared for you guys, but I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

can explain in more detail if you want.

We, of course, made the spill and the releases according to the agreement in December. We released first starting with the golf course and then we went to the permanent pool in excess of 10,000. We did not release any water from the transit loss account. We didn't get to that. We did break down the account and released the carried over water first. We did not get to the '85 water. The total forced release not counting the water that was in the flood pool was about 91,000 acre-foot.

I have got a sheet here. That's what I will give the commissioners later on, and if you want to go over it with me, why, fine. Better maybe with Bill or Howard (Corrigan). Howard has the numbers, but if you want to study them with Howard, why, we can go over them, but basically that's what happened. We still have all the transit loss water except the water that we released for the two Kansas runs, one of them now in progress, but we didn't release very much, but we still have what we started with.

Pueblo also had its share of high water and did spill all '84-'85 winter water and now contains only project water, some of which is East Slope that was stored in the John Martin spill, and some West Slope.

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

1 It contains 263,173 acre-foot this morning.

2 THE CHAIRMAN: What again?

3 MR. JESSE: 263,173. Pueblo entered the flood
4 pool on June the 6th, and at the maximum on June the
5 12th, contained 27,000 acre-foot, 27,000 acre-foot
6 in the flood pool, which was all released by June the
7 15th.

8 During this time, we were attempting to maintain
9 the 6,000 feet at Avondale, and during this time, we
10 made a total of twelve gate releases from Pueblo
11 Reservoir. There was a problem with the gates creeping
12 back down and we only got to about 5,700 or so out of
13 Avondale. We are hoping that we can work on that a
14 little more. As far as I know and as far as I can
15 ascertain from anyone, there was no apparent damage or
16 reports of damage from that kind of flow.

17 We have not had any rain events since. In fact,
18 we haven't had any rain since all winter water was spilled
19 from Pueblo.

20 The contents in the mountain reservoirs are
21 substantially full right now. We are making some
22 imports from Twin Lakes. I don't know if that's going
23 to go up or not. I don't think no decision has been
24 made yet.

25 We have only one reservoir run above Pueblo--above

1 John Martin, rather--in progress now, and that's the
2 run to Twin Lakes. I am looking for a lot more activity
3 if this kind of weather stays the way we are going.

4 Like I said before, we are entering, where I live,
5 our eight week without effective precipitation, so
6 it's getting very dry.

7 Runoff at Trinidad was disappointing, to say the
8 very least, and only a very small amount, and, again,
9 Danny can give you the number. I think it's a little
10 over a thousand feet or so-- Is that right, Danny? --was
11 stored under the joint use pool priority in Trinidad.
12 They just did not have the inflow.

13 We are watching to see how that works, but Trinidad
14 is operating at about where it should operate now
15 that the majority of the land is under irrigation. We
16 also have a breakdown of that, which I believe everyone
17 gets, but Danny is here. We want to discuss some of
18 that with the Bureau, and if anyone else wants to
19 join, why, we will be glad to include them in that
20 breakdown.

21 Again, that's about all I got to report. I can
22 give you these numbers. I can answer any questions,
23 and other than that, that's all I got to report, other
24 than it's dry and we are pretty bad in need for rain.
25 We are going to need all this water we got now.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: Carl?

MR. BENTRUP: You mentioned just a little while ago about joint use priority in Trinidad. What is that?

MR. JESSE: The joint use pool is the 39,000 acre-foot joint use pool, and it has a priority under Colorado water law, and it comes into priority only when John Martin spills, and, of course, it came into priority this year and they got a little over a thousand acre-foot.

THE CHAIRMAN: Any other questions? I would accept a few questions of Mr. Jesse from the audience.

Mr. Simms, do you have any questions of Mr. Jesse at this time?

MR. SIMMS: No, sir.

THE CHAIRMAN: It's too good an opportunity, folks. Do any of you have any questions of Mr. Jesse? Bob, you have escaped, apparently.

The next thing on the agenda is the Kansas transit loss account. Was that covered? All right.

Mr. McDonald, introduce us to the next item on the agenda.

MR. McDONALD: Agenda 7, the "Status of Kansas transit loss account" is on the agenda at David Pope's request in the event, as had been possible, that the

1 spill at John Martin had continued for such a length of
2 time that the Kansas transit loss account would have
3 also been spilled. That has not occurred.

4 And, David, I am advised by Bob--let's double
5 check--that we are no longer spilling John Martin as
6 just reported, and, therefore, no water has been nor
7 will any water be lost from the Kansas transit loss
8 account barring a summer flood, so the problem appears
9 not to have materialized.

10 MR. POPE: Bill, I appreciate that, and I agree
11 that it was an item I requested be put on the agenda
12 only in the event that we needed to really do some
13 last minute decision-making in terms of how to handle
14 that if it occurred.

15 The only comment I would make otherwise is that
16 there still are perhaps some unresolved issues that
17 we talked about even in the past that we need not get
18 into right now, but perhaps by annual meeting time or
19 thereabouts, we can finalize some of the concerns that
20 still exist in terms of the 1980 agreement.

21 MR. McDONALD: I agree. We would still like to
22 address those before the year is out.

23 THE CHAIRMAN: The next item on the agenda is
24 the "Report from the investigation committee constituted
25 by resolution of March 28, 1985."

1 MR. McDONALD: Frank, could David and I have one
2 minute, please?

3 THE CHAIRMAN: You bet. In the meantime, let me,
4 for the record, welcome Jasper Coombes back to the
5 meeting. It has been too long since we have seen you
6 and it's a delight to have you here, sir.

7 MR. BENTRUP: Is there an attendance sheet?

8 THE CHAIRMAN: We want an attendance sheet. Gene,
9 can we start a pad around for an attendance sheet?

10 MR. JENCOSK: Sure.

11 THE CHAIRMAN: Mr. Pope?

12 MR. POPE: Mr. Chairman, thank you.

13 I will begin the report and make some comments
14 regarding the Kansas view, and then, in turn, I believe
15 Bill will have some comments to make.

16 Since the March 28th resolution was adopted the
17 special committee has met three times. That included
18 an initial meeting in Denver on May 7, 1985, wherein
19 we primarily discussed the task at hand and the need
20 to develop a scope of work for the investigation and
21 were able to conclude at least part of that as related
22 to one of the issues.

23 We met again to work specifically on the scope of
24 work, especially as related to the Kansas allegations
25 of violations of the Compact, and that second meeting

1 was in Kansas City on June 3 of 1985.

2 I would say, at this point, that each of the members
3 of the Administration should have received a copy of
4 the monthly reports that we have provided, one being
5 for the period ending May 1, and one being for the
6 period ending June 1, summarizing essentially those
7 first two meetings' activities.

8 At this time, I think I would read what is a
9 draft of our next monthly report which would be for
10 the period ending July 1, and that will, I think,
11 elaborate more on some of the activities that occurred
12 at the last meeting, and then we will follow that with
13 some discussions of what we accomplished today.

14 The report for the period ending July 1, 1985,
15 reads as follows: It is addressed to Members of the
16 Administration and the Chairman from myself and Bill
17 McDonald. "This report is provided for the period
18 ending July 1, 1985, pursuant to the Arkansas River
19 Compact Administration's 'Resolution Concerning Alleged
20 Violations of the Arkansas River Compact,' which
21 resolution was adopted on March 28, 1985. We are
22 reporting as a committee constituted by the resolution
23 to conduct the investigation for which the resolution
24 calls. We held our second meeting on June 3, 1985,
25 in Kansas City, Kansas." That is actually Missouri.

1 Excuse me. "The primary item of business was continuing
2 discussion of the scope of work to be performed in order
3 to conduct the investigation. It was agreed that as
4 an initial step, a series of mass diagrams of flows
5 at various locations would be prepared. A copy of the
6 minutes of the June 3rd meeting are attached hereto.
7 In accordance with the discussions at the June 3rd
8 meeting, David Pope transmitted to Bill McDonald by a
9 June 13, 1985, letter, a scope of work for an
10 initial analysis on transmountain diversions and return
11 flows which he proposed be included in the first phase
12 of the investigation. This matter will be discussed
13 further at the committee's next meeting. There were
14 no other communications between us relating to the
15 investigation for the period covered by this report
16 other than telephone conversations concerning the
17 preparation of the mass diagrams. The bulk of the
18 work completed during this past month involved the
19 compilation and tabulation of stream flow data in
20 preparation of the mass diagrams. This work was an
21 extensive effort and required a large amount of time.
22 The data preparation was coordinated between the staff
23 of the Colorado State Engineer's Office and Spronk
24 Water Engineers, Incorporated, the engineering
25 consultants for the State of Kansas. Meetings on

1 June 25th and 28th and July 2nd were held to compare
2 and discuss data. A significant amount of time was
3 also spent discussing the details of the sources of
4 data by telephone between the staffs of the Colorado
5 State Engineer's Office and Spronk Water Engineers,
6 Incorporated. The specific tasks completed by the
7 special committee included: (1) Preparation of a
8 monthly data base for stream flow records at five
9 Stations on the Arkansas and Purgatoire Rivers for
10 the period of 1908 through 1984. Usable stateline
11 flows were determined using the method developed by
12 C. W. Patterson of the Colorado Water Conservation
13 Board in 1944. (2) Compilation of the adjustments
14 to be made to the various gages. Adjustments were
15 made to the records of the Arkansas River at Las Animas
16 and the Canon City gages. (3) Generation of seasonal,
17 annual and five-year running average totals for each
18 data set. Cumulative totals were also computed and
19 used to plot mass curves. (4) Preparation of plots
20 for the mass diagrams. This was approximately sixty
21 graphs that had been generated in accordance with the
22 criteria agreed at the June 3, 1985, meeting and
23 subsequent meetings between the engineers of both
24 states. The next meeting of the committee has been
25 scheduled for July 11, 1985, in Lamar, Colorado."

1 That concludes the monthly report from the
2 special committee to the Administration.

3 At this time, I would then report on some activities
4 from this morning, at which time, the special committee
5 again met primarily for the purpose of reviewing and
6 analyzing the mass diagrams that had been prepared at
7 our request at the last meeting.

8 I think we all concluded that a massive effort
9 had been undertaken in a relatively short period of
10 time in that a lot of work had been done by the various
11 engineering staffs.

12 After having reviewed that information, we
13 discussed what it meant, and, in summary, I would
14 say that the Kansas position, based upon that informa-
15 tion and the other information that we have obtained
16 and analyzed thus far, still indicates to us that
17 depletions of the flows of the Arkansas River have
18 occurred in the order of 40 to 50,000 acre-feet per
19 year, pretty much along the same lines as what the
20 earlier studies--earlier preliminary studies--had shown
21 which were conducted by Spronk Water Engineers over a year ago.

22 I would indicate that these depletions are
23 shown based on the curves that had been produced
24 at the stateline and usable stateline flows. Examina-
25 tion also indicates that there are depletions

1 to the inflow of John Martin Reservoir that are not
2 explained by changes in administration at the time
3 the Compact was signed.

4 THE CHAIRMAN: Now, for this part of the agenda
5 item, let's concentrate on the report of the special
6 committee or the work of the special committee. Is
7 there any thing or information which could be furnished
8 or supplied by any of the federal agencies which has
9 not been supplied by those agencies?

10 MR. POPE: That may be a fair question. I think
11 what I would prefer, Mr. Chairman, is if we would
12 conclude the-- I think there is a method in our madness
13 here in the fact that the committee desired to each
14 report its statement of interpretation at this point in
15 time of the graphs, and we have a proposal that we will
16 be able to talk about and perhaps your comment then
17 can fit in after that.

18 THE CHAIRMAN: I follow. Go ahead.

19 MR. POPE: I think I have probably, in essence,
20 summarized the thoughts of Kansas with regard specifically
21 to the some sixty mass diagrams that have been
22 produced and it certainly is not necessary here at this
23 point in time to go through those individually and talk
24 about them in technical detail.

25 An additional item I would mention is the fact that

1 we, as I had reported when I read the monthly report,
2 had concerns which we expressed at the Kansas City
3 committee meeting regarding the effect of transmountain
4 diversion return flows. As indicated, we developed a
5 scope of work and requested information from the State
6 of Colorado so that analysis of that issue could be
7 made and our concern there is that those return flows
8 may be masking some additional depletions that are not
9 shown by the information that we have to date. So I
10 would indicate that there is still that issue at hand.

11 Bill McDonald did deliver to us in response to
12 our request some basic data today, and we have not
13 had a chance, of course, to look at that or analyze
14 it on the transmountain return flow issue.

15 Bill, that essentially completes my thoughts on
16 what the graphs show. Perhaps I think, at this point,
17 it would be appropriate for you to provide your
18 thoughts, and then I think we might, one of us, comment
19 on where we go from here.

20 MR. McDONALD: Okay. Thank you, David.

21 I concurred with Dave's summary of the steps which
22 the committee has gone through, and by previous agree-
23 ment this morning, he reported the conclusions that
24 he has reached with respect to the mass diagrams and
25 I will now report mine, and that is our means of making

1 the committee report.

2 It is my preliminary conclusion, looking at the
3 mass diagrams to which David has referred, that they
4 do not show any continuing, ongoing change in relation-
5 ships between flows at the various points we have
6 examined, and there being no deviations, it would appear
7 that material depletions are not occurring.

8 It is obvious that at this point there is
9 potentially a difference of opinion between David and
10 myself.

11 With respect to the matter of return flows from
12 transmountain diversions, David reflected in his
13 comments of just a moment ago that he had asked for
14 basically two things, some sets of data, number one,
15 and an analysis that would estimate those return flows
16 and where they are located.

17 We have this morning provided the data requested.
18 I have declined to undertake the evaluation and
19 estimation of return flows because I do not believe
20 it is an appropriate matter for the investigation
21 committee to pursue.

22 Dave, would you like me to proceed with how we
23 propose to procedurally go forward?

24 MR. POPE: Go ahead.

25 MR. McDONALD: To complete our collective report

1 as a committee, what we concluded was that we would
2 each exchange a written report to the other by September
3 3rd of this year offering each of our respective
4 analysis of the mass diagrams that are now in front of
5 us, that we would then meet as a committee on Tuesday,
6 September 17th, to discuss the exchange of reports
7 between us, and to see, at that time, with respect to
8 that much of the investigation for which the resolution
9 calls, if there were common conclusions to which we
10 would come or if we indeed had differences, and at that
11 point, how we might frame, for at least that portion of
12 the investigation, a report from us as the committee to
13 the Administration. And in anticipation of a partial
14 report, we would recommend as a committee to you, the
15 Administration, that we plan on and schedule another
16 special meeting of the Compact Administration in Garden
17 City on October 8th, which I also believe is a Tuesday,
18 and that basically covers what we did this morning on
19 this committee.

20 THE CHAIRMAN: I have a question right off the bat
21 and it is this: Are the data on which the diagrams are
22 based agreed upon and do they constitute a unanimous
23 committee report?

24 David, go ahead.

25 MR. POPE: Frank, I believe the same data was used

1 for all of the mass diagrams, if that's your question.
2 Yes, I believe that has been agreed upon with a few
3 exceptions and the engineers dealt with those exceptions
4 by simply plotting the diagrams both ways using their
5 data and our data, so the sum total of the diagrams are
6 based on a common set of data.

7 THE CHAIRMAN: Are the diagrams themselves agreed
8 upon?

9 MR. McDONALD: I don't think we went so far as to
10 conclude one way or the other in that regard this
11 morning.

12 THE CHAIRMAN: Well, as you know, I am naive and
13 innocent in this area. Would the agreed upon data and
14 the diagrams be a step towards resolution of facts
15 from which you could then choose weapons and theories
16 as might be appropriate?

17 MR. McDONALD: Frank, I guess what we can say is
18 that we explicitly set out last month to have Brent
19 Spronk, consulting engineer from Kansas, and the State
20 Engineer, the staff of Colorado, to have as many
21 discussions as they needed to see if that data could
22 be squared up. There is one set of information yet to
23 be exchanged that is being double checked by our State
24 Engineer's staff. I think both Dave and I can clearly
25 say at this point in time that we have not per se

1 explicitly agreed that the data are identical, but
2 we don't know of any differences and no differences
3 have appeared of any substance at least to this date.
4 We certainly would intend that there be no debate about
5 the data. No decision has been made.

6 THE CHAIRMAN: It would sound to me that the
7 Compact Administration as a Compact Administration
8 could look forward to your agreement on common data,
9 common diagrams, as much as possible, a common factual
10 basis.

11 MR. POPE: I don't think the problem is going to
12 be in the data for the most part and the diagrams.
13 They are simply plotted on two different computers and
14 reflect essentially the same trends, perhaps differences
15 only being in scale and those kinds of things. The
16 heart of the matter, I think, will be the analysis, and
17 I think we all know that there are differences of opinion
18 between experts and engineers on what some of those
19 trends show and that's the next step that we referred
20 to earlier--is to do that analysis and exchange that
21 information within the time frame that Bill McDonald
22 referred to earlier.

23 THE CHAIRMAN: Well, it strikes me, and I will
24 not belabor the point because of my lack of knowledge
25 in the area, that reaching agreement on the factual data

1 base and on the diagrams themselves and perhaps even
2 the methods of plotting might be of real benefit to
3 the resolution of any disputes which might arise.

4 Now, we will throw the report of the committee
5 open to the Compact Administration. Are there any
6 other questions or harassment of the committee?

7 Are there any from the audience at large? We
8 will entertain a few questions of this committee of
9 the Compact Administration.

10 There are many interested persons here. You
11 fellows must have had lunch with Bob Jesse.

12 The next--

13 Oh, both of you. Is any action other than encourage-
14 ment desired by the two members of the committee?

15 MR. McDONALD: Not that I am aware of.

16 MR. POPE: Other than if there is an agreement on
17 the date for the next special meeting that we referred
18 to.

19 THE CHAIRMAN: It is clear with me. Tuesday,
20 October the 8th.

21 Are there any conflicts?

22 MR. POPE: Hopefully, at that time, Mr. Chairman,
23 there would be considerable opportunity for the states
24 to have done their analyses and we would have some
25 recommendations perhaps to the Administration.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: Do you have a proposed hour?

MR. McDONALD: I would suggest that we leave it tentative until David and I meet on the 17th of September and check the usual logistics, plane flights, and what have you.

THE CHAIRMAN: Tuesday, October the 8th.

The next item on the agenda is "Kansas' allegation of violations of Article V of the Compact."

MR. POPE: Mr. Chairman, should I proceed on that matter?

THE CHAIRMAN: Please.

MR. POPE: I believe that a copy of a proposed amendment to the Arkansas River Compact Administration's resolution concerning alleged violations of the Compact adopted March 28, 1985, was forwarded to Bill McDonald by letter dated July 3, 1985, from myself with copies to yourself and each of the other members of the Administration and our agency and other interested parties--other agency representatives and parties. I have a few extra copies if they are not there in front of you.

With that, I would simply indicate that as we have proceeded with the investigations related to these matters, we have noted what we think is an additional possible violation of the Compact, and that is found

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

in Article V. F.

I would not belabor the point by reading the entire article because I think all of you will find it quoted back in the underlined language at page 2 of the proposed resolution, but let me indicate that it's that article of the Compact--that portion of the Compact--that requires the State of Colorado to administer the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now or hereafter decreed to water users diverting upstream from John Martin Dam on the basis of relative priorities in the same manner in which their respective priority rights were administered by Colorado before John Martin Reservoir began to operate as though it had not been constructed. My primary point that I would indicate for clarification--and, of course, this only occurs when the provisions have been met regarding the conservation pool storage--my primary point is that we have concerns about whether ground water rights have been administered in accordance with this provision of the Compact.

With that, Mr. Chairman, I would move that the March 28, 1985, resolution adopted by the Administration be amended as per the proposed document that was circulated July 3, 1985 (Exhibit B), and support that motion with

1 the thought that what was not in the original
2 resolution, that we think it should be included within
3 the investigation and this would be our way of attempting
4 to do so.

5 THE CHAIRMAN: Is there a second?

6 MR. BENTRUP: I will second the motion.

7 THE CHAIRMAN: Discussion of-- Mr. McDonald, is
8 there an accord between the states on the proposed
9 amendment to the resolution?

10 MR. McDONALD: Frank, could I ask if we might have
11 a five or ten minute recess so that I could discuss
12 this matter with my fellow commissioners? I apologize
13 I did not get that done in advance.

14 THE CHAIRMAN: Of course, you may. Before you do,
15 just to set the groundwork a little, David, the
16 resolution that was adopted was adopted in the evening
17 session and I had long earlier faded from the scene.
18 It was the result--compromised solution--of many hours
19 of bargaining and negotiation between the states and
20 there were two resolutions, were there not, adopted in
21 the evening, and they constituted the way in which the
22 Compact Administration would go ahead and face the
23 dispute between the two states.

24 Have I set the scene properly, Mr. McDonald?

25 MR. McDONALD: No comment.

1 THE CHAIRMAN: Okay. We will go into recess at
2 this time. Thank you.

3 (Short recess.)

4 THE CHAIRMAN: The meeting will come back to order.
5 Who here in the audience has not signed the
6 roster?

7 A VOICE: This whole side over here.

8 THE CHAIRMAN: The whole side. All right. Would
9 you three gentlemen sign it and then we will start it
10 down the other side.

11 Gene, you just signed your name.

12 Mr. McDonald?

13 MR. McDONALD: While Colorado has no reason to
14 believe--and I certainly have no knowledge--that in any
15 way has the cited provision been violated, we are
16 prepared for an investigation to go forward, if that
17 seems appropriate to Kansas, with one major observation--
18 which prompts me to propose an amendment--and that is
19 that this matter is being raised for the Administration's
20 consideration for the first time three months after the
21 special meeting at which we had thought all allegations
22 would be on the table.

23 By agreement this morning, David and I will be
24 devoting the better part entirely of the next two
25 months to the analysis of the mass diagrams and the

1 reports which we will exchange, and since this matter
2 is new and would require a new line of investigation,
3 it seems to me not something that can be done by the
4 annual meeting in December of 1985 and should require
5 an additional six months of time, since effectively
6 six months from March will have elapsed. To effect
7 that additional time, I would ask the members of the
8 Administration to turn to the last page of the
9 resolution in which I will propose some language and
10 make it in the form of an amendment to the motion now
11 on the table.

12 The language I would propose is in the fourth line,
13 the one which starts, "Kansas are concerned". Insert
14 a comma after "concern," and the words, "except for the
15 alleged violation of Article V. F," and then come down
16 below that three more lines to the one that reads
17 "of Article IV. D and Article V. H alleged by
18 Colorado," insert the words, "and of Article V. F
19 alleged by Kansas."

20 I would move that amendment to the motion on the
21 table.

22 Mr. Idler: I second it.

23 MR. McDONALD: With that, Mr. Chariman, we would
24 be prepared to accommodate Kansas's request.

25 THE CHAIRMAN: We have a motion and a second to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

a motion to amend. It is open for discussion.

Mr. Pope?

MR. POPE: Thank you, Mr. Chairman.

Bill, can you give me again the second insertion which would apparently be in what, line 5?

MR. McDONALD: The first insertion I made was on the 4th line?

MR. POPE: Yes. I have got that one, I think.

MR. McDONALD: The second insertion would be on the 5th, 6th, 7th line--

MR. POPE: Oh, 7TH line.

MR. McDONALD: -- the one that starts, "of Article IV. D".

MR. POPE: Yes.

MR. McDONALD: Between the words, "Colorado" and "are"--

MR. POPE: Okay.

MR. McDONALD: --insert, "and of Article V. F alleged by Kansas".

MR. POPE: Okay. Thank you.

Well, just an initial comment. As I think we all realize, the original resolution was framed at the eleventh hour and so I don't feel bad about not having incorporated everything that might have been thought of by everybody, especially since we did it under the

1 circumstances at that time. Secondly, I think we have
2 mentioned this at least a month ago, but notwithstanding
3 that, I understand your concerns, Bill, as far as
4 timing.

5 I think we are at a point where we should proceed.
6 We think the issue of wells in general has been long
7 mentioned, of course, as a concern, and, in fact, a
8 part of that effect is embraced within the mass diagrams
9 and the analysis that we will be looking at in the next
10 few months, so I am not sure that there is really a
11 need to delay this.

12 Just a second.

13 I think my question, I think, following up on
14 that would be how you feel this particular item in
15 the V. F allegation which is related to ground water,
16 why it would not be included within the mass diagram
17 analysis and the study that we would be undertaking
18 in the next couple months, and if that's the case, why
19 extend the time?

20 MR. McDONALD: I take it from the way you asked
21 the question that it's your view that the mass
22 diagrams-- Am I correct? --contain the necessary
23 information to examine this issue?

24 MR. POPE: Well, the ultimate effect in terms of
25 depletion perhaps should be shown in there. Certainly

1 there is perhaps the need for more analysis of what
2 those diagrams show. There may, however, be some--if
3 there are any interpretive things, that quite well might
4 be another matter as far as what the article says.

5 MR. SIMMS: Mr. Chairman?

6 THE CHAIRMAN: Yes.

7 MR. SIMMS: May I add something?

8 THE CHAIRMAN: Mr. Simms.

9 MR. SIMMS: All of the depletive effects that
10 are related to the V. F allegation are fully reflected
11 in all of the mass diagrams that have already been
12 done, so nothing new is being added to the scope of
13 the study except an identification in the record of
14 a specific provision of the Compact.

15 In relation to Colorado's express view that the
16 mass diagrams reveal no indicated departures, it would
17 seem that absolutely nothing new is added to the
18 Article VIII. H investigation by virtue of this
19 proposed amendment to the resolution.

20 MR. McDONALD: Well, if indeed that is the case,
21 would it make any difference if the date were still
22 July 1, '86? If David doesn't wish to bring forward
23 any additional information, I presume that his report
24 and those reports which we are to exchange on September
25 3rd will speak to that fact, and if that's where Kansas

1 wishes to have it stand, it should be disposed of
2 before the discussion reveals that it's a matter of
3 broader inquiry than the time would be required to have
4 it to do. I don't see that July 1, '86, says you won't
5 finish it before then, merely that at the extreme, you
6 will finish it by then.

7 MR. SIMMS: Mr. Chairman?

8 THE CHAIRMAN: Yes.

9 MR. SIMMS: Insofar as the stage at which the
10 VIII. H investigation committee is presently at, no
11 additional information is needed. Additional information
12 would be needed only if it were decided mutually by
13 representatives of both states to proceed on that
14 particular allegation. Colorado has taken the position
15 that there is no indicated depletion, and, therefore,
16 the obvious conclusion one would reach from that
17 position is that there is no reason to go ahead and
18 make that investigation.

19 Where the committee left it this morning was
20 Colorado will likely take that view and Kansas will
21 likely take a different view, but insofar as the work
22 of the committee up to date is concerned, this is no
23 interruption whatsoever.

24 THE CHAIRMAN: Did Mr. McDonald's proposed amendment
25 to the resolution address the question of time either

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

in the words he added or in their impact?

MR. McDONALD: It does. That's what it does, Frank, is address the issue of time.

MR. POPE: Mr. Chairman?

THE CHAIRMAN: Yes.

MR. POPE: A further comment might be that particularly in light of the change of discussion just concluded, that in the event that as we proceed this next few months, Colorado can show good cause for requesting delay as apparently provided within the resolution, then that certainly can be acted upon.

We would like to proceed and keep it on the same timeframe as originally proposed rather than anticipating at this time that it might take as long as July.

THE CHAIRMAN: Well, Mr. Pope, I am confused. I have taken Mr. McDonald's penciled draft of the second to the last paragraph of the resolution and looking at the last part of it, it says "In no event shall this go beyond July 1, 1986, insofar as the violations of IV. D and V. H alleged by Colorado and of V. F alleged by Kansas are concerned except upon a showing of good cause by the state requesting delay," and I am just perplexed. This does not appear to me to grammatically be an extension of any time limit.

MR. POPE: Well, no, Mr. Chairman, it is, because

1 as the language was proposed by Kansas, this particular
2 item would be completed by the 1985 regular annual
3 meeting. This would be a part of the investigation
4 done this year.

5 With Mr. McDonald's proposed amendment, it would
6 allow that to be delayed as long as July 1, 1986.

7 THE CHAIRMAN: Well, would it be appropriate for
8 you to inquire of Mr. McDonald if he would use a delay
9 of that nature if he didn't require one?

10 MR. POPE: Yes. I think that would be what we
11 would ask and would propose is leave it as we have
12 suggested and if under the circumstances that are
13 unknown to us at this time, there is a need for additional
14 data, study and investigation, that that can be
15 considered.

16 THE CHAIRMAN: Well, there are two ways of doing
17 it, and I am asking you about the flip side of the
18 coin. The flip side of the coin is the proposed
19 language. Is it appropriate for you to ask of Mr.
20 McDonald whether he would utilize that time if it were
21 not in good faith necessary for that investigation?

22 MR. SIMMS: Could I respond to that?

23 THE CHAIRMAN: Surely, Mr. Simms.

24 MR. SIMMS: I think we tried to articulate the
25 point and maybe we have not done it very well, but the

1 assertion on the record of this V. F allegation--the
2 amendment that is presently proposed to the resolution--
3 brings absolutely nothing new to what has been done by
4 the committee to date and the results of the double
5 mass diagrams and the other mass diagrams will not be
6 affected one way or the other and the interpretation of
7 those diagrams by the State of Colorado is the same.
8 Colorado believes that there is no indicated departure
9 from obligations under the Compact.

10 THE CHAIRMAN: Well, you have pointed out an
11 apparent logical impasse very articulately now on
12 more than one occasion, but the problem is to make
13 some sort of an accord so that we can proceed with
14 the meeting.

15 Mr. McDonald.

16 MR. McDONALD: Without my committing to an
17 interpretation or any understanding with finality as
18 to what Article V. F calls for and what Colorado's
19 obligations under that article are, the reluctance,
20 David, I have to proceed without an additional increment
21 of time is that it seems to me Article V. F goes to
22 a question of the administration of water rights in
23 Colorado and findings would apparently be in order with
24 respect to the question of how water rights are
25 administered. V. F raises, as I read it, no issue of

1 material depletion. The only work done to date by us
2 as a committee has spoken to the question of material
3 depletion, that is the mass diagrams, and at first
4 blush, it's my reaction there is a whole potentially
5 different line of inquiry that would need to be
6 pursued, and three months have elapsed, two more is
7 definitely going to elapse before we can get to it, and
8 I would renew my request that it be July 1 of 1986.

9 MR. POPE: Mr. Chairman, I would suggest a brief
10 recess and perhaps we can come up with something that
11 would facilitate moving this item through.

12 THE CHAIRMAN: Well, we desire a resolution of this
13 matter if one can be made.

14 We will be in recess.

15 (Short recess.)

16 THE CHAIRMAN: The meeting will come to order.

17 Mr. McDonald.

18 MR. McDONALD: Mr. Chairman, prior to our recessing,
19 I believe that Mr. Simms was explaining to us what
20 matters Kansas seeks to examine in offering an allegation
21 of V. F.

22 If I could ask Richard to say that again to be sure
23 I understand it, I think we will have a resolution of
24 this momentary impasse.

25 THE CHAIRMAN: Yes. Mr. Simms?

1 MR. SIMMS: The purpose of the assertion of an
2 Article V. F allegation was simply to complement the
3 Article IV. D material depletion assertion, all the
4 assertions that are already embraced in the resolution
5 of March 28th, in particular, embraced within item C
6 of that resolution.

7 In our discussion earlier, Commissioner McDonald
8 did raise a valid point about the possibility that the
9 new V. F allegation might raise additional questions
10 relating to whether or not, under the Compact, Colorado
11 is obliged to administer those rights in order to
12 deliver waters to Kansas.

13 That, in our view, raises a purely legal issue,
14 one that is not within the purview of the committee's
15 work, that is, the committee organized under Article
16 VIII. H, and, therefore, the allegation that is proposed
17 in the motion would do nothing more than complement
18 the material depletion allegation already made under
19 Article IV. D.

20 THE CHAIRMAN: Mr. McDonald.

21 MR. McDONALD: Now that I better understand what
22 the concern is, I would withdraw my motion to amend
23 the original motion--I think that's where we are--if my
24 second would give me leave to do so.

25 MR. IDLER: I do.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: He does.

MR. McDONALD: That would put us back to the motion as originally made by David to make the two amendments to the March 28th resolution and we are prepared to act at this point.

THE CHAIRMAN: The original motion has been made and seconded. The amendments are disposed of.

Is any further discussion required before we take a vote?

Colorado ready to vote?

MR. McDONALD: We are.

Colorado votes aye.

THE CHAIRMAN: Colorado votes "aye."

Kansas.

MR. BENTRUP: Votes aye.

THE CHAIRMAN: Kansas votes "aye."

The amendment to the motion as presented to the meeting has been adopted.

The next item on the agenda is the report of the Bureau of Reclamation.

One moment. Fine.

Mr. Wilms, we are going to sign a clean copy of Kansas's motion right now and it's going to save us many, many postage stamps.

A VOICE: Here it is (indicating).

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: You have something down there,
David.

A VOICE: You don't want any part of that one.

THE CHAIRMAN: We want a pristine copy.

A VOICE: It doesn't exist.

A VOICE: I will make one.

THE CHAIRMAN: He is going to make a pristine copy
with an erasure.

MR. McDONALD: Here are a couple of extras.

THE CHAIRMAN: There are no longer extras.

Mr. Wilms, thank you, sir.

It is our pleasure to have you report on behalf
of the Bureau of Reclamation and welcome to you and the
other people that are here today from the Bureau.

MR. WILMS: Thank you, Frank.

I was going to report on the progress of our
review on the Trinidad operating principles. In
approaching this--

MR. McDONALD: Ray, before we get too far in the
transcript, could this resolution be reflected as
Exhibit B--

THE CHAIRMAN: Yes.

MR. McDONALD: --in the transcript, please?

MR. POPE: We would certainly agree to that.

MR. McDONALD: At an earlier place in the

1 transcript?

2 MR. WILMS: This is getting to sound an awful lot
3 like a legal proceeding.

4 THE CHAIRMAN: You have to watch out with this
5 many lawyers in the room. Go ahead, Ray.

6 MR. WILMS: Well, there are always a few of us
7 engineers to keep it messed up, so--

8 In any event, in approaching this review, we
9 are considering three general areas. One is the
10 question of whether or not the Trinidad project is
11 being operated in accordance with the principles.
12 The second question is if not, does the deviation from
13 the principles have any impact on downstream users?
14 And three, if the project is operated in accordance
15 with the principles, is there going to be any material
16 depletion?

17 In order to gather data and to sort of tie down
18 the concerns and to set a scope for the review, we
19 have sent notices to all of the various entities that
20 we are aware of that are interested in the Trinidad
21 operating principles.

22 We have also asked each of these entities if they
23 would like to meet with us and discuss this review.

24 As a result of these notices, we had formal
25 meetings with the State of Kansas, the State of Colorado,

1 and had a briefing rather more than a discussion with
2 the Corps of Engineers, but no other entity has asked
3 to meet with us and discuss this review.

4 We had gathered data from the Purgatoire River
5 Water Conservancy District, the State of Kansas, State
6 of Colorado, A.S.C.S., Soil Conservation Service, Corps
7 of Engineers, and the U.S.G.S., in addition to data
8 that we may have in our records.

9 The progress of the review has been delayed by the
10 departure of the principal engineer, Lowell Ploss. He
11 left and took a job in California along in May, and so
12 we sort of had to regroup and get started again.

13 The review has also hampered us, I am sure most
14 of you know, by the absence of data and a certain
15 amount of inconsistency in the data that is available.

16 To give you a summary of some of the things that
17 we have looked at and some of our findings, we haven't
18 arrived at any conclusions yet and I am not going to
19 discuss any conclusions today, but one of the
20 questions that has arisen is whether the storage,
21 the winter storage or maybe how the winter storage
22 in the Trinidad Project has been handled. Our review
23 shows that the winter storage is sometimes included
24 under the Model Decree and sometimes not. Quite
25 often it has not been included in the 20,000

1 acre-foot of the Model Decree.

2 This accounting is different than was assumed in
3 the preauthorization operation studies. The preauthoriza-
4 tion operation studies did assume that all the winter
5 storage would be accounted for in the 20,000 acre-foot
6 of the Model Decree.

7 Our discussions with the Division II Engineer
8 indicated that the State of Colorado has interpreted
9 the current practice as the appropriate interpretation
10 of the Model Decree and the court actions going along
11 with it. We are not planning on making any legal
12 determinations in that respect.

13 The question of the transferring of water from
14 the Model Decree storage to other storage space, the
15 Model Decree storage right is being administered to
16 permit up to 20,000 acre-foot of storage in any one
17 year. If there is water remaining in the storage at
18 the end of the year, it is sometimes transferred to
19 other space to allow a full storage of 20,000 acre-foot
20 in the next year.

21 The preauthorization studies assume that there
22 would never be more than 20,000 acre-foot of storage
23 under the Model Decree at any one time. The study
24 did assume both a fill and a refill.

25 In looking at the narratives of our preauthorization

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

reports, the narratives state that the Model Decree would be limited to one-fifth, so even our own documents are not totally consistent.

Again, in discussing the administration of this with Colorado Division II Engineer, we have indicated that the current administration is the proper interpretation of that decree, and again, we would not anticipate trying to make any legal determination as to what is the proper administration.

As far as storage of flood waters, one of the other storage rights on the Trinidad Project, 1985 was the first year that the flood storage right has come into priority. That, I believe, came into priority probably in late May or early June, and went out of priority towards the end of June. We have not yet reviewed the storage of that water that may have taken place during that time. We will take a look at that.

In reviewing the storage records, we do find that there were four occasions where water was stored and the records refer to it as flood storages. I think that those storages occurred under conditions different than the Corps of Engineers' Flood Operations Manual.

The amounts: April, 1982, there was 250 acre-foot stored, called a flood storage. In September

1 of 1981, there was 3,228 acre-feet. In August of '81,
2 there was 7,071 acre-feet. And in July of 1981, there
3 was 2,304 acre-feet.

4 These storages were always released within about
5 ten days of the time they were stored. We haven't yet,
6 but we plan to review the circumstances of these
7 storages and try to see whether these storages did
8 result in any impacts to downstream users.

9 We have attempted to look at the number of acres
10 irrigated to see that they did not exceed the 19,717
11 provided in the operating principles. We have
12 essentially found that there is no usable data available
13 to determine the actual irrigated acreage. We do
14 have a set of high altitude aerial photographs
15 that were taken in 1983 and 1984. We will take a
16 look at these, but we are not optimistic that they
17 are going to provide any conclusive information. If
18 they don't, we plan to do a field survey or some
19 other such method to try to determine just what
20 acreages were irrigated in 1985.

21 We also plan to take a look at the irrigation
22 requirements versus the headgate diversions. Before
23 we can do this effectively, we will have to have
24 accurate acreage data, so we really won't get into

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that until we have gotten accurate acreage data.

Since the operating principles leave the determination of the irrigation requirements to the Purgatoire River Water Conservancy District, we would expect our review of this to be limited to determining whether or not their diversions are reasonable.

We are going to try to look at the impacts of the things that I just mentioned to see whether or not the deviations from either the principles, if there are any, or from the preauthorization studies, would have had any impact on the downstream users. I stress that we are going to try and look at that. The lack of data really may limit the value of the work we do in this area and we will just have to see what we come out with on that.

The question of whether there would be material depletions if the project is operating in accordance with the principles is awfully difficult to verify also and we want to take a look at this, but I am even less optimistic that we are going to come up with anything very conclusive in that respect.

One of the problems we run into here is the project has really only been in full operation for two years. We don't have much of a historical record and again we have not very good data concerning the hydrology of

1 the situation.

2 I might also add that to date neither the states
3 of Colorado or Kansas has encouraged us to look into
4 this area of material depletion.

5 At where we sit now, we would hope to have a draft
6 report prepared by the end of October which we would
7 submit to all interested parties for comments and then
8 we will see where we go from there.

9 And that concludes my report and I will entertain
10 any questions.

11 THE CHAIRMAN: Thank you, Mr. Wilms.

12 Mr. Pope.

13 MR. POPE: Yes. I think I have a few questions,
14 Ray.

15 Can you say again the three major items you
16 mentioned in the early part of your report? I think
17 I caught those, but I--

18 MR. WILMS: Well, the three that we considered
19 pertinent, at least to start with, were as to whether
20 or not the principles are being followed, and if they
21 are not followed, whether the deviations in the
22 principles would have an impact on downstream users,
23 and the third question was if the project is operated
24 in accordance with the principles, is there a depletion
25 as a result of the operation of the project?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. POPE: Thank you.

You also mentioned that the State of Colorado had interpreted the method of operation regarding that matter of transfer of water from the Model right to the other space in the reservoir. I believe you said someone else had looked at that, did you not?

MR. WILMS: I am not aware that anybody else has interpreted what is appropriate.

What we did do is we looked back into our operation studies, preauthorization operation studies, and they do show--the operation studies assumed a different operation than what is actually done now.

MR. POPE: And you said you are not considering that a matter to be investigated as a part of your review?

MR. WILMS: I think our review is simply going to state what happens and we aren't going to make any attempt to make--offer--legal opinions particularly as they concern interpretation of Colorado state water law. We don't consider ourselves an appropriate body to do that.

MR. POPE: How about an interpretation of federal law as it relates to your contract with the District?

MR. WILMS: We may do that if we see that's involved here. The principles themselves don't

1 really state--at least as I read them--don't really
2 state how that decree would be administered. Our
3 operation studies made assumptions of how they would
4 be administered.

5 MR. POPE: Okay. You gave some figures, Ray, on
6 the storages in the flood pool on April of '82 and
7 then some in '81. I got the ones in '81. I did not
8 get the one in April of '82, if that was the date.

9 MR. WILMS: Okay.

10 MR. POPE: Can you repeat that, please?

11 THE CHAIRMAN: Give all four, if you would, again.

12 MR. WILMS: Okay. In April of 1982, there was
13 250 acre-feet. September, 1981, there was 3,228
14 acre-feet. In August of 1981, there was 7,071 acre-
15 feet. And July of 1981, 2,304 acre-feet.

16 Now, I would like to just comment on your question
17 a little bit. I didn't really say they were in the
18 flood pool. The storage records show they were stored
19 for flood purposes. I think they were not in the flood
20 pool.

21 MR. POPE: Okay. Thank you.

22 Okay. You also talked about the attempt to
23 determine the acreage irrigated. Have you made an
24 attempt to look for any older aerial photographs that
25 might be available from other sources other than--I

1 think it was '84-'85 or '83-'84?

2 MR. WILMS: We contacted the District to see what
3 records they had. We talked to the A.S.C.S. and the
4 Soil Conservation, and the information that we got
5 is that the District records were partial and it didn't
6 appear to us to be really usable in coming up with a
7 total figure.

8 The A.S.C.S. records were based on photographs
9 taken in the 1970's and there was some extrapolation
10 and it appeared to us that their records were irrigable
11 acres rather than irrigated acres and we again felt
12 that these records were probably not satisfactory for
13 what we are trying to do here, and we pretty well
14 concluded that we are going to have to go get actual
15 irrigated acres.

16 MR. POPE: And you are planning to do that during
17 1985?

18 MR. WILMS: Yes.

19 MR. POPE: Will you determine as a part of that
20 field review not only what acres are irrigated during
21 1985, but what lands have been physically served based
22 on capability in previous years?

23 MR. WILMS: I am not sure, Dave, whether we will
24 or not. We may ask for that data and I think we will
25 just have to see what we can get. We feel that right

1 now we can go down there and essentially take our
2 existing classification maps, do a windshield survey
3 and tell what has been irrigated this year. It is
4 not going to be that easy to tell what has been
5 irrigated last year, and I think we would be down
6 into a position of having to interview people to find
7 out, and, of course, I think in order to get what data
8 we are after here, we are looking at a hundred percent
9 check. I don't think it does as much good to, say, try
10 to take a statistical development.

11 MR. POPE: I would think the past several years
12 would certainly be of interest along with this year,
13 Ray. If there was some way, whether it be interview
14 or physical field checks, it would certainly be
15 appropriate, I would think.

16 I don't believe I have any further questions that
17 come to mind right at the moment. I think I would
18 like the opportunity for Richard and perhaps Brent
19 who have been highly involved in this to ask questions
20 and perhaps Carl has some also here.

21 MR. BENTRUP: I have one. I was involved in the
22 negotiations prior to the Administration's approval of
23 the Trinidad Operating Principles prior to 1967. At
24 that time, the Bureau said that the Model storage right
25 would be limited to a capacity of 20,000 acre-feet.

1 Is that still your position, that they are limited to
2 a capacity of 20,000 acre-feet?

3 MR. WILMS: I don't know that we have taken a
4 position on that, and I think that when we can complete
5 the review, we will, at that time, make a determination
6 whether we are taking a position.

7 MR. BENTRUP: Okay. Then one other thing. You
8 mentioned that the Purgatoire--that Trinidad has only
9 been operational fully for two years. You mean it
10 hadn't been fully operational before that?

11 MR. WILMS: Well, they have been storing and
12 irrigating under the Model Decree since about 1980, but
13 the Model lands which are a significant share have not
14 been or most of them have not been irrigated until the
15 last couple years, so I think that many of our attempts
16 to make comparisons get tilted by the fact that a major
17 share of the lands were not in irrigation.

18 MR. BENTRUP: Okay. Thank you. That's all I have.

19 THE CHAIRMAN: Howard?

20 MR. CORRIGAN: On this investigation--

21 THE CHAIRMAN: Howard, please speak up. We want
22 everybody in the room to hear you.

23 MR. CORRIGAN: On this investigation with the
24 19,717 acres, is that a total sum or are you going to
25 break that down to individual acres or individual ditches

1 MR. WILMS: I think that when we go gather the
2 data, we will end up with both pieces of data because
3 we will know which ones are served by which ditches.

4 MR. CORRIGAN: And are you going to compute the
5 water use, crop use requirements per acre or are you
6 going to leave that to the Purgatoire Conservancy
7 District to come up with that?

8 MR. WILMS: What we are planning on doing is doing
9 an evaluation of what they have used once we get our
10 acreage data and to see whether that's reasonable.

11 The determination by the principles is left to
12 Dan, and I think that all they really have to pass is
13 that test of reasonability, reasonableness.

14 MR. SIMMS: Mr. Chairman?

15 THE CHAIRMAN: Please.

16 MR. SIMMS: Ray, I believe I understood you to
17 say that the preauthorization--to equate preauthorization
18 operation studies with the intended plan of operation,
19 and in regard to the winter storage, you said it was
20 sometimes included under the Model Decree and sometimes
21 it wasn't, but when it was not, it did not comport with
22 the intended plan of operation. In regard to rollover,
23 I think you said your records were inconsistent, but
24 that the rollover did not comport with the intended
25 plan of operation, but some other aspect of the records

1 indicated that they did comport with the intended plan
2 of operation.

3 My question is: If the preauthorization operation
4 studies, which are the intended plan of operation, did
5 not contemplate the rollover, what is it in your
6 records that would indicate that the rollover does not
7 violate the intended plan of operation?

8 MR. WILMS: No. I maybe misspoke or you misunder-
9 stood me. I think that our plan of operations did not
10 show the rollover. Our operation studies do not show
11 up, and I don't think there is anything in our record
12 that does indicate that our preauthorization studies
13 contemplated a rollover.

14 THE CHAIRMAN: Any other questions?

15 Mr. McDonald.

16 MR. McDONALD: Ray, I am concerned about the delays
17 that have occurred, which, at least, I guess, are
18 partly understandable because of Ploss's departure, but
19 is the Bureau now in a position to firmly commit to
20 getting this draft report done and available by the
21 end of October? It's a matter of interest to both
22 states despite our differences about the role, if any,
23 of the Administration. We have encouraged that review
24 and are anxious to see it done.

25 MR. WILMS: We are going to try our best to get it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

done.

MR. McDONALD: I will look forward to a draft report by the end of October. It is high priority. I really want to emphasize that. It is of great importance to David and I.

MR. POPE: I would certainly echo that, Bill, in terms of the timing, and, Ray, we would appreciate any effort that can be done and certainly would encourage you to explore the issues that have been set forth.

THE CHAIRMAN: I have another question somewhere. Richard.

MR. SIMMS: Might I ask one more question?

You came up with three categories and indicated in the conclusion of your discussion, Ray, that you hadn't had any particular encouragement from either of the states in relation to the third category, namely, material depletion. How and why did the Bureau come up with the idea of trying to ascertain material depletion, and further, how would the Bureau purport to define that term?

MR. WILMS: I think the reason-- Let me answer it this way: In our discussions with both the State of Kansas and the State of Colorado, they questioned whether we would be able to reasonably determine material depletion, and we have read this as being--or

FORM 740
U.S. GOVERNMENT PRINTING OFFICE: 1967

1 I have at least interpreted this to being--not encourag-
2 ing us to pursue this.

3 We looked at it as being significant in the issue.
4 We are also inclined to agree with our interpretation
5 of both states in that that's technically a very
6 difficult area to come up with any conclusions. We did
7 feel that we would at least like to look at it and make
8 our own judgment, if that is the case, that we are not
9 going to be able to come up with reasonable depletion
10 data.

11 THE CHAIRMAN: Anything else of Mr. Wilms?

12 MR. WILMS: Mr. Genova there, I think, has a
13 question.

14 MR. GENOVA: Do you know how the District went
15 about determining the irrigation requirements for any
16 one year?

17 MR. WILMS: Do we know how they did it?

18 MR. GENOVA: How they do it.

19 MR. WILMS: I am not really sure whether they
20 determine that, and I don't think we have really pursued
21 that with them. We have looked at it from the standpoint
22 that without the acreage data, it's very hard to do
23 anything on irrigation requirements and so we have just
24 sort of set that issue aside until we get the acreage
25 data and then we will need to get back with the District

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

and deal with it.

THE CHAIRMAN: Thank you very much, Mr. Wilms.

The next item on the Agenda is the Frontier Ditch.
Mr. Wagner.

MR. BENTRUP: They are both together.

THE CHAIRMAN: All right. Fine.

Mr. Hammit.

MR. KRASSA: I am Robert Krassa. I am the attorney
for the Frontier Ditch.

THE CHAIRMAN: Mr. Strauss, you want to come forward,
sir?

For the record, would you spell your name, sir.

MR. KRASSA: Yes. My name is spelled K-r-a-s-s-a,
Krassa.

THE CHAIRMAN: Please go ahead.

MR. KRASSA: I don't have a very well thought out
presentation, I'm afraid, because I just found out
the day before yesterday that this item was on your
agenda at all, but I am delighted to be here and what
I would like to do is simply let you know why the Frontier
Ditch felt it necessary to file an application in
Colorado Water Court and to answer any questions that
you might have.

As the Commissioners undoubtedly know, the Frontier
Ditch is a ditch which irrigates entirely in the State

1 of Kansas, but has a right to a total of 55 second feet
2 from Colorado sources, and the historic sources of
3 water for the Frontier Ditch have always been the
4 Arkansas River itself, Cheyenne Creek, and the Holly
5 Drain, and I am not aware--although there may be some
6 Colorado decree--I'm not aware of a Colorado decree.
7 I am aware that the State of Kansas has issued various
8 documents that recognize the Frontier Ditch's water
9 rights.

10 On the last day of 1984, a gentleman named Gene
11 Hammit filed in the Colorado Water Courts, three cases,
12 84 CW 207, 208 and 209, requesting adjudication of
13 30 second feet from each of a number of sources, and
14 I cannot tell from his applications whether those are
15 to be taken cumulatively or whether he is merely request-
16 ing 30 second feet total, but his proposed points of
17 diversion are identical to the Frontier Ditch's historic
18 points of diversion on Cheyenne Creek and on the Holly
19 Drain.

20 The Frontier Ditch people came to us in January
21 and we were able through a provision in the Colorado
22 statute which specifies that if someone has filed on
23 your diversion points, you can then make your own
24 filing which will relate back to their filing. Under
25 that new statute, we were able to file our application

1 for adjudication of the Frontier Ditch's water rights
2 on Cheyenne Creek and Holly Drain in such a way that
3 we are considered in Colorado to have filed also in
4 1984 and for the reason that, in fact, the Frontier
5 Ditch has been using those points of diversion since
6 probably the turn of the century, we would be considered
7 the senior water right--this would be Mr. Hammit--in the
8 Colorado system of adjudication.

9 In filing our application in the Colorado court,
10 we tried to make it as clear as we could that we were
11 not seeking to obtain anything that we did not already
12 have under the Arkansas River Compact nor are we seeking
13 to enlarge in any way the total or aggregate of 55 second
14 feet to which we are entitled. However, we did consider
15 it essential to file because had we allowed Mr. Hammit
16 to file without filing our own application, then, under
17 Colorado law, Mr. Hammit would have been considered
18 senior to the Frontier Ditch as far as the Cheyenne
19 Creek and Holly Drain sources were concerned, and, of
20 course, we had to protect that. That is the intent.

21 Probably had Mr. Hammit not filed, the matter would
22 never have come to the attention of the Frontier Ditch
23 and might very well never have filed in Colorado under
24 those same sources, but once Mr. Hammit filed, Frontier
25 Ditch had to file.

1 Mr. Hammit, I think, is situated just a little bit
2 differently from the Frontier Ditch because in his
3 application he says that he has some irrigated land in
4 Colorado as well as in Kansas.

5 The Frontier, on the other hand, I believe, has
6 irrigated land only in the State of Kansas.

7 And that is the situation at the moment.

8 We did draw some statements of opposition from
9 Colorado entities to our case in the Colorado court.
10 The status of the case is that I am about to send out
11 a proposed decree as a negotiating document to those
12 objectors in Colorado and I certainly hope and anticipate
13 that when sufficient language is put into the proposed
14 decree to assure the Colorado appropriators that we are
15 not seeking to exceed the historic and the recognized
16 55 second feet, that we will be able to obtain our
17 decree.

18 THE CHAIRMAN: Mr. Krassa, the propositions you
19 have just explained to the eleven water lawyers in the
20 room are the same as putting a banana split in front of
21 a starving man. If we turned it loose, I know four that
22 would be able to give forty-five minutes without pausing
23 for breath on the delicious implications of transline
24 diversion.

1 Is there any action that is proposed to be taken
2 by the Compact other than advising us of your truly
3 fascinating and apparently unique problem?

4 MR. KRASSA: No. I am here merely because the
5 matter was on your agenda and I thought it best to
6 attend and explain it to you and be present in case
7 there are any questions.

8 THE CHAIRMAN: Well, I think this may be like one
9 or two other items we have. We hope you come back from
10 time to time and give us the ongoing story of what has
11 all the earmarks of a soap opera.

12 Mr. McDonald.

13 MR. McDONALD: Bob, I have some questions, but I
14 think they are all things you covered. I want to be
15 sure I caught them.

16 Did I correctly understand you to say that the
17 Frontier Ditch has historically, and does to this date,
18 continue to divert water from the Arkansas River,
19 Holly Drain and Cheyenne Creek?

20 MR. KRASSA: The Holly Drain source, I believe, has
21 not been used for a few years. It has not been
22 abandoned, but it is not, to my knowledge, presently
23 being used. Now, I reserve the right to modify that.
24 I have not seen the physical facilities. In fact, I
25 am on my way to go down and look at them after we

1 are done here today, but they are physically taking
2 water presently out of the Cheyenne Creek and the
3 Arkansas River.

4 MR. McDONALD: And did I understand you correctly
5 to state your understanding that the Frontier Ditch
6 has, shall I say, legal rights for 55 second feet, but
7 you are not aware of a Colorado decree?

8 MR. KRASSA: I am not aware of a Colorado decree.

9 MR. McDONALD: But, David, am I correct, it does
10 show up in the--whatever you guys call it--the seven
11 party rotation agreement in Kansas? I mean, what
12 evidences--I am curious--the legal right that frames
13 the history of this water use which I think will be
14 pertinent to us in deciding whether the Administration
15 has any actions or obligations that it must take?

16 MR. POPE: Okay. The Frontier Ditch does hold a
17 vested right under Kansas law to continue the beneficial
18 use of water that was being made prior to June 28, 1945,
19 when our current appropriation doctrine law was placed
20 into effect because that right does go back much beyond
21 that in time. I am not aware of the specifics, but I
22 think 55 second feet is, in fact, the diversion rate
23 contained on that order that has been determined and
24 established by my office many years ago along with the
25 other conditions of a vested right in Kansas.

1 Now, they don't happen to be a party to the
2 rotation agreement that you referred to, but I don't
3 think that necessarily enters into our discussion
4 here.

5 The other interesting point about this is that
6 the Compact does, under, I think it's Article VI. B,
7 speak to the issue of the Frontier Ditch headgate
8 which is placed in Kansas for administrative purposes,
9 but beyond that, we really have not explored this issue
10 and we are not really sure what was, in fact, going
11 on.

12 It may be beyond the scope of your question right
13 now, but I think there is certainly some discussion
14 that needs to occur amongst us regarding how this would
15 be viewed and how it would be administered, if, in
16 fact, decreed in Colorado, vis-a-vis the Compact, and
17 the deliveries to Kansas, and, in fact, the same is
18 true of the Hammit filing, and I certainly would not--I
19 may not be in a position to fully speak to those, but
20 that's the other questions.

21 MR. McDONALD: I agree. I think we need to have
22 that discussion and have it today, whether we conclude
23 it today or not. Let me finish with some factual
24 questions. Maybe if there is anybody here, Mr. Hammit
25 or representing Mr. Hammit, we should hear from them.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Then I think the Administration still needs to wrestle with the question of what next.

Bob, a couple of other questions. Did I--again, I think you said it, I just want to be sure--understand you to say that it is your point of view that your client seeks no more than they now have under the Compact as legal rights or physically no more than they have historically diverted in the way of water?

MR. KRASSA: That's correct.

MR. McDONALD: And that you are prompted to make a filing in the Colorado Water Court because of your concerns about the actions taken by the Hammit filing?

MR. KRASSA: It appeared that if we had not filed, that he would be senior to us in Cheyenne Creek and Holly Drain and that would operate to the detriment of the Frontier Ditch.

MR. McDONALD: So do I fairly say in sum, you seek no more than what you understand your client to have now under the Compact?

MR. KRASSA: That's correct.

MR. McDONALD: And have acted in response to something that appeared to be, from your perspective, a central quirk in the system?

MR. KRASSA: Exactly right.

MR. McDONALD: Any water diverted you would view

1 as water, I take it, subject to the Article VI. B of
2 the Compact to which David refers that says "Water
3 carried across the stateline in the Frontier Ditch
4 shall be considered to be part of the stateline flow"?

5 MR. KRASSA: I agree with that completely. I am
6 thinking it's Article VI. A, but I don't have it with
7 me.

8 MR. McDONALD: VI. B.

9 MR. KRASSA: VI. B.

10 MR. McDONALD: That's all I have.

11 THE CHAIRMAN: I have a question. In your filing
12 in the Colorado Water Court, did you advise the Colorado
13 Water Court of the recognition of the circumstances
14 of the Frontier Canal in the Compact passed by Congress
15 and by both states?

16 MR. KRASSA: Yes. We make reference in our filing
17 to the rights of the Frontier Ditch under the Compact.

18 MR. IDLER: Where does those two water rights enter
19 the river, above or below the Frontier headgate?

20 MR. KRASSA: I don't understand your question,
21 sir.

22 MR. IDLER: Where does the Cheyenne Creek enter
23 the Arkansas River and where does the Holly Drain enter
24 the Arkansas River, above or below Frontier headgate?

25 MR. KRASSA: Okay. I understand your question now.

1 I cannot answer it from my knowledge because I haven't
2 been there. As I say, if I tried to answer your
3 question now, I would be trying to remember a U.S.G.S.
4 map, and that would be a poor basis upon which to answer.
5 I am sure the next time I can do better.

6 THE CHAIRMAN: All right. I am sure we are going
7 to see you again.

8 Harry.

9 MR. BATES: I think I can help you out.

10 THE CHAIRMAN: Mr. Bates.

11 MR. BATES: At the present time and in the past
12 year or two, Hammit has been taking out of Cheyenne
13 Creek below Frontier Ditch. Frontier Ditch crosses
14 the Cheyenne Creek and can take all of the water in
15 Cheyenne Creek if the canal would hold it.

16 Holly Drainage in 1965 or thereafter, the flood of
17 '65, went under Frontier Drainage ditch with a siphon.
18 They have not taken any water from there, from the
19 Holly Ditch, since that time. Hammit proposes to put
20 a pump in the Holly Drain and deliver it across the
21 Frontier.

22 THE CHAIRMAN: The remaining items on the agenda
23 today are of a housekeeping nature of the Compact
24 Administration and its budget. They probably will take
25 ten, fifteen minutes, Bill, do you think?

1 MR. McDONALD: We may need to make some budget
2 adjustments. It might take a little longer.

3 THE CHAIRMAN: We might be a little longer than
4 that. We are going to continue with work. I think
5 all of you who choose quietly to fold your tents may
6 do so. The controversial parts of the meeting, we hope,
7 are past us.

8 MR. McDONALD: I don't think we are done with this
9 agenda. At least, I am not.

10 THE CHAIRMAN: Oh, pardon me.

11 MR. SIMMS: That is what I was wondering as well.

12 THE CHAIRMAN: Pardon me. I spoke too soon. Come
13 back, Mr. Krassa.

14 MR. McDONALD: I would like Bob to stay. Number
15 one, I would like to inquire if Mr. Hammit or anybody
16 representing him is here by chance?

17 Apparently not.

18 I think, Frank, at this point, we need to wrestle
19 with the question of whether this is a matter that in
20 some way falls to this Administration to take action
21 on.

22 THE CHAIRMAN: Well, I am persuaded that at least
23 it is appropriate for consideration.

24 Mr. Pope.

25 MR. POPE: Yes. I agree. We need to at least

1 talk about this. I am not sure if we understand it well
2 enough to know all the ramifications.

3 THE CHAIRMAN: The situation is unique. It's part
4 of the Compact document itself which has been passed
5 by both states and Congress. Certainly the Water Court
6 has, if you will, a hot potato in this matter and
7 apparently what the ditch wants is no more than it has
8 historically had.

9 MR. POPE: That appears to be the case. I think
10 our concerns obviously relate to how it would affect
11 the deliveries otherwise in Kansas, that there isn't
12 any inadvertent change of the way the system works;
13 and secondly, of course, also, about the Hammit applica-
14 tion, because that has a potential if it, in fact, was
15 granted to be a new right on the system which could
16 deplete the flows into Kansas, and likewise, how that
17 would be administered under Colorado law, so there are
18 a number of questions about that one also.

19 THE CHAIRMAN: If I understand Mr. McDonald's
20 question, it is only how best to protect a historic
21 right under the Compact without seeking to enlarge that
22 right or interfere with another right.

23 MR. McDONALD: Right.

24 MR. BATES: The diversions on Cheyenne Creek and
25 Holly Drain have historically been a part of the state-

1 line flow. Any attempt to take this away would be a
2 depletion of the state line flow.

3 THE CHAIRMAN: Mr. McDonald.

4 MR. McDONALD: I guess I start by asking questions,
5 and, David, maybe we can just work our way back and
6 forth.

7 It seems to me, in the first instance, the
8 Administration needs to look at Article V. H, which
9 is that article, which, among other things, it has
10 been brought to bear by the Administration in the Jake
11 Broyles case. It talks about there not being increases
12 in ditch diversion rights without findings of fact by
13 the Administration, and at first blush, I am prompted
14 to ask the question without being prepared to have
15 an answer as to whether or not both the Hammit and the
16 Frontier Ditch applications are not subject to this
17 provision, at least, and perhaps others.

18 MR. POPE: Well, that certainly seems to be an
19 applicable provision on first blush, Bill, I agree.
20 It would be a new right apparently in Colorado District
21 67 or in Kansas, wherever it was determined to be, one
22 way or the other.

23 THE CHAIRMAN: May I ask of you two a question?
24 Would the Compact Administration make findings without
25 having first caused an investigation to be made of the

1 facts?

2 MR. McDONALD: It seems to me that it's implicit
3 in V. H that you can't make findings without getting
4 the requisite information in front of you about a
5 proposed increase of a ditch diversion right, and based
6 on appropriate and relevant information, we can make
7 findings.

8 MR. POPE: It seems to me that's what we have asked
9 of Broyles in his proposed transfer case. We have yet
10 to receive an engineering report on that case which we
11 have asked for before we, as an Administration, proceed.
12 The Administration has not received notification of
13 either of these parties under the provision of V. H,
14 have we, as we did in the case of Broyles?

15 MR. McDONALD: I don't think we have, David. I am
16 not aware if we have. I am trying to remember how notice
17 of legal proceedings in the Broyles case got precipitated.
18 I think it was this Administration writing to the court,
19 was it not, bringing this provision to their attention,
20 at which point-- I am speculating. I don't have the
21 file in front of me. I am not sure.

22 THE CHAIRMAN: Nevertheless--

23 MR. POPE: Bill, let me ask you this and perhaps
24 Bob Jesse would be the one to comment, I don't know, but
25 if the actions in the Colorado Water Court were to

1 proceed unchecked, how would the right be administered
2 in Colorado given the circumstances that exist as far as
3 the interstate nature of the matter?

4 MR. McDONALD: Are you talking about the Frontier
5 Ditch?

6 MR. POPE: Well, I am really talking about both
7 of them, Hammit included. Will the state enter this
8 case, Bob? Shouldn't the state enter this case?

9 THE CHAIRMAN: The state has entered the case, yes.

10 MR. JESSE: We are in all four of them. We are
11 in four of them. We will be talking to them along
12 those lines when it comes up to going back to court.

13 MR. McDONALD: The answer may be different, David,
14 with respect to Frontier and Hammit. Frontier, it
15 seems to me, when you try to answer the question you
16 pose, you got to stop and read Article VI. B, a Compact
17 provision that is unique to identify Frontier Canal.
18 I don't know of a provision that would seem to have
19 that unique application to Hammit in terms of how
20 deliveries by Hammit physically across the stateline
21 are regarded by the Compact, and then on the side, there
22 is a whole set of Colorado law issues about exports
23 for which we have a statute which says exports will
24 be credited against delivery obligations to the downstream
25 state with whom we have a compact.

1 MR. POPE: Yes. I was generally aware of that
2 provision, and that, in itself, probably would cause
3 us some problems because you could end up with a
4 situation where our historic uses of existing ditches
5 in Kansas would be the loser.

6 MR. McDONALD: It seems to me that could be the
7 effect, yes.

8 MR. POPE: If the Hammit application is allowed
9 to operate and take waters into Kansas, you could
10 essentially end up being a junior user getting
11 water--

12 THE CHAIRMAN: Am I the only person here that
13 foresees an opportunity for you to request of whomever
14 you direct to cause an investigation to be made to the
15 fact, particularly with respect to the Frontier, but
16 possibly Hammit as well?

17 MR. POPE: Excuse me, Frank. I missed that.

18 THE CHAIRMAN: I just wondered if I was the only
19 person who was convinced that you had a splendid
20 opportunity to cause an investigation to be made of
21 the facts, particularly of Frontier, but also of Hammit,
22 to be reported back to you for whatever action you might
23 deem to be appropriate.

24 MR. POPE: That, I think, is in order. I might
25 ask one additional question of the gentleman from

1 Frontier.

2 MR. KRASSA: Bob Krassa.

3 MR. POPE: Krassa.

4 If the Hammit application was denied for whatever
5 reason, would then Frontier be willing to dismiss its
6 application?

7 MR. KRASSA: There is a possibility. It would
8 remove a great deal of the reason for the application.

9 May I comment, Mr. Chairman, on your comment
10 about the possibility of investigations?

11 THE CHAIRMAN: Go ahead, but I think there will
12 soon be a huddle, but make your comment.

13 MR. KRASSA: The comment is simply this: The
14 Frontier Ditch is a comparatively small irrigation
15 ditch company, a total of 2,500 acres under irrigation,
16 completely used for agricultural purposes, not real
17 flush with money. It is in the Colorado court solely
18 to protect what it feels it has had for many many years,
19 has not hired an engineer, would not hire one unless
20 it was completely necessary to do so and would
21 appreciate every consideration this Commission can give
22 to the fact that it is not able to afford the kind of
23 investigation that governmental entities, cities, large
24 irrigation companies, can afford.

25 I have not carefully analyzed Article V. H, but

1 would ask whether the commissioners are certain that
2 an investigation of the Frontier application, given
3 that it is not a new application, whether an investigation
4 really is absolutely necessary under the circumstances.

5 MR. SPRONK: Mr. Chairman?

6 THE CHAIRMAN: Yes.

7 MR. SPRONK: Might I ask one question of Mr.
8 Krassa?

9 In the Frontier application in the Colorado court--
10 Let me rephrase the question. Have you on behalf of
11 Frontier or can you on behalf of Frontier question
12 the jurisdiction of the Colorado court to treat the
13 Hammit application?

14 THE CHAIRMAN: Pardon me. Before you answer that,
15 why don't we be at ease for just a few minutes?

16 (Short recess.)

17 THE CHAIRMAN: We are going to come back to order.
18 We may have a consensus position.

19 Mr. McDonald.

20 MR. McDONALD: Shall I go ahead, David?

21 MR. POPE: Yes.

22 MR. McDONALD: I think the respective delegations
23 are persuaded that this is a matter to which the
24 Administration should come to a clear and thoughtful
25 position, but that is not going to happen today. David

1 and I would suggest to you that we--being the state
2 officials sitting ex officio--we consult with each
3 other in the next couple months given that there is
4 an October 8th special meeting that the Administration
5 planned and see if we can come to some collective
6 thoughts as to what role, if any, and how the
7 Administration might proceed so that the Administration
8 could be advised and act on those on October 8th, and
9 David and I would be consulting, not in our capacities
10 as the currently constituted investigation committee, but
11 because we sit ex officio and have to deal with this
12 issue through other channels anyhow.

13 THE CHAIRMAN: It seems to me to be a very prudent
14 way to address what could be a complex question. If
15 there is no objection, I would suggest that we go to
16 Item 12 of the agenda, "Budgetary matters," beginning
17 with "Proposed funding of satellite monitoring stations
18 by the Administration," and in that connection, we have
19 a communication from the Geological Survey, Water
20 Resources Division in Kansas, suggesting that the
21 Compact pick up an additional burden. I don't know if
22 this is the same item that's intended to be addressed
23 by "a.," but it's deserving of attention, too, and I
24 think Mr. Stullken is still in the room.

25 MR. McDONALD: Frank, I think there are two

1 different issues, at least as I view them. Could we
2 start with Bob Jesse? We are ready to talk about
3 satellite monitoring stations.

4 MR. JESSE: We have the head of the program here.
5 Maybe it would be more appropriate to have him.

6 MR. McDONALD: The buck is getting passed.

7 A VOICE: That one just made it over the net.

8 MR. SIMPSON: Repeat the statement. I was discuss-
9 ing another matter.

10 THE CHAIRMAN: We are about to talk dollars and
11 apparently the ball is right square in the middle of
12 your card game. You are supposed to swing at it.

13 MR. McDONALD: Hal, I think your question is
14 that some time ago the proposition had been raised to
15 the Administration, "Would it be appropriate for the
16 Administration to fund one or more of the satellite
17 monitoring stations which are being installed via the
18 State Engineer's Office?" and we never--as I recall,
19 Dave, we simply didn't dispose of the matter for lack
20 of time, and David had some questions about the
21 accessibility and availability, I think, of the data
22 that comes out of that system which we didn't have the
23 answers for, and I guess we need to pick up there and
24 see if the Administration indeed does want to
25 participate in the Colorado State Engineer's program.

1 MR. POPE: I think that's correct, as I understand
2 it, Bill. As I understand the issue, the Colorado
3 State Engineer, Jeris Danielson, has requested that
4 the Administration pay an amount of money. I forget
5 whether that was 50 percent of the cost of those, what,
6 four gauges that would be instrumented on the Ark
7 River system. I think he has a letter of January 8,
8 1985, if I am not mistaken, Hal, that speaks to that
9 issue, and I suppose my question, then, is: If the
10 Administration would in turn agree to that request,
11 what does that provide to us, and particularly Howard's
12 office or our office in Topeka in Kansas?

13 I believe it was my understanding from Bill,
14 perhaps, maybe somewhere along the line that we would be
15 then able to access any of the gauges on the Ark River
16 system if we have the compatible equipment to get into
17 the State Engineer's computer system, and I think my
18 question then is: If that is, in fact, the case; and,
19 also, secondly, what this means in terms of the existing
20 monitoring situation on the river that we have been
21 funding in the past.

22 MR. SIMPSON: My name is Hal Simpson, Deputy
23 State Engineer. I'll address your first question. As
24 far as how that impacts the monitoring system, maybe
25 I will let Bob answer that, but if the Commission

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

1 elects to pay 50 percent of the operational cost, we
2 would make available to you, your office, and to your
3 office in Garden City, a user I.D. number, so you would
4 have to make a call to Denver to get into our computer
5 system and have total access to the Arkansas River
6 Basin data, which I think now will approach 40 stations,
7 I think, in the Arkansas Basin that are on a real time
8 data base. So, I think you will have access to a pretty
9 valuable system, and there are a number of software
10 packages you also will be able to utilize with them,
11 historic data, and a number of very useful plotting
12 routines where you can look at, on compatible equipment,
13 historical trends versus what is happening now, plotting
14 a previous months's data, comparing it with the same
15 month twenty years ago or whatever. So, that will all be
16 available to you.

17 MR. POPE: Hal, is that software that you referred
18 to, does the user, the out of state user, have to have
19 the software? Is that an integral part of just dialing
20 into the system? You already have the software?

21 MR. SIMPSON: You have to have the appropriate
22 hardware.

23 MR. POPE: Okay.

24 MR. SIMPSON: If you just want to access the
25 system and look at tables of data, you can use about

1 any computer with a modem. If you want to do color
2 plotting routines or anything like that, putting
3 hydrographs on the screen, you would have to have very
4 standard particular type of hardware, but it runs about
5 4 or \$5,000. You may have it, you may not, but we can
6 certainly tell you what is necessary.

7 MR. POPE: Well, for example, the typical meanings
8 we talked about like the IBM PC, and in our case, it
9 is the Zenith, that are compatible with that would fit
10 that bill probably?

11 MR. SIMPSON: I think so. Now, I am not for sure
12 about the color routine, but you tell us what you have
13 and we can check with our contractor, see how compatible
14 they are with respect to color plotting.

15 MR. POPE: Well, Bill, just to move the item
16 on-- Thanks, Hal.

17 THE CHAIRMAN: Howard has a question.

18 MR. CORRIGAN: Hal, you say a call into Denver.
19 Is that going by telephone or is that going to cost,
20 each call?

21 MR. SIMPSON: Well, yes. You will have to pay
22 the toll charges, the long distance charges to Denver.

23 MR. CORRIGAN: Well, that's liable to get pretty
24 expensive if we monitor that maybe fifteen minutes on
25 the hour, something like that.

1 MR. SIMPSON: I would not think you would call in
2 that often, but certainly you may call in twice a day
3 or something and you can in one minute get a tremendous
4 amount of data.

5 MR. CORRIGAN: We have got to monitor it quite
6 closely when we are delivering water. We have got to
7 know what is there all the time.

8 MR. SIMPSON: Well, you can always track it. You
9 could call in at noon and see what has happened for the
10 last--

11 MR. CORRIGAN: It might be a little late by that
12 time.

13 MR. POPE: The only other alternative to that would
14 be a dedicated line, I take it, that would allow
15 on-line--

16 MR. SIMPSON: That's fairly expensive.

17 MR. POPE: Yes. --monitoring, and that is quite
18 expensive.

19 How does Bob handle the real time situation as far
20 as his administration?

21 Are you tied in a dedicated line to Denver?

22 MR. JESSE: We do have--it's a microwave line
23 and I don't know what the difference is, but I know that
24 it's not a hard line, but we do have a toll free line
25 into Denver to the computer, and, you know, we generally

1 unless there is some reason to do otherwise, will
2 interrogate the entire system in the morning once a
3 day and for just a couple of three minutes, you can
4 get a tremendous amount of information depending upon
5 the baud rate of your machine.

6 MR. POPE: What kind of hardware do you have?

7 MR. JESSE: But the program that you could draw
8 up would-- You wouldn't need-- I wouldn't think
9 Howard would need all of those 40 or so stations we
10 have now on line or the 30 or 40 or so that we are
11 contemplating putting under this program. He could
12 devise a program that would allow him to select whatever
13 stations he wanted and have him print them out. He
14 could get, depending again on the speed of your machine,
15 the preceding twenty-four hours of data on fifteen-
16 minute intervals.

17 Water--I don't know what his requirements are--but
18 if you have a good handle on where your water is and
19 how fast it is moving, you can make reasonable
20 predictions. One of the items I had in my budget
21 was to equip the stations going down John Martin with
22 a portable terminal. I don't know if that would be
23 sufficient for him or not, but it would simply make a
24 hard copy of what the data is and that will tell you
25 what the gate time is up there now, and you can go

1 back to twenty-four hours, however far back you want
2 to go. Your data can be as much as three hours old
3 or-- It could not be more than that, but it could be
4 as late as fifteen minutes one way or the other. If
5 you know the time that the stations report, you then
6 would synchronize your call to the time the stations
7 report and get the data requested. We find it is very
8 useful.

9 THE CHAIRMAN: Howard?

10 MR. CORRIGAN: How is this going to benefit Kansas?
11 With the equipment we have got now, it operates quite
12 efficient as long as it works, but how are we going to
13 benefit if we are spending all this money?

14 MR. JESSE: The Sutron system should supersede
15 the existing system and its reliability rate could be
16 quite high. The equipment itself is state of the art
17 and the maintenance is not nearly as high. You are not
18 dependent on relay stations and you are not dependent
19 on batteries and solar power directed directly to the
20 satellite and directed back to you. You eliminate a
21 lot of that problem. Your reliability, we found, is
22 very high. The other advantage is that the computer
23 software in Denver will take the current shift and
24 apply it so what you will get back is the discharge
25 and the data will be reliable enough that that could be

1 virtually the completed final record when you get it
2 done. Real time would mean that that's what it is, real
3 time. That could be what's there now and that's what
4 the records will show later.

5 MR. CORRIGAN: Bob, won't we have to have the
6 USGS take care of those stations?

7 MR. JESSE: Absolutely. This will not supersede
8 the hydrographer at all. In fact, it will add to the
9 work. The shifts will have to be computed and inserted
10 into the machine. We have even talked to the people
11 in Kansas about how the drive back is too long of a
12 delay. Where we used to simply send them a post card,
13 now we need to know what the shift is as soon as it's
14 made to put it into the machine to have it start
15 adjusting in the meantime. So it will make the
16 hydrographer's work a little more complex rather than
17 less, and the hardware itself does require some
18 calibration, but it's just not really that simple.

19 MR. POPE: You have a receiver in your office,
20 don't you? You don't have to call Denver for your
21 information, do you?

22 MR. JESSE: Yes, we do. Well, ours is both a
23 computer and a terminal, so is Bill's, but we do have
24 to call Denver, but we do have a line. We have something
25 like a dedicated line.

1 MR. POPE: Howard, you get now continuous readings
2 of the stateline gage?

3 MR. CORRIGAN: And the Frontier.

4 MR. POPE: And Frontier, those two. And they are
5 what? What interval? Fifteen?

6 MR. CORRIGAN: About every fifteen minutes.

7 MR. POPE: Fifteen-minute intervals. Would that
8 be discontinued if the new system is implemented
9 totally or is it additional?

10 MR. JESSE: They would be redundant.

11 MR. SIMPSON: It may not have to be discontinued,
12 would it?

13 MR. POPE: That's what I am wondering is I think
14 we have some benefits in getting what you are going to
15 have available, but it may very well be, and I think
16 Lloyd is going to answer the question for us that we
17 might need that also. Can we--

18 MR. STULLKEN: Mr. Chairman?

19 THE CHAIRMAN: Yes.

20 MR. STULLKEN: May I speak to that?

21 THE CHAIRMAN: Go ahead, Lloyd.

22 MR. STULLKEN: The letter that I gave you did
23 not--well, it implied that we would be leaving the
24 present radio system and going to the satellite system
25 as soon as you begin funding the satellite system.

1 It's actually a reduction in operating costs. We feel
2 like we can operate that satellite system for less
3 than we can operate the radio system.

4 MR. POPE: And you are talking specifically of the
5 Frontier and the stateline gage?

6 MR. STULLKEN: Frontier and stateline is all I
7 am talking about, yes.

8 THE CHAIRMAN: Lloyd, I am going to go to California
9 next week. Could you send a copy of your letter to
10 both David and to Bill next Monday?

11 MR. STULLKEN: Yes.

12 MR. POPE: Is there a possibility or is there a
13 need, even though it would be redundant, to have both?
14 What does that do to--

15 MR. STULLKEN: We have both right now.

16 MR. POPE: You have both right now?

17 MR. STULLKEN: They are both operating right now.
18 We have funded the operation of the DCP through our
19 fiscal year '86. Correction. We have asked for funds.
20 We think we will get it, so DCP operation should be
21 taken care of federally until October 1st of '86. As
22 of that point, we would like the Compact to pick up the
23 operation of those two DCP's.

24 MR. POPE: And at that time, you would also--could
25 propose to replace the radio relay?

PENGAD CO., BATONNE, N.J. 07002 FORM 740

1 MR. STULLKEN: Drop the radio, right, and that's
2 actually a reduction in cost at that point.

3 MR. SIMPSON: Dave?

4 MR. POPE: Yes.

5 MR. SIMPSON: I have a question. You are in Garden
6 City?

7 MR. STULLKEN: Yes.

8 MR. SIMPSON: Couldn't Howard call you to get
9 stateline data on a very timely basis if he needed it?

10 MR. STULLKEN: Yes.

11 MR. SIMPSON: So he wouldn't have to need that
12 hourly data to call Denver, but at any time he wants to
13 look up the river, then he could call Denver once a day.
14 Wouldn't that be a solution?

15 MR. POPE: Sounds like it.

16 Howard, do you have another question?

17 I think what we ought to do is we ought to move
18 forward with the proposal and hear from Lloyd also on
19 that one for the following year, but I think we have
20 probably got a solution right there, you know, and if
21 the need be, after we have had the year's experience,
22 that we need both or something, why, we can always look
23 at that before it is taken out, but I am not sure whether
24 that's going to absolutely be needed if you can make
25 a local phone call there and get the readings when you

1 need them for the continuous--for the day or month or
2 whatever it is.

3 THE CHAIRMAN: Well, are we en route to determining
4 the extent to which the Compact can fund the operation
5 of the stations?

6 Bill.

7 MR. McDONALD: David, could I suggest this: Since
8 you and I are going to have occasion to meet face-to-face
9 in September, why don't we see if we can hammer out
10 what the choices are and what the costs are and get
11 the answers that Howard wants, and then have Hal and
12 Howard and you work directly, and let's see if you and
13 I can't just figure out, say, when we meet in September
14 anyhow again, just as an informal matter, what might
15 make sense, and then formal action could be taken at
16 the October 8th meeting.

17 MR. POPE: That doesn't bother me any. I think
18 our budgets are already adopted.

19 MR. McDONALD: The budgets are adopted, and if
20 there are any changes, they are going to come out of
21 surplus. I think that's the--

22 MR. POPE: Yes.

23 MR. McDONALD: --reason you and I are in agreement
24 on anyhow.

25 MR. POPE: That's right. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: Doing it in this format is cumbersome.

The next item was the review of the budget for fiscal year '85-'86.

MR. POPE: Okay. Let me ask one further question. Does that portion of it related to the Administration approving the request of the State Engineer of Colorado, do we need to delay that also so we know where we are going to get the funds?

MR. McDONALD: Yes. I think what we are saying is we will delay that until--

MR. POPE: Okay.

MR. McDONALD: --October 8th--

MR. POPE: That's fine.

MR. McDONALD: --lock, stock and barrel, and make a final decision.

MR. POPE: Right.

MR. McDONALD: You and I will figure out the information we need to make a decision.

MR. POPE: Okay. I am sorry for the interruption, Frank. Go ahead. Yes.

MR. McDONALD: With respect to the '85-'86 budget, David, I suggested it be on the agenda because I anticipate that budgeted items are not sufficient given a couple of things: One, that we will be using

1 a court reporter and that is going to increase some
2 expenses that were not anticipated, and as we juggle
3 these gaging stations and DCP's, we may have net
4 changes, they may be up or down. I would suggest this
5 for today: As long as we are still agreed as an
6 Administration that any changes in the '85-'86 budget
7 which we are already into that are net increases will
8 come out of surplus, and if we are agreed that that
9 surplus is sufficient, which I certainly am, why don't
10 you and I again just take it upon ourselves to suggest
11 a new budget and make the refinements, work it out
12 when we meet in September and dispose of it in October
13 as official business.

14 MR. POPE: If there are further adjustments needed
15 to up those items that will be needed as related to
16 court reporter.

17 MR. McDONALD: Yes.

18 MR. POPE: I have no problem with that.

19 MR. McDONALD: Yes. Rather than trying to work it
20 out today. I just want to be sure that you and I were
21 still agreed that if we had to, we would take it out
22 of surplus, the assessments were fixed, and we would--

23 MR. POPE: I think that what we might do is get
24 it down on paper.

25 THE CHAIRMAN: If there was another place, it would

1 be a miracle.

2 The review of '86-'87. Is the same rule for
3 that?

4 MR. McDONALD: Yes. My point on '86-87 was
5 simply the same. I foresee increases primarily because
6 we have got the transcripts, if nothing else. The
7 annual report is getting more expensive than anticipated,
8 but again, my view of the surplus, as an example, let's
9 leave the assessments set because we have got to go
10 through our budget processes, informally work on the
11 '86-'87 budget in September, if we need to change it,
12 we will do it in October.

13 MR. POPE: One quick question. I certainly have
14 no problem with delaying all of that, but I raise this
15 one only because we have already had the Treasurer's
16 Report. I didn't catch until after we had already
17 done that, the magnitude of the bill for the March 28th
18 transcription. That was not my understanding of what
19 that was going to end up costing, and I didn't know
20 whether something had transpired or you just got a bill
21 in that amount or Leo got a bill in that amount from--

22 MR. McDONALD: Leo got a bill and I told him I
23 had the final corrected copy, and I am sorry, I probably
24 should have called and asked if you thought that was the
25 right magnitude. All I did was tell Leo I got it in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

hand. I assume--

MR. POPE: Okay.

MR. McDONALD: --that is what you bargained for.
Should we put a stop order on the check.

MR. POPE: It's probably too late.

MR. IDLER: I still got the check.

MR. POPE: Oh, do you?

MR. IDLER: I'll take that back. I think it was
mailed today. I had it this morning yet.

MR. POPE: I didn't bring those figures along with
me, but we ended up ordering one copy, right?

MR. McDONALD: We got one final corrected copy is
all. I paid for the rest out of my state budget.

THE CHAIRMAN: I am told I am going to have to be
very terse in the future.

MR. McDONALD: We could perhaps charge U.S.G.S.
on the grounds that Frank spoke the most on certain
elements.

MR. POPE: You know, I don't know what we do about
it administratively here, but somehow or another, that
ended up being more than what I thought was agreed to
with them, with the one copy deal.

MR. McDONALD: Why don't we conclude the meeting
and you and Leo and I can decide.

MR. POPE: Okay.

1 THE CHAIRMAN: Unless there is some matter of an
2 emergency nature, the meeting will be concluded and
3 we will roll Leo down the stairs.

4 (The Special Meeting of the
5 Arkansas River Compact Administration
6 was concluded at 4:30 p.m.,
7 Friday, July 12, 1985.)

8 - - - - -
9 STATE OF COLORADO)
10) ss. C E R T I F I C A T E
11 COUNTY OF PUEBLO)

12 I, Donald F. Peterlin, Certified Shorthand Reporter
13 within and for the State of Colorado, do hereby certify:

14 That I appeared and reported in shorthand the
15 foregoing proceedings had at the Cow Palace Inn, Lamar,
16 Colorado, on the 12th day of July, 1985, commencing at
17 the hour of 1:00 p.m., and ending at 4:30 p.m., of said
18 date; that the foregoing proceedings were thereafter
19 reduced to typewriting by me, and the foregoing 98
20 pages contain a full, true and correct transcription
21 of the proceedings had.

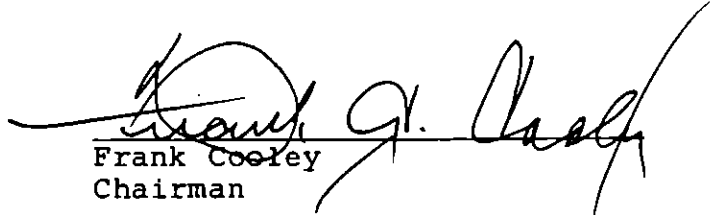
Donald F. Peterlin

22 Donald F. Peterlin
23 Certified Shorthand Reporter
24 P.O. Box 5002
25 Pueblo, Colorado 81002
Telephone: 542-1775

The foregoing minutes were approved by the Administration
at a special meeting held on October 8, 1985, in Garden City,
Kansas.



Leo Idler
Recording Secretary



Frank Cooley
Chairman

ARKANSAS RIVER COMPACT ADMINISTRATION

1001 S. Main Street
LAMAR, COLORADO 81052

KANSAS

GUY E. GIBSON, Topeka
CARL E. BENTRUP, Deerfield
Vice Chairman
RON OLOMON, Garden City

FRANK G. COOLEY

Chairman and Federal Representative
P.O. Box 98
Meeker, Colorado 81641

COLORADO

J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

3 CHECKS WRITTEN SINCE MARCH 28, 1985

Date	Check Number	To	For	Amount	
Apr	5	687	Federal Reserve	Payroll Taxes	42.42
Apr	5	688	Leo Idler	Salary & Postage	289.06
Apr	5	689	Mountain Bell	Telephone	114.31
Apr	5	690	AT&T	Telephone	39.31
Apr	5	691	Leo Idler	Telephone bills mixed	32.37
Apr	11	692	Hilton Inn	March Meeting	138.74
May	5	693	AT&T	Telephone	9.00
May	5	694	Mountain Bell	Telephone	96.83
May	5	695	Federal Reserve	Payroll Taxes	42.42
May	5	696	Void		
May	5	697	Void		
May	5	698	Leo Idler	Salary Postage Supplies	288.07
June	5	699	Lewan & Associates	Operation's Sec. Budget	420.00
June	5	700	Federal Reserve	Payroll Taxes	42.42
June	5	701	Void		
June	5	702	Leo Idler	Salary Postage Supplies	306.97
June	5	703	AT&T	Telephone	9.00
June	5	704	Mountain Bell	Telephone	106.43
July	5	705	AT&T	Telephone	25.61
July	5	706	Federal Reserve	Payroll Taxes	42.42
July	5	707	Lamar Daily News	Print 1983 Annual Report	4,608.62
July	5	708	Lewan & Associates	Operations Sec. Budget	1,797.00
July	5	709	John Eberwein	Operations Sec. Budget	3,720.00
July	5	710	Mountain Bell	Telephone	134.01
July	5	711	Underwood & Shane	Minutes of March 28, Meet.	1,376.00
July	5	712	Lewan & Associates	Operations Sec. Budget	163.00
July	5	713	Leo Idler	Salary Postagesupplies	340.93
					14,185.74

Bank Statement as of June 28, 1985

Interest current year todate	2,467.14
Checking account 6/28/1985	62.52
Savings Account with Interest to date	57,371.33
Checks Written for June bills	12,207.50
Total Cash on Hand 7/12/1985	45,371.50

RESOLUTION
CONCERNING ALLEDGED VIOLATIONS OF THE
ARKANSAS RIVER COMPACT

WHEREAS, Article IV. D of the Arkansas River Compact
(Compact) provides that:

This Compact is not intended to impede or prevent future beneficial development of the Arkansas River Basin in Colorado and Kansas by federal or state agencies, by private enterprise, or by combinations thereof, which may involve construction of dams, reservoirs, and other works for the purposes of water utilization and control, as well as the improved or prolonged functioning of existing works: Provided, that the waters of the Arkansas River, as defined in Article III, shall not be materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas under this Compact by such future development or construction,

and;

WHEREAS, Article V. E(2) of the Compact provides that:

Water released [from John Martin Reservoir] upon concurrent or separate demands shall be applied promptly to beneficial use unless storage thereof downstream is authorized by the Administration,

and;

WHEREAS, Article V. F of the Compact provides that:

In the event the Administration finds that within a period of fourteen (14) days the water in the conservation pool will be or is liable to be exhausted, the Administration shall forthwith notify the State Engineer of Colorado, or his duly authorized representative, that commencing upon a day certain within said fourteen (14) day period, unless a change of conditions justifies cancellation or modification of such notice, Colorado shall administer the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now or hereafter decreed to water users diverting upstream from John Martin Dam on the basis of relative priorities in the same manner in which their respective priority rights were administered by Colorado before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. Such priority administration by Colorado shall be continued until the Administration finds that water is again available in the conservation pool for release as provided in this Compact, and timely notice of such finding shall be given by the Administration to the State Engineer of Colorado or his duly authorized representative:

and;

WHEREAS, Article V. H of the Compact provides that:

If the usable quantity and availability for use of the waters of the Arkansas River to water users in Colorado Water District 67 and Kansas will be thereby materially depleted or adversely affected, ... (2) the ditch diversion rights from the Arkansas River in Colorado Water District 67 and Kansas ditches between the Stateline and Garden City shall not hereafter be increased beyond the total present rights of said ditches, without the Administration, in either case (1) or (2), making findings of fact that no such depletions or adverse effect will result from such proposed transfer or increase,

and;

WHEREAS, the State of Kansas and the State of Colorado have each alleged that the other has violated one or more of the provisions of the Compact; and

WHEREAS, Article VIII. H of the Arkansas River Compact provides that:

Violation of any of the provisions of this Compact or other actions prejudicial thereto which come to the attention of the Administration shall be promptly investigated by it. When deemed advisable as the result of such investigation, the Administration may report its findings and recommendations to the State official who is charged with the administration of water rights for appropriate action, it being the intent of this Compact that enforcement of its terms shall be accomplished in general through the State agencies and officials charged with the administration of water rights.

and;

WHEREAS, the State of Kansas and the State of Colorado are desirous of using such an investigation as a means of seeking to amicably resolve differences between the states in the interests of interstate comity.

NOW THEREFORE, BE IT RESOLVED that the Arkansas River Compact Administration shall, in accordance with Article VIII. H of the Arkansas River Compact, promptly investigate:

1. Whether the waters of the Arkansas River have been or are being materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas under the Compact by:
 - a. the operation of the Trinidad Dam and Reservoir Project, Colorado,

- b. the operation of Pueblo Dam and Reservoir, Colorado, and the winter water storage program on the Arkansas River in Colorado,
 - c. well development of the waters of the Arkansas River in Colorado, and
 - d. well development of the waters of the Arkansas River in Kansas;
2. Whether water released from John Martin Dam and Reservoir has been stored in Lake McKinney, Kansas, rather than being applied promptly to beneficial use, without the prior authorization of the Administration; and
3. Whether the State of Colorado has complied with the provisions of Article V F of the Arkansas River Compact in the administration of the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now and hereafter decreed to water users diverting upstream from John Martin Dam, including groundwater rights, on the basis of relative priorities.
- 3.4. Whether there have been increases in ditch diversion rights from the Arkansas River by Kansas ditches between the

Stateline and Garden City beyond the rights existing at the time of the execution of the Compact, which increases have occurred without the Administration first making findings of fact that the usable quantity and availability for use of the waters of the Arkansas River to water users in Colorado Water District 67 and Kansas would not be thereby materially depleted or adversely affected.

BE IT FURTHER RESOLVED that the Arkansas River Compact Administration requests the cooperation of the state agencies and officials, including consultants to them, in both Colorado and Kansas, and of the U.S. Geological Survey, the U.S. Bureau of Reclamation, and the U.S. Army Corps of Engineers in furnishing pertinent factual data to the extent that it may be required by the Administration in the conduct of its investigation.

BE IT FURTHER RESOLVED that a committee consisting of the director of the Colorado Water Conservation Board or his designee and the chief engineer of Kansas or his designee be constituted to conduct this investigation pursuant to Article VIII. H.

BE IT FURTHER RESOLVED that the above-mentioned committee shall report in writing to Compact Administration members on a monthly basis in regard to each issue for which the investigation is incompletd beginning on the first day of May, 1985. On or about the first day of July, 1985, a special meeting of the Compact Administration shall be held to discuss and evaluate the progress of the investigation.

BE IT FURTHER RESOLVED that this investigation shall in no event go beyond the date of the 1985 regular annual meeting of the Compact Administration insofar as the violations alleged by Kansas are concerned and insofar as the violation of Article V. E(2) alleged by Colorado is concerned and in no event shall this investigation go beyond July 1, 1986, insofar as the violations of Article IV. D and Article V. H alleged by Colorado are concerned, except upon a showing of good cause by the state requesting delay.

BE IT FURTHER RESOLVED that the chairman of the Administration is directed to forward copies of this resolution to appropriate officials of the State of Colorado, the State of Kansas, the U.S. Geological Survey, the U.S. Bureau of Reclamation, and the U.S. Army Corps of Engineers.

The foregoing resolution was adopted by the Arkansas River Compact Administration at a special meeting held on March 28, 1985, in Garden City, Kansas, and amended by the Arkansas River Compact Administration at a special meeting held in Lamar, Colorado on July 12, 1985.


Frank G. Copley, Chairman


Leo Idler, Recording Secretary

ARKANSAS RIVER COMPACT ADMINISTRATION

1001 S. Main Street
LAMAR, COLORADO 81052

KANSAS

DAVID L. POPE, Topeka
CARL E. BENTRUP, Deerfield
Vice Chairman
RON OLOMON, Garden City

FRANK G. COOLEY
Chairman and Federal Representative
P.O. Box 98
Meeker, Colorado 81641

COLORADO

J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

Special Meeting of the
Arkansas River Compact Administration
Friday, July 12, 1985
Cow Palace Inn, Lamar, Colorado
12:45 p.m. (MDT)

A special meeting of the Arkansas River Compact Administration will be held at the time and place above noted. It is anticipated that the meeting will last all afternoon.

TENATIVE AGENDA

1. Call to order and introductions
2. Approval of agenda
3. Proposed amendment to Article IV. 5 of the by-laws concerning minutes of meetings
4. Approval of minutes
 - a. May 10, 1984
 - b. December 11, 1984
 - c. March 28, 1985
5. Treasurer's report
6. Operation secretary's report
7. Status of Kansas transit loss account
8. Report from the investigation committee constituted by resolution of March 28, 1985
9. Kansas' allegation re violation of Article V. F of the Compact
10. Report from Bureau of Reclamation concerning review of Trinidad Reservoir operating principles
11. Gene Hammit and Frontier Ditch water rights applications
12. Budgetary matters
 - a. Proposed funding of satellite monitoring stations by Administration
 - b. Review of budget adopted for FY 85-86
 - c. Review of budget and assessments adopted for FY 86-87
13. Adjournment

gl
6/27/85

314
arca/ag

STATE OF COLORADO

COLORADO WATER CONSERVATION BOARD
 Department of Natural Resources
 7.71 State Centennial Building
 1313 Sherman Street
 Denver, Colorado 80203
 Phone: (303) 866-3441



Richard D. Lamm
 Governor
 J. William McDonald
 Director
 David W. Walker
 Deputy Director

M E M O R A N D U M

TO: Chairman and Members
 Arkansas River Compact Administration

FROM: Bill McDonald *Bill McDonald*

DATE: July 5, 1985 *low*

SUBJECT: Proposed Amendments to By-Laws

Pursuant to Article XI of the Administration's by-laws, notice of proposed amendments to Article IV. 5 of the by-laws has been given in the notice of the Administration's special meeting on July 12, and is being supplemented by this memo insofar as corollary amendments to Article IV. 2.(b) will be required.

At the Administration's March 28, 1985, special meeting, a policy and procedure for the transcription of Administration meetings was adopted. It occurred to me afterwards that the by-laws specify how minutes are to be handled. Thus, I believe that it would be best to actually amend the by-laws.

The attached proposed amendments to the by-laws are intended to incorporate the already agreed upon policy into the by-laws. Other changes are proposed as needed for consistency.

If the proposed amendments are adopted, they should supersede the policy adopted at the March 28 meeting.

JWM/gl

Enclosure: as stated

cc: Jeris Danielson
 Bob Jesse
 Will Bassett
 Dennis Montgomery

Richard Simms
 John Campbell
 Brent Spronk
 Howard Corrigan

Proposed Amendments to the By-laws
of the
Arkansas River Compact Administration

Delete Article IV. 5 of the current by-laws and insert in lieu thereof the following:

5. (a) The Administration shall keep minutes of the proceedings of all of its meetings. Such minutes shall be preserved in a suitable manner as directed by the Administration. Until approved by the Administration, minutes shall not be official and shall be furnished only to the members of the Administration, its employees, and the members of its committees. Distribution of official minutes shall be made by the recording secretary or his designee in accordance with directives of the Administration.

(b) Unless the requirements of this sub-section (b) are waived pursuant to sub-section (c), a verbatim transcript of the proceedings of Administration meetings shall be made by a duly licensed, official court reporter.

The recording secretary or his designee shall be responsible for arranging for the services of such duly licensed, official court reporter to take and transcribe the proceedings of a meeting. Copies of the draft transcript of a meeting shall be provided to one designated representative from each member state within two weeks of a meeting for corrections, but not editing. Corrections agreed upon by these two representatives shall be forwarded to the court reporter and the court reporter instructed to prepare within two weeks a final, corrected transcript. The recording secretary or his designee shall forward a copy of the final, corrected transcript of a meeting to each member of the Administration within two weeks of his receipt of the transcript from the court reporter. The final, corrected transcript of a meeting shall, upon the approval of the Administration, become the official minutes of that meeting.

(c) The requirements of sub-section (b) may be waived in advance of a meeting upon the agreement of both states. In this event, the recording secretary or his designee shall be responsible for electronically recording a meeting, except that special telephonic meetings shall not be so recorded, and for preparing a written summary which accurately reflects the proceedings of a meeting and all actions taken by the Administration at such meeting. A draft of such summary shall be distributed by the recording secretary or his designee to each member of the Administration within four weeks of a meeting. Upon the approval of such summary by the Administration, it shall become the official minutes of that meeting. The electronic recording of a meeting shall be preserved by the recording secretary until the Administration has approved the official minutes of a meeting, whereupon such recording shall no longer be preserved.

Delete the last sentence of Article IV. 2.(b) of the by-laws.

gl

Special Meeting
 Arkansas River Compact Administration
 Friday July 12, 1985
 Lamar, Colorado

Gene Jencsok	Colorado Water Cons. Bd.	
Byron Caloz	KANZ	Pierceville, KS
C. V. Mills	News Lamar	
Joanne McShure	Arkansas Valley Journal	Lamar
Jay Sunda	Pueblo Chieftain	Lamar Co
Lay Willson	KLMR Radio	Lamar
David W Robbins	St. of Colo.	Denver, CO
HAL SIMPSON	STATE ENGINEER'S OFFICE	DENVER, CO
Dennis Montgomery	Stat of Colo.	Denver, CO.
DAVE SHEPARD	State of Colo	LAMAR, CO
JIM KASIC	DIV. ENGINEER'S OFFICE	PUEBLO CO.
ROBERT JESSE	Div. Engr.	Pueblo
Bill Howland	Div. Engrs Staff	Las Animas
Jasper Coombes	US Army Corps of Engrs.	Albuquerque Nm.
Bob Rumph	"	Pueblo, CO
Danny Mayrum	State of Colo	Trinidad, CO
Don Smith	Colo. State Univ.	Rocky Ford, CO
J. Howell	PRWCD.	Trinidad, Colo
Jimmy Rogers	Dist 67 sec.	Lamar, Colo.
H. P. Bates	Buffalo Mutual.	Ty Co.
Leo J. Pallant	Amity Mutual Ins Co	Holly, Colo.
Len & Davin	amity mutual	Holly Colo
Bernard Wagner	Frontier Ditch	Colledge Kane
Edner Ransman	Catcher Canal Co.	Rocky Ford, Colo.
LEE HANCOCK	High Line Canal	Rocky Ford, Colo.
Alan Jones	High Line Canal	Rocky Ford, Colo.

Ron Thamer	Colo State Engr's Ofc	Ark. Valley
Frank Milenski	Catlin	
Bud O'Hara	PUEBLO WATER BOARD -	
RON STEGER	US GEOLOGICAL SURVEY WRD	PUEBLO CO
Richard Brantton	Box 396 Ordway Co.	81063
Morris Stevens	U.S. Geological Survey WRD	Garden City, KS
Lloyd Stullken	do	
Dean Smart	Fort Lyon Canal Co.	
Eric Holmester	Leuca Canal & Irrigation	
L. J. Eddy	Frontier Ditch	Coolidge Ks.
Murray Hamilton Jr.	Holly Lateral Ditch Co., Amity Mutual Ins. Co.	Holly, Colo
Johnnie Weber	Fort Lyon	
Harold Miskel	City of Colo Spgs	
Gerold E Helms	TOPICK, Kansas	
Paul & Frank	Amity Mutual	Holly, Co

Paul J. Pope	Kansas Commissioner	
Ron Olmson	ARCA	St. Deerfield
Carl Bentrup	"	
Frank G. Cooney		
Earl McDonald		
Leo Idler		
Carl Genova		
Gene Jensen		

Howard C. Corrigan	Division of Water Res.	Covden City, Kans
Leland E. Roffs	" " " "	Topeka, Kansas
Richard A. Simms	Hinkle, Co, Eaton, Coffield/Hendy	Santa Fe, N.M.
BRENT E. SPRONK	SPRONK WATER ENGINEERS, INC	DENVER, CO
Dale E. Book	" " " "	" "
John Carlson	Atty.	Denver, Co.
Howard Holme	" "	" "
Charles & Thomson	SECWCD -	Pueblo
C. E. Jackson	SECWCD -	
Jack O. Broyle	KROSSER	Lanier
JACK GARNER	U.S. Bureau of Reclamation -	Pueblo Co.
David A. Bruner	The Garden City Co.	Garden City KS
John Roth	XV Canal	Granada, Colo.
Jerry Weaver	Agri. Affiliates Inc.	North Platte, Ne
David L. King	Bureau of Reclamation	Denver, Co
JAMES B. ROBERTSON	" "	" "
RAY WILLIAMS	" "	LOVELAND, COLO
RALPH CANADAY	REGIONAL SOLICITOR'S OFFICE - INTERIOR	DENVER
W. P. Deniston		Holly, Colo

On April 1, 1985, Colorado's share of the unused 1984 Transit Loss water (20,995.14 af.) was transferred to Colorado ditch accounts. This emptied the 1984 Transit Loss Account since Kansas' share (9977.19 af.) had been transferred on Nov. 1, 1984. Simultaneously the 1985 Transit Loss Account was established by transferring 11,249.08 af. (35% of 1984-85 winter water stored in Article^{III} accounts). Transfer of water from the winter-stored conservation pool to accounts was begun at a rate of 1,250.0 cfs at 0001 hr., April 1, under Article II A of the 1980 Operating Resolution, since the Lamar Canal had requested a release on March 18. This release was still in progress on April 1. An operational test of the Tainter gates by the Corps of Engineers on April 3 resulted in a loss of 76.71 af. from the Conservation Pool. Beginning on April 8, various other Colorado Ditches requested releases and on April 12 the State of Kansas requested delivery of 500.0 cfs to the state line gages. A release of 500.0 cfs from the Kansas account and 185.0 cfs from the Transit Loss account was begun at 0900 hr. on April 12. By April 15, 500.0 cfs was being delivered at the State Line gages. Transit Loss release was reduced, then stopped on April 18. The Kansas release was stopped on April 30. The release amounted to 17851.5 af. from the Kansas account and 1338.87 af. from the Transit Loss account.

A release from the joint use pool in Pueblo Reservoir, begun on April 12, ended on April 18, netting 3384.1 af. at John Martin.

The winter-stored portion of the conservation pool was evacuated at 0606 hr., May 7. Transfer to accounts from summer-stored conservation pool water was begun at that time.

Around the middle of May it appeared certain that the limit of conservation storage would soon be reached. Preparations for forced releases by the Corps of Engineers were then made.

The top of the conservation pool was established in Article IV C of the Arkansas River Compact at elevation 3851.00 ft. above mean sea level. In addition, the permanent recreation pool was allowed to occupy up to 10,000 af. of space in the flood control portion of the project as provided in the Compact Administration's Resolution

of Aug. 24, 1976, and Public Law 89-298. The new elevation before a forced spill must occur was determined by the Corps of Engineers to be 3851.85 msl, a capacity of 355,225 af. on the 1980 area-capacity tables. Any water residing above el. 3851.85 msl must be considered to be in the flood control pool and subject to releases by the Corps " at times and rates determined by the Corps----- without regard to ditch diversion capacities or requirements in either or both States" [Compact Article IV C(2)].

At 1345 hr. on May 26, the surface of stored water was determined to have reached el. 3851.85. At that time the Corps of Engineers assumed control of releases. Their goal was to release inflow in such a manner that el. 3851.85 would be maintained, with an allowable tolerance of + or - .05 ft. Since account water was then occupying space which could have contained conservation pool water, the inflow was stored in the conservation pool while the actual release was made first from Las Animas Golf Course water, then excess permanent pool water, then resolution account Article III water, and finally, carryover water in accordance with spill criteria adopted at the Compact annual meeting on Dec. 11, 1984. Transit Loss water was not spilled because it was considered to reside in 1985 summer-stored water.

The Reservoir was operated substantially in this manner until June 16, when a drowning occurred in the Arkansas River some 12 miles below the dam. At 1630 hr. , the Corps reduced outflow from 3042 cfs to 600 cfs in order to facilitate the search for the victim. At this time inflow was approximately 2900 cfs. This curtailment forced storage into the flood control portion of the reservoir. Since no part of the conservation pool, account water, or permanent pool water was allowed to invade space above el. 3851.85, it was determined that for the period from 1630 hr. 6-16 to 2400 hr. 6-23 all water at the top of the reservoir was excess water in the flood pool. Therefore, for this period, all inflow, outflow, and evaporation

was credited to temporary flood storage and all transfers from the conservation pool to accounts was suspended.

From 0001 hr. , 6-24 until 0900 hr., 6-25, inflow was released to maintain el. 3851.85 +or- .05 ft. At 0900 hr. 6-25, forced releases were stopped, since demand below the reservoir exceeded inflow, causing the elevation to fall below the allowable tolerance of 3851.85 +or- .05 ft.

The Contents of the reservoir reached a maximum of el. 3852.46 at 0800 hr. on June 18, a storage of 362479 af. Inflow into the flood pool amounted to 24198.0 af.. 22371.0 af. was released and 1827.0 af. was evaporated.

Ownership of account water released under Corps of Engineers direction was as follows: Las Animas Golf Course-110.21 af; Permanent Pool-2432.42 af; Amity Art. III-73,311.19 af; Ft. Lyon Art. III-9041.58 af; Las Animas Consolidated Art. III-2170.64 af; Carryover water as follows: Keesee-60.78 af; Ft. Bent-261.63 af; Amity-1308.15 af; Lamar- 523.26 af; Hyde-34.36 af; Manvel-63.43 af; XY-134.78 af; Buffalo-224.63 af; Sisson-31.70 af; State of Kansas-1761.81 af. The total forced release was 91, 470.57 af. Total storage in the conservation pool from Nov. 1, 1984, thru July 1, 1985, was 268,617.42 af. The contents of the Reservoir at 2400 hr. July 1 was 350,306.0 af. , distributed as follows: Conservation Pool- 89,119.28; Agreement Water-251,362.43 af. ; Permanent Recreation Pool- 9824.29 af.

Operation of Pueblo Reservoir

June 3 @ 0300 hr. Elev. - 4880.55 Ft. = 265027 A.F.

June 4 @ 0300 hr. Elev. - 4880.60 Ft. = 265073 A.F.

June 5 @ 0400 hr. Elev. - 4880.53 Ft. = 264423 A.F.

Started in Joint Use Pool on June 6 @ 2000 Hr. Elev. - 4880.55 = 265026 A.F.

Maximum in Joint Use Pool on June 12 @ 1000 Hr. Elev. - 4882.22 = 272659 A.F.

End Joint Use Pool on June 15 @ 1900 Hr. Elev. 4880.54 = 264795.00 A.F.

Winter Water 84-85

May 15 @ 2400 Hrs. 49912.05 A.F.

May 25 @ 2400 Hrs. 45434.91 A.F. (Difference is that 84-85 WW gave some water to Holbrook & Colorado to slow their evacuating down.)

May 26 @ 1500 Hrs. started evacuating 84-85 Winter Water.

May 31st @ approximately 0534 Hrs stopped evacuating 84-85 Winter Water.

June 11th @ 1200 Hrs. started evacuating 84-85 Winter Water.

June 15 @ approximately 1441 Hrs. the 84-85 Winter water = 0.

Operations Secretary allocated \$6100.00 for fiscal year.

-\$420.00 for maintenance on typewriter purchased
with 1983-84 budget.

-\$3,720.00 for programmer and software for J.M. Reservoir
Accounting.

-\$1,797.00 for three Texas Instruments Silent 700
portable terminals.

163.00 Remaining for Miscellaneous computer supplies
already ordered from Lewan & Associates.

This leaves an end of year balance of \$0.00.