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M I N U T E S
OF THE
ARKANSAS RIVER
COMPACT ADMINISTRATION
DECEMBER 8, 1987
9:00 A.M.
COW PALACE
LAMAR, COLORADO

Frank G. Asely
Chairman

Dec. 13, 1988

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

2 MR. COOLEY: Good morning, ladies and gentlemen.

3 The 39th Annual Meeting of the Arkansas River
4 Compact is called to order.

5 I would point out to you that this is Carl
6 Bentrup's 31st Annual Meeting of the Arkansas River
7 Compact.

8 I went over the attendance list of the meeting ten
9 meetings back, and to an extraordinary extent, the same
10 people were at the meeting then that are at the meeting
11 now. It is amazing how little the personnel has changed
12 in this group.

13 The first order of business is the introductions.
14 I am Frank Cooley, and I am going to call on David Pope
15 from the State of Kansas to introduce the Kansas
16 delegation and some of the people that are here from
17 Kansas.

18 David?

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

20 To your immediate right, Carl Bentrup, who you have
21 referred to, as the senior member of the Administration,
22 and from Deerfield, Kansas. To my immediate left,
23 Ron Olomon, the other member of the Administration
24 representing Kansas, and Ron is from Garden City. To
25 my right is Leland Rolfs, who is legal counsel for the

1 Division of Water Resources, Kansas State Board of
2 Agriculture, in our office. Mark Rude, also on my staff
3 in the Garden City field office. Dale Book with Spronk
4 Water Engineers in Denver, consultants to the State of
5 Kansas. And back behind them, a couple more people. I
6 see Scott Ross, who is our Acting Water Commissioner for
7 the Garden City field office. And most of you know Dale
8 Jacobs, who works also there in the field office. And
9 then I see Ed DeKeyser and Dave Brenn, both representing
10 Kansas water users there in the ditch systems.

11 I believe that completes it. There may be others
12 that I have not seen right offhand from Kansas.

13 MR. COOLEY: Thank you very much.

14 Bill McDonald from the State of Colorado. Bill,
15 would you introduce the delegation and some of the
16 Colorado people that are here today?

17 MR. McDONALD: Yes. Thank you, Frank.

18 I am Bill McDonald, Director of the Colorado Water
19 Conservation Board. On my right is Jim Rogers, who
20 represents District 67. On my left, Carl Genova, who
21 represents Districts 14 and 17. Dennis Montgomery, who
22 is Special Assistant Attorney General for the State of
23 Colorado. Gene Jencsok, finally, at the left end of
24 the table, who is on my staff. In the front row, David
25 Robbins, who is Special Assistant Attorney General for

1 the State of Colorado. And let me introduce Bob Jesse,
2 Division Engineer, and Bob has some of his staff members
3 with him.

4 Bob, would you introduce those people, please?

5 MR. JESSE: Thank you.

6 I have reservoir accountant, Tom Simpson, from
7 Pueblo. Bill Howland, reservoir accountant, from John
8 Martin. And my new assistant in place of Jim is Chuck
9 Roberts. Water Commissioner Don Taylor. And on my staff
10 from Pueblo, P. O. Abbott. And then Bob Hamilton, who
11 is the new Water Commissioner for Districts 66 and 67.
12 He was just appointed. I was going to mention him as
13 part of my presentation today. Bob Hamilton is the
14 new Water Commissioner, just appointed to Districts 66 and
15 67.

16 MR. COOLEY: Thank you very much. We are delighted
17 that Frank Milenski is with us this morning. I don't
18 know if you are the grandfather of the river, but you
19 are the senior person, I suspect, in water matters in
20 Colorado in this valley.

21 The next item of business is the "Approval of agenda."
22 An agenda of this meeting was prepared by David and by
23 Bill McDonald and then was circulated by them. I have
24 a couple of comments on the thing.

25 I really don't find anyplace on here for other

1 business, and if I am chairing the meeting, there is
2 bound to be some stray things come in. I would suggest
3 that we put them in at Item 12½ before the "Auditor's
4 report" as "other business."

5 One of the things that I will be discussing, if
6 it is appropriate, is a revision of the bylaws of the
7 Compact Administration.

8 I would say to you now that it appears to me, and
9 possibly to others, that there will almost necessarily
10 be another meeting of the Compact Administration, possibly
11 in the month of February.

12 There will be matters that come before the Compact
13 Administration today that deserve attention, deserve
14 work, deserve to be acted upon, but for which there has
15 not been adequate preparation and notice, so I think
16 there will be another and important winter meeting of
17 the Compact.

18 One of the things I will discuss towards the end of
19 the meeting is the very fact that this group represents
20 many many years of experience on the Arkansas River in
21 solving the problems and administering the river, and
22 I am immensely concerned at the fact that there is now
23 a great number of skilled people that have worked for
24 years, and I awakened when Howard Corrigan retired, and
25 I feel his retirement is a blow to the proper administration

1 of the river and there are rumors of other retirements
2 facing us. Therefore, I tried to get Mr. Bratvold, the
3 photographer, who does the schools in this area, to come
4 and make mug shots of the people on the Compact and many
5 of the people in the audience. He is booked up in the
6 schools today, but I think he will be available for the
7 February meeting, and I very much am going to recommend
8 to the Compact that we expend a modest amount of money,
9 but sufficient to get mug shots of most of those here
10 and a few others that are not here this morning, who
11 represent, collectively, many hundreds of years of
12 experience in the Arkansas River.

13 Other than my vague comments about Item 12½, and
14 pointing out that Item 11, the winter storage program,
15 will indeed be the opportunity for the decree of Pueblo
16 Reservoir to be on the table, are there any other amend-
17 ments, corrections or additions to the proposed agenda?

18 Hearing none, I will accept a motion that we adopt
19 the agenda.

20 MR. McDONALD: Frank?

21 MR. COOLEY: Yes.

22 MR. McDONALD: I would move the adoption of the
23 agenda with the one added item for other business between
24 12 and 13. [Attached as Exhibit A]

25 MR. COOLEY: The motion has been made.

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Carl, is there a second?

MR. BENTRUP: I will second it.

MR. COOLEY: Thank you, Colorado?

MR. McDONALD: Colorado votes aye.

MR. COOLEY: Kansas?

MR. BENTRUP: Aye.

MR. COOLEY: The agenda has been adopted with the corrections.

The next item of business is the "Approval of transcript."

I overheard a colloquy that the approval can be made subject to final proofing by the two states.

Will that be the nature of the motion, David?

MR. POPE: Yes, Mr. Chairman. Bill McDonald and I did get to confer briefly before the meeting, and subject to any concerns by either of my counterparts from Kansas, I think we will review the transcript.

MR. BENTRUP: There were a few misspellings on the first page. I think those will all be taken care of.

MR. POPE: Yes. I think my motion would be then that we approve the transcript subject to final review of the typographical-type errors that need to be made.

MR. COOLEY: Jim, is there a second?

MR. ROGERS: Second.

MR. COOLEY: Kansas ready to vote?

1 MR. BENTRUP: Kansas votes aye.

2 MR. COOLEY: Colorado?

3 MR. McDONALD: Aye.

4 MR. COOLEY: At this rate, people, you will be
5 out of here by 11:30.

6 The next item is "Reports of officers for compact
7 year 1987."

8 My report is one paragraph. It is a personal
9 one. I had another bypass operation last July from
10 which I am recovering pretty well, and I am pretty
11 happy about the whole exercise. The purpose was to
12 improve my ability to ski deep powder, but the doctor
13 hasn't released me for that job yet and I am furious.
14 I am very happy to be here. I look forward to these
15 meetings a great deal.

16 The Recording Secretary's report. Do you have any
17 report to make?

18 MR. McDONALD: That is Bernice Carr, Frank.

19 MR. COOLEY: Yes.

20 MR. McDONALD: Our new Recording Secretary is
21 Bernice Carr. She is unable to be here today and I
22 don't think would have any report to make other than
23 she spent a very large amount of time during the course
24 of the year, as we all know, assisting with the
25 reorganization of the files and collection of those

1 materials and what have you.

2 MR. COOLEY: And she no doubt has disposed of those
3 that have been voted to be disposed of?

4 MR. McDONALD: It is my understanding she has,
5 yes.

6 MR. COOLEY: The next item of business is the
7 Treasurer's report. Who is the Treasurer?

8 MR. ROGERS: I am.

9 MR. COOLEY: Jim.

10 MR. ROGERS: I gave you a copy of the Treasurer's
11 report. I think everyone has a copy of that, where
12 the funds were spent and the money come in from Kansas
13 and Colorado. There is also a copy on the second page
14 of the checks that were disbursed. I think this follows
15 the budget alignment. Also, the bills that are due and
16 payable the 1st of December total \$4,255.66. Are
17 there any questions?

18 MR. COOLEY: Fine. The list of checks listed
19 individual checks, did it not?

20 MR. ROGERS: Yes.

21 MR. COOLEY: Yes. We have got a complete disclosure
22 then.

23 Do you move the acceptance of the Treasurer's
24 report? [Attached as Exhibit B]

25 MR. ROGERS: I so move.

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MR. COOLEY: Carl, is there a second?

MR. BENTRUP: I will second it.

MR. COOLEY: All right. Is Colorado ready to vote on the Treasurer's report?

MR. McDONALD: Aye.

MR. COOLEY: Colorado votes aye. Is Kansas ready to vote? Carl?

MR. BENTRUP: We vote aye.

MR. COOLEY: All right. The Treasurer's report has been accepted.

Now, the fun part of the meeting begins.

Mr. Jesse, would you please give us the Operations Secretary's report?

MR. JESSE: Thank you, Mr. Chairman.

Gentlemen of the Compact: I have provided each of you with a copy of the numbers portion of the report. If anyone does not have one, why, get to me and I will try to get you one. I am hoping that each of the commissioners have copies before them.

MR. COOLEY: Just a minute. Can you hear him? Can you hear Bob? You are able to hear him? Are you able to hear Bob there? Fine. Can you hear Bob back there? Fine. Everyone can hear you.

MR. JESSE: We started the water year in April with the upstream reservoirs on the Arkansas substantially

1 full. The upstream reservoirs are the ones above
2 Pueblo, and include Turquoise, Clear Creek, Twin Lakes,
3 and the other little reservoirs. These reservoirs stored
4 approximately 10,000 acre-feet during the winter storage
5 period and remained, except for the small ones, substantially
6 full.

7 Pueblo Reservoir stored approximately 20,000
8 acre-feet of winter water during the winter storage
9 program, of which 5,000 was stored in the joint use
10 pool and that was subsequently released to the river
11 in order to get the reservoir down to the 265,000 by
12 the 15th of April.

13 Pueblo Reservoir then operated at about 265,000
14 acre-foot for the majority of the runoff. Most of this
15 time, John Martin was filling.

16 We operated Avondale at a maximum of 6,000 feet
17 for the first part of the runoff season as we had agreed
18 previously with the Corps. We reduced that to 5,000
19 with concurrence of the Corps and State Engineer mainly
20 due to the flow that was coming out of the Huerfano and
21 there was some unstable or some erratic flows coming
22 down the Fountain, so we operated at 5,000 feet at
23 Avondale for those reasons, which I will describe in a
24 couple of minutes.

25 We stored about 3,000 acre-foot of water in Pueblo

1 in the flood pool during May and June. I think Jack
2 may have the exact date and time. I think it was on
3 the 10th of June that the maximum content was purged.

4 This water that was stored in the flood pool was
5 released as the general conditions permitted, keeping
6 the Avondale gage at 5,000.

7 We didn't see any significant flow damage in the
8 Arkansas above John Martin and below Pueblo, although
9 we did have some substantial flows in the Fountain,
10 in the Avondale area, and in the Boone area. There
11 was some overtopping, some water out of the primary
12 channels below the confluence of the Huerfano and there
13 was some concern about several diversion dams, but
14 there was no serious damage that we detected and we
15 didn't have any reports in the division office. We
16 did have some reports of some stranded cattle, some
17 houses that had water around them, but they weren't
18 really very significant. The walls were weakening or
19 there was some saturation of the banks around some
20 power lines, especially near La Junta. The power lines
21 were repaired or replaced and didn't require any adjust-
22 ments, although there probably wasn't much we could
23 do anyway because the ditches were all running to
24 capacity and we had water going through to John Martin.

25 The same thing was generally true with power

1 lines in the Lamar area or below John Martin, which
2 were there was just a general softening of power poles.
3 They were repaired. There was some minor adjustments
4 or curtailments out of John Martin, and the only other
5 event of that nature was the Lamar canals. A diversion
6 dam failed and water began to flow around the end of
7 the dam, the end of the dam to the north, and it could
8 have caused, if it had been allowed to continue, the
9 river. The Corps with the State Engineer reduced the
10 flow out of John Martin, and the Lamar headgate was
11 repaired after the water was lowered. The repair
12 holding, the dam is still in and still running, and
13 due to that cooperation, why, there was no real long-
14 term damage done. The reservoir was turned back on and
15 did eventually get out of the flood pool about the end
16 of June.

17 There were some records set in the John Martin
18 reservoir this year mainly in elevation, although not
19 in acre-foot contents. I think the Corps will report
20 on them a little more. All these numbers are in my
21 text in the report if you want to look at them.

22 The other major dam problem we had, if you have
23 been reading the Pueblo papers, you might remember was
24 the Cucharas dam. In June, at the peak of the runoff,
25 the Cucharas dam had about 60,000 acre-foot in it. It

1 started the season with about 30,000. It was spilling
2 and the snowpack had just begun to run. The Cucharas,
3 for those of you who don't know where it is, it is on
4 the Cuchara River, which is a tributary of the Huerfano,
5 which is a tributary of the Arkansas, comes in around
6 Boone. It is north and east of Walsenburg, and south
7 and east of Pueblo. It is on Highway 10.

8 When the reservoir began spilling in May, the dam
9 tender noticed muddy water coming out around the toe
10 and he, of course, immediately called the water commissioner.
11 The commissioner went out and looked at it. He became
12 convinced there was a problem, and according to our
13 procedure, began immediately notifying the responsible
14 officials, including myself, but most important, he
15 notified the sheriffs of the counties involved, Huerfano
16 and Pueblo County, and the Civil Defense and the emergency
17 crews were alerted.

18 The people were notified, the people that had live-
19 stock, the people that were living in the flood plain,
20 were alerted of the possibility of a dam failure and
21 subsequent high flows. We have calculated that should
22 the dam have catastrophically failed or just collapsed,
23 all in a matter of a few hours, the flow would have been
24 somewhat in excess of that of the '65 flood.

25 When I got to the dam two or three hours after the

1 first muddy water was noted, there was still about 200
2 c.f.s. of extremely muddy water coming out of the toe
3 of the dam, all along the face and the toe. The outlet
4 gates were wide open. Water was going over the spillway
5 and the Cucharas, like I said, had a heavy snowpack and
6 was just beginning to run. There was no possibility of
7 increasing diversions upstream, so all the inflow had
8 to go into and through either the spillway or the outlet
9 works.

10 The reservoir company and the emergency crew was
11 able to get a tractor on the dam and with a great deal
12 of effort, was able to enlarge the spillway to increase
13 the amount of flow out of the dam, and with the combination
14 of these efforts, the dam was lowered, it did not fail,
15 and the reservoir is now, except for some permanent water
16 behind it and some storage, substantially dry.

17 There is a hole in the face of the dam which is a
18 rockfill with a concrete face, and you can see the problem.
19 You can tell by looking at it that there was going to
20 be some substantial work necessary to get it back in
21 operation. There has been no firm plans on what is
22 going to be done to improve the dam or to get storage
23 going in it again.

24 During the time of this emergency, we did install
25 a satellite monitoring station on both the inflow to the

1 reservoir and on the reservoir itself. We were able
2 to follow the progress of the inflow and the content
3 of the dam and we could get readings every five minutes.

4 The company did station a watchman at the dam. The
5 satellite communicating system was available to anyone
6 that wanted to interrogate it. In fact, I believe we
7 had a monitor on the floor of the legislature which was
8 in session so that they could see what was going on.

9 None of the water that was stored was recovered
10 by the company, although there was some diversion on
11 the Huerfano. None of them had the ability to divert
12 anything like this kind of flow, so the 50,000 acre-foot
13 that was in storage was released to the Arkansas and
14 then the water went on down the Huerfano, on down the
15 Arkansas, in to John Martin, which was spilling, and
16 on through John Martin, and I suppose on to Garden
17 City.

18 Other reservoirs in the Arkansas on the side channels
19 were nearly full during the winter storage and subsequently
20 drawn down for normal irrigation. They are down quite
21 a bit now. The winter storage program began on the 15th
22 of November for about the thirteenth year in a row.

23 We already have the Holbrook substantially full and
24 we have switched the Fort Lyon storage system. That
25 means we are delivering water to John Martin for the

1 accounts of the Amity and the Consolidated. Fort Lyon
2 indicated that they would store in their own reservoirs
3 and they may not be going to John Martin this year.

4 All the measurements and calculations that were
5 necessary for these storage events have been made. That
6 is in accordance with the 1980 operating plan and the
7 winter water decree was signed on the 10th of November.
8 This year, for a change, we didn't have any major
9 difficulties with off-channel reservoirs. You might
10 remember some problems we had a couple years ago with
11 some of them.

12 There are still some dam safety restrictions that
13 keep us from storing to our capacity, but we are in
14 pretty good shape on the other off-channel reservoirs.

15 John Martin has a new capacity table which will
16 go into effect sometime next year. We don't anticipate
17 any problem with that. If there are any adjustments,
18 we will make them at the time and they will be to each
19 account, pro rata, I presume. Unless we are instructed
20 different, we will note all of that on the report form
21 next year.

22 John Martin could not store any more water on March
23 25th. It began releasing 3,000 second feet for the
24 majority of the period except for the short period that
25 I mentioned earlier and all water that was stored in the

1 flood pool was released as the channel conditions permitted
2 at about 3,000 feet. The channel capacity below John
3 Martin appeared to be 2,000 to 3,000. There was quite
4 a bit of softening of the banks. There was quite a bit
5 of overtopping, this sort of thing. You might have
6 noticed, there was some damage across the street here to
7 the Valco, the gravel pit. There is a program to do some
8 work on that. I don't know if the Corps is going to
9 comment on that later, but there was some reports of
10 water up along the lower end of the farm and fields,
11 farm roads being under water, and there was some damage
12 along those lines.

13 The scouring, I didn't notice a lot of scouring in
14 Colorado, due to the heavy growth of phreatophytes and
15 willows. Willows. Willows don't seem to scour out. They
16 just keep building up.

17 From what I could tell, the channel in Kansas appeared
18 to be better defined, but no great change in that.

19 In Trinidad, the operation on the 1st of November,
20 there was 14,493 feet in Trinidad. Model pool empty.
21 The recreation pool had 4,500 feet. I don't know if
22 anyone from Trinidad is here. I could give you the
23 update when he comes in. I had a question last night
24 at the operations committee and I still don't have the
25 answer, but I will find out as soon as I get somebody from

1 Trinidad in here.

2 The joint use pool had 12,600 acre-feet, which
3 1,500 was transmountain. Trinidad began storing under
4 the joint use decree on the 24th of March, the same day
5 that John Martin was unable to store more water. They
6 subsequently filled the 39,000 acre-foot pool--that is the
7 first time--the 1st of July, and the content today is
8 38,800, the difference being the pro rata share of the
9 evaporation.

10 There has been a case filed in water court to make
11 the conditional W-130 decree absolute and I don't know if
12 there has been any hearing scheduled. I haven't seen
13 anything further other than the case being filed.

14 The Trinidad has today about 49,000 acre-foot.
15 Trinidad has a new table developed and put into use
16 on the 1st of November, 1987. It is in use today, and
17 the Trinidad Reservoir, like the other side channel
18 reservoirs, had a very high snowpack last year. They had
19 a good run. We had some significant snowmelt for a
20 change. We had several days of 500 c.f.s. going into
21 Trinidad. We did not have any significant rain peaks.
22 No significant rain peaks occurred above Trinidad. There
23 were some below that came in to John Martin. They were
24 below the irrigated acreage, as well as Trinidad, and
25 they came on down the Purgatoire.

1 One other reservoir problem I might mention is the
2 problem of Lake Cheraw. You will be getting much more
3 information on that in the future. If you have been
4 reading the paper, you might have noticed the controversy
5 that has been over that. Lake Cheraw is a small lake
6 just north of La Junta filled by natural precipitation
7 and the return flow runoff, ground water and irrigation,
8 as well as seepage from Hollbrook and Fort Lyon storage
9 canal. There has been problems with Lake Cheraw since,
10 oh, about 1985, when it began to rise, threatening the
11 utilities in the town of Cheraw.

12 The outlet canal was subsequently cleaned by a
13 combination of the drainage district, the town of
14 Cheraw, the various service clubs, the Lion's Club, I
15 believe, and the State of Colorado Highway Department.
16 They have a highway that is on a causeway that runs
17 through part of the reservoir. The outlet canal is dug
18 down to its old level and the water was subsequently
19 lowered. During this operation, there was installed a
20 gate on part of the outlet canal and there is now in
21 storage, susceptible to being released by the gate, about
22 2,500 acre-feet of water. This water, the top of the
23 lake, is about 15 to 18,000 per million T.D.S., mostly
24 salt. The quality deteriorates pretty rapidly as the
25 lake deepens. After about 25 feet in depth--the whole

1 lake is about 40-feet deep--it is over 60,000 parts per
2 million.

3 Russ may be going to mention something about that.

4 MR. COOLEY: It is on the agenda later on.

5 MR. JESSE: I won't dwell on that too much more
6 other than to say that the quality of the reservoir is
7 not good. There are programs and there are proposals
8 to handle the draining of the water. Tommy Thomson
9 who, had he been here, would have addressed the matter.
10 The reason he is not here is because he is appearing
11 before the Water Quality Control Commission in Denver
12 and I am sure that Tommy will keep everyone well informed
13 about what he finds out there.

14 In the event there is a release from Lake Cheraw,
15 we will equip the gage on Horse Creek, and the gage on
16 the Las Animas above John Martin is already equipped
17 with a Sutron platform. They will install probes to
18 measure both quality and quantity. When that happens,
19 whoever has access to the Sutron will be able to
20 interrogate those satellite systems. Last year, the
21 satellite communication system, we had over 40 stations.
22 We had a very high rate of capture of data, very little
23 down time. We did have, of course, some mechanical
24 operating problems, nothing really significant.

25 The Sutron system has turned out to be an extremely

1 valuable tool in both administration and in keeping
2 the public aware of what is going on on the river.

3 We didn't have any significant problem with the
4 gaging stations operated by either the State of Colorado,
5 Colorado GS or Kansas GS, for that matter.

6 Before I conclude and ask for any questions, I
7 want to make sure that everyone realizes that we
8 have a new Water Commissioner who I formerly introduced.
9 During the interim, we had, as our Water Commissioner,
10 Leo Idler. Leo took the phone calls, he fielded a lot
11 of our inquiries, he did a very good job. If Leo had
12 been a couple of years younger, we might have had him
13 as a permanent Water Commissioner.

14 Mr. Chairman, that concludes my report. Is there
15 any questions?

16 MR. COOLEY: Thank you very much, Mr. Jesse. I
17 am sure there will be some questions.

18 Those of you from the audience who have questions,
19 if you would identify yourself so that the court reporter
20 can make out your name, it would be useful.

21 I was taking notes, Bob, and I got confused. I
22 have three different figures down for the total amount
23 of water in Trinidad Reservoir at this time. What is
24 that figure?

25 MR. JESSE: There is about 49,000 acre-feet in

1 storage.

2 I see one of my other managers come in, Danny, from
3 Trinidad, and he is here just in the nick of time. There
4 is about 49,000 acre-feet in storage today. I don't
5 know the exact number, but I am sure he can give it to
6 you.

7 MR. COOLEY: Talk about hot off the press.

8 MR. JESSE: The Trinidad, right now, contains
9 48,738 acre-feet.

10 MR. COOLEY: Call it 49, that's fine.

11 Another question I had, Bob: Who made the new
12 table for John Martin, what technique was used, and
13 what are the major differences between this table and
14 the last one?

15 MR. JESSE: Well, I might have to defer to Bob
16 Rounph on that one because the Corps of Engineers is the
17 one that made the table and he will be the one that will
18 have to protect it.

19 MR. COOLEY: He is on the menu.

20 MR. JESSE: Yes. Maybe we can just defer that
21 until Bob gets here.

22 MR. COOLEY: Okay. Now, here is your wonderful
23 opportunity.

24 Mr. Pope, do you have any right off the bat?

25 MR. POPE: I do have a few questions, nothing

1 extensive, I guess.

2 You just clarified one of the questions and that
3 was the total contents of Trinidad. Then did I hear
4 you right, Bob, that the current contents of the joint
5 use pool is 38,800? That would be a part of the 48,000
6 that you--

7 MR. JESSE: The accounting sheet, the number that
8 I gave you for November 1st of 1986, the contents now,
9 the Model storage right, we got 5,702 acre-feet; the
10 fish pool has got 4,274; the water stored under the
11 direct flow rights is 1,965; the transmountain water
12 is 14.6; and in the W-130 account or the joint use
13 account is 36,781.

14 MR. COOLEY: Now, the transmountain would necessarily
15 be by a process of exchange, would it not?

16 MR. JESSE: Yes. That is the residual of the water
17 that was exchanged from the Arkansas as transmountain
18 water.

19 MR. COOLEY: Well, to underline that, there is no
20 physical way in which water from another basin is going
21 to be put into Trinidad, is there?

22 MR. JESSE: No. The only way they can get trans-
23 mountain into Trinidad Reservoir is by exchange from the
24 Arkansas.

25 MR. POPE: The numbers you have previously given

1 then were for a year ago?

2 MR. JESSE: Yes.

3 MR. POPE: That is what I have missed.

4 MR. JESSE: Yes.

5 MR. POPE: I just missed some years there. Thank
6 you, Bob.

7 In the comment about the dam safety concerns at
8 Lake Cucharas, was it?

9 MR. JESSE: Cucharas Dam.

10 MR. POPE: You had mentioned that there was a total
11 of, what, 60,000 acre-feet that was released during the
12 course of that drain-down?

13 MR. JESSE: Yes. The reservoir started the year
14 with about 30 in it. It filled to about 60.

15 MR. POPE: Okay.

16 MR. JESSE: So the whole 60 went out, but only 30
17 of it was stored during 1987.

18 MR. POPE: Okay. So there was about 30,000 carryover
19 and about 30,000 stored in 1987 prior to the problem?

20 MR. JESSE: Yes. It had 30 in it. It came to
21 priority, began storing during snowmelt, it filled, filled
22 and filled.

23 MR. POPE: Okay. What was the period of time during
24 which the contents were actually released as a result of
25 the failure? I mean datewise.

1 MR. JESSE: Yes. Well, we started the release in
2 May. On May the 9th, I believe, is when the first
3 problem developed, and, of course, all the inflow was
4 released, as well as water from storage, so the outflow
5 exceeded the inflow for a long period of time, and I
6 don't think we got clear down to where the inflow was
7 equaling the outflow until along sometime in the first
8 part of August, if my memory serves me correctly. The
9 release occurred starting May the 9th and did not
10 complete until about the 1st of August.

11 MR. POPE: Okay. So a portion of that at least
12 occurred during the other spill that was occurring at
13 John Martin?

14 MR. JESSE: The majority of the water would have.

15 MR. POPE: The majority of it spilled in?

16 MR. JESSE: But as it dropped, why, as both the
17 inflow went down and as the contents went down, since
18 the gates were wide open, why, the outflow just tailed
19 off pretty much.

20 MR. POPE: Okay. Thank you.

21 In the report, your annual report that we received
22 here this morning, could you clarify for me on like Page
23 7, I think, the asterisk regarding the forced releases
24 and how that relates to the deliveries to Kansas in
25 Table 10? I take it that's the spill from the agreement

1 accounts.

2 MR. JESSE: Page 7 is the forced release.

3 MR. POPE: On Table 10, the bottom of the page there,
4 if you look at April, May, June and July.

5 MR. JESSE: At Page 10?

6 MR. POPE: Page 7 in Table 10. I am sorry.

7 MR. JESSE: Okay. Oh, Table 10.

8 MR. POPE: Under the column "Demand releases," I guess,
9 is my specific--

10 MR. JESSE: Okay.

11 MR. POPE: I guess I am trying to distinguish between
12 normal demand releases on call by Kansas versus the
13 apparent difference here called forced release.

14 MR. JESSE: I am not sure I totally understand. The
15 demand release is the amount of water that the ditch has
16 called.

17 Is that right, Bill?

18 MR. HOWLAND: That's right.

19 MR. JESSE: Kansas or ditches called for water and
20 that was as a demand. The call was a demand and they
21 actually wanted water.

22 MR. POPE: All right. But then you go on to add an
23 asterisk to include what you call some forced releases,
24 and I wanted to make sure I understood what that was.

25 MR. JESSE: Bill?

1 MR. HOWLAND: David, the forced release, for lack
2 of any better verbiage, that's what we called the release
3 that was brought about by the operation of the reservoir
4 by the Corps of Engineers out of the flood pool. This
5 water had to be released from the individual accounts
6 including Kansas release account. The water was not called
7 for by Kansas, but it came out of the Kansas account.
8 That was why we designated it as different type of water,
9 so-called forced release. It was water that you had had
10 in your account. It was evacuated from the account by
11 virtue of the flood release. Because we had to account
12 for it, we had to call it something.

13 MR. POPE: Okay.

14 MR. HOWLAND: But it was not demanded by Kansas.

15 MR. POPE: I think I understand.

16 MR. COOLEY: Mr. McDonald?

17 MR. McDONALD: Could I say that another way, Bob
18 and Bill, and see if I am right? Because of the numbers
19 in the demand release column, it reflects the fact that
20 it came out of the Kansas or Colorado accounts, but the
21 asterisk indicates it was being forced out of those
22 accounts, it was not actually being requested. Is that
23 right?

24 MR. POPE: I understand.

25 MR. HOWLAND: That's right. And the difference

1 between the so-called forced release and the total in
2 the column is your actual demand that you called for.

3 MR. POPE: Okay. All right.

4 MR. COOLEY: Let me interrupt for a minute. Mr.
5 Bates, there is an attendance sheet here somewhere, and
6 I would be pleased if you and the other gentlemen who have
7 come in would sign the list. I don't want you to be in
8 the room without having a record of it. Good to see you.

9 MR. POPE: Mr. Chairman, I believe my next question
10 relates to the narrative, Page 2 of the report, and it
11 comments that on May 21st, the recreation pool was
12 brought up to 10,000 acre-feet, which is the total size
13 of the permanent pool account, I take it, as I recall.
14 What was the source of water on that? Was that purchased
15 water from somewhere?

16 MR. JESSE: No. The John Martin was spilling and
17 the permanent pool was brought up out of the free river.

18 MR. POPE: Okay. Flood waters?

19 MR. JESSE: Yes. Out of the flood waters, it was
20 being filled.

21 MR. POPE: The only other question I guess I have,
22 Mr. Chairman, for Bob while he is up there-- I don't
23 recall him pulling out his crystal ball like he normally
24 does and telling us what is going to happen this next
25 spring.

1 MR. COOLEY: Well, what is the stock market going to
2 do?

3 MR. POPE: If you want to throw that in, that's fine.
4 I am more interested in the snowmelt, at least, at this
5 time.

6 MR. COOLEY: Mr. Jesse?

7 MR. JESSE: Actually, it don't look that good from
8 the people I have talked to. The first snowpack surveys
9 were very discouraging. There have been several storms
10 since. The ground is dry and the mountains were dry
11 when we got the first snow. It came late. It's still
12 awful early to tell, but it is not as good as it was
13 last year by a whole bunch and the soil moisture in the
14 mountains is not as good as it was last year.

15 If we get a few more of these storms, and I guess
16 this storm we had last night here was mainly a windstorm
17 and none of us got even as far as Pueblo, although there
18 was predictions of this new storm front moving down the
19 mountains, but it is not as good as it was last year by
20 quite a bit, but it is pretty early in the season.

21 MR. COOLEY: 6:00 o'clock yesterday morning, the
22 Vail ski area looked pretty sad. Bob, I have a couple
23 more questions in light of David's questions. The
24 Cucharas Reservoir, how often in the past ten years, in
25 general terms, has it been full and carried a great

1 significant quantity of water in it?

2 MR. JESSE: This was the first time it had ever
3 filled. It was constructed about the turn of the century.
4 It was built out of a technique called dump block where
5 they just piled up rocks, and then in the '30's, they
6 made an extension on it that was more conventional. It
7 was dirt and rocks. And then in the '50's, the spillway
8 system that it has now was constructed, but it had never
9 spilled before. This was the first time it had ever been
10 full to spill.

11 MR. COOLEY: Another question on that: Just in
12 general language, where are the irrigators, the majority
13 of them, that benefit from this structure?

14 MR. JESSE: The Cucharas Dam is owned by the Huerfano
15 Valley Irrigation Company, which is an irrigation company
16 down near Pueblo. It is just to the south of Pueblo, an
17 area known probably better as the Broadacre or in that
18 country. They have a ditch that takes out of the Huerfano.
19 They have another little reservoir out in that country,
20 but the irrigated acreage is to the south and east of
21 Pueblo and south of Bessemer irrigated land, and I think
22 there is probably 5,000, 6,000 acres out in that country.

23 MR. COOLEY: Does the return flow stay in the
24 Huerfano system or does it go directly into the Arkansas
25 system?

1 MR. JESSE: It is kind of on top. I would think the
2 return flows would probably split up a little bit. The
3 majority of them should stay in the Huerfano.

4 MR. COOLEY: Now, as most of you know, I think this
5 is the most fun part of the annual program, the ability
6 to cross-examine Mr. Jesse. Are there any other questions?

7 Carl?

8 MR. BENTRUP: I have one, Bob. When you were talking
9 about Trinidad, you mentioned that there was an application
10 for a storage decree to be made permanent. What decree
11 was that?

12 MR. JESSE: The W-130 case was a case that
13 conditionally decreed the joint use pool of 39,000 acre-
14 feet and since it had never been filled before, the
15 decree was conditional and the application filed was to
16 make the conditional decree absolute.

17 MR. BENTRUP: Of course, that is one of our points
18 of controversy, that the joint use pool could only be
19 used for storage when John Martin was spilling. We take
20 that position, that the rollover was not intended in the
21 original. How should Kansas ever oppose the granting of
22 that decree?

23 MR. JESSE: Of course, the storage did occur--

24 MR. BENTRUP: Yes.

25 MR. JESSE: --while John Martin was spilling. I

1 don't know if Kansas could come into the water court and
2 oppose the fact that it filled or not. Maybe I could
3 defer that--

4 MR. COOLEY: The question comes to mind whether that
5 condition should be a part of the decree. The same
6 question that Carl asked in a different way.

7 MR. POPE: To follow up on that, also, Carl: Before
8 the storage began this last year under that decree and
9 that John Martin began spilling, what were the contents
10 of the joint use pool at that time from any other source?

11 MR. JESSE: On March 24th-- Have you got your
12 book? I can look that up right quick. On March the
13 24th, the contents of the joint use pool.

14 MR. POPE: How did that interact with their ability
15 to store under the conditional decree?

16 MR. JESSE: The contents of the joint use pool, at
17 that time, would have been from water stored under the
18 direct flow decrees during the winter or from water
19 transferred from the Model account in the previous year.
20 2,000. When they began storing under the W-130 decree,
21 there was 2,143 acre-feet in the joint use pool from those
22 two sources.

23 MR. BENTRUP: One other question I had last night
24 was when John Martin was spilling, was this water stored
25 in Trinidad used first to fill the Model and then the

1 remainder put in the joint use or did the Model stay
2 right about where it was or all of it put in joint
3 use?

4 MR. JESSE: I believe the latter, that we did spill
5 the W-130 first and then the Model.

6 MR. BENTRUP: I don't have any other questions.
7 Thank you, Bob.

8 MR. COOLEY: Any Colorado questions from the Compact
9 Administration? No? Hang on. I think this is too much
10 fun to restrict it just to the Compact.

11 Are there questions that anyone in the audience has
12 of Mr. Jesse?

13 Bob, you escaped. Thank you very much.

14 MR. JESSE: Thank you.

15 MR. COOLEY: The next item of business is the
16 "Committee reports for compact year 1987."

17 Mr. McDonald, I take it that there is no administrative
18 and legal report?

19 MR. McDONALD: The committee which consisted of Carl
20 Bentrup and myself had no occasion to meet during the
21 year, and we, therefore, have no report.

22 MR. COOLEY: That is good. That is a dandy. There
23 will be a report from the Engineering Committee. Who is
24 going to give that report?

25 MR. GENOVA: Mr. Chairman?

1 MR. COOLEY: Yes, sir. Mr. Genova.

2 MR. GENOVA: The Engineering Committee held two
3 meetings during 1987. Both meetings related to Case
4 #83-CW-130, proposed change of use for the surface water
5 rights of the Keesee Ditch owned by Mr. Jake Broyles.
6 The proposed change would allow storage in John Martin
7 Reservoir and exchange the consumptive use portion of
8 these waters out of District 67 upstream to Pueblo Reservoir
9 for a wide range of beneficial uses.

10 The first engineering meeting was held February 5,
11 1987. Mr. Peter Boddie of H-R-S Water Consultants,
12 engineering consultants for the applicant, outlined the
13 mechanics of the transfer and exchange as proposed in
14 Volumes 1, 2, and 3 of the Keesee Ditch change of water
15 rights.

16 As Submitted by H-R-S (Study Period 1964-1983)

- 17 1. 1,900 acres were irrigated by surface diversions
18 and six alluvial wells.
- 19 2. 1,400 acres were allocated to surface waters
20 and will be dried up; 500 to the wells.
- 21 3. Average annual surface diversions were 4,945
22 acre feet.
- 23 4. Consumptive use, utilizing 70% irrigation
24 efficiency, 2,925 acre feet (2.09 acre feet per
25 acre).

1 5. Return flows averaged 2,020 acre feet.

2 6. Crop distribution: alfalfa 67.5%; corn 9.5%;
3 winter grains 11.5%; grain sorghum 11.5%.

4 After discussion, it was determined both Kansas and
5 Colorado would review the plan as submitted by H-R-S.
6 In addition H-R-S was asked to prepare a more detailed
7 plan for operation and accounting of these waters in
8 John Martin Reservoir. The additional report was later
9 submitted to both states as Volume 4 (detailed plan of
10 operation and accounting for John Martin Reservoir, July
11 1987).

12 After both states completed their respective engineer-
13 ing analysis, the Engineering Committee met December 2,
14 1987, where it was determined:

15 1. The study period should be enlarged from 1950 to
16 1983.

17 2. Maximum irrigation efficiency should be reduced
18 to 65%.

19 3. Consumptive use is based in part upon efficiency
20 of border irrigation systems. Mr. Broyles must validate
21 when his system was constructed.

22 4. Mr. Broyles must validate his crop distribution,
23 which includes alfalfa at 67.5% (high consumptive
24 use crop).

25 5. Storage of the stream depletion portion of direct-

1 flow diversions was not contemplated in Article
2 of the 1980 Storage Account Resolution.
3 Furthermore, Mr. Broyles disputed the inclusion
4 of these waters under the provisions of Article
5 3 (Other Waters for Storage) and requested a
6 new category of account dedicated to the storage
7 of District 67 consumptive use waters. As this
8 concept is a departure from the intent of the
9 account system, the Engineering Committee felt
10 this needed in-depth research involving all of the
11 Compact Administration.

12 6. The status of the Broyles' wells was not agreed
13 upon between the two states. Kansas requires
14 abandonment of the wells as a condition of transfer.
15 Colorado's position is the wells are junior water
16 rights that Mr. Broyles does not propose to
17 transfer and therefore are not subject to findings
18 under Article V-H.

19 Mr. Chairman, I think Kansas may wish to clarify
20 their position on the wells as a part of this report.

21 MR. COOLEY: Before I ask Mr. Pope to speak, is
22 the status of the Engineering Committee report such
23 that there is a likelihood that a final solution can
24 be made of this matter at today's meeting?

25 MR. GENOVA: Not today, I don't believe.

1 MR. COOLEY: Thank you.

2 Mr. Pope?

3 MR. POPE: Yes. I would indicate that Kansas does
4 have some comments, particularly on Item Number 6, and
5 a few other little minor things. I don't believe Carl
6 has finished the complete report. I would be happy to either
7 do it now or wait until he has completed that and then
8 suggest that. The reason being, I guess, is that the
9 meeting was just held last week and Carl and I have not
10 had an opportunity to confer on the actual report prior
11 to this meeting until just immediately preceding.

12 MR. COOLEY: Let me ask another question. I have
13 got the December 2nd draft copy of the minutes of your
14 committee. I really believe that there will be another
15 winter meeting of the Compact Administration. I wonder
16 if there is a way in which we can surface before the
17 entire Compact Administration enough of this to advise
18 everyone properly, by keeping in mind that we won't
19 dispose of it today, that the matter will go perhaps
20 again to the Engineering Committee, but certainly over
21 to a subsequent meeting.

22 MR. POPE: I think our position, Frank, as I recall
23 our discussions, looking at Carl, is that we would provide
24 a status report today to the Administration, not expecting
25 to be able to make formal recommendations for action and

1 certainly not findings that need to be made pursuant to
2 the provisions of the Compact, and so I think I am agreeing
3 with what you are saying and we will need, first of all,
4 to provide that status report; secondly, perhaps some
5 direction from the Administration as to how we proceed
6 from here; and finally, I suspect you are right, that
7 an additional session will be needed before all of the
8 matters can be brought to a closure.

9 MR. COOLEY: Fine. Well, if you would commence
10 airing those matters that ought to be floated at this
11 time, with all of that in mind.

12 MR. POPE: Carl, if you want to finish your report,
13 then I can certainly clarify any concerns I have and we
14 can go from there.

15 MR. GENOVA: Various entities, both upstream and
16 downstream from John Martin Reservoir, have reported
17 concerns relating to the Keesee exchange. At a later date
18 the Engineering Committee is willing to conduct a public
19 hearing to evaluate these concerns if the Compact Administra-
20 tion so desires.

21 During the December 2 meeting, Mr. Charles L. Thomson,
22 General Manager of Southeast Colorado Water Conservancy
23 District, also Chairman of the Lake Cheraw Ad Hoc Committee
24 and Mr. Gary Soldano of the Colorado Department of Health;
25 made a presentation regarding the water quality problems

1 created by water overflowing from Lake Cheraw in Otero
2 County. Lake Cheraw is a natural closed basin lake that
3 historically collected irrigation tailwater, seepage and
4 runoff from its own drainage area. Due to high water
5 conditions in the Arkansas Basin the last four years, the
6 water level in Lake Cheraw has risen creating flooding
7 problems for the Town of Cheraw. The saline level of this
8 water is 16,000 to 17,000 PPM near the surface with greater
9 concentrations deep in the lake. Leakage from the lake
10 has also created water quality problems for the downstream
11 farms located along Horse Creek, which drains into the
12 Arkansas and eventually into John Martin Reservoir.

13 Mr. Soldano stated that a permanent solution to this
14 problem requires additional study. However, a plan to
15 address the immediate problem of overflowing is being
16 proposed. The plan is to drain the top 3 feet (2,500
17 acre feet) of the lake down the drainage ditch to Horse
18 Creek where it will be mixed with 2,000 A.F. of East Slope
19 Project water donated by the Bureau of Reclamation and
20 the waters of the Amity or Fort Lyon Canal Companies and
21 the natural flow destined for Winter Storage in John Martin.
22 These waters would be routed into the Fort Lyon main canal
23 or Holbrook System and then spilled into Horse Creek where
24 they will be mixed with the Cheraw water prior to entry
25 into the Arkansas. The plan calls for monitoring of the

1 waters' salinity, both at the Las Animas U.S.G.S. gauging
2 station and at a satellite hookup gauging station to be
3 erected for this purpose at Horse Creek. Salinity levels
4 of the mix will be maintained at or less than the natural
5 occurring winter time salinity level of the Arkansas River
6 in-flows into John Martin. It was projected to take ninety
7 days to complete the project.

8 That concludes my report, Mr. Chairman.

9 MR. COOLEY: Thank you.

10 Mr. Pope?

11 MR. POPE: Thank you, Mr. Chairman. I would like to
12 just clarify the draft report in a couple of places if
13 I could. Let me go directly to the issue of the wells
14 that Carl referred to a minute ago first.

15 Our suggestion would be to primarily clarify the
16 sentence where in the report it was stated that "Kansas
17 requires abandonment of the wells as a condition of
18 transfer." I would suggest that we substitute the follow-
19 ing sentence in lieu thereof: "Kansas' position is that
20 all the wells which supplied water to the land irrigated
21 by the ditch must be dried up or an augmentation plan be
22 approved by the Compact Administration so that the usable
23 quantity and availability for use of the waters of the
24 Arkansas River to water users in Colorado Water District
25 67 and Kansas will not be materially depleted or adversely

1 affected."

2 There are a few other minor word changes. Mr.
3 Chairman, I guess in light of that, I wonder if I could
4 suggest that during a recess, a brief recess, maybe I
5 could show these comments to Carl--I think most of the
6 rest of them are very minor--and if agreement could be
7 reached on the report, then it could be made a part of
8 the record or subsequently to the meeting as we might
9 be able to agree. We could then come back, I think, and
10 conclude the report. There are a couple of other
11 highlights I think we might want to talk about in terms
12 of direction from the Administration, as I said a while
13 ago.

14 Would this be an appropriate place for the recess
15 or would you like to defer on that?

16 MR. COOLEY: We ought to have a recess quite soon,
17 maybe not this second, but a recess soon. We will come
18 back to this.

19 MR. POPE: If you would like, I guess I could summarize
20 a couple of thoughts at your suggestion a minute ago beyond
21 the report and then perhaps maybe we can come back for
22 further action.

23 MR. COOLEY: Please do so. It seems to me we are making
24 a lot of progress on what has been a difficult matter,
25 always keeping in mind that there will be another public

1 meeting--

2 MR. POPE: Yes.

3 MR. COOLEY: --at which this thing will be hammered
4 together if it is possible. Please go ahead, Mr.
5 Pope.

6 MR. POPE: Quite briefly, I think my view, at least
7 as the Kansas member to the Engineering Committee, is
8 that considerable progress has been made in the review
9 of the engineering aspects of the proposed transfer.

10 As Carl has indicated in the report, there is an
11 agreement by he and I and our advisers on a number of
12 things that need to be reexamined and restudied, if you
13 will, by the consultant for the Keesee. He has referred
14 to those. I will not repeat them. They relate to
15 efficiency, period of record, and other matters of that
16 nature, but I would summarize that the two primary issues
17 that remain, I think, on the table are: One, as he
18 referred to the matter of how to treat the creation of
19 a new storage account of John Martin Reservoir, and, if
20 so, how that should be done, and should there not, to
21 be treated like an Article III account in that a charge
22 would be made for storage or should it be some sort of
23 special account. Secondly, I have already referred to the
24 issue related to wells and I think that now primarily is
25 one that we will have to wait for a reaction from the

1 applicant on, and I think those are really the big issues,
2 the storage account and the handling of the ground water
3 issue.

4 If the Administration has a course of action it would
5 like to take on the handling of essentially the policy
6 issue relating to the storage in John Martin Reservoir,
7 I think the Engineering Committee would be receptive to
8 some direction there or other alternatives.

9 MR. COOLEY: Now, are you saying that you would like
10 direction on the question of a charge for storage in
11 John Martin in line with the traditional charges made,
12 or whether in unique circumstances there could be an
13 account without a charge for storage? Is that the question
14 you want guidance on?

15 MR. POPE: I think so. I guess I came away from the
16 meeting with the understanding that the issue of storage
17 charges and creation of a new account is a policy
18 question that perhaps may go beyond the engineering
19 aspects of the matter. That is not to say that the
20 Engineering Committee isn't willing to continue to wrestle
21 with that. As far as I am concerned, it is, but there are
22 policy implications there and I know there are concerns
23 both from our state, and I am sure in Colorado, about how
24 that is handled.

25 MR. COOLEY: Well, as a nonvoting member of the

1 Compact Administration, I would be delighted on such a
2 policy matter to have the guidance of the engineering
3 question and leave that charge for a new account in
4 John Martin not in your hands, but really for you to
5 sweat that one out and come back.

6 Mr. McDonald, do you have anything you want to say
7 about this kind of an ultimate question of Mr. Broyles's
8 problem?

9 MR. McDONALD: I would make two comments, Frank.
10 One, I agree with what David Pope has said. It seems
11 to me that there are two totally different issues before
12 the Administration with respect to the proposed transfer.
13 One is the findings of fact that need to be made pursuant
14 to Article V-H, and those findings go to the issue of
15 whether there is a material depletion or adverse effect.
16 And that issue is separate and apart from the question of
17 whether there shall be a storage account in John Martin
18 as Jake Broyles has requested, and, if so, under what
19 terms and conditions. And I agree with David's characteriza-
20 tion of that latter issue as being a policy, it is not
21 a fact-finding item under Article V-H. And for our part,
22 we Colorado commissioners simply have not yet focused
23 on that policy issue, if you will. We are kind of waiting
24 to be sure that the necessary facts can even be found,
25 because if they cannot, you are never going to get to the

1 storage question, so we have got to deal with it, assuming
2 an appropriate resolution of the V-H findings.

3 MR. COOLEY: At the end of today's meeting, I think
4 what is going through my brain is to call upon each state
5 for which way they are leaning on the question of
6 charges for storage, supposing that the other matters
7 can be solved. Would that be a halfway ground for giving
8 some guidance to the Engineering Committee?

9 MR. POPE: Mr. Chairman, I guess I would suggest
10 at this point that we move on to another agenda item
11 and I will attempt to confer with Carl Genova on the
12 actual language in the Engineering Committee report, and
13 I see that really we are in the committee report section
14 and that the Item Number 10 deals with the "Proposal to
15 transfer water rights decreed to the Keesee Ditch," so
16 we have an opportunity really to take action at that time
17 on this matter and it will also give us time to confer
18 with one another amongst ourselves.

19 MR. COOLEY: Back in the town on the West Slope I
20 come from, my dearest friend and benefactor is in the
21 hospital right now, and, at this moment, his wife's
22 funeral is taking place at the Episcopal Church and I
23 want to try to reach him in the hospital and again express
24 my condolences, so about a ten-minute break now would be
25 appropriate and we will come back. I have 10:26 and at

1 10:36, we will go back into session.

2 (Short recess.)

3 MR. COOLEY: The meeting will come back to order
4 when you gentlemen have taken your seats.

5 In light of the recess, is there any more from the
6 Engineering Committee?

7 MR. GENOVA: Mr. Chairman, we have agreed on some
8 language changes and we intend to make a new copy, clean-
9 typed copy and submit it to the Administration for our
10 report.

11 MR. COOLEY: It doesn't need to come before the meet-
12 ing at this time, however?

13 MR. GENOVA: No.

14 MR. COOLEY: You are continuing to make progress?

15 MR. GENOVA: Yes.

16 MR. COOLEY: At Item 10 of the agenda, we are going
17 to hear from Mr. Broyles's attorney briefly when we get
18 there. And I want Mr. Robbins to add a sentence or two
19 to the record to clarify something that I was rather
20 confused and naive on.

21 David?

22 MR. ROBBINS: Thank you, Mr. Chairman. I am Mr.
23 Robbins, an attorney appearing here today on behalf of
24 Colorado. You asked a question which went unanswered
25 on the discussion of Trinidad and the request to make

1 the decree in Case W-130 absolute. You suggested that
2 there might be a requirement to add a filling criteria
3 or other criteria to the decree and I just wanted you
4 to understand and the record to be clear that the decree
5 does already contain very specific filling criteria with
6 regard to it. Specifically, the Trinidad joint use pool
7 does not have a priority to fill until John Martin is
8 spilling. Pueblo's initial filling has occurred and is
9 spilling and then Trinidad goes into priority, and as
10 Mr. Jesse said, he believes that was the circumstance.

11 MR. COOLEY: Thank you very much.

12 So, in effect, we have the full report of the Engineer-
13 ing Committee now before us. Is there a report of the
14 Operations Committee?

15 MR. ROGERS: Due to Bob Jesse's report which covered
16 everything, at this time, we do not have a separate
17 report.

18 MR. COOLEY: See, Bob, the nice things they are
19 saying about you?

20 Thank you very much, Jim.

21 We now go for the really exciting part of the meeting,
22 the election of officers. I will entertain nominations
23 for the office of Vice Chairman of the Compact Administra-
24 tion.

25 Mr. McDonald?

1 MR. McDONALD: Colorado would like to move the
2 election of Carl Bentrup.

3 MR. COOLEY: The name of Carl Bentrup has been placed
4 into nomination. Are there any other nominations? Any
5 other nominations?

6 MR. GENOVA: Mr. Chairman, I move that the nominations
7 cease and we cast a ballot for Mr. Bentrup.

8 MR. COOLEY: The railroad is right on schedule. It
9 has been moved and seconded.

10 Is Kansas ready to vote?

11 MR. POPE: Kansas will vote aye since he is a
12 candidate.

13 MR. COOLEY: Colorado?

14 MR. McDONALD: Colorado votes aye.

15 MR. COOLEY: Recording Secretary, and that, I take
16 it, would be Bernice Carr, would it not? Have I got that
17 right?

18 MR. McDONALD: It would. I would move her nomination.

19 MR. COOLEY: The name Bernice Carr has been placed
20 into nomination. Are there any other nominations? Are
21 there any other nominations?

22 Mr. Genova?

23 MR. GENOVA: I move that nominations cease and we cast
24 a unanimous ballot for Ms. Carr.

25 MR. COOLEY: Is there a second?

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MR. POPE: I will second it.

MR. COOLEY: It has been moved and seconded.

Colorado ready to vote?

MR. McDONALD: Aye.

MR. COOLEY: Kansas?

MR. POPE: Aye.

MR. COOLEY: Bernice Carr.

Treasurer. Nomination for Treasurer.

MR. POPE: Mr. Chairman, I move the election of Mr. Jim Rogers if he is willing to accept again for another year.

MR. COOLEY: Mr. Jim Rogers has been placed in nomination. Are there any other nominations? Are there any other nominations?

Mr. Genova?

MR. GENOVA: I second that.

MR. COOLEY: Do you want to make your typical--

MR. GENOVA: No. We don't need that.

MR. COOLEY: Kansas ready to vote?

MR. BENTRUP: Kansas votes aye.

MR. COOLEY: Colorado?

MR. McDONALD: Colorado votes aye.

MR. COOLEY: Congratulations.

The Operations Secretary. Is there a nomination, Mr. McDonald?

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MR. McDONALD: I move the nomination of Bob Jesse.

MR. COOLEY: Is there any other nomination? Is there any other nomination?

Mr. Genova?

MR. GENOVA: I will second that.

MR. COOLEY: All right. I guess I could make a motion. It has been regularly moved and seconded that Mr. Jesse be elected Operations Secretary.

Kansas?

MR. BENTRUP: Aye.

MR. COOLEY: Kansas votes aye.

Colorado?

MR. McDONALD: Aye.

MR. COOLEY: Colorado votes aye. The appointment of the committee members for the Administrative and Legal. Whose turn is it to be Chairman of the Administrative and Legal? Mr. McDonald?

MR. McDONALD: Carl Bentrup's turn.

MR. COOLEY: It's Carl Bentrup's turn to be Chairman, and you are the other committee member, and I am the member, I guess, ex officio. Carl Bentrup, Chairman. Bill McDonald, Secretary.

The Engineering Committee. I would suppose it would be David's--

MR. McDONALD: That's true.

1 MR. COOLEY: --it is Mr. Pope's turn to be Chairman,
2 Mr. Genova's turn to be the yeoman. All right.

3 Operations Committee. Whose turn is it to be
4 Chairman of that committee?

5 MR. OLOMON: It would be my turn.

6 MR. COOLEY: Ron Olomon, and Mr. Rogers' turn to do
7 the work. All right.

8 The next item on the agenda is "Reports of federal
9 agencies."

10 Mr. Willms. We have been looking forward to this
11 part of the meeting with anticipation for many weeks.

12 MR. WILLMS: I don't know if I would like to approach
13 it that way or not.

14 I will give you one (hands Mr. Cooley a report).

15 MR. COOLEY: Thank you, sir. Can we open this before
16 Christmas?

17 MR. WILLMS: Not before I leave town.

18 To start with, I thought I would just speak a moment
19 about Fryingpan-Arkansas project operations.

20 During the last year, the project stored slightly
21 over 20,000 acre-feet of winter water and then proceeded
22 to spill all of that water when we no longer had room
23 to hold it.

24 We also stored about 10,000 acre-feet of Arkansas
25 River water under the project's East Slope water rights.

1 That was stored after John Martin was spilling.

2 We imported only 2,173 acre-feet from the Colorado
3 River.

4 At the end of the water year, project reservoirs
5 were all within a few thousand acre-feet of being full
6 except for Pueblo Reservoir, which had about 35,000 acre-
7 feet of vacant space.

8 It was a somewhat unusual year in the sense that
9 there was a lot of water in the Arkansas basin, not a lot
10 of water in the Colorado River basin.

11 One of the reasons we did not import more water than
12 we did was because by the time that John Martin's spill
13 subsided, we only had a trickle of water left in the
14 upper Fryingpan basin where diversion facilities were
15 and diversions were discontinued completely only a few
16 days after John Martin quit spilling.

17 I might stop at that point and ask maybe if there are
18 any questions as far as the Fryingpan project operations
19 are concerned?

20 MR. COOLEY: Ray, I do have one question. Will you
21 or Mr. Milenski discuss the review of the Fry-Ark project
22 that has barely commenced, the reevaluation of the
23 Fry-Ark?

24 MR. WILLMS: Yes. Yes, I will. I will just spend
25 a moment on that.

1 Particularly as a result of our spilling winter
2 water every year for several years and a general
3 dissatisfaction with the way the project is working with
4 respect to the winter water, in addition to the fact that
5 we can identify a number of areas that are, at least,
6 potentially operating different than what we had
7 anticipated at the time we did the planning studies, the
8 Bureau had reached a conclusion that it was time to
9 reevaluate the Fryingpan-Arkansas project.

10 ... The project planning was all done in the '50's and
11 trickled into the '60's a little bit. The hydrology used
12 in the planning ended about 1965, and in the period
13 following that, we had both the driest year of record,
14 '77. We had the wettest continuous period in '82 or
15 '83 through '87. None of those are included in the
16 project hydrology.

17 We had, of course, a number of water rights activities
18 that have taken water out of the Arkansas Valley or will
19 take it out, there being some lands dried up, and all
20 of these type of situations have an impact on the way
21 the project operates. So again, we felt the time was right
22 to reevaluate it.

23 we have taken that up with the benefactors of the
24 project. Those people agree, and we have entered into
25 a cost sharing arrangement where the United States would

1 put up half of the funds, the local entities would put
2 up half, and we are going to look at the way the project
3 operates.

4 We look at a number of different alternatives. I
5 think all of these alternatives the local people need
6 to subscribe to, and we are carrying on this closely
7 with the local people. Once we look at these different
8 alternatives, we assume that to adopt any of them will
9 probably require some institutional changes and we will
10 lay those out on the table and let the local interests
11 deal with the institutional problems.

12 MR. COOLEY: One more question. I know the answer
13 is obvious, but would you in a few sentences describe
14 some of the different circumstances that obtain in 1987
15 from those that obtained thirty years ago?

16 MR. WILLMS: The biggest circumstance is one I
17 touched, I think, in the fact that our hydrology did not
18 include either the driest or wettest periods.

19 I think the other one has to do with the demands,
20 and our indications at this point are that the demands that
21 were projected in the '60's are not--or the '50's, actually,
22 were not materializing, and that could occur for any
23 number of reasons. One of them could be the lands are
24 being dried up. It could be that our projections were
25 not good, maybe agricultural practices have changed, maybe

1 there is not as much land irrigated, but I think those
2 are the biggest condition changes that we want to deal
3 with.

4 I think the other change in there is just the
5 priorities in use of water changing. You know, obviously,
6 the demand for the municipal people have gone up much
7 higher than was projected by the planning studies.

8 MR. COOLEY: You haven't located any potential sites
9 for additional West Slope reservoirs, have you, as part of
10 this--

11 MR. WILLMS: Our study is not extending to the West
12 Slope.

13 (Laughter.)

14 MR. COOLEY: Thank you.

15 MR. WILLMS: I just handed out the second draft of
16 the Trinidad report.

17 We had a meeting on the first draft last February
18 5th and I think it involved all of the interested parties.
19 I thought it was an extremely good meeting, very constructive
20 from the Bureau's point of view.

21 In that meeting, we agreed to produce the second
22 draft. I think we committed to do it in June, and
23 obviously we are five months late and I will apologize
24 for that. It seems things always take a little longer
25 than what we plan.

1 During the course of the meeting, we reached--or at
2 least from our viewpoint, we reached some general under-
3 standings, and one of those understandings was to look
4 at the effects of the Trinidad project in terms of the
5 original irrigation report, using the criteria that the
6 original irrigation reports were based on, and we have
7 gone through and done that.

8 The parties at this meeting also asked that before
9 we issued a final report, we have another technical
10 meeting to discuss the findings and the substance of the
11 report, and I think that's an excellent idea and I would
12 offer to chair another meeting to go over this and would
13 propose a meeting sometime in January or early February.

14 I will just touch the findings a little bit. I think
15 that it is important that before we go into any depth
16 in terms of the report, that you people have a chance to
17 study it and I have an opportunity to have my technical
18 people here to defend it, so I will just make a few
19 comments and then I guess request that we defer anything
20 in depth to when we are all better prepared.

21 We looked back at the way the original studies were
22 done and we find that the original irrigation report
23 studies compared a condition with project against a
24 condition without the project and the Model Reservoir
25 in the condition it was in at that time, that is, with

1 about 6,000 acre-feet of storage. The original studies
2 also compared a with-project condition against a
3 reconstructed historic condition, reconstruction being
4 the Model Reservoir having been rehabilitated to the
5 full 20,000 acre-feet.

6 Those studies show that with the project compared
7 against a historic Model or a Model with 6,000 acre-feet
8 of storage, there would have been approximately 1,000
9 acre-feet more inflow to John Martin with the project
10 than without the project. Under the reconstructed
11 condition, that is, with the 20,000 acre-feet Model
12 Reservoir, those same studies show that the project
13 with project conditions have about 3,000 more acre-feet
14 of inflow into John Martin than without the project.

15 We took those studies, put them on a computer to
16 make them a little easier to deal with, and then we put
17 in the conditions of the rollover of water out of the
18 Model decree and also the use of winter storage under the
19 joint use decree instead of the Model decree. We found
20 that both of those practices depleted somewhat the inflow
21 to John Martin when compared to using the criteria in the
22 original irrigation reports. However, we also found that
23 those two conditions applied to the historic studies
24 collectively or together did not deplete John Martin to
25 a point to where the inflow to John Martin was less than

1 it would have been had there not been a project.

2 We also took a look at some of the irrigated acreage.
3 I think that the State of Kansas had raised questions
4 about the irrigation of the class 6-W lands and the
5 irrigation of more lands in some ditches than others.

6 We concluded that this is, in fact, occurring, that
7 the operating principles do delineate the lands that
8 are being irrigated and some different lands are being
9 irrigated, and, therefore, there is probably a technical
10 violation of the principles.

11 We also find that those criteria are not based,
12 however, on protecting downstream water rights. It was
13 based on other issues of reclamation law. Those laws
14 have been changed and that condition is no longer
15 a valid condition, so we don't feel that it is particularly
16 germane to this particular issue.

17 We also, as has been revealed by the Purgatoire
18 River Water Conservancy District, find that not all of
19 the water rights that the principles were based on were
20 actually obtained by the project. We feel that that leads
21 to a situation where the 19,717 acres listed in the
22 principles is too high a number, and we feel that that
23 number needs to be reduced commensurate with the water
24 rights that were not obtained and we find the amount of
25 that reduction should be 278 acres.

1 We spent a great deal of time looking at the question
2 of excess diversions. During the review period, parts
3 of it, the district diverted onto the lands considerably
4 more than the average of 3.1 acre-feet per acre that the
5 irrigation reports are based on.

6 We have looked at that to try and determine the
7 impacts of that. To overirrigate does a couple of
8 things: One of them is it causes much more return flow
9 than what would have occurred had the appropriate amount
10 of irrigation water been put on, but it also reduces
11 the storage, permits additional storage when the water
12 is available, and, therefore, reduces the spills and
13 bypasses.

14 If we can compare the overirrigation against those
15 conditions of the project or the conditions of the river
16 without the project, we would find that you could irrigate
17 a little over a half a foot per acre without reducing
18 the flow into John Martin below what would have occurred
19 had the project not been built.

20 I doubt very much that their overirrigation ever
21 exceeds that half a foot breaker. However, if you take
22 that half a foot breaker overirrigation and you put that
23 on top of the conditions created by the rollover in the
24 winter storage, you do go into a situation where the
25 inflow to John Martin would be reduced below that that

1 would have occurred without the project.

2 We did some additional work on the flood control
3 operations during the review period. We do find some
4 situations there where there is considerable evidence
5 that that storage did prevent flows that might have
6 caused damage. We didn't go into it far enough to
7 determine whether that would have occurred in all
8 situations.

9 We also looked at the releases. There were releases
10 of flood storage done in five different periods. Two
11 of those five periods, we could rather conclusively
12 determine that all of the flood storage passed the
13 project area, and, therefore, should be no impact upon
14 the downstream users. Three of the five, we could not
15 make a conclusive determination because of lack of
16 information.

17 The State of Colorado provided us with a criteria
18 that they would recommend for handling flood releases.
19 We evaluated that and feel that that criteria has
20 merit, but can be improved upon.

21 The criteria did not include a criteria for storing
22 flood flows and we feel that if the criteria is going to
23 be different than the Corps' or operate at a level below
24 that, that the Corps' flood control manual requires that
25 that criteria should be laid out.

1 We revisited the transmountain exchanges and find
2 that the transmountain exchanges were properly handled
3 and there was no impact on the inflow of John Martin
4 or at least no depletion. We feel that there is actually
5 an accretion that results from those exchanges.

6 In this draft, we went a step further and we have
7 made some recommendations, which I am sure that we can
8 have a lot of discussions on, but we toss them in there
9 to precipitate some discussions.

10 The reason we did it basically is we feel that
11 amendment of the principles is imperative at this point
12 and the basic reason is that we think we have got to
13 reduce that 19,717 to account for the water rights not
14 obtained, and so since we felt that an amendment was
15 probably in order for that, we are also going to recommend
16 some other amendments, and one of them is we are going
17 to recommend we remove the prohibitions or limitations
18 on irrigating 6-W lands and also make the principles
19 more flexible for ditches to irrigate or to move water
20 among their ditches.

21 We also would recommend that if the practice of
22 permitting the rollover in the winter storage under the
23 Model or under the joint use decree is going to be
24 continued, that the principles probably should be amended
25 to recognize that practice.

1 We are going to recommend that the district or the
2 State of Colorado adopt some positive means for verifying
3 the acreages that are being identified. I think Sandy
4 MacDougall presented a procedure. I think the things that
5 he talks about are valid, but I didn't think the procedure
6 was in sufficient enough detail to assure a verification.

7 We also would recommend that the district adopt some
8 policy or procedure for limiting the headgate diversions
9 to an amount in the general area of the 3.1 acre-feet per
10 acre average shown in the original irrigation reports
11 and we would also recommend that the State of Colorado
12 improve their procedures for releasing flood flows and
13 also include a criteria for storing flood flows.

14 I think our view on the operations of the Trinidad
15 project is that there isn't anything occurring down here
16 that can't be reconciled, that there is not a serious
17 issue as far as impacts to either of the states and that
18 we would look forward to trying to work out these rough
19 areas and get something that is agreeable to everybody.

20 That concludes my report.

21 MR. COOLEY: Thank you very much, Mr. Willms. Stay
22 there.

23 Mr. Pope, it sounded to me like some of the matters
24 raised by Mr. Willms might be of interest--

25 MR. POPE: I guess that could be right.

1 MR. COOLEY: --to the State of Kansas, and the thing
2 that I am most interested in is none of the substantive
3 matters that have been raised by Mr. Willms, but what
4 is the ideal procedure for us to follow? Obviously, it
5 would be inappropriate to enter upon any of these matters
6 this morning, and I think that as far as procedure is
7 concerned, that significantly the ball should be in your
8 court, at least to begin with, on how much time you want,
9 what we should do for the first large meeting and
10 so on, and your initial comments will be helpful.

11 MR. POPE: Mr. Chairman, I appreciate that, and I
12 totally concur that there needs to be a forum to attempt
13 to resolve any concerns that we would have or any of the
14 other parties would have on the Bureau's report.

15 Clearly, there has not been an opportunity for
16 anybody to really study and review the report today, so
17 other than any clarification questions, there would be
18 no need of spending any more time right now, but
19 tentatively, I think my first reaction is that we would
20 be receptive to another meeting as Mr. Willms offered to
21 host and chair, somewhat similar to what was done a year
22 ago or last February, and that might be a good place to
23 start, since I anticipate that there would be a number
24 of questions by all affected, technically and otherwise,
25 and my thought, at this point in time, would be to

1 tentatively accept that invitation and after we have had
2 a chance to review this material, perhaps we would be
3 in a better position to set forth some ideas on how that
4 should occur and when that should occur.

5 I am not even sure I can tell you right now whether
6 we should say January, February or whatever.

7 MR. COOLEY: What I have heard you to say is that
8 there appears to be so much meat on the table that any-
9 thing we do as far as procedure should be tentatively
10 done now rather than firmly done.

11 MR. POPE: Yes.

12 MR. COOLEY: Okay. That being so, what are your
13 thoughts as to specific dates in February?

14 MR. POPE: Well, you know, again, I wonder if that
15 isn't a little premature to even set a date. I have a
16 personal reason for not necessarily liking the February
17 date.

18 MR. COOLEY: Fine.

19 MR. POPE: Happily, my wife is expecting in March,
20 and I hate to be too far from there in February, but,
21 you know--

22 MR. COOLEY: Well, I think you have established cause.

23 MR. McDONALD: He has established result.

24 MR. POPE: And whether or not there is going to be
25 enough time in early January to get to it, I am wondering

1 if maybe we might have to wait until, you know-- My
2 suggestion, I guess, is why don't we review this. We know
3 how to communicate with one another and come up with a
4 date.

5 MR. COOLEY: I want to sweep your hints under the
6 rug and the reason I do, Mr. Pope, is the fact that we
7 have so many people in attendance here that even if we
8 only tentatively pick dates, we will have gotten a lot
9 of dates down on the calendar, and if we need to take
10 them off, I would be the first to go along with that,
11 but I want to push for a specific date, if it be late
12 January, to the extent you will allow me to do so.

13 How about the last week in January?

14 MR. POPE: Well, let me confer with the other fellows
15 on the time we would anticipate to need technically. I,
16 quite frankly, would prefer not to be out of town during
17 any time in January or February or March, in through there
18 for personal reasons and for work reasons, because the
19 legislature is in session and it is tough to get away
20 then.

21 MR. COOLEY: We have all seen that quotation of what
22 can happen when the legislature is in session.

23 MR. POPE: I am really just wondering if there is
24 going to be a need, and I am willing, if the need is
25 there, to go sooner, but we if we aren't better off to

1 wait until April or something like that. I know that
2 sounds like a long time.

3 MR. COOLEY: Let me test the water with Mr. McDonald.
4 It may be that I am the only one pushing for January or
5 February.

6 Mr. McDonald, have you got any feelings about dates
7 on going to work on this?

8 MR. McDONALD: We would be prepared to do it sooner,
9 but I understand David's personal problem.

10 MR. COOLEY: Sure.

11 MR. McDONALD: As I recall, this Administration even
12 cancelled a meeting once for me because I was expecting,
13 by virtue of an adoption, so we certainly would be
14 prepared by February, but if David needs to go to the
15 first or second week in April, I, personally, with seven
16 kids, understand.

17 MR. COOLEY: All right. There is one other question
18 that occurred to me before Mr. Pope spoke, and that is
19 this: There will be, no doubt, certain questions of
20 strictly a technical nature on the report that will surface
21 rather early. Is it useful or necessary that there be
22 telephonic conferences for those or do you customarily
23 handle that by just calling up Mr. Willms or staff?

24 What is the answer to that question?

25 MR. WILLMS: May I toss in something here?

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MR. COOLEY: Yes.

MR. WILLMS: The work that we have done is fairly extensive and the report includes summary sheets of the computer computations, but doesn't include the actual data itself. We are talking stacks of material maybe that tall (indicating).

Now, it could well be that either or both parties may want to have their engineering people just come visit us and get into the technical parts of it in advance of any particular meeting.

The second thought that I have is that my own personal preference is that we have some sort of informal meeting prior to any formal meeting because I think that we can get into a lot of issues in a better circumstance than we can in formal meetings.

MR. COOLEY: Well, I hear you. Let's just stand as we are for a moment or two.

I believe we have approached a consensus that at least will give some direction to the meetings to consider the report on the Trinidad Reservoir.

Who should I call on?

Bill? David?

Go ahead, Mr. McDonald.

MR. McDONALD: What I think we would suggest is how about we accept Ray's invitation to chair a meeting,

1 let's say, in the second, third week of February kind of
2 time frame of the technical working people, engineers
3 and attorneys, the purpose of that meeting being to let
4 everybody, face-to-face, having reviewed the draft
5 report, ask questions of Ray and his staff about, you
6 know, "How did you get from A to B?" or "Do I understand
7 this to really mean that?" those kind of questions, have
8 it understood that the purpose of that meeting would not
9 be to discuss merits, pros or cons or recommendations or
10 changes, but just be sure everybody has a common under-
11 standing of what is in the report and where the analysis
12 came from, and have them again accept Ray's invitation
13 to chair a second subsequent meeting in the April or
14 early May time frame, in which we get down to dealing
15 with the brass tacks of whether Colorado and the district
16 and Kansas can close the gap of the differences of opinion
17 and proposed amendments to the operating principles, if
18 that is what it comes down to and what have you. That way
19 we will assure ourselves that we have got a common
20 technical understanding of what is on the table and we
21 can have a second meeting to debate policy, if you will.

22 MR. COOLEY: Where is the technical meeting to be
23 held? What town is it to be in?

24 MR. McDONALD: We would always invite people to
25 Denver.

1 MR. WILLMS: I think as the host of that, I would
2 probably select Denver unless somebody objects strongly.

3 MR. COOLEY: Well, I think the location of the
4 technical meeting is of less significance than the public
5 meeting.

6 Mr. McDonald, Mr. Pope, Mr. Willms, is there any
7 reason not to try to pick a date in the second or third
8 week in February, a specific date that we can identify
9 now?

10 MR. McDONALD: Yes, because there are a lot of
11 interested parties that just aren't here, Frank, the
12 district and what have you.

13 What if we said the third week in February and leave
14 it to Ray to go through the unpleasant task of collating
15 calendars and finding a day during the third week in
16 February.

17 MR. COOLEY: Okay. I go for the third week in
18 February. Is there a possibility of saying "Possibly
19 so and so"? That's the week of the 15th of February.
20 What day of the week is handiest for the ones who are
21 here?

22 MR. McDONALD: I don't have my calendar.

23 MR. COOLEY: Okay.

24 MR. POPE: Mr. Chairman, I think what you are proposing
25 is fine, and if you want to tentatively say a day, probably

1 from the standpoint of those out-of-towners, Tuesday,
2 Wednesday or Thursday, would be preferable to Monday or
3 Friday.

4 MR. COOLEY: All right. 16th, 17th, 18th. Anyone
5 want to call one of those days?

6 Mr. Willms, you are allowed to participate in this
7 game.

8 MR. WILLMS: Well, I guess I would pick one out of
9 the air and say the 16th.

10 MR. COOLEY: Okay. Possibly February the 16th in
11 Denver. Whereabouts in Denver?

12 MR. WILLMS: I said the 16th.

13 MR. COOLEY: Whereabouts in Denver would it be held,
14 the Federal Center or where?

15 MR. WILLMS: No. I suspect we will try to get some
16 hotel.

17 MR. COOLEY: Downtown?

18 MR. WILLMS: No. Probably near the airport. Assuming
19 that Kansas will send representatives, it is easier for
20 you that way.

21 MR. POPE: Yes. That would be good.

22 MR. COOLEY: Near the airport. Fine. Parking
23 structure P. Okay. Now, April or early May. This time,
24 I would be content if we picked up possibly one of those
25 weeks in April or early May. Not too early in April, I

1 take it, Mr. Pope?

2 MR. POPE: No. I would certainly prefer late April,
3 early May, for several reasons.

4 MR. COOLEY: The week of April 20th or 27th. Which
5 is your preference?

6 MR. POPE: Why don't we say the week of April 27th?
7 I simply don't have a calendar in front of me, to tell
8 the truth.

9 MR. COOLEY: Sure. Possibly the week of April 27th.

10 MR. McDONALD: Is that Easter?

11 MR. POPE: What?

12 MR. McDONALD: Is that the Easter week?

13 MR. POPE: I don't know.

14 MR. COOLEY: It falls on a Sunday this year.

15 Don't laugh. It didn't always.

16 Well, if you tell me when the vernal equinox is and
17 the first full moon after the vernal equinox, I would be
18 able to help you. Let's get it. Someone has a calendar
19 with Easter week in it for 1988. Let's get it out.
20 Let's not even tentatively list it for Easter week, Good
21 Friday, and so forth.

22 A VOICE: The first week available is April 3rd.
23 That's Easter Sunday.

24 MR. COOLEY: Oh, okay. So Easter is early this year.
25 We are all right. All right. Fine.

1 Now, Mr. Willms, what arrangements can be made by
2 people, for example, in Trinidad who might be interested
3 in the report to obtain copies?

4 MR. WILLMS: Well, we, of course, mailed one to
5 the district down there, and, of course, anybody else
6 that wants one can write my office and we will produce
7 them.

8 MR. COOLEY: Mr. Willms is a very well known newspaper
9 figure and he is easy to find.

10 Thank you.

11 MR. POPE: Mr. Chairman, I would suggest that if we
12 are going to go so far as to select tentative weeks, that
13 we are talking in terms of the last week of April which
14 starts on the 25th, could I suggest that if it is a
15 special meeting of the Administration, particularly, if
16 we go to Denver in February, could we go to Garden City
17 in April? It is closer probably to most everybody. Well,
18 maybe not for Trinidad.

19 MR. COOLEY: Sure. The only thing that is going
20 through my mind is Trinidad. I have no objection to
21 Garden City. I would be delighted to go there.

22 MR. McDONALD: I would be glad to go to Garden City,
23 but it seems to me, David, insofar as Trinidad is
24 concerned, it is not necessarily a meeting of the
25 Administration. I mean, it's a different collection of

1 people. It's signatories to the operating principles
2 plus the five conditions.

3 MR. POPE: Well, we may want to go to a different
4 location.

5 MR. McDONALD: Well, from my point, I would be glad
6 to go to Garden City, but I am not sure it's an Administration
7 meeting.

8 MR. COOLEY: There is a question that has already come
9 to my mind, and that is: Would there be a special meeting
10 of the Compact Administration as a result of the
11 Trinidad? That's not a slam-dunk question.

12 MR. BENTRUP: Going to Trinidad will have to be
13 discussed. I am sure the Compact is going to have a few
14 things to say.

15 MR. POPE: I think if we are talking a special
16 meeting of the Administration, there may be other items.
17 That might be a suitable location. If it is fairly
18 strictly focused on just that one issue, it may or may
19 not be a formal meeting of the Administration. Maybe
20 some other place is more appropriate.

21 MR. COOLEY: Well, it's a possibility that's unspoken
22 here is a subsequent special meeting of the Compact
23 Administration in Garden City, a date subsequent to the
24 Trinidad meeting.

25 MR. POPE: Well, it seems like we have got a lot out

1 on the table if we are going to pick three dates that
2 we don't know the sequence of anything. You know, I guess
3 I probably misspoke from the fact that this second meeting
4 is still basically a meeting of the Bureau, called by the
5 Bureau. Maybe we are jumping ahead a little bit on this.

6 MR. COOLEY: I think you are right there, three
7 subsequent things in a row, beginning to stretch out there
8 pretty far.

9 MR. POPE: Let's just set the week and location to
10 be determined, if that's okay with you guys, by concurrence
11 of the parties.

12 MR. COOLEY: You might not be safe, Carl. That's the
13 problem there.

14 MR. BENTRUP: I will take advantage of some protection
15 for--

16 MR. COOLEY: Can all the visitors be protected at a
17 meeting in Trinidad?

18 A VOICE: We will do our best.

19 MR. COOLEY: You did not answer the question.

20 Is that appropriate, Mr. Willms?

21 MR. WILLMS: That sounds appropriate to me; yes, sir.

22 MR. COOLEY: Is there anything else we can extract
23 from Mr. Willms at this time?

24 MR. POPE: Well, Mr. Chairman, I would be tempted to
25 ask a number of questions, but perhaps it would be

1 premature.

2 MR. COOLEY: You have cheated. You have looked at
3 the report.

4 MR. POPE: Yes. I have read a few of the conclusions.
5 I could not help myself.

6 MR. COOLEY: You broke the seal.

7 MR. POPE: Yes. But I think I will defer. There is
8 no way in the world we could start on that, so--

9 A VOICE: You did mention the safe capacity below
10 Trinidad Reservoir.

11 MR. COOLEY: Safe channel capacity below Trinidad.

12 A VOICE: I know when they approved the project in
13 '67, it was supposed to be kept at 15,000 feet.

14 MR. WILLMS: The report doesn't address that. I
15 understand maybe the Corps can toss something into this,
16 that the city may be doing some work on the channel now
17 or will be starting soon.

18 MR. ROUMPH: I can go ahead and address that.

19 MR. COOLEY: Thank you very much, Mr. Willms, and
20 I want to thank you very sincerely for the overtime and
21 the production of this report to coincide with this
22 meeting.

23 MR. WILLMS: Thank you.

24 MR. COOLEY: The next item on the agenda is the
25 report of the Corps of Engineers. Mr. Rumph will present

1 it, I understand.

2 Before you do, Ray, are there other people here that
3 should be introduced from the Bureau of Reclamation
4 staff who have not been introduced yet at the meeting?

5 MR. WILLMS: Well, with me, I have Jack Garner,
6 chief of our Pueblo office here.

7 MR. COOLEY: Jack, welcome.

8 MR. WILLMS: He regularly attends, but since I am
9 usually here, too, I preempt his fun.

10 MR. COOLEY: Okay. Good deal. Thank you, again,
11 very sincerely.

12 Mr. Roumph, if you would introduce anybody who may
13 be here from the Corps who has not been introduced.

14 MR. ROUMPH: Okay. Thank you very much, Mr. Chairman.

15 Since the last Compact meeting, I have been
16 transferred down to Albuquerque. My replacement here
17 today is Roy McAllister. He is filling my old job as
18 the project engineer for the Corps of Engineers in
19 Pueblo.

20 Today, I would like to go ahead and briefly outline
21 my report in three functional areas: The planning area;
22 the construction area; and, of course, the project
23 operations area.

24 In the planning area, we are about to enter into a
25 contract with the City of Colorado Springs to perform a

1 flood study along Fountain Creek through Colorado
2 Springs.

3 As some of you may know, maybe others do not know,
4 for the Corps of Engineers to do any studies in the
5 future beyond at least the reconnaissance phase, it
6 takes 50 percent cost sharing from the local sponsor,
7 and so the number of studies we may be doing in the
8 future certainly will probably be less, by the fact of
9 this requirement of 50 percent local cost sharing.

10 The other thing that we expect to be doing in the
11 planning area fairly soon is assisting the Colorado
12 Springs region with development of their emergency
13 warning system, and that right now is contingent upon
14 funding.

15 Some of you again may know most of the federal
16 agencies are without a budget in fiscal year '88 yet
17 which began last October 1st, so depending upon what
18 comes out of Congress perhaps this month, we hope that
19 we will know what our budget will look like and we could
20 be more definitive in that circumstance as to what it is we
21 may be doing.

22 In the construction area, we are undertaking
23 construction of our flood control project on Fountain
24 Creek. We have begun that effort. When completed in
25 1991, this particular project will provide 200 year

1 flood protection to the City of Pueblo from floods down
2 Fountain Creek. It will cost about 8.6 million dollars.
3 We are looking at a channelization and levee project, no
4 storage of water.

5 In the operations area, I will be fairly brief
6 here in that operations normally takes a little bit
7 longer to describe, and that Bob Jesse preceded me and
8 provided significant amounts of this information. The
9 same thing with the Bureau of Reclamation, it has provided
10 some of this information.

11 For Trinidad Reservoir, we had no instances of
12 flood operations in '87. We reached a peak storage
13 elevation of 6222.54. That was 21 June, 1987. That
14 happened to be one-tenth of a foot less than the all time
15 previous peak reached in 1983.

16 We have completed the new sediment survey.

17 MR. COOLEY: Pardon me.

18 MR. ROUMPH: Yes.

19 MR. COOLEY: Roughly, in water, how much is that?

20 MR. ROUMPH: That is 61,000 some acre-feet.

21 We completed the new sediment survey for Trinidad
22 Reservoir. Bob Jesse again has already mentioned that
23 went into effect on 1 November.

24 Your question, Mr. Chairman, concerning how we
25 go ahead and do this, I would like to defer that

1 particular question to the John Martin because I will
2 be talking about that a little bit later here.

3 Another issue concerning Trinidad, I reported to you
4 two years ago and then mentioned it again a year ago
5 at your Compact Administration meeting, that we have been
6 working with the City of Trinidad to get them to
7 maintain the channel down through Trinidad there in
8 accordance with the agreement they made in 1966.

9 They agreed to maintain a 15,000 cubic feet per
10 second capacity down through town.

11 Since 1966, that capacity had deteriorated to about
12 5,000 cubic feet per second.

13 The city has now agreed that it is their responsibility.
14 They have acquired the services of an engineering firm
15 to go ahead and figure out what to do to restore that
16 capacity. That engineering firm right now is developing
17 plans and specifications and the city plans to be under
18 construction this winter with regard to cleaning out
19 that capacity.

20 When they get that capacity cleaned out to our
21 satisfaction, then the 3,000 acre-feet plus of excess
22 storage capacity in Trinidad Reservoir that we had converted
23 to flood storage will be available to the Purgatoire
24 Irrigation District for other uses. We will not be
25 reserving that excess for storage for flood control

1 anymore.

2 MR. COOLEY: Question, Mr. McDonald?

3 MR. McDONALD: Is the city looking at restoring
4 channel capacity to the full 15,000 or only to 7,500
5 cubic feet per second?

6 MR. ROUMPH: The engineering report that they have
7 at this time indicates that they believe they can get
8 up to 13,000 cubic feet per second without leveeing the
9 channel. It was never our intention in the '65-'66 time
10 frame that the city would have to levee the channel to
11 maintain that capacity, and so we believe that basically
12 if they do what they are proposing to do here, that they
13 are basically following the agreement in accordance with
14 the intent at the time it was entered into.

15 MR. COOLEY: As you know, interruption is the rule
16 here rather than the exception. By increasing channel
17 capacity, we are talking about sand, gravel, boulders, that
18 type of thing, as distinguished from any improvement or
19 created objects other than perhaps an occasional auto
20 fender?

21 MR. ROUMPH: Three primary factors to that deterioration
22 of the channel capacity: One is the sediment accumulation
23 within the channel, which they will be removing. The
24 other is the growth of trees which now are getting up to
25 about six-inches in diameter that had never been cleared

1 out since the '65-'66 time frame. The third is that one
2 of their local bridges was condemned through town and
3 so they put a bunch of fill in the channel to basically
4 get an at-water crossing, and that was a serious impediment
5 to flood capacity.

6 Concerning Pueblo Reservoir, very little. We have
7 Section 7.

8 MR. COOLEY: Another interruption. Mr. Pope?

9 MR. POPE: Can I ask a question before you get onto
10 a different reservoir?

11 MR. ROUMPH: I wanted to escape that one.

12 MR. POPE: I detected that, too. If the 8,000 acre-
13 feet, which you termed excess capacity then is made
14 available for the Purgatoire Water Conservancy District,
15 where would that end up as far as the capacities in the
16 various pools per se?

17 MR. ROUMPH: Again, I would have to defer to probably
18 Bob Jesse in here, and that's a matter of state water
19 rights. Also, the Bureau which administers the irrigation
20 function of the reservoir, but I would suspect the joint
21 use pool.

22 MR. JESSE: The decree is for only 39,000, the joint
23 use pool, so this would be under decreed space. It would
24 have to fall in some other category somewhere else, I
25 would think.

1 MR. POPE: Do we have a triple rollover on that?

2 MR. JESSE: Pardon me? Double rollover.

3 MR. POPE: Oh, I see. Double. I am sorry. Excuse
4 me.

5 MR. ROUMPH: Ray, would you have anything to go ahead
6 and add to that?

7 MR. WILLMS: Well, the only thing I would say to that
8 is that you are anticipating that would come under contract
9 with Purgatoire River Water Conservancy District. It would
10 be the United States--District--I think we need to talk a
11 little bit about.

12 MR. ROUMPH: We have a complicated three-way relation-
13 ship here. The Bureau has the contract with the irrigation
14 district. We have no direct contract with the irrigation
15 district, and so any matter of reallocation, as Ray very
16 aptly points out here, would have to be a joint federal
17 decision between the two federal agencies.

18 MR. COOLEY: Before we leave the room, however, Mr.
19 Pope does want to know who has the black hat.

20 MR. MARQUES: David, Mr. Chairman?

21 MR. COOLEY: Yes.

22 MR. MARQUES: May I clarify this a bit?

23 MR. COOLEY: Sure.

24 MR. MARQUES: I attend every conservancy district
25 meeting so--

1 MR. COOLEY: Identify yourself for the reporter, if
2 you would.

3 MR. MARQUES: --I know what it's about. The City of
4 Trinidad on this extra space are thinking about maybe
5 using this extra space for transmountain water that they
6 may purchase down the road somewhere.

7 MR. POPE: Does that require an amendment to the
8 operating principles to include that or how does that
9 get accomplished? Do they just say they want to do it
10 or what?

11 MR. MARQUES: I don't think anything has been
12 accomplished.

13 MR. POPE: Well, I just leave the issue on the table.
14 I think it is obviously one we are interested in.

15 MR. COOLEY: Thank you, Mr. Pope.

16 MR. ROUMPH: Certainly we will be working a lot more
17 with the Bureau here in working out the details of this.
18 It has been a very recent development, Trinidad's offer
19 to go ahead and clean up that channel through there and
20 we obviously haven't worked out the details of what happens
21 to this space should we release it in the future.

22 Concerning Pueblo Reservoir, as Bob Jesse again has
23 mentioned, we were a little bit in the flood pool this
24 year. It turned out there was 3,169 acre-feet into the
25 flood pool. Basically, we released it as fast as downstream

1 channels would permit, the impediment there being the
2 simultaneous draining of Cucharas Reservoir which was
3 coming down the Huerfano into the Arkansas River. At
4 the same time, we were in flood space in Pueblo Reservoir
5 and so as a result, the 6,000 c.f.s. release criteria at
6 the Avondale gage was reduced to 5 to prevent downstream
7 flooding as a result of that Cucharas draining.

8 For John Martin Reservoir, we set a new record
9 elevation of 3856.8 feet on 30 May. That happened to be
10 64/100 of a foot higher than the previous record set
11 in 1965; however, due to sedimentation, in the meantime,
12 it turned out it was 12,696 acre-feet less than the
13 storage volume stored as a result of the '65 flood.

14 John Martin Dam was in flood control operations
15 for 62 days and basically, with the exception of the
16 two short-term stopping of releases, we maintained the
17 release capacity of 3,000 cubic feet per second all
18 through that period when John Martin was in the flood
19 zone.

20 The John Martin sedimentation survey is about done.
21 Just in the process now of developing the new area-
22 capacity curve. We expect that to be done in early
23 February of 1988.

24 In regard to your previous question there, Mr.
25 Chairman, as to how this particular area-capacity curve is

1 developed, the first step in the process is that we
2 get a sonar-type device mounted on a boat. This comes
3 from our Tulsa district who has a lot of expertise and
4 sophisticated equipment for that.

5 What we do is we run that across the reservoir on
6 preestablished range lines. There are permanent markers
7 there where we take sediment surveys. They are taken the
8 same place every time. We get all the underwater
9 cross-section information from that sonar device. All
10 the land area that falls within any of those cross-sections
11 there, that is determined by digitized cross-sections
12 from aerial photography.

13 We then take all these cross-sections, whether they
14 are obtained through sonar devices or through aerial
15 photography, and we go ahead and introduce all that
16 information into a computer program. The computer program
17 goes ahead and computes surface areas and volumes,
18 foot-by-foot increments throughout the whole range of
19 the reservoir contents.

20 That completes my presentation. Are there any more
21 questions?

22 MR. COOLEY: Right off the bat, I understand that the
23 results won't be out until February, but what are the
24 indications about siltation in John Martin?

25 MR. ROUMPH: Sedimentation in John Martin has been

1 running approximately 2,250 acre-feet per year, and
2 this is through the historical record since it was
3 completed in the mid-'40's up through the latest survey
4 which was '81.

5 We anticipate perhaps that there will be a little
6 bit more sedimentation this time because we have had
7 quite a bit more inflows into John Martin than the
8 average for the period of record prior to that. Right
9 now, we estimate probably totalwise that we have lost
10 perhaps 100,000 acre-feet of storage in John Martin due
11 to sedimentation since the mid-'40's.

12 MR. COOLEY: Any questions for Mr. Roumph?

13 Mr. Pope?

14 MR. POPE: Well, the only other one I guess I can
15 think of, Bob, is: How is the 3,000 second feet flood
16 control operation release determined, and when was that?
17 Is that a long time figure that has been used?

18 MR. ROUMPH: I have not been in the Albuquerque
19 district enough to know what the prior history has been
20 concerning that.

21 Typically, with those releases, the way we determine
22 what channel capacity is is through practical experience.
23 We make releases. We monitor downstream conditions. We
24 allow some minor nuisance-type flooding, flooding of
25 oxbows in lowland areas that don't do any significant

1 damages. We basically monitor that condition until we
2 get to the point where it looks like if we go any higher,
3 we are going to start getting some significant damage.
4 We establish that as a channel capacity.

5 Below Pueblo Reservoir, it used to be 5,000 cubic
6 feet per second in the early '80's. We had some
7 experiences where if we released 6,000 c.f.s., we determined
8 it could take that.

9 Perhaps I could defer to someone else that has been
10 around here longer to know whether that John Martin
11 release has ever been anything other than 3,000. I
12 wouldn't be surprised if it hadn't been higher.

13 Typically with reservoirs, is what we find is if
14 we don't make those scheduled releases down there, we
15 get phreatophyte invasion, we get adjacent landowner
16 invasion of the channel, we find out that it is a one-way
17 street. Every time we cut the releases, the channel
18 capacity goes down and it is just a constant decline
19 in what those capacities are. We like to keep them up as
20 high as we can to maintain that channel capacity.

21 Bob Jesse, do you recall whether it has been anything
22 other than 3,000 cubic feet per second during history?

23 MR. JESSE: No. I don't remember of any.

24 Bill?

25 MR. HOWLAND: In the '65 flood, it was 5,000.

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MR. ROUMPH: It was 5,000.

MR. JESSE: In 1965.

MR. BENTRUP: 3,000, I would say, is about the maximum. I own some land along the river where the channel now is within about thirty yards of the Santa Fe Railroad. It has done quite a lot of washing right above Syracuse. Had a serious problem where the channel is cutting toward this dwelling. There is those isolated instances: 3,000, I think, is what we figured, at least that much, but I wouldn't like to see it increase very much.

MR. ROUMPH: You wouldn't like to see it increased?

MR. BENTRUP: Yes. I would rather not see it increased above 3,000 feet.

MR. COOLEY: A couple of fences is one thing, but the Super Chief would be something else entirely.

MR. BENTRUP: The Super Chief would end up in the Arkansas River.

MR. COOLEY: Mr. McDonald, are there any other questions of Mr. Routh?

Thank you very much.

The meeting will be in recess for an hour.

(The meeting recessed for the lunch hour at 12:00

p.m., December 8, 1987, to reconvene at 1:00 p.m.,

December 8, 1987.)

1 (The meeting reconvened at 1:00 p.m., December 8,
2 1987, at which time, the following proceedings
3 were had.)

4 MR. COOLEY: The meeting will come back to order.
5 Russell, is there anyone here from the USGS from
6 the Kansas office?

7 The next item on the agenda is the U.S. Geological
8 Survey. We have Russell Livingston with us to report on
9 their activities.

10 Russ?

11 MR. LIVINGSTON: Thank you, Mr. Chairman.

12 My report will consist of four items: One will
13 be the status of stream gaging operation. I will also
14 make some comments on water quality activities in the
15 basin. Some comments on reports' status on several
16 reports that would be of interest to the Compact, and
17 a comment on some studies that we are doing that may
18 also be of interest to the Compact.

19 Before starting, I will make mention of a few
20 things. First, I am the representative from the Geological
21 Survey today, in part, because of reorganization of the
22 Kansas District Office.

23 Just for the Compact's information, that reorganization
24 includes a change in status of our Garden City office
25 from a subdistrict office to a field headquarter office,

1 and, consequently, the subdistrict chief is retired, and,
2 therefore, we don't have representation from our Garden
3 City office.

4 As far as the operation of stream gaging stations
5 and those kinds of things of interest to the Compact,
6 there will be no change at all. All the field activities
7 will still be carried on as they have been in the past.

8 I also want to bring to your attention the December
9 7th letter to Mr. Frank Cooley there. I believe Frank
10 has extra copies, if he hasn't distributed them.

11 Have they been distributed, Frank?

12 MR. COOLEY: Yes. They have been distributed to the
13 members of the Compact Administration.

14 MR. LIVINGSTON: I think the cover letter pretty
15 much is self-explanatory. Just a few other little things
16 to bring to your attention. What is shown here are the
17 locations of 63 measuring points along the Arkansas River
18 from the Royal Gorge to the state line. There are, to
19 my understanding, other additional gaging stations, but
20 these are the principal ones, these are current stations.
21 There are certainly records from other stations along
22 that segment of river that are not shown there, but sites
23 of which we have historical information.

24 MR. COOLEY: If I may interrupt, Russ. I continue
25 to think that Mr. Abbot's report upon which the gaging

1 stations have been superimposed, I continue to think that
2 Mr. Abbot's line diagram of the Arkansas River and the
3 ditches thereon in Colorado is a brilliant work and
4 useful to anyone of dealing with waters of the Arkansas
5 and I also think that by the addition of the gaging
6 stations on Mr. Abbot's paper only adds to the use and
7 utility of that report. I am very happy for the results
8 of this and I commend it to everyone here.

9 It seemed to me essential to know what the gages
10 meant for a gage on some point on the river. "Which
11 ditches did it miss? Which streams were bypassing the
12 gage?" and so forth. With the paper that has been
13 distributed today, that information is just immediately
14 in front of you, and I commend Mr. Abbot again and I
15 commend you for making this even more useful.

16 MR. LIVINGSTON: If anyone wants a larger copy of
17 this for the entire region shown on the one illustration
18 from Mr. Abbot's report, I brought half a dozen or so
19 copies of this, so if you got a hole in the wall, you need
20 to cover something with a big sheet, I got several of
21 those and I will make sure that we distribute a few of
22 those.

23 MR. POPE: We would like one, Russ.

24 MR. LIVINGSTON: Okay. With that, as far as the
25 status on the gaging station operation, we continue, of

1 course, to operate and maintain five stream gaging
2 stations in Colorado and two in Kansas, partially in
3 cooperation with this Administration. The data for
4 the last Compact year, as far as Colorado is concerned,
5 has been given to Mr. Jencsok. If he hasn't received the
6 data for the two Kansas operated stations, those will be
7 sent shortly by Claude Geiger of our district office in
8 Kansas.

9 This past year, we did discontinue operation of the
10 radio system that was used for many years in operation
11 of that network. As per the agreement with this Administra-
12 tion, we went entirely to use the data collection platforms
13 and satellite telemetry system. It is my understanding
14 that worked very satisfactory.

15 One other item, as Bob Jesse mentioned, the high
16 flow situation that occurred this year at our gaging
17 station below John Martin Reservoir, the flow records
18 for April, May and June were all the highest in the last
19 forty-five years since 1942. The sustained flow at that
20 gaging station did cause some damage to the control
21 structure that is a part of that gaging station operation.

22 There was complete submergence of the control and
23 flow around both ends of the control and some scour and
24 erosion particularly on the right bank and we will be
25 repairing that this winter. Since the flows have receded

1 and so forth, there is no change in the quality of the
2 records, however.

3 As far as water quality, I will make these comments
4 primarily because of interest in Lake Cheraw, but also
5 for your general information. I believe I had mentioned
6 previous that we do have continuous water quality monitors
7 at three of the Compact stations, those being the Arkansas
8 River at Las Animas, the Purgatoire River at Las Animas,
9 and the Arkansas River below John Martin.

10 As Mr. Jesse mentioned, the station at Las Animas
11 will be also tied into the DCP there, so that we will
12 have real time information on water quality as it pertains
13 to the Arkansas River as inflow to John Martin.

14 Also, I think there was mention of the fact that
15 we may be adding a water quality monitor to the Horse
16 Creek gaging station. That is, at this point, dependent
17 on whether the releases are made from Lake Cheraw.

18 We did do several samplings of the water in Lake
19 Cheraw and I don't want to go into details on those, but
20 we did obtain samples on September 8th and November 7th
21 and the results of those samplings are being used in
22 determining this possible program of making releases from
23 Lake Cheraw.

24 Also, regarding that issue, we have an agreement with
25 the Corps of Engineers, Albuquerque, to begin water quality

1 sampling of John Martin Reservoir. At this point, we have
2 essentially no data on water quality within John Martin
3 Reservoir, and, of course, the immediate concern is the
4 possible impacts of that water release from Lake Cheraw,
5 but regardless of whether that event occurs or not, we
6 will go ahead and begin a program of water quality sampling
7 in John Martin.

8 Item 3 on reports, there are several reports. I will
9 bring them to your attention. Frank wanted me to mention
10 this one report that was recently published. It's
11 titled, "Techniques For Estimating Regional Flood
12 Characteristics Of Small Rural Watersheds In The Plains
13 Region Of Eastern Colorado."

14 It applies to, as indicated in the title, low
15 elevation, non-snowmelt, so these are ephemeral streams,
16 and the plains region includes the Arkansas and the
17 Platte River basins. I do have with me copies of the
18 report and I will leave several with each delegation of
19 that particular report.

20 It deals not only with peak discharge and estimation
21 of peak discharge magnitude and frequency on these small
22 watersheds--and by small, we are talking about less than
23 twenty square miles--but it also deals with flood
24 hydrograph and flood volume.

25 One other one that has been discussed previously is

1 our study of transit losses associated with transmountain
2 return flows on the reach from Colorado Springs to the
3 Fountain Creek confluence with the Arkansas. That study
4 has been completed and the report has been approved for
5 publication and is in press right now. It could be out
6 within the week or very shortly thereafter.

7 Another report that is in press right now is a
8 report on water quality characteristics of the Arkansas
9 River basin in Colorado and that one should be out
10 shortly.

11 The report on the documentation of a river basin
12 management model is currently at headquarters. Now, this
13 is the report that is related to the Arkansas River
14 basin management model, but this is the report on what
15 we call a generic model. That's why I called it "a river
16 basin management model."

17 The second report, and that is the specific application
18 of that model, that model to the Arkansas, which is a
19 calibration report of the Arkansas River management model,
20 is going from our district office to the region office
21 to begin a sequence on up for approval. It will be out
22 of our hands this week, so I hate to speculate at this
23 point on when those things get through, but at least
24 it's beginning the system on up to approval by a director
25 and hopefully should be out before too long.

1 MR. COOLEY: Let me interrupt again. In telephone
2 conversation with you, Russ, it was my understanding
3 that generally the structure and the way in which that
4 model of the river was put together was compatible and
5 relatively consistent with the models that the Southeast
6 District had made in past years, so that we don't have
7 an old model and a new model, it is just that philosophically
8 they are at odds with each other in the way they are put
9 together. Is that about right?

10 MR. LIVINGSTON: That's correct. The same methodology,
11 as far as how the ground water was handled, the stream
12 aquifer relations is the same regarding the previous
13 models, those being the analogue model and the digital
14 model that was done in the early '70's and late '60's.
15 This is the same methodology. It does certainly much more
16 than those do, but the same methodology is used as a
17 basis for that.

18 MR. COOLEY: I despise it when there are two scientific
19 studies ten years apart of the same subject and you can't
20 tell from reading either one that they are talking about
21 the same thing.

22 MR. LIVINGSTON: Just to mention on a few other
23 ongoing investigations that may be of interest, we are in
24 our fourth year now of a five-year study of the water
25 quality in Pueblo Reservoir, and just to make you aware

1 that we are continuing data collection activities and
2 we will be putting out an interpretive report shortly
3 on that study.

4 Also, we have a continuing investigation of water
5 quality trends along the Fountain Creek drainage, and,
6 of course, the essence of that study is the changing
7 urbanization effects in the Colorado Springs area and
8 those impacts on water quality.

9 I think that probably would conclude my report
10 unless there are some questions.

11 MR. COOLEY: Do you have any questions for Russ?

12 MR. POPE: Russ, I appreciate the update on the
13 status of the various studies and reports. I guess I
14 can't help but wonder on the two you reported on, the
15 river model and the calibration report, it seems like
16 the status of those is about where it was last year and
17 the year before. It is always going to be down the road
18 a few more months. Can you really honestly commit to us
19 that those are going to be available one of these days?

20 MR. LIVINGSTON: First of all, the delay is certainly
21 not intentional. As a result, the process is very
22 laborious and time consuming that we go through.

23 The documentation report was bounced, what we call
24 bounced, by our regional office. That means it was
25 turned down. It made its way all the way through the

1 system to the director's office and the technical review
2 at headquarters determined that it was insufficient in
3 some areas. It was sent back to the author for changes
4 and what have you, so that was the cause of that delay
5 there, so there was a lot of changes that had to be
6 incorporated in that.

7 The basic model stayed the same. It was just the
8 verbiage in the report and that kind of thing, so it is
9 back on up through the system, and, frankly, should go
10 through fairly quickly because it had already been
11 approved at the regional level and has been looked at
12 very thoroughly at the headquarters level, so it should
13 go through very quickly.

14 The calibration report, we, as you probably know,
15 give out copies of these interpretive reports to
16 cooperators as well as our colleagues in other district
17 offices of the Geological Survey for their technical
18 input. As a result of that process, there were several
19 areas of deficiency that were pointed out, several areas
20 where additional clarification was necessary.

21 The way the calibration was actually handled was
22 changed, so there was major revisions to that report.
23 There was staffing problems in getting those revisions
24 done, quite frankly, and that is the cause for the delay.

25 I would mention that Mr. Thomson sent a letter to

1 our district office indicating that he wanted those
2 reports facilitated and out as quickly as possible, so
3 there has been every effort on our part to again get
4 those things out, and all I can do is apologize.

5 You are quite right. The status is pretty much the
6 same. There has been a lot of things going on, but
7 unfortunately, those things are not getting the report
8 published, which is the bottom line.

9 I would say at this point that things are fairly
10 well on track and should result in those things being
11 published within the next couple months, but I can't
12 guarantee it. I would hate to speculate at this point.

13 MR. POPE: Is there anything available from either
14 of the last two in open forum to anyone other than the
15 cooperators?

16 MR. LIVINGSTON: No. You are right. There probably
17 isn't at this point, but I think the model documentation
18 report, since it is at headquarters right now, and again,
19 it has already been there once, it could be just a matter
20 of a week or so and we will have that report approved.

21 Once it is approved, we possibly could release an
22 approved copy. It wouldn't be, of course, a published
23 copy, but that might be available at that time.

24 The calibration report, I couldn't really speculate
25 on that.

1 MR. POPE: You don't anticipate it going open file
2 for some time?

3 MR. LIVINGSTON: Well, the Colorado district doesn't
4 use that mechanism. They go straight to the water
5 resources investigation series rather than a quick release
6 to the open file.

7 I might throw out that if you feel it appropriate,
8 you could suggest to our district chief that an open file
9 mechanism be used on these two reports to expedite their
10 release to the public.

11 MR. POPE: I appreciate that update, Russ.

12 On the Fountain Creek studies, the transit loss
13 study, I guess I was wondering: Are those pretty well
14 complete now? I think you said--

15 MR. LIVINGSTON: Yes.

16 MR. POPE: --that is going to report?

17 Did you anticipate or take into account any of the
18 effects that might occur as a result of the Corps' proposed
19 project? I know they have a project there with Pueblo.
20 Wait a minute. I am mixing apples and oranges here. I
21 will skip that, I think. I guess I was wondering about
22 the channelization project. I think I am on two different
23 areas there.

24 MR. LIVINGSTON: Yes. There wasn't really any relation-
25 ship between the two.

1 MR. POPE: Okay. I think that's all I have, Mr.
2 Chairman.

3 MR. COOLEY: Thank you.

4 Does anyone else have any questions from Mr. Livingston?
5 I trust you will stay for the budget part of the
6 meeting?

7 MR. LIVINGSTON: I wouldn't miss that for the world.
8 I get to do Kansas, too.

9 MR. COOLEY: Thank you very much, Mr. Livingston, for
10 your report, and I want to thank all three of the federal
11 agencies. I think the amount of effort that is being
12 expended by the federal agencies pertaining to this river
13 at this time is extraordinary.

14 The next item on the agenda is the "Review of Trinidad
15 Project Operating Principles," and the thought that comes
16 to my mind is: Has this item been finessed in some manner
17 or does this not come to our attention?

18 MR. BENTRUP: Didn't Ray cover that completely?

19 MR. COOLEY: That was my question.

20 Bill?

21 MR. McDONALD: We have nothing more.

22 MR. COOLEY: Apparently nothing more needs to be
23 said at this time. Certainly the Trinidad operating
24 principles are going to be before us for a long time.

25 MR. POPE: Mr. Chairman?

1 MR. COOLEY: Yes.

2 MR. POPE: I guess my only specific thought regarding
3 that is, and Ray did report on the report they have just
4 given us and the recommendations that are contained therein,
5 but I would ask, at least, at this time, if it is
6 appropriate, what role the Bureau might view for the State
7 of Kansas and other interested parties and water users
8 in Kansas in the event that there was a desire to amend the
9 operating principles as they recommended in the report
10 that we have just received. I took it from the verbal
11 report, I haven't read it yet, that there was suggestions
12 in there and I wonder if--

13 MR. COOLEY: I think Mr. Willms will respond to your
14 question.

15 MR. WILLMS: Well, I guess I view that, that the nature
16 of the principles is that we are probably going to have
17 to have some sort of a consensus to amend and I think we
18 would be willing to work with the parties to reach such a
19 consensus as long as we can proceed constructively.

20 MR. POPE: I appreciate that, Ray, and I guess I
21 would remind everyone of the fact that one of the five
22 Kansas conditions to the original report was for the same
23 parties, which included representatives of the State of
24 Kansas to be directly involved in the approval of any
25 changes to the operating principles.

1 MR. COOLEY: You are on record.

2 MR. POPE: Thank you.

3 MR. COOLEY: The next item on the agenda has already
4 been touched on. It is the "Proposal to transfer water
5 rights decreed to the Keesee Ditch."

6 Mike Shimmin wants to speak to this subject. I would
7 like someone here, it doesn't necessarily need to be Mike,
8 it might be a number of other persons, to define the
9 question before we get into the substance of it and
10 describe the proposal again for the record.

11 Do we have any volunteers? Mr. Montgomery, do you
12 volunteer for that job?

13 MR. MONTGOMERY: No.

14 MR. McDONALD: It is Jake's proposal. Let him explain
15 it. I would like to hear he or Mike put it in their own
16 words instead of us translating it.

17 MR. COOLEY: Fine. Mike, would you spend a few minutes
18 first defining the proposal before you get into the areas
19 of controversy or discussion?

20 MR. SHIMMIN: I will do that, Mr. Chairman.

21 And for the benefit of all of you, I am Mike Shimmin.
22 I am a partner in the law firm of Vraensh and Raisch in
23 Boulder, Colorado, and I am representing Mr. Broyles
24 in this case both before this body and in the water courts
25 in Colorado.

1 I have been working on this project for about four
2 months now and I understand that you have been working
3 on it for a lot longer than that, so I hope I understand
4 as much about the project as some of you do already.

5 MR. COOLEY: Our rates are less.

6 MR. SHIMMIN: To give you a little bit of a summary
7 of the project, Mr. Broyles owns the water rights decreed
8 to the Keesee Ditch, which is located just downstream of
9 John Martin Reservoir in Water District 67. It diverts
10 water from the south side of the Arkansas River and has
11 been used to irrigate lands under the ditch for basically
12 agricultural crop production.

13 Mr. Broyles has owned those water rights since, I
14 believe, 1947 or 1948. He now seeks to transfer those
15 water rights from agricultural use, quantifying the
16 historic consumptive use and stream depletions associated
17 with that consumptive use of those water rights and have
18 that available for storage in John Martin Reservoir exchanged
19 to Pueblo Reservoir and to be available in the future for
20 other beneficial uses as the case may arise.

21 As a condition of that, we have negotiated with a
22 number of the parties who are objecting in the water court
23 in the Colorado proceeding and within the last few months,
24 have reached a stipulation with the Southeastern Colorado
25 Water Conservancy District which imposes a number of

1 limitations on Mr. Broyles's ability to transfer these
2 rights and through which the district agreed to a
3 quantification of the historic consumptive use of the
4 rights, which I believe equals 2,925 acre-feet per
5 year.

6 Mr. Peter Boddie from the engineering firm of H.R.S.
7 Water Consultants in Lakewood, Colorado, has done the
8 engineering analysis and has produced what are four volumes
9 of engineering reports that are about an inch and a half
10 thick, which deal with all of the issues surrounding the
11 historic use, quantification of the use, the stream
12 depletion, and the proposal to store water in John Martin
13 Reservoir. Those have been reviewed by a number of people.

14 The first three volumes of those reports have been
15 in more or less everybody's hands for nearly a year, as I
16 understand it, or more.

17 The fourth volume dealing with the operation of the
18 account in John Martin Reservoir has been available since
19 July of this year.

20 Mr. Boddie has met with Mr. Pope and other representatives
21 of Kansas in Topeka a couple months ago, has talked with
22 Mr. Genova about questions of the Engineering Committee,
23 and we have tried to respond and provide additional
24 information as requested to meet the questions and concerns
25 of the Engineering Committee.

1 If that will serve, Mr. Chairman, as a summary of the
2 background and development of the case, I will be happy
3 to answer questions if you have any about that part of it.
4 If not, I will go ahead and comment about what I think
5 is the issue at this time.

6 MR. COOLEY: Proceed.

7 MR. SHIMMIN: We have heard the report of the
8 Engineering Committee this morning and there are several
9 different issues on the table at this point, as we under-
10 stand it, and some of those issues have differing
11 ramifications.

12 The first set of issues, I guess, are questions
13 related to issues of potential injury to other water rights
14 on the Arkansas River and quantifying the historic use
15 of the Keesee Ditch water rights, and as we see it, the
16 main questions that the Engineering Committee has at this
17 time relate to methodologies used for quantifying the
18 historic use and calculating the effect of that use on the
19 river system.

20 We have discussed the request of the Engineering
21 Committee for additional information and are certainly
22 willing to discuss and provide additional information
23 as is fair and necessary to resolve the issue.

24 Issues such as what study period to be used, what
25 irrigation efficiency to be used, verification of irrigation

1 methods and crop mixes and things like that are issues that
2 we see as issues of methodology that go into calculating
3 the historic use and burden on the stream system from
4 these water rights.

5 We are not adverse to providing additional engineering
6 calculations and information on those issues, but would
7 like to have to do that only once in response to the
8 concerns of the Engineering Committee, and at this stage
9 of the process, we are not sure whether we are being requested
10 to provide that in advance of public comment which might
11 open the door for subsequent requests to redo that
12 engineering work, but would like some clarification from
13 the Administration of what process and time tables should
14 be used in providing that information on a basis that will
15 satisfy the concerns of the Engineering Committee once
16 and hopefully put those issues to bed.

17 Secondly, the question of the use of Mr. Broyles's
18 wells is, as I understand it, a sensitive and somewhat
19 controversial issue in light of the litigation ongoing
20 between the states of Kansas and Colorado.

21 We want to make it clear that we are not requesting
22 any finding of any type from the Administration with regard
23 to these wells and from our perspective, I don't really
24 see why those need to be at issue, but are certainly
25 willing to discuss with members of the Administration why

1 they should be at issue in the context of this proposal.

2 Mr. Broyles is seeking to transfer only the Keesee
3 Ditch water rights and those are the only rights about
4 which he seeks any findings from the Administration.

5 We are certainly willing to discuss possible
6 stipulations or limitations that would allow the resolution
7 of any issues regarding well usage in Colorado as part of
8 the Compact litigation to govern Mr. Broyles's use of his
9 wells in the future if that is possible as a way around
10 meeting this issue head-on.

11 As the Engineering Committee reported, as we see
12 it, the two states so far have simply agreed to disagree
13 over how that issue relates to Mr. Broyles's proposal.

14 The third substantive issue, as I see it, is the
15 question of storage space in John Martin Reservoir for the
16 water to be accounted for as historic consumptive use
17 water from the Keesee Ditch water rights.

18 We understand that there are existing storage accounts
19 in John Martin Reservoir which require the payment of a
20 35 percent transit loss as a condition of storing water.

21 We would like the opportunity to present to either
22 the Engineering Committee or the Administration as a
23 whole, whichever you deem to be appropriate, a factual
24 basis and explanation for why we think Mr. Broyles's case
25 is different than prior storage accounts in John Martin

1 Reservoir and ought not be governed by the 35 percent
2 transit loss assessment.

3 We think there is both a factual basis and a rational
4 basis for finding that this case is different than those
5 cases, first of all, and foremost, because the transfer
6 Mr. Broyles is seeking is a consumptive use transfer and
7 the proposal that is reflected in the engineering reports
8 would leave in the Arkansas River all of the historic
9 return flows and ditch losses and other losses that were
10 historically part of the river flows in the river and
11 would seek to store only the water historically consumed
12 and depleted from the Arkansas River. We think that fact
13 makes it different than the past storage accounts that
14 have been negotiated in John Martin Reservoir where other
15 entities have agreed to store water, but not on a
16 consumptive use basis, simply on the basis of dedicating
17 35 percent of that water to the transit loss account.

18 The other basis that we think can be factually
19 supported is the fact that transit losses as related to
20 the Keesee Ditch are only relevant to the extent of losses
21 between John Martin Reservoir and the headgate of the
22 Keesee Ditch, which is a fairly short distance, and accord-
23 ing to Mr. Boddie, is a very small amount, at most,
24 certainly much less than 35 percent and we would like the
25 opportunity to present detailed explanations of these

1 facts and rationales for why this case should not be
2 automatically bound by the precedent established for
3 35 percent transit loss accounting in John Martin
4 Reservoir.

5 The only last issue that I see is purely a procedural
6 issue and it relates to the question of what process we
7 are going to follow after today's meeting to try to resolve
8 all these issues, both before the Engineering Committee
9 and before the Administration as a whole.

10 The Engineering Committee has expressed a willingness
11 to conduct a public hearing if the Administration deems it
12 necessary. We are not sure that we think that is necessary,
13 but obviously if the Administration feels that it is, we
14 will do whatever is necessary to participate.

15 We would request that whatever procedures are
16 identified for public hearing and comment be outlined in
17 advance and be fair to all parties so that Mr. Broyles
18 has an adequate opportunity to be prepared in advance to
19 rebut things that might be presented by other people or
20 to cross-examine witnesses that may be presented if the
21 hearings are going to reach that level of formality.

22 Fundamentally, we see this as an issue of fairness
23 simply because the engineering reports prepared for Mr.
24 Broyles have been publicly distributed and available to
25 almost everyone interested in this case for over a year

1 now. We have received very little in the way of engineer-
2 ing reports from other parties, and if it is to be
3 something in the nature of a public hearing, we feel
4 that it is fundamentally important from the standpoint
5 of fairness that we have some advanced notice as to what
6 would be presented by other parties and have the opportunity
7 to respond.

8 I guess, at this point, I would conclude my comments.
9 I don't know what the Administration may be thinking in
10 the way of what kinds of procedures might be followed.
11 I would be happy to answer questions or perhaps respond
12 to proposals that might develop during the discussion
13 here to see if we can reach some kind of consensus about
14 what procedure is to be followed, and when those
15 procedures would take place to try to resolve the remaining
16 issues surrounding this case so we can get to a decision
17 by the Administration.

18 MR. COOLEY: It is clear to me that there is no
19 desire for the Compact Administration to take jurisdiction
20 at this phase of any of the questions raised with the
21 matter before the Engineering Committee and without that
22 committee having gone as far as it desires in this
23 direction. I might also add that it would appear to me
24 that the burden would be on the applicant and not upon the
25 committee to make any guarantees. However, I think, also,

1 there is a certain attractiveness in the suggestion that
2 the degree of formality of the hearings before the Engineer-
3 ing Committee be spelled out somewhat in advance so that
4 the applicant has some idea of what the ground rules may
5 be.

6 Have I fairly expressed your view, Mr. Pope, on where
7 we proceed on this matter?

8 MR. POPE: Well, I don't know whether to say that or
9 not, Frank. I think your comments are appropriate. I
10 suspect what we ought to do is see if there are any
11 questions that anyone has and then try to come to a point
12 of action here so we can leave today with at least a
13 course of action and respond to Mr. Shimmin's concerns.

14 I would certainly be willing, I think, on our part
15 and my role as a member of the Engineering Committee to
16 review the information that he offered to provide to
17 substantiate the differences or distinction that he sees
18 between his client's request for an account in the
19 reservoir as compared to others and to then try to develop
20 some sort of a procedure for notice to the various
21 interested parties that may wish to comment and have
22 input into this process.

23 MR. COOLEY: Do you have in mind a public hearing?

24 MR. POPE: I have in mind possibly an opportunity to
25 take written comments directed to the Engineering Committee

1 as a first step, which would then avoid the necessity of
2 them perhaps having to do some of this stuff twice. I
3 think I heard Mr. Shimmin raise a concern about that.
4 And after having received perhaps the written comments
5 to the Engineering Committee within some time frame, the
6 committee then could, at that point, meet and allow an
7 opportunity for additional verbal input and questions,
8 not necessarily a formal hearing, but at least a forum,
9 and then get on with this business of trying to resolve
10 the issues, develop any findings that are necessary at
11 that time or whatever.

12 I guess I am suggesting a two-stage process there.
13 I just lay that on the table for discussion, having not
14 really taken it any further at this point.

15 MR. COOLEY: Mr. Genova, you are in the front line
16 trench.

17 MR. GENOVA: Pardon?

18 MR. COOLEY: You are in the front line trench.

19 MR. GENOVA: Yes. Okay. Well, I would concur with
20 David. I think that process that he outlined would be
21 okay. I think we need the comments first and then we will
22 go from there.

23 MR. POPE: I do think, perhaps, something I would
24 suggest before we go into great detail, as Mr. Shimmin
25 has pointed out, the issue of wells is obviously a sensitive

1 one. It is one that both states are concerned about and it
2 seems like we need to resolve that issue and we are
3 receptive to valid solutions to it. I guess the point I
4 am trying to make is there is no need to proceeding beyond
5 that point unless we can get that resolved, at least, at
6 this point in time. We are hung up on an issue. We
7 need to resolve that issue, otherwise we are just wasting
8 everybody's time and money, at least, at this point in
9 time, and I think we are looking for a reaction from the
10 applicant, and he has touched on that here today, his
11 comments.

12 MR. COOLEY: Do you think that a resolution of the
13 question of wells can be reached in Mr. Broyles's case
14 absent a final determination of all the questions that are
15 raised in the litigation between the two states? Do you
16 think one could be done without the other? Is it
17 possible? Let me put it that way.

18 MR. POPE: I think it is possible, but then I think
19 it will require it to be dealt with in such a way that
20 it satisfies both states concerned and I think Colorado has
21 stated this morning and at the Engineering Committee
22 meeting that they didn't feel that it was appropriate to
23 make findings specifically dealing with that issue.

24 We have stated our position and I guess if there is a
25 way to deal with it outside that process by the applicant,

1 that's the only other choice I see right offhand. I don't
2 know how else to say that.

3 MR. GENOVA: I already stated our position as it
4 relates to the wells.

5 MR. COOLEY: Any other comments from the Compact
6 members?

7 MR. BENTRUP: I think he has a misunderstanding of
8 transit loss. It isn't a transit loss charge. The 35
9 percent is the storage charge. This water then is
10 transferred to a Kansas transit loss account to take care
11 of any loss that occurred between John Martin and the state
12 line.

13 MR. COOLEY: Any more comments from the Compact
14 Administration?

15 MR. GENOVA: Mr. Shimmin, in reading through your
16 engineering, there is one facet that has been ignored all
17 through it and that's the effect of the change of these
18 accounts and so forth on the upstream call as it goes
19 from District 67 upstream. Whatever process we come up
20 with, the continuity as it relates to the effect upstream
21 must remain the same.

22 MR. COOLEY: Mike, help me out with one area. I
23 know nothing of this entire matter. What, in general, is
24 the status of this in the Colorado water court? You
25 alluded to it and it just went by.

1 MR. SHIMMIN: The status in the Colorado water court
2 is that we have pretty much been operating under the
3 assumption that action by the Colorado water court would
4 be inappropriate until the Compact Administration had
5 taken action in the case. Several objectors in the water
6 court proceeding have expressed the legal position that
7 they, in fact, think it would not be timely for the water
8 court to act as a matter of law. We simply haven't addressed
9 that issue or litigated that issue. We agreed to postpone
10 any action by the Colorado water court until after the
11 Compact Administration has acted, at least, at this time.
12 In the meantime, we have continued to negotiate and discuss
13 the case with objectors and have made progress with several
14 of those objectors. Some have withdrawn their opposition.
15 We have reached stipulations with some and are still
16 discussing the case with other people, so we are proceeding
17 on both fronts, but have postponed formal action in the
18 water court until we can get a resolution from the Compact
19 Administration.

20 MR. COOLEY: Thank you. Any more comments from the
21 Compact Administration?

22 David, the written comment in your contemplation is
23 the first of two phases?

24 MR. POPE: I guess I would say that I think it would
25 be appropriate for the applicant and their representatives

1 to clarify their intent on the storage account. I think
2 there has been some confusion and misunderstanding about
3 what they really were proposing in the case of the storage
4 account. That could be clarified, and they could, in turn,
5 make their case regarding the storage charges if an account
6 was established in John Martin Reservoir, so that could
7 be presented at their convenience, whenever they could
8 get it done. Then my suggestion as the next step would be
9 to invite comments from other interested parties in writing
10 as a first step so that those comments would be available
11 to the Engineering Committee and to the applicant, so that
12 they could be able to react to those at a subsequent meet-
13 ing of the Engineering Committee and the subsequent meet-
14 ings of the Engineering Committee would be for the purpose
15 of then looking at all of those comments and taking those
16 comments, along with the concerns that have already been
17 raised by the Engineering Committee, and reported on
18 today, back to the applicant so they can run the additional
19 engineering studies and they can respond to whatever
20 questions come up and bring back a final product for us
21 to review and try to use to resolve the concerns.

22 I think that works fine for everything perhaps except
23 for the issue of wells that I mentioned a minute ago, and
24 perhaps maybe in the meantime, that will be resolved
25 somehow or another.

1 MR. COOLEY: It is sort of a hopeful tone. It
2 appeared to me, and tell me if I am wrong, that without
3 some resolution of the well question, then nothing else
4 could happen, some kind of resolution of the well question.
5 Is that your view?

6 MR. POPE: That is our position at this time, and if
7 we want to proceed on the other course, I don't have any
8 objection to that, but I do think we need to be clear that
9 that concern needs to be dealt with before Kansas can enter
10 into any findings of fact by this Administration.

11 That's just a reality of where we are at this time,
12 and I think Colorado is in the same position on the
13 opposite side of the issue.

14 MR. COOLEY: Does anyone have any clarification?
15 Does anyone from Colorado have any clarification on any
16 of the confusion that I have spread?

17 MR. McDONALD: Frank, it sounds fine to us. It
18 seems to me what we need, in effect, to do--I think David
19 said it--is proceed on parallel tracks, have Keesee Ditch
20 articulate what they would propose. There seems to be
21 some confusion about the storage account issue, and provide
22 whatever rationale Mike wishes as to how that ought to be
23 treated and why it ought to be treated that way, get both
24 that and a request from the Engineering Committee out to
25 interested parties, that those parties comment on what

1 engineering, if any, they think needs to be done that
2 hasn't been done, and on the issue of the storage account,
3 and not until then would the Engineering Committee ask
4 H.R.S. to do any more engineering.

5 I think Mike makes a good point. We are not in an
6 iterative kind of process to keep reengineering this or
7 the other thing, and at some time after that process, an
8 Engineering Committee meeting can be had as Carl and Dave
9 think appropriate, but as that process goes forward, we
10 really need to talk about wells between Colorado and Kansas
11 and the applicant, and we will never get to reacting to
12 public comment or Engineering Committees, I agree with
13 David, unless we can hammer out the well issue.

14 MR. COOLEY: Mike, have we not dimly got the outline
15 of the maze before us now?

16 MR. SHIMMIN: I think that's a fair statement.

17 Perhaps we got more than that, Mr. Chairman.

18 It does seem to me that this process would be acceptable.
19 I guess our only concern is the question as to timing and
20 process for public notice and comment. This case has been
21 going on for some time and we would like to proceed with
22 all due speed, whatever that means, and whatever can be
23 worked out with the Administration. We will do our best
24 to respond at the earliest possible time on the issues that
25 we need to respond on. If we could initiate the public

1 comment process and try to get to a point of final agree-
2 ment or instruction from the Engineering Committee about
3 what additional engineering needs to be redone, that would
4 be beneficial to us at the earliest possible time, and I
5 agree that while that is ongoing, we can continue to
6 discuss the issue of the wells and see if it can be
7 resolved.

8 MR. COOLEY: Well, it appears to me that there is an
9 undercurrent of a desire, at least, to face squarely up
10 to the questions that Mr. Broyles has presented, and I
11 think this afternoon that we have done what could be done
12 by the Compact at this time, and regardless of the problems
13 that we have with scheduling, it is clear that you will
14 not have to wait another year for some further progress
15 in this area, and I think that is where we are. I am
16 glad you came to the meeting and appreciate the problems.

17 In the next fifteen minutes, we will solve the problems
18 of the winter storage in Pueblo Reservoir. We have before
19 us the decree. Is there someone here who will speak to
20 that? Tommy, of course, is at a meeting of the Colorado
21 Water Quality Control Commission, an august and awesome
22 body.

23 In Tommy's absence, is there anybody?

24 Mr. Holme, will you undertake to take us through the
25 decree in part?

1 MR. McDONALD: Frank?

2 MR. COOLEY: Yes.

3 MR. McDONALD: I apologize Tommy is not here. We
4 have him up in Denver, as you well know. Tommy has, it
5 is my understanding, sent the interlocutory decree to the
6 members of the Administration consistent with his practice
7 for the last twelve years to keep the Administration posted
8 on where the winter storage program stood, and with that
9 purpose, has sent out the interlocutory decree. I trust
10 everybody got it a couple of weeks ago. If there are
11 technical questions, I am sorry, I am not the guy to
12 respond. Tommy would be. In his absence, perhaps Bob
13 Jesse could speak to those and we can take it from
14 there.

15 MR. COOLEY: Fine.

16 Mr. Pope, do you have any questions concerning the
17 decree for winter storage in Pueblo Reservoir?

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

19 I think it would be a fair statement to say that
20 Kansas does have questions and concerns regarding the
21 Pueblo winter storage program. I am not sure that there
22 is anything I can say today that would be that much
23 different than what has already been articulated in past
24 meetings and forums of this body and otherwise.

25 I would certainly be willing to ask to Bob or whoever

1 is capable of responding to those, a few questions about
2 what has transpired recently in the form of the action by
3 the water court if he is willing to stand for those
4 questions. Again, I am not sure that there will be a lot
5 new, but I do wonder, for example, what engineering studies
6 and analysis occurred during that process that was presented
7 by the parties or objectors that ultimately stipulated
8 apparently to the decree, what type of studies were done
9 that would address the previous concerns of Kansas and
10 others as to the effect on the waters of the Arkansas
11 River and inflow to John Martin Reservoir and to Kansas
12 in particular.

13 MR. COOLEY: Okay. If this is the format to proceed.
14 We all know the decree represents a heroic effort over
15 many many years by many many people, but specifically the
16 question has been raised about the engineering, decrees
17 and work that has gone into the storage decree.

18 Bob?

19 MR. JESSE: The engineering report that I have seen,
20 there are two by the GS, I believe one by Hilmes, then
21 there was one by Wright. I don't have them with me and
22 I don't know if I can even remember any of their significant
23 points, but they were all presented at winter storage
24 meetings. I think they were issued or set out in Tommy's
25 correspondence. I don't know if the Wright report was

1 or not, but the GS letters were, one by Jerry Hughes and
2 so on. I don't know who the other one was, but there
3 were two reports and they didn't indicate there would be
4 any decline, but other than that, I don't really know how
5 far to go down that road because they speak for themselves.
6 If they are not available, I am sure they would be readily
7 available. We can dig them up.

8 MR. POPE: I appreciate that, and I am aware of the
9 fact that there were apparently some analyses made in the
10 past. I guess I was more specifically referring to whether
11 there was any direct evidence presented prior to the
12 decree being entered most recently or was that strictly
13 a product of stipulation between the various parties based
14 on compromising their concerns?

15 MR. JESSE: There was a consent decree. There was
16 not cross-examination, but the district presented a prima
17 facie case and there was not cross-examination. These
18 reports were incorporated, I believe, by reference, but
19 there was engineering testimony. There was not cross-
20 examination.

21 MR. POPE: Has the State of Colorado done any
22 additional studies--you mentioned several here--specifically
23 relating to the effects of the Pueblo winter storage
24 program that were used as a basis for the decision-making
25 process?

1 MR. JESSE: Colorado is doing engineering studies,
2 but there is nothing completed or nothing even well along
3 that may have some bearing on it, but our engineering
4 investigations are ongoing and we are in the process of
5 it, but there has been no results made yet. I don't know
6 if it is specifically addressed to winter storage, but that
7 certainly could be read into it eventually as part of our
8 engineering studies for the Kansas suit.

9 MR. POPE: Thank you, Bob.

10 Mr. Chairman, I guess the only other comment I would
11 make would be to reiterate what I said, that I think we
12 have long taken the position that this Administration had
13 taken action way back in 1951 to require the approval by
14 the Administration of an operation plan for Pueblo
15 Reservoir and the winter storage program prior to any
16 storage and reregulation of flows of the Arkansas River.
17 That has never been done and until such time as Kansas
18 has a direct opportunity to do that, I think we are going
19 to continue to object to the operation of such a program.

20 We have laid our concerns out on the table. Colorado
21 is in receipt of studies that have been done by Kansas
22 addressing this very issue, and yet, still we are really
23 unable to feel comfortable with the resolution of the
24 issue.

25 MR. COOLEY: You are referring to what, the Spronk

1 report, Mr. Pope, or what is it you are referring to?

2 MR. POPE: I think, among others, there has been
3 information exchanged between counsel for the states,
4 including a report developed by Spronk Water Engineers.

5 MR. COOLEY: Mr. McDonald?

6 MR. McDONALD: A question of David in that regard.
7 When we debated this issue at the March, 1985, special
8 meeting of the Administration, Kansas indicated, at the
9 time, that it had analyses under way with respect to the
10 winter storage program. In fact, if my memory serves me
11 correctly, Brent Spronk was even reading out of a draft
12 that he apparently had in front of him and it was indicated
13 at that time that Kansas would make available to the
14 Administration those reports when they are done and I don't
15 recall that they have ever been transmitted to the
16 Administration. One, that would be my first question. Do
17 you intend to do so? Are allegations of injury something
18 you want before us? And secondly, are those the same
19 reports that have been transmitted between counsel? We
20 are in receipt of some reports in that context, I
21 acknowledge.

22 MR. POPE: I think to respond to the second question,
23 the report you referred to is one and the same--

24 MR. McDONALD: Okay.

25 MR. POPE: --that was transmitted to counsel for the

1 State of Colorado; and secondly, we are not specifically
2 seeking anything beyond that at this time other than what
3 we have already stated and have stated previously as to
4 our position as far as the Pueblo winter storage program,
5 but I am not sure exactly what you are referring to, Bill,
6 in your first comment there. I am not sure I can really
7 respond to that at this time.

8 MR. COOLEY: It is not my function to try to tell
9 Colorado how to fight with Kansas or Kansas to fight with
10 Colorado, but it is the chair's position that disputes
11 between the states need to be defined, need to be spelled
12 out, and that clearly brought before the Compact Administra-
13 tion in order that they can be resolved. Correspondence
14 and that sort of thing is not really before the Compact
15 Administration, and I do feel that everyone in this room,
16 without exception, understands the effort and the magnitude
17 of the work that has gone in on Tommy's part on the part
18 of many irrigators on the storage decree in Pueblo Reservoir,
19 and that if this is a matter to which Kansas objects, it
20 would be appropriate if two things were done: One, that
21 the decree itself, in some manner, were described, and I
22 think that I may be the only person in the room, but I
23 think it ought to be done; and secondly, any objections
24 to it by Kansas or by Colorado be spelled out with clarity,
25 definition, the objections be made so that they could be

1 understood by all, and that a procedure be used to resolve
2 the dispute to settle it, and this is what I think the
3 Constitution of the United States is all about with respect
4 to compacts, and I would hope that this Compact and any
5 other compact could operate in that manner.

6 MR. POPE: Mr. Chairman, let me see if I can clarify
7 my comments. I detect that maybe there is some confusion
8 here. Again, specifically, Kansas has asked for some
9 time, and you are aware of this, going back to several
10 meetings, for the opportunity to review, have input into,
11 and approve, any program related to the operation of Pueblo
12 Reservoir for winter storage. That's a matter of record.
13 I didn't think it was necessary to rehash that extensively.

14 To date, to the best of my knowledge, Colorado has
15 refused on the record and has not put on the table any
16 such plan for review and approval by the State of Kansas.

17 We have submitted in various different forums our
18 concerns, our questions, technically, legally or otherwise,
19 and if, in fact, the representatives of the Colorado
20 delegation are willing to present for our review and
21 approval the conditions of the program, that is one thing,
22 we have not heard that yet. Secondly, the other recourse
23 that is available to the State of Kansas is the one that is
24 being pursued in the ongoing litigation between the two
25 states. Those concerns have been expressed very clearly,

1 I think. I don't know where else we can go with it.

2 MR. COOLEY: As to the litigation between the two
3 states, I won't comment. It is outside of my jurisdiction
4 and the jurisdiction of this company, in a manner of
5 speaking, at this time. But when it comes to the Compact,
6 I think it is inappropriate and awkward to say that the winter
7 storage decree and the provisions thereof is not before
8 this Compact Administration because at least it is clear
9 that each of the members of the Compact Administration has
10 been sent, prior to this meeting, a copy of that decree
11 and it would appear to me as the federal representative
12 that if provisions of that decree are unsatisfactory or
13 inconsistent with law, require the action of the Compact
14 Administration, then those concerns should be expressed,
15 if not at this meeting, at a subsequent meeting, and in
16 a way so that they can be understood by all.

17 MR. BENTRUP: I believe you are missing the point.
18 We are not against winter storage. We think it is a much
19 more efficient way of using water. We are concerned
20 because before the Pueblo Dam could be constructed, this
21 Administration had to approve it, and on the condition that
22 they construct it, we were supposed to participate in a
23 plan of operation jointly, both states, before it would
24 become operational. You went right ahead and got your
25 dam, you went ahead and ignored us. You are operating it

1 without an operating plan approved by the State of Kansas.
2 That is all I want to say.

3 MR. COOLEY: Well, I will pursue this a little bit
4 further. I have the view that before the Compact is a
5 decree of a Colorado court having to do with the winter
6 storage program in Pueblo Reservoir, and I think the
7 question I am trying to draw, particularly from Kansas,
8 is this: Is this decree of concern or subject, in any
9 way, either to the knowledge or the jurisdiction of the
10 Compact? Does it require any action by the Compact
11 Administration? Is any consideration of that decree by
12 the Compact Administration appropriate, and, if so, what
13 consideration, what review or approval should be obtained
14 and how does either state propose that it be done, if it,
15 in any way, need be done?

16 MR. POPE: Excuse me for a second. Well, Mr. Chairman,
17 first of all, specifically, as to the decree, I suppose,
18 as distinguished-- I thought we were essentially talking
19 about the winter storage program itself. We are talking
20 about the same subject here whenever we talk in terms of
21 the winter storage program or the decree, but we are not
22 aware of the fact that it has been proposed for approval
23 at this meeting. I didn't read it apparently that way.
24 If that is the case and that is proposed by the State of
25 Colorado, I certainly would like to know that. I certainly

1 think it is clear from the comments I previously made that
2 we do have concerns about the decree, if that's the
3 question that you proposed. I am not sure what else to
4 say other than I think if there is an agreement by the
5 State of Colorado to submit it for specific approval of
6 the Administration, we would like to know that. We are
7 willing to consider that, we would be happy to present
8 our specific concerns in that forum so that they can be
9 aired, reviewed, considered, and this issue could be put
10 behind us.

11 MR. COOLEY: Well, I think, Mr. Pope, that you have
12 taken a step backward and a step forward, and I want to
13 tell you how pleased I am with the step forward.

14 I don't think the chair is able to put words in
15 Colorado's mouth as to their seeking approval of the
16 decree by mailing it to you.

17 On the other hand, it's the opinion of the chair
18 that that decree is on the table, and, therefore, it is
19 worthy of the consideration of both states, and if the
20 State of Kansas has concerns about the decree or wants to
21 work in a spirit of harmony to determine what effect, if
22 any, the decree has that should be before the Compact, then
23 I believe such exploration would be useful, beneficial.

24 My interest is in trying to make the Compact an
25 effective mechanism for the resolution of disputes between

1 the states of Kansas and Colorado because I think this is
2 the intent of the Constitution of the United States and
3 I want to see it work if it can work.

4 I think the most that can be said at this time is
5 that that decree is before us. If there is the desire on
6 either state to discuss the decree to determine over the
7 course of time the implications, the ramifications and
8 so forth, then I would encourage that on the part of both
9 states.

10 I know this is an area of delicacy. The fact that
11 everyone stopped breathing for eight minutes is indication
12 enough of the kind of territory we are in. But a dispute
13 resolution is what this Compact is all about and it would
14 appear to me that the winter storage program is of great
15 importance on the Arkansas River and at least there is
16 something on the table of the Arkansas River Compact
17 Administration having to do with that accomplishment and
18 that an orderly procedure for the study of that act
19 and the analysis of it perhaps in the first phase, Mr.
20 Pope, and maybe action following that, I believe, would be
21 in a forward direction, and that is the step forward that
22 I am so pleased with.

23 MR. POPE: Excuse me just a second.

24 Mr. Chairman, I guess the question I have after your
25 comments, and I certainly want to state that Kansas has

1 long been of the view that items of this nature should be
2 the subject of resolution through the auspices of this
3 Compact. I guess I haven't heard yet from the representatives
4 of the State of Colorado today, any comment regarding their
5 intentions beyond being in receipt of a copy from Tommy
6 Thomson in the mail. I am not sure that I understand
7 whether they are proposing anything at this time.

8 MR. McDONALD: Frank, let me speak to that, please.

9 MR. COOLEY: Take me off the hook.

10 MR. McDONALD: I would try to firmly ensconce you on
11 it.

12 Colorado's representatives to the Administration do
13 not seek approval of the decree. That point, as David
14 has accurately pointed out already, we respectfully differ
15 on. We do not think the Compact gives the Administration
16 the right of prior approval. We do not read the 1951
17 resolution as authorizing or requiring such. It's here
18 because Tommy Thomson, for twelve years now, has always
19 extended to the Administration the courtesy of advising
20 the Administration as to what was going on so that if the
21 Administration had any concerns about what was going on,
22 they could express them. The matter is not here at the
23 request of Colorado for approval. We, as David points
24 out, don't concur in that authority existing for the
25 Administration.

1 MR. COOLEY: Would either state entertain the notion
2 that the decree be analyzed further by Kansas and Colorado
3 with exchange of information on the decree?

4 MR. POPE: Well, Mr. Chairman, I guess I need to come
5 back to the key point, and I think Bill McDonald has just
6 articulated that. So long as the position in the State of
7 Colorado is not willing to allow it to, in fact, be reviewed
8 and submitted for approval of this Administration, we have
9 simply taken the position that our recourse was elsewhere,
10 and I appreciate very much your concerns because we, in
11 fact, agree with what you are suggesting, that this
12 Administration ought to deal with the issue, but I am
13 beside myself to figure out how, until such time as our
14 colleagues from Colorado are willing to play the game.

15 MR. COOLEY: My specific question is: Did either
16 state feel there was any value to the exchange of informa-
17 tion and continued review of the final matters in the
18 decree to determine if, in any manner, it impinged or might
19 impinge on the Compact Administration or the operation of
20 the Compact.

21 MR. POPE: Well, short of being able to know the
22 ground rules before going into such an analysis, I am not
23 sure it would be productive. I think I have expressed the
24 concern of the State of Kansas in that regard several
25 times.

1 MR. COOLEY: Certainly we have gone into factual
2 discussions of items in this Compact that were minuscule
3 in comparison to the import of the winter storage program.

4 The chair isn't impressed with the idea that "this is
5 the chips are on the table" type of time or opportunity
6 and that further review and further exchange of information,
7 development of facts, would not be in the interest of
8 making the administration of the river satisfactory to
9 both states.

10 MR. POPE: Well, we are certainly willing to consider
11 any reasonable approach to dealing with those problems
12 and will certainly take the matter under advisement and
13 perhaps there will be a way to deal with that in due
14 course.

15 MR. COOLEY: Well, I am very pleased with that step
16 forward and I would suggest then that at this time there
17 be a consensus that there will be an exchange of views
18 between now and the next meeting of the Compact Administration
19 concerning the winter storage decree that has been on the
20 table and circulated to you by Mr. Thomson.

21 MR. POPE: We will take the matter under advisement.
22 That is the best I can do at this time.

23 MR. COOLEY: I feel relieved. Now, if I can find out
24 what I did with my agenda. Here we go (indicating).

25 We have disposed of the winter storage program.

1 MR. McDONALD: Frank, before you dispose of it, we
2 are certainly willing to communicate and understand that
3 it will be left that way.

4 MR. COOLEY: Fine. Thank you very much, Mr. McDonald.
5 I regard this as a step forward.

6 Now we get a little salt in our diet with Lake Cheraw.
7 Are you going to carry this one, Mr. Jesse? Who is
8 going to play the role of Hamlet in this performance?

9 MR. McDONALD: There is only one real Hamlet and he
10 is in Denver. I think we have reported between GS and
11 Bob and Tommy having reported to David and Carl last
12 week, simply because we knew he wouldn't be here today,
13 all that any of us collectively know at this point, Frank,
14 and I don't have anything else we can contribute ourselves.

15 MR. COOLEY: This one will be difficult without
16 Tommy, and, frankly, it has got problems of whether you
17 want to touch water so salty with problems that go a lot
18 of different ways.

19 Mr. Pope, you apparently are going to report to us
20 on the ground water study that I heard about down in
21 Kansas.

22 MR. POPE: Yes. Mr. Chairman, upon the item being
23 suggested for the agenda, I did agree to make a few
24 comments regarding the matter of the creation of the
25 intensive ground water use control area in Hamilton,

1 Kearny, Finney, Gray and Ford Counties, Kansas. Let me
2 indicate that I believe our colleagues from the State of
3 Colorado are in receipt of a copy of the order that was
4 issued by my office in regard to that matter, so I will
5 not go into great detail, but for the general information
6 of the people assembled here and others on the Administration,
7 I will provide a few comments.

8 It might be helpful if I indicated that Kansas
9 operates within the framework of the Water Appropriation
10 Act that was originally enacted by our legislature in
11 1945. That act, of course, has been amended several times
12 since that original enactment, but it provides the basic
13 framework for the administration of water rights in Kansas.

14 In addition to that, however, the legislature in the
15 late 1970's amended the Kansas Ground Water Management
16 District Act, which is the act wherein our local ground
17 water management districts are created and from which
18 they gain their authority and responsibilities. That act
19 was amended to provide for the establishment of intensive
20 ground water use control areas. The proceedings to initiate
21 an intensive ground water use control area can be done
22 at the request of the ground water management district if
23 one exists or if it's outside the boundaries of a ground
24 water management district, it can be done by the chief
25 engineer on his own initiative. In this case, that occurred

1 at the request of the district except in the case of
2 Hamilton County, which is outside the district, and that
3 occurred at my request.

4 If I can go back a little bit in time with that
5 background, I would indicate that in the late 1970's, in
6 fact, in January of 1977, my predecessor established a
7 moratorium on the issuance of any additional permits to
8 appropriate water in an area of Hamilton and Kearny Counties
9 along the Arkansas River Valley in Kansas. That was done
10 because of concerns about the effect of ground water
11 pumpage on stream flow and the possible impairment of
12 senior surface water rights.

13 The ditch systems in Kansas, for example, hold vested
14 rights established pursuant to the provisions of the Water
15 Appropriation Act and those rights were of concern to us
16 and them. As a result of the moratorium, our agency entered
17 into an agreement with the United States Geological Survey
18 for some studies of the waters along the river and the
19 effect of ground water on surface water. Those studies
20 have been completed and were published by the Geological
21 Survey and I think that information was available to all those
22 that are interested. About the time that the studies were
23 completed, I inherited my current job and then was in a
24 position of needing to deal with the issue of the moratorium
25 which had been initiated back in 1977. By then, the Kansas

1 law had been amended to include the provision for establish-
2 ment of intensive ground water use control areas, and so
3 that process was initiated, as I stated a minute ago. That
4 led to us holding hearings there in Garden City, and
5 ultimately I issued the order establishing this area as
6 the intensive ground water use control area.

7 Fundamentally, the order closed the area to new
8 appropriation of water both in the original moratorium in
9 Hamilton and Kearny Counties and on down river through Ford
10 County in those areas outside the original moratorium.

11 The area was closed to new appropriation of water
12 with minor exceptions for domestic use, temporary permits
13 and small uses of water of that nature.

14 It also dealt with the series of applications that had
15 been received in our office requesting a permit to appropriate
16 water since the original moratorium in 1977. The order
17 defined a way in which those would be dealt with.

18 Generally speaking, with the exception of a few
19 applications received prior to January of 1978, which again
20 corresponded to an additional change to our laws related
21 to a provision for mandatory permits, with the exception of
22 a few applications there, all applications received after
23 the moratorium in 1977 have since been dismissed, so there
24 was a large number of applications dealt with in that way,
25 including some existing wells that had been filed on.

1 So a considerable heartburn has occurred to some
2 folks in that area because of the effects of this order.
3 It's an attempt on the part of our office to deal with
4 the management of water in that area.

5 In addition to dealing with a new appropriation of
6 water, there are some provisions related to changes to
7 existing water rights as to moving wells closer to the
8 stream and trying to prevent that where water is used
9 under existing rights if changes are filed, and we also
10 created a task force of local water users and representatives
11 of other interested entities in that area for the purpose
12 of continuing to examine this issue and make additional
13 recommendations to my office as may be appropriate to deal
14 with the ongoing problems that still exist, and that
15 task force has been meeting and is continuing to address
16 the issues as to what additional regulation should be
17 imposed on water users in that area and how that should
18 take place. I cannot report to you any results of that
19 effort at this time, but it is under way.

20 By and large, Mr. Chairman, I guess I would just
21 summarize by saying that a lot of time and effort and study
22 has taken place in the period of over a decade in that
23 area of the state. It is a water short region to us. It
24 is an area that was of concern again back in the mid-1970's
25 and since because of the reduced stream flow available in

1 the area, and the effect of ground water use on surface
2 rights, and we think we have taken a big step forward. We
3 are not certainly saying that all of the concerns have been
4 totally addressed at this point, but we are well on our
5 way.

6 MR. COOLEY: Thank you very much.

7 The next item on the agenda also comes within the
8 jurisdiction of the chief engineer, in part, and that is
9 the anomalous Frontier Ditch.

10 MR. POPE: I am not really sure what would be most
11 useful in this regard. It might be more appropriate, in
12 fact, if we had the other status reports and then come back
13 to any questions that that might pose for us in Kansas.
14 I can certainly say going in that the Frontier Ditch holds
15 a vested right that was determined and established pursuant
16 to the provisions of the Water Appropriation Act by the
17 chief engineer back in about 1950, that Frontier Ditch
18 right is administered by our office, as are the other ditch
19 rights that divert water from the Arkansas River. There
20 have been some concerns and controversies in the past that
21 have essentially all been now resolved, I believe, both
22 in terms of litigation, which ultimately reached the Kansas
23 Supreme Court, and that litigation upheld the right of the
24 chief engineer to administer the vested rights held by
25 Frontier. It limited them to the original determination

1 that was made, so their rights are, as far as I am
2 concerned, determined, fixed, and not an issue, concern.

3 MR. COOLEY: As a water lawyer, you terrify me by the
4 thought that some water rights can be terminated, fixed,
5 no longer at issue, and resolved. That is a scary kind
6 of proposition.

7 MR. POPE: Let me rephrase that. Their rights were
8 determined. They raised the issue many years later about
9 whether or not they were properly determined. Years prior
10 to that, the court reviewed that and said that they, having
11 failed to appeal any concerns that existed back in the
12 1950's, could no longer do that at this time, and so the
13 Kansas law water rights are determined administratively
14 through my office and then any appeals can be taken to the
15 courts, and that is the way the issue sets.

16 MR. COOLEY: Mr. McDonald or anybody from Colorado?

17 MR. GENOVA: Yes.

18 MR. COOLEY: Carl?

19 MR. GENOVA: I wonder if they are now being, in fact,
20 administered according to the terms of the court decision?

21 MR. POPE: Yes. I would say that there has been no
22 question about that particular issue that I am aware of,
23 Carl, other than Frontier has had a separate action from
24 their original water right before us for a number of years.

25 There has been another issue, I guess I should say,

1 in that Frontier is the owner of the right originally
2 held by the Fort Aubrey, and that issue was the subject
3 of litigation for many years in the Kansas courts, and
4 they sought to transfer all or a portion of that right
5 up to their headgate. That issue has now, we think, been
6 resolved and if I infer in your question, "Is Frontier
7 limited to their original 5,000 acre-feet of water per
8 calendar year?" the answer is yes, in an absolute sense,
9 with the exception that any additional rights that they
10 acquire from other holders of vested rights are then
11 transferrable within the limits of Kansas law to them, and
12 so there could be very well the possibility that their
13 quantity diverted at their headgate will be greater than
14 the "Frontier vested right" beginning subsequent to this
15 time.

16 If that clarifies the issue, why, I hope so.

17 MR. McDONALD: Has action been taken? Is that a
18 permanent order you make? You said it was in litigation.
19 Has the litigation been ended now?

20 MR. POPE: A settlement has been reached in the
21 litigation. That will result in our formally approving
22 the change to the Fort Aubrey water rights pursuant to
23 Kansas law. Those details are now being worked out.

24 MR. McDONALD: Are they going to start diverting more
25 at the Frontier headgate as soon as you issue the final

1 orders this summer?

2 MR. POPE: Assuming there are no appeals and that
3 sort of thing, why, that's the case.

4 MR. McDONALD: Could you get us copies of that when
5 you are done dealing with it, David?

6 MR. POPE: I suspect so.

7 MR. COOLEY: You have to admire the court reporter
8 who can get both sides of this story as each guy
9 interrupts the other. I think it is extraordinary.

10 MR. McDONALD: One other question.

11 MR. COOLEY: Yes.

12 MR. McDONALD: David, refresh my memory. The right
13 is said to be 5,000 acre-feet. Is that total gross
14 diversion or is that consumptive use?

15 MR. POPE: It is total gross diversion, although I
16 should clarify: They are credited for their direct return
17 flows to the river.

18 The Frontier uniquely is situated in such a way that
19 their returns are measured and they are credited, so
20 essentially, they are charged: 5,000 is measured as the
21 gross, less the direct return flows as measured back to
22 the river, so I wouldn't say it's a pure consumptive use
23 in the sense of seepage and all that, but the returns out
24 at the end of the ditch are credited.

25 MR. GENOVA: David, how large an amount did they direct

1 to pass? I mean, you know, what was the high point?

2 MR. POPE: Carl, I am not sure I can give you numbers.
3 There were years prior to the dispute that resulted in
4 the litigation regarding the size of their vested right.
5 They clearly diverted back in some years greater than
6 5,000 acre-feet. I am not sure I can give you a specific
7 number.

8 I would also indicate just for clarification that
9 all such diversions occurred, to my knowledge, at least,
10 and I am pretty sure this is correct, prior to January 1
11 of 1978, again, which is a key date for us because that
12 is the point at which the Kansas Water Appropriation Act
13 was amended to require that all water users operate within
14 the terms, conditions, and limitations of their vested
15 rights and appropriation rights, whereas before, it became
16 an issue of them being limited only to the extent that
17 they were impairing another water user, so there were years
18 prior to '78 when they may have diverted in excess of that
19 5,000 acre-feet, but that was not a violation of our
20 statute, and it was dealt with various ways in the
21 past.

22 For example, they were involved in the rotation with
23 the other ditches for a number of years and they will now
24 be again in the future as a condition of the settlement
25 that I mentioned earlier on the Frontier right.

1 MR. COOLEY: Does any action need to be taken by the
2 Compact Administration on the Frontier Ditch? None seems
3 to be called for by anyone.

4 We will pass on to the status of the Hammit water rights
5 application, which is in the Colorado water court, 85CW14.

6 MR. McDONALD: Frank?

7 MR. COOLEY: Yes. Mr. McDonald.

8 MR. McDONALD: I think I owe everybody a status on
9 the water rights applications for Frontier Ditch first,
10 and then I will do Hammit.

11 MR. COOLEY: Fine. Back to the Frontier.

12 MR. McDONALD: Let me back all the way to the beginning
13 just so we all remember what the history is.

14 The Frontier Ditch filed water rights applications in
15 February of 1985 in the Colorado water court for Division
16 2. Statements of opposition were filed by a variety of
17 parties: Southeastern Water Conservancy District, Amity,
18 and ABDA, as I recall, and also by the state engineer.
19 Some of those parties moved for summary judgment or for
20 judgment of dismissal, and in response to those motions,
21 ultimately, in November of 1986, the water court did
22 grant the motion to dismiss on the grounds that the water
23 court did not have jurisdiction given the terms of the
24 Compact.

25 Frontier, within a matter of weeks, moved for

1 reconsideration. The court denied that motion for
2 reconsideration in February of this year. Notice of appeal
3 has now been taken by Frontier to the Colorado Supreme
4 Court, and I believe we have transmitted to David some
5 months ago the motions on appeal and what have you. Briefs
6 are in the process of being filed this fall or have they
7 all now been filed? I have lost track of the deadline.

8 A VOICE: They have been filed.

9 A VOICE: I have seen all but the reply brief filed
10 by Frontier.

11 A VOICE: They have all been filed.

12 MR. McDONALD: Okay. And David, if you would like
13 those, I would be glad to make them available. I haven't
14 got my copies yet myself, but I can dig them up.

15 Oral argument has not been heard. I don't even know
16 if it has been scheduled, but I would assume that argument
17 will be heard next calendar year by the Supreme Court, so
18 that's where that stands.

19 On Hammit, again, just to back up to be sure we have
20 history, Gene Hammit filed three separate applications in
21 December of '84, if my memory serves me correctly, in
22 Colorado water court for Division 2. Each of those claimed
23 water rights were for irrigation of lands both in Colorado
24 and Kansas.

25 Again, a number of parties filed statements of

1 objection: Southeast District, Frontier, ABDA, Amity,
2 and Catlin.

3 There was a motion by one of those parties for summary
4 judgment.

5 Hammit countered with a motion for dismissal without
6 prejudice.

7 Just three months ago in September, the water court
8 ruled making two points. It first of all granted the
9 motion for summary judgment as to those portions of the
10 applications seeking water rights for use outside of
11 Colorado, and that motion was granted based on the
12 court's reading of our statutory provisions governing
13 the export of water from the state; and secondly, it
14 granted Hammit's motion to dismiss without prejudice as
15 to those rights claimed for use within the State of
16 Colorado. It is my understanding that no appeal has been
17 taken by any party and as of this date, in fact, the time
18 for lodging an appeal has passed, so that case is finished.

19 MR. POPE: Let me see if I understand what you said
20 on the Hammit case here now. The motion for summary
21 judgment to dismiss the case was granted for that portion
22 of the water that would have been used outside of the
23 State of Colorado?

24 MR. McDONALD: Yes. To the extent the application
25 sought a water right for the beneficial use of irrigating

1 lands outside of Colorado and the application broke out
2 those acreages. The summary judgment has been granted
3 against the applications to that extent.

4 MR. POPE: Against the applications to that extent.
5 And then secondly, the motion of Hammit to dismiss the
6 rest of the case without prejudice?

7 MR. McDONALD: Without prejudice, was granted.

8 MR. POPE: Was granted. I would be interested, I
9 think, in receiving those documents--

10 MR. McDONALD: Fine.

11 MR. POPE: --to bring us up to date on what has
12 transpired there on the decisions of the court and the
13 other pertinent filings that were made and documentation,
14 just for the record.

15 MR. McDONALD: I will do so as soon as I get back
16 tomorrow.

17 MR. POPE: Do you recall right offhand what the
18 primary basis for-- Well, we will just defer on that.
19 We will wait for the documents. I was going to ask on
20 the motion for summary judgment, on the part outside of
21 Colorado, the primary--

22 MR. McDONALD: Oh, the reasoning?

23 MR. POPE: --basis.

24 MR. McDONALD: Essentially, as I said, the court's
25 ruling was based on the export statute Colorado has. There

1 are several criteria that you have got to meet, and the
2 court found that those criteria had not been met. As I
3 recall, the reason was that Hammit did not respond to
4 interrogatories in discovery in request for admission,
5 which means that under our statutes, he automatically
6 admitted everything that had been requested and that
7 became the facts in front of the court, so the criteria
8 of the export statute were not complied with, and, as I
9 recall, those are cited specifically in the court order.
10 I will send it to you.

11 MR. POPE: Okay.

12 MR. McDONALD: That's all I had on that, Frank.

13 MR. COOLEY: We are at the point in the agenda where
14 the Compact Administration will hear any other persons
15 or entity who has come here to be heard.

16 Is there anyone here who has a matter that they desire
17 to bring before the Compact Administration? Hearing no
18 response, we will get to the exciting part of the meeting.

19 I have got some bylaw changes that I want to have
20 considered and I have only brought one copy for each
21 state.

22 At the next meeting of the Compact, I believe that we
23 ought to tighten up the procedures of the Compact
24 Administration with respect to two things: One is the
25 agendas and notices of meetings, notices of stuff that

1 come before meetings, and particularly, that where possible,
2 resolutions on other than the most routine matters be
3 circulated to each state prior to the meeting, but
4 unfortunately, there have been and will continue to be
5 matters that need attention that come up on no notice at
6 all, and, therefore, the provision as drafted states at
7 the bottom that "Nothing in this bylaw shall require
8 that notice be given nor any provision in this bylaw
9 affect or negate any decision made at a meeting of the
10 Compact Administration for which either in whole or in
11 part does not comply with the notice provisions thereof,"
12 and that is a grammatical error of the eighth degree which
13 I will try to straighten out somehow.

14 I think that possibly straightening out the bylaws
15 may be done by correspondence ahead of the meeting rather
16 than doing it at a public meeting or discussing it now.

17 Mr. Pope?

18 MR. POPE: Frank, I was looking through the bylaws on
19 the way out to the meeting this morning on the plane, or
20 last night, I forget which, and I couldn't help but notice
21 some provisions in there that I suspect could use some
22 updating in addition to the concerns you have raised.

23 MR. COOLEY: Yes. I found some others that are just
24 archaic, that the chairman signs the checks in cooperation
25 and so forth. I don't think you guys are going to trust

1 me with the checkbook.

2 MR. POPE: With your suggestion on this item and
3 others, perhaps there should be an assignment made to the
4 committee or whatever to really look over the whole set
5 of bylaws and propose on in a timely fashion.

6 MR. COOLEY: There are two people, neither one of
7 whom probably has time, I am aware of, that could work
8 on it in Colorado on the Colorado delegation. How about
9 in Kansas? Is either you or is there someone on your
10 staff that can work on that matter with me?

11 MR. POPE: Yes. We can ask someone to do that.
12 Probably Lee here would be our logical choice to take a
13 look at those bylaws and work with you.

14 MR. COOLEY: Bill, nominally, you would be the--

15 MR. McDONALD: Sure. We will do it. I agree that
16 they read right out of the '50's and haven't been brought
17 to date for years.

18 MR. COOLEY: They can be mimeographed, you know, all
19 those good things. Fine. So that F.G.C. and Lee and
20 Bill McDonald will work on that.

21 The next item I want to bring before you is this: I
22 am very deeply concerned about the fact that we have one
23 or two people that are talking about retirement. We have
24 got a number of senior people that have been working on
25 the Arkansas River for ten years or more, and I want

1 authorization from the Compact Administration to bring
2 Mr. Bratvold to the next meeting of the Compact to take
3 head and shoulder photographs of the Compact Administration
4 and twenty or thirty others, people like Harry Bates and
5 Frank Milenski and so forth, and get the photographs, and
6 from time to time, we will put them in the annual reports.

7 Bratvold's charge for three color photographs suitable
8 for head and shoulder photographs is seventeen bucks. His
9 negative charge is ten bucks. That is for just basically
10 taking the pictures, taking them, not producing any. I
11 would suggest that in the budget, that we be authorized
12 to spend \$300 for additional costs for the annual report,
13 with the understanding that that would go in the photograph
14 area.

15 Does this strike a responsive chord with you gentlemen
16 or is it something that I should not pursue?

17 MR. McDONALD: My archivist is down here who loves to
18 pile through vaults, old reports, and insists that it is a
19 good idea.

20 MR. COOLEY: Is there a sentiment here?

21 MR. BENTRUP: I think it's fine. I will remember
22 Colorado paying 60 percent for taking my picture.

23 (Laughter.)

24 MR. McDONALD: I thought I heard the chairman say
25 this was coming out of the federal budget.

1 MR. COOLEY: Okay. Before we go further, realize
2 that what is happening on the bylaws is that the
3 grammarians are taking over, but I want to address
4 all of you, one final question on this. I believe that
5 important resolutions ought, where possible, be distributed
6 to each state well prior to the meeting. Do you want to
7 continue the Administration by ambush or is some notice
8 permissible here?

9 MR. McDONALD: It's permissible.

10 MR. POPE: I really think if it is thought through
11 and there is a procedure that we can live with, why, I
12 think it is certainly advantageous to do that.

13 MR. COOLEY: Fine. We would turn to--

14 MR. McDONALD: Frank?

15 MR. COOLEY: Yes.

16 MR. McDONALD: Since you got us off on housekeeping,
17 one pops into my mind. We have amended on a couple
18 of occasions the 1980 operating plan, and, David, at one
19 point a year or so ago, I sent a draft of a clean-typed
20 version with amendments added.

21 Were we ever agreed that we had accurately typed--

22 MR. COOLEY: Yes.

23 MR. McDONALD: --the final amended version?

24 MR. COOLEY: Yes. I signed the thing. David could
25 not find any traps in it and I finally signed it.

1 MR. POPE: Had to give up.

2 MR. McDONALD: Did you send it out to anybody?

3 MR. POPE: The only copy we have, I think, is the
4 one that Frank signed, and you signed, Bill, and that I
5 signed. I think it was sent on to the secretary to the
6 Administration, which, at the time, may have been Leo.
7 I am not sure it was Leo or a new secretary.

8 MR. COOLEY: No. I think it went out to the lady and
9 I thought a Xerox copy went to Gene Jencsok.

10 MR. POPE: I remember it now, but I don't think we
11 have received back a completely signed and endorsed copy
12 for distribution, to answer your question.

13 MR. McDONALD: I forgot I even signed it, David,
14 obviously.

15 MR. POPE: Yes.

16 MR. McDONALD: Let's see if we can somewhere find a
17 signed copy.

18 MR. COOLEY: Okay. Now, I will not be turned down on
19 this one because I found out that the thing works. At
20 great expense out of my own pocket, and why I did that,
21 don't ask me, I have prepared a complete summary of the
22 meetings, the minutes and the resolutions of the Compact
23 Administration since May 31st of 1949 up through 1984, and
24 in connection with the litigation, I have heard that this
25 thing is standing the test of time. Are you aware you have

1 got one of these, Mr. Pope?

2 MR. POPE: I am not sure I am, to tell you the truth.

3 MR. COOLEY: Well, I have got enough so I can surely
4 give you one now.

5 MR. POPE: Yes. I would appreciate it.

6 MR. COOLEY: But this thing ought to be continued
7 upward from '84. David, I know that Colorado has got one,
8 but here is another. This thing is standing up. A lot
9 of research went into that item. Okay.

10 MR. POPE: I appreciate that, Frank, and we will take
11 notice of that, distribute the others here.

12 MR. COOLEY: I would hope that there would be someone
13 in Colorado, Gene or someone else, who could bring that
14 from '84 up to date. There are not many resolutions and
15 we are into the transcript.

16 Are we not now ready to consider the Auditor's report?
17 It has been distributed. We have had copies of the thing.

18 Oh, pardon me. Interruption. This book was prepared
19 for, I believe, every member of the Compact Administration.
20 It contains that original mimeographed Compact, the bylaws,
21 the rules and regulations, the resolution concerning the
22 permanent pool, the Amity, Great Plains' resolution. If
23 anyone doesn't have one or does not bring it to the meet-
24 ings, they are unprepared, and I have come without it, but-

25 MR. McDONALD: When were they put together?

1 MR. COOLEY: About ten years ago.

2 MR. McDONALD: My guys put them together five or six
3 years ago, and I think maybe when Ron and Jim came on, I
4 just forgot to Xerox them and make them a set.

5 MR. COOLEY: This thing is so useful and valuable
6 when you pull the thing out.

7 MR. McDONALD: Assuming we update the bylaws and
8 sign the same copy of the 1980 operating plan, why don't
9 we shoot a few copies of that in a few months and we can
10 get everybody up to date.

11 MR. COOLEY: Okay.

12 Jim you get to sponsor the Auditor's report for
13 fiscal year 1986-1987.

14 MR. ROGERS: As you know, you have all been mailed
15 a copy of it. Have you reviewed it, found any problems
16 with it?

17 MR. COOLEY: Make the motion.

18 MR. GENOVA: I move we accept it.

19 MR. BENTRUP: I second the motion.

20 MR. COOLEY: A little hesitation there.

21 MR. POPE: I have no problem with it.

22 MR. COOLEY: He hasn't taken a vacation or anything
23 like that.

24 Is Kansas ready to vote?

25 MR. BENTRUP: Kansas votes aye.

1 MR. McDONALD: Colorado votes aye.

2 MR. COOLEY: All right. Now, the annual "Budget
3 matters," the mess that Mr. McDonald always leads us
4 through.

5 MR. McDONALD: Frank?

6 MR. COOLEY: Yes.

7 MR. McDONALD: Can I suggest that we go off the
8 record and save our reporter the agony of catching all
9 these silly numbers and we can just come back on and
10 report the results?

11 MR. COOLEY: Mr. McDonald, this is the first concern
12 you have shown all day for the reporter and we are going
13 off the record with our very great thanks.

14 (Discussion off the record.)

15 MR. COOLEY: Back on the record.

16 While we were off of the record, we reviewed the
17 budgets for three years. '87-'88 was changed slightly.
18 '88-'89 was changed slightly. '89-'90 was adopted
19 unanimously by the Compact Administration, all as is shown
20 in the attachment to the minutes. [Exhibits C, D, and E,
21 respectively].

21 I believe there are--

22 MR. McDONALD: There will be three attachments.

23 MR. COOLEY: --three attachments to the minutes.

24 I believe there is no further business of any sort
25 to come before the Annual Meeting of the Compact Administra-

1 tion.

2 MR. POPE: With one exception, if I may.

3 MR. COOLEY: Yes.

4 MR. POPE: I perhaps should have put it in in the
5 miscellaneous item. Having given some thought the
6 last few days to the matter you raised in terms of people
7 retiring and whatnot, I would like personally to give some
8 recognition by this body to Howard Corrigan, long-term
9 Water Commissioner in charge of our Garden City field
10 office, who has since retired effective May 18th of this
11 year, and I did not have a chance, quite frankly, to
12 prepare a resolution, not knowing for sure what direction
13 you want to take, but I would be happy if that was
14 acceptable, to prepare a resolution or something of that
15 sort, to circulate or to submit to the chairman for his
16 signature, if that would be appropriate.

17 MR. McDONALD: That's fine.

18 MR. POPE: Quite standard language-type thing.

19 MR. COOLEY: Leave out as many "whereases" as
20 possible. Did you have in mind a photograph of Howard
21 for the annual report?

22 MR. POPE: I think that would be very appropriate, Mr.
23 Chairman.

24 MR. COOLEY: There is a consensus. We won't take a
25 vote, we will simply do it.

1 MR. McDONALD: Put that resolution and picture in
2 the annual report for 1987?

3 MR. COOLEY: Yes. Sure.

4 MR. POPE: That would probably be a good way to do
5 it.

6 MR. McDONALD: He probably retired during 1987,
7 right?

8 MR. POPE: Yes.

9 MR. McDONALD: Within the last year?

10 MR. POPE: Yes.

11 MR. McDONALD: Fine. Let's put that in 1987. I
12 wholeheartedly concur.

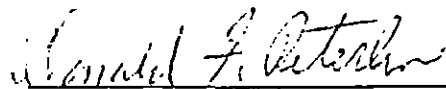
13 MR. COOLEY: Yes. And thanks again to the reporter.
14 Go off the record and the meeting is adjourned.

15 (The 39th Annual Meeting of the Arkansas
16 River Compact Administration was concluded
17 at 4:00 p.m., December 8, 1987.)

1 STATE OF COLORADO)
2) ss. C E R T I F I C A T E
3 COUNTY OF PUEBLO)

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

6 That the foregoing proceedings were taken by me in
7 shorthand on the 8th day of December, 1987, and thereafter
8 reduced to typewriting by me, and the foregoing 160 pages
9 contain a full, true and correct transcription of all the
10 proceedings had.

11
12 

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14 Certified Shorthand Reporter
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J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

NOTICE OF ANNUAL MEETING

Arkansas River Compact Administration

9:00 a.m. (MST), Tuesday, December 8, 1987
Cow Palace Inn
Lamar, Colorado

The annual meeting of the Administration will be held at the time and place noted above. The meeting will be recessed for the lunch hour at about noon and reconvened for the completion of business in the afternoon.

The tentative agenda for the meeting, which is subject to change, is as follows:

1. Call to order and introductions
2. Approval of agenda
3. Approval of transcript of the December, 1986, annual meeting
4. Reports of officers for compact year 1987
 - a. Chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary
5. Committee reports for compact year 1987
 - a. Administrative and legal
 - b. Engineering
 - c. Operations
6. Election of officers for compact year 1988
 - a. Vice-chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary

7. Appointment of committee members for compact year 1988
 - a. Administrative and legal
 - b. Engineering
 - c. Operations
8. Reports of federal agencies
 - a. Bureau of Reclamation
 - b. Corps of Engineers
 - c. Geological Survey
9. Review of Trinidad Project Operating Principles
10. Proposal to transfer water rights decreed to the Keesee Ditch
11. Winter storage program
12. Informational reports
 - a. Lake Cheraw releases
 - b. Creation of "Intensive Groundwater Use Control Area in Hamilton, Kearney, Finney, Gray and Ford Counties, Kansas"
 - c. Frontier Ditch:
 - 1) Administration by Kansas Chief Engineer
 - 2) Status of Colorado water rights applications (Case Nos. 84CW207, 208, and 209)
 - d. Status of Hammit water rights application (Case No. 85CW14)
13. Auditor's report for FY 1986-87
14. Budget matters:
 - a. Review of current fiscal year budget
 - b. Review of previously adopted FY 1988-89 budget and assessments
 - c. Adoption of FY 1989-90 budget and assessments
15. Adjournment

1 of 2
Arkansas River Compact Administration
December 8, 1987
Lamar Colorado

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Tom Cloman Sub. Co., Ks. - ARCA

James L. Rogers A.R. Compact - Adm., Lamar Co.
Carl L. Kern A.R. Compact Administrator
Dennis M. Montgomery Hill-Robbins, P.C., Denver Co.

Gene Jencsok Colorado -
David W. Robbins Hill & Robbins, P.C., Denver, CO

Ray McAllister Southern Colo. Proj. Office, Corps of Engineers, Pueblo
Bob Rounph U.S. Army Corps of Engineers
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Robert Jesse P.O. Box 5728 Pueblo, Co. - State of Colorado
Dore Bender Lamar Daily News, Lamar Co

James Bagley Div. Water Resources, Topeka KS
Mark E. Ruff Div. of Wtr. Resources, Garden City, Ks.

Dale Book Sprink Water Engineers
David A. Brenn No. Harder City Co. Harder City, Ks.

Ed. J. Keyser Kans. ASSOC. DITCHES REP.
Robert Jacob Kansas Division of Water Res. Garden City, Ks.
Scott E. Ross

Steve Malott Catlin Canal Co.
Franz H. Milenski Catlin Canals

Howard Holme Fairchild Work Denver
Russell Livingston U.S. Geological Survey, Pueblo, Co

Elmer Bauman Catlin Canal Co.
Tom Smart Amity Mutual Ins. Co.

John DeForest
Cari Thompson

Paul Frank Amity Mutual, Holly Co.
Phanie Taylor Ft. Lyon Co.

John Cline (cont.) Ft. Lyon Canal Co.

John S. Letterman

Fort Lyon Canal Co.

Kent A. Ruyter

Fort Lyon Canal Co.

Lynn Johnson

Ariz. Colorado & Denver

Marvin Hamilton Jr.

Amity Mutual Ins Co.

LEWIS DAVIS

AMITY MUTUAL

Payton O. Abbott

Colorado Water Div 2

ROBERT HAMILTON

" " Dist. 66867

Bernard Wagner

Frontier Ditch, Pooling, etc

Grady McNeill

Colorado Division of Wildlife

Rick GRASMICK

Lamar Canal & Mandel Canal

Allen G. Stecklein

Lamar Canal Ditch Rider

Don Taylor

Division of water Resources

Jack GARNER

U.S. Bureau of Reclamation

TOM SIMPSON

COLO. DIVISION WATER RESOURCES

Bill Howland

"

Chuck Roberts

Colo. DNR

BUD O'HARA

PUEBLO WATER BOARD

Jim Taler

Fort Bent Ditch

Benny Merquor

Water Commissioner Dist 19 Trinidad

Mike Shimmin

Urmanch + Raish - mp. Lake Broyles

Peter Boddie

HRS Water Consultants - " " "

JACK O BROYLES

HESSLER DITCH

Harry Bates

Buffalo Mutual

Edward BATES

Buffalo

Alex Schibbick

RAY WILLMS

BUREAU OF RECLAMATION

Patricia A. Meron

Division of Wildlife

John H Allen

Bufflo Mut.

G.E. Merthrup

SEEWED

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RD#1 OGDON, Garden City

CHECKS WRITTEN SINCE JUNE 30, 1967

DATE	NO.	WRITTEN TO	FOR	AMOUNT
July 9	883	Colorado Mobile	Operation's Sec.-Phone	128.79
" 9	884	Robert W. Jesse	Operations Sec.-Table	110.00
" 9	885	AT&T	Telephone lease	17.25
" 9	886	AT&T	Purchase-Lost phone	27.95
" 9	887	Mountain Bell	Telephone	67.04
" 9	888	Lower Ark. Water Assn.	Rent-July	50.00
Aug. 11	889	Lower Ark. Water Assn.	Rent-August	50.00
" 11	890	AT&T	Telephone purchase-Balance	1.68
" 11	891	Mountain Bell	Telephone	52.46
" 11	892	Colc. National Bank	Operations Sec.-Equipment	675.00
" 11	893	Guaranty Abstract Co.	Bond Position Premium	100.00
" 11	894	Colorado Mobile	Operations Sec.-Phone	144.46
" 11	895	James G. Rogers	Last half annual salary	500.00
" 11	896	Bernice R. Carr	Last half annual salary	500.00
Sept. 8	897	Lower Ark. Water Assn.	Rent-September	50.00
" 8	898	AT&T	Telephone lease	6.75
" 8	899	Mountain Bell	Telephone	33.45
" 8	900	Colorado Mobile	Operations Sec.-Phone	129.01
" 8	901	Budget Office Mart	Operations Sec.-Office equipment	441.61
" 8	902	Business Systems & Equip.	Operations Sec.-Office equipment	278.00
" 8	903	First National Bank-Lamar	Petty cash-postage	30.00
" 8	904	Art's Lock Service	Office keys	3.80
Oct. 9	905	Mountain Bell	Telephone	36.00
" 9	906	AT&T	Telephone lease	6.75
" 9	907	Lower Ark. Water Assn.	Rent-October	50.00
" 9	908	Office Furniture Warehouse	Operations Sec.-Equipment	99.00
" 9	909	Colorado Mobile	Operations Sec.-Phone	130.56
" 9	910	U.S. Dept. of Interior	Funding Agreement	6,465.00
Nov. 6	911	Mountain Bell	Telephone	100.07
" 6	912	Lower Ark. Water Assn.	Rent-November	50.00
" 6	913	Crimond, Farmer & Co.	Audit-S600-Copying-\$153.36	753.36
" 6	914	Colorado Mobile	Operations Sec.-Phone	121.60

TOTAL

\$11,229.59

Exhibit B

ARKANSAS RIVER COMPACT ADMINISTRATION
307 South Fifth Street
LAMAR, COLORADO 81052

COLORADO
J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
JAMES G. ROGERS, Lamar
Treasurer

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

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

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF CASH RECEIPTS & DISBURSEMENTS & CHANGE IN CASH BALANCE
FROM JULY 1, 1987 TO DECEMBER 1, 1987

CASH BALANCE, JULY 1, 1987		\$57,824.00
RECEIPTS:		
Kansas	\$ 8,000.00	
Colorado	12,000.00	
Interest on Savings Acct. since July	199.75	
Miscellaneous	<u>59.61</u>	
TOTAL RECEIPTS		\$20,259.36
DISBURSEMENTS:		
Treasurer's Bond	\$ 100.00	
U. S. Geological Survey	6,465.00	
Professional Fees	600.00	
Copying	153.36	
Rent	250.00	
Salaries	1,000.00	
Telephone	349.40	
Office supplies & Postage	32.80	
Operation's Secretary's Account	<u>2,278.03</u>	
TOTAL DISBURSEMENTS		<u>11,229.59</u>
EXCESS RECEIPTS OVER DISBURSEMENTS		<u>9,029.77</u>
CASH BALANCE, DECEMBER 1, 1987		<u><u>\$66,853.77</u></u>
CASH IN BANK	\$ 164.16	
SAVINGS ACCOUNT	21,358.17	
CERTIFICATE OF DEPOSIT	<u>45,331.44</u>	
	<u>\$66,853.77</u>	

ARKANSAS RIVER COMPACT ADMINISTRATION

307 South Fifth Street
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RON GLOMON, Garden City

CHECKS WRITTEN SINCE JUNE 30, 1987

DATE	NO.	WRITTEN TO	FOR	AMOUNT
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" 6	913	Crimond, Farmer & Co.	Audit-\$600-Copying-\$153.36	753.36
" 6	914	Colorado Mobile	Operations Sec.-Phone	121.60

TOTAL

\$11,229.59

E.H. Little
REVISED FY 1987-88 BUDGET
(July 1, 1987 - June 30, 1988)

EXPENDITURES

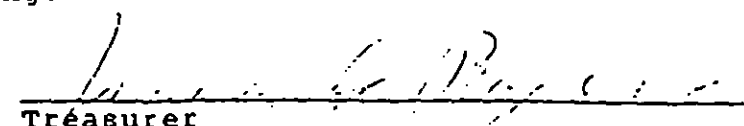
A. SALARIES AND CONTRACTUAL SERVICES:		
1. Treasurer	\$ 1,000	
3. Recording Secretary	1,000	
2. Operations Secretary	6,100	
4. Auditor's Fees	450	
5. Court Reporter's Fees	1,500	
6. Payroll Taxes	<u>350</u>	
		\$10,400
B. GAGING STATIONS:		
1. U.S. Geological Survey Cooperative Agreements for federal FY 1987	\$10,290	
2. St. of Colorado Satellite System	<u>7,000</u>	
		\$17,290
C. OPERATING EXPENSES:		
1. Treasurer's Bond	\$ 100	
2. 1985 Annual Report (Printing)	3,000	
3. Telephone	2,000	
4. Office Supplies/Postage	300	
5. Printing/Copying	300	
6. Meetings	100	
7. Travel	<u>0</u>	
		\$ 5,800
D. OFFICE EQUIPMENT:		\$ 2,000
E. CONTINGENCY:		<u>1,000</u>
F. TOTAL		\$36,490

INCOME

A. ASSESSMENTS		
1. Colorado (60%)	\$12,000	
2. Kansas (40%)	<u>8,000</u>	
		\$20,000
B. INTEREST EARNINGS		3,500
C. MISCELLANEOUS		<u>0</u>
D. TOTAL		\$23,500

EXPENDITURES FROM SURPLUS \$12,990

Adopted by the Arkansas River Compact Administration at its
December 8, 1987, Annual Meeting.



Treasurer

1878E

EXHIBIT D
 REVISED FY 1988-89 BUDGET
 (July 1, 1988 - June 30, 1989)

JAN 13 1988

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1.	Treasurer	\$ 1,000	
3.	Recording Secretary	1,000	
2.	Operations Secretary	6,100	
4.	Auditor's Fees	450	
5.	Court Reporter's Fees	1,500	
6.	Payroll Taxes	350	
			\$10,400

B. GAGING STATIONS:

1.	U.S. Geological Survey Cooperative Agreements for federal FY 1988	\$10,695	
2.	St. of Colorado Satellite System	7,000	
			\$17,695

C. OPERATING EXPENSES:

1.	Treasurer's Bond	\$ 100	
2.	86-87 Annual Reports (Printing)	6,500	
3.	Telephone	2,000	
4.	Office Supplies/Postage	300	
5.	Printing/Copying	300	
6.	Meetings	100	
7.	Travel	0	
			\$ 9,300

D. EQUIPMENT

0

E. CONTINGENCY:

1,000

E. TOTAL

\$38,395

INCOME

A. ASSESSMENTS

1.	Colorado (60%)	\$12,000	
2.	Kansas (40%)	8,000	
			\$20,000

B. INTEREST EARNINGS

3,000

C. MISCELLANEOUS

0

D. TOTAL

\$23,000

EXPENDITURES FROM SURPLUS

\$15,395

Adopted by the Arkansas River Compact Administration at its
 December 8, 1987, Annual Meeting.

[Signature]

 Treasurer

Exhibit E
 FY 1989-90 BUDGET
 (July 1, 1989 - June 30, 1990)

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,000	
3. Recording Secretary	1,000	
2. Operations Secretary	6,100	
4. Auditor's Fees	500	
5. Court Reporter's Fees	1,500	
6. Payroll Taxes	<u>350</u>	
		\$10,450

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1989	\$11,500	
2. St. of Colorado Satellite System	<u>8,000</u>	
		\$19,500

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1988 Annual Report (Printing)	3,500	
3. Telephone	2,000	
4. Office Supplies/Postage	400	
5. Printing/Copying	300	
6. Meetings	150	
7. Travel	<u>0</u>	
		\$ 6,450

D. EQUIPMENT

0

E. CONTINGENCY:

1,000

F. TOTAL

\$37,400

INCOME

A. ASSESSMENTS

1. Colorado (60%)	\$12,000	
2. Kansas (40%)	<u>8,000</u>	
		\$20,000

B. INTEREST EARNINGS

2,000

C. MISCELLANEOUS

0

D. TOTAL

\$22,000

EXPENDITURES FROM SURPLUS

\$15,400

Adopted by the Arkansas River Compact Administration at its
 December 8, 1987, Annual Meeting.

Thomas G. Rieck

 Treasurer

1/4/90

Mr. Genova indicated this was Kansas draft of minutes for the December 2, 1987 meeting. This was not what Mr. Genova read into the record at the annual meeting. However, it is the report that was apparently subsequently agreed to and the one that should be included in the 1987 annual reports.
DRJ

hearing Committee of the
River Compact Administration

hearing Committee of the Arkansas River
Colorado. Carl Genova, chairman, called
the other member of the Committee was
attendance at the meeting were: Dennis
Bob Jesse; Leland Rolfs; James Bagley;

Brent Spronk and Dale Book.

The first item discussed was the proposed transfer of the Keesee Ditch irrigation rights.

After discussion of the questions and concerns concerning the Keesee Ditch transfer, the following items were agreed to:

- 1) A period of record longer than the 20 years (1964-83) should be used. The period of record agreed to is 1950-83.
- 2) At least 1,400 acres had been irrigated by the Keesee Ditch since 1947.
- 3) That 65%, rather than 70%, was a more reasonable irrigation efficiency for the ditch.
- 4) HRS will be asked to re-run the model and compute all relevant parameters (consumptive use, return flows, etc.) for that period of record with a 65% efficiency and report the results.
- 5) That HRS should be requested to supply information as to when the land leveling and border irrigation system were completed.
- 6) Hal Simpson agreed to check his agency's crop distribution records for Keesee Ditch's crop distribution in the 1950's. No such records exist for the 60's.

- 7) Keesee Ditch should be required to substantiate whether 65% is a reasonable irrigation efficiency for the period November to March of each year.
- 8) HRS should be required to explain how effective precipitation was handled in the model. A more detailed explanation of how his water budget works is also needed.
- 9) Colorado indicated that they had done some sample comparisons using the distributive Glover analysis technique and the results (average monthly return flows) varied, at most, nine acre-feet per month (in the month of October) and the average annual total varied only by two acre-feet.
- 10) Hal Simpson checked his office records for depth to water when wells were drilled in that area. The average depth to water was 12 feet, but the wells were drilled during a particularly dry period. Additional follow-up checks should be made to determine average depth to water to see whether sub-irrigation of alfalfa was a possibility. HRS should address this issue in its report. Soil moisture storage figures are also to be checked based on soil surveys.

Mr. Pope indicated that the State of Kansas' position this spring was that the wells which were drilled post-compact and utilized to irrigate any of the 1,900 acres should also be dried up or made part of an augmentation plan approved by the State of Kansas before the Keesee Ditch transfer could be approved. The State of Kansas' position is that depletion or adverse affect will result if the wells are not dried up or suitably augmented.

The State of Colorado representatives indicated that the waters from these six wells were co-mingled on the 1,400 acres irrigated by the ditch, but felt

that the continued existence and use of those wells was a separate issue from the Keesee Ditch transfer which was before the Engineering Committee. Dennis Montgomery indicated that the State of Colorado could not agree to a finding by the Compact Administration for the transfer of the Keesee Ditch, that would require a dry up of the six wells to be used on the 500 net additional acres irrigated by the wells. Colorado did state, however, that if Keesee Ditch modified its plan for the proposed transfer and offered to dry up all of the wells which were to be used for the 500 acres, it would not object. Colorado further stated that the wells were junior rights subject to existing and future regulations by the State Engineer of all wells in the Arkansas River Valley.

Colorado also indicated that it felt that whether the Keesee Ditch transfer would cause depletion or adverse affect to the ditch diversion rights from the Arkansas River in Colorado Water District No. 67 and Kansas is a separate issue from whether the Compact Administration should grant Keesee Ditch a storage account in John Martin Reservoir. The first issue is essentially one of determining whether there will be any injury resulting from the transfer, the second issue is a discretionary matter for the Compact Administration.

After discussion it was also agreed that Jake Broyles was attempting to retain the prime 500 acres out of the 1,900 acres, rather than the 500 acres developed after the 1,400 acres were developed by the surface ditch right.

Kansas and Colorado agreed that when and if the transfer is activated that Broyles will henceforth no longer divert water from the Arkansas River for irrigation.

The next Keesee Ditch issues discussed by the Engineering Committee were:

- 1) Whether Keesee Ditch should be given a storage account in John Martin Reservoir.

- 2) What type of account it should be? and, if so,
- 3) Whether any storage charge should be imposed on water stored in such an account.

After observing that other ditches diverting water above John Martin Reservoir paid a 35% storage charge, in water, that a money charge for use of storage was inappropriate unless tied to the additional administrative and accounting expenses of the Compact Administration, and the equities of allowing Keesee Ditch possibly a free storage when other ditches were paying storage charges, and the possible beneficiaries of storage charges, the Engineering Committee decided that whether a storage charge should be imposed was a policy question that should be decided by the entire Administration, rather than a technical question for the Engineering Committee.

The next Keesee Ditch issue that was discussed was whether Keesee Ditch should be allowed a "Pre-accumulation" account. After great discussion amongst the persons present, it was felt that the "Pre-accumulation" account desired by Keesee Ditch was being requested so that Keesee Ditch could transfer water which was already in its 1980 Agreement account, upstream in the spring when conditions were favorable, before it could be transferred into its Transfer account because of monthly limitations or the reduced rate authorized for the transfer.

The Engineering Committee agreed that, if the committee's interpretation of what Keesee Ditch was requesting was correct, that such a "Pre-accumulation" account could probably be allowed, but that it would have to be clearly spelled out in writing, with examples. HRS will be asked to write out a plain-language description with examples of the accounting under various scenarios.

1980

Winter return flows was also discussed and Kansas indicated that it was concerned with maintaining historic conditions at the state line during the winter.

Various alternatives were discussed concerning the winter return flows. Colorado suggested possibly putting such winter return flows in the Kansas Transit Loss account. No agreement was reached on this issue.

The Engineering Committee then decided to give a status report to the Administration, indicating that Committee had now met twice, and was asking HRS Consultants to provide additional information on certain issues identified above. The Committee raised the question of whether a public hearing should be held by either the Engineering Committee or the Administration on this proposed transfer.

Also at this meeting the Engineering Committee received a briefing by Tommy Thompson, Southeastern Colorado Water Conservancy District, and Gary Soldano of the Colorado Department of Health concerning the Lake Cheraw issue. The Committee was given advance copies of Mr. Thompson's report which he is going to give to the Colorado Water Quality Control Commission on December 8, 1987, proposing a Phase I (temporary) plan to have a controlled release of the top 2,500 acre-feet of water in Lake Cheraw, diluting it with other water and storing it in John Martin Reservoir.

The proposed plan for Phase I for Lake Cheraw had been developed by Bob Jesse, Gary Soldano, U.S.G.S., and Tommy Thompson as a Governor's ad hoc Committee.

Mr. Soldano briefed the Committee on the quality of the water in Lake Cheraw and the proposed plan for release. A copy of Mr. Thompson's and Mr. Soldano's

reports and graphs ^{were provided} (are attached) No action was requested of the Committee on this matter nor was any taken.

Respectfully submitted,

Carl Genova
Chairman, Engineering Committee

David L. Pope
Member, Engineering Committee

RESOLUTION

WHEREAS, Howard C. Corrigan was an employee of the Division of Water Resources, Kansas State Board of Agriculture, for 40 years; and

WHEREAS, Mr. Corrigan served as the Water Commissioner of the Garden City Field Office from 1964 until he retired on May 17, 1987; and

WHEREAS, Mr. Corrigan was widely known in the Arkansas River Valley, both in Kansas and Colorado; and

WHEREAS, Mr. Corrigan's extensive knowledge of water resources in the Arkansas River Valley were in an invaluable asset to the Arkansas River Compact Administration.

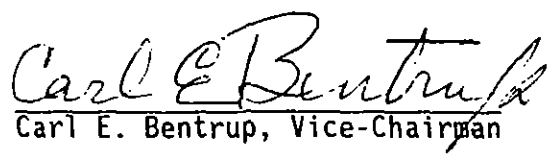
NOW THEREFORE, be it resolved by the Arkansas River Compact Administration that it does hereby acknowledge with gratitude the outstanding service of Howard C. Corrigan to the Administration and to the States of Kansas and Colorado, expresses its appreciation to Mr. Corrigan for his dedication, and extends to him its best wishes for continued good health and happiness in all of his future endeavors.

BE IT FURTHER RESOLVED that this Resolution be entered into the records of the Arkansas River Compact Administration and that the recording secretary be instructed to send a copy to Mr. Corrigan.

BE IT FURTHER RESOLVED that the Administration honor Mr. Corrigan for his many years of service by including his picture and appropriate dedicatory remarks in the Administration's annual report for the Compact Year 1987.

Entered this 7th day of December, 1987, at the annual meeting of the Arkansas River Compact Administration held in Lamar, Colorado.


Frank G. Cooley, Chairman


Carl E. Bentrup, Vice-Chairman

Engineering Comm.
ARCA
Denver 2/5/87

Genova
Rogers
Montgomery
Robbins
Weiss
Simpson
Jesse
L. Johnson
HRS engineer

Pope
Sprank
Simms
Kolka
Bentrup
Book
Corrigan

1. Pope suggested 2 sets of issues
 - A. Transfer per se (material injury issue)
 - B. How will acct(s) in JM Res. work (Art. II \$/or an Art. III acct.), including exchanges
2. Me — have to acct. for Kesse share of cons. pool and of diversions made directly under the det's direct flow right(s) — \$ well diversions?
 - A. Doesn't Art. II acct. stay in place as place of storage of consump. use credits attributable to that water?
 - B. ~~Don't~~ consumptive use credits from direct flow diversions need to be placed in a new Art. III acct. (or the whole amt. of historical diversions, so that releases can be made in time and quantity to cover historical return flows)?
3. Period of record in establishing historical use should be post-compact so as to show effects of JM Res.

4. Pope objected to keeping wells in operation. Johnson argued they were not involved in this transfer application & ∴ need not be addressed.

5. Can a deal be framed that leaves wells out and lets Kansas challenge them in the litigation (i.e., Kansas' agreeing to surface right transfer would be framed so that they are not waiving their objections to the wells)?

A. Kansas' suggestions

1) Dry up wells too

2) ? [some kind of findings] —
that address wells

B. Our suggestion → Carve out well issue and leave it to litigation, Kansas preserving its rights

3. Transfer historic consumption minus continued well depletions

ENGINEERING COMMITTEE REPORT

December 8, 1987

The Engineering Committee held two meetings during 1987. Both meetings related to Case #83-CW-130, proposed change of use for the surface water rights of the Keesee Ditch owned by Mr. Jake Broyles. The proposed change would allow storage in John Martin Reservoir and exchange the consumptive use portion of these waters out of District 67 upstream to Pueblo Reservoir for a wide range of beneficial uses.

The first engineering meeting was held February 5, 1987. Mr. Peter Boddie of H-R-S Water Consultants, engineering consultants for the applicant, outlined the mechanics of the transfer and exchange as proposed in Volumes 1, 2, and 3 of the Keesee Ditch change of water rights.

As Submitted by H-R-S (Study Period 1964-1983)

1. 1,900 acres were irrigated by surface diversions and six alluvial wells.

2. 1,400 acres were allocated to surface waters and will wells.

This is the version Carl Genova read into the records. Mr. Pope found problems and so stated those for the records. See pages 34-40

diversions were 4,945 acre feet.

zing 70% irrigation efficiency, cre feet per acre).

,020 acre feet.

alfalfa 67.5%; corn 9.5%; winter rghum 11.5%.

Do not include in Report for 1987 of the minutes for 12/8/87. This report was not agreed too and a final version should exist somewhere.

mined both Kansas and Colorado ted by H-R-S. In addition H-R-S ailed plan for operation and ac- hn Martin Reservoir. The addi- ted to both states as Volume 4 accounting for John Martin Reser-

After both states completed their respective engineering analysis, the Engineering Committee met December 2, 1987, where it was determined:

1. The study period should be enlarged from 1950 to 1983.
2. Maximum irrigation efficiency should be reduced to 65%.
3. Consumptive use is based in part upon efficiency of border irrigation systems. Mr. Broyles must validate when his system was constructed.

4. Mr. Broyles must validate his crop distribution, which includes alfalfa at 67.5% (high consumptive use crop).
5. Storage of the stream depletion portion of direct-flow diversions was not contemplated in Article 2 of the 1980 Storage Account Resolution. Furthermore, Mr. Broyles disputed the inclusion of these waters under the provisions of Article 3 (Other Waters for Storage) and requested a new category of account dedicated to the storage of District 67 consumptive use waters. As this concept is a departure from the intent of the account system, the Engineering Committee felt this needed in-depth research involving all of the Compact Administration.
6. The status of the Broyles' wells was not agreed upon between the two states. Kansas requires abandonment of the wells as a condition of transfer. Colorado's position is the wells are junior water rights that Mr. Broyles does not propose to transfer and therefore are not subject to findings under Article V-H.
7. Various entities, both upstream and downstream from John Martin Reservoir, have reported concerns relating to the Keesee exchange. At a later date the Engineering Committee is willing to conduct a public hearing to evaluate these concerns if the Compact Administration so desires.

During the December 2 meeting, Mr. Charles L. Thomson, General Manager of Southeast Colorado Water Conservancy District, also Chairman of the Lake Cheraw Ad Hoc Committee and Mr. Gary Soldano of the Colorado Department of Health; made a presentation regarding the water quality problems created by water overflowing from Lake Cheraw in Otero County. Lake Cheraw is a natural closed basin lake that historically collected irrigation tailwater, seepage and runoff from its own drainage area. Due to high water conditions in the Arkansas Basin the last four years, the water level in Lake Cheraw has risen creating flooding problems for the Town of Cheraw. The saline level of this water is 16,000 to 17,000 PPM near the surface with greater concentrations deep in the lake. Leakage from the lake has also created water quality problems for the downstream farms located along Horse Creek, which drains into the Arkansas and eventually into John Martin Reservoir.

Mr. Soldano stated that a permanent solution to this problem requires additional study. However, a plan to address the immediate problem of overflowing is being proposed. The plan is to drain the top 3 feet (2,500 acre feet) of the lake down the drainage ditch to Horse Creek where it will be mixed with 2,000 A.F. of East Slope Project water donated by the Bureau of Reclamation and the waters of the Amity and Fort Lyon Canal Companies destined for winter storage in John Martin Reservoir. These waters would be routed into the Fort Lyon main canal and then spilled into Horse Creek where they will be mixed with the Cheraw water prior to entry into the Arkansas. The plan calls for monitoring of the waters' salinity, both at the Las Animas

U.S.G.S. gauging station and at a satellite hookup gauging station to be erected for this purpose at Horse Creek. Salinity levels of the mix will be maintained at or less than the natural occurring winter time salinity level of the Arkansas River inflows into John Martin. It was projected to take ninety days to complete the project.

Respectfully submitted,

Carl G. Genova
1987 Chairman
Engineering Committee