

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

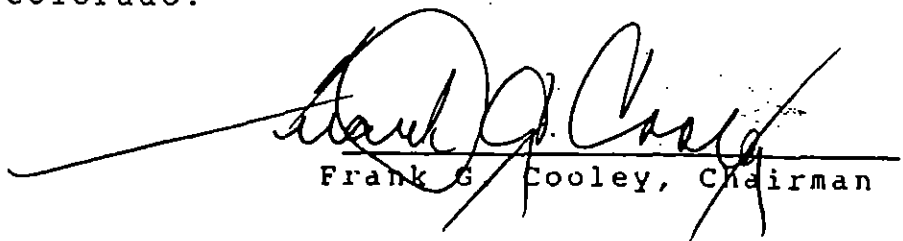
MINUTES OF THE ARKANSAS RIVER COMPACT
ADMINISTRATION ANNUAL MEETING

T R A N S C R I P T
O F

Proceedings held at the Cow Palace Inn
Conference Room, in the City of Lamar, State of
Colorado, on the 11th day of December, 1990,
beginning at 8:30 a.m.

Administration members: Mr. Frank G.
Cooley, Chairman; Mr. David Walker, member; Mr.
Carl Genova, member; Mr. James G. Rogers,
member and Treasurer; Mr. David L. Pope,
member; Mr. Randy Hayzlett, member; and Ms.
Lola Fox, member.

These minutes approved by the Arkansas
River Compact Administration at the annual
meeting held on December 10, 1991,
Lamar, Colorado.


Frank G. Cooley, Chairman

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 CHAIRMAN COOLEY: I will now call
2 the annual meeting of the Arkansas River
3 Compact to order. This is the day and the town
4 set by Statutes of Kansas and Colorado and the
5 Congress of the United States. The hour was--
6 the unGodly hour, I think, was picked by the
7 State of Colorado but we are all here, so what
8 the heck.

9 At this time I would like David Pope to
10 introduce Lola and Randy, the new Kansas
11 members of the Compact Administration and the--
12 as many of the Kansas delegates as he can.

13 MR. POPE: Thank you, Mr. Cooley.
14 It's certainly my pleasure to make the
15 introductions this morning as is normally the
16 case. On my far right is Lola Fox. Lola is
17 from Syracuse, Kansas, Hamilton County water
18 user and the newest appointed member of the
19 Administration from Kansas. On my immediate
20 right is Randy Hayzlett, from Lakin and he is
21 an irrigator in Kearny County, Kansas and a
22 relatively new appointment to the Compact
23 Administration as well, just in the last few
24 months. So we are happy to have them as
25 members of the Administration and look forward

NORA LYON & ASSOCIATES, INC.

1 to working with them from Kansas, as I'm sure
2 you will in your capacities. On my left,
3 immediate left, is someone I believe all of you
4 know as Mr. Richard Simms, Special Assistant
5 Attorney General, representing the State of
6 Kansas in the Kansas v. Colorado litigation.
7 To his left is Leland Rolfs, who I believe many
8 of you also know, attorney for the Division of
9 Water Resources, Kansas State Board of
10 Agriculture. I would like to, Mr. Chairman, if
11 I may, recognize a few of the individuals from
12 the audience that are from our staff and from
13 representing various entities in the State of
14 Kansas.

15 CHAIRMAN COOLEY: I wish you
16 would, Mr. Pope.

17 MR. POPE: I believe that's normally
18 been our practice and I think it's a good one.
19 Mr. Steve Frost. Steve - if you would stand -
20 is the water commissioner for the Garden City
21 Field Office of the Division of Water
22 Resources. Right in front of him are two
23 additional gentlemen, Mark Rude, the Assistant
24 Water Commissioner, and Dale Jacob, the guy
25 that does all the work out there with the

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 running of the water and working with the
2 ditches, and we are appreciative of him being
3 here as well. There is a row of gentlemen a
4 couple of rows there right behind those fellows
5 and if I could just sort of run down the list
6 right quick, it might be a good opportunity to
7 recognize them as well. This is always
8 dangerous, Mr. Chairman, because I usually
9 leave somebody out, but Henry Gillan, who is
10 the President of the Associated Ditches, next
11 to him Wayne Miller, President of the Amazon
12 Ditch, Dave Bren, who is the principal person
13 taking care of matters for the Great Eastern
14 Ditch with regard to the distribution of their
15 water. We have Irvin Caldwell, the President
16 of the Farmers Ditch, the Finney County Water
17 Users Association, and Oliver Hines in the row
18 just in front there of-- did I get that right,
19 Oliver?

20 MR. HINES: Yes.

21 MR. POPE: I'm not going to make a
22 mistake here after all. Oliver you have known
23 as well for many years, and represents the
24 Frontier Ditch System. And I believe-- I know
25 Bernard Wagner is normally here, I don't see

NORA LYON & ASSOCIATES, INC.

1 Bernard.

2 CHAIRMAN COOLEY: Ed DeKeyser.

3 MR. POPE: Yes, that's correct, Ed has
4 always been here for many years and I don't see
5 him this morning as well.

6 CHAIRMAN COOLEY: Would you please
7 tell Ed that we had to start the meeting
8 without him and that we noted his absence?

9 MR. POPE: With that, Mr. Chairman, I
10 believe that completes the introduction of
11 those individuals for Kansas.

12 CHAIRMAN COOLEY: Thank you.
13 David Walker is the Acting Director of the
14 Colorado Water Conservation Board. David,
15 would you be kind enough to introduce the
16 Colorado members and the-- and some Colorado
17 guests?

18 MR. WALKER: I'd be glad to, Frank.
19 It's a privilege for me to be here and I would
20 correct that. You are just about two weeks out
21 of date. I have been officially named Director
22 of the Board.

23 CHAIRMAN COOLEY: Congratulations,
24 I'm delighted.

25 MR. WALKER: So am I. It's probably a

NORA LYON & ASSOCIATES, INC.

1 little ridiculous for me to introduce, as the
2 new member, two who have been here for quite
3 awhile, but I'd be glad to do it anyway. We
4 have Carl Genova to my immediate left from
5 Pueblo and Jim Rogers from Lamar, two other
6 members of the Administration. To my right is
7 Dennis Montgomery, special counsel for the
8 State of Colorado on the Kansas v. Colorado
9 case. Over here we have Hal Simpson, Deputy
10 State Engineer. Next to him is Steve Witte.
11 Would you introduce your staff, Steve?

12 MR. WITTE: Certainly, Dave. Let's
13 see if I can begin to do as well as Mr. Pope, I
14 should. I would like to start from the back of
15 the room. Water Commissioner for Water
16 District 17, Don Taylor. Next to him is Mr.
17 Bill Howland. Bill is a hydrographer and is my
18 specialist when it comes to my duties as the
19 Operations Secretary. Bill resides in Las
20 Animas. Next to him is Dan Neuhold, Water
21 Commissioner for Water District 67. Mr. Chuck
22 Roberts, my Assistant Division Engineer. And
23 then shifting to this side of the room, Mr.
24 Steve Kastner does some river operations
25 accounting and Mr. Mike Graber is an engineer

NORA LYON & ASSOCIATES, INC.

NORA LYON & ASSOCIATES, INC.

1 in my office as well.

2 MR. WALKER: Thank you, Steve. From

3 my staff, Gene Jencsok. I would like to

4 introduce Tommy Thompson from the Southeast

5 District. And we ought to recognize that he

6 had - and I'm not sure, is it the citizen of

7 the Year Award?

8 MR. THOMPSON: Citizen Award, not of

9 the year.

10 MR. WALKER: Citizen Award from the

11 Secretary of Interior who presented it to him

12 personally in Las Vegas last week, a very great

13 honor for all of us and for Tommy. Anyone here

14 from your area, Tommy, that you would like to

15 introduce? Frank or--

16 MR. THOMPSON: I sure would. I would

17 like to introduce Tom Simpson who has been

18 introduced at previous meetings down here when

19 he worked for the Division Engineer. I guess

20 the Bureau of Reclamation will be introduced

21 later, but Mr. Frank Milenski is the charter

22 member of the Board of Directors for the

23 Southeastern District and Frank is here. And I

24 would normally introduce Mr. Jesse, he used to

25 work for me, but he doesn't work for me

1 anymore, so I will let somebody else introduce
2 him.

3 CHAIRMAN COOLEY: Go ahead,
4 introduce him. We don't care who sponsors him.

5 MR. THOMPSON: I think Mr. Clark would
6 rather do that and I would rather Steve do it.

7 MR. WALKER: There are a couple of our
8 Colorado people but they are on the agenda at
9 various items. I think we can wait until those
10 points, Frank.

11 CHAIRMAN COOLEY: Fine. Just
12 looking at Bill Howland and others around the
13 room, it delights me the way some people will
14 lose their jobs and become lost to the Compact
15 Administration but they don't miss a beat.
16 They stay on the river and they are in the next
17 meeting or the next day for that matter wearing
18 a new hat. Who will start off the Corps of
19 Engineers?

20 MR. KREINER: My name is Dick Kreiner
21 from the Albuquerque District Office and I have
22 Mark Stark with me, he is the Acting Project
23 Manager at John Martin.

24 CHAIRMAN COOLEY: Thank you very
25 much. And the United States Geological Survey

NORA LYON & ASSOCIATES, INC.

1 is here.

2 MR. CAIN: Doug Cain, I'm the
3 subdistrict chief in the Pueblo, Colorado
4 office.

5 MR. PUTNAM: Jim Putnam, I'm in charge
6 of the field office in Garden City, Kansas.

7 CHAIRMAN COOLEY: Doug, I
8 understand from your-- my correspondence with
9 your office that you are going to have some
10 goodies to give to the Compact--

11 MR. CAIN: Yes, I do.

12 CHAIRMAN COOLEY: -- during the
13 meeting today.

14 MR. CAIN: Right.

15 CHAIRMAN COOLEY: Okay. No one
16 goes home empty-handed. Is there anyone here
17 from the Bureau of Reclamation?

18 MR. CLARK: My name is Steve Clark,
19 I'm the project manager for the Eastern
20 Colorado Projects and Bob Jesse is our Pueblo
21 Division Chief for the Fryingpan-Arkansas
22 Project.

23 CHAIRMAN COOLEY: All right.
24 Thank you very much. Is there a federal agency
25 that I have overlooked? If not, we'll proceed

NORA LYON & ASSOCIATES, INC.

1 to the agenda. Knowing-- well, Lola, most of
2 these gentlemen know very well that I just
3 follow it loosely. Is there a motion that we
4 approve the agenda? We'll do this rather
5 informally.

6 MR. POPE: Mr. Cooley, Frank, if I
7 might, we would like to suggest a-- not a
8 change to the agenda but a reordering of the
9 agenda if it would be not an inconvenience to
10 anyone. Mr. Simms has some travel plans that
11 commence a little later this morning. If it
12 would be acceptable we would like to see Items
13 No. 10 through 12 advance essentially to the
14 beginning of the agenda, if that wouldn't
15 create a problem and allow his travel plans to
16 commence uninterrupted if possible.

17 CHAIRMAN COOLEY: Well, the Chair
18 will acknowledge not only the exigencies of
19 Richard's travel plans but also the hourly rate
20 of pay. And in the interest of the orderly
21 administration of the Compact I will take that
22 as a motion. And is there a second?

23 MR. GENOVA: I will second that.

24 CHAIRMAN COOLEY: Yes, sir?

25 MR. MACDOUGALL: Mr. Cooley, my name

NORA LYON & ASSOCIATES, INC.

1 is Macdougall, I'm the lawyer for the
2 Purgatoire River Water Conservancy.

3 CHAIRMAN COOLEY: You are known to
4 some of the members of the Compact.

5 MR. MACDOUGALL: My clients and
6 officers and administrators are not here yet,
7 traveling from Trinidad this morning and I
8 would certainly like to accommodate Mr. Simms,
9 but if you do reorder 10 through 12, would you
10 try and put 10 towards the end of that order so
11 that my people might get here in time to hear
12 what we do to them?

13 CHAIRMAN COOLEY: I'm just going
14 to take that as part of your motion that we do
15 it in that order. That would mean that, I take
16 it, David, that we do Trinidad--

17 MR. POPE: Let's do 12, 11, 10.

18 MR. COOLEY: 12, 11, 10, that's fine.
19 All those in favor say aye. (Response).

20 CHAIRMAN COOLEY: Motion carried.
21 Let's start off with Item 12. Item 12, we
22 might as well get my embarrassment over early.
23 Item 12 is a creature of mine alone. It seemed
24 to me that with the immense amount of
25 scholarship and immense amount of work that has

NORA LYON & ASSOCIATES, INC.

1 gone on in the lawsuit in the Supreme Court of
2 the United States, Kansas v. Colorado, that
3 there might well be deficiencies or
4 shortcomings or shortages in the administration
5 of the Compact that would be-- that would have
6 come to view as a result of this work. I do
7 not know that there is one but it just occurred
8 to me that there might well be such. And
9 mister-- I will call on Mr. Simms first.
10 Richard, is there anything that would come to
11 your mind that could be discussed or remedied
12 or done by the two states notwithstanding the
13 pendency and, indeed, the actual trial of this
14 case?

15 MR. SIMMS: None comes to mind, Mr.
16 Chairman, but I believe it was also Kansas'
17 view of the matter that litigation has not
18 interrupted the day-to-day administration of
19 the Arkansas River Compact Administration.

20 CHAIRMAN COOLEY: No, indeed I'm
21 sure that's right. Dennis, is there anything
22 at all that comes to your mind under that
23 heading?

24 MR. MONTGOMERY: I guess if Kansas has
25 nothing to suggest I--

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: Just a minute.
2 That doesn't mean that Kansas would not be
3 willing to consider anything that might be done
4 without in any way affecting the pending
5 litigation.

6 MR. MONTGOMERY: I am not aware of any
7 issues that might be presented to the Compact
8 Administration for consideration at this time.
9 I do think it is worth noting for the
10 Administration that Kansas has taken the
11 position that the 1980 operating plan for John
12 Martin reservoir is ultravires and at some
13 point that issue will have to be addressed and
14 resolved. But I don't think that it requires
15 any action at the present time.

16 CHAIRMAN COOLEY: One of the
17 closest to formulated thought that I have is
18 that at some date possibly after the final
19 determination of the pending suit that
20 procedures for arbitration might be put
21 together. I'm not talking about arbitration
22 itself, I'm talking about the mechanism and
23 procedures for arbitration. Does anybody else
24 have anything they want to say about a bright
25 idea of mine that didn't fly? If not, we will

NORA LYON & ASSOCIATES, INC.

1 proceed to the City of Trinidad. David, you
2 are here somewhere, yes.

3 MR. HARRISON: My name is David L.
4 Harrison.

5 CHAIRMAN COOLEY: Did you all hear
6 that? David L. Harrison for the City of
7 Trinidad.

8 MR. HARRISON: Thank you, Mr.
9 Chairman, Compact Administration members. My
10 name is David Harrison, I'm a special counsel
11 for the City of Trinidad, Colorado on water
12 matters. With me today is also Jim Fernandez
13 who is the Water Utility Director for the
14 City. The City has for quite some time been
15 working on a project which is related to the
16 entire Trinidad Irrigation Project System and
17 specifically we are here today because we want
18 to have the Administration review proposed
19 amendments to the operating principles for
20 Trinidad Reservoir that will accommodate the
21 City of Trinidad's needs to convert its water
22 rights from irrigation to allow also municipal
23 and industrial use and to allow it to use water
24 to make up evaporation losses and seepage
25 losses on the permanent recreation pool at

NORA LYON & ASSOCIATES, INC.

1 Trinidad Reservoir.

2 We have - just by way of background - also
3 filed a case in the Water Court in Colorado as
4 we think we have to in order to change the
5 water rights decrees to allow this to take
6 place. I have had to make it very clear to my
7 colleague attorneys in the Water Court case,
8 however, that the Water Court does not have
9 jurisdiction over the operating principles,
10 that that is a matter to be agreed upon between
11 the parties, but that the Court case has got to
12 go along consistently with it. So just by way
13 of background please understand there is that
14 Water Court case. I will ultimately expect--
15 bring to the Water Court a copy of the Amended
16 Operating Principles that have been approved by
17 the required parties and ask the Court to
18 fashion its decree consistent therewith, not
19 vice versa. From time to time, Frank, people
20 ask me why I think the Water Court has
21 jurisdiction over the operating principles; it
22 does not.

23 The proposal that Trinidad has put forth
24 is distinct from other matters that are also
25 going on right now. As you are aware and will

NORA LYON & ASSOCIATES, INC.

1 be further aware, Sandy Macdougall on behalf of
2 the Purgatoire River Water Conservancy District
3 will also be talking about amendments to the
4 same operating principles. They really do not
5 overlap at all. They do not interrelate at
6 all. And Sandy and I have agreed that we
7 needed to keep these things independent because
8 they involve pretty separate issues. Let me
9 just say that the Trinidad changes would allow
10 it to take a certain percentage of the Trinidad
11 project water that it's entitled to and use it
12 for municipal and industrial purposes, whatever
13 that amount is. And the amount of water we are
14 entitled to may well be affected by what the
15 District is seeking, may be affected, I
16 suppose, by the interstate lawsuit that's going
17 on. But whatever the outcome of all of that
18 is, the Trinidad changes will work
19 independently. We will basically take a
20 percentage of whatever our piece of that water
21 is and be able to use it for municipal and
22 industrial purposes. We have previously
23 circulated to-- through the bureau - and I
24 appreciate the assistance of the Project
25 Operations Office, Steve Clark and his people

NORA LYON & ASSOCIATES, INC.

1 following our initial work with Ray Wilms have
2 been very helpful in helping us to work through
3 these changes. The proposed changes to the
4 operating principles have been presented to the
5 Governor of Kansas and by the bureau requesting
6 the State's approval of-- I should say the
7 State's review and approval pursuant to the
8 five conditions of approval of the operating
9 principles. We have also subsequently sent
10 additional copies of these proposed changes to
11 David Pope and I believe to each of the Compact
12 members. That came a little late and I
13 apologize, there was some confusion, but I
14 believe everybody now has the proposal.

15 I don't want to try to take you through it
16 in any detail. I want to point out that for
17 the most part the changes are very editorial in
18 nature, you just notice as we go through we add
19 municipal and industrial or "M and I"
20 throughout the body of this thing. I would
21 point out that on-- starting at the bottom of
22 page six and particularly at the top of page
23 seven is some material that is substantive in
24 nature. This is, to my view, the heart of the
25 request that we are making. And in a nutshell

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 what we are saying is, we want to take the
2 water that otherwise would have been delivered
3 from the project for irrigation purposes, take
4 a percentage of that that reflects the
5 historical consumptive use and be able to store
6 that in Trinidad Reservoir and hold it for an
7 indefinite amount of time and then later be
8 able to use that for municipal and industrial
9 purposes. Or to be able to take a portion of
10 it and assign that into the permanent pool to
11 make up for seepage and evaporation losses. It
12 is a consumptive use change.

13 You will notice, I think, a very important
14 part of that is Sub C, that is, paragraph 4C on
15 page seven, the third shaded subparagraph, in
16 which it simply states that to the degree we
17 are going to take the water and put it into the
18 reservoir, we will have to proportionately
19 reduce the number of acres that would otherwise
20 have been irrigated under the project. So
21 there will be a dry-up of acres and consumptive
22 use transfer.

23 Mr. Chairman, I think that's all I want to
24 say about the substance of this. I do want to
25 say that we are extremely anxious to proceed

NORA LYON & ASSOCIATES, INC.

1 forward as quickly as possible. We anticipate
2 the possible need for some portion of this
3 water, I think a small portion of this water,
4 during the upcoming irrigation season to meet
5 our contractual obligations to maintain the
6 permanent recreational pool. I don't expect to
7 get all of the permanent approvals, the Water
8 Court decree and perhaps all the signatures,
9 but I sure want to try to reach a substantive
10 conclusion of this if at all possible by that
11 time so that we might make temporary
12 arrangements to use some of this water during
13 1991 irrigation season.

14 I'm available for questions on this.

15 CHAIRMAN COOLEY: Perhaps we
16 should start off with Mr. Pope.

17 MR. POPE: David, thank you. I
18 appreciate the overview that you have provided
19 and the distribution of the materials that you
20 have provided. We are appreciative of the
21 manner in which you have proceeded in this
22 regard.

23 Kansas is caught in a bit of an awkward
24 position in light of the time frames that we
25 are all operating under. I think everyone is

NORA LYON & ASSOCIATES, INC.

1 aware of the fact that there are a lot of
2 things going on right now that have taken our
3 time. We also have, with all due respect to
4 our two new Compact members, have not had much
5 of an opportunity to go over these kinds of
6 matters. I guess my comment at this point is
7 that we have had a chance-- I have had a chance
8 to look over the proposed amendments, I believe
9 have a general understanding of what you are
10 attempting to do and appreciate that and would
11 indicate that we understand that a change from
12 irrigation to municipal and industrial and the
13 matters that you have described here this
14 morning is possible.

15 We, therefore, I think, would just say
16 today that we are willing to consider the
17 proposed changes that you have explained here
18 this morning and have previously distributed to
19 the various interests in Kansas as you have
20 just described.

21 At this point in time, the Governor of
22 Kansas has not specifically taken action as I
23 think you are aware. I would certainly be very
24 willing to-- and am very willing to take
25 whatever steps are necessary to brief him and

NORA LYON & ASSOCIATES, INC.

1 to deal with the administration and the change
2 in the administration that we have in Kansas.

3 In sum, I guess, I would like to just say
4 that we are very willing to consider the
5 proposals but we need a little bit of time to
6 bring all these matters together and make sure
7 that we have reviewed not only the substance of
8 the changes as they exist, the principles, and
9 also the technical aspects, the engineering
10 aspects of the particular matter and then be in
11 a position, I think, hopefully within a
12 reasonable time frame to take action in this
13 regard.

14 MR. HARRISON: Thank you, Mr. Pope.
15 We appreciate that.

16 MR. SIMMS: Mr. Chairman?

17 CHAIRMAN COOLEY: Yes, Mr. Simms?

18 MR. SIMMS: Mr. Harrison, you
19 indicated that it was your desire, quite
20 understandably, to want to fashion the Court's
21 decree around an approval by the Compact
22 Administration of the proposed amendments to
23 the operating principles. I'm curious whether
24 or not in the Water Commission proceedings
25 there has been any discussion of what I might

NORA LYON & ASSOCIATES, INC.

1 call criptically a chicken and egg problem.

2 Has there been any indication by the Court that
3 you ought to be here first or any discussion of
4 doing it the other way around?

5 MR. HARRISON: Mr. Simms, the Court
6 has judiciously refrained from giving his
7 comments yet, but some of the parties have made
8 comments like that. I have acknowledged the
9 point and simply said we were going to try to
10 find a pragmatic way to work through the
11 chicken and egg problem. The two proceedings,
12 if you will, the intent to get approval of
13 amendments to the operating principles on the
14 one hand, and the water purposes on the other
15 hand, are going concurrently. There is an
16 awful lot of overlap within the parties,
17 certainly within Colorado. And I have tried to
18 just make the point all along that there's a
19 pragmatic way to do that if we don't hang up
20 and worry a lot about who has to be the first
21 one to move. But I am personally of the view
22 that technically the operating principles ought
23 to go first and the Water Court ought to go
24 second.

25 MR. SIMMS: Do you see any difficulty

NORA LYON & ASSOCIATES, INC.

1 in following that procedure insofar as the
2 certainty that you must have as to the actual
3 amendments made to the operating principles?

4 MR. HARRISON: Yes, of course. And,
5 again, parties have argued that before the
6 judge in the context of pretrial conference.
7 And I have simply said that we recognize that
8 kind of thing but the Court has the capability,
9 if it feels it's necessary, through the
10 mechanism of retained jurisdiction to take care
11 of it. I think that these things can be put
12 together in a timely fashion and the Court can
13 simply enter a decree. But if there is any
14 concern about that the Court will repeat that
15 aspect of its decree subject to review and the
16 City of Trinidad is not opposed to that
17 approach.

18 MR. SIMMS: Do I understand correctly,
19 then, Mr. Harrison, that if need be, assuming
20 the amendments were made to the operating
21 principles, and by "need be" I mean if there
22 were some need eventually to come back to this
23 forum that would be possible as a result of the
24 retained jurisdiction of the Water Court?

25 MR. HARRISON: Yes, that is exactly

NORA LYON & ASSOCIATES, INC.

1 what I'm saying.

2 MR. SIMMS: Okay. I would add only to
3 Mr. Pope's comments by saying that the State of
4 Kansas looks at your proposal with an open
5 mind. And our only problem, frankly, right now
6 is the combination of the time needed to
7 complete an engineering review of the proposal
8 and the complications that have arisen by
9 virtue of the appointment of the new Compact
10 representatives.

11 CHAIRMAN COOLEY: Thank you.
12 Before I ask for Mr. Walker's comments, I have
13 got a question and a comment of my own. The
14 question is this. Could you sum up the
15 opposition and the opposition's-- the points
16 that have been raised by the protestors or
17 protestants in the Colorado Water Court
18 proceedings just generally?

19 MR. HARRISON: Yes. First let me say
20 that a big part of our objection is a very
21 internal matter in the John Flood Ditch.
22 Different owners within the ditch have
23 different theories about how it ought to work;
24 we have got to work that out. Second, the rest
25 of the objectors are basically concerned about

NORA LYON & ASSOCIATES, INC.

1 what I would characterize as traditional change
2 of water right kinds of questions; will it
3 work? Will it work in a way that prevents
4 injury? Do the particular mechanisms prevent
5 there from being an enlargement of the
6 consumptive use? Are the return flow
7 compensation mechanisms workable? There have
8 not been any objections phrased so far that go
9 in any fundamental way to our basic ability to
10 do it. All of them have had to do with the
11 particular mechanics of how it is implemented
12 with the exception of this chicken and egg
13 point that Richard mentions that some people
14 have raised. But I think that if there is
15 progress here, that that will actually answer
16 that question. Some people have said, "Well,
17 gee, if this thing is going to get tied up
18 until the Supreme Court finally is done with
19 everything, then maybe we can't proceed in
20 Water Court until then." I have resisted that,
21 but if we can accommodate a way of proceeding
22 here, then I think that that issue goes away.
23 So the only opposition so far have been of a
24 technical nature to make sure that the
25 mechanics of the decree and injury and are

NORA LYON & ASSOCIATES, INC.

1 administrable.

2 CHAIRMAN COOLEY: You have in mind
3 that in the best of all worlds there might be
4 some sort of a negotiated settlement with
5 Kansas and with Colorado that could be
6 confirmed by a telephonic or other meeting of
7 the Compact?

8 MR. HARRISON: Yes, I do.

9 CHAIRMAN COOLEY: Okay. Mr.
10 Walker, do you have any comments on the
11 proposal made by the City of Trinidad?

12 MR. WALKER: Yes, Mr. Chairman. I
13 appreciate very much David Pope's willingness
14 to look at this matter in detail and I
15 understand the particular circumstances that
16 confront you all right now, that's
17 understandable. We have reviewed it, we think
18 this is an appropriate approach that David
19 Harrison was making on behalf of the City,
20 whether the chicken and egg issue-- I guess the
21 only way to solve that is to keep forging on
22 and try to get the steps in some logical
23 sequence. We favor making this change and I
24 guess I would suggest merely that we try to
25 establish a time frame recognizing the urgency

NORA LYON & ASSOCIATES, INC.

1 of trying to get some action early enough so
2 that the water could be used during 1991. And
3 perhaps, David, we could arrive at a time now.
4 I don't know whether you have a time frame in
5 which it's kind of make or break for you, but
6 just to see if Kansas would respond within that
7 time frame.

8 CHAIRMAN COOLEY: I'm very
9 disappointed to find out that I'm virtually the
10 last loud speaker left at the table. As long
11 as McDonald was aboard there were two of us
12 that would rattle the rafters of the meeting.

13 MR. WALKER: Sorry to disappoint you,
14 Frank. Maybe I could have some lessons.

15 CHAIRMAN COOLEY: I'll give you
16 the microphone.

17 MR. WALKER: There we go.

18 CHAIRMAN COOLEY: The one comment
19 I wanted to make was this. That for many years
20 I have been very concerned about the
21 evaporation losses in the 10,000 foot of water
22 in John Martin of the Division of Wildlife.
23 And fortunately, there have been occasions when
24 the river was-- had substantial flows that we
25 were able to replenish that. And it strikes me

NORA LYON & ASSOCIATES, INC.

1 that it's almost-- it's almost tragic if we get
2 to the situation where we have the famous front
3 page picture in the Rocky Mountain News of the
4 fish flopping and dying in the mud at a fully
5 drained reservoir. So anything that I can do -
6 and we all acknowledge that anything I could do
7 would be little indeed - but anything I can do
8 to assist or facilitate the opportunity to keep
9 those minimum pools alive, I will do so. Do
10 you have anything else now?

11 MR. WALKER: Frank, if I may, I think
12 it would be appropriate to give Dennis an
13 opportunity to ask any questions that he might
14 have of David.

15 CHAIRMAN COOLEY: Oh, we turn
16 witnesses loose here to the entire arena.

17 MR. WALKER: So it's Dennis' turn.

18 CHAIRMAN COOLEY: Dennis, have at
19 it.

20 MR. MONTGOMERY: Thank you. David,
21 since there are some new members on the Compact
22 Administration, I thought it might be helpful
23 if I asked you several questions which I know
24 there are several members on the Compact
25 Administration who know the answers.

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: This is called
2 friendly cross-examination.

3 MR. MONTGOMERY: If you will permit
4 me.

5 CHAIRMAN COOLEY: It is invariably
6 a fraud.

7 MR. MONTGOMERY: First of all, could
8 you describe the project water rights which are
9 owned by the City of Trinidad which are-- which
10 you are proposing to change to municipal and
11 industrial use?

12 MR. HARRISON: The City's water rights
13 derive from interests in John Flood Ditch.
14 They own 60 percent of the Mutual Ditch
15 Company's stock and they own two second-foot of
16 water which is owned outright. Both of those
17 interests in the John Flood are accompanied by
18 a contractual interest contract with the
19 Purgatoire District to a portion of the project
20 water of Trinidad Reservoir. And I should add
21 that there's one other ingredient. There is a
22 portion of the Model Decree-- of the Model
23 account, if you will, a portion of the
24 reservoir is filled and operated a little
25 differently and is directly assigned by the

NORA LYON & ASSOCIATES, INC.

1 operating criteria to the Model Ditch Company
2 and by contract with the Model Company and the
3 City of Trinidad has 500 acre-feet of that
4 storage. That storage is important because
5 it's prior-- has a priority when it comes time
6 to refill it, and that essentially represents
7 an emergency back-up supply. It's the last 500
8 acre-feet in the reservoir.

9 MR. MONTGOMERY: And the John Flood
10 Ditch is one of a number of ditches in the
11 Trinidad project?

12 MR. HARRISON: That is correct. It is
13 one of those ditches.

14 MR. MONTGOMERY: Has the Bureau of
15 Reclamation approved the proposed amendments to
16 the operating principles which the City has
17 proposed?

18 MR. HARRISON: Yes, informally. So we
19 have had considerable review with the Bureau.
20 We have gone through this. We have made a
21 number of changes in language and some in
22 concept at the request of the Bureau. I don't
23 know that I could represent that they have
24 formally approved it, but informally they
25 have.

NORA LYON & ASSOCIATES, INC.

1 MR. MONTGOMERY: Has the Purgatoire
2 River Water Conservancy District approved the
3 proposed amendments to the operating
4 principles?

5 MR. HARRISON: Same answer. Informal
6 review, yes.

7 MR. MONTGOMERY: Did the contract
8 between the United States and the Purgatoire
9 District for the repayment of the costs of the
10 Trinidad project contemplate the possible
11 change of use of the City's water rights to
12 municipal and industrial use?

13 MR. HARRISON: Yes, it did. Paragraph
14 14 of the repayment contract does require the
15 City to pay an interest rate, they have to pay
16 at a different rate than the irrigation users.
17 But it does say that it recognizes that the
18 City owns an interest in the Model Land and
19 Irrigation Company and its project water and it
20 was anticipated that that would be transferred
21 to municipal and industrial at some time.

22 MR. MONTGOMERY: And that contract was
23 signed in--

24 MR. HARRISON: 1987.

25 MR. MONTGOMERY: Well, the original

NORA LYON & ASSOCIATES, INC.

1 contract was signed in 1966 or 1967.

2 MR. HARRISON: '67, yeah.

3 MR. MONTGOMERY: Does the City of
4 Trinidad have a contract with the State of
5 Colorado to maintain the permanent pool in
6 Trinidad Reservoir?

7 MR. HARRISON: Yes, it does. In the
8 late '70s Trinidad took that responsibility on
9 from the state.

10 CHAIRMAN COOLEY: Pardon me. How
11 much is in the permanent pool?

12 MR. HARRISON: The permanent pool is
13 4,500 acre-feet. I don't know today's contents
14 but it's something close to that. If I might,
15 Frank, the one factual background comment that
16 I wanted to make that you brought to mind, the
17 annual make-up of that permanent pool up until
18 now and even now has been accomplished through
19 the transmountain water which was exchanged up
20 there on a one-time basis. Like John Martin,
21 as you indicated, we are depending totally on
22 that wet period and we are about to run to the
23 end of our string. There is a little bit of
24 transmountain water available to move into that
25 pool next year but not enough to make up the

NORA LYON & ASSOCIATES, INC.

1 anticipated evaporation losses. And so we are
2 really at the point now when we have got to
3 start coming up with a reliable yearly source
4 of replenishment. We can't count on
5 transmountain any more.

6 MR. MONTGOMERY: And finally, if the
7 Compact Administration were to approve the
8 proposed amendments to the operating
9 principles, would that make the Water Court's
10 approval of the changes of water rights which
11 you have proposed unnecessary?

12 MR. HARRISON: No, it would not make
13 it unnecessary. It would make it an awful lot
14 simpler. It would eliminate the chicken and
15 egg problem. It would also, I think, comfort a
16 lot of the objectors to know that this whole
17 thing has been reviewed, understood and
18 approved by the major parties on the river.
19 The Court will still-- even if it's only a
20 rubber stamp, will still have to finish its
21 change of water rights.

22 MR. MONTGOMERY: Well, just so I'm
23 clear, because it would seem to me that more
24 than a rubber stamp, that the objectors in the
25 Water Court proceeding, the Colorado water

NORA LYON & ASSOCIATES, INC.

1 users, have a full opportunity before the Water
2 Court--

3 MR. HARRISON: Oh, yes, that's right.

4 MR. MONTGOMERY: -- to raise any
5 objections that they have to the change of
6 water rights, the historic consumptive use
7 issues.

8 MR. HARRISON: You are absolutely
9 right. I'm sorry, Dennis, when I said rubber
10 stamp, I was perhaps being hopeful. But my
11 point is that I think that an approval by the
12 Administration will facilitate the settlement
13 of that. If it doesn't, we may have a trial in
14 the Water Court. All of the objectors are
15 still entitled to their complete review and day
16 in court on this proposal.

17 MR. MONTGOMERY: That's my only point
18 is that I don't think the Compact
19 Administration's approval of changes to the
20 operating principles will in any way preclude
21 any Colorado water user from having a day in
22 court before the Water Court and objecting to
23 any of the change of water rights the City is
24 proposing.

25 CHAIRMAN COOLEY: You have now

NORA LYON & ASSOCIATES, INC.

1 seen an excellent demonstration of friendly
2 cross-examination. A sweetheart deal if there
3 ever was one. Do you have a question?

4 MR. GENOVA: Yes, David, weren't were
5 there some additional rights that were acquired
6 by the City of Trinidad that were in the
7 construction area of the reservoir?

8 MR. HARRISON: Yes, there is. And
9 there is a separate Water Court case that
10 involves that. The Corps of Engineers acquired
11 interests in five different water rights when
12 they condemned the land under-- or initiated
13 condemnation for the land under the reservoir.
14 They settled those condemnation cases and in
15 that settlement the water rights that were
16 associated with that land was conveyed to the
17 Corps of Engineers. It was understood at the
18 time that those would be used for permanent
19 pool make-up. They were subsequently-- the
20 water rights were subsequently assigned to the
21 State of Colorado through a lease under which
22 the State of Colorado took on the
23 responsibility of maintaining the permanent
24 pool. In the late '70s the State of Colorado
25 contracted with the City of Trinidad to make up

NORA LYON & ASSOCIATES, INC.

1 the permanent pool and assigned or subleased, I
2 guess, if you will, those same water rights to
3 the City of Trinidad. One of those water
4 rights that's the most important is the Antonio
5 Lopez Ditch. It's a very senior water right
6 and we have worked out pretty much with the
7 objectors a transfer of 141 acre-feet of
8 consumptive use under Antonio Lopez and agreed
9 that if that whole thing goes through that we
10 will abandon the interests under the other
11 ditches, that 141 acre-feet would then be
12 available in a flexible time manner each year
13 to help contribute to the evaporation make-up.
14 That case is not finally resolved yet either
15 but I'm hopeful that we might reach that point
16 fairly soon, and if not, we will have to set
17 that one for trial. There has been some
18 confusion about that, Carl. People have asked,
19 "Well, is the Antonio Lopez part of the project
20 and how does that factor into these operating
21 principles and the Compact Administration and
22 so forth?" The simple answer is, no, it is not
23 part of the project and never was. It is a
24 separate unrelated water right. The operating
25 principles do not affect the Antonio Lopez at

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 all. They don't have to be modified to
2 accommodate that change but that case is going
3 on and everyone should know about it. The
4 annual make-up of evaporation averages around
5 300 acre-feet, so the Corps of Engineer water
6 rights, the Antonio Lopez takes care of a
7 little less than half of them. We have got to
8 have some of the rest of this water available
9 to take care of the other half.

10 MR. GENOVA: Thank you.

11 CHAIRMAN COOLEY: Are there any
12 other questions, friendly or unfriendly?

13 MR. MACDOUGALL: On behalf of the
14 District, I support Mr. Harrison's
15 presentation.

16 CHAIRMAN COOLEY: Thank you,
17 Sandy. Anything else?

18 MR. HARRISON: Steve, do you-- Steve
19 Clark at the Bureau is here as previously
20 introduced and I represented that we have been
21 working with the Bureau. Steve, do you need to
22 make any comment at this point?

23 MR. CLARK: David, I don't think so.
24 I think that you have eloquently presented your
25 case. And I don't have anything to add to that

NORA LYON & ASSOCIATES, INC.

1 other than we are attempting to cooperate,
2 accommodate the beneficial use of the water.

3 MR. HARRISON: Thanks.

4 CHAIRMAN COOLEY: Thank you very
5 much, Mr. Harrison. Does that conclude?

6 MR. HARRISON: It does, except that we
7 would like to get this time table lined out if
8 possible, Mr. Cooley. I would hope that the
9 Administration could commit to concluding a
10 review by perhaps April 1, so that if there is
11 some formal action that must be taken after
12 that it can be done prior to the commencement
13 of the irrigation season.

14 CHAIRMAN COOLEY: Well, as I heard
15 the colloquy, it seems to me it's a matter more
16 under the control of Mr. Pope and the time
17 table and needs of the State of Kansas. So I
18 will simply buck the question to Mr. Pope.

19 MR. POPE: Thank you, Frank. David,
20 if I understood you, you said April 1 would be
21 a pretty good target?

22 MR. HARRISON: I suggested April 1,
23 yeah.

24 MR. POPE: Suggested target. Let me
25 just say that we believe we can operate within

NORA LYON & ASSOCIATES, INC.

1 that time frame. We will do our best to
2 operate within that time frame. And I at this
3 point in time don't see any reason why that
4 can't be done.

5 MR. HARRISON: And is it feasible to
6 do a telephonic meeting or some kind of a
7 meeting on a special meeting basis in the late
8 April, May time frame? Is that a practical
9 approach for the Administration?

10 CHAIRMAN COOLEY: I certainly have
11 no objection to it and Mr. Pope-- both States
12 are nodding in agreement. Mr. Harrison, I
13 really think under the circumstances that you
14 have come an extraordinary distance and that it
15 best be left right there.

16 MR. HARRISON: We appreciate it very
17 much. I agree, this is good progress for us
18 and I am very much appreciative of the
19 Administration's approach to it. Thank you.

20 CHAIRMAN COOLEY: Thank you.

21 MR. SIMMS: Mr. Harrison, one final
22 question. There is no particular reason why
23 you have selected April Fool's Day, is there?

24 MR. HARRISON: It was better than tax
25 day, Richard.

NORA LYON & ASSOCIATES, INC.

1 MR. SIMMS: Well, I say that only if
2 you are listening to your narrative from Mr.
3 Montgomery.

4 CHAIRMAN COOLEY: Oh. Okay.
5 We'll move away from that one right now. I
6 don't have a spare pad on which to make an
7 attendance list. Is there one down there, has
8 someone got a spare legal pad? Fine. If you
9 would start it over with Dennis, we will start
10 an attendance list across the table and around
11 the room. Mr. Simms-- well, pardon me. I want
12 to ask Sandy a question first. Sandy, are your
13 people here now?

14 MR. MACDOUGALL: No, sir, but if you
15 are ready to go I am.

16 CHAIRMAN COOLEY: Well, hold on
17 for just a second. Mr. Simms, we will
18 accommodate you in any way you desire. There
19 is a short presentation of the Geological
20 Survey that I would think would be a benefit
21 and then I might make a short recess if it
22 would enable the people-- give them a better
23 chance. However, depending on your needs, we
24 are all ready to proceed at once with Mr.
25 Macdougall's presentation. The choice is

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 yours, sir.

2 MR. SIMMS: I think what we would like
3 to do if possible is if you think it's in the
4 general interest to take a short break to do
5 that, but to proceed with Mr. Macdougall's
6 presentation ahead of the GS presentation.

7 CHAIRMAN COOLEY: Okay. Fine, we
8 will do that. It's half past the hour. We
9 will take a break of eight and a half minutes.
10 We will be back in business at 20 minutes
11 before the hour.

12 (THEREUPON, a short recess was
13 had).

14 CHAIRMAN COOLEY: We are going to
15 circulate the attendance list. Bratvold's
16 prices for the photographs are quite
17 reasonable. If there are a couple of orders
18 for 8 by 10s-- well, if there were three for
19 the 8 by 10s, they come to \$20 and the 5 by 7s
20 would be three-- about \$14 or something like
21 that. But these are-- I just think these
22 photographs are once in a lifetime things and
23 he has done such good work. I'm sure, also,
24 that if we order 8 by 10s he will crop-- I
25 noticed there was one with Frank and some of

NORA LYON & ASSOCIATES, INC.

1 the senior members that they are bunched
2 together and there's a lot of trim on the
3 photograph and I know Bratvold will do a good
4 job. So the hell with the cost, just figure
5 someone else is paying for it or it's
6 Christmas. Yes, Tom?

7 MR. THOMSON: We have only seen one
8 set. Is there a second set floating around?

9 CHAIRMAN COOLEY: It's a different
10 set entirely, and starting with number nine.
11 And has it gone that way? It hasn't, it got
12 hung up. I will tell you what I'm going to do,
13 I'm going to circulate that bunch over here and
14 then I will put it through the Kansas
15 delegation later. The second set is going
16 around and both sets will precede the sign-up
17 sheet, put your photograph orders on the second
18 page at the sign-up sheet and we'll get them to
19 Bratvold. Mr. Macdougall, front and center, if
20 you please, sir.

21 MR. MACDOUGALL: Part of my people are
22 here.

23 CHAIRMAN COOLEY: Good. The
24 better part, I can tell.

25 MR. MACDOUGALL: The faster part.

NORA LYON & ASSOCIATES, INC.

1 Good morning, Mr. Cooley, Mistfers. My name is
2 Macdougall, I am the lawyer for the Purgatoire
3 River Water Conservancy District, which is the
4 contracting agency that operates the Trinidad
5 project. I would like to start off by saying
6 that as far as the Purgatoire District is
7 concerned, whatever the Administration does
8 concerning the request of the City of Trinidad
9 on the proposed amendments by them to the
10 operating principles will not be taken by us as
11 any precedent. I agree with Mr. Harrison that
12 the two proposals are really different. Their
13 proposal is something that the District has
14 contemplated since the project was first
15 proposed to Congress in the 1950s. It's always
16 been understood that the City of Trinidad would
17 participate in the project, it's always been
18 understood the City of Trinidad would convert
19 some agricultural water for municipal and
20 industrial uses as well as recreational uses.
21 And from the District's point of view that is a
22 much needed thing in the City of Trinidad and
23 in Las Animas County, Colorado. The economy
24 there could use more industrial operations.
25 It's not the world's foremost economic area

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 right now, so anything that the Administration
2 can do to assist the City of Trinidad we would
3 certainly appreciate and we don't intend to
4 take it as a precedent on our request.

5 To get to the request of the Purgatoire
6 River Water Conservancy District, I have handed
7 out to the two sides, Kansas and Colorado, four
8 copies each of a short hand-out. And I have
9 given one to the Chairman. It's something you
10 have already seen before and it basically is a
11 copy of Table 1 and Table 2 from the Bureau of
12 Reclamation's final report on the review of the
13 Trinidad Project Operating Principles. Also,
14 attached is a letter from the Bureau of
15 Reclamation to Governor Hayden dated October
16 18th, 1989 and a copy of the proposed amended
17 operating principles. All of these documents
18 are in the record of the proceedings of the
19 Administration from last year and these are not
20 new. They are merely things that I selected
21 from last year's record and I will get to the
22 reason I selected them in a moment.

23 First of all, I would like to tell you why
24 we are here. In the December of 1984 meeting
25 of this Administration the Administration asked

NORA LYON & ASSOCIATES, INC.

1 the Bureau of Reclamation if it would fulfill
2 one of the Kansas conditions to the operating
3 principles and review the Trinidad project and
4 its operations with the goal of determining the
5 effect on Kansas water users and other Colorado
6 water users from the operation of the Trinidad
7 project. The Bureau undertook that review and
8 we went through four years of discussions, more
9 than three meetings in Denver, much
10 engineering, computer operations and finally in
11 December of 1988 the Bureau concluded their
12 review with a final report called Trinidad
13 Project Colorado Review of Operating
14 Principles. This document is in the records of
15 the Administration from the meeting of December
16 of 1988 and contains the Bureau's conclusions,
17 not Kansas' conclusions, not Colorado's
18 conclusions and not the District's
19 conclusions. This contains the Bureau's
20 conclusions having fulfilled a review that was
21 required by the condition agreed to between
22 Kansas and the Purgatoire District in the 1960s
23 when the project was first approved. Following
24 that report the Bureau and the District
25 negotiated toward amendments to the operating

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 principles as suggested in the conclusions and
2 recommendations. Conclusions and
3 recommendations are on pages 55, 56 and 57 of
4 this report, they are not in the documents that
5 I handed out this morning. The proposed
6 amendments which are in the documents I handed
7 out this morning were then transmitted by the
8 Bureau to the Governor of Kansas on October
9 18th of 1989. The letter that is in those
10 documents indicates that the Bureau and the
11 District have negotiated and agreed upon
12 amendments of the operating principles as
13 required by the operating principles and review
14 and approval of the Governor of Kansas was
15 sought.

16 Now, the Kansas condition concerning
17 review and approval is Condition Number 2 and
18 it says, "Any subsequent amendment of the
19 operating principles," this is on the very last
20 page of what I handed out this morning. "Any
21 subsequent amendment of the operating
22 principles should be subject to review and
23 approval of the same interests as provided for
24 in the original procedure." The review the
25 Bureau did was pursuant to Condition Number 4

NORA LYON & ASSOCIATES, INC.

1 which is also there, which says that, "Five
2 years after beginning operation of the Trinidad
3 Reservoir for irrigation purposes the operating
4 principles be reviewed to determine the affect,
5 if any, the operation has had on other
6 Colorado, Kansas water users and the principles
7 amended as necessary." Now, it's the
8 District's position that the Bureau report says
9 that it's necessary to amend principles. The
10 Bureau and the District have agreed on an
11 amendment as set forth in the letter to the
12 Governor and we are now attempting to tender
13 the amendments for review and approval. On
14 December 12th of 1989, the District also
15 tendered the proposed operating principles to
16 this Administration for review and approval. I
17 forwarded to all members of the Administration,
18 except I didn't know the new members' names
19 or-- I didn't know there was new members, I'm
20 sorry-- on November 9th pursuant to Mr. Pope's
21 request through Mr. Jencsok, a copy of the
22 package which was in the record last year. I
23 don't know if the new members have those or not
24 and if you don't, I will try and get that for
25 you. At any rate, what happened last year

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 before this body was that the State of Kansas
2 took the same position that the Governor had
3 taken in response to the Bureau of Reclamation,
4 which is that the operating principle
5 amendments were somehow involved in the Supreme
6 Court case called Kansas vs. Colorado and that
7 therefore the state did not wish to take a
8 position.

9 I'm here again this year. I will be here
10 again next year. I don't know how many times
11 we have to come back, but we do-- we did
12 promise to seek review and approval of the same
13 interests. Now, Mr. Simms suggested that there
14 is a chicken and egg problem. My belief is
15 that this is how we did it last time around in
16 the '60s. What really happened in the '50s and
17 in the '60s was that the Compact Administration
18 approved before the Governor of Kansas did and
19 the Compact Administration approval was related
20 to the Water Court case only in the fact that
21 the Water Court case had to be concluded. In
22 other words, Compact Administration review and
23 approval was not a prerequisite in the '60s to
24 the Colorado change of water rights case. They
25 were then sought concurrently and came in a

NORA LYON & ASSOCIATES, INC.

1 manner that shows to me they are unrelated
2 historically. In other words, they are two
3 separate things. Now, obviously both the
4 Compact Administration and the Water Court are
5 aware of each other and so ought to be
6 interested in what the other is doing. Like
7 the City of Trinidad, the District has filed a
8 lawsuit in District Court, Water Division
9 Number 2 called 88-CW-21. It seeks Water Court
10 approval of a change of the District's water
11 rights to allow amendments to the operating
12 principles to work. Principal among those
13 amendments are two things that Kansas objects
14 to. One of them is what Mr. Spronk has termed
15 rollover and I guess we can't change the name
16 of it. It's an administrative transfer of
17 water previously stored from a 20,000 acre-foot
18 pool that everybody calls the Model pool to a
19 39,000 acre-foot pool that everybody calls the
20 joint use pool. It's a paper transfer. It's
21 administrative. It is quite a bit like the
22 paper transfers that go on under the 1980 John
23 Martin Operating Plan. I'm not saying it's the
24 same but I'm saying to understand how the
25 transfer operates, all you have to do is

NORA LYON & ASSOCIATES, INC.

1 understand the 1980 operating plan and the
2 water moves from one account to another account
3 still inside the reservoir.

4 The other thing that Kansas does not
5 approve, to my knowledge, is the storage of
6 winter direct flow rights in the joint use
7 39,000 acre-foot pool. Kansas takes the
8 position that that water must be stored within
9 a 20,000 acre-foot per year limit. The
10 District does not agree. I should point out
11 that the project water with one exception is
12 pre-Compact water rights. As a matter of fact,
13 if you look at the operating principles on page
14 six you will-- that's not in front of you
15 either, but I will just tell you that our
16 oldest water right has a priority date, which
17 means in Colorado that was first used on that
18 date of November 30th, 1861. Our most junior
19 water right, which is listed on that page is
20 dated June 12th, 1920. In other words, except
21 for the silt control storage right, which is
22 junior to the Compact and can only be stored
23 when John Martin is reasonably expected to
24 spill or is spilling, all of our water rights
25 are pre-1920. And what we are really doing is

NORA LYON & ASSOCIATES, INC.

1 taking a number of pre-1920 water rights and
2 re-administering them through the project,
3 through the reservoir. The consumptive use of
4 these water rights has always been at
5 Trinidad. The acreage we are now irrigating is
6 acreage that was always irrigated. It's all
7 pre-Compact. The thing that is post-Compact,
8 besides this junior silt control storage right,
9 is the dam. And that is why the consent of the
10 Administration and of the Governor of Kansas
11 was sought by the Bureau of Reclamation.
12 Whenever the Bureau builds a new dam they must
13 seek the consent of downstream states so long
14 as part of that state is west of the 99th
15 Meridian. The 99th Meridian is just east of
16 Dodge City. But I want to emphasize that the
17 project water is pre-Compact water operating on
18 pre-Compact irrigated lands. The only thing
19 that's post-Compact is the dam.

20 Now to the hand-out that I gave you today,
21 the first two pages of the hand-out are pages
22 six and seven from the Bureau's final report of
23 December, 1988 and they show a re-analysis of
24 historic flows for 1925 through 1957, which
25 were done by a computer model by the Bureau.

NORA LYON & ASSOCIATES, INC.

1 And you will note that there is a net effect on
2 John Martin inflow column on all of the pages.
3 You may also note that there are negative
4 numbers, sometimes net effect on John Martin
5 inflow. Now, the runs have numbers that are
6 clear to the left. And to figure out what that
7 means, you have to look at the pages in the
8 report that have the runs on them. They are
9 described at the top. But "H" means historic;
10 "R" means reconstructed model reservoir; 39
11 means a 39,500 acre-foot joint use pool
12 assumed; "NOWBP" means no winter by-pass. You
13 can figure that out by looking at the other
14 tables. But at any rate what I'm trying to
15 point out today is that the negative numbers
16 are all-- net effect John Martin inflow
17 negative numbers are all the result on runs
18 that include an assumption that the joint use
19 pool is 39,500 acre-feet in size. That was
20 taken care of by the Bureau in their
21 negotiations with the district by the provision
22 on the bottom of page eight of the amended
23 operating principles-- proposed amended
24 operating principles which limit the water we
25 can roll over or make administrative transfer

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 of to either 19,500 acre-feet per year or the
2 amount required to place 39,500 acre-feet in
3 the irrigation capacity of the reservoir.
4 39,500 is the 20,000 acre-foot so-called model
5 pool plus a limitation of 19,500 acre-feet on
6 the silt control pool or rollover which brings
7 the operation within positive limits on net
8 effect on John Martin in Tables 1 and 2 from
9 the Bureau's report.

10 I feel that the Administration has a duty
11 to review and approve the proposed amended
12 operating principles. The Administration asked
13 for the Bureau's review in 1984, the Bureau did
14 it at no small cost. The parties had serious
15 disagreements during the Bureau review. The
16 Bureau decided some of those disagreements,
17 dodged some others. I think it's obvious which
18 ones they dodged. They dodged most legal
19 questions as you can tell from reviewing page
20 one of the report. And I think it's imperative
21 that the Administration do something. In
22 essence, we are in a Catch-22, if you will,
23 because the amended operating principles say we
24 will tender these things for your approval. We
25 have done so, no one has reviewed them. I

NORA LYON & ASSOCIATES, INC.

1 think there has got to be a time when that
2 review and approval is no longer going to be
3 required if you are not going to review it.

4 With that I would request, again, this
5 year that the record contain the same documents
6 which I tendered last year, that will shorten
7 the record quite a bit, I think. And if I
8 might, Mr. Chairman, could the record contain
9 the documents I tendered last year?

10 CHAIRMAN COOLEY: What you mean, I
11 take it, is that the minutes of this meeting
12 show that for the purposes of this meeting
13 those same documents shall be recognized?

14 MR. MACDOUGALL: Yes, sir.

15 CHAIRMAN COOLEY: Not that they
16 will be physically attached to the minutes of
17 this meeting.

18 MR. MACDOUGALL: That was what I was
19 suggesting.

20 CHAIRMAN COOLEY: Well, unless
21 there's objection, I will so rule to save
22 duplication and copying costs and in the
23 interests of efficiency.

24 MR. MACDOUGALL: Thank you, sir. I
25 don't know if my people came or not. They did

NORA LYON & ASSOCIATES, INC.

1 not yet. I have nothing further, Mr. Chairman,
2 unless there are questions or comments.

3 CHAIRMAN COOLEY: Well, I'm sure
4 there are going to be both questions and
5 comments. What I would like to do partly for
6 my own benefit is to recognize questions as to
7 what is being proposed to be done first, and
8 then open the discussion to procedural matters
9 as to, for example, whether or not the Compact
10 Administration should take action. That is to
11 say questions on what is proposed by the
12 District will be considered first, and only
13 then will we get into the discussion of what to
14 do with Mr. Macdougall and his clients.

15 MR. SIMMS: Mr. Chairman?

16 CHAIRMAN COOLEY: Yes, Mr. Simms?

17 MR. SIMMS: In deference to your
18 comments, I would suggest, however, that the
19 representatives from the State of Colorado as
20 well as yourself and the representatives from
21 the State of Kansas fully understand what has
22 been proposed. And I think we might short cut
23 things considerably if we could go straight to
24 the issue that Mr. Macdougall presents.

25 CHAIRMAN COOLEY: Of what action

NORA LYON & ASSOCIATES, INC.

1 to take--

2 MR. SIMMS: That's correct.

3 CHAIRMAN COOLEY: -- with respect
4 to the consideration and review?

5 MR. SIMMS: We are prepared to address
6 that.

7 CHAIRMAN COOLEY: All right, and I
8 note your comments. Are there any questions
9 from Colorado as to the request itself rather
10 than what shall be done with it?

11 MR. WALKER: No, I think the
12 discussions have been adequate for this. I
13 think we need to hear what Kansas-- how Kansas
14 views the issue.

15 CHAIRMAN COOLEY: Okay. I note
16 your comment.

17 MR. ROLFS: I'm sorry. We can't hear
18 down here.

19 CHAIRMAN COOLEY: He concurred.
20 He substantially concurred with Mr. Simms.
21 Notwithstanding that, I'm going to allow a
22 question or two from the people in attendance
23 here as to the factual matters in the
24 proposal. Does anyone have any question on
25 what the proposals Mr. Macdougall is presenting

NORA LYON & ASSOCIATES, INC.

1 are? Both states are satisfied that they have
2 an understanding. Is there anyone else that
3 needs more light? Mr. Simms, clearly the
4 matter goes now to the State of Kansas and
5 their comments on the ultimate question of how
6 to proceed or whether to proceed.

7 MR. POPE: Mr. Chairman, I believe at
8 this point I would ask Mr. Simms to make some
9 comments on behalf of the State of Kansas.

10 MR. SIMMS: Mr. Chairman, Mr.
11 Macdougall, initially I would like to comment
12 on three things that you stated, Sandy. One,
13 you have indicated that this matter presented
14 before the Compact Administration was quite a
15 bit like the John Martin account transfers.
16 Kansas would like to state for the record that
17 it does not believe that is correct at all,
18 quite the contrary that the present proposal is
19 quite unlike the economy--

20 CHAIRMAN COOLEY: Please keep your
21 voice up for the benefit of those in the back
22 row and the court reporter.

23 MR. SIMMS: I concluded by saying that
24 Kansas believes that the matter presented
25 before the Compact Administration is quite

NORA LYON & ASSOCIATES, INC.

1 unlike the economy existing at John Martin
2 Reservoir. You also indicated that the Bureau
3 or at least some of their runs show
4 post-project depletions. I would point out as
5 well that the Bureau looking at it from another
6 direction has also indicated-- well, I think
7 you indicated that the Bureau has concluded
8 that there would be no post-project
9 depletions. What I would like to point out is
10 that the Bureau, looking at it from a different
11 direction, has concluded quite the contrary,
12 that there would be post-project depletions.
13 Thirdly, you made reference to the joint use
14 pool and indicated your view that you could
15 store above and beyond the 20,000 acre-foot
16 model decree right in the joint use pool. It
17 is Kansas' opinion that it was contemplated at
18 the time that the joint use pool be utilized to
19 the extent it could for the possibility of
20 storing other water rights, that is, rights
21 other than the model decree rights.

22 With that, let me go directly to your
23 proposal. On November 2nd, 1989, Mr.
24 Macdougall, you wrote to the Arkansas River
25 Compact Administration formally requesting that

NORA LYON & ASSOCIATES, INC.

1 the Administration review and approve the
2 proposed operating principles for Trinidad Dam
3 and Reservoir project. Previously on October
4 18th, 1989, Roger Patterson, the Bureau's
5 Regional Director, wrote Governor Hayden
6 requesting Kansas' review and approval of the
7 proposed operating principles. Governor Hayden
8 responded by letter of November 22nd, 1989
9 stating that the issues raised by the proposed
10 amended operating principles were framed in the
11 pleadings in Kansas vs. Colorado and would be
12 addressed in due course there. He, therefore,
13 objected to any amendment of the operating
14 principles which would potentially interfere
15 with the issues that were being litigated in
16 the U.S. Supreme Court.

17 At the annual meeting last year on
18 December 12th, one of the agenda items was
19 labeled - and I'm quoting - "Proposed revisions
20 to the Trinidad Project Operating Principles,"
21 end quote, essentially the same item enumerated
22 as Item 12 of today's agenda. At that meeting,
23 Mr. Macdougall, you made a presentation for the
24 Purgatoire River Water Conservancy District
25 wherein you provided copies of the letters I

NORA LYON & ASSOCIATES, INC.

1 have mentioned along with certain other
2 documents. You also stated that the Arkansas
3 River Compact Administration approved the
4 present operating principles on June 7th, 1967
5 by resolution, which resolution requires, in
6 your words, quote, "That if the principles were
7 proposed to be amended they would be tendered
8 to the same entities which approved the
9 principles in the first place," end quote. You
10 then noted your disagreement with the State of
11 Kansas and you characterized Kansas' position
12 as follows, and I'm going to quote you from the
13 transcript at page 81 of the proceedings last
14 year. Quote, "The District does not agree with
15 the position previously taken by Mr. Pope in
16 his letter of November 17th, now reiterated by
17 Governor Hayden in his letter of November 22nd,
18 that the proposed operating principles need be
19 approved by the Master in the Supreme Court
20 case called Kansas vs. Colorado. As a matter
21 of fact, we don't think that the issue of the
22 proposed operating principles is before that
23 Master. We don't think he has any authority to
24 review or approve those principles. We think
25 that that is something which this

NORA LYON & ASSOCIATES, INC.

1 Administration undertook. We agree to it,
2 everybody else agreed to it, so we request
3 respectfully based on Exhibits E through H and
4 the letter from the Governor, I guess we will
5 call that I, that the Administration proceed to
6 review and approve the principles based upon
7 the Bureau's report and the documents that are
8 in the record there and available to the
9 Administration," end quote. In response to
10 that, Mr. Macdougall, I want to-- well, at the
11 time I reiterated Kansas' position as stated by
12 Mr. Pope in his letter of November 17, 1989 to
13 Mr. Cooley, the Administration's Chairman and
14 our Federal Representative, and in Governor
15 Hayden's letter of November 22nd to Roger
16 Patterson, the Bureau's Regional Director. In
17 this regard I want to make it clear that we
18 believe the statements that I just quoted is a
19 mischaracterization of Kansas' position.
20 Kansas has not taken the position that, quote,
21 "The proposed operating principles need be
22 approved by the Master, end quote," in Kansas
23 v. Colorado.

24 We agree with you, Mr. Macdougall, that
25 the Special Master in that case does not have

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 the authority to approve amendments to the
2 operating principles. We also agree with you
3 that, and I'm quoting you, "That is something
4 which this Administration undertook," end
5 quote. Kansas' position has been and remains
6 that it does not want to interfere with the
7 Supreme Court's authority and jurisdiction in
8 Kansas vs. Colorado.

9 There are three issues presently before
10 the Supreme Court, related issues in Kansas'
11 opinion. One is whether post-project
12 depletions to the inflows to John Martin
13 resulting from Colorado's and the District's
14 violations of the operating principles have
15 violated the Arkansas River Compact. The
16 second issue is whether Colorado's unilateral
17 rejection of the resolution of June 7, 1967
18 violates the Arkansas River Compact. The third
19 is whether the Colorado State Engineer's
20 failure to comply with Colorado Revised Statute
21 37-80-104 constitutes an expressed or implied
22 violation of the Arkansas River Compact.

23 Kansas has never stated nor has Kansas
24 suggested that its sovereign prerogative under
25 the resolution of June 7, 1967 to review or

NORA LYON & ASSOCIATES, INC.

1 disapprove or review and approve and/or
2 disapprove proposed amendments to the operating
3 principles has been relegated to the Supreme
4 Court.

5 In sum, let me state the following for the
6 State of Kansas. One, by formal action under
7 Article VIIID of the Arkansas River Compact,
8 the State of Colorado agreed with the State of
9 Kansas on June 7th, 1967, in exchange for
10 Kansas' approval of the Trinidad project which
11 would not have been constructed absent that
12 approval, that any amendment to the operating
13 principles could not be done without the
14 approval of both states. Two, the United
15 States Supreme Court will not approve or
16 disapprove the existing operating principles or
17 any amendments proposed thereto. Three, the
18 Supreme Court has certain issues before it but
19 they do not include passing on Kansas'
20 prerogative to approve or disapprove proposed
21 amendments to the operating principles. Four,
22 Kansas has reviewed the amendments proposed by
23 the Purgatoire River Water Conservancy
24 District. And, finally, five, Kansas would
25 like to see a vote on the proposed amendments.

NORA LYON & ASSOCIATES, INC.

1 Before voting, however, and I understand that
2 Colorado may be reluctant to make a motion in
3 this regard, but before voting, Kansas would
4 like to hear any further bases for the proposed
5 revisions. As Bill McDonald put it last year
6 in his letter of November 20, 1989, to you, we
7 are especially interested-- because the
8 Purgatoire River Water Conservancy District
9 must comply with Colorado law in its
10 operations, we are especially interested in
11 your rendition, Mr. Macdougall, of the One Fill
12 Rule under Colorado law. Following that, I
13 think Mr. Pope would like to invite a vote.

14 CHAIRMAN COOLEY: Point of
15 clarification, I stayed with you pretty well.
16 In the last couple of sentences would you help
17 me out on the One Fill Rule and how that was
18 within your statement?

19 MR. SIMMS: That is what I'm hoping
20 Mr. Macdougall will help us out with. It has
21 been--

22 MR. MACDOUGALL: He is seeking legal
23 advice, Mr. Cooley.

24 MR. SIMMS: No. I'm seeking only an
25 explanation that we have never been able to get

NORA LYON & ASSOCIATES, INC.

1 of your justification-- the District's
2 justification for refilling under what we see
3 to be a finite Model Decree right, the 20,000
4 acre-foot pool more than once a year.

5 CHAIRMAN COOLEY: Now, it's my
6 recollection that the state engineer from
7 Colorado has a position with respect to the One
8 Fill Rule which presumably is in effect now.
9 Is that not your understanding?

10 MR. SIMMS: As far as we know the
11 state engineer does not have a position. The
12 state engineer has not provided us with a
13 position. We have requested the State of
14 Colorado to outline its position, and to date
15 the State of Colorado has declined to do so.
16 But given the fact that Mr. Macdougall is in
17 the Water Court and as he noted before, he will
18 quite independently have to persuade the Court
19 that he is not doing more than one fill by
20 rolling over, Kansas is interested in his, as I
21 say, rendition of the One Fill Rule.

22 CHAIRMAN COOLEY: Mr. Macdougall?

23 MR. MACDOUGALL: I would be pleased to
24 render my opinion on the One Fill Rule, Mr.
25 Cooley. Colorado water law is a usufructuary

NORA LYON & ASSOCIATES, INC.

1 property right which is basically the same as
2 it was when the miners came to Colorado in the
3 1860s. And in those days it was designed in
4 order to promote the use of water and at the
5 same time have it be orderly. It has evolved
6 since then through judge-made law and
7 legislative law to what we have today which
8 remains basically a law designed to promote the
9 maximum utilization of the finite resource that
10 we have each year that flows off the mountains,
11 of water. The present Colorado law includes
12 cases which indicate that a reservoir storage
13 right may not be filled more than once a year
14 and I think the leading case indicates that you
15 can't fill a bucket more than once because if
16 you do fill it, it will overflow. The position
17 of the Purgatoire River Water Conservancy
18 District in the case called 88-CW-21, where I
19 will have to answer this question of Mr.
20 McDonald and Mr. Simms is that Colorado water
21 law has one other unique property which is that
22 you may change water rights, either through
23 court or, in essence, through administrative
24 practice, if it doesn't hurt any other vested
25 water right.

NORA LYON & ASSOCIATES, INC.

1 Every day in Colorado there are change of
2 water right cases that are tried based upon
3 engineering principles allowing a change. And
4 the changes that are allowed are limitless
5 provided it does not impact any other vested
6 water right. My burden in the Colorado Water
7 Court will be both the burden of going forward
8 and the burden of proof that the practice of
9 rollover does not materially affect the vested
10 water rights of others. That includes not only
11 the immediate water rights that are nearby but
12 other water rights in the Arkansas basin.

13 I intend to use the Bureau's final
14 report. It has been given to all of the
15 objectors in the Colorado case to prove that
16 based upon the Bureau's computer studies there
17 is no harm to the John Martin Reservoir by the
18 practice called rollover or the storage of
19 winter water outside of the 20,000 acre-foot
20 pool, provided we don't roll over more than
21 19,500 or have more than 39,500 in storage.
22 There is no diminution to a vested water
23 right.

24 Now, John Martin Reservoir does not have
25 what we would call a Colorado water right. It,

NORA LYON & ASSOCIATES, INC.

1 instead, has the Compact which is enforced as
2 of the day of the Compact. It is, therefore,
3 junior to the Model Reservoir and junior to
4 most of the water rights of the Trinidad
5 project. Nonetheless, I must prove that the
6 consumptive use and the return flows are the
7 same after rollover as before. I believe that
8 it is lawful under Colorado law to store water
9 in a reservoir continuously every day so long
10 as it does not injure the vested water rights
11 of others. That's my legal opinion. I suspect
12 that there are persons who disagree with that
13 statement. I suspect they will come forward in
14 the Water Court.

15 MR. SIMMS: I would like to ask you
16 two questions in that regard. Am I correct in
17 understanding that the District is not applying
18 for a new water right?

19 MR. MACDOUGALL: No, sir. We are
20 applying for a change of the water right.

21 MR. SIMMS: Would it be your view,
22 reporting with your lawyer-like presentation,
23 that any owner of a storage right in Colorado
24 under his existing right could apply to the
25 Water Court to build an adjacent storage

NORA LYON & ASSOCIATES, INC.

1 structure and quote "roll over" under his
2 existing right into an adjacent physical
3 facility?

4 MR. MACDOUGALL: I think without
5 adding one more issue, and that is whether it
6 injures the vested rights of others, I can't
7 answer the question. The answer is if it
8 doesn't harm anybody else it can be done.

9 MR. SIMMS: So I understand you to say
10 that it is your position that the owner of a
11 storage right in Colorado can increase his
12 right or obtain a new right in the guise of
13 rollover if it does not harm someone else?

14 MR. MACDOUGALL: Yes, sir. As a
15 matter of fact, you can do anything as long as
16 it doesn't harm someone else. You can take a
17 direct flow right and change it to storage.
18 You can take a storage right and change it to
19 direct flow. You can take the right to use to
20 irrigate ten acres of land and irrigate 100.
21 You can take the right to use to irrigate 100
22 acres of land and irrigate ten. The test in
23 Colorado is the injury to the vested water
24 rights of others.

25 MR. SIMMS: I believe, Mr. Macdougall,

NORA LYON & ASSOCIATES, INC.

1 Mr. Chairman, that the State of Kansas
2 understands Mr. Macdougall's position. We do
3 find it a curious one in light of Colorado
4 Revised Statute 37-87-107. And in light of
5 such cases as Orchard City Irrigation District
6 vs. Whitten; Windsor Reservoir Canal Company
7 vs. Lake Supply Ditch Company; Fort Lyon-- or
8 Holbrook Irrigation District vs. Fort Lyon
9 Canal Company, and the City of Westminster vs.
10 Church. Notwithstanding that we obviously
11 don't share your view, Mr. Macdougall, I would
12 like to turn Kansas' discussion of this
13 position back to Mr. Pope to see if we might
14 obtain a vote.

15 CHAIRMAN COOLEY: Well, if we have
16 a motion we'll have a full discourse first.
17 And I'm never going to interfere with a motion
18 of either state in this Compact. And it's my
19 intention, unless the procedure is demonstrated
20 to be wrong, that we proceed to discussion now
21 as fully as we may, always preserving the right
22 to make a motion to have a vote at any time.

23 MR. SIMMS: Well, I think we may need
24 to have a motion made first.

25 CHAIRMAN COOLEY: Well, if a

NORA LYON & ASSOCIATES, INC.

1 motion is made, so be it, but I'm going to keep
2 the discussion going until that moment.

3 MR. POPE: I guess my question, then,
4 Mr. Chairman, is whether or not our colleagues
5 from the State of Colorado would like to place
6 the matter on the table in the form of a
7 motion? It seems like it's probably logical
8 that since it's a Colorado entity that it would
9 be a clear prerogative to do so.

10 CHAIRMAN COOLEY: Well, there is a
11 certain impetus towards having some sort of a
12 vote, but in any event there is going to be a
13 full discussion first. Is there any comment
14 from the State of Colorado at this time, or
15 question?

16 MR. WALKER: Yes, Mr. Chairman, I
17 think that it would be helpful to continue the
18 dialogue and I would like to give Mr.
19 Montgomery the chance to ask some additional
20 clarifying questions.

21 CHAIRMAN COOLEY: Mr. Montgomery?

22 MR. MONTGOMERY: Thank you, Mr.
23 Chairman. I'm a plodder and I have trouble
24 keeping up with the racehorses, so I have a few
25 questions for Mr. Simms. You described

NORA LYON & ASSOCIATES, INC.

1 Governor Hayden's letter of November 22nd of
2 1989 in which he responded that the issues
3 presented by the proposed amendments to the
4 operating principles were framed by the
5 pleadings in Kansas vs. Colorado and would be
6 addressed in due course in that proceeding and
7 that he objected to any consideration which
8 would interfere with the consideration of those
9 issues in Kansas vs. Colorado which is what I
10 understood to be Kansas' position before the
11 Administration last year. I guess I am
12 confused. Are you now changing the position
13 taken by Governor Hayden? Do you believe these
14 issues are no longer before the Special
15 Master?

16 MR. SIMMS: No, I don't believe we are
17 changing that at all, Mr. Montgomery. First of
18 all, what was expressed in Governor Hayden's
19 letter was an understandable reluctance on the
20 part of the State of Kansas to interfere with
21 matters being litigated. Some of those issues
22 were indeed framed by the pleadings-- or
23 related issues indeed framed by the pleadings
24 in this case. The case has proceeded far
25 enough, as you know, on this point so that we

NORA LYON & ASSOCIATES, INC.

1 know how the issues are framed currently in
 2 those proceedings. They were stated precisely,
 3 as I stated them here, before the Special
 4 Master a few weeks ago. They do not include
 5 relegating to the Supreme Court the prerogative
 6 of the State of Kansas to vote on proposed
 7 amendments to the operating principles. That
 8 is a matter-- is a matter that has been taken
 9 care of by joint resolution of the states of
 10 Colorado and Kansas.

11 That issue not being before the Court, we
 12 feel it appropriate to proceed to vote.

13 MR. MONTGOMERY: Well, then, what is
 14 the issue that is framed in the pleadings in
 15 Kansas vs. Colorado that is presented by the
 16 proposed amendments to the operating
 17 principles?

18 MR. SIMMS: As I just indicated, those
 19 related issues have been defined since Governor
 20 Hayden wrote his letter in November of '89. We
 21 now know what they are. We now are certain
 22 that they do not include-- and I think we are
 23 certain in November of '89 as well, that they
 24 do not include the prerogative of the State of
 25 Kansas to approve or disapprove proposed

NORA LYON & ASSOCIATES, INC.

1 amendments, consequently we are prepared to
2 vote.

3 CHAIRMAN COOLEY: The State of
4 Kansas or the Special Master, whose
5 prerogative?

6 MR. SIMMS: The prerogative is that of
7 the State of Kansas. It is not the prerogative
8 of the Special Master or the Supreme Court.

9 MR. MONTGOMERY: Well, I think I
10 followed that point, but what I did not-- I'm
11 still having trouble following-- is there any
12 issue before the Special Master which is
13 presented by the proposed amendments to the
14 operating principles?

15 MR. SIMMS: We believe there are
16 related issues, but notwithstanding those
17 issues, we believe that we understand or the
18 State of Kansas understands its position on the
19 District's proposal and the State of Kansas is
20 prepared to vote and has invited Colorado's
21 motion to do so.

22 MR. MONTGOMERY: Well, then, let me
23 continue on. You stated that one of the three
24 related issues before the Supreme Court was
25 whether post-project depletions resulting from

NORA LYON & ASSOCIATES, INC.

1 - and I will use your word - violation of the
 2 operating principles violates the Arkansas
 3 River Compact. Is that-- did I correctly state
 4 one of the three related issues which are
 5 before the Special Master?

6 MR. SIMMS: I believe so.

7 MR. MONTGOMERY: Well, is it the State
 8 of Kansas' position that any change to the
 9 operating principles which results in a
 10 depletion, which goes beyond the depletion
 11 shown in the 1964 operating studies prepared by
 12 the Bureau of Reclamation, constitutes a
 13 violation of the operating principles and,
 14 therefore, would not be approved?

15 MR. SIMMS: It is Kansas' position
 16 that that is a question that we will debate in
 17 court. Our question here-- I mean, our
 18 position here has been clearly stated twice, I
 19 believe. And quite aside from the Bureau's
 20 report, it is Kansas' view that it obviously
 21 need not rely solely on the Bureau's report, it
 22 can rely on its own generation of information
 23 or any other information it receives. But it
 24 retains its prerogative to vote on the issue.
 25 I don't think we need to attempt to posture

NORA LYON & ASSOCIATES, INC.

1 ourselves vis-a-vis the litigation. We have
2 indicated solely that Kansas retains its
3 prerogative to vote and has invited your
4 motion.

5 MR. MONTGOMERY: Well, are you going
6 to inform the District or the State of Colorado
7 what criteria you are going to apply in voting
8 on the proposed amendments to the operating
9 principles?

10 MR. SIMMS: We will inform the
11 District and the State of Colorado of our vote
12 on the proposed operating principles.

13 MR. MONTGOMERY: But not the reasons
14 for your vote?

15 CHAIRMAN COOLEY: I don't think
16 that would be necessary, Mr. Montgomery.

17 MR. MONTGOMERY: I'm sorry, Mr.
18 Chairman, did you say that would not be
19 necessary?

20 CHAIRMAN COOLEY: That's right.

21 MR. MONTGOMERY: Well, I would
22 certainly beg to differ as it is-- and I
23 believe the District can take whatever position
24 it feels, but I think that under the proposed--
25 or the conditions to the operating principles

NORA LYON & ASSOCIATES, INC.

1 that the right to review and approve amendments
2 to the operating principles cannot be
3 arbitrarily withheld and that a refusal to
4 provide a basis for rejecting proposed
5 amendments to the operating principles is not
6 acting in good faith and is an arbitrary action
7 on the State of Colorado-- or State of Kansas.

8 CHAIRMAN COOLEY: Well, your
9 begging is noted on the record but when Kansas
10 votes yes or no it does not have-- as the
11 ruling of the Chair, it doesn't have to justify
12 its vote. Are you approaching a point, Dennis,
13 where you would make a motion on the proposed
14 changes to the operating principles?

15 MR. SIMMS: We agree, Mr. Montgomery,
16 that the Administration cannot arbitrarily
17 withhold review and approval, that's why we
18 invited your motion on behalf of one of your
19 political subdivisions.

20 MR. MONTGOMERY: Well, then, I will
21 ask again, what criteria does the State of
22 Kansas intend to apply with regard to any
23 proposed amendment to the operating
24 principles? There have been studies that have
25 been performed by the Bureau of Reclamation

NORA LYON & ASSOCIATES, INC.

1 which have shown that with certain terms and
2 conditions that the average inflow to John
3 Martin Reservoir would not be decreased beyond
4 what the inflow was during a pre-project
5 condition and is that sufficient in the-- from
6 the standpoint of the State of Kansas to permit
7 approval of amendments to the operating
8 principles? And if not, are there any other
9 additional terms and conditions which the State
10 of Kansas would propose or consider which would
11 permit amendment to the operating principles?

12 MR. SIMMS: I think the answer to that
13 question, Mr. Montgomery, was stated well by
14 the Special Master in a decision he handed down
15 in October of 1988 wherein he stated that the
16 report of the Bureau provides valuable
17 information but may not necessarily provide the
18 sole source of information upon which to base a
19 decision. Accordingly, we again invite
20 Colorado to make a motion on behalf of its
21 political subdivision.

22 MR. MONTGOMERY: Well, Mr. Simms, I
23 don't think you responded to my question other
24 than you have said that you may have other
25 additional information.

NORA LYON & ASSOCIATES, INC.

1 MR. SIMMS: Mr. Montgomery, both the
2 State of Colorado and the State of Kansas have
3 voted on enumerable resolutions or motions over
4 the history of this Compact Administration and
5 have simply registered their vote. They have
6 done so because they believe they have reason
7 to do so and a basis upon which to exercise
8 that sovereign prerogative. The Compact calls
9 for the exercise of that prerogative. The
10 resolution of June 7, 1967 specifically calls
11 for it. Again, we invite your motion.

12 MR. MONTGOMERY: I guess I would like,
13 first, a statement whether you intend to
14 respond to my questions.

15 CHAIRMAN COOLEY: Well, pardon
16 me. Would the motion, Mr. Montgomery, be in
17 the nature of shall there be consultation and
18 review, or would the motion properly be to the
19 changes of the rules of operating procedure?
20 Let me ask that one.

21 MR. MONTGOMERY: I don't think there
22 has been any motion made at this point.

23 CHAIRMAN COOLEY: Exactly.

24 MR. MACDOUGALL: Mr. Chairman, on
25 behalf of the District, I seek review and

NORA LYON & ASSOCIATES, INC.

1 approval based on the record we now have, which
 2 includes the Bureau's 1988 report and the
 3 documents I tendered last year. It seems to me
 4 administratively-- from an administrative law
 5 standpoint, I need to make a record, I have got
 6 a record. If there is other evidence I guess
 7 you need to decide that.

8 CHAIRMAN COOLEY: No. Where I am
 9 principally in confusion at this time is
 10 whether there are two elements requisite, the
 11 first element being a review phase and the
 12 other one a decision on the proposed-- on the
 13 proposed amendments to operating procedures.
 14 That's where my brainette has taken me at this
 15 time.

16 MR. SIMMS: Mr. Chairman, we sense a
 17 great reluctance on the part of Colorado to
 18 make the motion.

19 CHAIRMAN COOLEY: Reluctance or
 20 confusion, yes, Mr. Simms.

21 MR. WALKER: Mr. Chairman, hoping to
 22 exercise my prerogative as a newcomer to this
 23 issue, I would like to request a brief recess
 24 for an opportunity to consult with my
 25 colleagues.

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: I think standing
 2 at ease at this time would be beneficial but I
 3 don't want it to drag on too long. What is
 4 your suggestion as to time? I have about 18
 5 minutes before the hour.

6 MR. WALKER: There are several of us
 7 that need to check out and do a couple of other
 8 logistical things.

9 CHAIRMAN COOLEY: I will be trying
 10 to bring the meeting back to order at the
 11 hour. And has the attendance list circulated
 12 out here? It's on the floor in front. Has it
 13 made all three segments of the group? Okay.
 14 And have any of you at all, by show of hands,
 15 ordered any photographs on that thing? I see a
 16 couple of hands go up, fine. The meeting will
 17 be at ease until approximately the hour when I
 18 will make some loud noises.

19 (THEREUPON, a short recess was
 20 had).

21 CHAIRMAN COOLEY: We took a recess
 22 a few moments ago to find a way to make
 23 progress with the proposals by Mr. Macdougall.
 24 David, do you wish to proceed, or, Dennis, how
 25 do you propose?

NORA LYON & ASSOCIATES, INC.

1 MR. WALKER: I wish Dennis to proceed.

2 CHAIRMAN COOLEY: Okay.

3 MR. MONTGOMERY: Mr. Chairman, Kansas
4 has agreed that the right of review and
5 approval of the Trinidad project operating
6 principles cannot be arbitrarily withheld,
7 which we think is a step in the right
8 direction. I would like to propose a
9 resolution which would adopt a standard for the
10 review and approval of proposed amendments to
11 the operating principles. And the proposed
12 amendment would read as follows, "Whereas
13 condition number two of the five conditions of
14 the State of Kansas to the Trinidad project
15 operating principles provides that any
16 subsequent amendment of the operating
17 principles should be subject to review and
18 approval of the same interests as provided for
19 in the original procedure; and whereas
20 condition number four of the five Kansas
21 conditions provides that five years after the
22 beginning-- five years after beginning
23 operation of the Trinidad reservoir for
24 irrigation purposes, the operating principles
25 be reviewed to determine the effect, if any,

NORA LYON & ASSOCIATES, INC.

1 the operation has had on other Colorado and
 2 Kansas water users and the principles amended
 3 as necessary; and whereas the Bureau of
 4 Reclamation has conducted a review of the
 5 operating principles, and whereas the
 6 Purgatoire River Water Conservancy District has
 7 submitted proposed amendments to the operating
 8 principles to the Compact Administration for
 9 review and approval, and whereas the Purgatoire
 10 River Water Conservancy District has submitted
 11 documentation to support the proposed
 12 amendments; now, therefore, the Compact
 13 Administration shall approve the proposed
 14 amendment-- amendments if they will not
 15 materially deplete the usable inflows to John
 16 Martin Reservoir beyond the average annual
 17 depletions during the period 1925 through 1957
 18 as determined in the Bureau of Reclamation's
 19 prior studies." End.

20 CHAIRMAN COOLEY: Mr. Walker, does
 21 Colorado make that resolution?

22 MR. WALKER: Yes.

23 CHAIRMAN COOLEY: Is there any
 24 discussion?

25 MR. POPE: I think there is, yes.

NORA LYON & ASSOCIATES, INC.

1 MR. SIMMS: Mr. Chairman, at first I
2 would like to point out that Kansas has agreed
3 that a vote on the matter that Mr. Macdougall
4 has brought before the attention of the
5 Administration should not be arbitrarily
6 withheld. That is the extent of Kansas'
7 agreement. Kansas in no way has given up in
8 making that agreement its sovereign right to
9 exercise its authorization to vote in the way
10 it deems appropriate. Secondly, the
11 fundamental flaw with the resolution as posed
12 by Mr. Montgomery is that instead of keeping
13 the issue in this case or the issue in-- before
14 the forum of the Administration separate from
15 the issues in Kansas vs. Colorado, Mr.
16 Montgomery has framed the proposed resolution
17 in the form of Colorado's argument before the
18 United States Supreme Court. And by that forum
19 I'm alluding to his condition that the
20 resolution be predicated on the view that there
21 would be no depletions to the inflows of John
22 Martin Reservoir based on a simulation
23 pre-project through the 1925-1957 operating
24 studies earlier performed by the Bureau in 1961
25 and amended in 1964. Because Kansas does not

NORA LYON & ASSOCIATES, INC.

1 want to drag the issues pending before the
2 Court into this proceeding but rather wants a
3 simple vote based on Colorado's motion on the
4 matter presented by Mr. Macdougall, Kansas
5 cannot vote on the matter as articulated by Mr.
6 Montgomery.

7 CHAIRMAN COOLEY: Any other
8 discussion? Mr. Macdougall?

9 MR. MACDOUGALL: Mr. Chairman, all I
10 would like to do is to make sure that the
11 record of this proceeding and whether or not
12 the parties' vote includes the Bureau's Review
13 of Operating Principles Final Report of
14 December, 1988.

15 CHAIRMAN COOLEY: It's my
16 understanding that that document has been noted
17 of record in prior proceedings particularly
18 those of 1988, but for the record, the
19 December, 1988 report of the Bureau of
20 Reclamation is noted.

21 MR. MACDOUGALL: Thank you.

22 CHAIRMAN COOLEY: Are there any
23 further discussions?

24 MR. WALKER: Well, I believe that the
25 State of Kansas asked us to frame a motion, we

NORA LYON & ASSOCIATES, INC.

1 think it's appropriate to ask the State of
2 Kansas to vote on it.

3 CHAIRMAN COOLEY: Well, I'm going
4 to call for a vote in a few minutes. Right now
5 what I'm seeking is any comment or discussion
6 of the motion presented but Mr. Simms has
7 indicated that Kansas can't vote on the motions
8 presented, but I, nevertheless, would entertain
9 any further discussion before I call for a
10 vote. Yes, sir?

11 MR. MACDOUGALL: Mr. Cooley, the
12 District feels that the motion by Colorado is
13 appropriate. We feel that we are in an
14 administrative proceeding and that standards of
15 criteria for determining this administrative
16 matter need to be established and in the record
17 and, therefore, the District supports
18 Colorado's motion.

19 CHAIRMAN COOLEY: Okay. Any other
20 discussion?

21 MR. POPE: Mr. Chairman, excuse me
22 just a second.

23 CHAIRMAN COOLEY: Yes, Mr. Pope.

24 (THEREUPON, an off-the-record
25 discussion was had).

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: Mr. Pope, is
2 Kansas ready to vote on the motion?

3 MR. POPE: Mr. Chairman, we are ready
4 to deal with the issue.

5 CHAIRMAN COOLEY: Okay. Calling
6 for a vote, the State of Kansas, Mr. Pope?

7 MR. POPE: Mr. Cooley, consistent with
8 the comments previously made by Mr. Simms,
9 Kansas declines to vote on the motion. We feel
10 it's inappropriate.

11 CHAIRMAN COOLEY: The State of
12 Colorado?

13 MR. WALKER: Colorado votes yes.

14 CHAIRMAN COOLEY: Under the-- my
15 understanding of the Arkansas River Compact,
16 the motion fails. And, Mr. Simms, are there
17 any other matters--

18 MR. WALKER: Mr. Cooley, we are
19 prepared to offer a follow-up motion.

20 CHAIRMAN COOLEY: I will entertain
21 a follow-up motion.

22 MR. WALKER: Mr. Montgomery will offer
23 the motion.

24 MR. MONTGOMERY: Mr. Chairman, the
25 second resolution is intended to provide a

NORA LYON & ASSOCIATES, INC.

1 factual basis for action by the Compact
2 Administration on the proposed amendments which
3 have been submitted by the Purgatoire
4 District. To save time I would simply
5 incorporate the same "whereas" clauses which
6 were proposed in the first resolution and the
7 "now, therefore" clause, which I would propose
8 would read, "That the Compact Administration
9 direct the Engineering Committee to prepare a
10 report to determine whether the proposed
11 amendments will materially deplete the usable
12 inflows to John Martin Reservoir beyond the
13 average annual depletions during the period
14 1925 to 1957 as determined by the Bureau of
15 Reclamation in prior studies and to report back
16 to the Administration within a period of 60
17 days on its findings. And if the Engineering
18 Committee cannot agree upon findings, that the
19 committee members will submit individual
20 reports on their findings within a period of 60
21 days."

22 MR. POPE: Mr. Montgomery, just to
23 clarify that, would you repeat the last
24 paragraph as related to the-- starting with the
25 report back to the Administration within 60

NORA LYON & ASSOCIATES, INC.

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

days, I believe, from there on.

MR. MONTGOMERY: Since I don't have that part written down, let me say that the purpose was to have the Engineering Committee report back within a period of 60 days. And if the Engineering Committee could not agree on the joint report to have the two members submit reports individually in the same manner as was done during the Article VIIIH investigation during 1985.

CHAIRMAN COOLEY: I question as to form whether that shouldn't be within 75 days giving the two engineers after the expiration of the 60 days another two weeks to hammer out their own.

MR. MONTGOMERY: I will amend the motion to make it 75 days as opposed to 60 days.

CHAIRMAN COOLEY: I'm going to allow the amendment. Surprise. Okay. Discussion of this motion? Mr. Simms, do you have anything to say?

MR. SIMMS: Simply reiterate what was said in relation to the previous motion. The same is true of this motion. It not only

NORA LYON & ASSOCIATES, INC.

1 brings into this forum a matter that is before
2 the court but articulates the motion in the
3 form of the argument being made by the State of
4 Colorado before the Supreme Court.

5 CHAIRMAN COOLEY: Any further
6 discussion?

7 MR. MACDOUGALL: Mr. Chairman, I don't
8 know who the Engineering Committee is.

9 CHAIRMAN COOLEY: Well, I don't
10 either, but if you hang around you will find
11 out.

12 MR. MACDOUGALL: All right. Is it a
13 standing committee?

14 MR. WALKER: No, they are sitting at
15 this point.

16 CHAIRMAN COOLEY: They are changed
17 from year to year or the chairmanship rotates
18 around. We have new members of the Compact.
19 It's a committee which is appointed at the
20 annual meeting each year.

21 MR. MACDOUGALL: So you will be
22 appointing them today?

23 CHAIRMAN COOLEY: Indeed this very
24 day.

25 MR. MACDOUGALL: On that basis--

NORA LYON & ASSOCIATES, INC.

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

CHAIRMAN COOLEY: You don't have any further comments?

MR. MACDOUGALL: The District supports the State of Colorado.

CHAIRMAN COOLEY: Is the State of Colorado prepared to vote on this motion?

MR. WALKER: Yes, we are, Mr. Chairman.

CHAIRMAN COOLEY: Colorado?

MR. WALKER: Votes yes, Colorado.

CHAIRMAN COOLEY: Colorado votes yes. Kansas, Mr. Pope?

MR. POPE: Kansas declines to vote for the reasons previously stated.

CHAIRMAN COOLEY: Based on the Chair's understanding of the Compact the motion failed. Mr. Macdougall, you have come back to the podium. Is there anything else that you would like us to give you today?

MR. MACDOUGALL: I don't know. I'm waiting for somebody else to do something. I can't make motions.

CHAIRMAN COOLEY: Okay. I think you have been pretty well motioned out, however. Are there any other motions come

NORA LYON & ASSOCIATES, INC.

1 before-- having to do with the requests of the
2 Purgatoire? I think that takes care of the
3 matter for now, Mr. Macdougall.

4 MR. MACDOUGALL: I appreciate the time
5 of the Administration. Thank you very much.
6 We will see you again.

7 CHAIRMAN COOLEY: Mr. Simms, is
8 there anything else on the menu that you would
9 like to have brought up that we could do for
10 your benefit?

11 MR. SIMMS: No, Mr. Chairman, thank
12 you.

13 CHAIRMAN COOLEY: Thank you for
14 being here, we appreciate it. The time is
15 approximately half past. We'll return to the
16 original agenda. The next item on the agenda
17 is the approval of the transcript for 1988 and
18 1989 annual meetings. Mr. Jencsok, have these
19 been circulated to both states?

20 MR. JENCOK: Colorado has reviewed
21 both the '88 and '89 transcript and I have sent
22 those to Mr. Pope and he is reviewing those at
23 this time.

24 CHAIRMAN COOLEY: Mr. Pope, is
25 Kansas prepared to proceed with these agenda

NORA LYON & ASSOCIATES, INC.

1 items? The approval of the transcript-- or we
 2 have given our own unique form of approval in
 3 the past. It was going to be that we-- that
 4 the state which was in the process of reading
 5 them approve them subject to its finding
 6 something in there. Is that appropriate?

7 MR. FOPE: Yes, I think so. I have
 8 completed-- having had these fairly recently,
 9 but I have completed the review of the '88
 10 transcript and I believe my colleagues are
 11 comfortable with that and feel that it can be
 12 approved with the changes that we have both had
 13 an opportunity to do. Just to carry on the-- I
 14 didn't quite complete my reading of the '89
 15 transcript, but would be comfortable with a-- I
 16 have seen the proposed corrections that
 17 Colorado has included. I think just with a
 18 brief further review that we would be
 19 comfortable with those and would be willing to
 20 accept the standard if that's what you are
 21 suggesting.

22 CHAIRMAN COOLEY: I'm suggesting
 23 what we have done in past years is that you
 24 make a resolution approving the '88 and '89
 25 transcripts keeping in mind that if you

NORA LYON & ASSOCIATES, INC.

1 discover typographical errors that you will
2 bring them to the attention of Colorado and
3 they will be taken care of administratively.
4 Are you ready to make such a motion?

5 MR. POPE: Yes, Mr. Chairman, I would
6 move the--

7 CHAIRMAN COOLEY: So move.

8 MR. POPE: So move.

9 CHAIRMAN COOLEY: Okay. Is there
10 a second?

11 MR. GENOVA: I will second it.

12 CHAIRMAN COOLEY: Kansas, is
13 Kansas ready to vote?

14 MR. POPE: Kansas will vote aye.

15 CHAIRMAN COOLEY: Colorado?

16 MR. WALKER: Colorado votes aye.

17 CHAIRMAN COOLEY: Okay. We'll now
18 go to the reports of officers for the year
19 1990. The Chairman has--

20 MR. MACDOUGALL: Mr. Chairman, when
21 will those be available?

22 CHAIRMAN COOLEY: I'm sure that
23 they can be Xeroxed and available to you at any
24 time. There is nothing privileged about them.

25 We have no objection to copies being made of

NORA LYON & ASSOCIATES, INC.

1 has nothing to report. But it is my
2 understanding that Carl Bentrup served this
3 organization for approximately 33 years, David.

4 MR. POPE: I believe that's correct.

5 CHAIRMAN COOLEY: And he is--
6 what's the town in Kansas, the little town he
7 is in? It's not Garden City but it's--

8 MR. POPE: Deerfield.

9 CHAIRMAN COOLEY: Deerfield.

10 Okay. But he is well in Deerfield, but it is
11 appropriate that something be said about the 33
12 years of service by Carl Bentrup and the kind
13 of a person that Carl Bentrup is. A number of
14 different thoughts come to mind in talking
15 about Carl. Certainly his character and
16 judgment and ethics need some mention or
17 deserve some mention. The service to Kansas
18 and to the Compact and, therefore, to the
19 country is worthy of note.

20 It is difficult fairly and properly to
21 assess a personality of the size and power and
22 quality of Carl Bentrup. The thing that stands
23 out most in my mind in trying to touch upon it
24 is how his great qualities are in a way typical
25 of the strength and the power of the United

NORA LYON & ASSOCIATES, INC.

1 States to meet and carry out its
2 responsibilities and its opportunities because
3 Carl is of a special class of men. And to our
4 great benefit that class has existed since the
5 settlement of this country-- who have provided
6 the leadership and the wisdom and, most of all,
7 the morality that has made this nation great.
8 I do not mean to belittle Carl by saying that
9 he is representative of a group but I point out
10 to you that the group he represents is small in
11 number but, in fact, is ever present.

12 One of the thoughts that came to my mind
13 was the type of leadership that came to this
14 country during the Civil War when regiments
15 were raised in the rural areas of this country
16 and marched off to the slaughter of the war to
17 preserve the Union. Think of the majors and
18 the lieutenant-colonels and, if you please, the
19 colonels from both north and south who led the
20 young men of this county unflinching into
21 battle, their courage, the fact that the
22 communities from which these boys, children,
23 many of them, came had the confidence and
24 knowledge that they were being led by so and
25 so. That kind of courage and leadership has

NORA LYON & ASSOCIATES, INC.

1 been present in our country from the beginning
2 and not often enough recognized or
3 acknowledged.

4 In a part of a rural state there will be a
5 banker, if you will, sometimes a sergeant,
6 sometimes a business person, often a successful
7 farmer who will, in that community, be of such
8 sterling character and such powerful leadership
9 that he is quietly recognized to be a great man
10 in his town and in his setting. This room,
11 this organization, this group of people will
12 not enjoy the-- that special quality that came
13 into the room when Carl came through the door.
14 And, yet, as I have said, Carl is not unique.
15 I do not make him out to you to be a Washington
16 or a Lincoln, but I do represent him to each of
17 you to be a person in whom each of us may take
18 great pride and patriotism or patriotic fervor
19 from having known him and having been with
20 him. And each of us, I'm sure, joins me in
21 appreciation of what it is he has given to us
22 and to each of us and it's gone far far beyond
23 the representation of the State of Kansas and
24 the Compact Administration. Each of us has
25 been enriched by knowing this man.

NORA LYON & ASSOCIATES, INC.

1 I think my thesis is that people like him
2 are responsible foremost of what we enjoy and
3 for the kinds of lives that we live and for the
4 success and the operation of our nation.

5 I will not entertain a motion that we put
6 his photograph in the next annual report
7 because I think such a motion is completely
8 unnecessary and would be surplus of that. I'm
9 satisfied that most everybody-- every person
10 here feels as I do.

11 MR. WALKER: Mr. Chairman?

12 CHAIRMAN COOLEY: Yes?

13 MR. WALKER: Colorado certainly
14 concurs in your comments and I would like to
15 inquire as to whether it would be appropriate
16 at this point to suggest to Kansas that a
17 resolution be prepared similar to one that
18 we'll consider later for Mr. McDonald so that
19 it could be prepared and considered later in
20 the agenda over the lunch hour?

21 MR. POPE: Mr. Chairman, if it is
22 appropriate for my part, I, too, appreciate
23 greatly your comments and how appropriate they
24 are. Kansas, of course, is very, very
25 appreciative of the not only long years of

NORA LYON & ASSOCIATES, INC.

1 service but the tremendous job that Carl
2 Bentrup has done for us all. And I find it
3 difficult to express that in words. I
4 certainly appreciate, again, your comments. I
5 would be very happy to-- and had been thinking
6 the same thing myself, David, that some sort of
7 a resolution or other form of recognition would
8 be very appropriate and would certainly support
9 that type of action. And perhaps we could make
10 that possible by the end of the day. If not,
11 we could certainly do it at a subsequent time.
12 We simply didn't get a chance to prepare
13 anything prior to the meeting due to the
14 circumstances but it's very appropriate, Mr.
15 Chairman, if it's in order.

16 MR. WALKER: Understood.

17 CHAIRMAN COOLEY: It will be
18 done. Report of the Recording Secretary?
19 Well, do we have anything before us at this
20 time from the Reporting Secretary?

21 MR. ROGERS: It will be covered at a
22 later time.

23 CHAIRMAN COOLEY: Okay. That will
24 be covered at a later time. Let's have the fun
25 of the annual treasurer's report.

NORA LYON & ASSOCIATES, INC.

1 MR. ROGERS: Okay. Beginning balance
2 of July 1, 1990, we started out with
3 \$34,889.61. Receipts come in with \$15,000 from
4 Colorado to \$10,000 from Kansas. Interest
5 earned since July 1 was \$1,187.11. I passed
6 out a complete disbursement of what was spent
7 to who since then. Funds, we got \$210 in the
8 checking account; the money market account is
9 \$41,252.36, leaving us a total of \$41,462.44 at
10 this time. And that is what we have done since
11 July 1, 1990. And the audit report on the past
12 year will be brought up at a later time
13 covering all that.

14 CHAIRMAN COOLEY: Obviously, we
15 haven't gained \$7,000 because one of the
16 legacies Mr. McDonald left us was trying to
17 spiral down in the amount of money we had on
18 hand which affected his sensibilities.

19 MR. WALKER: Here, here.

20 CHAIRMAN COOLEY: There we go.
21 And I think we'll defer approval of your
22 report, Jim, if it's all right, until we get
23 the audit and can go from there.

24 MR. ROGERS: Okay.

25 CHAIRMAN COOLEY: The Operations

NORA LYON & ASSOCIATES, INC.

1 Secretary. And, Bob, it's never been as much
2 fun bothering Steve as it was bothering you
3 somehow. Steve, would you please give your
4 report? I don't know why it is that we don't
5 throw as big rocks at you as we did at Bob
6 Jesse.

7 MR. POPE: We had so much practice for
8 so many years that we got into the rhythm of
9 things, I think.

10 MR. WITTE: Well, Mr. Chairman, ladies
11 and gentlemen of the Administration, it's
12 certainly not my intent to diminish the fun
13 that you have poking at the Operations
14 Secretary; however, in keeping with the request
15 from Mr. Cooley last year, I have attempted to
16 modify the form of my report to make it a bit
17 less technical at least as far as my oral
18 report, and perhaps it will diminish the
19 opportunity to take those pot shots.

20 I just wanted to perhaps summarize the
21 past year. 1990 started out as being a very
22 dry year I think both in Colorado and Kansas.
23 The Arkansas-- throughout the Arkansas Basin
24 the summer precipitation helped ease those
25 problems that were associated with the dry

NORA LYON & ASSOCIATES, INC.

1 weather conditions. If you will recall this
2 time last year the snow pack accumulations
3 throughout leading up to this time last year
4 were quite meager. And by May 1st the forecast
5 for the Arkansas River above Pueblo forecast
6 flow was only 69 percent of average, and the
7 forecast flow for the Purgatoire was something
8 like 85 percent. However, over the October,
9 '89 to September time frame, precipitation was
10 nearly average for the Arkansas Basin in
11 Colorado and the flow during the April to
12 September period for the Arkansas above Pueblo
13 turned out to be 89 percent of the '61 to '85
14 average. That's due in large part to the
15 well-above average precipitation experienced
16 during the month of July.

17 The single summer, quote, unquote, flood
18 event that was captured in John Martin
19 Reservoir occurred during July, July 21st and
20 the 26th, in which slightly in excess of 11,000
21 acre-feet was captured into the conservation
22 storage and subsequently distributed into
23 accounts as per the 1980 operating agreement.

24 At the close of the Compact year, October
25 31st, there was approximately 17,588 acre-feet

NORA LYON & ASSOCIATES, INC.

1 in storage in John Martin, which is 10,000
2 acre-feet less than even a year ago.

3 As for the prospects of the coming year, I
4 wish I could tell you everything was rosy and
5 we had heaps of snow up in the mountains but
6 such is not the case. Good news, however, is
7 that the base flows into John Martin Reservoir
8 since November 1st have been substantially
9 better than one year ago, somewhat
10 surprisingly.

11 So with that, I think I will attempt to
12 gracefully withdraw except to call your
13 attention to the details of the operations in
14 the past year have been summarized in my annual
15 report which was presented to the Operations
16 Committee last evening and I believe will be
17 submitted for approval later in the agenda.

18 The final note I would make is that the
19 annual agreement between the Water Commissioner
20 of Kansas and myself has been completed for
21 1991 Compact year. So with that, I will open
22 myself up to your pot shots and amusements.

23 CHAIRMAN COOLEY: Thank you very
24 much, Steve. I would comment that I liked the
25 format of your annual report very well and I

NORA LYON & ASSOCIATES, INC.

1 thought it was quite well-done. Are there any
2 questions for Steve? Any questions over here?

3 MR. POPE: No. I would certainly like
4 just to also offer appreciation to Steve for
5 the fine job in maintaining the tradition that
6 has occurred in terms of keeping the books. I
7 liked the style of the report as well, so I
8 appreciate that. The only question I guess I
9 would pose would be just in general terms.
10 It's knowing the-- generally the evolution of
11 water availability that's occurred in the last
12 few years in respect to the '80s, have you done
13 any kind of a further characterization of just
14 how last year, for example, stood in respect to
15 the previous few years? Were the mid '80s, for
16 example, way above normal? Have you done any
17 analytical, just off the top of your head
18 summary of that as compared to, say, last year
19 and the year before? I know we have seen this
20 downturn in terms of the storage in John
21 Martin.

22 MR. WITTE: David, I do not have an
23 analytical summary of that data but I do have
24 some data that shows mid-month storage in John
25 Martin over a period of-- for each month over a

NORA LYON & ASSOCIATES, INC.

1 period of ten years. It may be quite useful to
2 you and I think represents the general nature
3 of the inquiry that you are making very well
4 and would be happy to make that available to
5 you yet today. I believe I have it here with
6 me.

7 MR. POPE: That's the type of thing
8 that I was after. I think it would be
9 helpful. I think we all need to keep in
10 perspective the time period we have been
11 through and, unfortunately, what we may be
12 headed into in terms of water availability and
13 the changes up and down.

14 CHAIRMAN COOLEY: Would it be
15 relatively easy for you to do a bar graph on a
16 longer period of time on the Arkansas River on
17 one sheet of paper?

18 MR. WITTE: Over a longer period of
19 time than the ten-year period that I have
20 offered to David?

21 CHAIRMAN COOLEY: Yeah, 20, 25
22 years, something of that sort, total flow?

23 MR. WITTE: No, that shouldn't be a
24 difficult task to do.

25 CHAIRMAN COOLEY: I would like you

NORA LYON & ASSOCIATES, INC.

1 either to do that or con the Survey into doing
2 it for us, one way or the other. If it were me
3 I know which course I would take.

4 MR. WITTE: Would you like that in the
5 form of a separate submission or as a part of
6 the annual report from now on? I just need a
7 little clarification.

8 CHAIRMAN COOLEY: Since the
9 question was raised, now I'm curious as to what
10 the Arkansas River has done for the last 25 or
11 30 years.

12 MR. MONTGOMERY: Mr. Chairman, I
13 suggest that rather than trying to put that
14 burden on Steve, I believe there are a number
15 of exhibits which have been lodged by both
16 states.

17 CHAIRMAN COOLEY: You mean our
18 millions of dollars have gotten us something?

19 MR. MONTGOMERY: We probably have some
20 exhibits along the line you are looking for.

21 CHAIRMAN COOLEY: Fine. I would
22 be delighted to see such exhibits as long as
23 you don't send that truck.

24 MR. MONTGOMERY: You just have to come
25 to Pasadena.

NORA LYON & ASSOCIATES, INC.

1 MR. POPE: Dennis, that isn't where I
2 was headed, in all fairness. It was just a
3 general comment for all the water users and
4 people just to have something that was pretty
5 readily available here.

6 CHAIRMAN COOLEY: You're the only
7 fellow in the whole room who's never been
8 thought to have an evil thought, so you're all
9 right. You don't need to say a word.

10 MR. POPE: There was no hidden agenda
11 there.

12 MR. MONTGOMERY: No, I was trying to
13 help Steve out, because I'm not sure he
14 understood what you are asking for.

15 MR. GENOVA: Steve, regarding the
16 exchange of the Lamar town water, the project
17 water back at the Pueblo, that's a first, is it
18 not, an exchange of that nature?

19 MR. WITTE: To the best of my
20 knowledge the exchange made from John Martin
21 Reservoir all the way to Pueblo occurred for
22 the first time last summer as a result of these
23 operations for-- that were intended for the
24 benefit of the City of Lamar, yes.

25 MR. GENOVA: I would ask that in the

NORA LYON & ASSOCIATES, INC.

1 future any of those kind of exchanges that the
2 Compact Administration be advised before they
3 happen.

4 MR. WITTE: Okay. As the Operations
5 Secretary, certainly, and as the Division
6 Engineer I'm not categorically opposed to
7 providing that kind of advisement in advance.
8 I would like to say that I have some concern
9 about how much advance notice I could provide
10 because of the sometimes very limited windows
11 of opportunity that are available to me within
12 which to make an exchange.

13 MR. GENOVA: I understand that.

14 MR. WITTE: But I would be willing to
15 attempt to make some advisement in advance of
16 such operations in the future to the
17 Administration in some form or another.

18 CHAIRMAN COOLEY: Mr. Jesse, do
19 you have any questions that you would like to
20 ask Operations?

21 MR. JESSE: No.

22 CHAIRMAN COOLEY: Opportunity of a
23 lifetime, Bob. Does anyone else have any
24 questions?

25 MR. HOWLAND: Mr. Cooley, I would like

NORA LYON & ASSOCIATES, INC.

1 to come to the defense on the operations of the
2 exchange back upstream. We didn't have any
3 choice really because of the way the project
4 water is handled. We couldn't release it out
5 of John Martin and the Administration would not
6 allow the City of Lamar on the account of John
7 Martin. So we were in a quandary, kind of
8 between a rock and a hard place. We had to get
9 it out of there and we couldn't release it
10 downstream, so the only logical thing is just
11 exchange it upstream.

12 MR. GENOVA: I would just like to know
13 about it before it happens, that's all.

14 CHAIRMAN COOLEY: Keeping always
15 in mind, the third precept of Colorado water
16 law that water flows uphill towards money,
17 which seems to apply in this case. Thank you
18 very much, Steve.

19 MR. WITTE: You're welcome.

20 CHAIRMAN COOLEY: It's noon. I
21 haven't checked out of the hotel and I'm having
22 my 14th annual lunch with the judge. We'll
23 adjourn the meeting for one hour, recess the
24 meeting for one hour. Be back here at 1
25 o'clock.

NORA LYON & ASSOCIATES, INC.

1 (THEREUPON, a noon recess was
2 had; WHEREUPON, an off-the-record discussion
3 was had).

4 CHAIRMAN COOLEY: We'll go back on
5 the record and, let's see, we were having-- we
6 finished with the Operations Secretary and we
7 are now at committee reports. And we are going
8 to go through these things fairly rapidly.
9 This isn't a good year for us to go into detail
10 on anything because, whether the gentlemen
11 admit it or not, Pasadena is where the action
12 is on the Arkansas River this year. The
13 Administrative and Legal, and I think that
14 would have been Kansas' turn, and Bill McDonald
15 would have been the on that committee. David,
16 have you heard anything on that committee?

17 MR. WALKER: I have not.

18 CHAIRMAN COOLEY: Well,
19 apparently, nothing legal is happening on the
20 Arkansas River, so we'll pass on to the
21 Engineering Committee. And, David, it looks--
22 no, you are on that committee.

23 MR. POPE: Yes, I believe that's
24 correct. And I believe it was also my year as
25 chairman as I recall. Carl, is that correct?

NORA LYON & ASSOCIATES, INC.

1 I think it was Carl Genova and I.

2 CHAIRMAN COOLEY: I suspect that
3 it was Carl's year as chair, but it doesn't
4 matter. Is there anything to report?

5 MR. GENOVA: The Engineering Committee
6 didn't meet last year so we have nothing to
7 report.

8 CHAIRMAN COOLEY: Okay, fine, good
9 for you. That makes for a fast meeting. The
10 Operations Committee, Jim, you would be on that
11 committee.

12 MR. ROGERS: Yep. We did have a
13 meeting last night and the Operations Secretary
14 presented his report to us. And with the two
15 new members on the Compact that had not been
16 voted on the Compact yet, why, it was
17 discussed, and the consensus was to approve--
18 recommend approval to the Compact from that
19 meeting.

20 CHAIRMAN COOLEY: Okay. And,
21 Steve, you did not ask for the approval during
22 your report, did you?

23 MR. WITTE: No, I did not.

24 MR. ROGERS: No.

25 CHAIRMAN COOLEY: Okay, so you do

NORA LYON & ASSOCIATES, INC.

1 that now. It has been moved that the-- it has
 2 been moved-- just a minute, I got to figure out
 3 which state gets to vote on this one, I think
 4 it's Kansas' turn. It's been moved that the
 5 written report of the Operations Secretary be
 6 approved and this is the committee
 7 recommendation. Is Kansas ready to vote?

8 MR. POPE: Yes, I think so. Kansas
 9 would vote aye.

10 CHAIRMAN COOLEY: Colorado?

11 MR. WALKER: Aye.

12 CHAIRMAN COOLEY: Colorado votes
 13 aye. The report is approved. And, Steve, it's
 14 been said twice this morning but it doesn't
 15 hurt to say it a third time, that was a fine
 16 report that you submitted, good work. The next
 17 item on the agenda is the election of officers
 18 for the Compact year 1991. The Vice Chairman
 19 for Time Immemorial has been Carl Bentrup. I
 20 suspect, gentlemen, that that job may be traded
 21 around now, whereas it hasn't been in the
 22 past. Is there a nomination for Vice
 23 Chairman?

24 MR. POPE: Mr. Chairman, yes, I would
 25 place a nomination in the name of Carl Genova.

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: The name of Carl
 2 Genova has been placed in nomination. Are
 3 there any other nominations? Are there any
 4 other nominations? Are there any other
 5 nominations? Hearing none, I will entertain a
 6 motion that nominations cease and Carl be
 7 elected by acclamation.

8 MR. ROGERS: I so move.

9 CHAIRMAN COOLEY: Is there a
 10 second? It's been moved and seconded. All in
 11 favor saying aye? (Unanimous response).

12 MR. GENOVA: I have some big shoes to
 13 fill.

14 CHAIRMAN COOLEY: That was going
 15 through my mind. That was exactly where I was,
 16 that you will have to get bigger shoes.
 17 Bernice is actually the Recording Secretary,
 18 isn't she?

19 MR. ROGERS: Yes.

20 CHAIRMAN COOLEY: And is she
 21 willing to continue in that office?

22 MR. ROGERS: Yes, she is, with a few
 23 minor adjustments.

24 CHAIRMAN COOLEY: All right. Do
 25 they need to come before the Compact

NORA LYON & ASSOCIATES, INC.

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

Administration?

MR. WALKER: Later, I think.

MR. ROGERS: Yeah, that'll come later.

CHAIRMAN COOLEY: Okay, in the budget, okay, fine. Who is the treasurer-- you're the treasurer, aren't you?

MR. ROGERS: Yes.

CHAIRMAN COOLEY: All right. Jim is the Treasurer. Who is the Operations Secretary?

MR. ROGERS: Steve Witte.

CHAIRMAN COOLEY: Of course.

MR. WALKER: Could we now just approve those in mass?

CHAIRMAN COOLEY: I think we are pretty well headed that way. Is there any objection to an in-mass election of those three offices? Everyone has a certain grimace on his face that indicates that it's okay. I will entertain a motion that the Recording Secretary, the Treasurer, subject to audit, and the Operations Secretary be continued in their offices as such. Is there a motion to that effect?

MR. GENOVA: I will so move.

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: Is there a
2 second?

3 MR. POPE: Yes.

4 CHAIRMAN COOLEY: All those in
5 favor say aye. (Unanimous response). Okay.
6 That's disposed of. I keep thinking when the
7 Lion Club gives a plaque to a guy who has been
8 treasurer for 12 years and they tell him what a
9 good job he has done, they always ought to put
10 on the bottom of the plaque "subject to
11 audit." Okay. The committee appointments for
12 the year 1991. Now, all I have to go on is the
13 year ending '87. And in '87 the Kansas people
14 were the chairs of these committees and what I
15 think I have a notion of doing is other than
16 the Engineering Committee where David would be
17 chairman again, I think, I have a notion to
18 suggest to you that we break the pattern and
19 put the Colorado people on as chairmen of the
20 other two committees for another year in a row,
21 because we have two new directors from-- okay.
22 If that is so, David-- I'm sorry, David Walker
23 - I blacked out, this old age business is
24 terrible - David Walker might be the chairman
25 of that committee. And who do you recommend

NORA LYON & ASSOCIATES, INC.

1 from Kansas to be on that committee, Mr. Pope?

2 MR. POPE: We have caucused
3 internally and we would like to suggest Lola
4 Fox as the representative to the Administration
5 and Legal Committee.

6 CHAIRMAN COOLEY: Okay. Is there
7 any discussion or would there be any objection
8 to David Walker being the chair of that for
9 the-- and Lola being the other committee member
10 for the ensuing year? Seems to be all right.
11 Okay. The Engineering Committee, it would
12 strike me that-- I would think that David would
13 be the chairman and Carl would be on the
14 committee in that order, unless you're pretty
15 sure that Carl Genova was chairman last year.

16 MR. POPE: No, I'm not sure, to tell
17 you the truth.

18 CHAIRMAN COOLEY: Well, it
19 wouldn't hurt if you were made chairman, I
20 don't think it would do any permanent injury.

21 MR. POPE: It remains to be seen but
22 possibly.

23 CHAIRMAN COOLEY: All right. Then
24 on Operations, then, if you follow my
25 suggestion, Jim Rogers would be the chairman

NORA LYON & ASSOCIATES, INC.

1 and who would you want from-- I presume that
2 Randy would be the-- Randy Hayzlett would be
3 the other member of the Operations Committee?

4 MR. POPE: That's correct.

5 CHAIRMAN COOLEY: Okay. So those
6 committees will-- are deemed to have been
7 filled. The reports of the-- of Federal
8 agencies, we will commence with the Bureau of
9 Reclamation.

10 MR. CLARK: Mr. Chairman, I'm going to
11 defer to somebody who knows, I will let Bob
12 present our report.

13 CHAIRMAN COOLEY: Mr. Jesse, oh
14 what fun.

15 MR. POPE: There is justice after all.

16 CHAIRMAN COOLEY: There is
17 justice.

18 MR. JESSE: Thank you. It's good to
19 be back in any capacity and I'm glad to be back
20 for the Bureau.

21 CHAIRMAN COOLEY: You're still the
22 same Bob Jesse who is mentioned in all those
23 Colorado Supreme Court decisions, are you not?

24 MR. JESSE: Close to being the same
25 one, yes.

NORA LYON & ASSOCIATES, INC.

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

CHAIRMAN COOLEY: Okay, fine.

MR. JESSE: We won some and we lost some but was in a lot of them. I will try to be real brief, I'll give you a little run down on the Colorado project, give a few numbers first. In Turquoise we have got a 117,000 acre-feet, that includes 30,000 of Homestake, about 67 of Fryingpan/Arkansas transmountain water and about 300 feet of native water. In Twin Lakes we got 127,000 acre-feet. We have got about 27,000 Twin Lakes transmountain, about 32 Fryingpan transmountain and about 2,000 native storage and then there is, of course, the minimum pool of 63,000. In Pueblo Reservoir we have 103,960, which includes 70,000 Fry/Ark water, 3,000 other transmountain water, 18,000 acre-foot of winter water for this year, and 11,000 acre-foot of carryover winter water that will be released or run by the first of May, 1991.

CHAIRMAN COOLEY: Let me interrupt you, you know I do. Is the carryover winter water in Pueblo a subject of litigation as far as you know in Kansas vs. Colorado?

MR. JESSE: I don't believe it is.

NORA LYON & ASSOCIATES, INC.

1 The carryover-- carried over winter water will
2 have to be run or released by the first of May
3 of the following year-- or the first of May in
4 the following year from which it was stored.

5 So this water was stored in the winter of
6 1989-1990 and it will have to be run by the
7 first of May.

8 CHAIRMAN COOLEY: Please keep on.

9 MR. JESSE: We imported last year
10 about 46,000 acre-feet of Fry/Ark water. The
11 project sold 45,882 acre-feet of water and
12 there is delivered last year 28,800 acre-feet
13 of winter water. So that makes a total winter
14 water last year of 11 plus 28 or about 40,000
15 acre-feet.

16 In the project facilities, the Twin Lakes
17 work has all been completed. The old gates
18 have been removed and the berms removed and
19 Twin Lakes and its power plant are now
20 operational. The cleaning of the foundation
21 drain in Pueblo dam has been completed and the
22 contractor is off of the project and that's the
23 last work on the dam itself. The fish hatchery
24 is 99 and a half percent complete. There is
25 some minor details to be worked out yet. They

NORA LYON & ASSOCIATES, INC.

1 plan to have a full program of fish hatching
2 this year, this coming spring. The recreation
3 area is about 80 percent complete and work on
4 the campgrounds in the related facilities is
5 still proceeding. With the mild winter this
6 work should be done April, maybe May, and these
7 facilities, too, will be operational and used
8 in 1991. The Bessimer Ditch gunnite lining is
9 proceeding. This is the last year of the
10 contract. They should finish with any kind of
11 break in the weather in very good shape. It's
12 going very well. The gunniting will be
13 complete from their rating flume clear to I-25
14 all the way through town. Some of this lining
15 is ten years old and still looks good. That
16 will be one of the last features in the
17 project, so the Fry/Ark project is essentially
18 complete with these few exceptions. There is
19 some clean-up work yet to be done. There is a
20 road that needs to be repaired, some clean-up
21 work, but the Fry/Ark project is substantially
22 complete.

23 I might like to mention that the Bureau of
24 Land Management and other agencies have begun a
25 process to have Congress designate the upper

NORA LYON & ASSOCIATES, INC.

1 reach of the Arkansas River as wild and
2 scenic. The process is now on the first stages
3 of public hearings, and if designated by
4 Congress, one of the effects may be no new dams
5 or major developments.

6 One other item on the Bureau, the Bureau
7 has begun and will have completed in the year
8 1991 water treatment plant near Leadville on
9 the old Leadville mine drain tunnel. The
10 project along with the Yak Tunnel, which is not
11 part of the Bureau, but is a super clean-up
12 should remove 50 percent of the heavy metals in
13 the upper reach of the Arkansas near
14 Leadville. And when that's completed there
15 will just then remain some smaller clean-up
16 work and the remainder, the other 50 percent of
17 the heavy metals is in very small and going to
18 be hard to find point sources, but these are
19 two major sources and they should be handled at
20 this time of the year. And that's the only
21 report I have.

22 CHAIRMAN COOLEY: Several
23 questions. I'm familiar somewhat with the
24 history and the purpose of the drainage tunnels
25 underneath Dire Hill and the effort in World

NORA LYON & ASSOCIATES, INC.

1 War II to increase mineral production. If the
2 tunnels are to be plugged, I take it that the
3 deep mine workings will just slowly accumulate
4 water and heavy metals and that there will be a
5 lagoon or a lake underneath the mining district
6 with bad water in it. Is that correct?

7 MR. JESSE: I don't believe that's the
8 ultimate goal. The way I visualize the project
9 is the tunnel will be stabilized and that the
10 water will be continued to allow to drain out
11 and will be treated and the heavy metals will
12 be removed from the water and they will be
13 stored, and the water will then be released
14 into the river. So it won't store water, what
15 it will do is simply treat the water and the
16 Yak Tunnel has some of the same features.

17 CHAIRMAN COOLEY: I'm glad I asked
18 the question. The next area I wanted to quiz
19 you on was this. I'm sure that you have had a
20 hand in the lawful replenishment of the
21 division of wildlife pool in John Martin as
22 well as other stability of water from losses,
23 particularly evaporation. Would you detail the
24 circumstances under which this could be done
25 lawfully in 1992 and tell us whether you will

NORA LYON & ASSOCIATES, INC.

1 be alert to those opportunities.

2 MR. JESSE: Well, I will certainly
3 promise to do what I can to call to anyone's
4 attention any possibility of using Bureau
5 facilities or our expertise to help. There are
6 two main sources of water of the permanent
7 pool. One is the Muddy Creek rights, which is
8 administered by the Division Engineer and one
9 is Colorado River transmountain water. And if
10 it comes to my attention that there is
11 available water that could fit in the
12 transmountain category, I will certainly bring
13 it to Wildlife's attention and to the Division
14 Engineer's attention to administer or to get it
15 down there. But those are the two authorized
16 sources now for the permanent pool.

17 CHAIRMAN COOLEY: I almost
18 hesitate to bring up Trinidad again when so
19 many of the cast of characters are gone, but
20 maybe that's the only reason I'm bringing it up
21 at all, but a process of substitution for
22 Trinidad might still utilize transmountain
23 water through the Boustead Tunnel, might it
24 not, in part?

25 MR. JESSE: I'm not completely sure

NORA LYON & ASSOCIATES, INC.

1 but I don't believe-- I don't know if that's
2 possible or not being that Trinidad is not
3 within the Southeast Conservancy District. I
4 don't know if it's specifically precluded but I
5 don't believe I have heard of any move by
6 anyone to move project water or Boustead Tunnel
7 water into Trinidad.

8 CHAIRMAN COOLEY: I'm on thin ice
9 so I don't want to pursue that question. Does
10 anyone else have any questions of Bob?

11 MR. POPE: Bob, what's the proposed
12 designation of the upper reaches of the Ark
13 River as you say wild and scenic?

14 MR. JESSE: Wild and scenic.

15 MR. POPE: Is that a real recent
16 proposal and where does it stand? You
17 mentioned potential for hearings, but where
18 does it stand? Someone officially proposed
19 that, I take it?

20 MR. JESSE: It's my understanding of
21 the process that the BLM is spearheading and
22 that they will-- first, it will be proposed and
23 then Congress will have to designate it as a
24 wild and scenic-- it would be designated for
25 recreation rather than for any-- because it's

NORA LYON & ASSOCIATES, INC.

1 parallel on one side by road, the other by
2 railroad so it's not pristine to builders. But
3 the process is just now starting in the public
4 information type meetings.

5 CHAIRMAN COOLEY: The principal
6 source of income for three counties in the
7 mountains of Colorado, you would think, would
8 be rafting. The growth of that activity along
9 the Arkansas is just absolutely startling. You
10 go by and you haven't been along a stretch of
11 road for a couple of years and it's a different
12 ballgame altogether.

13 MR. POPE: Thanks.

14 CHAIRMAN COOLEY: Any other
15 questions? Pardon me, Tommie wanted his
16 chance.

17 MR. THOMSON: Mr. Pope, I know that
18 you get voluminous mail, but if you will take a
19 look at the minutes in my last board meeting
20 which we mailed out last Thursday, we had the
21 people from the BLM give a complete report to
22 the Board of Directors outlining the sequence
23 and so on, on that one. But on the Boustead
24 Tunnel question, we can't use Fry/Ark water
25 which comes through the Boustead Tunnel because

NORA LYON & ASSOCIATES, INC.

1 it's outside of our district. So the
2 transmountain water that Bob is talking about
3 is primarily Homestake that is owned by
4 Colorado Springs or Blue River water, which is
5 owned by Colorado Springs or some of the
6 transcontinental water owned by Pueblo. But
7 those are the transmountain water, but
8 certainly not through the Boustead Tunnel.

9 CHAIRMAN COOLEY: Thank you very
10 much. The next report of an agency will be
11 from the Corps of Engineers.

12 MR. KREINER: Thank you, Mr. Chairman,
13 members of the Compact Administration, you
14 should have a copy of my formal report, I will
15 just go through this and hit on a couple of the
16 highlights for you, 1990, the Corps of
17 Engineers Albuquerque District. In the
18 Arkansas Basin our activities consist of
19 reservoir regulations, flood control related
20 studies, flood plain management services and
21 the 404 regulation of dredged or fill materials
22 into our waterways. Given the relatively low
23 snow melt run-off and lack of major rainfall
24 storms during the summer months, there really
25 wasn't any flood control regulation at John

NORA LYON & ASSOCIATES, INC.

1 Martin, Trinidad or Pueblo. Although Mr. Witte
2 indicated that there was a day in July that
3 John Martin had considerable inflow, there is
4 no question that exceeded the downstream
5 channel capacity, we didn't have any formal
6 storage in the flood space at any of those
7 reservoirs. During this last year we did
8 complete a drought contingency plan for the
9 basin. This plan provides a framework and a
10 basic reference for water management decisions
11 in times of water shortages in the Ark Basin.
12 Now, the reason we did that was mainly driven
13 from our Washington office, directives from
14 there-- you don't-- the Corps has taken a
15 national lead in providing drought assistance
16 and this is coming from initiative that has
17 come out of the '88 drought and mainly in the
18 Mississippi and across the Midwest. So we have
19 prepared that document, it's available to offer
20 whatever assistance we might provide.

21 Under our flood control studies in '90,
22 the Colorado Springs feasibility study was
23 conducted and examined the potential for flood
24 control project along Fountain Creek above its
25 confluence with Monument Creek. The study was

NORA LYON & ASSOCIATES, INC.

1 terminated this last year due to a lack of an
2 economically justifiable alternative. We also
3 have another study with the City of Florence,
4 Colorado. Currently it's in early stages of
5 determining the potential for flood control
6 project which would protect the City of
7 Florence from flooding along Coal Creek. Under
8 our Small Projects Authorities there are four
9 studies underway utilizing our emergency
10 erosion control authority. Three of them are
11 on Fountain Creek at Southmore Drive, Riverside
12 Trailer Park and the Santa Fe Avenue Bridge.
13 The other is on State Highway 194 along the
14 Arkansas River, near Bent's Old Fort in La
15 Junta. One erosion control project is waiting
16 construction and that's located at the Pueblo
17 State Recreation Area on the Arkansas River
18 just below Pueblo dam.

19 In the area of our floodplain management
20 services, there has been some major changes
21 that have just occurred. Section 321 of the
22 Water Resources Development Act of 1990 has
23 provided a legislative change that requires the
24 Corps of Engineers to recover the costs of
25 services provided to federal agencies, private

NORA LYON & ASSOCIATES, INC.

1 persons and organizations. This service-- fees
2 for these services have not been set to date.
3 These services will continue to be provided for
4 state and local government at no cost to the
5 requestor. In 1990 the Albuquerque District
6 has responded to 70 such requests for technical
7 services and flood hazard evaluations at
8 specific sites within the basin.

9 Under our 404 permit authority in 1990 to
10 date, nine permits have been issued and one was
11 denied. During 1990 the Corps has been working
12 with the Bureau of Reclamation in the
13 development of a memorandum of agreement that
14 would clarify the Federal management of
15 Trinidad Lake project. Now, there has been a
16 lot of discussion on Trinidad Lake. The
17 project was built and is operated by the Corps
18 of Engineers. The Bureau of Reclamation is
19 highly involved with that due to the fact that
20 they have the contract, the repayment contract
21 with the irrigation district. They provided
22 the review of the operating principles and it
23 was thought that it would be beneficial to
24 clarify the federal role in that project, so we
25 have been working on that. It was consummated

NORA LYON & ASSOCIATES, INC.

1 and it's come to-- we have become aware that
2 there are some problems with the memorandum.
3 There is some terminology in the memorandum
4 that is not consistent with the operating
5 principles. We are going to get it taken care
6 of. We have been working with the Bureau of
7 Reclamation and talking with the State
8 Engineer's office to get the terminology
9 correct or to make the proper amendments to
10 that agreement such that there is no
11 inconsistencies between the wording, the
12 terminology in the MOA and that which is in the
13 operating principles. The agreement in no way
14 is designed to change the current operation of
15 the project.

16 Another thing of interest to the Compact
17 Administration is that the Project Manager at
18 John Martin Reservoir, Russel Smith, is leaving
19 his position there to go to Cochnee Lake which
20 is on the Rio Grande just north of Albuquerque,
21 New Mexico. He is going to be leaving in
22 February and his position there at the
23 reservoir is in the process of being filled at
24 this time. He has been there for about 13
25 years and I'm sure a great many of you and

NORA LYON & ASSOCIATES, INC.

1 folks in the audience have appreciated his
2 dedication there.

3 I might also offer, there was some
4 discussion earlier as to information on the
5 storage in John Martin Reservoir. We have
6 plots of reservoir storage, end of month
7 elevation plots, since the period of record.
8 If that would be of any use to anyone, we can
9 sure provide those.

10 CHAIRMAN COOLEY: It's the summary
11 that I think would be more interesting than
12 page-by-page, one page for each year. You
13 follow what I'm saying.

14 MR. KREINER: We could show a plot
15 that would just have one point, the end of the
16 month elevation and it would be a plot.

17 CHAIRMAN COOLEY: If you could
18 crank that out readily, I'd be delighted to
19 have you send ten of them to me and we can get
20 what we can get from the lawyers and compare
21 the two.

22 MR. KREINER: Okay. That really
23 concludes my report. I would be glad to
24 address any questions that you might have.

25 CHAIRMAN COOLEY: Thank you very

NORA LYON & ASSOCIATES, INC.

1 much. Are there any questions?

2 MR. GENOVA: Has the channel capacity
3 for Purgatoire through Trinidad been completely
4 restored now?

5 MR. KREINER: I stopped by there
6 yesterday, there is still one low water
7 crossing that's in place and the City of
8 Trinidad told me that today they were beginning
9 to block the road off and they will be removing
10 that low water crossing. And it's my
11 understanding that with removal of that low
12 water crossing that their obligation to the
13 Federal Government as it relates to maintaining
14 a channel capacity of about 15,000 will be
15 met. So part of the intents of the memorandum
16 of agreement was to posture the two Federal
17 agencies to the point where if somebody wanted
18 to possibly contract for any excess space in
19 the reservoir, they would know who to go to.
20 With the final removal of that low water
21 crossing, we will be re-allocating storage in
22 the reservoir such that excess space will be
23 made available for storage of water.

24 CHAIRMAN COOLEY: Thank you very
25 much.

NORA LYON & ASSOCIATES, INC.

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

MR. KREINER: You're welcome.

CHAIRMAN COOLEY: The next report will be that of the United States Geological Survey and that report will just flow right into the next item on the agenda which is the gaging program.

MR. CAIN: Thank you. I would like to report on several activities that the USGS has been involved with in the Colorado part of the Arkansas Basin over the last year. Some of these are updates of reports that I gave last year. And I'm not going to try to mention all of the topics or studies or data collection that we're involved in but try to focus that down to issues that the Compact may be interested in. If there's questions on things that I haven't brought up I would be glad to entertain those. We are in the, I believe, the third year of a study in cooperation with the Southeastern Colorado Water Conservancy District with some consultation from the Corps of Engineers to do what we are calling a risk assessment of extending the date of storage in the Pueblo Reservoir for the winter water from April 15th to May 15th. That study is being

NORA LYON & ASSOCIATES, INC.

1 done with considerable input from the National
2 Weather Service and really has two major
3 components. The first is to try to develop and
4 calibrate a watershed model for basin upstream
5 from Pueblo and then to use that model to
6 develop probability functions that could be
7 used to determine the risk of storing during
8 that period. The Corps of Engineers has had a
9 long-standing policy that the joint use pool
10 needs to be evacuated by April 15th. And this
11 is to try to take-- make an attempt to look at
12 that date using some fairly sophisticated
13 hydrologic techniques that have been developed
14 in the last few years. We are about completed
15 with model calibration and will be looking at
16 the probability part of the study during the
17 next six or eight months, and beginning to
18 prepare the final report on that project this
19 year with a copy to be provided to the
20 cooperating agency probably early next fiscal
21 year. We are also involved in a water use
22 project on the Fort Lyon Canal that's been
23 ongoing for about two years with the completion
24 of diversions on November 15th of this year.
25 We basically completed data collection on that

NORA LYON & ASSOCIATES, INC.

1 project and will begin report preparation
2 during this winter season.

3 One of the major new projects that we have
4 begun this year is a study to do a fairly
5 comprehensive water quality evaluation of the
6 Arkansas Basin in Colorado. The study, as I
7 believe I reported to you, last year was still
8 in the proposal phase. We actually started
9 data collection on that project in March of
10 this year. The study really has two purposes.
11 It's to define the ambient water quality
12 conditions in the basin and, also, the second
13 part of the study is to look at how water
14 operations may affect water quality in the
15 basin. The study is being done with-- at this
16 point, 13 different entities are cooperating on
17 it, entities from throughout the basin, both
18 upper, lower, cities, agricultural entities,
19 districts and Bureau of Reclamation. It's a
20 multi-year study and I mentioned that we
21 started sampling in March and we are sampling
22 eight or nine times per year at about 20
23 mainstem sites that extend all the way from
24 near Leadville to near the state line at about
25 32 tributary stations and at nine transmountain

NORA LYON & ASSOCIATES, INC.

1 diversions. If anyone has further interest in
2 that study I have got a two- or three-page
3 summary of that. It lists the entities who are
4 cooperating and gives a little more detail
5 about it.

6 I might mention that in relation to that
7 study and in part as a spin-off from some work
8 that the Bureau of Reclamation is doing at the
9 Leadville drain this year, we installed three
10 new stream gaging stations with continuous
11 recording water quality monitors in the upper
12 basin, one on the Leadville drain, one on the
13 east fork of the Ark-- and we re-activated the
14 gage on the Arkansas River near Malta.

15 The one other comment, this is kind of
16 related to plots of stream flow that Mr. Pope
17 inquired about earlier. We haven't prepared
18 anything formally in the recent past but in a
19 report that was prepared as part of our work on
20 the Arkansas Basin model, plots of stream flow,
21 precipitation, snow course for-- generally for
22 the period of record through 1980 were prepared
23 and published in a report that was published
24 and distributed about five years ago. And I
25 don't have copies of that with me today but if

NORA LYON & ASSOCIATES, INC.

1 people are interested in that, I could probably
2 make copies available or Xerox copies of
3 specific pages you might be interested in. And
4 just also in response to Mr. Cooley's comment,
5 we would be glad to work with the Division
6 Engineer in generating plots of data at
7 stations that we may operate. We have
8 continued to operate--

9 CHAIRMAN COOLEY: My theory is if
10 we get three of these, we can pick the best two
11 out of three. But if we get four, I think
12 we'll be in a terrible situation.

13 MR. CAIN: Just an offer. A couple
14 other things that are really more in our data
15 program rather than the studies part of our
16 operation, we have continued to operate the
17 stream flow network in cooperation with the
18 Compact during last year and I believe did not
19 experience any major problems with that.

20 One other point that I might mention in
21 cooperation with the Corps of Engineers we did
22 some - for lack of a better word - some flood
23 proofing at the La Junta gage to try to insure
24 that that gage would continue to operate during
25 periods of high flow. That's a key gage in the

NORA LYON & ASSOCIATES, INC.

1 Corps' operation of the John Martin Reservoir.
2 That is a gage that's operated by the State
3 Engineer.

4 Some of you may be aware that the City of
5 Colorado Springs has a Water Court decree for
6 an exchange along Fountain Creek, exchange of
7 transmountain return flows. We operate
8 basically a real-time stream gaging network to
9 help the state account for those transit losses
10 and to make that exchange. That's something
11 that we have continued to do and really this is
12 probably the second full year of operation of
13 that, but it's a different kind of operation
14 than I think we or the state have been involved
15 in in the past and takes a lot more
16 coordination than typical stream gaging
17 operation.

18 Before I talk about a specific item that
19 Mr. Cooley asked me to discuss, I think it
20 might be best to stop here and try to take
21 questions on things that I have brought up this
22 far.

23 CHAIRMAN COOLEY: Questions of
24 Doug about the USGS activities and programs.
25 David, do you have any questions?

NORA LYON & ASSOCIATES, INC.

1 MR. POPE: I don't know that I do. I,
2 again, appreciate the information and the
3 updates on the various studies and activities
4 and, likewise, the offer. I may have created a
5 avalanche of information here with my question
6 earlier, but that's fine.

7 CHAIRMAN COOLEY: You step on my
8 foot, my mouth flaps open and you get a bigger
9 response than you wanted. David?

10 MR. WALKER: I don't have anything.

11 CHAIRMAN COOLEY: Anybody in the
12 audience have any? I have had the feeling for
13 years and I have it this moment that the
14 irrigators and the people interested in the
15 Arkansas Valley do not have a sufficient
16 knowledge of the materials that have been
17 produced and are being produced by the US
18 Geological Survey. The publications on the
19 Arkansas River are extraordinary, there are a
20 lot of them. Some of them are really good
21 reading and I don't think they are
22 bestsellers. I'm just going to throw this out
23 as a suggestion. I have spent many, many hours
24 at work with the publications of the US
25 Geological Survey, hours, if not days, going

NORA LYON & ASSOCIATES, INC.

1 through there in part of my processing of those
2 works for my own purposes and uses. Would you
3 consider-- this isn't a formal request, but
4 would you consider until the next time we talk
5 the possibility of making an index of
6 publications of the USGS in the Arkansas River
7 Valley that might be of interest to Bob Jesse
8 or other people or Tommy that are charged with
9 it? Let me take a moment on that, Tommy, do
10 you-- please be at ease.

11 MR. THOMSON: No, I want to talk.

12 CHAIRMAN COOLEY: Do you feel that
13 you have got a handle on the USGS publications
14 on the Arkansas?

15 MR. THOMSON: Yes, sir, I do. As a
16 matter of fact, we entered a cooperative
17 program with the USGS about four years ago, I
18 believe, and they had one person, a librarian,
19 spend, I think, full time on the project and I
20 have a computer printout this thick at my
21 office and am now working with Doug on printing
22 it, and that lists all the GS publications, Ark
23 publications, in other words, everything that
24 we have in our library, that you have in your
25 library and, I think, the Bureau. And I was

NORA LYON & ASSOCIATES, INC.

1 going to do it this year, we have it in our
2 budget except I spent all the money for
3 engineering for a matter involving the Arkansas
4 River. So I decided to forego the publication,
5 but certainly we plan to do that next year and
6 it does include everything you're asking.

7 CHAIRMAN COOLEY: If it hadn't
8 been legal fees, it would have been all right.

9 MR. THOMSON: Well, okay. A little of
10 both but it was primarily engineering, yes,
11 sir.

12 CHAIRMAN COOLEY: That may be
13 published in the ensuing year?

14 MR. CAIN: Yes, sir, hopefully.
15 There's about 1,000 citations in there, clearly
16 not all of which are USGS citations in there,
17 probably most of them aren't, but it's got
18 1,000 citations related to water in the
19 Arkansas River Basin.

20 CHAIRMAN COOLEY: Bob, are you
21 familiar with the 1,000 publications on the
22 Arkansas River Valley?

23 MR. JESSE: Well, I didn't know there
24 was that many of them but some of them we have
25 in our files at the Bureau, but I don't know of

NORA LYON & ASSOCIATES, INC.

1 any index as such or bibliography of them. But
2 we have got some but they are not cataloged.

3 CHAIRMAN COOLEY: Well, I think I
4 proved my case with Bob. We need that
5 bibliography.

6 MR. THOMSON: Yes, sir. And we felt
7 that four years ago and that's the reason we
8 spent--

9 CHAIRMAN COOLEY: If it just means
10 taking money away from engineers, then by all
11 means get with it.

12 MR. POPE: We'll go 50/50 with you,
13 Frank.

14 MR. THOMSON: Well, if you would have
15 gone 50/50 with me on this one, I would have
16 printed the thing.

17 MR. POPE: I'm talking about lawyers
18 and engineers.

19 CHAIRMAN COOLEY: He wants part
20 taken out of the lawyers. But I have carried
21 this discussion as far as I care to. Thank you
22 very much on that point. Yeah, now, if you
23 would, please, in the other matter.

24 MR. CAIN: Okay. Mr. Cooley asked me
25 if I would bring copies to the meeting today of

NORA LYON & ASSOCIATES, INC.

1 one of the reports that we have published that
2 relates to the Arkansas Basin, and I have done
3 that. This is a report that was published
4 about four years ago, it's entitled,
5 Descriptions of Water Systems Operations in the
6 Arkansas River Basin, Colorado. It was done in
7 cooperation with the Southeastern Colorado
8 Water Conservancy District and the Bureau of
9 Land Management. This report was done as part
10 of the Arkansas Basin modeling studies that we
11 did. The need really being to define in
12 written form what we were trying to model in
13 the different systems in the basin. This work
14 was done by P.O. Abbott who many of you know.

15 CHAIRMAN COOLEY: He has been here
16 many times.

17 MR. CAIN: He is one of those kinds of
18 people who has done a lot of different jobs in
19 the basin. He worked for Bureau of Reclamation
20 for a number of years before working for USGS
21 and after retiring, went back to work for the
22 state and retired again about a year ago. But
23 this report has become, I think, kind of a
24 standard reference almost. I know the Division
25 Engineer uses it widely in trying to increase

NORA LYON & ASSOCIATES, INC.

1 the knowledge of especially new people in the
2 basin. I'm not going to go into a lengthy
3 description of it, but basically it describes
4 all the physical systems in the basin that are
5 of major size.

6 CHAIRMAN COOLEY: Let me horn in.
7 I think this report is absolutely extraordinary
8 in two respects. First, it contains a superb
9 bar chart of the Arkansas River showing the
10 relation of each ditch to every other ditch and
11 that's extraordinary and it's well-done and
12 it's immensely useful and it's a marvelous
13 teaching or learning device. But, secondly,
14 and even as extraordinary, there is a series of
15 bar charts of things like the areas around the
16 Colorado Springs for the reservoirs, the water
17 systems, the pipelines to the Air Force
18 Academy, Fountain Creek, so that the
19 relationship of each one of these major
20 structures to the other is simplified and made
21 clear and anything that makes something clear
22 to me I treasure because life seems to me to be
23 loaded with things that confuse me. And I
24 commend-- and I have asked Doug to bring these
25 and distribute them to the members of the

NORA LYON & ASSOCIATES, INC.

1515 S. TOPEKA AVE.
TOPEKA, KS. 66612

CERTIFIED SHORTHAND REPORTERS

TELEPHONE (913) 232-2545

1 Compact Administration, but I commend this to
2 each person in the room as an extraordinary
3 report and something that makes clear the
4 relationships of ditches and structures in the
5 Arkansas River Valley.

6 MR. CAIN: One other thing that I
7 might mention that I find personally
8 particularly useful is that there is a
9 full-page plate that shows all of the mainstem
10 water rights in the Arkansas listed in order by
11 priority and by right, and that's also very
12 useful.

13 CHAIRMAN COOLEY: If you memorize
14 that book you will be almost as smart as Frank
15 Milenski, is what it amounts to. There he is
16 shaking his head "no."

17 MR. MILENSKI: You got to do it the
18 hard way, man.

19 MR. POPE: Can't read a single report
20 and get there, but it helps.

21 CHAIRMAN COOLEY: There's a
22 consensus that my idea won't fly.

23 MR. CAIN: I might make one last
24 comment on this report. When we published it
25 we printed probably two or three times as many

NORA LYON & ASSOCIATES, INC.

1 copies as we normally would because we thought
2 this would be a report that would be pretty
3 widely used. In checking to see how many we
4 had left when I brought the copies today I find
5 that we have only got one box left as far as I
6 know without reprinting. So I would like to
7 make copies available but I would prefer that
8 if you already have a copy that you don't take
9 another one unless you need it. With that I
10 will-- I'm sure David has one.

11 MR. POPE: I have one, but I think our
12 new Compact members might appreciate one.

13 CHAIRMAN COOLEY: Thank you very
14 much, Doug. Is there anything else?

15 MR. CAIN: Well, I probably have an
16 additional 20 available.

17 CHAIRMAN COOLEY: Sign up here
18 because this is an opportunity that you have
19 been alerted to and it's an opportunity that's
20 going to disappear. Thank you very much. Let
21 the record show that the Chair has the
22 appointments from the State of Kansas of Lola
23 Fox and Randy Hayzlett to be Kansas
24 representatives and they're for four-year terms
25 which expire October 31st, 1994. Did you have

NORA LYON & ASSOCIATES, INC.

1 anything else?

2 MR. CAIN: The evaluation of the
3 gaging program is listed as the next item.

4 CHAIRMAN COOLEY: Pardon me. In
5 my stampede to adjourn, I ran right over you.
6 This is an important subject on the agenda.
7 Please go into the gaging systems.

8 MR. CAIN: Okay. At the Compact
9 meeting two years ago the Administration asked
10 Russ Livingston to prepare a letter discussing
11 the accuracy of the stream flow records that
12 are collected as part of the Compact, what we
13 call the Compact network that's operated by the
14 United States Geological Survey. That letter
15 was prepared and sent to the Administration in
16 February of '89 and described, oh, some of the
17 historic operation of the network and some of
18 the considerations in trying to establish the
19 accuracy of stream flow record at any site, but
20 especially at sites that have sand channels, as
21 many of the Compact network stations do. At
22 the Compact meeting last year that letter was
23 discussed and the Compact asked that we prepare
24 a proposal to do an evaluation of the network.
25 After some consultation with the two states, we

NORA LYON & ASSOCIATES, INC.

1 prepared the proposal and submitted it to the
2 Administration in May of last year. We have
3 had several discussions since then, both
4 myself-- and I discussed that with Mr. Pope and
5 Mr. Cooley and with the representatives from
6 the CWCB. I guess basically where this stands
7 right now is the decision on where to proceed.
8 This proposal was delayed until this meeting
9 and there are some concerns, I understand, from
10 both sides that need to be discussed about
11 that. So with that I think I will turn it back
12 to the Chair.

13 CHAIRMAN COOLEY: Okay. The
14 concerns are, a lot of them, affected by dollar
15 signs. What was the dollar sign on the
16 proposal of a year ago?

17 MR. CAIN: The dollar sign was-- the
18 study was proposed as a two-year study to begin
19 in October of '90 with costs during fiscal year
20 '91, which started October 1st, '90, for the
21 Compact of \$18,450, and for a small amount in
22 the following year to complete that project of
23 \$2,800.

24 CHAIRMAN COOLEY: Now, was that
25 the contribution of the Compact, 18,000, or was

NORA LYON & ASSOCIATES, INC.

1 that the total cost of which we'd bundle up,
2 2,225?

3 MR. CAIN: The 18,450 was the total
4 Compact contribution. That would be matched
5 equally by dollars from the USGS and presumably
6 the Compact would split that amount out.

7 CHAIRMAN COOLEY: Okay. As I
8 recall, there was almost unanimous view from
9 the States that the work was worthy to be done,
10 it needed to be done, but that there was a
11 possibility that the budgeted figure was too
12 high for either state. I'm satisfied I have
13 that right. Have you-- and this was
14 communicated to you, Doug. Have you done any
15 pencil sharpening, and do you have a plan B?

16 MR. CAIN: I guess we have-- our
17 pencil didn't get any sharper than it was.
18 There are some plan Bs. If the Compact is
19 interested, the study could be extended for a
20 longer period of time to make the cost in each
21 year lower than it was proposed.

22 CHAIRMAN COOLEY: Well, could you
23 do it for 6,000 a year for three years? Is
24 that one of the plans?

25 MR. CAIN: I guess we probably need to

NORA LYON & ASSOCIATES, INC.

1 go back and take a look at that, something in
2 that ballpark might work. I guess we see--
3 from our standpoint, that it would be better to
4 get in and do the study and get out rather than
5 to drag it out for a long period of time. I
6 mean, there are some possibilities to schedule
7 it so instead of having \$18,000 in one year and
8 3,000 in the next that there could be a split
9 of approximately 12,000 or 10,000.

10 CHAIRMAN COOLEY: Twelve and six
11 or ten and eight, that sort of thing?

12 MR. CAIN: Yeah, something like that.

13 CHAIRMAN COOLEY: Okay. It seems
14 to me it's substantially between-- David
15 Walker, I'm sorry, but Gene was in on this-- in
16 on the colloquy and so was David Pope. What is
17 your pleasure and then we will ask Gene Jencsok
18 what his view is.

19 MR. POPE: I think you have probably,
20 of course, characterized it fairly in terms of
21 the concern about cost. And certainly let me
22 say that we recognize the value of doing the
23 analysis and certainly that it's not USGS
24 trying to sell us something that wasn't--

25 CHAIRMAN COOLEY: No, we requested

NORA LYON & ASSOCIATES, INC.

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

it.

MR. POPE: Yes, I want to make that clear for the audience and for everybody. We, however, I guess, were, with the limited dollars that we all have to operate with, uncertain that it was of a high enough priority that we felt we could support the contribution of funds in the magnitude that would be necessary to complete the study. We had, I guess, in our-- in my comments, I think, to others it was consistent with what I'm about to say, that we had hoped, I guess, maybe over-optimistically, that maybe there was a cheaper way to do something that would still be very helpful but not necessarily in the same magnitude that you had maybe originally intended or proposed. So I guess that fits the plan B idea that Frank mentioned. I don't know that it would really help that much in the bigger picture to spread it out over a couple of fiscal years. I'm not the sure the dollars-- it's the same dollars one way or the other. And unless there's some way to do an alternative, I'm not really sure that we are in a position to go much further unless there is

NORA LYON & ASSOCIATES, INC.

1 some good ideas that somebody else has. And we
2 are certainly willing to listen in that regard.

3 CHAIRMAN COOLEY: Let me throw it
4 to Gene. Gene, what's your view?

5 MR. JENCOSK: We have the same concern
6 that it's a major cost item that would require
7 a significant larger assessment for each
8 state. And the other question I had is that
9 study did not really clearly define what would
10 be the result of this. And what would we have
11 and how would our administration of the river
12 be significantly improved if we had the results
13 of the study? Where would we go from-- when
14 the study is finished?

15 CHAIRMAN COOLEY: Danger of the
16 study being useful in and of itself but not
17 having a lot of practical effect on the
18 administration of the river?

19 MR. JENCOSK: Not really improving the
20 administration of the river significantly,
21 that's the concern that I have.

22 CHAIRMAN COOLEY: Doug, clearly
23 this exercise was requested by us of you. So,
24 you know, you don't need to stammer, quaver on
25 that one. Do you have any comment to make

NORA LYON & ASSOCIATES, INC.

1 after those two comments?

2 MR. CAIN: Well, I guess as far as the
3 usefulness of the study in the day-to-day
4 administration of the Compact, I don't know
5 that we can predict how it would be used in
6 advance. I think certainly we may--
7 recommendations might come out of this as to
8 changes in the equipment, gaging stations,
9 changes in frequency, measurements, possibly
10 other procedures that might be used to get
11 stream flow records that might better meet the
12 needs of the Compact. I'm not going to, you
13 know-- I don't think we can pre-judge that
14 until the study would be done.

15 MR. COOLEY: David, would you feel
16 better-- would it change your view if the thing
17 were at eight and five for a total of 13 or
18 would the same problems continue to weigh on
19 you?

20 MR. POPE: As compared to the--

21 CHAIRMAN COOLEY: To the 18, 4
22 that's on there now?

23 MR. POPE: Well, see we have got
24 essentially, for the two fiscal years I have
25 now proposed right around 21,000 total and you

NORA LYON & ASSOCIATES, INC.

1 are suggesting eight and five split between two
2 fiscal years as a total contribution?

3 CHAIRMAN COOLEY: Yeah.

4 MR. POPE: That does make it,
5 certainly, much more doable. I'm not sure how
6 we define what it is that would be different
7 without talking about it some more but--

8 CHAIRMAN COOLEY: Okay. I have
9 got a way to handle that, too. Gene, would
10 that take care of some of your concerns?

11 MR. JENCOSK: Would it as far as the
12 budget, David?

13 MR. WALKER: Our share would be eight
14 or are you saying that's the total?

15 CHAIRMAN COOLEY: The total from
16 the Compact would be eight and-- the first year
17 and five the second. What I have in mind is
18 authorizing the Engineering Committee, if they
19 choose to enter into an agreement with the
20 USGS, to do that in these parameters and leave
21 it to the Engineering Committee and, you know,
22 fight it back and forth and decide if you want
23 to do it so we don't need to thrash around
24 here. And let's face it, we haven't been
25 perfectly fair with Doug, you know, we suckered

NORA LYON & ASSOCIATES, INC.

1 him into this thing and now he is up there
2 having stuff thrown at him.

3 MR. POPE: It's certainly something
4 that would require further detail to be worked
5 out.

6 CHAIRMAN COOLEY: But they have a
7 knack for that, too.

8 MR. POPE: Well, I don't know what to
9 say. If Doug thinks that's at least
10 conceivable, I don't want to put you on the
11 spot either, but if you think it's conceivable
12 to do a useful project - I know that term isn't
13 defined - but I'm certainly willing to continue
14 to pursue it. And from the standpoint of the
15 Administration, I think, looking over to David
16 Walker as well, all we really need to know is
17 whether we are willing to foot the bill at some
18 level. And obviously even that number
19 translates into several thousand dollars each,
20 what it amounts to our relative shares.

21 CHAIRMAN COOLEY: In the long
22 haul, yes, you know, you don't avoid the
23 dollar.

24 MR. POPE: I realize we have a certain
25 amount of carryover.

NORA LYON & ASSOCIATES, INC.

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

MR. WALKER: I guess, Frank, I would like to know how Steve or Hal feel about the usefulness of it.

CHAIRMAN COOLEY: Could we hear from both of you?

MR. WITTE: Well, I think sometimes when you go shopping you see a pretty bauble in the window, and then when you find the price it's just too much, so you go on down the street. And I think that's what we have here. We have a 21, \$22,000 program to evaluate the efficiencies or potential efficiencies that might be eked out of a program that only costs us \$11,000 a year. So for the study to evaluate potential efficiencies we are going to spend twice as much as it costs us for the operations in a given year. If you could eke out a ten percent efficiency, the pay-out on that might be as much as 20 years. And that just doesn't make sense to me. I think it's totally too expensive and, you know, it doesn't reflect badly on Doug. We saw something that we kind of liked but when we found out the cost of it, it's out of our budget.

CHAIRMAN COOLEY: I think the

NORA LYON & ASSOCIATES, INC.

1 origin of the thing was not only the
 2 efficiencies of the gages but the reliability
 3 and the accuracy of the information we had,
 4 that's another feature. Ken (sic), something
 5 to say on this? Hal, pardon me.

6 MR. SIMPSON: I'm not familiar with
 7 the purpose, but I'm a strong believer that we
 8 can do a lot among ourselves, and we have an
 9 engineering committee and I certainly would be
 10 willing to lend assistance with my staff to
 11 review the program in-house first with Kansas
 12 people before we step outside and spend that
 13 kind of dollars. But I haven't seen the
 14 proposal to be able to address it directly. I
 15 think we can do some things.

16 CHAIRMAN COOLEY: I think the
 17 easiest solution for us would be to refer the
 18 matter to the Engineering Committee and if we
 19 do need to go further, fine. But no one in the
 20 room has any doubt that this was a frolic that
 21 we induced you to go down, not something that
 22 you came up with.

23 MR. CAIN: Just one last comment. We
 24 would be glad to work with the Engineering
 25 Committee in some sort of an informal network

NORA LYON & ASSOCIATES, INC.

1 if that would be effective.

2 MR. POPE: I think it would be from
3 our standpoint, Frank. I think maybe Hal's
4 suggestion and together with what Doug is
5 saying might just well be something that over a
6 period of time - it's not something that has to
7 be done overnight - but something over a period
8 of time that we can take a look at and let it
9 evolve as it will.

10 CHAIRMAN COOLEY: I have before me
11 the agenda now - thank you - of the auditors
12 report, budget matters, approval of a
13 resolution for Mr. McDonald and adjournment.
14 At this time of the meeting customarily we have
15 allowed the audience to escape so that they
16 would miss out and not trouble us in the
17 excitement of the budget. Hang on, guys, hang
18 on, I may have another sentence here. Is there
19 anything else of a substantive nature before we
20 get into the glories of the budget that anyone
21 wishes to bring up? Have we overlooked
22 anything, have we missed an important one? Mr.
23 Milenski, thank you again. It's always a
24 delight to have you at these meetings. You're
25 a decoration here in this holiday season.

NORA LYON & ASSOCIATES, INC.

1 MR. MILENSKI: Well, I have been
2 coming for about 30 years and it's kind of hard
3 to miss one, you might miss something good.
4 It's been enjoyable. Thank you.

5 CHAIRMAN COOLEY: Thank you, sir.
6 You're welcome to watch the glories of the
7 budget if you wish. I can't imagine anyone
8 wanting to do that, but you are certainly
9 welcome. But we'll now attend to the internal
10 matters of the Compact Administration. Thank
11 you for your attendance.

12 (THEREUPON, a short recess was
13 had; WHEREUPON, an off-the-record
14 discussion was had).

15 CHAIRMAN COOLEY: We are back on
16 the record. I want to note that the
17 credentials from the State of Colorado have
18 reflected the appointment of David Walker, who
19 is the chairman?

20 MR. WALKER: Director.

21 CHAIRMAN COOLEY: Director of the
22 Colorado Water Conservation Board, an
23 ex-officio member of the Arkansas River Compact
24 Administration. And welcome aboard, sir.

25 MR. WALKER: Thank you.

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: It's a delight.
2 We have informally reviewed a cash basis
3 financial statement dated as of June 30, 1990
4 prepared by Anderson & Company, P.C., and
5 that's with an ampersand, which shows in
6 summary that the books have been audited in
7 accordance with generally accepted procedures,
8 that there is a balance between assets and
9 combined liabilities which are zero, and a cash
10 basis equity of \$72,701, which is composed of
11 really two areas; \$37,811 in equipment and
12 \$34,890 of unexpended funds. Is there any
13 discussion of this audit?

14 MR. POPE: Mr. Chairman, I would
15 simply move its acceptance or whatever
16 terminology we should use.

17 CHAIRMAN COOLEY: It's been
18 regularly moved that the audit be approved and
19 accepted. Is there a second?

20 MR. WALKER: Second.

21 CHAIRMAN COOLEY: All right. All
22 those in favor say aye. (Response).

23 CHAIRMAN COOLEY: Opposed no. (No
24 response). Motion carried unanimously. The
25 audit has been approved and I must comment,

NORA LYON & ASSOCIATES, INC.

1 Jim, that I like the looks of it. Now, is
2 there for our review, Mr. Jencsok, the
3 opportunity to review the current fiscal year
4 budget?

5 MR. JENCOSK: I guess that's what we
6 are supposed to be doing. Shall I lead this
7 discussion if you like?

8 CHAIRMAN COOLEY: Again, it's a
9 problem of shoes. Without Mr. McDonald on
10 budget matters, we are severely handicapped, I
11 think, all of us.

12 MR. WALKER: Give us a chance.

13 CHAIRMAN COOLEY: Please try.

14 MR. JENCOSK: I think I did a credible
15 job of putting the budget together.

16 MR. POPE: If the truth was known,
17 Gene may have been doing this all along. Not
18 taking anything away from Bill McDonald.

19 MR. JENCOSK: Actually, I don't
20 believe we need to make any changes in the
21 budget. I would like to point out one thing on
22 the operating expenses, is that instead of item
23 number two, 1988-1989 annual reports, we will
24 be printing or paying for the 1987 and 1988
25 annual report out of this fiscal year. You

NORA LYON & ASSOCIATES, INC.

1 have before read the 1987 report and that was
2 just printed. And the total cost for printing
3 that report is \$2,400. I expect that the 1988
4 report which we have passed on already will
5 cost a similar amount, \$2,500 or so. So we
6 will be-- we will have budgeted more for those
7 two reports than bills we actually expended.
8 So we will under-run this budget that we have
9 before us. And I don't think we need to change
10 anything on it.

11 CHAIRMAN COOLEY: That sounds to
12 me like good news. I hope no one has any
13 problems with that.

14 MR. WALKER: Well, I would like to
15 segue, if I may, into the next item and ask
16 that we consider-- because there is some
17 concern about the compensation for the two
18 salaried employees, and suggest that we give
19 consideration to revising this budget further
20 to suggest the annual rate of compensation for
21 both the Treasurer and Recording Secretary of
22 2,000 a year which we would be considering in
23 the next discussion item, but to make it
24 effective January 1 of '91 to reflect a further
25 increase for this year and then a full year

NORA LYON & ASSOCIATES, INC.

1 increase for the next year. I think we need to
2 recognize the value of the employees and the
3 continuity they provide and the services. And
4 I will either do it now, Frank, or in the next
5 item, suggest that this matter of salaried
6 staff and the tentative administrative work on
7 behalf of the Administration be referred to the
8 Administrative and Legal Committee for review
9 and a subsequent report.

10 CHAIRMAN COOLEY: I'm sorry,
11 Benchly type treasurer reports are the rule in
12 this organization rather than the exception. I
13 spaced out on the business of referring this to
14 committee. Could we not-- I would like you to
15 repeat it, but I also have the thought that we
16 might be able to reach consensus on the entire
17 Compact Administration just as easily.

18 MR. WALKER: I believe we probably
19 could do that on the basis of my discussions.

20 MR. POPE: Mr. Chairman, I think,
21 again, we have had an opportunity to briefly
22 discuss it. I have sensed from previous
23 comments and from those just made by David
24 Walker that the correction would be acceptable
25 to us and, secondly, the-- to follow along with

NORA LYON & ASSOCIATES, INC.

1 that, the adjustment of the existing '90-91
2 budget, which could be done by simply changing
3 items A 1 and 2 from 1,500 to 1750, which would
4 then reflect the mid-year correction followed
5 by similar adjustments for the succeeding
6 budgets to reflect the full rate of 2,000 for a
7 complete year. And, finally, I'm certainly
8 willing then for the matter to be looked at for
9 the bigger picture if we want by the
10 committee. It may or may not be necessary.

11 CHAIRMAN COOLEY: You guys have
12 left me speechless. I think we have segued
13 clear from A through small letter d.

14 MR. WALKER: See, I told you you could
15 give me a chance.

16 CHAIRMAN COOLEY: I think besides
17 that we have gone on to small letter e, which
18 is printed in invisible ink that I'm to refer
19 this to the appropriate committee. I take it
20 that there has been discussion of this.

21 MR. WALKER: Yes.

22 CHAIRMAN COOLEY: And I would
23 entertain any kind of a dippy motion that
24 either of you gentlemen might make that would
25 in effect make the adjustment to \$2,000 per

NORA LYON & ASSOCIATES, INC.

1 year for each of the employees. And then there
2 was a more subtle point that you had under Item
3 D.

4 MR. WALKER: Well, let me try to
5 rephrase what I suggested as a motion, that the
6 '90-91 budget be amended to show that the
7 salary for the Treasurer will be 1750 and for
8 the Recording Secretary 1750 and that the
9 subsequent budgets for '91-92 and I guess we
10 have got another one, '92-93 be amended to show
11 the salaries for Treasurer and Recording
12 Secretary shall be \$2,000 annually.

13 CHAIRMAN COOLEY: Each?

14 MR. WALKER: Each. And that the
15 compensation and services to be provided by the
16 two salaried employees be referred to the
17 Administrative and Legal Committee for review
18 and subsequent report back to the
19 Administration.

20 CHAIRMAN COOLEY: Mr. Pope, did
21 Mr. Walker appropriately express your motion?

22 MR. POPE: Yes, I think he did.

23 CHAIRMAN COOLEY: Is there a
24 second?

25 MR. GENOVA: I will second.

NORA LYON & ASSOCIATES, INC.

1 CHAIRMAN COOLEY: Is there any
2 discussion needed before we vote? All those in
3 favor vote aye. (Response).

4 CHAIRMAN COOLEY: Opposed nay, Mr.
5 Rogers abstaining. (No response). The motion
6 carries in all of its permutations. Okay.
7 What is left to be done under Item 14?

8 MR. WALKER: Probably nothing, Gene.

9 MR. JENCOSK: What was Item 14?

10 CHAIRMAN COOLEY: The whole budget
11 process.

12 MR. JENCOSK: Well, then we need to go
13 beyond. Actually we are done with 14A and 14B.

14 CHAIRMAN COOLEY: And we have done
15 something to 14C and to 14D as well having to
16 do with salaries only.

17 MR. JENCOSK: Right. But only-- we
18 reviewed the budget only partially. Now we
19 continue with the review of the 1991-92 budget.

20 CHAIRMAN COOLEY: Please stop. I
21 don't-- haven't been furnished a copy or I
22 didn't bring my copy or whatever.

23 MR. POPE: Mr. Chairman?

24 CHAIRMAN COOLEY: I think it would
25 be appropriate if now we would go off of the

NORA LYON & ASSOCIATES, INC.

1 record again.

2 (THEREUPON, an off-the-record
3 discussion was had).

4 CHAIRMAN COOLEY: The manner in
5 which the last resolution will be carried out
6 carries with it implicitly that the budgets of
7 each of these years will reflect the changes in
8 those two officers' salaries and the amount
9 will not change the assessments of the two
10 states but will be taken entirely from the
11 carryover. While we were off the record we
12 discussed a change in the budget for the fiscal
13 year '91-92 of increasing the amount under Item
14 C2, Printing, from \$4,000 to \$5,000. That so
15 far unofficial agreement also carried with it
16 the implication that it would be taken from
17 surplus and not affect the levies and
18 assessments made upon the two states. And we
19 will now do this one item on '91-92, Item C2,
20 for the record. Mr. Pope, have I expressed
21 that correctly, that the printing goes from
22 4,000 to 5,000?

23 MR. POPE: That's my understanding.

24 CHAIRMAN COOLEY: Is there a
25 motion to that effect, Jim?

NORA LYON & ASSOCIATES, INC.

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

MR. ROGERS: I will so move.

CHAIRMAN COOLEY: Is there a second?

MS. FOX: I would second.

CHAIRMAN COOLEY: All in favor say aye. (Response). The motion carries almost unanimously. Now we might as well go off of the record one more time.

(THEREUPON, an off-the-record discussion was had).

CHAIRMAN COOLEY: We have been discussing the budget for the fiscal year '92-93 as presented to us by Mr. Jencsok whom we now suspect was the evil genius behind the budgets all along.

MR. JENCOSK: Not evil.

CHAIRMAN COOLEY: Okay. There is a consensus that the assessments in order to provide a moderate and a minimum cushion for carryover from year to year be changed on the budget as presented from Colorado, 23,400; Kansas, 15,600, a total of 39,000 and that other than that there be no changes in the proposed budget. Do you make that in the form of a motion, Mr. Pope?

NORA LYON & ASSOCIATES, INC.

1 MR. POPE: Yes, I would and just for
2 the record, the budgets we are talking about
3 would result in expenditures of \$41,045 and
4 with the assessments as you have just stated,
5 balance of the income coming from interest and
6 any minor amount in surplus. Concerning the
7 numbers, the math will have to be done to give
8 the details.

9 MR. WALKER: Second.

10 CHAIRMAN COOLEY: Fine. Thank
11 you. I'm going to be with you in a minute. I
12 need to be straightened out on the 41,000
13 instead of the 40,000. Where did the one come
14 from in the 41?

15 MR. POPE: We needed to make that
16 adjustment to reflect the increases that we
17 just agreed upon.

18 MR. WALKER: In the salaries.

19 CHAIRMAN COOLEY: In the salaries
20 already voted upon. Okay. And there was
21 indeed, Mr. Walker, a second, was there not?

22 MR. WALKER: Yes, there was.

23 CHAIRMAN COOLEY: All in favor say
24 aye. (Response). Opposed no. (No response).
25 This motion was unanimous.

NORA LYON & ASSOCIATES, INC.

1 MR. JENCOSK: Let me add one thing. I
2 would clean up the budgets and send those to
3 Jim Rogers for his signature and then Jim will
4 send them to the Compact members.

5 CHAIRMAN COOLEY: Fine, fine. We
6 have a resolution before us of-- as to Mr.
7 McDonald. Have you prepared such a
8 resolution?

9 MR. WALKER: Yeah.

10 (THEREUPON, an off-the-record
11 discussion was had).

12 MR. WALKER: I would move the adoption
13 of the resolution honoring J. William McDonald.

14 CHAIRMAN COOLEY: Is there a
15 second?

16 MR. POPE: Second.

17 CHAIRMAN COOLEY: All those in
18 favor vote aye. (Response). Opposed no. (No
19 response). Motion carried unanimously. Is
20 there any other business of anyone in the room
21 to come before the Compact Administration?

22 MR. POPE: Mr. Chairman, if I might,
23 we were not able to construct a resolution that
24 would do justice to the service of Mr. Bentrup
25 during the course of the day. I would like to

NORA LYON & ASSOCIATES, INC.

1 suggest the following, that we draft a suitable
 2 resolution that I believe we all understand to
 3 be appropriate and forward that to the
 4 Administration for its review and essentially
 5 today just conceptually recognize that one will
 6 be forthcoming. I think it would be
 7 appropriate that we do that. And also I think
 8 a resolution recognizing Mr. Olomon's service
 9 on the Administration, while it was many years
 10 less in tenure, certainly, still a significant
 11 contribution.

12 CHAIRMAN COOLEY: Sure.

13 MR. POPE: And we will try to draft
 14 those two resolutions to fit the individuals
 15 involved and would just offer that as a
 16 potential way to proceed.

17 CHAIRMAN COOLEY: Okay. Now, my
 18 FAX number, and I would like you to write this
 19 down, is area 303-878-5622. And I would like
 20 to be in on the drafting of the resolution
 21 honoring Carl Bentrup. I want a hand in that
 22 if you please and I don't care, you know, if
 23 everybody on the Administration wants a crack
 24 at it, that's fine, but I want a shot at it
 25 before it's in final form.

NORA LYON & ASSOCIATES, INC.

1 MR. WALKER: Well, I would accept that
2 only to the extent that you don't go quite back
3 to the Civil War in your eloquence.

4 CHAIRMAN COOLEY: Okay.

5 MR. WALKER: That could be off the
6 record.

7 MR. POPE: I think Mr. Cain had a
8 suggestion or question.

9 MR. CAIN: I just got a question. In
10 all of your discussion of the budget, I didn't
11 have benefit of budget documents. I am curious
12 whether the USGS program as proposed was
13 approved, disapproved. And one of the items
14 that we had sent in the letter with the budget
15 this year was, again, the reconsideration of
16 data collection platform at Lamar, which was
17 kind of put on the back burner last year.

18 CHAIRMAN COOLEY: You will have to
19 turn to your left and talk to Mr. Jencsok who
20 has done all the thinking for us on the
21 budget. You did, indeed, circulate that
22 correspondence and I had copies of it.

23 MR. POPE: And I recall receiving it,
24 too, and I guess I didn't pick up, in all
25 fairness, Doug, the additional items. The

NORA LYON & ASSOCIATES, INC.

1 question, I guess, is what was included within
2 the budget that we did approve because we have
3 approved.

4 MR. MONTGOMERY: Frank, before
5 everyone leaves I would like to make a
6 suggestion, but I think it could be off the
7 record, relates to record keeping by the
8 Compact Administration.

9 CHAIRMAN COOLEY: All right, we
10 will go off the record again for a few minutes.

11 (THEREUPON, an off-the-record
12 discussion was had).

13 CHAIRMAN COOLEY: We have been
14 discussing the necessity for preserving our
15 records and making sure that our archives are
16 in shape and apparently Bernice has been doing
17 a good job on that with our files, but it's
18 something we have to be vigilant about and it's
19 no doubt something in which we have been lax on
20 many occasions in the past. Anything else on
21 that, Dennis?

22 MR. MONTGOMERY: Like David suggested,
23 at least, I think someone ought to begin giving
24 it some consideration on what procedures ought
25 to be followed in keeping track of minutes of

NORA LYON & ASSOCIATES, INC.

1 meetings. Are they going to be filed with
2 Bernice and encouraging her to develop a system
3 to keep track of them in the future?

4 CHAIRMAN COOLEY: It appears to me
5 that it should be done and will Gene and David
6 make notes of that for the 1992 meeting?

7 MR. POPE: I think it's something
8 again that we, perhaps, could take some time to
9 have the committee take a special note of and
10 assess the conditions. I certainly hear what
11 Jim is saying, that there is an awful lot of
12 progress being made and perhaps it would be a
13 good introduction for our new members as well
14 to visit the office, perhaps, if that was
15 possible, or at least someone.

16 CHAIRMAN COOLEY: Let's make it a
17 point that the Administrative Committee meet
18 with both the new Kansas representatives in
19 Lamar and spend a familiarization day both with
20 John Martin Reservoir for a half a day and the
21 office of the Compact for a half a day and
22 anyone else, and that day be announced in
23 advance so that the Colorado representatives
24 will be able to do that and we give them a
25 lunch allowance of \$2 apiece from the funds of

NORA LYON & ASSOCIATES, INC.

1 the Compact.

2 One other thing that I want to have done
3 is I would like to see the blue books
4 remanufactured and we are never going to have a
5 more appropriate time with three new members of
6 the Compact Administration.

7 MR. WALKER: What is it?

8 CHAIRMAN COOLEY: It is the Bible
9 of the Compact Administration starting off with
10 the original copy of the Arkansas River
11 Compact, membership, attendance lists, maps and
12 so on. And I think it would be best if it were
13 started from scratch and, certainly, we have
14 enough money so that the cost of manufacturing
15 ten blue books is not going to dip into our
16 reserves or cause us a budgetary crisis. It
17 may cause a couple of days' work for someone in
18 Denver or Garden City.

19 MR. JENCOSK: Why are you all looking
20 at me?

21 MR. WALKER: Well, do we have one that
22 we can reconstruct?

23 MR. JENCOSK: Well, I-- the blue books
24 that Frank talks about, I put my own together.
25 I think we have the Compact and various

NORA LYON & ASSOCIATES, INC.

1 materials in it, but we don't have such an
2 official report. You can make one up.

3 MR. MONTGOMERY: Frank, I can help you
4 out on that one. I think someone at the Water
5 Conservation Board put together those original
6 notebooks.

7 CHAIRMAN COOLEY: Blue books.

8 MR. MONTGOMERY: During-- one of the
9 joint exhibits in the lawsuit is a compilation
10 of all of the resolutions that have affected
11 the operation of John Martin Reservoir which
12 Brent Spronk and I worked out, which I think is
13 a useful compilation of those resolutions for
14 Compact Administration representatives. Those
15 shouldn't be hard to copy.

16 CHAIRMAN COOLEY: The account
17 resolution is in full in the blue book. A
18 Bureau of Reclamation map of the Arkansas River
19 Valley in color is in the blue book and
20 possibly some of the splendid diagrams from
21 Water Investigation 85-4092 might be in there.
22 I recognize my enthusiasm is making it a fat
23 book.

24 MR. WALKER: We will accept the
25 responsibility for considering how to produce

NORA LYON & ASSOCIATES, INC.

1 that.

2 CHAIRMAN COOLEY: Okay. And
3 Dennis has offered to make provision from some
4 of the stuff arising out of the litigation.
5 David, if you would similarly see that those
6 exhibits that come into your view in California
7 might be considered for inclusion in the blue
8 book, the ones that are really useful.

9 MR. POPE: I would certainly be happy
10 to do that. And I think what Dennis was
11 alluding to is essentially already done. I
12 think that's something that's been put together
13 with some effort from everybody. I think a lot
14 of it goes to what Dennis has alluded to in
15 Colorado that have done it, but conferred with
16 our folks. And I think that's a joint-- so I
17 don't think-- I think it's there and we can
18 certainly transfer that information to the
19 other information.

20 CHAIRMAN COOLEY: Okay.

21 MR. POPE: With that, Mr. Chairman, I
22 think the only thing we need to do was answer
23 Doug's questions. And I simply haven't had a
24 chance to add the numbers up but, Gene?

25 MR. JENCOSK: I can do that.

NORA LYON & ASSOCIATES, INC.

1 MR. POPE: Could you do that, please?

2 MR. JENCOSK: Yes. Last year the USGS
3 proposed installing a DCP at the Lamar gage.
4 At that time the Administration didn't feel
5 that it was necessary and I know we did not
6 budget for it. This year Doug again proposed
7 installing a DCP at a cost of approximately 35
8 to \$4,000-- from 3,500 to \$4,000 and an annual
9 operation maintenance fee of 3, \$400 in
10 addition to what's normally done. My
11 understanding is that Bill Howland doesn't feel
12 that he would get that much benefit out of a
13 DCP at Lamar and, therefore, I did not use the
14 DCP costs in the budget that's been presented
15 to you. Doug may want to comment on that. So
16 basically what you have in your budget is the
17 station at Lamar as we have been using it for
18 the past several years without a DCP.

19 MR. CAIN: I guess two comments. One
20 is my recollection of what the Administration
21 decided about that DCP last year was that if we
22 were going to look at doing a network
23 evaluation that might be something that we
24 would incorporate into that. And I don't think
25 that was an expressed opinion by the

NORA LYON & ASSOCIATES, INC.

1 Administration that it wasn't useful but that
2 it could be evaluated as part of that. Also,
3 my recollection of Bill's comments last year
4 and I think Steve Witte's, also, were that it
5 could be useful but that it's not something
6 that's absolutely mandatory for the operation
7 of the Compact. I guess the other comments I
8 made last year, we see that it could be
9 beneficial in providing better records, not
10 just for administration of the Compact but for
11 some of the kinds of other things that the
12 Compact is doing such as the retrospective look
13 at the stream flow information. And that's why
14 we proposed to pay half of that cost because we
15 think we could probably get better records and
16 probably more efficient operation and timely
17 measurements and all the other things that we
18 do.

19 MR. POPE: I think I understand where
20 we are, then, and appreciate those comments.
21 Quite frankly, I had forgotten all about that
22 until you mentioned it and I appreciate that.
23 I would like to just real quickly-- I know it's
24 getting late here today, but ask Steve Witte or
25 Steve Frost, those two, if you have any quick

NORA LYON & ASSOCIATES, INC.

1 reflection on this? It would require-- to do
2 it, it would be possible that it would require
3 us to go back and readjust all our numbers is
4 what it amounts to in terms of the budgets and
5 whether we want to do that now or not is the
6 question. I have a sense that unless it's - I
7 would like to hear from the two Steves - but
8 unless it's something that we really need to do
9 this year, I think that's going to push our
10 assessments up quite a little bit at least one
11 of the years. Long-term it's not a bad deal
12 because once you get it placed it doesn't cost
13 much.

14 CHAIRMAN COOLEY: Fine. Let's
15 hear from Steve Witte.

16 MR. WITTE: I think Doug's
17 characterization is right on target. It's
18 something that would be nice but it is not
19 absolutely mandatory for operations of the
20 Compact operations. It is, in our view,
21 something that is high enough priority that
22 should hardware become available within the
23 state system we have considered installing one
24 of our own DCPs at that site to help us out on
25 a day-to-day basis. But it's not something

NORA LYON & ASSOCIATES, INC.

1 that I am pleading with you for. It would be
2 helpful, it could be useful.

3 CHAIRMAN COOLEY: You know, there
4 is-- go ahead.

5 MR. POPE: I was just going to ask
6 Steve Frost if he has any quick comments on
7 that matter.

8 MR. FROST: I concur with what Steve
9 has already said. I think it's a case of where
10 more is probably better. But for the needs of
11 Kansas, it doesn't appear to have a great
12 amount of benefit since we have the gage below
13 John Martin and the one at Granada. As I
14 recall, there are no intervening ditches either
15 entering or leaving the river between those
16 stations. We can track releases as well with
17 the system in place, so, again, it's not of any
18 great concern to us, probably more for Steve
19 than it is for me. But I think that summarizes
20 the case in our office.

21 CHAIRMAN COOLEY: David, if you
22 want to keep a vein of hope alive, I would
23 entertain a motion that the Engineering
24 Committee be authorized to require or go ahead
25 with such a move if the committee thought the

NORA LYON & ASSOCIATES, INC.

1 changed circumstances or special knowledge were
2 such that it should be done before the next
3 meeting of the Compact, notwithstanding the
4 budget.

5 MR. POPE: I guess I think it's an
6 item that we ought to look at and be prepared a
7 year from now to take action on. That gives us
8 time, I think, to look at it from an
9 engineering perspective and also get it into
10 the budget in the event we decide to recommend
11 such.

12 CHAIRMAN COOLEY: Okay. There is
13 a consensus that that one somehow slipped
14 through the cracks of the agenda, didn't get
15 considered, but it will continue to be
16 considered, obviously, for the year 1991 and
17 will have a place for consideration before the
18 Compact, either up or down, a year from now.
19 Is there anything else? Hearing no other
20 comment, the meeting is adjourned.

21
22
23
24
25

NORA LYON & ASSOCIATES, INC.

ATTACHMENTS TO DECEMBER 11, 1990
ARKANSAS RIVER COMPACT MINUTES

ATTACHMENT NO.	PAGE NO.	DESCRIPTION
1	10-11	Agenda
2	17-39	City of Trinidad Proposal to Change the Operating Principles for Trinidad Reservoir
3	40	Attendance List
4	100	Treasurer's Annual Report
5	127	Corps of Engineers' Report
6	134	U.S.G.S. Report
7	148	U.S.G.S. Stream Gage Proposal
8	161	Audit Report
9	162-170	1990-91 Budget
10	167-170	1991-92 Budget
11	171	McDonald Resolution
12	99,100,172	Bentrup Resolution
13	172	Olomon Resolution

ARKANSAS RIVER COMPACT ADMINISTRATION

307 South Fifth Street
LAMAR, COLORADO 81052

COLORADO
DAVID VALERI, Denver
CARL GENOVA, Pueblo
JAMES G. ROGERS, Lamar
Treasurer

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

KANSAS
DAVID L. POPE, Topeka
CARL E. SENTRUP, Deerfield
Vice Chairman
RON OLDMAN, Garden City

NOTICE OF ANNUAL MEETING

Arkansas River Compact Administration

8:30 a.m. (MST), Tuesday, December 11, 1990
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 if necessary.

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 for the December, 1988, and December, 1989, annual meetings
4. Reports of officers for compact year 1990
 - a. Chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary
5. Committee reports for compact year 1990
 - a. Administrative and legal
 - b. Engineering
 - c. Operations
6. Election of officers for compact year 1991
 - a. Vice-chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary

7. Appointment of committee members for compact year 1991
 - 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. USGS Study to evaluate Administration's Gaging Program
10. Purgatorie Water Conservancy District/proposed revisions to the Trinidad Reservoir Project operating principles
11. City of Trinidad
12. Compact Administration items arising out of Kansas v Colorado.
13. Auditor's report for FY 1989-90
14. Budget matters:
 - a. Review of current fiscal year budget
 - b. Compensation for Recording Secretary/Treasurer
 - c. Review of previously adopted FY 1991-92 budget and assessments
 - d. Adoption of FY 1992-93 budget and assessments
15. Approval of Resolution honoring Mr. J.W. McDonald
16. Adjournment

MOSES, WITTEMYER, HARRISON AND WOODRUFF, P. C.

LAW OFFICES

1002 WALNUT STREET, SUITE 300

BOULDER, COLORADO 80302

TELEPHONE: (303) 443-8782

TELECOMER: (303) 443-8798

ADDRESS CORRESPONDENCE TO:

P. O. BOX 1440

BOULDER, CO 80306-1440

RAPHAEL J. MOSES

JOHN WITTEMYER

COUNSEL

HUNTLEY STONE

SPECIAL COUNSEL

DAVID L. HARRISON
CHARLES N. WOODRUFF
ROBERT E. L. BEEBE
DAVID M. BROWN
JAMES R. MONTGOMERY
VERONICA A. SPERLING
JAMES J. DUBOIS
STEVEN P. JEFFERS

November 5, 1990

Carl Genova
33032 South Road
Pueblo, CO 81006

James G. Rogers
32259 County Road 13
Route 2
Lamar, CO 81052

David L. Pope, Director
Division of Water Resources
Kansas State Board of Agriculture
109 SW Ninth Street, Suite 202
Topeka, KS 66612-1283

Carl E. Bentrup
Deerfield, KS 67838

Ron Olomon
P.O. Box 673
Garden City, KS 67846

David Walker
Colorado Water Conservation Board
1313 Sherman Street, Suite 721
Denver, CO 80203



RE: Annual Meeting, Arkansas River Compact
Administration/City of Trinidad

Gentlemen:

As stated in Frank Cooley's October 29 letter to David Harrison, the City of Trinidad's proposed amendments to the Trinidad Project Operating Principles will be on the agenda for the December 11 meeting in Lamar. I am enclosing for your information a copy of Trinidad's proposed amendments. These amendments have been under review by the Bureau of Reclamation and the Purgatoire River Water Conservancy District. The Bureau of Reclamation has also transmitted a copy of the proposed amendments to the Governor of Kansas.


MOSES, WITTEMYER, HARRISON AND WOODRUFF, P. C.

November 5, 1990
Page 2

We look forward to the opportunity to discuss the proposed amendments with you at the December 11 meeting.

Very truly yours,

MOSES, WITTEMYER, HARRISON
AND WOODRUFF, P. C.

By 
James J. DuBois

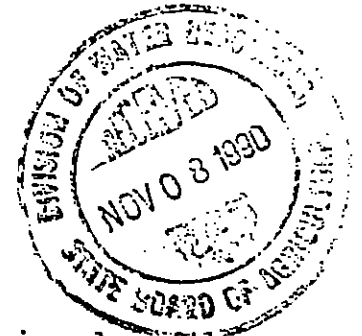
JDB/rlo
Enclosure
cc(w/o enc.): Bill Cordova

OPERATING PRINCIPLES
TRINIDAD DAM AND RESERVOIR PROJECT
(with proposed amendments by City of Trinidad)

Preamble

The Trinidad Dam and Reservoir Project as reported in House Document No. 325, 84th Congress, 2d Session, and as authorized by the Flood Control Act of 1958, will be operated in such a manner as to secure the greatest practicable benefits from the regulation and use of the flows of the Purgatoire River consistent with the laws and policies of the State of Colorado and of the United States including the Arkansas River Compact. The objectives and principles governing the operation of the Trinidad Dam and Reservoir Project to secure such benefits are contained within the following articles.

- Article I - Objectives
- Article II - Definition of Terms
- Article III - Flood Control
- Article IV - Irrigation, Municipal and Industrial
- Article V - Fishery and Recreation
- Article VI - Review and Amendment



Article I - OBJECTIVES

The operation of the Trinidad Dam and Reservoir involves the regulation of the flows of the Purgatoire River for flood control, irrigation use, municipal and industrial use and recreation including a permanent fishery pool. The project plan provides for:

1. Control of floods originating above the reservoir for benefit of the City of Trinidad and downstream reaches.

2. Optimum beneficial use of the available water for irrigation and municipal and industrial uses (municipal and industrial is hereinafter abbreviated M&I) within the project area consistent with the protection of downstream non-project rights as set forth in House Document No. 325, 84th Congress, 2d Session, which provides:

(a) Transfer of the storage decree of the Model Land and Irrigation Company for 20,000 acre-feet annually from the present site to the proposed Trinidad Reservoir.

(b) Storage in the Trinidad Reservoir of flood flows originating on the Purgatoire River above the dam which would otherwise spill from John Martin Reservoir.

(c) Storage in Trinidad Reservoir of the winter flows of the Purgatoire River historically diverted for winter irrigation of project lands.

3. The maintenance of a minimum pool for enhancement of recreation and fishery values.

4. The construction of the Trinidad Dam and Reservoir with the following allocated capacities:

Flood control.	51,000 acre-feet
Irrigation and M&I.	20,000 acre-feet
Permanent fishery pool.	4,500 acre-feet ¹
Joint use *.	<u>39,000</u> acre-feet ¹
 Total capacity	 114,500 acre-feet ¹

* For irrigation, M&I and sediment accumulation.

¹ These numbers are expected to increase based on recent determination by the Corps of Engineers.

Article II - DEFINITION OF TERMS

Definition of terms as used herein:

1. "Reservoir" means the reservoir presently planned and authorized for construction on the Purgatoire River above the City of Trinidad, Colorado.

2. "District" means the Purgatoire River Water Conservancy District, that entity created and existing under laws of the State of Colorado to contract for repayment to the United States of an appropriate share of the project costs allocated to the irrigation AND M&I use. The District shall also be the agency responsible for the regulation of irrigation and M&I water supplies within the District boundaries in the manner set forth therein.

3. "Unused Sediment Capacity" means that portion of the 39,000 acre-feet of reservoir capacity allocated to joint use but unoccupied by sediment at any given time.

4. "Irrigation Capacity" means the 20,000 acre-feet of reservoir capacity allocated to irrigation and M&I use plus the unsedimented portion of the joint use capacity.

5. "Permanent Fishery Pool Capacity" means the 4,500 acre-feet of reservoir capacity allocated to fishery and recreation.

6. "Permanent Fishery Pool" means the quantity of water stored in the permanent fishery pool capacity.

7. "Flood Control" means the temporary storage of flood waters at any reservoir pool level as necessary to alleviate flood damages through the City of Trinidad and downstream reaches.

8. "Flood Control Capacity" means the 51,000 acre-feet of capacity exclusively allocated to flood control lying initially above m.s.l. reservoir elevation ~~6,229.6~~ 6,223.06 (November, 1987 Table).

9. "Reservoir Inflow" is to be expressed in mean daily cubic feet per second of time and means that total flow of water entering the reservoir, comprising measured flows at the inflow gaging stations and other unmeasured inflows entering the reservoir, less such flow of water as may be acquired by the State of Colorado for filling and maintaining the permanent fishery pool.

10. "District Irrigable Area" means only the 19,717 acres of ~~Class 1, 2 and 3~~ irrigable lands to be served lying within District boundaries.

11. "Irrigation Season" means that period of the year, as determined annually by the District, during which water may be beneficially applied to the District irrigable area ~~or~~, provided the irrigation season will not begin earlier than April 1 or end later than October 15, except as modified by the District with the consent of the Secretary of Interior.

12. "Nonirrigation Season" means that period of the year other than the irrigation season.

13. "District Storage Right" means those rights under which the District may store water in the irrigation ~~and M&I~~ capacity ~~for use on the District irrigable area.~~

14. "District Water Supply" means that water supply of the Purgatoire River subject to District administration for irrigation AND M&I use within the ~~District irrigation area.~~

15. "Colorado State Engineer" means the Colorado State Engineer or such other administrative agency having jurisdiction and control over the distribution of the waters of the State of Colorado.

16. "Operating Agency" means the U.S. Army Engineer District, Albuquerque, New Mexico, Corps of Engineers.

Article III - FLOOD CONTROL

Trinidad Reservoir shall be operated for flood control benefits in accordance with regulations prescribed by the Secretary of the Army and the following operating principles:

1. All potentially damaging flood inflows shall be temporarily detained as necessary to limit the flow insofar as possible to a nondamaging flow, currently estimated to be 5,000 cfs., downstream from the Trinidad Reservoir.

2. All flood waters stored in the flood control capacity shall be released at the maximum nondamaging rate insofar as practicable.

3. Any inflow, other than that stored for irrigation and M&I use, temporarily retained below the bottom of the flood control capacity for flood control purposes, shall be released by the operating agency at such a rate, time, and quantity as may be ordered by the Colorado State Engineer, but within nondamaging flow in the channels below the reservoir.

Article IV - IRRIGATION, MUNICIPAL AND INDUSTRIAL

Administration of the irrigation and M&I capacity in Trinidad Reservoir and the distribution of water to the District irrigable area and to M&I uses within the District will be made by the District in accordance with House Document No. 325, 84th Congress, 2d Session, and these operating principles. Agreements, satisfactory to the Secretary of the Interior, shall be have been entered into between the District and the ditch companies and other owners of affected water rights to insure that these principles and the operation described herein shall be adopted.

The principles and provisions under which the District will administer water supplies to the District irrigable area and to M&I uses within the District are contained in the following four parts of this Article: "Water Rights", "Limits of Land and Water Use", "District Water Supply", and "Operation and Exercise of Water Rights".

A. Water Rights

Accomplishment of the following conditions is necessary under the laws of the State of Colorado to provide the District with the right to regulate the flows of the Purgatoire River in the manner described herein:

1. The water users within the District shall have assigned the right to the exercise of all the following decreed direct flow water rights within the District boundaries to the District for administration by the District at such times and to the degree outlined in these principles. ~~The right to the exercise of the following water rights, all in Water District No. 19, shall be so assigned.~~

<u>Priority</u>	<u>Amount</u>		
<u>Number</u>	<u>Date</u>	<u>(cfs)</u>	<u>Name of Ditch</u>

3	11/30/61	6.00		Baca
5	03/20/62	4.00		Johns Flood
7	04/30/62	7.00		Chilili
8	11/15/62	2.82		Baca
8	11/15/62	1.18		El Moro
9	01/01/63	1.28		Johns Flood
9	01/01/63	4.72		Hoehne
12	06/30/63	0.50		South Side
13	01/01/64	1.25		Johns Flood
13	01/01/64	3.75		Lewelling & McCormick
15	04/10/64	5.10		Johns Flood
15	04/10/64	0.80		Hoehne
15	04/10/64	0.847		Salas
19	06/01/65	4.00		Lewelling & McCormick
20	10/07/65	7.35		Johns Flood
20	10/07/65	16.65		Hoehne
21	01/01/66		3.25	Burns & Duncan
22	02/01/66	1.34		Salas
27	05/31/66	2.25		Johns Flood
27	05/31/66	0.75		Salas
40	04/30/68	1.40		South Side
64	04/01/73	2.40		Johns Flood
73	11/01/75	6.00		South Side
74	02/17/76	34.00		South Side
75	12/25/76	4.00		South Side
77	03/11/77	1.30		El Moro
77	03/11/77	2.70		Baca
80	04/07/77	18.60		South Side
93	12/15/82	4.00		South Side
95	11/04/83	14.38		Baca
96	11/23/83	16.84		South Side
98	04/30/84	60.00		South Side
10306/21/86		14.73		Baca
10410/21/86		10.00		Lewelling & McCormick
10603/12/87		15.00		Baca
10802/15/88		9.70		South Side
10903/01/88		8.00		South Side
14510/20/02		100.00		Johns Flood
16801/22/08		200.00		Model
24206/12/20		45.56		Baca

2. Waters of the Purgatoire River shall be stored by the District in the irrigation and M&I capacity of Trinidad Reservoir under rights created under Colorado law; said rights, defined as the District storage right, include:

(a) The Model storage right, being the right to store 20,000 acre-feet of water from the flows of the Purgatoire River, under Reservoir Priority No. 10 in Water District No. 19 at a rate of flow not exceeding 700 cubic feet per second of time under date of appropriation of January 22, 1908, as decreed by the District Court of Las Animas County, Colorado, on January 12, 1925, which

right shall, by appropriate statutory proceedings be transferred from the place of storage as originally decreed to the site of the reservoir; and

(b) Such other rights to store water in the reservoir as the District may lawfully acquire by appropriation or purchase.

B. Limits of Land and Water Use

In order that the Trinidad Dam and Reservoir Project may provide an optimum beneficial use of water for irrigation AND M&I USE within the District, the following limitations on land and water use shall apply:

1. The acreage irrigated by the District water supply shall be limited to the 19,717 acres ~~classified as 1, 2 and 3~~ OF irrigable land lying within the District boundaries. Those 19,717 acres of the District irrigable area shall be composed as nearly as practicable of the following acreages under individual ditches:

Baca		2,428 acres
Chilili		114 acres
El Moro		160 acres
Johns Flood	1,854	2,076 acres
Model		6,177 acres
South Side		6,359 acres
Victor Florez		22 acres
Hoehne	1,742	1,520 acres
Burns & Duncan		322 acres
Lewelling & McCormick		378 acres
Salas		161 acres
Total		19,717 acres

2. All water deliveries to the 19,717 acres of the District irrigable area shall be limited during the irrigation season to the irrigation requirements at the farm headgate as determined by the District. Allowance for canal and lateral losses on the individual ditch systems will also be determined by the District.

3. Water deliveries from the District water supply may be diverted or stored for M&I or permanent fishery pool purposes with the following limitations:

(a) Only water attributable to historic consumptive use on acreage removed from irrigation by the municipality may be made available for M&I use or storage or permanent fishery pool storage, except for water supplied from the last 1200 acre-feet of water remaining in the irrigation and M&I capacity which is reserved exclusively for the Model Land & Irrigation Co. and the City of Trinidad.

(b) Water attributable to historic return flows associated with the exercise of the water rights used on the acreage removed from irrigation by the municipality shall be released in such a manner as to maintain the historic return flow patterns to the Purgatoire River.

(c) Removal of District irrigable land from irrigation to enable water to be diverted or stored for M&I or permanent fishery pool purposes shall correspondingly reduce the number of acres allowed to be irrigated under the project.

34. No water deliveries for irrigation of the 19,717 acres of the District irrigable area will be made during the nonirrigation season.

5. Water may be released during the non-irrigation season for M&I use or to maintain historic return flow patterns for lands removed from irrigation.

C. District Water Supply

1. That water supply of the Purgatoire River subject to District administration for irrigation AND M&I use within the District irrigable area, defined as the District water supply, consists of:

(a) The water stored under the District storage right in the irrigation AND M&I capacity.

(b) The stream gains to the Purgatoire River below Trinidad Dam that are divertible to the District irrigable area for irrigation through the District's exercise of the rights listed in IV.A.1.

(c) That portion of the reservoir inflow bypassed to the river below AT Trinidad Dam which is subject available diversion to the District irrigable area during the irrigation season through the District's exercise of the water rights listed in IV.A.1.

2. The District water supply will be allocated by the District to the ditches within the District to provide each acre of the District irrigable area an equitable share of the District water supply after allowance has been made for individual ditch transportation losses, provided such allocation will not exceed the irrigation requirements at the farm headgate.

D. Operation and Exercise of Water Rights

The principles governing operation of the irrigation AND M&I capacity and the District's exercise of the assigned direct flow water rights listed under IV.A.1. and the District storage right

are hereinafter set forth as they apply to operations during the entire year as well as to operations during either the non-irrigation season or irrigation season.

1. Non-interference with Downstream Water Rights

(a) Bypasses to the river shall be made at any time during the year to satisfy downstream senior rights as ordered by the Colorado State Engineer to the extent that such demands are not met by stream gains or otherwise satisfied but are limited to the extent as determined by the Colorado State Engineer to actually benefit such rights without unnecessary waste through channel losses.

(b) Reservoir inflow in excess of the amount stored under the transferred Model right may be detained in the reservoir at such times as John Martin Reservoir is reasonably expected to spill; to the extent that John Martin Reservoir would have spilled, such detained water shall be considered to have been stored under the District storage right and become part of the District water supply. Such detained water which does not become a part of the District water supply shall be released as called for by the Colorado State Engineer in the amounts and at such times as he shall determine that such releases may be required to avoid a material depletion of the water of the Arkansas River as defined in Article 3 of the Arkansas River Compact, ~~C.R.S. 1953, 148-9-1 §37-69-101, et seq.~~, C.R.S.

(c) Except as provided by paragraph (b) above, any water temporarily detained in the reservoir as a result of the reservoir inflow exceeding the design outlet capacity of the reservoir shall be released as soon as possible.

(d) All releases from the reservoir, as set forth in (a), (b) and (c) above, shall be passed down the Purgatoire River without interference by water users in the District irrigable area.

2. District Operation, Non-irrigation Season

(a) During the non-irrigation season the District will provide an allowance for stockwatering purposes of not more than a daily mean flow of five second-feet or its volume equivalent measured at a gage to be located near and above the Baca River headgate. If the stream gains from the Trinidad Dam to the said gage are insufficient to fulfill the allowance, an equivalent volume of reservoir inflow will be released to satisfy stockwater demands within the allowance.

(b) ~~During the non-irrigation season, the District shall release water stored for the City of Trinidad as designated by the City of Trinidad for:~~

~~(1) M&I purposes;~~

(2) Transfer to the permanent fishery pool;

(3) Release as winter return flow. Water released as winter return flow may not be diverted for stockwater purposes under (a) above.

(bc) During the non-irrigation season the District will exercise the direct flow rights and the District storage right only at such times and to the degree as necessary to assure:

(1) That the maximum possible storage of reservoir inflow is accrued.

(2) The stockwater allowance is distributed in a manner determined equitable by the District.

3. District Operation - Irrigation Season

(a) During the irrigation season, except at such times as provided for in IV.D.3.(c) below, the District shall exercise the direct flow water rights and the District storage right only at such times and to the degree necessary to assure:

(1) That stream gains to the river below Trinidad Dam which are divertible to the District irrigable area and such reservoir inflow which is bypassed available to the river for District for irrigation and M&I use will be equitably distributed allocated to the District irrigable area as part of the allocated District water supply.

(2) That the District storage right can be fully exercised to store reservoir inflow in excess of that bypass to the river as may be required under D.1.(a) and D.3.(a)(1) above.

(b) During the irrigation season water stored in the irrigation and M&I capacity will be released as needed to fulfill or partially fulfill the irrigation requirements of the District irrigable area as part of the allocated District water supply, or, as designated by the City of Trinidad, made available for M&I purposes or transferred to the to the permanent fishery pool.

(c) During the irrigation season, when the irrigation and M&I capacity is empty as determined by the District, the District will relinquish its exercise of the direct flow water rights provided that if the reservoir inflow and stream gains below Trinidad Dam which are divertible to the District irrigable area exceed the irrigation requirement and such excess is storable under the District storage right, the District will resume the exercise of the direct flow rights and exercise of the District storage rights as in D.3.(a)(2) above.

4. Evaporation and Seepage Losses

In the accounting for water in storage, evaporation and seepage losses due to water stored in the irrigation and M&I capacity shall be determined using the most recent data available by the Colorado State Engineer and the District with the cooperation of the operating agency.

Article V - FISHERY AND RECREATION

The permanent fishery pool shall be operated in accordance with the following principles:

1. Water for the initial and subsequent fillings and for replacing evaporation and seepage losses will be acquired by the State of Colorado without interference to the District water supply or without additional cost to the District or the United States for the Trinidad Project as envisioned in House Document No. 325.

2. In the accounting for water in storage, evaporation and seepage losses due to the permanent fishery pool shall be determined using the most recent data available by the Colorado State Engineer and the District with the cooperation of the operating agency.

3. There shall never be any release of water from the permanent fishery pool except upon the request of the Colorado Game, Fish, and Parks Commission Department of Natural Resources to the Colorado State Engineer.

Article VI - REVIEW AND AMENDMENT

These operating principles may be subject to review and amendment not more than once a year at the request of any of the parties' signatory; provided, that at least one review shall be accomplished within the first 10 years following completion of the Trinidad Dam and at least one review shall be accomplished every 10 years thereafter. The primary object of such reviews will be obtaining optimum beneficial use of water as conditions change, operating experience is gained, and more technical data become available.

of Jones

Attendance list

Annual Meeting of the Arkansas River Compact Administration

December 11, 1990

3-879-5065	FRANK G. Cooley	Chairman ARCD	Box 98 Meeker CO 81641
	Dennis M. Montgomery	Denver, Colorado	80202
	HAL SIMPSON	Deputy State Engineer,	Denver, Colo
	Steve W. H.	Div Eng. Colo DWR / Op. Sec.	P.O. 5728 Pueblo, CO 81006
	DAVID L. HARRISON	spec. counsel Co of TRINIDAD	P.O. Box 1440 BOULDER, CO, 80306
	JAMES A. FERNANDEZ	CITY OF TRINIDAD	P.O. Box 880 TRINIDAD, CO, 81082
5-8	Charles & Thomson	SE WCD	P.O. Box 440 Pueblo CO 81002
	TOM SIMPSON	"	"
	Jim Putnam	U.S. Geological Survey, KS.	206 Fulton TERRACE Garden City, KS.
	Doug Cain	U.S. Geological Survey	P.O. Box 1524 6784 Pueblo, CO 81002
	Frank Milewski	cat Lin Canal	1306 1/2 RD 13/B Lamar, Colo 81050
	ROBERT JESSE	U.S. B.R.	P.O. Box PUEBLO, Co, 81002
	Steve Clark	USBR	P.O. Box 449 LORDEN CO 80535
	Mike Graber	Colo. Div. of Water Res.	P.O. Box 5728 Pueblo, CO, 81002
	Steve Kastner	"	"
	Irvia Caldwell	Farmers Ditch	Garden City, Kan
	David Abram	Head Carter M. Ditch	Garden City, KS
	James T. Miller	Amazon Ditch	Deerfield, Kan
	Henry Sillanp	Assoc. Ditches of Kan	Garden City, Kan
44 (8x10) (8x10)	STEVEN FROST	KSBA / DWR	GARDEN CITY
	MARK RUDE	KSBA / WTR RESOURCES	GARDEN CITY, KS
	John L. Roth	Lamar Canal Co.	Lamar, Colo

Henry (Denny) Morales	State of Colo.	
Ray E. Duran	Purgatoire River Water Conservancy Dist	P.O. Box 315 Trinidad CO 81086
Bob D. Smith	State of Kansas	DWR Garden City
Eugene J. Jencsok	Colorado Water Cons.	Board
Kent A. Reyles	Fort Lyon Canal Co.	Las Animas, CO
Ed Blackburn	Ft Lyon Canal Co	Las Animas Co
John S. Letfordink	Fort Lyon Canal Co	Lamar, CO
Ron CALLAHAN	Fort Lyon Canal Co.	Las Animas Co.
Mark Stark	Corps of Engineers	John Martin Res.
Dick Kreiner	Corps of Engineers	Albuquerque, NM
Chuck Roberts	Colo. Div. of Water Res.	Pueblo, Co.
b, 8 Mike Phillips	FT. Bent Ditch Co	Lamar Co
Richard Grantham	Amity	Ordway Co
Ernest Mc Weister	Lamar Canal	Lamar
R.E. Northrup	Director SEWCOD	LAMAR
John Allen	Buffalo Mut.	Holly
Don Taylor	Colo. Div. of Water Res.	Swink Co.
B. W. Howland	Colo. Div. of Water Resources	Las Animas, CO
DAN NEUHOLD	"	LAMAR, CO.
H. G. Winkler	Purg Con Dist	Trinidad Colo
Ruben Gutierrez	Purgatoire Water Cons. Dist	Trinidad, Colo
Samuel S. Smith	" " " "	" " " "
Paul Frank	Amity Mutual	Holly Co
John Fx	Member ARCA	Synapse, Wis.
David Stone	member ARCA - Kansas	Topeka, KS
Randy Haystack	member ARCA	Rekin, KS
David Walker	" " Colorado	Denver

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
 Meeker, Colorado 81641

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

ARKANSAS RIVER COMPACT ADMINISTRATION

STATEMENT OF CASH RECEIPTS & DISBURSEMENTS & CHANGE IN CASH BALANCE

FROM JULY 1, 1990 thru DECEMBER 10, 1990

CASH BALANCE:	July, 1, 1990	\$34,889.61
RECEIPTS:		
Colorado	\$15,000.00	
Kanaas	10,000.00	
Interest Earned since July 1	<u>1,187.11</u>	
TOTAL RECEIPTS		\$26,187.11
DISBURSEMENTS:		
Treasurer's Bond	\$ 100.00	
U. S. Geological Survey	15,275.00	
Salaries	1,500.00	
Telephone	495.43	
Office Rent	300.00	
Postage	40.00	
Supplies & Copies	64.57	
Audit	350.00	
Transcript-Annual Mtg.	479.68	
Operations Secretary Account	<u>1,009.60</u>	
TOTAL DISBURSEMENTS		<u>\$19,614.28</u>
EXCESS RECEIPTS OVER DISBURSEMENTS		\$ 6,572.83
CASH BALANCE:	December 10, 1990	<u>\$41,462.44</u>
FUNDS ON HAND:		
Checking Account	\$ 210.08	
Money Market Account	<u>41,252.36</u>	
TOTAL		<u>\$41,462.44</u>

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
Meeker, Colorado 81641

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

CHECKS WRITTEN SINCE JUNE 30, 1990

<u>DATE</u>	<u>CHK NO.</u>	<u>PAYABLE TO:</u>	<u>FOR</u>	<u>AMOUNT</u>
July 12	176	Lower Arkansas Water Mgmt.	Office rent-July	\$ 50.00
12	177	Donald F. Peterlin	85% Transcript-'89 ann. mtg.	479.68
12	178	U S West	Phone 719-336-2422	89.25
12	179	Gobin's	Copies & envelopes	7.64
12	180	James G. Rogers	1/2 Annual salary-'90-'91 yr.	750.00
12	181	Bernice R. Carr	1/2 Annual salary-'90-'91 yr.	750.00
Aug. 9	182	Lower Arkansas Water Mgmt.	Office rent-August	50.00
9	183	Water Court Reporter	1 year subscription	40.00
9	184	Gobin's Inc.	Copies & supplies	18.27
9	185	U S West	Phone 719-336-2422	63.04
9	186	Guaranty Abstract Company	Bond Position Schedule	100.00
10	187	Ralin Wholesale, Inc.	2 Star NX1500 printers	600.00
Sept. 10	188	Lower Arkansas Water Mgmt.	Office rent-September	50.00
10	189	U S West Communications	Phone: 719-336-2422	89.26
0	190	AT&T	Quarterly-Phone rental	22.89
10	191	Void		
Sept. 10	192	Cellular, Inc.	Mobile phone charges	100.41
10	193	CompuAdd Corporation	Lotus 1,2,3:MS DOS; WordPerfect	46.50
10	194	First Federal Bank	Petty cash fund-postage	40.00
Oct. 10	195	Lower Arkansas Water Mgmt.	Office Rent-October	50.00
10	196	Gobin's	Copies & 3-hole punch	18.82
10	197	Steven J. Witte	Registration-Western ST. Mtg.	115.00
10	198	Cellular, Inc.	Mobile phone charges	70.72
10	199	U S West Communications	Phone: 719-336-2422	79.09
Nov. 8	200	Dept. of Interior-USGS	6 Streamflow gaging stations	7,275.00
8	201	Lower Arkansas Water Mgmt.	Office rent-November	50.00
8	202	U S West Communications	Phone: 719-336-2422	65.39
8	203	Cellular, Inc.	Mobile phone charges	36.44
8	204	Gobin's	Copies	3.82
8	205	Colorado Office of St. Engineer	Access fees-Colo. Sattelite water resources monitoring	8,000.00
Dec. 10	206	Lower Ark. Water Mgmt.	Office rent-December	50.00
10	207	U S West	Phone 719-336-2422	63.62
10	208	AT&T	Phone lease-quarterly	22.89
10	209	Anderson & Company P.C.	Audit- '89-'90 year	350.00
10	210	C.F.&I Print Shop	Printing-Ann. Rep.&cover	32.00
10	211	Gobin's	Copies	3.82
10	212	Farmer & Renken	Copying	12.20
ec. 10	213	Gobin's (Pueblo)	1 ream paper-annual report	8.53
0-1990		Total Expenses Paid		\$19,654.28
cc. 10-1990		LESS Refund from Water Court Reporter		- 40.00
ec. 10-1990		FINAL EXPENSES PAID		\$19,614.28

Report of the Civil Work Activities of the
Albuquerque District Corps of Engineers
in the Arkansas River Basin
During the Calendar Year 1990

1. General. During calendar year 1990, activities of the Corps of Engineers, Albuquerque District, in the Arkansas River Basin consisted of reservoir regulation, flood control related studies, flood plain management services, and the 404 regulation of dredged or fill materials into waterways.

2. Flood Control Operations. Given the relatively low snowmelt runoff and the lack of major rainfall storms during the summer months, there was no flood control regulation at John Martin, Trinidad, or Pueblo Reservoirs in 1990.

3. Drought Contingency Plan. A Drought Contingency Plan for the Arkansas River Basin was completed in April 1990. This Plan provides a framework and a basic reference for water management decisions in times of water shortage in the Arkansas River Basin.

4. Flood Control - Colorado Springs Feasibility Study. The Colorado Springs feasibility study examined the potential for a flood control project along Fountain Creek above its confluence with Monument Creek. The study was terminated due to lack of an economically justifiable alternative.

5. Flood Control - City of Florence, Colorado. Currently in the early stages of determining the potential for a flood control project to protect the City of Florence from flooding along Coal Creek, a right bank tributary to the Arkansas River.

6. Small Projects Program. Under Section 14 of the Continuing Authorities Program, the Corps of Engineers is able to provide emergency streambank protection works to prevent damage to highways, bridge approaches, public works, churches, hospitals, schools, and other non-profit public facilities. No more than \$ 500,000 in Federal funds can be spent for each project. Also, the Corps is able to build flood control structures, such as levees, floodwalls, and dams under Section 205 of the continuing authorities program, if such projects are economically feasible and they have a local sponsorship. The Federal cost of these structures is limited to \$5,000,000. Under the Section 208 Authority, up to \$500,000 can be allotted on any single tributary for the removal of accumulated snags and other debris and for the clearing and straightening of stream channels. This program is available to communities, flood control organizations, and other governing entities. Those having a need for this program should contact the Project Engineer in the Southern Colorado Project Office, 421 N. Main, P.O. Box 294, Pueblo, Colorado 81002, (719) 543-9459. Activities conducted under these authorities in 1990 consisted of:

*There are four studies underway utilizing our Emergency Erosion Control Authority. Three are on Fountain Creek at Southmoor Drive, Riverside Traylor Park, and Santa Fe Avenue Bridge. The other is on state highway 194 along the Arkansas River near Bent's Old Fort, La Junta, Colorado.

*One erosion control project is awaiting construction funding. The project is located at the Pueblo State Recreation Area on the Arkansas River just below Pueblo Reservoir.

*Two additional studies have been requested along Fountain Creek.

7. Flood Plain Management Services. The objective of the flood plain management services program is to support comprehensive flood plain management planning with technical services and planning guidance to appropriate governmental levels and, thereby, to encourage and to guide prudent use of the nation's flood plains.

Services available include help in interpretation and evaluation of basic flood hazard data and guidance in preparation of flood plain regulations; advice on use of basic data actions regarding possible alternative developments in flood-prone areas; guidance on structural and nonstructural measures which might be employed to reduce flood hazard; and in some cases, development of basic flood hazard data. Section 321 of the Water Resources Development Act of 1990 is a legislative change that requires recovering the costs of services provided to Federal agencies, private persons and organizations. Fees for these services have not been set to date. These services will continue to be provided to state and local governments at no cost to the requestor.

Thus far in 1990 the Albuquerque District has responded to 70 requests for technical services and flood hazard evaluations of specific sites in the Arkansas River Basin.

Governmental agencies or persons having a need for these services should contact the U.S. Army Corps of Engineers, Hydrologic Engineering Section, P.O. Box 1580, Albuquerque, New Mexico 87103-1580, telephone (505) 766-2615.

8. 404 Permits. Section 404 of the Clean Water Act prohibits discharges of dredged or fill materials into waters of the United States, including adjacent wetlands, without a permit from the Corps of Engineers. Persons or agencies who are planning to conduct operations which will involve the discharge of dredged or fill material into any waterway are advised to contact the Southern Colorado Project Office. The address and telephone number is as provided in item number 6. Thus far in 1990, nine permits were issued and one was denied. There are several permits pending.

9. In 1990 the Bureau of Reclamation and the Corps of Engineers entered into a Memorandum of Agreement that was designed to clarify the Federal management of the Trinidad Lake project. This agreement was not intended to change the operation of the project.

We have become aware that there is terminology in the agreement that is not consistent with the language contained within the "Operating Principles for Trinidad Dam and Reservoir Project". We are now coordinating with the Bureau of Reclamation to change the terminology so that it is consistent with the Operating Principles and will be asking for a thorough review of this document before it is officially amended.

PROJECT SUMMARY

WATER-QUALITY STUDY OF THE ARKANSAS RIVER BASIN IN COLORADO

Because of concerns by many water users that water quality in the Arkansas River basin could become a limiting factor for some water uses, a cooperative study by the U.S. Geological Survey and 8 local entities was initiated in 1988. During the first phase of the study, 13 water-quality issues were identified; available data were compiled and evaluated for their adequacy to evaluate these water-quality issues; and a draft work plan for a study of water quality in the Arkansas River basin was completed in October 1989. After a meeting with the interested entities in December 1989, the original work plan was broken into two components: "Evaluation of water quality in the Arkansas River basin in Colorado," which began in spring 1990, and "Evaluation of the water-quality effects of water operations in the Arkansas River basin in Colorado," which is planned to begin in fall 1990. Aspects of operation of the water-supply system that may affect water quality include water exchanges and transfers, transmountain diversions, reservoir releases, the Winter-Water Storage Program, John Martin Reservoir Operations, storage in off-channel reservoirs, direct diversions, and other water operations.

COMPONENT 1

EVALUATION OF WATER QUALITY IN THE ARKANSAS RIVER BASIN IN COLORADO

Objectives:

The objectives of this component of the study are to determine existing water-quality conditions in the basin. More specifically, the study objectives include evaluating downstream and seasonal variations in water quality; assessing variations in water quality that occur during different flow periods; and assessing regional impacts on water quality that may occur as the result of water use, land use, tributary inflows, point- and nonpoint-source discharges, and natural climatic and geologic conditions.

Approach:

The quality of water of the Arkansas River will be evaluated using existing and newly collected data. The water-quality monitoring network implemented as part of this study consists of collecting water-quality data for an initial period of 3 years at 20 Arkansas River mainstem sites, 32 tributary sites, and 9 transmountain diversions. The water-quality monitoring network is designed to provide water-quality information related to water- and land-use variations in the basin, major tributary inflows, major diversions for agricultural, municipal or industrial use, point- and nonpoint-source discharges, and natural climatic and geologic conditions affecting water quality on the Arkansas River.

Benefits:

This study will provide better understanding of the effects on water quality from various water uses, land uses, tributary inflows, wastewater discharges, climate, and geology in the Arkansas River basin and will provide data needed for appropriate stream classifications. In addition, hydrologic and water-quality data collected as part of this study will provide the information necessary to assess the effects of water operations on the water quality of the Arkansas River basin, component 2 of the study.

Time schedule:

The initial data collection period began in April 1990 and will be completed in March 1993. A draft of the report describing water quality in the basin will be provided to the cooperating agencies for review during July 1994. All data collected during the study will be published annually in the U.S. Geological Survey Water Resources Data--Colorado, Volume 1. An evaluation of the need to continue all or a portion of the data-collection program beyond 1993 will be made during 1992.

COMPONENT 2

EVALUATION OF THE WATER-QUALITY EFFECTS OF WATER OPERATIONS IN THE ARKANSAS RIVER BASIN IN COLORADO

Objectives:

The objectives of this component of the study are: 1) to evaluate potential effects of water operations on salinity in the Arkansas River basin; 2) to make a preliminary evaluation of the potential effects of water operations on concentrations of metals and nutrients in the Arkansas River basin upstream from Pueblo; and 3) to evaluate alternatives that might minimize the potential effects of water operations on water quality in the basin.

Approach:

The evaluation of the water-quality effects of water operations will be completed in several phases. The initial phase will involve review and compilation of information related to existing and proposed water operations that may affect water quality, including discussions to determine how existing water operations are being administered, and how existing and proposed water operations are likely to be administered in the future. This information will be used to estimate changes in streamflow expected to result from water operations. Data on dissolved-solids concentrations and streamflow of the Arkansas River, tributary streams, and transmountain diversions will be used to calculate salt loads at selected points on the Arkansas River and major tributaries and to estimate concentrations of dissolved solids associated with ground-water inflows to the river.

The information on water operations, changes in streamflow, and salt loads will provide the basis necessary to estimate the effects of water operations on salinity. These analyses will be made using historic and newly collected data and through simulation of future conditions using hydrologic models.

The preliminary evaluation of the effects of water operations on concentrations of metals and nutrients will utilize data for these constituents to estimate sources and loads at various locations in the upper Arkansas River basin. The projected effects of water operations on concentrations of selected metals and nutrients will be made using this data along with estimated changes of streamflow during critical flow periods.

During all parts of the study, water-management alternatives that have the potential to alleviate undesirable effects of water operations on concentrations of dissolved solids, selected metals, and nutrients will be evaluated.

Benefits:

The study will provide a clearer understanding of sources and movement of salt, metals, and nutrients in the basin, and will allow an assessment of the interaction of water operations and water quality. This information will allow water users to make decisions about operation of the water-supply system to alleviate potential negative affects on water quality.

Time schedule:

The study is planned to begin in October 1990 and be completed in December 1998. The study will result in three U.S. Geological Survey Water-Resources Investigations Reports. The first report, which will document the estimated changes in streamflow expected to result from water operations will be provided to the cooperating agencies for review in December 1994. The second report, which will document the estimated sources of salinity, chemical controls on salinity, and the evaluation of the effects of water operations on salinity will be provided for review by October 1996. The third report, which will document the sources and distribution of selected metals and nutrients, and the preliminary evaluation of the effects of water operations on concentrations of selected metals and nutrients will be provided for review by October 1997.

Costs:

Funding for the two components of the study is summarized in the table on the next page. The amounts shown at the bottom of the table are the funding required from local agencies during each year of the study.

FUNDING SUMMARY BY FEDERAL FISCAL YEARS¹

	FY90	FY91	FY92	FY93	FY94	FY95	FY96	FY97	FY98
Evaulation of water quality	\$188,100	\$281,500	\$295,000	\$168,900	\$ 24,000	\$ 5,000	-0-	-0-	-0-
Evaulation of the water-quality effects of water operations	-0-	20,000	42,000	88,000	204,000	204,000	\$200,000	\$80,000	\$10,000
Total Funding	\$188,100	\$301,500	\$337,000	\$256,900	\$228,000	\$209,000	\$200,000	\$80,000	\$10,000
Cooperator Repay to be divided among local entities	\$ 74,700	\$124,250	\$140,950	\$120,000	\$112,000	\$104,500	\$100,000	\$40,000	\$ 5,000

¹The federal fiscal year (FY) begins October 1 and ends September 30.

AGENCIES PARTICIPATING IN USGS WATER-QUALITY STUDY

City of Colorado Springs, Department of Utilities
Pueblo Board of Water Works
Southeastern Colorado Water Conservancy District
City of Aurora
Pueblo County
St. Charles Mesa Water District
Upper Arkansas Area Council of Governments
Upper Arkansas Water Conservancy District
City of Pueblo
Pueblo West Metropolitan District
Fremont Sanitation District
U.S. Bureau of Reclamation



United States Department of the Interior



GEOLOGICAL SURVEY
Water Resources Division
P. O. Box 1524
Pueblo, CO 81002-1524

May 8, 1990

David Pope
Chief Engineer/Director
Kansas State Board of Agriculture
Division of Water Resources
109 S.W. 9th Street
Topeka, KS 66612

Dear David:

Enclosed for your consideration is a proposal to evaluate the adequacy of the U.S. Geological Survey stream-gaging program for the Arkansas River Compact. The possibility of such an evaluation was discussed extensively at the annual meeting of the Arkansas River Compact Administration in Lamar in December 1989. The proposal should be considered preliminary, and we are interested in any comments you may have on any aspect of the proposal. Please note that we have planned the study to begin in October 1990, and would like to know of your interest in proceeding with the study by June 30, 1990. This schedule will allow timely allocation of manpower resources to this effort. I look forward to your response.

Sincerely yours,

Doug Cain
Subdistrict Chief

Enclosure

Copy with enclosure
to:

James Rodgers, Lamar, CO
Carl Genova, Pueblo, CO
Carl E. Bentrup, Deerfield, KS
Ronald Olomon, Garden City, KS
Steve Witte, Pueblo, CO
District Chief, WRD, Lakewood, CO
District Chief, WRD, Lawrence, KS
Claude Geiger, WRD, Lawrence, KS



PROJECT PROPOSAL

EVALUATION OF THE U.S. GEOLOGICAL SURVEY STREAM-GAGING PROGRAM
FOR THE ARKANSAS RIVER COMPACT

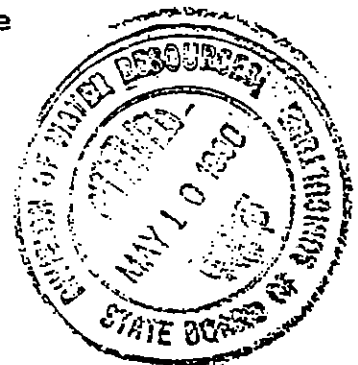
prepared for

Arkansas River Compact Administration

by

U.S. Geological Survey
Pueblo, Colorado Subdistrict Office

May 4, 1990



PUEBLO SUBDISTRICT PROJECT PREPROPOSAL

A. TITLE:

Evaluation of the U.S. Geological Survey stream-gaging program for the Arkansas River Compact.

B. LOCATION:

The study area will involve streamflow-gaging stations currently operated by the U.S. Geological Survey in the Arkansas River Compact network. See figure 1.

C. PROBLEM:

Provisions within the Arkansas River Compact require the systematic determination of streamflow data for effective administration of water rights between Kansas and Colorado. The U.S. Geological Survey currently operates a network of streamflow-gaging stations to provide the streamflow data necessary for administration of the Compact.

In most situations, the computation of streamflow data requires the continuous collection of gage-height (stage) data and the periodic measurement of discharge. After a sufficient number of discharge measurements are made, a stage-discharge relation (rating) can be developed allowing the computation of streamflow from the gage-height record. Because a natural channel is a dynamic system, there will be deviations through time from an established rating. Normally, periodic discharge measurements are made during the year to verify the validity of the rating and to document changes that occur in the hydraulics of a natural channel. By incorporating these rating changes in the computation process, the accuracy of the streamflow data often can be improved. Consequently, more frequent discharge measurements will improve the accuracy of computed streamflow.

Because the majority of the Arkansas River Compact streamflow-gaging stations are located on sand channels, collection of adequate gage-height record and accurate computation of streamflow is difficult. Sand channels are characterized as systems having an unlimited amount of sand composing the streambed. Because of the unstable nature of the bed material, sand channels are unstable during most flow regimes and often exhibit meandering, bank erosion, and scouring and filling of the streambed.

Because of budgetary constraints and the 1970 relocation of the U.S. Geological Survey office from Lamar to Pueblo, the frequency of visits to the gaging stations has decreased over the years. Because effective administration of the Arkansas River Compact requires accurate streamflow data, there is interest in evaluating the adequacy and cost-effectiveness of the current stream-gaging operations of the U.S. Geological Survey.

D. OBJECTIVES:

The study objective is to evaluate the adequacy of the current U.S. Geological Survey stream-gaging program to provide accurate streamflow data for administration of the Arkansas River Compact.

E. APPROACH:

The current stream-gaging program operated by the U.S. Geological Survey for Arkansas River Compact sites will be evaluated by using methods developed for the Lower Colorado River Basin (Moss, 1980). The evaluation will result in the development of an uncertainty function at each site in the currently operated network. The uncertainty function is a relation between the frequency of discharge measurements and the accuracy of the computed streamflow at each site. The uncertainty functions will be used to evaluate the required frequency of discharge measurements to attain a specified accuracy in the streamflow data at each site.

Development of the uncertainty functions is dependent on the proper selection of several values which may be poorly defined (verbal communication with Ken Wahl, USGS Central Region Surface-Water Specialist). As a result, the uncertainty functions may be useful only in a relative way, such as comparing the relative frequency of discharge measurements necessary to attain a specified level of accuracy from site to site. An alternate method of error analysis would involve the split-sampling technique employed by Burkham and Dawdy (1968). This method provides a relation between error and frequency of discharge measurements at a site by comparing a period of streamflow record computed with varying numbers of measurements to the same period of streamflow record computed with all the available measurements. This method could prove useful in verifying the results of the computer-generated uncertainty functions and in providing a more concrete method of error analysis. The Burkham and Dawdy method would be used to generalize the error evaluation for sites that have similar hydraulic characteristics.

F. REPORTS:

A USGS Water-Resources Investigations Report will be published at the conclusion of the study. A draft report will be provided to the Arkansas River Compact Administration for review by September 30, 1991.

G. BENEFITS:

The project will evaluate the adequacy of the current surface-water data collection network to provide information necessary for the effective administration of the Arkansas River Compact.

H. PERSONNEL REQUIREMENTS:

Necessary manpower required to successfully complete the study is currently available in the Pueblo Subdistrict office. Consultation with Kansas District personnel and the Central Region surface-water specialist will be required.

I. WORK SCHEDULE:

The study is scheduled to begin on October 1, 1990 and to finish on March 31, 1992. Planned activities are presented on a federal fiscal year (FY) basis as follows:

	FY 1991												FY 1992					
	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
Development of uncertainty functions and split sample analysis	X	X	X	X	X	X	X	X										
Report preparation									X	X	X	X						
Report review and revisions													X	X	X	X	X	X

J. COSTS:

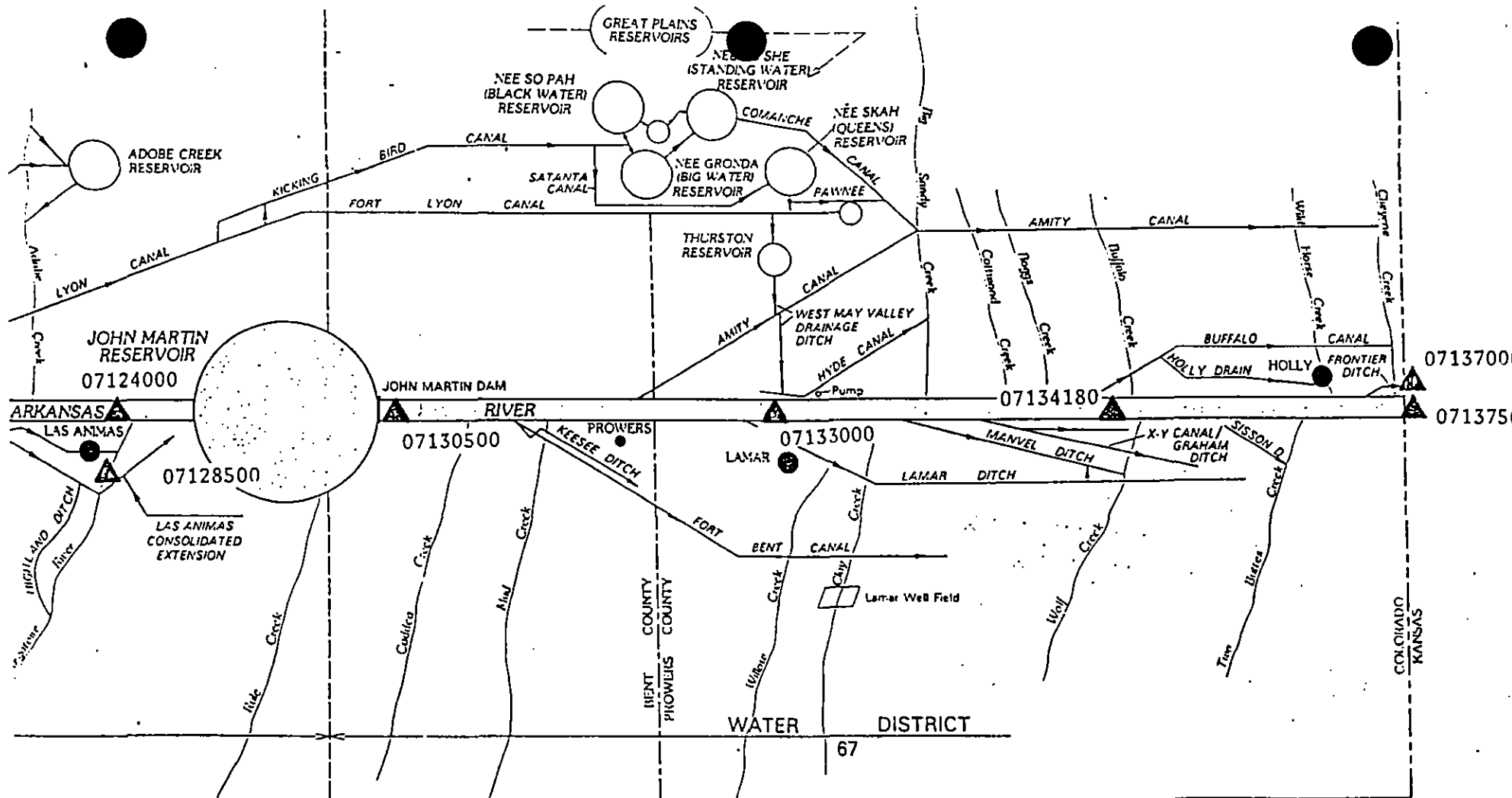
Projected costs, computed on a federal fiscal year (FY) basis are as follows:

	<u>FY 1991</u>	<u>FY 1992</u>
U.S. Geological Survey	\$18,450	\$2,800
Arkansas River Compact Administration	<u>18,450</u>	<u>2,800</u>
	\$36,900	\$5,600

K. REFERENCES:

Burkham, D.E., and Dawdy, D.R., 1968, Error analysis of streamflow data for an alluvial stream: U.S. Geological Survey Professional Paper 655-C.

Moss, M.E., and Gilroy, E.J., 1980, Cost-effective stream-gaging strategies for the Lower Colorado River Basin: U.S. Geological Survey Open-File Report 80-1048.



EXPLANATION

Streamflow-gaging station

Data from Pueblo to the State Line modified from U.S. Bureau of Reclamation, 1969

U.S. Geological Survey number

Station name

07124000	Arkansas River at Las Animas
07128500	Purgatoire River near Las Animas
07130500	Arkansas River below John Martin Reservoir
07133000	Arkansas River at Lamar
07134180	Arkansas River near Granada
07137000	Frontier Ditch near Coolidge, Kansas
07137500	Arkansas River at Coolidge, Kansas

Figure 1.--Diagram sketch of study area.

ARKANSAS RIVER COMPACT ADMINISTRATION

CASH BASIS FINANCIAL STATEMENTS

June 30, 1990

ANDERSON & COMPANY, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

4th & Parmenter - P.O. Box 1077
Lamar, Colorado 81052 - (719)336-7785

ARKANSAS RIVER COMPACT ADMINISTRATION
TABLE OF CONTENTS
June 30, 1990

Independent Auditor's Report	1
Statement of Assets and Liabilities - Cash Basis	2
Statement of Revenues Collected and Expenses Paid and Changes in Cash Balance	3
Statement of Revenues Collected and Expenses Paid with Budget Comparison	4
Notes to Cash Basis Statements	5

ANDERSON & COMPANY P.C.

Members
AICPA
CSCPA

Certified Public Accountants

Gary L. Anderson, C.P.A.
Ronald D. Anderson, P.A.

October 24, 1990

We have audited the accompanying statements of assets, liabilities and equity - cash basis - of the Arkansas River Compact Administration as of June 30, 1990, and the related statements of revenue collected and expenses paid for the year then ended. These financial statements are the responsibility of the Administration's management. Our responsibility is to express an opinion on these financial statements based on our audit.

Our examination was made in accordance with generally accepted auditing standards and accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As described in Note 1a, these financial statements were prepared on the basis of cash receipts and disbursements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets and liabilities - cash basis - of the Arkansas River Compact Administration as of June 30, 1990 and its revenue collected and expenses paid during the year then ended, on the basis of accounting described in Note 1a.

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF ASSETS AND LIABILITIES - CASH BASIS
June 30, 1990

ASSETS

Cash	\$ 34,890
Equipment	29,811
Concrete Control	<u>8,000</u>

<u>TOTAL ASSETS</u>	<u>\$ 72,701</u>
---------------------	------------------

LIABILITIES

Liabilities	\$ <u>0</u>
-------------	-------------

CASH BASIS EQUITY

Expended:	
Equipment	\$ 29,811
Concrete Control	8,000
Unexpended	<u>34,890</u>

<u>TOTAL LIABILITIES AND CASH BASIS EQUITY</u>	<u>\$ 72,701</u>
--	------------------

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION
 STATEMENT OF REVENUES COLLECTED AND EXPENSES PAID
 and CHANGES IN CASH BALANCE
 For the Year Ended June 30, 1990

<u>CASH BALANCE</u> - July 1, 1989		<u>\$ 46,685</u>
 <u>REVENUES</u>		
Revenues from Assessments		
Colorado - 60%	\$ 12,000	
Kansas - 40%	8,000	
Interest	<u>3,075</u>	
 <u>TOTAL REVENUES</u>		 23,075
 <u>EXPENSES</u>		
Treasurers Bond	\$ 100	
Geological Survey	11,370	
Satellite Access Fee	8,000	
Operations Secretary	6,501	
Printing Annual Report - 1986	3,678	
Office Rent	600	
Auditor Fee	700	
Office Supplies and Postage	159	
Copying	321	
Meeting Expense	239	
Court Reporter Fee	453	
Telephone	749	
Recording Secretary and Treasurer	<u>2,000</u>	
 <u>TOTAL EXPENSES</u>		 <u>34,870</u>
 <u>EXCESS OF EXPENSES OVER REVENUES</u>		 <u>(11,795)</u>
 <u>CASH BALANCE</u> - June 30, 1990		 <u><u>\$ 34,890</u></u>

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF REVENUES COLLECTED
and EXPENSES PAID WITH BUDGET COMPARISON
For the Budget Year July 1, 1989 to June 30, 1990

	<u>ACTUAL</u>	<u>BUDGET</u>	<u>OVER (UNDER)</u>
<u>REVENUES</u>			
Revenues from Assessments:			
Colorado - 60%	\$ 12,000	\$ 12,000	\$ 0
Kansas - 40%	8,000	8,000	0
Interest	<u>3,075</u>	<u>2,000</u>	<u>1,075</u>
<u>TOTAL REVENUES</u>	<u>23,075</u>	<u>22,000</u>	<u>1,075</u>
<u>EXPENSES</u>			
U.S. Geological Survey	\$ 11,370	\$ 11,375	\$(5)
Satellite Access Fee	8,000	8,000	0
Operation Secretary	6,501	6,100	401
Treasurers Bond	100	100	0
Telephone	749	1,000	(251)
Court Reporter Fee	453	500	(47)
Recording Secretary & Treasurer	2,000	2,000	0
Meeting Expense	239	150	89
Auditor Fee	700	500	200
Office Supplies & Postage	159	400	(241)
Printing and Copying	321	300	21
Printing Annual Reports - 1987 and 1988	0	6,500	(6,500)
Print Annual Report- 1986	3,678	0	3,678
Office Rent	600	600	0
Contingency	<u>0</u>	<u>1,000</u>	<u>(1,000)</u>
<u>TOTAL EXPENSES</u>	<u>34,870</u>	<u>38,525</u>	<u>(3,655)</u>
<u>BUDGET DEFICIT</u>	<u>\$(11,795)</u>	<u>\$(16,525)</u>	<u>\$ 4,730</u>

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION
NOTES TO CASH BASIS STATEMENTS
June 30, 1990

NOTE 1 - Summary of significant accounting policies:

- a. The Administration maintains financial records using the cash basis of accounting. By using the cash basis of accounting, certain revenues are recognized when received rather than when earned, and certain expenses and purchases of assets are recognized when cash is disbursed rather than when the obligation is incurred.

STATE OF COLORADO

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



M E M O R A N D U M

Roy Romer
Governor
J. William McDonald
Director
David W. Walker
Deputy Director

TO: Chairman and Members
Arkansas River Compact Administration

FROM: E.I. Jencsok *E.I.J.*

DATE: December 6, 1990

SUBJECT: Budget Matters

The following actions need to be taken at the annual meeting:

1. Review FY 90-91 expenditures to date to see if we are in line with the budget (the FY 90-91 budget is enclosed),
2. Review and revise, if needed, the previously adopted FY 91-92 budget (revised budget enclosed),
3. Adopt an FY 92-93 budget (draft budget enclosed), and
4. Authorize the USGS cooperative agreements for federal FY 91, these being payable from the Administration's FY 91-92 budget (i.e., USGS bills us in August/September 1991).

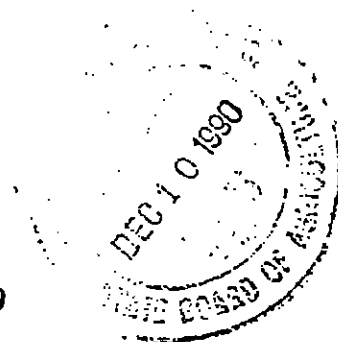
I've also enclosed an analysis of future surplus funds.

EIJ/gl

Enclosures: as stated (5)

cc: Operations secretary (w/enc.)
Recording secretary (w/enc.)

Attachment 9



8943E

REVISED FY 1990-91 BUDGET
(July 1, 1990 - June 30, 1991)

PENDITURES

CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,500	
2. Recording Secretary	1,500	
3. Operations Secretary	6,100	
4. Auditor's Fees	700	
5. Court Reporter's Fees	600	
6. Payroll Taxes	<u>0</u>	
		\$10,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1990	\$11,830	
2. St. of Colo. Satellite System	<u>8,000</u>	
		\$19,830

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1988-89 Annual Reports (Printing)	7,000	
3. Telephone	1,000	
4. Office Supplies/Postage	400	
5. Printing/Copying	300	
6. Meetings	150	
7. Travel	0	
8. Rent	<u>600</u>	
		\$ 9,550

D. EQUIPMENT: \$ 0

E. CONTINGENCY: 1,000

\$40,780

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$15,000	
2. Kansas (40%)	<u>10,000</u>	
		\$25,000

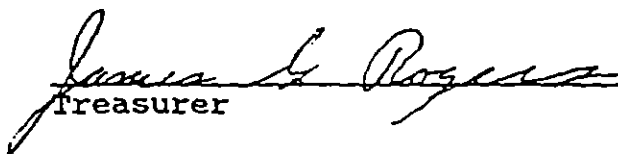
B. INTEREST EARNINGS: 1,500

C. MISCELLANEOUS: 0

\$26,500

EXPENDITURES FROM SURPLUS \$14,280

First adopted by the Arkansas River Compact Administration at its December 13, 1988, Annual Meeting and revised at its December 12, 1989, Annual Meeting.


Treasurer

FY 1991-92 BUDGET
 (July 1, 1991 - June 30, 1992)

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,500	
2. Recording Secretary	1,500	
3. Operations Secretary	6,100	
4. Auditor's Fees	700	
5. Court Reporter's Fees	600	
6. Payroll Taxes	<u>0</u>	
		\$10,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1990	\$12,600	
2. St. of Colo. Satellite System	<u>8,000</u>	
		\$20,600

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1990 Annual Report (Printing)	4,000	
3. Telephone	1,000	
4. Office Supplies/Postage	400	
5. Printing/Copying	300	
6. Meetings	150	
7. Travel	0	
8. Rent	<u>600</u>	
		\$ 6,550

D. EQUIPMENT:

\$ 0

E. CONTINGENCY:

1,000

\$38,550

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$15,750	
2. Kansas (40%)	<u>10,500</u>	
		\$26,250

B. INTEREST EARNINGS:

3,000

C. MISCELLANEOUS:

0

\$29,250

EXPENDITURES FROM SURPLUS

\$ 9,300

Adopted by the Arkansas River Compact Administration at its
 December 12, 1989, Annual Meeting.


 Treasurer

1878E-2

Draft FY 1992-93 BUDGET
(July 1, 1992 - June 30, 1993)

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,500	} increases to \$2000 each	
2. Recording Secretary	1,500		
3. Operations Secretary	6,100		
4. Auditor's Fees	700		
5. Court Reporter's Fees	600		
6. Payroll Taxes	<u>0</u>		
			\$10,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1990	\$13,095	
2. St. of Colo. Satellite System	<u>\$ 9,000</u>	\$22,095

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1991 Annual Report (Printing)	4,000	
3. Telephone	1,000	
4. Office Supplies/Postage	400	
5. Printing/Copying	300	
6. Meetings	150	
7. Travel	0	
8. Rent	<u>600</u>	\$ 6,550

D. EQUIPMENT:

\$ 0

E. CONTINGENCY:

1,000

\$40,045

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$19,800	
2. Kansas (40%)	<u>13,200</u>	\$33,000

B. INTEREST EARNINGS:

2,000

C. MISCELLANEOUS:

0

\$35,000

EXPENDITURES FROM SURPLUS

\$ 5,045

Adopted by the Arkansas River Compact Administration at its
December 11, 1990, Annual Meeting.

Treasurer

Date 1878E-2

ANALYSIS OF ARCA SURPLUS FUNDS(a)

	<u>Actual^{1/}</u> <u>87-88</u>	<u>Actual^{2/}</u> <u>88-89</u>	<u>Actual^{3/}</u> <u>89-90</u>	<u>Estimated^{4/}</u> <u>90-91</u>	<u>Estimated^{5/}</u> <u>91-92</u>	<u>Estimated^{6/}</u> <u>92-93</u>
Balance fwd.	\$57,800	\$51,300	\$46,700	\$34,900	\$20,600	\$11,300
Plus Income CO	12,000	12,000	12,000	15,000	15,750	19,800
KA	8,000	8,000	8,000	10,000	10,500	13,200
Interest	3,400	4,200	3,100	1,500	3,000	2,000
	<u>23,400</u>	<u>24,200</u>	<u>23,100</u>	<u>26,500</u>	<u>29,300</u>	<u>35,000</u>
From Surplus	6,500	4,600	11,800	14,300	9,300	5,000
Less Expense	<u>29,900</u>	<u>28,800</u>	<u>34,900</u>	<u>40,800</u>	<u>38,600</u>	<u>40,000</u>
Balance 6/30	\$51,300	\$46,700	\$34,900	\$20,600	\$11,300	\$ 6,300

- ^{1/} June 30, 1988 Auditors Report
^{2/} June 30, 1989 Auditors Report
^{3/} June 30, 1990 Auditors Report
^{4/} 1990-1991 Budget
^{5/} 1991-1992 Budget
^{6/} 1992-1993 Budget

a/ All numbers rounded to nearest \$100

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
Meeker, Colorado 81641

KANSAS

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

M E M O R A N D U M

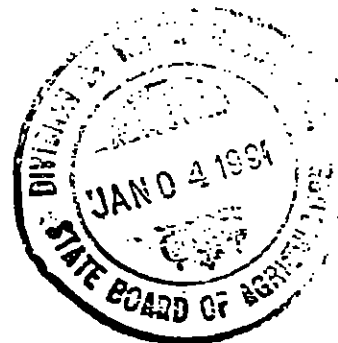
TO: Chairman and Members of Arkansas River Compact Administration
FROM: James G. Rogers, Treasurer *J.G.R.*
DATE: December 28, 1990
SUBJECT: FY 1990-91, FY 1991-92 and FY 1992-93 Budgets

Please find enclosed the revised budget for FY 1990-91, and FY 1991-92 which were adopted by the Administration at its December 11, 1990, annual meeting. Also, enclosed is the budget for FY 1992-93 which was adopted on December 11, 1990.

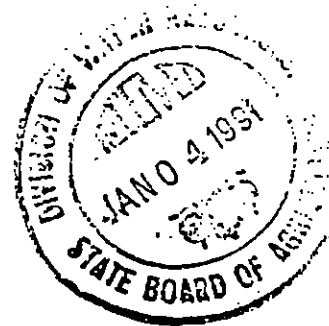
JGR/bc

Enclosures: As stated

xc and enclosures: Frank G. Cooley
David L. Pope
David Walker
Carl Genova
Lola Fox
Randy Hayzlett
Steven J. Witte



REVISED FY 1990-91 BUDGET
(July 1, 1990 - June 30, 1991)



EXPENDITURES

A. CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,750
2. Recording Secretary	1,750
3. Operations Secretary	6,100
4. Auditor's Fees	700
5. Court Reporter's Fees	600
6. Payroll Taxes	<u>0</u>

\$10,900

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1990	\$11,830
2. St. of Colo. Satellite System	<u>8,000</u>

\$19,830

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100
2. 1987-88 Annual Reports (Printing)	7,000
3. Telephone	1,000
4. Office Supplies/Postage	400
5. Printing/Copying	300
6. Meetings	150
7. Travel	0
8. Rent	<u>600</u>

\$ 9,550

D. EQUIPMENT:

\$ 0

E. CONTINGENCY:

1,000

\$41,280

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$15,000
2. Kansas (40%)	<u>10,000</u>

\$25,000

B. INTEREST EARNINGS:

1,500

C. MISCELLANEOUS:

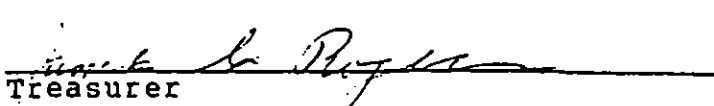
0

\$26,500

EXPENDITURES FROM SURPLUS

\$14,780

First adopted by the Arkansas River Compact Administration at its December 13, 1988, Annual Meeting, revised at its December 12, 1989 Annual Meeting, and revised again at its December 11, 1990, Annual Meeting.


Treasurer

1878E

FY 1991-92 BUDGET
(July 1, 1991 - June 30, 1992)

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 2,000	
2. Recording Secretary	2,000	
3. Operations Secretary	6,100	
4. Auditor's Fees	700	
5. Court Reporter's Fees	600	
6. Payroll Taxes	<u>0</u>	
		\$11,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1990	\$12,600	
2. St. of Colo. Satellite System	<u>8,000</u>	
		\$20,600

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1989-90 Annual Report (Printing)	5,000	
3. Telephone	1,000	
4. Office Supplies/Postage	400	
5. Printing/Copying	300	
6. Meetings	150	
7. Travel	0	
8. Rent	<u>600</u>	
		\$ 7,550

D. EQUIPMENT: \$ 0

E. CONTINGENCY: 1,000

\$40,550

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$15,750	
2. Kansas (40%)	<u>10,500</u>	
		\$26,250

B. INTEREST EARNINGS: 3,000

C. MISCELLANEOUS: 0
\$29,250

EXPENDITURES FROM SURPLUS \$11,300

First adopted by the Arkansas River Compact Administration at its December 12, 1989, Annual Meeting, and revised at its December 11, 1990 Annual Meeting.

James L. Rojas
Treasurer Date

1878E-4

FY 1992-93 BUDGET
(July 1, 1992 - June 30, 1993)

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 2,000	
2. Recording Secretary	2,000	
3. Operations Secretary	6,100	
4. Auditor's Fees	700	
5. Court Reporter's Fees	600	
6. Payroll Taxes	<u>0</u>	
		\$11,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1990	\$13,095	
2. St. of Colo. Satellite System	<u>\$ 9,000</u>	
		\$22,095

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1991 Annual Report (Printing)	4,000	
3. Telephone	1,000	
4. Office Supplies/Postage	400	
5. Printing/Copying	300	
6. Meetings	150	
7. Travel	0	
8. Rent	<u>600</u>	
		\$ 6,550

D. EQUIPMENT: \$ 0

E. CONTINGENCY: 1,000

\$41,045

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$23,400	
2. Kansas (40%)	<u>15,600</u>	
		\$39,000

B. INTEREST EARNINGS: 2,000

C. MISCELLANEOUS: 0

\$41,000

EXPENDITURES FROM SURPLUS

\$ 45

Adopted by the Arkansas River Compact Administration at its
December 11, 1990, Annual Meeting.

Treasurer

Date

1878E-2

ARKANSAS RIVER COMPACT ADMINISTRATION

307 South Fifth Street
LAMAR, COLORADO 81052

COLORADO

DAVID VALKIE, Denver
CARL GENOVA, Pueblo
JAMES S. ROGERS, Lamar
Treasurer

FRANK G. COOLEY

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

KANSAS

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

R E S O L U T I O N

WHEREAS, Mr. J. William McDonald, in his capacity as Director of the Colorado Water Conservation Board, served as a representative from the State of Colorado to the Arkansas River Compact Administration during that period; and

WHEREAS, Mr. McDonald ably and steadfastly represented Colorado's interests with equanimity and fairness in a gentlemanly manner during his nearly eleven years on the Administration; and

WHEREAS, Mr. McDonald was instrumental in helping implement the 1980 operating plan for John Martin Reservoir to the benefit of Kansas and Colorado.

NOW, THEREFORE, BE IT RESOLVED by the Arkansas River Compact Administration that it does hereby express its gratitude and appreciation to J. William McDonald for his outstanding service, dedication, and courtesy to the Administration and to the states, and further extends to him its best wishes for health and happiness in the future.

BE IT FURTHER RESOLVED that the Administration honor Mr. McDonald for his service by including this Resolution along with his picture in the Administration's 1990 annual report and instruct the recording secretary to send a copy of the Resolution to Mr. McDonald.

Entered this 11th day of December, 1990, at the annual meeting of the Arkansas River Compact Administration held in Lamar, Colorado.

Frank G. Cooley

3617E*

RESOLUTION

WHEREAS, Carl Bentrup served on the Arkansas River Compact Administration as a Representative of the state of Kansas from 1957 through 1990, a total of 33 years of distinguished service; and

WHEREAS, he was born in a house next to the Deerfield Bridge and his roots have been inextricably entwined with the lifeblood of the Arkansas River since that time; and

WHEREAS, he has lived at his present location near the Arkansas River since 1947 where he has been a successful irrigator under the Amazon Ditch and one of southwest Kansas' leading sheep ranchers; and

WHEREAS, Mr. Bentrup has selflessly devoted many hours of time to diligently representing the interests of the Arkansas River Valley water users and the state of Kansas in the Arkansas River Compact Administration; and

WHEREAS, he has ably and fairly served as vice chairman of the Arkansas River Compact Administration; and

WHEREAS, Carl Bentrup's devotion to the Compact, the Compact Administration, and the welfare of the Arkansas River were widely known and appreciated by all those who came in contact with him; and

WHEREAS, when you look in the dictionary under the term "gentlemen", it has a picture of Carl Bentrup; and

WHEREAS, Carl Bentrup's devotion and service to the Arkansas River Compact cannot be replaced and will be sorely missed by all those who know him;

NOW THEREFORE, BE IT RESOLVED by the Arkansas River Compact Administration, that it does hereby express its deepest gratitude and appreciation to Carl Bentrup for the services he has rendered to the Arkansas River Compact Administration and to the states of Kansas and Colorado during the past 33 years.

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. Bentrup.

BE IT FURTHER RESOLVED that the Administration honor Mr. Bentrup for his many years of extraordinary service by including his picture and appropriate dedicatory remarks in the Administration's annual report for the compact year 1990.

Entered this 11th day of December, 1990, at the annual meeting of the Arkansas River Compact Administration held in Lamar, Colorado.

Frank G. Cooley, Chairman

Carl Genova, Vice Chairman

RESOLUTION

WHEREAS, Ron Olomon, an irrigator on the Farmer's Ditch and a lifelong resident of the Garden City area, served on the Arkansas River Compact Administration as a Representative of the state of Kansas and the water users of the Arkansas River Valley in Kansas from 1981 until 1990; and

WHEREAS, he faithfully performed his duties and represented the interests of the state of Kansas; and

WHEREAS, his service to the Arkansas River Compact Administration has been greatly appreciated; and

NOW THEREFORE, BE IT RESOLVED by the Arkansas River Compact Administration, that it hereby acknowledges with gratitude the dedicated service of Ron Olomon to the Administration and expresses its appreciation to him for his dedication.

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. Olomon.

BE IT FURTHER RESOLVED that the Administration honor Mr. Olomon for his many years of service by including his picture and appropriate dedicatory remarks in the Administration's annual report for the compact year 1990.

Entered this 11th day of December, 1990, at the annual meeting of the Arkansas River Compact Administration held in Lamar, Colorado.

Frank G. Cooley, Chairman

Carl Genova, Vice Chairman