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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 10th day of December, 1991,
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 8, 1992,
Lamar, Colorado.


Frank G. Cooley, Chairman.

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CHAIRMAN COOLEY: Ladies and gentlemen, it's at least 8:30 in the morning and pursuant to notice and statute we're ready to proceed with the meeting of the Arkansas River Compact Administration. Frank Milenski is here. We're delighted to have this outfit decorated by your presence, sir.

MR. MILENSKI: Thank you, sir.

CHAIRMAN COOLEY: And both states are here. I'll call at this time on David Pope to introduce the members of the Kansas delegation, as well as some of the Kansas officials who are here. And if you'll go slowly enough so I can write down names I'd appreciate it, and there may be others here that need that help.

MR. POPE: Thank you, Mr. Chairman. Let me start here at the head table with the members of the administration. On your immediate left is Randy Hayzlett, member of the administration from Kansas. Lola Fox, the other member of the administration in addition to myself. On my immediate left is Mr. John Draper, special legal counsel for the State of

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1 Kansas in the Kansas v. Colorado matter, from
 2 Santa Fe, New Mexico. And to his left is Brent
 3 Spronk, from Denver, and he's the main
 4 consultant. And then Leland Rolfs, my legal
 5 counsel from Topeka with the Division of Water
 6 Resources.

7 I might also provide some special
 8 introduction, which is really not necessary,
 9 but we're happy to see Carl Bentrup in the
 10 audience here this morning, and glad that he's
 11 able to be with us as an alumni of this
 12 distinguished group.

13 CHAIRMAN COOLEY: Good.

14 MR. POPE: In addition to that, from
 15 our office in Garden City, Mr. Steve Frost,
 16 over here on the front row on the left is our
 17 Water Commissioner for the Division of Water
 18 Resources in Garden City. His assistant, Mark
 19 Rude, next to him on the front row. And we
 20 also have Dale Jacob, on the staff there in the
 21 field office. Dale, hold up your hand there in
 22 the back room-- back of the room.

23 I believe, then, I see a few officials
 24 and-- and as always the case you probably miss
 25 somebody when you try to do this, but I see

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1 Oliver Hines, from the Frontier System. And I
 2 almost missed him, David Brenn, who is-- now
 3 assumed the helm of the Garden City Company and
 4 the-- which manages the Great East-- the Great
 5 Eastern Ditch.

6 CHAIRMAN COOLEY: David, would you
 7 raise your hand, please?

8 MR. POPE: David Brenn there in the--
 9 so it, has been with the company in the past
 10 but he is-- as I understand it has been
 11 appointed some lofty title, Executive Vice
 12 President, or something of that sort. So we're
 13 glad to have him here in his new capacity. I
 14 believe that takes care of it for those people
 15 I'm able to spot this morning, Mr. Chairman.

16 CHAIRMAN COOLEY: Thank you very
 17 much. That's fine. Mr. Walker, would you--
 18 David Walker is the head of the Colorado Water
 19 Conservation Board, or Director, and ex
 20 officio, head of the Colorado Delegation.
 21 David, would you try to match that stellar
 22 performance, if you please, in introductions.

23 MR. WALKER: I'd be glad to, Frank.
 24 To your right is Jim Rogers, representing this
 25 area and to whom we owe some gratitude for

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1 making the arrangements for the meeting and
 2 making sure all proceeds well. To my left is
 3 Carl Genova, from Pueblo area. On my right is
 4 Dennis Montgomery, special counsel. And from
 5 my staff is Steve Miller, who is, henceforth,
 6 going to be our staff assigned to the
 7 administration.

8 There are a few in the audience that I
 9 should, at my own peril, I guess, introduce.
 10 Steve Witte, the Division Engineer. David
 11 Robbins, special counsel. And Hal Simpson,
 12 Deputy State Engineer.

13 CHAIRMAN COOLEY: Thank you. Mr.
 14 Draper, you're going to see a meeting conducted
 15 like none other-- quite none other than you've
 16 seen before and with that warning-- I want to
 17 point out, as I call for the approval of the
 18 agenda, that a couple of significant things--
 19 there are some items that have been moved on
 20 the agenda because of the exigencies of time
 21 and the need of some persons to be heard on one
 22 or two matters this morning. I've also been
 23 told that the State of Colorado plane would
 24 depart from the airport here at 3 o'clock this
 25 afternoon whether I was through speaking or

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1 not. And for two other reasons, I think the
 2 meeting will probably progress rapidly. One is
 3 that with the attention devoted to the river in
 4 the Supreme Court case of Kansas v. Colorado, a
 5 good bit of the work of the administration at
 6 these annual meetings is either held in
 7 abeyance or treated in a tippy-toe manner
 8 because that forum seems to have an advantage.
 9 And the second reason that things may progress
 10 rapidly this morning is the current depleted
 11 state of John Martin Reservoir.

12 Flying in last night from Pueblo-- by way
 13 of Pueblo we passed-- flew over the veteran's
 14 home at a rate of 200 knots, which is a good
 15 bit more than 200 miles an hour, and it seemed
 16 like another 10 minutes before we got over
 17 water. Preferably there's water lapping at the
 18 front door of the veteran's home and I hope
 19 next year is-- is a better year for water than
 20 this year has been.

21 Is there any objection to using the agenda
 22 as it's been carefully worked out and
 23 distributed to all hands? (no response).
 24 Hearing none, we'll use the agenda that's been
 25 distributed.

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1 MR. WALKER: Mr. Chairman?

2 CHAIRMAN COOLEY: Yes.

3 MR. WALKER: I have been reminded that

4 I failed in my duties to introduce all the

5 important people. I omitted Bernice Carr.

6 CHAIRMAN COOLEY: Where is-- where

7 is the mysterious Bernice Carr?

8 MR. WALKER: Right over there.

9 CHAIRMAN COOLEY: Good.

10 MR. WALKER: And--

11 CHAIRMAN COOLEY: Would you come

12 up, I want to shake your hand. You have been

13 a-- welcome to our meeting. We're delighted

14 you're here.

15 MS. CARR: Thank you.

16 CHAIRMAN COOLEY: Good. Thank you

17 for attending.

18 MR. WALKER: It should be noted that

19 she is another one of those behind the scenes

20 that makes all this work.

21 CHAIRMAN COOLEY: Well, I wasn't

22 sure that she was a real person. There was a--

23 MR. WALKER: Well, we have a surprise

24 for you, Frank, she does exist.

25 CHAIRMAN COOLEY: We're delighted

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1 . you're here.

2 MS. CARR: Thank you.

3 CHAIRMAN COOLEY: How many years
4 have you worked for the compact, do you
5 suppose?

6 MS. CARR: Four. I started in January
7 of '87.

8 CHAIRMAN COOLEY: Four-- that
9 she's been working for us since '87, and I'm so
10 pleased that she's been able to put in an
11 appearance here.

12 The transcript for the December 1990
13 meeting, the reporter's transcript, there have
14 been three duplicate originals made. I have
15 one in my hand. One--

16 MR. WALKER: Mr. Chairman, Steve is
17 reviewing the document provided by David Pope
18 this morning against the notes that he
19 provided. If we could defer until he has had a
20 chance to look through the document we can
21 dispatch it much easily-- more easily.

22 CHAIRMAN COOLEY: Colorado's first
23 order of business is to mess up the agenda.
24 Okay.

25 MR. WALKER: Well--

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1 CHAIRMAN COOLEY: Okay. We'll
2 proceed to the reports of officers for 1991.
3 My remarks will take place about five minutes
4 at 3 o'clock this afternoon, so we'll defer
5 those for right now. I have nothing further to
6 say. The recording secretary-- who is the
7 recording secretary?

8 MS. CARR: I am.

9 CHAIRMAN COOLEY: Bernice, do you
10 have anything else that you'd care to say at
11 this time?

12 MS. CARR: I think my report will be
13 given at the budget meeting.

14 CHAIRMAN COOLEY: Fine. I'll
15 remind you and virtually all of you are aware
16 that we will try to do our housekeeping
17 activities at the end of the meeting so that
18 those of you who have more important duties to
19 attend or miles to drive can make your escape.
20 Now, the treasurer-- the report of the
21 treasurer.

22 MR. ROGERS: Yes, Mr. Chairman.

23 CHAIRMAN COOLEY: Mr. Rogers.

24 MR. ROGERS: I passed out the audit
25 report which covers from 1990, June to 1991.

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1 July 1. That covers everything that was done
2 up until then. I also passed out to the
3 members a page with all of the checks that was
4 written since 19-- I mean, July 1991. We have
5 in the bank at this time \$4,320.11. Total
6 expenses paid since July 1, up through to date,
7 including the checks we will mail out today,
8 total \$14,870.09. And you'll find all that
9 documented in these papers that I've handed
10 out.

11 CHAIRMAN COOLEY: Did you
12 previously distribute the checks that were
13 written up to July 10th of 1991 or a list of
14 them?

15 MS. CARR: They are-- previous to
16 when?

17 CHAIRMAN COOLEY: Previous to this
18 report which starts in July of 1991.

19 MS. CARR: I did not list them.

20 CHAIRMAN COOLEY: Okay.

21 MR. WALKER: They were covered under
22 the budget and everything come out according
23 to--

24 CHAIRMAN COOLEY: Fair enough.

25 MR. WALKER: -- What the budget had.

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1 CHAIRMAN COOLEY: David Pope, I
2 would be ready to proceed and approve the
3 report of the-- of the treasurer with the
4 understanding that with this new material that
5 if we have any questions we can go over it when
6 we do the-- when we do the budgeting process
7 this afternoon. Does that make sense to you?

8 MR. POPE: That's acceptable to me,
9 Mr. Chairman. Are you expecting action on the
10 audit or the treasurer's report, or is that all
11 inclusive?

12 CHAIRMAN COOLEY: Oh, I think I'd
13 kind of like one resolution with both of them
14 in it, a double barreled sort of a thing. Are
15 we loud enough for you, all of us?

16 THE REPORTER: Yes.

17 MR. POPE: I move the approval of the
18 auditor's report that has been distributed here
19 this morning.

20 CHAIRMAN COOLEY: All right. It's
21 been moved by David Pope that we approve the
22 audit and the report of the treasurer this
23 morning. Is there a second?

24 MR. GENOVA: I'll second.

25 CHAIRMAN COOLEY: It's been

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1 regularly seconded. Kansas?

2 MR. POPE: Kansas votes "aye".

3 CHAIRMAN COOLEY: Kansas
4 votes, "aye". Colorado?

5 MR. WALKER: "Aye".

6 CHAIRMAN COOLEY: Colorado votes
7 "aye". You've done very well.

8 MR. POPE: Mr. Chairman, just as a
9 matter of now knowing some of the things that
10 are colleagues from Colorado have gone through,
11 I think it would be appropriate if we identify
12 these items as attachments. My suggestion is
13 that the agenda be labeled A, and that the
14 audit report be labeled B.

15 CHAIRMAN COOLEY: Okay. The
16 agenda to this meeting will be attached to the
17 minutes and labeled A. The cash balance
18 financial statements of Mr. Rogers, dated June
19 30th, 1991, will be labeled B. The statement
20 of cash receipts from July to December 9th will
21 be labeled Exhibit C.

22 I understand that there has been a meeting
23 of the operations committee. Is there a report
24 from the operations secretary?

25 MR. WITTE: Yes, Mr. Chairman. Good

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1 morning.

2 CHAIRMAN COOLEY: Good morning.

3 MR. WITTE: I had intended my report
4 this morning to be certainly an abbreviated
5 version of my report to the operations
6 committee, delivered last evening. And
7 certainly an abbreviated version of my full
8 report, which I believe has been circulated to
9 the administration members for their review
10 prior to this meeting. And I had hoped to just
11 touch on some of the highlights of the
12 operations conducted during the past year in
13 the performance of my duties as operations
14 secretary. In the period April 1st to April
15 15th last year, there was 29,917 acre feet
16 distributed into the accounts, pursuant to the
17 1980 operating agreement. 40 percent of which
18 went into the Kansas account, and 60 percent of
19 which went into the Colorado accounts.

20 I also wanted to draw your attention to
21 the fact that in 1991 there was a request made
22 by the City of Lamar to utilize the facility at
23 John Martin Reservoir to regulate releases of
24 Fryingpan project water, and that request was
25 received by me on June 11th. Pursuant to

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1 previous instructions from the administration,
2 notice was given and a two week notice period
3 was allowed. There were no objections to that
4 request and so the operation was executed
5 ultimately through the release of 788 acre feet
6 of water temporarily retained in John Martin
7 Reservoir to the City of Lamar by July 31st of
8 last year. Kansas requested a run of 400 cubic
9 feet per second as of June 21st, and that
10 operation continued until July 13th over which
11 period a quantity of 17,000 plus acre feet were
12 released from the Kansas account.

13 Also during that interval there was a
14 summer storage event that occurred. It was a
15 fairly small event and I think ultimately
16 something on the order of 5,600 acre feet of
17 compact waters were captured. Also during that
18 same time period there was water added to the
19 permanent pool in John Martin Reservoir. A
20 very small quantity 78 acre feet-- 78.62 acre
21 feet by our computations under the auspices of
22 water rights held by the Division of Wildlife,
23 commonly referred to as the Muddy Creek Rights
24 and pursuant to previous resolution of this
25 administration of August 14th, 1976.

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1 As of the end of the compact year, total
2 contents of John Martin Reservoir was 8,386.58
3 acre feet of which the permanent pool contained
4 2,767.75 acre feet. Those being some of the
5 highlights of the year. As I mentioned, I have
6 submitted my full report to the operations
7 committee last evening and have been given some
8 assurance that they intend to recommend
9 acceptance by the full administration perhaps
10 later in the agenda this morning. Mr.
11 Chairman, you've made some expression of hope
12 that next year will be a better water year than
13 this and--

14 CHAIRMAN COOLEY: Yeah, I was
15 troubled by your characterization of your
16 excellent report as showing the highlights with
17 8,000 acre feet in John Martin. And that was
18 troubling, but I hope you continue and tell us
19 that there's going to be more water next year.

20 MR. WITTE: Actually at the present
21 time there is more water than was in the
22 reservoir at the end of the compact year, and I
23 will offer to you that at least as of December
24 8th, the contents of John Martin was somewhat
25 in excess of 24,000 acre feet. But our friends

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1 at the Soil Conservation Service have provided
2 us with some additional hope. As of December
3 1st, they're reporting that the snow pack for
4 the Arkansas Basin is 266 percent above
5 normal. So we can all hang to that hope for
6 the coming year. I guess that concludes my
7 oral report, unless there are questions from
8 the administration that I'd be happy to
9 entertain.

10 CHAIRMAN COOLEY: I think we all
11 ought to keep in mind that when Bob Jesse held
12 this position that the next 20 minutes of the
13 meeting were among the most fun of the year to
14 put Bob through the hoops and over the fences
15 and find out what all was going on. Steve
16 doesn't somehow invite the kind of tomatoes
17 that were so much fun to--

18 MR. WITTE: I've been told Mr. Jesse
19 is in the audience.

20 CHAIRMAN COOLEY: Yeah, I think he
21 is, but he's not going to help you, Steve. Are
22 there any a questions of Steve Witte? It's an
23 excellent time to get caught up on anything
24 that's of interest to you along the scandals--
25 whatever else, along the Arkansas Valley. Do

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1 you have any-- do any of you have any
2 questions?

3 MR. POPE: Just-- Mr. Chairman, just a
4 quick--

5 CHAIRMAN COOLEY: Mr. Pope?

6 MR. POPE: Just a quick question.
7 Steve, just roughly with the distribution of
8 the storage that has occurred up to date in the
9 compact year as it relates to, say, Article
10 III, Water Versus Compact Water and Volume to
11 Date?

12 MR. WITTE: In this compact year,
13 sir?

14 MR. POPE: (No response).

15 MR. WITTE: My preliminary accounting
16 shows that at the present time of the 24,000
17 acre feet, that I referenced earlier, that
18 12,384 acre feet are contained within the
19 winter compact water holding account in the
20 accounting system that I think you're somewhat
21 familiar with. And that 3,761 acre feet are
22 within the winter water account which we use as
23 the holding account for Article III waters
24 prior to distribution.

25 CHAIRMAN COOLEY: I have a

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1 question that probably half the audience could
2 straighten me out on, but the so called
3 permanent pool water would be that Division of
4 Wildlife account that can go up to 10,000 acre
5 feet. It seems to me, and I want you to tell
6 me if I'm right, that it doesn't require John
7 Martin to spill for that account to be
8 replenished. Any-- I have the idea that any
9 water that the Division of Wildlife can acquire
10 legally-- lawfully can replenish that account
11 up to 10,000 feet. Do you know of any plans of
12 the division or efforts on the division to
13 replenish that account, which we've seen gone
14 down as all the other accounts have?

15 MR. WITTE: Before I answer the real
16 question part--

17 CHAIRMAN COOLEY: Yeah.

18 MR. WITTE: The research that I've
19 done has indicated that this administration has
20 passed two resolutions previously. One was the
21 resolution of August '76, that I referenced
22 earlier, specifically dealt with the Muddy
23 Creek Rights and also created the permanent
24 pool and provided that such other waters may be
25 stored as the administration subsequently

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1 approves. And there was one subsequent
2 resolution, I believe it was passed by this
3 body in 1980, which was to the effect that any
4 waters that originated on the west slope--
5 Colorado River waters that originated on the
6 west slope was an approved source of water for
7 replenishment of the permanent pool. And so to
8 my knowledge, at the present time those are the
9 only two sources of water that have been
10 approved for the purposes of replenishing that
11 permanent pool. That-- insofar as plans, I
12 know that there-- there is an ongoing pointed
13 interest in trying to replenish that pool in
14 whatever manner is possible and permissible.
15 And that there are some ongoing investigations
16 occurring with the end in mind of accomplishing
17 just that. I had understood that perhaps Mr.
18 Walker was going to make a-- make some
19 presentation on that later on in the meeting
20 and perhaps he could speak to that more fully.

21 CHAIRMAN COOLEY: Now, one other
22 question, the only-- the only thing that
23 diminishes or depletes that pool is
24 evaporation. Is that not correct?

25 MR. WITTE: That is correct.

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CHAIRMAN COOLEY: David, would you care to respond now, or would you prefer to do it at some other point in the meeting?

MR. WALKER: Since I'm going to ask someone else to do it why don't we do it right now and--

CHAIRMAN COOLEY: Fine. Wonderful.

MR. WALKER: I'd like to have Hal Simpson comment on what activity Colorado is pursuing.

CHAIRMAN COOLEY: Don't think you're off the hook, Steve.

MR. WITTE: I was just yielding the floor for the moment.

MR. SIMPSON: Mr. Chairman, Ken Salazar is the director of the Department of Natural Resources and established a task force of departmental agencies with the State Engineer and offices in charge of evaluating various water resource options to replace the permanent pool. It may be purchase of water rights. It may be trade of existing rights owned by the Division of Wildlife. It may be the lease of transcontinental water. But the

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1 permanent pool is down to 2,700 acre feet and
2 we're quite concerned about getting it back to
3 10,000 acre feet. Once we make some decisions,
4 which I would expect to occur in the near
5 future, we'll probably brief the administration
6 at the next meeting, if not sooner. Some of
7 these may require administration approval and
8 of course storage in the permanent pool. But
9 we are acting on it as swiftly as possible
10 because of the potential loss of the fish
11 resource in that reservoir if we don't get a
12 good runoff next year.

13 CHAIRMAN COOLEY: Let me pose a
14 hypothetical to you. If the opportunity came
15 for you to acquire through any of those sources
16 7,00 acre feet you don't foresee that
17 additional action of the compact administration
18 would be necessary, do you? Are there any
19 circumstances under which you would feel that
20 you had to get approval of the compact
21 administration in order to put that in John
22 Martin?

23 MR. SIMPSON: If it involved use of an
24 existing direct flow water right, let's say a
25 ditch below John Martin, for even one below I

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1 believe it would take Water Court approval and
2 probably compact administration approval.

3 CHAIRMAN COOLEY: But the lease of
4 foreign water-- or non-native water?

5 MR. SIMPSON: It probably would not.
6 We could move that in now under the present
7 approval of the administration. If we have a
8 good runoff season that's likely how we would
9 get it back to 10,000, but to maintain then the
10 10,000 we're looking at purchasing or trading
11 for a permanent water right to maintain the
12 permanent pool.

13 CHAIRMAN COOLEY: I'm immensely
14 pleased by your remarks and kind of glad I got
15 curious on this subject. And I thank you,
16 sir. Are there any questions of Hal on this
17 subject at this time?

18 MR. POPE: None.

19 CHAIRMAN COOLEY: Anybody in the
20 audience have any questions? (no response).
21 Steve is back on his feet ready for another
22 round. Are there any other questions of Mr.
23 Witte? Yes, Carl?

24 MR. GENOVA: Steve, I noticed that
25 storage-- winter storage in Pueblo is somewhat

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1 behind last year in spite of all the snow we've
2 had. Is that running true all down-- all
3 through the basin, or are storage accumulations
4 in John Martin and other upstream storages
5 behind also. I asked Steve if the-- in spite
6 of all the snow that we've had it seems that
7 upstream storage and winter storage program
8 is-- the amounts are down. And I was just
9 wondering if that was running that way all the
10 way downstream.

11 MR. WITTE: Carl, I have not made a
12 comparison between storage in John Martin, as
13 of this point in time, in this year versus last
14 year at this time to really be able to answer
15 that question. I think that the-- that your
16 perception of the upstream storage being below
17 last year may be somewhat affected by the fact
18 that in this year that there has been some
19 storage upstream of Pueblo Reservoir that has
20 been active early on, that was not active last
21 year. So that may have-- may have influenced
22 the amount of water storage Pueblo has in the
23 reservoir. I think generally that-- though,
24 that the colder temperatures that we've had
25 along with that snow, we really haven't had a

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1 melt yet, has caused the yield of the basin to
2 be somewhat below last year.

3 MR. GENOVA: Well, I seen all the snow
4 and I thought, boy, we're really going to have
5 some amounts stored here. I was a little
6 disappointed when I looked at the amounts.

7 CHAIRMAN COOLEY: It's really
8 quite skiable, though.

9 MR. GENOVA: Yeah, I guess so.

10 CHAIRMAN COOLEY: Any other
11 questions of Steve? (No response) Thank you
12 very much.

13 MR. WITTE: You're most welcome.

14 CHAIRMAN COOLEY: We'll turn to
15 committee reports for the compact year, 1991.
16 I know of no meeting of the administrative and
17 legal committee. Was there one? I see blank
18 stares. The engineering committee? No meeting
19 of the engineering committee. The operations
20 committee did meet. Is there anything that
21 should be added from the committee to the
22 report of Steve, other than perhaps approving
23 the reports that he circulated.

24 MR. ROGERS: Mr. Chairman?

25 CHAIRMAN COOLEY: Yes, Mr. Rogers.

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1 MR. ROGERS: We did have a meeting and
2 listened to his full report and we do recommend
3 approving it as a committee.

4 CHAIRMAN COOLEY: And as Chairman
5 you do so move, I take it?

6 MR. ROGERS: Yes.

7 CHAIRMAN COOLEY: Is there a
8 second?

9 MR. HAYZLETT: I second.

10 CHAIRMAN COOLEY: It's been
11 seconded. Colorado?

12 MR. WALKER: Votes "aye".

13 CHAIRMAN COOLEY: Colorado votes
14 "aye". Kansas?

15 MR. POPE: Votes "aye".

16 CHAIRMAN COOLEY: Votes "aye".
17 That was a very good committee report, Mr.
18 Rogers.

19 MR. ROGERS: Thank you.

20 CHAIRMAN COOLEY: The next item on
21 the agenda to accommodate Mr. MacDougall, who
22 has been successful every time he's been before
23 this compact administration. The only
24 qualification is he has to introduce his
25 associate. The next item on the agenda is the

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1 request of Purgatoire River Water Conservancy
2 District. Mr. MacDougall?
3 MR. MACDOUGALL: Mr. Chairman, my name
4 is Sandy MacDougall. I'm a lawyer from
5 Colorado Springs, Colorado. I represent the
6 Purgatoire River Water Conservancy District.
7 I'm delighted this morning to introduce my new
8 associate Ms. Julianne Cruise, who has been
9 working with me since last August. She's a
10 water lawyer. She's younger, smarter, and
11 better looking, and they told me those were all
12 the qualifications that were needed to hire an
13 associate. I also would like to introduce this
14 morning some members-- people from Purgatoire
15 River Water Conservancy District. To my
16 immediate right is Thelma Lujan, our present
17 coordinator. Sitting immediately behind her is
18 Erma Evans, a new board member of the
19 Purgatoire District. Next to Mrs. Lujan is Mr.
20 Reuben Gutierrez, a board member. And to my
21 left is Mr. Ray Duran, a board member. I don't
22 think any other board members have come.
23 Immediately behind Mr. Duran is Danny Marques,
24 the water commissioner from Trinidad, to whom I
25 will address any technical questions about how

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1 much water we've had or got, or whatever else
2 you want to know.

3 CHAIRMAN COOLEY: Good morning
4 ladies and gentlemen and Danny.

5 MR. MACDOUGALL: Mr. Chairman, as is
6 indicated by my letter to you dated November 1,
7 1991, I appear before you again to request the
8 review and approval of the compact
9 administration of the proposed amended
10 operating principles that were previously
11 presented in the years 1989 and 1990. And
12 there has been no change to the proposal to
13 this date from that date.

14 I would like to point out to the
15 administration that in December of 1984 you
16 passed a resolution asking the Bureau of
17 Reclamation to perform it's duty under Kansas
18 Condition 4. It then initiated a review and
19 for three years Colorado, Kansas, the Bureau,
20 the district, and to some extent the corps
21 labored mightily and produced this two inch
22 thick volume called the "Review of Operating
23 Principles Final Report." That was tendered to
24 this administration at its December meeting in
25 1988, at which time the administration received

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1 the report and determined that it would look at
2 it.

3 Following that, the Bureau and the
4 district agreed on proposed amended principles
5 in the fall of 1989, and those principles were
6 tendered to the governor of Kansas, to the
7 water court, and to this administration. Since
8 that date-- well, during that time frame, of
9 course, Kansas v. Colorado was filed and Kansas
10 v. Colorado is still pending.

11 At the first presentation of the proposed
12 amended operating principles in 1989 it was
13 Kansas' position, through Mr. Simms, that the
14 question involved in the operating principles
15 was before the United States Supreme Court and
16 the chair ruled that the compact would not act
17 on it. At the 1990 meeting the representatives
18 from Colorado proposed two resolutions, both of
19 which Kansas declined to vote on.

20 Based upon that history, I would again
21 like to ask the chair's consent that the record
22 contain the items set forth in my letter to the
23 chair dated November 8th, 1990. I sent a copy
24 of this to all the members of the compact as
25 well as the lawyers and administrators for both

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1 states. And it lists the things which I wish
 2 to have in the record on behalf of the
 3 Purgatoire District. I'll read those if the
 4 chair wishes or hand a copy of my letter to the
 5 reporter if that's quicker.

6 CHAIRMAN COOLEY: Stand at ease
 7 for just a minute, please. There are a
 8 multitude of-- a multitude of questions that
 9 Mr. MacDougall has raised. I think the
 10 simplest question - and I'm going to ask for
 11 help from Mr. Draper and Mr. Robbins on this
 12 one - is whether it's necessary that the letter
 13 of November 8th be appended to the minutes of
 14 the evening (sic). Mr. Draper, do you have any
 15 comments on that single question?

16 MR. DRAPER: Mr. Chairman, we don't
 17 have any objection to that being appended to
 18 the minutes of the meeting.

19 CHAIRMAN COOLEY: Mr. Robbins?

20 MR. ROBBINS: Mr. Montgomery can
 21 respond.

22 CHAIRMAN COOLEY: Dennis?

23 MR. MONTGOMERY: We have no objection
 24 either.

25 CHAIRMAN COOLEY: Well, without

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1 objection it seems just as easy for now that
2 the letter of November 8th be appended to the
3 minutes as Exhibit D, and I'll surrender my
4 ribbon original copy on the presumption that
5 someone has a working xerox machine.

6 MR. POPE: Mr. Chairman, just as a
7 matter of clarification, I think Mr. MacDougall
8 referred to that as November 8th, 1990. I take
9 it you're referring to November 8th, 1991.

10 MR. MACDOUGALL: Yes, I am, Mr. Pope.
11 Thank you.

12 MR. POPE: The recent letter that is
13 one in the same will be Exhibit D.

14 CHAIRMAN COOLEY: You're going to
15 have to be a lot more careful.

16 MR. MACDOUGALL: I keep forgetting
17 what year it is.

18 MR. POPE: Likewise.

19 CHAIRMAN COOLEY: The-- now, we've
20 taken care of that matter. Let me ask another
21 question in the preliminary sense, an innocent
22 question. Mr. Montgomery and David, I take it
23 that substantially Colorado's position would be
24 the same this year as it was last year with
25 respect to the Purgatoire's request.

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MR. WALKER: Why don't you address that, counsel.

CHAIRMAN COOLEY: Informally, now.

MR. MONTGOMERY: Mr. Cooley, I think we would be interested in knowing what the Kansas position is. I think the position taken two years ago in 1989 was that this was an issue which was not appropriate to place on the agenda of the meeting of the compact administration. Last year two resolutions were submitted, but Kansas did not vote on those. So I think it would be more helpful to find out what the Kansas position is at this time.

CHAIRMAN COOLEY: I'll--

MR. MONTGOMERY: And, Mr. Cooley, I might add one more thing. It might move this along a little faster. If-- there is also a proposal by the City of Trinidad to amend the operating principles that was submitted at the compact administration meeting last year. I think that presents probably a less controversial issue and perhaps if that were taken up first we-- the Kansas position might become more clear.

CHAIRMAN COOLEY: Mr. Harrison, is

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1 that possible?

2 MR. HARRISON: Yes.

3 CHAIRMAN COOLEY: Now, in short
4 that-- that the Trinidad proposals are somewhat
5 less controversial in your view than those of
6 the Purgatoire. Is that correct?

7 MR. HARRISON: Mr. Cooley, David
8 Harrison for the City of Trinidad. That is
9 correct, we think the Trinidad proposal is
10 completely uncontroversial. This just changes
11 consumptive use of project water from
12 irrigation to allow either municipal and
13 industrial or permanent pool make-up on the
14 consumptive use basis. I think that the one
15 thing that's been clear all long, and I assert
16 to be the case, is that the issues in the
17 Trinidad change are in no way related to any of
18 the issues that are before the United States
19 Supreme Court or that are involved in other
20 aspects of the operating principles review.

21 CHAIRMAN COOLEY: Thank you. I
22 hear you. Please stay there.

23 MR. MACDOUGALL: Does that mean I have
24 to leave?

25 CHAIRMAN COOLEY: No, no, stay

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1 there. Now, Mr. Draper and Mr. Pope, I'm
2 trying to ask these questions informally
3 towards agenda rather than questions of
4 substances. Would there-- do you perceive any
5 significant benefit to moving the city's part
6 on the agenda ahead of the district's at this
7 time, do you suggest that that might clear some
8 questions made?

9 MR. POPE: No, I don't think that that
10 is helpful, and I think we would rather proceed
11 with the agenda items as separate issues, you
12 know--

13 CHAIRMAN COOLEY: Fair enough.

14 MR. POPE: I think we can consider it.

15 CHAIRMAN COOLEY: Fair enough.

16 Thank you. In that case, we'll be governed by
17 these suggestions. Okay, back to you Mr.
18 MacDougall. The-- I take it that at the least
19 you desire to make a record before the compact
20 administration.

21 MR. MACDOUGALL: You're correct, Mr.
22 Cooley. And to avoid boring the administration
23 members and the audience, I am prepared to
24 submit it on the record, to which we have made
25 in previous years. If someone wishes to go

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1 through the items that are set forth or to have
2 any further details flushed out, I would be
3 delighted to do so. However, I am sure that
4 both Kansas and Colorado have reviewed the
5 Bureau's final report. I believe it to be an
6 exhibit in the United States Supreme Court case
7 on which, I think, the witnesses from both
8 sides have opinions. I also know that everyone
9 has reviewed the proposed principles, at least
10 read them, so I don't want to bore anybody or
11 go through a bunch of machine writing. I'd
12 love to try to change Mr. Draper's mind, he's
13 new to the job so--

14 CHAIRMAN COOLEY: Mr. MacDougall,
15 there's a couple of things that I want to point
16 out. Me being confused and all. We will want
17 on the record this morning a succinct summary
18 of your letter. And the second assumption is
19 that everyone has read and digested your long
20 letter, and that may or may not be so. With
21 that in mind, I request you to make a terse
22 summary of what it is you have proposed without
23 going into the documents themselves or the
24 language itself.

25 MR. MACDOUGALL: All right, sir. In

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1 the Bureau's final report, distributed in 1988,
2 there were conclusions numbered A through M and
3 recommendations numbered A through I. I
4 believe that the recommendations numbered A
5 through I are fairly noncontroversial, with the
6 exceptions of recommendations A and B.

7 Recommendation A provided that the
8 Purgatoire River Water Conservancy District
9 would discontinue the practice of transferring
10 water from the Model storage right to the joint
11 use pool at the end of the water year until
12 such time as the operating principles are
13 amended to recognize this practice.

14 Shorthanded, this practice is the one that Mr.
15 Spronk has nicknamed "Rollover". It is an
16 administrative transfer of water from one
17 account to another much as is done in John
18 Martin. It's not the same as John Martin, but
19 it's the same kind of a paper transfer. The
20 Bureau recommended that it be discontinued--
21 the state engineer in 1988 ordered that it be
22 discontinued until the operating principles are
23 amended to recognize the practice.

24 After its studies, the Bureau and the
25 district agreed in proposed amended operating

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1 principles that the practice could be allowed
 2 so long as gross water in storage in the joint
 3 use or silting control pool did not exceed
 4 19,500 acre feet, which is half of its original
 5 capacity.

6 The second recommendation by the Bureau,
 7 B, which I believe to be controversial, is to
 8 discontinue the storage of winter water under
 9 any right other than the Model storage right
 10 until such time as the operating principles are
 11 amended to recognize this practice. What the
 12 Bureau means by that is not to discontinue the
 13 storage under the priority dates of the rights,
 14 but instead to limit all water in storage
 15 during any one water year, or gage year,
 16 depending on what you use, to 20,000 acre
 17 feet. That's a mirror reflection of the 1965
 18 studies which the Bureau made. When they made
 19 it they did not store any water above 20,000
 20 acre feet in a water year except at times when
 21 John Martin was reasonably expected to spill,
 22 at which time they allowed the reservoir to
 23 store an additional 39,000 acre feet in the
 24 joint use facility control basin. That's the
 25 other-- a condition-- a recommendation, rather,

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which I believe to be controversial.

The Bureau, in its studies, determined that that particular practice would not harm downstream users, nor would it diminish the flow of water into the John Martin reservoir as compared with its previous studies. You will recall the Bureau previously studied a time frame, which I believe was 1925 to 19-- well, I'm going to tell you '53, but I'm not sure.

MR. MONTGOMERY: Seven.

MR. MACDOUGALL: '57. Thank you, Dennis. And they ran a computer model against their previous study. In other words, they replicated their previous hand done, computer done study, put it into a digital model and then juggled the numbers to determine what would occur if winter water was stored under the direct flow rights outside the 20,000 acre foot pool. And determined, in my opinion - although I'm not so sure in Mr. Spronk's opinions - that the inflow to John Martin Reservoir was not diminished beyond that shown by the pre-project studies.

Those are the two major changes that were made and that I believe to be controversial.

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1 Other changes have been made in the proposed
 2 operating principles to meet the requirements
 3 of the Bureau. Requirement C of the Bureau is
 4 merely that the Purgatoire District, Kansas,
 5 Colorado, and the Bureau work together
 6 constructively to amend the principles. And I
 7 concur in that, and I suspect everyone concurs
 8 in that.

9 Exhibit D is a housekeeping measure to
 10 amend the operating principles to permit
 11 irrigation of class 6-W lands, which is now
 12 allowed by the law, and I don't think there's
 13 very much problem with that.

14 Exhibit E is to amend the operating
 15 principles to reduce maximum irrigated acreage
 16 to 19,439 acres. Under the present principles
 17 we can irrigate 19,717 acres. This is a
 18 reduction in irrigated acreage and should help
 19 downstreamers. We-- the district has agreed to
 20 that.

21 CHAIRMAN COOLEY: This is the 300
 22 acres that have been beaten to death by water
 23 lawyers? How many acres difference?

24 MR. MACDOUGALL: I'm not sure which
 25 300 acres this is, but it is 300 acres of

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1 reduction. Yes, sir. It's 300 acres for which
2 we never acquired the water rights.

3 CHAIRMAN COOLEY: There are 300
4 acres out there for which the accrued hourly
5 increment of attorney's fees and meetings in
6 two states, would have paid for 10 times over,
7 but keep on.

8 MR. MACDOUGALL: Yes. And also under
9 it we fought about even less than that.

10 Exhibit F is the proposed amendments of
11 the operating principles be submitted to the
12 State of Kansas for review and approval. We
13 have done so by-- the Bureau did so in 1989.
14 Implement procedures for positive verification
15 that no more than the maximum irrigated acreage
16 is actually irrigated. The district has
17 proposed procedures since 1988. I am unaware
18 of any change in the responses of either
19 Colorado, the Bureau, or Kansas.

20 Item H is develop and implement
21 procedures for limiting the diversions of the
22 ideal irrigation requirement. Procedures have
23 been developed, they are not now implemented.

24 Exhibit I, if storage of floodflows in
25 flood ranges outside those specified in the

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1 Corps' Flood Control Manual is continued,
 2 develop a specified criteria. I believe the
 3 State of Colorado, through the state engineer,
 4 has developed additional criteria and those
 5 criteria are now in place.

6 CHAIRMAN COOLEY: Okay.

7 MR. MACDOUGALL: So recommendations C
 8 through I are fairly noncontroversial. It's A
 9 and B that we're fussing about, I think. And
 10 it's A and B which are reported mostly in the
 11 forepart of this report.

12 CHAIRMAN COOLEY: Okay. What is
 13 the minimum language of a-- of a preliminary
 14 resolution to get this matter moving as you
 15 perceive it? That the compact administration
 16 adopt the amended operating principles, or
 17 something less?

18 MR. MACDOUGALL: My absolute highest
 19 mark on the wishlist would be that the compact
 20 administration has reviewed and does approve.

21 CHAIRMAN COOLEY: Okay. Is there
 22 some other-- in 15 words or less, is there some
 23 other lesser goal that could be taken by the
 24 compact administration to-- this morning?

25 MR. MACDOUGALL: I guess your asking

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1 me if I'm willing to have it be studied, and
2 under certain conditions, the answer is yes.

3 CHAIRMAN COOLEY: Okay. That's
4 fine.

5 MR. MACDOUGALL: If someone wants to
6 study the report further, if they follow the
7 conditions that the Bureau followed, yes.

8 CHAIRMAN COOLEY: I'm trying to
9 achieve a lowest common denominator. I think
10 where we are this morning, Mr. Pope, that I'll
11 call for a motion from the State of Colorado.

12 MR. MONTGOMERY: Mr. Cooley, I think--

13 CHAIRMAN COOLEY: Mr. Montgomery.

14 MR. MONTGOMERY: I understand your
15 desire to move this along, but I think we still
16 need a response from Kansas as to what their
17 response is to the proposed amendments to the
18 operating principles. As I indicated, in 1989,
19 Kansas took the position that it was not
20 appropriate for this item to be on the agenda.
21 And I think it's incumbent on the State of--
22 the Kansas representatives to indicate whether
23 they are prepared to consider the proposed
24 amendments that have been submitted by the
25 Purgatoire District.

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CHAIRMAN COOLEY: Well, if there is something on the table, I'm willing to ask the question of Kansas. Whether they respond or not is up to them, but--

MR. MONTGOMERY: Well, there is something on the table and that's the agenda item and I think the first item is to find out whether Kansas thinks it's appropriate for this item to be on the agenda.

CHAIRMAN COOLEY: I don't-- I'm not a fan of Mr. Roberts and I don't use it as bedtime reading I'm-- but at the same time we can be flexible as to any method of procedure you desire. Mr. Pope, it might be-- now might be as good a time as five minutes from now for you to determine what response, if any, you desire to make on this issue.

MR. POPE: Well, Mr. Chairman, Mr. MacDougall as appearing here before the administration has indicated seeking review and approval, I believe were your words, of the proposed operating principles. Kansas delegation is prepared this morning to consider the proposed action by the State of Colorado to approve or not approve, as the case may be, the

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1 proposal. We think it's appropriate, as you
2 indicated a minute ago, for the delegation from
3 the State of Colorado to make any motion of
4 that nature they-- that's proper and we believe
5 that's where the matter is at the moment.

6 CHAIRMAN COOLEY: I think Mr. Pope
7 agrees with me, Mr. Montgomery. It would be
8 appropriate in my view that if Kansas-- that
9 Colorado put something on the table in the
10 nature of a motion.

11 MR. WALKER: Mr. Cooley, for strategy
12 as well as biological reasons, I would like to
13 ask for a brief recess.

14 CHAIRMAN COOLEY: Well, we'll
15 recognize the biological reasons first and the
16 strategy second. I have about 37 after the
17 hour, let's see if we can reconvene by 10
18 minutes before the hour, longer if necessary.

19 MR. WALKER: Okay. Thank you.

20 CHAIRMAN COOLEY: The meeting is
21 in recess.

22 (THEREUPON, a short recess was
23 had).

24 CHAIRMAN COOLEY: I'll call the
25 meeting back to order. I seem to be hearing

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1 myself and that's terrible.

2 MR. WALKER: A little feedback.

3 CHAIRMAN COOLEY: Yeah. Well, I'm
4 the loudest one of the bunch we'll be okay.
5 We've had a little trouble with some of the
6 audience not being able to hear people from
7 either end of the table. The podium is a very
8 large outfit that I think absorbs sound. If
9 any of you don't hear in the next 15 minutes,
10 raise your hands and it will take us maybe
11 three minutes to rearrange the chairs, to do
12 something, so that everybody can hear. As I
13 said, we're back in session. David, do you
14 have-- do you have something to say.

15 MR. WALKER: Yes, Mr. Chairman. We
16 have a resolution to offer. We have provided a
17 copy to Kansas. And we are offering this with
18 the condition and understanding that Kansas
19 believes it is now appropriate to consider this
20 issue. And we offer it in that respect.

21 CHAIRMAN COOLEY: Okay. I take it
22 that the resolution should be identified as
23 Exhibit E, and you indicated it's lengthy to
24 read into the record, but I'm sure that you or
25 Dennis would be able to summarize it or read

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1 the key operating sentence for us.

2 MR. WALKER: Yes, I can read-- Mr.
 3 Chairman, the initial pages are background of--
 4 clarifying the issue. The thrust of the
 5 resolution I will read. In order to make this
 6 finding, the compact-- well, let me back up to
 7 the "Now, therefore, the Compact Administration
 8 approves the proposed amendments if the
 9 operation of the Trinidad Project in accordance
 10 with the proposed amendments will not
 11 materially deplete the usable inflows to John
 12 Martin Reservoir beyond the average annual
 13 depletions during the period 1925 to 1957 as
 14 determined in the Bureau of Reclamation's prior
 15 studies."

16 Next paragraph, "In order to make this
 17 finding, the Compact Administration directs the
 18 Engineering Committee to determine whether the
 19 proposed amendments will materially deplete the
 20 usable inflows to John Martin Reservoir beyond
 21 the average annual depletions during the period
 22 1925 through 1957 as determined in the Bureau
 23 of Reclamation's prior studies and to report
 24 back to the Compact Administration within a
 25 period of 60 days on its findings. If the

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Engineering Committee cannot agree upon findings, the Committee members shall submit individual reports on their findings within a period of 75 days."

CHAIRMAN COOLEY: Mr. Walker, before I ask for a second. If I heard the first part of the "Now, therefore" properly, the approval was a-- in sum a conditional approval so that it would be-- it could be determined if there were material depletions. Is that correct?

MR. WALKER: Yes, it provides for finding with respect to the depletion-- material depletion of the usable inflows.

CHAIRMAN COOLEY: Thank you for helping out. Is there a-- Mr. Pope, may we have either a second or a discussion of the resolution which was presented by Colorado.

MR. POPE: Mr. Chairman, I think the proper procedure-- I took it from your comment a minute ago that David Walker's comments were considered as a motion.

CHAIRMAN COOLEY: I so considered them.

MR. POPE: I think it's proper for us

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1 to have a second. I think that should occur
2 before discussion.

3 CHAIRMAN COOLEY: Is there a
4 second?

5 MR. POPE: I think it's proper for the
6 appropriate state to-- if it has the capability
7 of-- of getting it on the table in that manner.

8 CHAIRMAN COOLEY: I'm asking-- I
9 think, Mr. Pope, I'm asking for a second to the
10 resolution from Kansas in order that the matter
11 be on the table and open for discussion.

12 MR. POPE: Well, Mr. Chairman, under
13 the procedures we follow in this
14 administration, a second can be made by a
15 second member of the same delegation.

16 CHAIRMAN COOLEY: Fine. For
17 purposes of let's go on, may I have a second?

18 MR. GENOVA: I'll second that.

19 CHAIRMAN COOLEY: It's been
20 seconded. And now it's open for discussion,
21 and it would be appropriate, Mr. Pope, for you
22 to comment.

23 MR. POPE: Again, Mr. Chairman, I
24 agree that it's now appropriate for discussion
25 and questions on the motion. I believe under

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1 proper procedures it would be good to hear from
2 the state proposing the resolution and ask for
3 any comments from Colorado on the resolution.

4 CHAIRMAN COOLEY: Sure. I suppose
5 it speaks for itself, but can we have some
6 amplification or elucidation? Mr. Montgomery?

7 MR. MONTGOMERY: Let me offer these
8 comments. It seems to me--

9 CHAIRMAN COOLEY: Please stop.
10 Can all of you back in the back corner hear Mr.
11 Montgomery? Yeah, they're nodding their heads
12 that they can hear you. Are any of you having
13 any trouble hearing over there?

14 MR. WITTE: Behind this podium.

15 CHAIRMAN COOLEY: The podium I
16 think is the-- is what's causing the mischief.

17 MR. MACDOUGALL: Probably my belly.

18 CHAIRMAN COOLEY: Well, first the
19 podium and then your belly.

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

22 CHAIRMAN COOLEY: Yes, Mr.
23 Montgomery.

24 MR. MONTGOMERY: The Bureau of
25 Reclamation, during it's review of the

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1 operating principles over the period 1985
2 through 1988, developed a computer model to
3 determine the effects of the Trinidad Project,
4 and I believe an enormous amount of time and
5 effort was spent in developing that computer
6 model and also in doing additional runs of the
7 computer model to determine what certain
8 changes to the operating principles would have
9 on the inflow to John Martin reservoir. I
10 believe the proposed amendments, which have
11 been submitted by the Purgatoire River Water
12 Conservancy District, are based on certain runs
13 which the Bureau of Reclamation did. And the
14 effects of those runs, I believe, are available
15 to both states and, I believe, are contained in
16 the final report or if not, have at least been
17 provided to both states. So I don't think
18 there's any disagreement on what the effects of
19 these proposed amendments would be on the
20 inflow to John Martin Reservoir. They have
21 been before the compact administration for two
22 years. I think they're based on a significant
23 amount of study, and-- I don't think I have
24 anything further that I would say concerning
25 the proposed amendments.

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1 CHAIRMAN COOLEY: Mr. Bentrup,
2 it-- as you know, it's been my position for a
3 long time, although I'm not supposed to have
4 any position, that the problems with respect to
5 Trinidad Reservoir and the Purgatoire were
6 disproportionately affecting the operation of
7 the compact administration and that when the
8 state engineer of Colorado eschewed the use of
9 the Model reservoir decree twice in one year
10 that much of this controversy should go away.
11 And it's been my belief that these matters-- or
12 these positions were substantially in accord
13 with the positions that you articulated over a
14 number of years on behalf of Kansas. I would--
15 I would seek to dispose of or to ameliorate any
16 problems on the Arkansas River that could
17 readily be ameliorated or that might be at
18 issue longer than they deserve to be at issue.
19 And I must say that often times, based on
20 conversations with you, that these appear to
21 be-- or arguably are where we are with some of
22 the Trinidad problems. May I-- may we hear
23 from you for a minute or two?

24 MR. BENTRUP: Well, I'm not a member
25 of the compact. I will say that the

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1 controversy was started when the Conservancy
2 District rolled water over into the adjoining
3 pool which was strictly against the operating
4 principles of the Kansas agreement. And I
5 think the Bureau says there was no provision in
6 the operating principles for rollover. And
7 that was my opposition to this thing from the
8 beginning. What started-- (reporter
9 interruption) as I understand this, what they
10 want to do now is to make the rollover legal,
11 and I'm very much against that. That's all I
12 have to say.

13 CHAIRMAN COOLEY: Okay. Mr.
14 MacDougall, did you hear Carl's remarks?

15 MR. MACDOUGALL: I did.

16 CHAIRMAN COOLEY: Do you have
17 anything you want to contribute?

18 MR. MACDOUGALL: The position of the
19 Bureau was to study to determine how the
20 Trinidad Project could best optimize its water
21 use at the same time not injuring the vested
22 water rights of water users in Kansas or
23 Colorado. It attempted to do so within the
24 context of the three year study and, I believe,
25 came up with recommendations that both harm and

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1 help the Purgatoire District. The rollover
 2 provision, which is contained in the proposed
 3 amended operating principles, contains
 4 limitations upon that operation imposed by the
 5 Bureau. That limitation is that no more than
 6 19,500 acre feet be contained in the joint use
 7 silt control pool from the administrative
 8 transfer at any time. It's the bureau's
 9 position, based on the study, that that does
 10 not harm the inflow to John Martin when
 11 compared to the 1925-1957 study.

12 CHAIRMAN COOLEY: Under those
 13 circumstances?

14 MR. MACDOUGALL: Under those
 15 circumstances. It appears to me that that is
 16 what the compact requires. The compact does
 17 not require that Colorado water users do
 18 anything except that they not diminish the
 19 flows of waters of the Arkansas River. I
 20 believe that the proposed operating principles
 21 would not do that. They would not diminish the
 22 flows of the Arkansas. They would help
 23 Trinidad. And we are having difficulty in
 24 Trinidad operating right now. Last year we had
 25 one ditch that didn't even get 70 percent of

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1 the water supply. So it's not as easy as it
2 seems. The project is in an arid region and we
3 have a very variable supply at Trinidad. It's
4 feast or famine sometimes.

5 CHAIRMAN COOLEY: Okay. I have a
6 question of either Mr. Montgomery or Mr.
7 Witte. The present procedures of the state
8 engineer of the State of Colorado with respect
9 to rollover as I perceive them, is that there
10 will be none under any circumstances. Is that
11 correct, or is it incorrect?

12 MR. MONTGOMERY: Mr. Cooley, you are
13 incorrect. What the state engineer did is, in
14 1989, based upon the bureau's final report,
15 accepted the Bureau of Reclamation's
16 interpretation of the operating principles and
17 agreed that in the future, beginning in
18 November 1st, of 1988, the project would be
19 operated in accordance with the bureau's
20 interpretation of those operating principles
21 until a court of competent jurisdiction
22 determined that the rollover procedure was
23 legal under the operating principles, or the
24 operating principles had been amended.

25 CHAIRMAN COOLEY: Within a short

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1 paragraph, Mr. MacDougall, what is the current
2 status of rollover with respect to state water
3 courts in the State of Colorado and Trinidad.

4 MR. MACDOUGALL: It has been
5 prohibited by an order of the state engineer
6 until the water court approves. I have applied
7 to Water Division Number 2 for such approval in
8 a case which is mentioned in one of the
9 "whereas's" to this resolution.

10 CHAIRMAN COOLEY: Is Kansas a
11 party to that case in the Colorado Water
12 Court?

13 MR. MACDOUGALL: No, they're not. But
14 they're welcome to be if they want.

15 CHAIRMAN COOLEY: Okay. Mr. Pope,
16 I've kind of clarified some things for myself
17 with these comments and I wonder if there's
18 more light on the subject. I know you're into
19 it far, far more deeply than any of the rest of
20 us are. "You" being your participants in the
21 pending litigation.

22 MR. POPE: Mr. Chairman, I think we
23 understand the proposal. Let me turn to Mr.
24 Draper for a moment.

25 (THEREUPON, an off-the-record

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1 discussion was had).

2 MR. POPE: I think the point of
3 clarification or a question that we would have
4 at this time would be if Dennis could explain
5 or distinguish this proposed resolution from
6 the one-- or the two resolutions, either of
7 those, that was proposed last year. Would that
8 be possible Dennis?

9 MR. MONTGOMERY: Mr. Pope, I don't
10 have the two resolutions before me. I believe
11 this resolution would be consistent-- or very
12 similar to the-- one of the two resolutions
13 that was proposed last year. The effect is to
14 set a standard by which the compact
15 administration would approve proposed
16 amendments to the operating principles.
17 Namely, that they would not materially deplete
18 the usable inflows to John Martin Reservoir,
19 beyond the average annual depletions, during
20 the period 1925 through 1957 as determined by
21 the Bureau of Reclamations prior studies. And
22 then direct the engineering committee to make a
23 study to determine whether these proposed
24 amendments would materially deplete the usable
25 inflow based on that criteria.

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CHAIRMAN COOLEY: Mr. Draper, something has just occurred to me, and I don't know if I'm right, but I think what I'm hearing is the possibility of discussions and considerations of the questions of the operating principles of Trinidad outside the pending Supreme Court litigation. That is to say in another forum, namely, the committee of the compact administration. And in that context I find this colloquy very interesting.

MR. DRAPER: Well, we-- Mr. Chairman, we find it very interesting also. It appears to us that this motion is similar to both of the previous motions from last year. I think it-- as far as I've been able to tell on a cursory review, it incorporates both of them, and it thereby incorporates the position that the State of Colorado has taken, with respect to the operating principles in the Kansas v. Colorado litigation. And it is a position that is contrary to the position of Kansas.

CHAIRMAN COOLEY: That is to say that the-- that the body of the resolution or the "whereas" are based-- predicated upon principles that you're unwilling or unable to

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1 adopt at this time.

2 MR. DRAPER: I didn't say that, but
3 I-- with Mr. Pope's concurrence I think we are
4 ready to call for the question on the matter.

5 CHAIRMAN COOLEY: I hear you and I
6 think I understand you. May I-- may I press
7 this thing a little further. Do you perceive
8 that it might be either fruitful or possible to
9 work on some of the controversies between the
10 states, particularly as it respects Trinidad
11 Reservoir, outside of the-- of the litigation
12 now underway.

13 MR. DRAPER: I haven't thought about
14 that, Mr. Chairman. I'd be glad to give that
15 some consideration. I don't have a response
16 for you at this point, though.

17 CHAIRMAN COOLEY: Well, in this
18 instance no response is, I think, happy-- happy
19 news in view of the years in which we've tried
20 to struggle with this thing.

21 MR. POPE: Mr. Chairman, I think-- at
22 this point I think it's appropriate for the
23 question to be called, and Kansas is ready to
24 proceed.

25 CHAIRMAN COOLEY: I hear you. I

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1 was putting it off as long as I could. Is
2 Kansas ready to vote on this question?

3 MR. POPE: We are.

4 CHAIRMAN COOLEY: And Kansas?

5 MR. POPE: Kansas votes no.

6 CHAIRMAN COOLEY: Colorado?

7 MR. WALKER: Colorado votes "aye".

8 CHAIRMAN COOLEY: That concludes
9 the matter for today. We hope the people from
10 Purgatoire stay for the next item on the agenda
11 at least. Do you have something to say, Mr.
12 MacDougall?

13 MR. MACDOUGALL: Yes, sir. I'm, I
14 guess, confused by the last comment of Mr.
15 Draper. I don't know if he said that this is
16 still before the Supreme Court or not. I am
17 concerned about whether I may bring it up again
18 next year.

19 CHAIRMAN COOLEY: No, I heard Mr.
20 Draper to say that they were not ready at this
21 time to indicate whether the Purgatoire/
22 Trinidad Reservoir problems could be considered
23 outside of the court during the pendency of the
24 court proceedings. And I-- I took-- I took
25 hope at his comment that the fact that he did

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1 not say, "No, there will be-- there may be no
 2 consideration of this matter as long as the
 3 Supreme Court case is pending." He was
 4 unwilling to do that and I took some
 5 encouragement from that. So next year is a
 6 long way off, Mr. MacDougall.

7 MR. MACDOUGALL: All right.

8 MR. MONTGOMERY: Mr. Cooley, I don't
 9 think you understood Mr. MacDougall's comment.
 10 I think he was referring to the earlier comment
 11 by Mr. Draper, in which he said that the motion
 12 that was proposed today was similar to both of
 13 the motions made last year, and that it
 14 incorporated the position taken by the State of
 15 Colorado, which the State of Kansas disagreed
 16 with in the Supreme Court litigation. I don't
 17 think he was referring to Mr. Draper's later
 18 comment in which you asked him whether there
 19 was anything further that could be considered.

20 CHAIRMAN COOLEY: I think you're
 21 correct. I think I misunderstood Mr.
 22 MacDougall. But next year is still a long way
 23 off and I think that ought to be the ruling
 24 from the chair on this matter. I think we've
 25 concluded, for today, this matter.

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1 MR. MACDOUGALL: All right. I have
2 two matters on the agenda, Mr. Chairman.

3 CHAIRMAN COOLEY: Oh, good
4 heavens, you're saving the best for last. Is
5 that where we are?

6 MR. MACDOUGALL: Sure.

7 CHAIRMAN COOLEY: Go ahead.

8 MR. MACDOUGALL: I have a second
9 request on behalf of the Purgatoire River Water
10 Conservancy District. This request is that the
11 Purgatoire River Water Conservancy District be
12 awarded an account, under the 1980 operating
13 plan, in the John Martin Reservoir. The
14 purpose of this account would be to facilitate
15 the transfer or exchange of water from the main
16 stream of the Arkansas to the Purgatoire
17 River.

18 As everyone is aware, from time to time in
19 the past we have purchased transmountain water
20 from various sources and moved it down the
21 Arkansas River and back up to Trinidad Dam by a
22 process called "exchange" in Colorado. This
23 process involves releasing water from a lake,
24 such as Twin Lakes or Granite up in the high
25 mountains where it's received from

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1 transmountain sources, delivering it down the
 2 Arkansas and into John Martin Reservoir. And
 3 then at an appropriate time when no intervening
 4 water rights are harmed, actually diverting out
 5 of priority at Trinidad the water that has been
 6 delivered to John Martin.

7 The way this works in Colorado is we pay a
 8 transit loss down the river all the way to John
 9 Martin and we get no transit credits back up
 10 the river to Trinidad. So for every hundred
 11 acre feet that are released at Twin Lakes,
 12 let's say, a fraction of that, maybe 95, 90
 13 percent, is delivered to John Martin Reservoir
 14 and then a similar amount is taken out at
 15 Trinidad.

16 Because of the losses on the Purgatoire
 17 River between the Trinidad Reservoir and John
 18 Martin, it is our position that this kind of
 19 transfer actually greatly benefits the water
 20 users on the main stem. It in essence provides
 21 much more water in John Martin than would have
 22 been provided had the water passing Trinidad
 23 Reservoir not been caught.

24 The problem with such an exchange is that
 25 the Purgatoire and the Arkansas don't run the

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1 same way at the same time. They are two
 2 different rivers and it can be that one of them
 3 is in flood when the other one is in drought.
 4 The state engineer requires that right now, at
 5 least, an exchange from the Arkansas to the
 6 Purgatoire be made simultaneously, which means
 7 in essence that both rivers almost have to be
 8 free rivers for this exchange to work.

9 If the district could obtain an account in
 10 John Martin it would greatly facilitate such an
 11 exchange. We suggest that it would help Kansas
 12 because if the proper conditions were imposed
 13 upon such an account, Kansas could determine
 14 what nature of water exchanged, when it was
 15 exchanged, and how it was exchanged, as a
 16 matter of compact administration operation. We
 17 propose it's good for the water users in
 18 Colorado because whenever water is delivered to
 19 John Martin that would not have otherwise
 20 gotten there is a benefit to everybody on the
 21 main stem.

22 We proposed that the Article III kind of
 23 conditions be imposed with one exception. We
 24 have not provided that 35 percent of the water
 25 be put into the transit account. We have not

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provided that because we have to buy this transmountain water from some other source and it seems appropriate to us that we not pay an extra penalty for moving the water.

We have also provided one other thing I should call to your attention which is that we may purchase transmountain return flows. That is provided that we could store that in the reservoir. I understand that that may be a deviation from past practices, but we would like to have the opportunity to buy transmountain return flows from places like Colorado Springs or Pueblo in order to improve the water supply at Trinidad.

We have no engineering study on this measure to present to you. All we have is the fact that we are a water user in Colorado like the other people who already have accounts, and we ask that you treat us in a way that is similar to how other Kansas and Colorado water users are treated.

CHAIRMAN COOLEY: Any questions of Mr. MacDougall?

MR. GENOVA: I have a question.

CHAIRMAN COOLEY: Go ahead,

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1 please.

2 MR. GENOVA: Mr. MacDougall--

3 CHAIRMAN COOLEY: Carl, you'll
4 have to-- you don't have to speak as loud as I
5 do, but you're sure going to have to speak a
6 lot louder than you are.

7 MR. GENOVA: In the sources of water
8 that you outlined to put into this account, I
9 find one source in there unacceptable. And I
10 think we need to study that before we can go on
11 with it.

12 CHAIRMAN COOLEY: What is that
13 source, Carl?

14 MR. GENOVA: Return flow.

15 MR. MACDOUGALL: I understand your
16 concern, Mr. Genova, that the return flows will
17 be a source of some problems for several years
18 to come. And I am perfectly willing on behalf
19 of the district to participate in whatever
20 study the administration would like too. It
21 seems to me that return flows, if not used
22 elsewhere, would be a perfect source for
23 Trinidad for two reasons. One of them is
24 they'll come at the right time of the year.
25 And the other reason, I hope they're not too

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1 expensive.

2 MR. GENOVA: Well, as it relates to
3 what this resolution in its present form
4 contains that I, myself, couldn't accept it.

5 MR. MACDOUGALL: I understand.

6 CHAIRMAN COOLEY: Are there any
7 other questions?

8 MR. ROGERS: Mr. Chairman?

9 CHAIRMAN COOLEY: Yes.

10 MR. ROGERS: Sandy, I have a
11 question. On the 35 percent charge that is
12 what is governing the project III water, that's
13 kind of the rules that's set up at the
14 reservoir. And if you're going to come in
15 under the project III water, why it would
16 almost be imperative that you pay the 35
17 percent water to keep everything in standard
18 (inaudible).

19 MR. MACDOUGALL: Mr. Rogers, I
20 understand that comment, also. It seems to me
21 if we were storing native water that was not
22 being stored at Trinidad where our water rights
23 are, then I would understand the comment. The
24 problem that I have with agreeing to pay the 35
25 percent is it seems to me that we are buying

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1 transmountain water which theoretically would
 2 not otherwise reach John Martin and to make us
 3 pay an additional, I don't know what percentage
 4 it is, but let's say it's a little more than
 5 35, would make it almost impossible for the
 6 transfer to work. The simultaneous transfer
 7 doesn't cost us that.

8 Now, some cost for using the reservoir
 9 might be appropriate. I don't know what is
 10 imposed on other people who use it
 11 temporarily. But it seems to me, and only to
 12 me, to be fair to agree to give you the water
 13 we couldn't evacuate from the reservoir at the
 14 end of the year that we purchased. But it
 15 didn't seem like it was the same kind of water
 16 that, say, the Fort Lyon High Plains Reservoirs
 17 (sic) are delivering to John Martin. It's
 18 different water, it costs us a lot more. And
 19 we will in fact be suffering-- we won't be
 20 suffering a loss, but the river-- the Arkansas
 21 will be gaining because we divert the water at
 22 Trinidad, I think.

23 Now, I understand that there is only one
 24 entity that actually has transferred water
 25 through-- maybe two, without a charge, but I

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1 understand that water has been transferred
2 without a charge and it seems to me that it
3 might be appropriate for Trinidad to be able
4 use this.

5 MR. ROGERS: Well, the water users in
6 District 67 have a problem with that.

7 MR. MACDOUGALL: Mr. Chairman, it
8 looks like unless Kansas makes the motion I'm
9 not going to get any place today. Kansas?

10 MR. POPE: I don't feel that we'll be
11 able to do that today, Sandy.

12 CHAIRMAN COOLEY: Well, you've
13 aired the request and you've properly taken the
14 temperature of the compact administration--

15 MR. MACDOUGALL: May I ask if it's
16 possible for the administration to study the
17 question?

18 CHAIRMAN COOLEY: You can sure
19 ask. I think that at the-- at the next meeting
20 of the committee--

21 MR. MONTGOMERY: Mr. Cooley, in hopes
22 of trying to move this along, it seems to me
23 that one of the issues that Mr. Bentrup raised
24 during the review of the operating principles
25 is that Kansas had not been informed of the

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1 exchanges which took place in the early 1980's
2 between the Arkansas and Trinidad Reservoir.
3 And Colorado agreed, although it wasn't
4 required to do so, that it would inform the
5 administration when such exchanges took place.

6 It seems to me that there is a possibility
7 here that by creating an account the compact
8 administration would have some ability to
9 approve the sources of water that were stored
10 in that account. I might take it from comments
11 that have been made so far that the proposal in
12 its current form may not be acceptable, but it
13 does seem to me that there may be some merit in
14 having it referred to one of the committees for
15 further consideration, because it seems to me
16 there may be some benefit on the part of Kansas
17 to having an account, which it then has some
18 control over in terms of approving sources of
19 water that get stored in that account.

20 CHAIRMAN COOLEY: Well, I think I
21 perceive the-- some of the benefits that you've
22 touched upon and certainly, I think the
23 committees work in the same manner that the
24 administration worked that anything that anyone
25 wishes to bring before us will receive

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1 consideration. And therefore, I think you've
2 put everyone on notice that at the next meeting
3 of the operating committee, or for that matter
4 the legal committee, you should have the
5 opportunity to be heard. And I will suggest
6 this to all the present members of the compact
7 administration so that there be no meeting of
8 which you do not receive notice and the
9 opportunity to be heard.

10 Mr. Harrison, there was a micro-second
11 lull just then. And I believe it would be
12 appropriate for you to speak to the compact
13 administration on behalf of the City of
14 Trinidad.

15 MR. HARRISON: Thank you, Mr.
16 Chairman. I'm glad to do that. Let me first
17 indicate that Jim Fernandez, the Director of
18 the Water Utilities in Trinidad is here with me
19 this morning.

20 And then very quickly to get to the heart
21 of the matter here last December the
22 administration considered the proposal of the
23 City of Trinidad for changes in the operating
24 principles that would allow it to use
25 irrigation water which it has under the--

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1 originally the Model Land and Irrigation
2 Company, now the John Flood Ditch Company to
3 use that water for municipal, industrial, and
4 for permanent pool replacement purposes.

5 At the last meeting Kansas indicated it
6 was willing to try its best to make a review of
7 our proposal and to try to get back to us by
8 April 1. I have been in communication with Mr.
9 Pope and Mr. Draper over the course of the last
10 year. Due to the circumstances surrounding the
11 Supreme Court litigation it has not been
12 possible for Kansas to complete that review and
13 get back to me. But I would like to request
14 again today that the administration consider
15 the proposal of the City of Trinidad for
16 amendments to the operating principles and to
17 see if we can move this thing along as best as
18 possible.

19 CHAIRMAN COOLEY: David, are you
20 talking about considering the operating
21 principles in gross in line with the
22 recommendations of the Corps of Engineers in
23 their lengthy report, or are you recommending
24 some smaller change that more directly affects
25 the City of Trinidad?

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1 MR. HARRISON: No, I'm referring to a
2 specific and smaller set of changes that
3 directly affects the City of Trinidad. These
4 are changes included in draft amendments to the
5 operating principles which have been tendered
6 to the State of Colorado and the State of
7 Kansas and which have been under negotiation
8 with the Bureau of Reclamation and under
9 discussion with other parties in Colorado on
10 the Arkansas.

11 CHAIRMAN COOLEY: Is there
12 acquiescence by the Bureau of Reclamation?

13 MR. HARRISON: Mr. Chairman, there is
14 in principle, if I may say that. There has not
15 been a final sign off on language, there may be
16 further editorial changes. But in our work
17 with the Bureau it seems that in principle the
18 type of amendments we are seeking will work.

19 CHAIRMAN COOLEY: And you made it
20 clear earlier that the principle problem is the
21 pendency of the litigation and the question of
22 time to consider these requests. Is that
23 fair?

24 MR. HARRISON: Yes, although let me be
25 sure I didn't distort things. It's really been

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1 a question of time. Kansas has been unable to
2 get to it. It's not a substantive matter that
3 this is caught up in the litigation anywhere--
4 in any way-- to my understanding.

5 CHAIRMAN COOLEY: And I also take
6 it that you are not, as Mr. MacDougall was,
7 sanguine that there can be any action taken by
8 the compact administration today.

9 MR. HARRISON: Correct, to the
10 contrary-- well, I'm sorry, today?

11 CHAIRMAN COOLEY: Yeah.

12 MR. HARRISON: Action taken today.
13 No, I-- in speaking with Kansas they've made it
14 clear that they haven't had a chance to look at
15 it and they've-- not to speak for them, but I'm
16 hopeful that they are willing to continue to
17 pursue that review in good faith. So I'm not
18 interested in asking for action on it today,
19 but I am very interested in seeking further
20 progress on this review and to get the compact
21 administration to so determine.

22 CHAIRMAN COOLEY: Hold off just a
23 minute, David, if you will. Mr. Pope, are we
24 in a situation whereby if there were a hiatus
25 in the case in California that a meeting of the

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1 operations committee might be of benefit to
2 consider whatever would come before the
3 committee during the spring, say--

4 MR. POPE: Mr. Chairman, no. I don't
5 believe that would resolve the matter in the
6 short run. I think, as David has indicated,
7 our concerns have related primarily to the time
8 that is available to provide the kind of review
9 that we think is appropriate. And so in that
10 context, I don't believe that a meeting of the
11 operations committee or perhaps the engineering
12 committee, or whichever, would be appropriate
13 at some time in the future is in order right
14 now.

15 CHAIRMAN COOLEY: But I take it
16 you have no disagreement with Mr. Harrison's
17 articulation that you do-- you are willing to
18 consider it when you have the time and the
19 opportunity to analyze it?

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

22 MR. POPE: I don't believe David
23 mischaracterized that in terms of the formal
24 discussions that occurred we're-- we are just
25 simply not in a position to provide a specific

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1 comment at this time. There's no action really
2 before the administration right at this moment
3 that's expected. And we'll do our best, as we
4 indicated last year, to get to the matter as--
5 just as soon as we possibly can.

6 CHAIRMAN COOLEY: Mr. Harrison, I
7 suspect that we cannot do more than that. Does
8 that comport to what your thoughts are at this
9 time?

10 MR. HARRISON: Yes, that's fine, and
11 that is my understanding. I did want to
12 inquire of the administration, just perhaps for
13 my information, if Kansas gets an opportunity
14 to get to this matter sometime prior to the
15 next regular meeting-- administration meeting,
16 is there a procedure for the administration to
17 take something up between meetings by mail or
18 otherwise or by special meetings?

19 CHAIRMAN COOLEY: You bet, and
20 we've done it on many occasions. I, myself,
21 have - one of my regrets with the litigation -
22 for a number of years wanted to have a summer
23 meeting at the Broadmoor where we could inspect
24 the water supply for the Air Force Academy and
25 the City of Colorado Springs, the Fountain Qui

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1 Broulle, and the Broadmoor golf course and just
2 hasn't been-- but, yeah, the answer to that is
3 yes and Mr. Pope has been most-- Kansas has
4 been most cooperative in-- as has Colorado in
5 meetings at any time where there was a prospect
6 that something could be accomplished.

7 MR. HARRISON: Thank you, Mr.
8 Chairman.

9 MR. POPE: Mr. Chairman, you asked us
10 several questions. It might be appropriate to
11 ask the delegation from Colorado if they have
12 any comments on the proposal. I don't know
13 that we've heard from them in terms of either
14 comments or actions.

15 CHAIRMAN COOLEY: City of
16 Trinidad, are you going to turn them down?

17 MR. MONTGOMERY: Mr. Chairman, perhaps
18 I can respond. The-- I don't know that the
19 Colorado representatives have reached any
20 decision on whether to approve the proposed
21 amendments. However, the proposed changes to
22 the water rights by the City of Trinidad will
23 have to be approved by the water court in which
24 every Colorado water user who objects has an
25 opportunity to be heard. This will be fully

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1 litigated in the Colorado water court. And I
2 presume that no matter what this compact
3 administration does, even if the compact
4 administration approves it, the City of
5 Trinidad still has to get approval from the
6 water court. And I suspect there will be
7 objectors representing interest both on the
8 main stem of the Arkansas District 67 and on
9 the Purgatoire.

10 MR. HARRISON: For the record, Mr.
11 Chairman, that water court case is pending and
12 it was filed in-- late in 1988. There are
13 several objectors, and we have had preliminary
14 discussions with them and with some of the
15 others.

16 CHAIRMAN COOLEY: For Mr. Draper
17 and Mr. Pope and the Kansas delegation, I would
18 like to make a suggestion not perhaps as
19 Chairman as much as a practitioner in the
20 Colorado water court. For several years it's
21 appeared to me that there may well be issues
22 and occasions upon which the Colorado water
23 court may be an appropriate forum for the State
24 of Kansas to either be apprised or to appear.
25 It can consider issues that are not of such

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1 moments that the Supreme Court of the United
2 States should be the only forum. And the other
3 part about the Colorado water court at the
4 least is the study of the resumes published
5 monthly by the water court and the various
6 water districts, is one of the remarkable ways
7 to be apprised with what is going on with
8 respect to water in Colorado, a gratuitous
9 comment, but you might consider that. And I'm
10 interested in full employment for water
11 attorneys, too. Thank you, Mr. Harrison.

12 I want to suggest to our audience that we
13 are moving along. That at this time in the
14 meeting we have various routine matters such as
15 the Kansas v. Colorado litigation and the
16 election of officers, but that we will get
17 again to substantial moments pretty-- matters
18 of substance pretty quickly, especially the
19 reports of the federal agencies and the USGS.
20 I anticipate that will all be before noon. So
21 we are moving along and there's going to be
22 some stuff here.

23 The next item on the agenda is the status
24 report of Kansas v. Colorado. And I think it's
25 splendid that we have two of the attorneys here

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1 who can tell us who's going to win and what all
2 is going to happen. But there's the
3 possibility that they may not choose to take
4 that approach, and if they should not, I would
5 think as an agenda item at the-- I believe it
6 would be appropriate if we were to be apprised
7 of what is the present status of the case, and
8 what calendar and time table will be for as
9 long as is known and at what time-- or what
10 year resolution about this might be
11 anticipated. Mr. Montgomery, would you want to
12 start off, and I'm going to call on Mr. Draper.

13 MR. MONTGOMERY: I'm not going to make
14 any predictions about the outcome of the
15 litigation. The trial has been in recess since
16 the end of May. The State of Kansas submitted
17 revised and replacement exhibits to the State
18 of Colorado and the United States last week.
19 We are in the process of beginning our review
20 of those replacement exhibits. The trial is
21 scheduled to resume on February 24th, and a
22 schedule has been agreed to which would
23 complete the liability phase of the trial by
24 the end of June.

25 During the recess we have reaped two

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1 motions to dismiss. The State of Colorado has
2 filed a motion to dismiss the Kansas claim
3 concerning the operation of the Trinidad
4 Project. The State of Kansas has filed a
5 motion to dismiss the Colorado claim--
6 counterclaim related to the operation of Lake
7 McKinney, and the counterclaim related to well
8 depletions in the State of Kansas.

9 CHAIRMAN COOLEY: Thank you. Mr.
10 Draper, would you care to add or subtract or
11 make any comments you desire on the status of
12 the litigation?

13 MR. DRAPER: Mr. Chairman, I was
14 listening very carefully.

15 CHAIRMAN COOLEY: I thought you
16 probably were.

17 MR. DRAPER: Yes. And I think he
18 stated it very well. I don't have any
19 additions or subtractions.

20 CHAIRMAN COOLEY: Thank you, sir.
21 I'll call for the election of officers for the
22 compact year 1992. Nominations will not
23 require a second. Is there a nomination for
24 vice-chairman, other than the traditional
25 nomination of Carl Bentrup which would not be

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1 in order?

2 MR. POPE: Mr. Chairman, I would move
3 that we re-elect, I think is the term, or
4 elect, if that's appropriate, Carl Genova for
5 the second year in that same capacity.

6 CHAIRMAN COOLEY: There has been
7 an all purpose nomination and motion to
8 railroad Mr. Genova as vice-chairman. Is there
9 any other nominations? Any other nominations?
10 Hearing none, I will take it that Carl Genova
11 has been re-elected as vice-chairman by
12 acclamation. The recording secretary-- pardon
13 me, who is the recording secretary?

14 MR. ROGERS: Bernice Carr.

15 CHAIRMAN COOLEY: Bernice Carr. I
16 apologize Bernice. I'll entertain a motion
17 that Bernice Carr be elected by acclamation to
18 be recording secretary.

19 MR. GENOVA: I'll so move.

20 CHAIRMAN COOLEY: All right. Is
21 there any other comment-- any other name's?
22 Bernice Carr has been re-elected as recording
23 secretary by acclamation. Treasurer?

24 MR. GENOVA: Mr. Chairman, I would
25 nominate Jim Rogers.

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1 CHAIRMAN COOLEY: Are there any
2 other nominations? Any other nominations? (no
3 response). I'll rule that Jim Rogers has been
4 re-elected treasurer by acclamation.
5 Operations secretary? And that would be
6 Steve?

7 MR. ROGERS: Uh-huh.

8 MR. POPE: Move for the election of
9 Steve Witte.

10 CHAIRMAN COOLEY: It's been
11 moved. You don't want to get Bob Jesse back in
12 there?

13 MR. POPE: It might be fun, but I
14 think we're going to have to stick with the
15 other approach.

16 CHAIRMAN COOLEY: We're going to
17 have to stick with him.

18 MR. POPE: Steve does a great job.

19 CHAIRMAN COOLEY: But it would be
20 fun to put Bob on the hot seat. We had a great
21 deal of pleasure sticking pins and needles into
22 him. Steve, you have been elected by
23 acclamation as operations secretary. The
24 appointment of committee members-- and I remind
25 you that what we have done in the past is

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1 rotate the chairmanships but maintain the
2 committees, is that--

3 MR. ROGERS: That's correct.

4 CHAIRMAN COOLEY: My recollection
5 is right. Would someone move that we make the
6 traditional appointments with respect to the
7 three committees.

8 MR. POPE: I don't want to do all the
9 talking here, but I would move.

10 CHAIRMAN COOLEY: Thank you, I was
11 waiting for you. Mr. Pope has made the
12 traditional motion with respect to committees,
13 that the committees will remain the same, but
14 the chairmanships of the three committees will
15 rotate to the other state. Is there any
16 objections to that? Hearing none, that will be
17 the decision with respect to committees.

18 Now-- oh, my goodness, you'll never guess
19 what's next on the agenda. Mr. Jesse, where
20 are you. Okay, Bob, front and center. But
21 this time Mr. Jesse is speaking for the Bureau
22 of Reclamation and we must address him as
23 mister.

24 MR. JESSE: Thank you. Thank you, Mr.
25 Chairman. I'm glad to be here again. Of

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1 course I'm always glad to be here with this
2 group. I'll try to be very brief. I ought to
3 just mention a few things that the Bureau has
4 done. One of the things I was-- you're aware
5 that we had our dedication of FryArk projects
6 that are being complete last year. There are
7 still some features that are not completed that
8 we hope to have completely done. The camp
9 grounds that were not done we're hoping to have
10 completed and ready for occupancy in March of
11 '92. The Arkansas Point Camp Grounds, which is
12 the more elaborate of the two, we're hoping to
13 have occupied by the 1st of July of 1992. The
14 project was inspected in a tri-annual
15 inspection of the facility and was found to be
16 in operating shape and in good shape. The
17 Leadville Water Treatment Plant, a feature of
18 the FryArk project is operating now. They are
19 making sludge now. They will be fully
20 operational and automated well before June.
21 It's planned to turn the project over to the
22 Bureau for operation late this year or early
23 next year. That feature will improve the
24 quality of the Arkansas River and the
25 headwaters by taking out the heavy metal. That

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1 is in the early stages of operations today as
2 we speak.

3 The Pueblo Reservoir, the winter storage
4 is a little behind the-- what it was last
5 year. I don't know a comparison either, but
6 the Bureau of Reclamation is moving water from
7 our upper reservoirs, Twin Lakes and Turquoise,
8 which are substantially full at this time. We
9 are moving - and I believe it's a hundred and
10 twenty-second feet, it was last week, down from
11 Twin Lakes and-- from a combination of
12 Turquoise and Twin Lakes, and we will continue
13 moving that water through the rest of the
14 winter. We are planning to move somewhere in
15 the neighborhood of 50,000 acre feet yet this
16 winter in anticipation of the imports for next
17 year--

18 CHAIRMAN COOLEY: Let me interrupt
19 for just a second, Bob. The-- you are draining
20 down Turquoise, but nothing is coming through
21 the Boustead tunnel at this season. Is that
22 right?

23 MR. JESSE: That's correct. We are
24 transporting-- we are a combination of two
25 things. We are not importing water at all

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1 right now and we are drawing water from
 2 Turquoise. There is a power plant, we are
 3 moving the waters through the power plant to
 4 the Twin Lakes power plant and from there down
 5 to Pueblo. And we are drawing them down in
 6 anticipation of, not only our Bureau of
 7 Reclamation imports, but the other entities
 8 that use the reservoir and imports.

9 CHAIRMAN COOLEY: One more
 10 question. Does the pump storage feature of the
 11 Twin Lakes power plant go into operation in the
 12 same season that you're running this water from
 13 Turquoise through the power plant?

14 MR. JESSE: The operation of the pump
 15 storage is continuous, it operates year round
 16 other than the times when it's down for
 17 maintenance, or something like that. The
 18 effect, if such, of moving water either from
 19 Turquoise-- or from Boustead to Turquoise and
 20 then through the plant is the net effect of a
 21 reduction in the amount of water pumped as
 22 opposed to a difference in the total output in
 23 electricity. What that has the effect of doing
 24 is they have to pump less back to make the same
 25 amount of power. So what the imports-- the

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1 effect it has is simply the reduction in the
2 amount of water that is necessary to pump back,
3 so it makes it more efficient.

4 CHAIRMAN COOLEY: But they don't
5 generate or sell or distribute substantially
6 more electric power during that period, or do
7 they?

8 MR. JESSE: There is more net
9 production of power when there are imports than
10 when there are not imports. The plant is taken
11 on a year-- it is a power consuming rather than
12 power producing plant because it actually
13 consumes a little more power than it produces.
14 The thing that makes it effective is the fact
15 that if-- they make the power as a prime rate
16 and then they purchase the power at the dump
17 rate, so that's what makes it work. But it's
18 actually a net power consumer, not much, but
19 some. But the effect of non-import is the
20 reduction in efficiency, if you can you could
21 term it that.

22 Our initial forecast, and it's very
23 preliminary this year, is where we got the
24 50,000 acre feet. Our average is closer to
25 69,000-- the long-term average is closer to

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1 69. But the reports I have heard from both the
2 Collection System and the East Slope System is
3 that there is considerable amount of snow. So
4 we will adjust our forecast as the year goes
5 on. But right now we are forecasting somewhere
6 in the neighborhood of 50,000.

7 The only other thing I would mention is
8 you all-- most of you have known Jack Garner.
9 Last year the project manager for the Eastern
10 Colorado Project was Steve Clark, he has been
11 replaced by Jack Garner who was formerly the
12 sub-district chief in Pueblo. And he has
13 appeared before the commission several times.
14 But he is the new project manager, he took
15 office in September and he was-- had been here
16 today, but he had another commitment. And if--
17 other than that, if there's no questions,
18 that's the end of my report, sir.

19 CHAIRMAN COOLEY: Yeah. Where did
20 you get the idea there would be no questions?
21 Is there anyone else from the Bureau with you
22 today?

23 MR. JESSE: No, there is not.

24 CHAIRMAN COOLEY: This is the fun
25 part of the meeting, Mr. Pope, an opportunity

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1 not to be missed.

2 MR. POPE: I always hate to pass these
3 kinds of opportunities, but I don't know that I
4 have any questions for Bob this year, maybe
5 some of my colleagues do.

6 CHAIRMAN COOLEY: Questions for
7 Bob from the--

8 MR. WALKER: No, we're going to let
9 him off.

10 CHAIRMAN COOLEY: Well, no, no,
11 no, no, the outfit has to have some tradition.
12 Do the members of the audience have any
13 questions for Mr. Jesse? Yes.

14 MR. MACDOUGALL: Who's going to win
15 Kansas v. Colorado?

16 MR. JESSE: I don't know. It looks
17 like a draw so far.

18 CHAIRMAN COOLEY: Okay. Any
19 other-- any other questions. One that occurs
20 to me, Bob, and I'm sure there's no answer for
21 it, but the-- I really am distressed in getting
22 reports from the district at Pueblo, and so
23 forth, of the amount of water in Turquoise and
24 in Pueblo Reservoir and the paucity of water in
25 John Martin. I suppose for optimism and hope.

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1 that we would look to the snow pack. And are
2 there any other savings or efficiencies that
3 you perceive that deserve our attention for
4 increasing the amount of water in John Martin
5 and the use of water in the valley?

6 MR. JESSE: I agree that there's
7 probably no answer. The solution, of course,
8 does lie in a good snow production year. We
9 haven't had really-- the last couple of years
10 haven't been that good. We're keeping our
11 fingers crossed. The 1st of December is
12 extremely early to say about snow, but it
13 doesn't look that bad so far, although it's
14 been terrible dry in the mountains. We did get
15 some early snow, it did freeze in good. The
16 conditions are good for a good snow pack. As
17 the season wears on I'm hoping that we're in
18 the position of having to readjust our figures
19 of how much we're going to move down to make
20 it-- raise it up. But so far the snow pack
21 looks good, but it's awfully early to tell.
22 But that's our salvation is another good year.
23 We've had them before and I'm sure we'll have
24 them again.

25 CHAIRMAN COOLEY: Bob, you've been

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1 here for decades and almost in every imaginable
 2 hat and we all, I know, take pleasure in your
 3 representation of the Bureau of Reclamation.
 4 You've gone on to higher jobs it seems. Do you
 5 have anything to say on the recreational-- or
 6 the game and fish pool in John Martin? I took
 7 great heart at the comments from the State of
 8 Colorado on the subject. Do you have anything
 9 to say on that subject?

10 MR. JESSE: I haven't been in the--
 11 that process and-- of course I've been around
 12 since there was no permanent pool and it looks
 13 good to have a permanent pool. I'm hoping they
 14 can get something done. If there's anything I
 15 could do, I would. I have not been in that
 16 process, but I'm certainly encouraged to hear
 17 that there's something positive going forward
 18 on getting a permanent pool and any permanent
 19 water supply to keep the pool.

20 CHAIRMAN COOLEY: And I commend
 21 you for your ability in the last couple of
 22 years to stay out of court. That has been
 23 another step forward.

24 MR. JESSE: The Bureau of Reclamation
 25 has only been in one court case since I've been

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1 with them and I'm glad of that.

2 CHAIRMAN COOLEY: Any other
3 questions? (No response). Thank you. Thank
4 you very much. Mr. Kreiner from the Corps of
5 Engineers. Dick, would you introduce any other
6 people that may be here.

7 MR. KREINER: Certainly. Thank you,
8 Mr. Chairman. Dick Kreiner, Corps of Engineers
9 from Albuquerque. We have hardcopies of our
10 formal report and Don Gallegos, of my staff
11 from Albuquerque, has some extra copies if
12 anyone in the audience would like those just
13 raise your hand.

14 The reason we submit those is it contains
15 point of context for some of our authorities
16 and we find it useful to disseminate those at
17 this time. I have with me today Jerry
18 Sullaway. He is the new project manager from
19 John Martin Reservoir. Jerry, do you have want
20 to stand up there.

21 CHAIRMAN COOLEY: Welcome aboard.

22 MR. SULLAWAY: Thank you.

23 MR. KREINER: As I also indicated Don
24 Gallegos, he's the Arkansas River flood control
25 coordinator in my office. And also I have Phil

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1 Boawn, from our Pueblo office with me today. I
2 think I have a relatively short report for you
3 today.

4 Our flood control operations during last
5 year were-- because of the relatively low snow
6 melt run-off and no significant major rain fall
7 amounts, there really were no flood control
8 regulations from the Corps projects of Trinidad
9 and John Martin, or was there any significant
10 flood control operation at Pueblo.

11 We did have one event on the 12th of
12 August when there was peak inflows at the
13 Portland Gage of over 7,500 CFS and that
14 particular event did result in damages
15 prevented of nearly half a million dollars
16 because of the storage that resulted in that.

17 CHAIRMAN COOLEY: Half a million
18 dollars in damages?

19 MR. KREINER: That's correct. The
20 channel capacity below Pueblo is about 6,000
21 CFS. And indications are that the inflow peak
22 was somewhere in the neighborhood of 75
23 hundred. And as a result of Pueblo being there
24 and that peak being knocked off there was a
25 small amount of damages associated with that--

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small amount of savings in damages.

Most of our activity in the Arkansas basin for that-- last year dealt with activities in our small projects programs. We call this our continuing authority. In this area there are four studies that are ongoing. Three of them on Fountain Creek at Overtone Road, I-25, and the Santa Fe Avenue bridge. There's one other study and that is the State Highway 194 along the Arkansas River near Bents Old Fort in La Junta.

Under our flood plain manager services there's been some changes that have occurred over the last couple of years due to some recent legislation. Section 321 of the Water Resource Development Act of 1990 requires that the Corps of Engineers recoup some of the costs associated with providing certain flood plain management services. These services to federal agencies, private persons, and organizations must be charged and so we have set up a charging procedure. Fee schedule has been established and-- we continue to provide services to state, regional, and local governments at no costs. So there's a change

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1 in the way that the Corps is doing business as
2 it results to flood plain management services.

3 As far as 1991, the Corps has responded to
4 50 such requests for technical services and
5 flood hazard evaluations at specific sites
6 within the Arkansas River basin.

7 Under our 404 permit, this is in Section
8 404 of the Clean Water Act, and this year thus
9 far we have 7-- we have issued 7 permits and
10 one has been denied. There are several permits
11 pending. Mr. Chairman, that concludes my
12 report. I just provided an abbreviated-- hit
13 on the highlights of the formal report. I
14 certainly can address any questions that you
15 might have.

16 CHAIRMAN COOLEY: I'm going to ask
17 a question or two of Mr. Sullaway in just a
18 second, but are there any questions of Mr.
19 Kreiner?

20 MR. POPE: I'm sorry?

21 CHAIRMAN COOLEY: Any questions of
22 the Corps?

23 MR. POPE: Just a minute, Mr.
24 Chairman.

25 CHAIRMAN COOLEY: Sure.

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MR. POPE: No questions.

CHAIRMAN COOLEY: Mr. Pope, do you have any questions of Mr. Kreiner?

MR. POPE: No, I don't. Thanks for the report, Dick.

CHAIRMAN COOLEY: Any other questions? (No response). While you're here, Bill, and a number of other persons, what is the status of the Arkansas River, with respect to channel capacity, between John Martin and the state line? We've discussed it at length in some other years and there have been some studies made. And I'm just drawing a blank on that subject and I'd like to be brought up to date. Have you any responsibility or made any consideration of this subject.

MR. KREINER: We consider the channel capacity to be approximately 3,000 CFS directly below the dam. And depending on the amount of diversion that is taking place we can release a greater amount, but essentially we use 3,000 CFS. Now, we did look at the channel capacity in this last year-- well, not exactly channel capacity. We did look at a hydraulic analysis that defined the flood plains at other

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1 discharges other than 3,000 CFS. And the
2 reason we did that is that I consider it-- that
3 if it is a possibility that at some point in
4 time we may be asked-- we may have to release
5 in excess of channel capacity due to the flood
6 control operation at John Martin. And we
7 needed a little more information to know at
8 what point you start getting damages and at
9 what point you start flooding homes.

10 So the purpose of it is to just gather
11 more information so that if we did get to the
12 point where we have to exceed that 3,000 CFS
13 that we would have a little more information as
14 far as whether we start flooding out homes, or
15 at what point we start leaving those
16 agricultural damages and start incurring
17 damages far in excess of that.

18 One of the reasons that we're looking for
19 more information is we do have a forecasting
20 Model on the Arkansas River basin that we do
21 intend to use for rainfall events. And now
22 that we have a little more forecasting
23 capability we have more time, we think that we
24 have to go to maybe 15,000, or something like
25 that, to prevent having to release a greater

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1 amount that we could induce those higher
2 releases, sustain smaller damages, and
3 hopefully preclude having to pass higher
4 discharges.

5 CHAIRMAN COOLEY: Steve, have you
6 any knowledge of what 15,000 acre feet of
7 release is from John Martin would do, or is
8 this in your bailiwick at all?

9 MR. WITTE: 15,000 CFS?

10 CHAIRMAN COOLEY: CFS.

11 MR. WITTE: I would suspect we would
12 have some problems passing that amount below
13 John Martin at the present time. I'd like--

14 CHAIRMAN COOLEY: I'm going to get
15 to Bill in just a minute.

16 MR. WITTE: I would appreciate it if
17 you would.

18 CHAIRMAN COOLEY: Caught that.
19 Mr. Howland?

20 MR. HOWLAND: During the years of 1985
21 and '87 we had-- of course the Corps of
22 Engineers took control of the reservoir because
23 it invaded the flood control portion of the
24 reservoir, and the release was maximized at
25 3,000 CFS. But we did experience problems

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1 between Lamar and Granada, especially, and we
2 had several complaints from farmers and other
3 people along the river of bank erosion and
4 erosion back in the fields, at a rate of 3,000
5 CFS. And I'm sure that the channel capacity
6 has not gotten any better. In fact, I suspect
7 that it's considerably less than it was in
8 1987-- somewhat less. So the 3,000 CFS seems
9 to work fairly well between John Martin
10 Reservoir and a point somewhere around the City
11 of Lamar here, but as you progress on
12 downstream the channel just absolutely does not
13 handle that kind of a release, and I don't know
14 what the capacity is. But some of the local
15 people that had a fairly vociferous meeting
16 here in Lamar. There's a lot of people that
17 were experiencing damages at that time. And I
18 really don't-- I really don't think that 3,000
19 CFS release is what we should be looking at
20 right now given the condition of the channel at
21 least between Lamar and Granada.

22 CHAIRMAN COOLEY: Stay on your
23 feet for just a second if you will. Bob, has
24 there been a build up of sand and siltation
25 along the river from John Martin to Granada.

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1 MR. JESSE: I would agree with Bill
2 that there has been. It is a natural
3 occurrence. And it's my experience that 3,000
4 second feet is about the channel's capacity.
5 And I agree with what he's saying, I think that
6 15,000 second feet would wash out every
7 headgate from John Martin to Garden City.

8 CHAIRMAN COOLEY: Well, not just
9 that either, would it? It'd be more serious
10 than washing out headgates, I take it.

11 MR. JESSE: Yeah, I think-- I agree, I
12 think 3,000 feet is where you begin getting
13 damage. So anything above that, you're looking
14 at erosion-- certainly extensive erosion of the
15 (inaudible).

16 CHAIRMAN COOLEY: Now, help me out
17 in another matter. What was the occasion we
18 were looking at the-- at the increase in
19 elevation of the river channel at La Junta a
20 couple of years ago? Was that a proposed
21 Bureau project or a proposed Corps project to
22 re-channel the river by the City of La Junta.

23 MR. JESSE: It wasn't a Bureau
24 project, I believe it was a Corps--

25 MR. BOAWN: Yeah, it was a Corps

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1 project that would have looked at providing
 2 flood control protection in downtown La Junta
 3 in the north side of town which is an extremely
 4 vulnerable right now. I don't remember right
 5 off hand what the project costs were.

6 CHAIRMAN COOLEY: Would you please
 7 stand for a second.

8 MR. BOAWN: Sure.

9 CHAIRMAN COOLEY: Among the four
 10 of you, or anyone else, is there anything that
 11 we should-- that the compact administration
 12 should be prudently doing or encouraging at
 13 this time with respect to the channel capacity,
 14 at least below John Martin?

15 MR. KREINER: I might add one thing
 16 that the Corps of Engineers has continual
 17 problem with is maintaining at least a minimum
 18 channel capacity below our reservoir. And that
 19 is mainly caused by federal government not
 20 having any control over local zoning and things
 21 of that nature. So we certainly encourage
 22 local governments to provide wise flood plain
 23 management practices, encourage non-development
 24 in flood prone areas--

25 CHAIRMAN COOLEY: Let me ask

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1 another question. There have been many
2 federally paid for flood studies of
3 municipalities in Colorado. Are there such of
4 counties or larger areas than cities? David,
5 do you know the answer to that one? I don't.

6 MR. WALKER: Well, there's ongoing
7 efforts to identify flood plains in the state,
8 and of course it's a moving target because land
9 use practices change. We never have enough
10 money for any of this. In fact, the state has
11 no funds. We tend to work with the Corps of
12 Engineers and with the Soil Conservation
13 Service to hit the hot spots where there are
14 identified hazardous conditions.

15 There certainly would be a possibility if
16 there needs to be an investigation below John
17 Martin for us to try to figure out some way to
18 get that job done. I think it's fairly clear
19 that it's probably a package of some remedial
20 measures, as well as some preventative measures
21 in terms of land use controls.

22 I am not certain whether or not there have
23 been flood plains designated in the counties
24 down here. Counties do participate in flood
25 plain regulation in Colorado and in-- my board

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1 is the agency for designating those flood
2 plains after appropriate engineering analysis.
3 I-- you spring this on me, Frank, without my
4 staff.

5 CHAIRMAN COOLEY: Well, I surprise
6 myself, so it's all right.

7 MR. WALKER: Yes. And it just leads
8 off to a point where we could-- we could
9 certainly look into this. We don't-- we don't
10 do these things unless there is a local entity
11 that is sufficiently concerned to want to have
12 us involved and to try to seek the wherewithal
13 to get a study done.

14 CHAIRMAN COOLEY: Well, it looked
15 to me like there were two thresholds of
16 concern. The first would be the 10,000 cubic
17 feet go down and wash out every headgate, erode
18 some fields, take care of some road structures,
19 and things of that nature. And then there's a
20 larger event that begins to get to a-- farm
21 houses and the highways, roads, that sort of
22 thing which is more serious yet. And is the
23 dry year a good time to start thinking about
24 what measures we can afford or are appropriate
25 or are prudent for that amount of water.

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1 Because as sure as we're sitting here there
2 will be a time, whether it be near or far, that
3 there will be a large amount of water going
4 down the river below John Martin.

5 MR. HOWLAND: I'd like to say that
6 this reservoir has been in operation for almost
7 50 years-- or about 50 years and I think-- I'd
8 be fair to the Corps of Engineers people, but
9 that on almost-- below almost every reservoir
10 there's a stream bed that becomes aggraded
11 because with the controlled flow you don't have
12 the scouring of high flows. And in this 50
13 years that John Martin Reservoir has been in
14 operation has really taken it's toll on the old
15 channel. The old channel is no longer there.

16 CHAIRMAN COOLEY: Bill, I think
17 your remarks are real appropriate and all the
18 more reason that this should require attention
19 and it just occurs to me ad hoc that it's a
20 matter that cuts across a whole bunch of
21 jurisdictional lines; state, county,
22 government, zoning, Corps of Engineers, Bureau
23 of Reclamation, what have you, and may deserve
24 some further attention. If that were the case,
25 who should the lead person or persons be?

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1 MR. WALKER: Well, Frank, let me offer
2 to provide you with a background report on the
3 status of flood plain management in the public
4 entities below John Martin, in Colorado, as a
5 starting point to find out what the status of
6 activity on that kind of preventive side is.

7 CHAIRMAN COOLEY: I take it from
8 the fact that you're going to provide me a
9 report that it's a legitimate matter of concern
10 and worthy of further consideration.

11 MR. WALKER: I think that's probably
12 what I'm saying. We'll see what happens.

13 CHAIRMAN COOLEY: We have a
14 volunteer-- another-- yes.

15 MR. HINES: Will the Corps of
16 Engineers allow straightening of channels to--

17 CHAIRMAN COOLEY: I didn't hear--
18 I could not hear you.

19 MR. KREINER: The question was, will
20 the Corps of Engineers allow straightening of
21 curves in the channels. And I'm going to let
22 Phil address that.

23 MR. BOAWN: Any study that we were to
24 undertake we would of course have to look at
25 that as an option. I couldn't say blanket

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1 that, yeah, we would allow that or that that
 2 would be a proposed plan or even a viable
 3 solution. You start looking at other effects
 4 that are associated with straightening channels
 5 and you might all of a sudden have the Grand
 6 Canyon of the Arkansas up here also.
 7 Occasionally, when you straighten channels like
 8 that you get tremendous savings. It takes care
 9 of your flood problem, but it certainly doesn't
 10 address the erosion you have and you send the
 11 sediments downstream.

12 MR. KREINER: We certainly didn't mean
 13 to alarm anyone because of the fact that we are
 14 looking at different flood plains. It was
 15 merely because we had the greater potential for
 16 forecasting that we perceive that in some point
 17 in the future, particularly in years where John
 18 Martin's conservation pool is full, if a major
 19 flood occurred on the basin above them, then
 20 you don't nearly have the flood protection in
 21 the reservoir as you do-- as it is today. So
 22 we do not intend to release in excess of 3,000
 23 CFS only if we were able to forecast that by
 24 going to higher release earlier, we could
 25 prevent damages from occurring by virtue of a

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1 greater event occurring without having some
2 intermediate rising.

3 CHAIRMAN COOLEY: You didn't alarm
4 anyone except insofar as you've turned the
5 Chairman loose. That was the only--

6 MR. KREINER: One thing-- one thing--
7 John Martin-- well, the Arkansas below John
8 Martin does provide is that there is a
9 tributary there-- a couple tributaries that are
10 capable of discharging to the Arkansas River
11 far in excess of any channels capacity in
12 existence. And that-- by virtue of those--
13 that potential being there it has prevented a
14 great deal of encroachment, if you will, in the
15 flood prone areas. So I'm not saying there's a
16 real concern as far as the zoning and land use
17 practices are concerned. It's just something
18 that we want to be prepared for as possible to
19 address.

20 CHAIRMAN COOLEY: Well-- but the
21 bottom line is still sort of what Bill's remark
22 was, you fly over it or look over it. The
23 Arkansas River channel doesn't exist in many
24 parts of the river. Yes.

25 MR. FROST: Mr. Cooley, I'd just like

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1 to state for the audience that remarks of Mr.
2 Howland and the gentlemen from the Corps of
3 Engineers are very appropriate. During the
4 1987 releases that incurred about 3,000 feet at
5 the state line there were minor beginnings of
6 damages occurring in the Kansas portions of the
7 channel. Certainly anything greater than 3,000
8 CFS would incur some major damages. In
9 magnitude of 15,000 feet would be severe.
10 Damages to structures, such as bridges and
11 culverts and the like, it certainly starts to
12 add up to a great deal of monetary value.

13 I think it is appropriate for the compact
14 to be concerned in this matter and referred to
15 my superiors in the course. But for another
16 reason as Mr. Howland described the
17 characteristics of the channel are such that
18 the efficiency of deliveries and the benefits
19 derived from conservation of waters in the
20 reservoir is not nearly as great, as it takes a
21 great-- not great, it takes a larger head of
22 water to push down the channel where there is
23 one. It's not nearly so defined and it's
24 congested with vegetation and debris and dead
25 wood, that it just doesn't get there like it

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1 used to. There's a great more extent of
2 evaporated loss and loss in the side channels,
3 not to recharge or-- but just to mere bank
4 removal and I think it would be a good thing to
5 look at.

6 CHAIRMAN COOLEY: Good, are there
7 any other questions of the Corps of Engineers?

8 MR. GENOVA: I have one.

9 CHAIRMAN COOLEY: Yes.

10 MR. GENOVA: Have you completed the
11 work on the channel of Purgatoire through
12 Trinidad?

13 MR. KREINER: The City of Trinidad has
14 completed the work on reestablishing the
15 channel capacity through the City of Trinidad.
16 Yes.

17 MR. GENOVA: What is that capacity,
18 now?

19 MR. KREINER: Approximately 15,000
20 CFS. We have a similar study going on to
21 reevaluate the existing channel capacity below
22 Trinidad dam as well, and we're primarily
23 interested with the area below the City of
24 Trinidad until it reaches the canyon, so-- this
25 is something that we do periodically to make

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1 sure that what we have in our water control
2 plans as a channel capacity is-- reflects the
3 current condition. There's been a considerable
4 amount of vegetation, three out of five growth
5 and things like that in the channel, as well.
6 And you don't get the flushing action that you
7 did prior to the dams being in place. So it's
8 something we do periodically.

9 CHAIRMAN COOLEY: Thank you very
10 much. Bill, in any ongoing work on this
11 because the of fact there's so many different
12 agencies and different people that should be
13 heard from and should participate, I hope that
14 you would be on committees and help guide us in
15 making sure that we're not missing some outfit
16 or entity that has a roll in considering this
17 area. And your experience should be invaluable
18 in that respect.

19 MR. HOWLAND: I'll do my best, sir.

20 CHAIRMAN COOLEY: The Geological
21 Survey reports. Doug Cane.

22 MR. CANE: Thank you, Mr. Chairman.
23 I'd first just like to give a brief rundown of
24 some of our data collection activities in the
25 basin as part of the first agenda item.

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1 CHAIRMAN COOLEY: Are there other
2 people from the Survey here this morning.

3 MR. CANE: I don't believe there are.
4 I believe there's a representative from the
5 Garden City office here today. As you know,
6 out of the Pueblo Sub-district Office, we
7 operate 6 gaging stations in cooperation with
8 the compact and there's also two gaging
9 stations that are operated in Kansas by the
10 Kansas District of the Geological Survey.
11 Operations at all of those gaging stations
12 proceeded normally this year.

13 The data from 19-- the 1990 water year
14 were published during the summer of '91. And
15 the records from the '91 water year, which
16 ended September 30th, are at least for the
17 Colorado stations are substantially completed
18 and will be ready for publication within a
19 couple months.

20 We did see some high water events,
21 especially on Purgatoire, that were mentioned
22 early and so made a number of-- a number of
23 extra discharge measurements at those sites.

24 In addition to the stations that we
25 operate in conjunction with the compact out of

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1 the Pueblo Sub-district, we also operate about
2 55 or 60 additional stream gages throughout the
3 Arkansas basin and the record from those is
4 certainly available to the compact and is also
5 published.

6 On an annual basis, also just for your
7 information, in cooperation with the
8 southeastern Colorado Water Conservancy
9 District we make water level measurements in
10 about 200 alluvial wells along the Arkansas
11 between Pueblo and the stateline. And that
12 data, again, is also available to the compact
13 and, in fact, any interested citizens.

14 Additionally, in a number of the compact
15 sites, and at about 25 other sites throughout
16 the basin, we're currently operating continuous
17 reporting water quality monitors, most of which
18 have been established within the last 10 years,
19 since there's been increased interest in water
20 quality in the basin. And that data, again, is
21 available to the compact should there be
22 interest in it.

23 The-- out of the office in Pueblo we
24 do the data collection and studies, currently
25 in cooperation with about 25 different--

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1 other federal, state, and local agencies
 2 within the basin. So that-- I guess-- one last
 3 comment of items of interest that have occurred
 4 within the last year. In June of this year we
 5 had a new district chief appointed for the
 6 Colorado District Office at the USGS. His
 7 name is Dave Lidstrom. He served previously as
 8 the chief of studies for the district. That
 9 concludes what I have to report under that
 10 agenda item.

11 CHAIRMAN COOLEY: Are you going
 12 to be on the next item of the agenda. Mr.
 13 Spronk, a question that I've been curious
 14 about for some time. Have the data compiled by
 15 the USGS been utilized in the litigation in
 16 Kansas v. Colorado?

17 MR. SPRONK: Yes, by both states.

18 CHAIRMAN COOLEY: And have any of
 19 the members of the geological survey been
 20 called to testify or was there-- were the data
 21 just taken in as data under stipulations, or
 22 whatever?

23 MR. SPRONK: No one has been called.
 24 Generally both states have accepted the data
 25 without question, more or less.

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CHAIRMAN COOLEY: Right. I don't want to push to far, but it's an area of interest and curiosity to me, frankly. Were those-- did those data have to be heavily supplemented by additional studies, or were those data pretty-- relatively fundamental so that they constituted a large bulk of the data utilized?

MR. SPRONK: They constituted a large part of it. There was one area where they were missing data that's in dispute between the two states. It would be in the area of the amount of water pumped from wells within Colorado.

CHAIRMAN COOLEY: Sure. Thank you. I want to get into another subject, but not as lengthy as I did on this question of capacity. But every year at budget time we considered the gages, the method of acquiring data, the kind of data we got, how good it was, and so forth. Do we need this year to go through that agony once again, or are we in a situation that we're rocking along reasonably well and the numbers of gages and quality of the materials that we're getting?

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1 MR. POPE: Mr. Chairman, I haven't
2 really addressed that question. I--
3 specifically, I think we did have a discussion
4 last year as I recall about that matter and I
5 think I recall-- I don't have it right
6 specifically in front of me, that Doug did
7 identify one recommendation from the survey's
8 standpoint in terms of installing an additional
9 DCP as I recall. That's the only thing that
10 I'm aware of that really needs to be
11 considered, if it does.

12 CHAIRMAN COOLEY: You've had
13 the advantage of reading the transcript and
14 I haven't. David, do you have any comments
15 on where we are-- we've had that discussion
16 not just last year, but many, many times.

17 MR. POPE: I'm sorry.

18 MR. WALKER: Well, Mr. Chairman,
19 I was going to comment during the budget
20 discussions, but I'm under the very clear
21 impression from our state budgetary process
22 and the status of the state budget that
23 it will be very difficult to get any increase
24 in the contribution that Colorado makes to
25 this or any of our other interstate compact

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1 entities. Money is very tight and it is--
2 whereas in the past it was almost automatic
3 to get approval of additional funds.
4 Now, they will be very, very strictly
5 scrutinized.

6 CHAIRMAN COOLEY: Is there
7 any comment you have just on the subject of
8 qua-gaging and measurement of the river
9 by the USGS that you want to bring up?

10 MR. WALKER: No, I would defer that
11 really to Hal or Bill or Steve. It's really
12 their area of expertise.

13 CHAIRMAN COOLEY: Do you have
14 anything to say, Doug, with respect to
15 measurements?

16 MR. CAIN: I think the only-- one
17 comments I would have, and this is based upon
18 my own perceptions of some of the work that
19 I've seen related to the compact litigation--
20 and I guess I would be interested in hearing
21 comments from those who have been more closely
22 involved in that also. But that the-- it seems
23 that the adequacy of stream flow information
24 on tributary streams, both above the-- upstream
25 from the irrigated area and near the mouth

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1 of the tributaries is data that probably
 2 would have been valuable to more adequately
 3 clarify some of the questions in the compact
 4 litigation. That's my own perception and I
 5 would be interested in hearing if that's the
 6 perception of others who have been more closely
 7 involved with that.

8 CHAIRMAN COOLEY: The Fountain,
 9 any particular tributary.

10 MR. CAIN: Well, I think most of
 11 the tributary is downstream from Pueblo.

12 CHAIRMAN COOLEY: Well, okay.

13 MR. CAIN: I think Fountain Creek is
 14 probably-- is one stream that's fairly well
 15 gaged in a number of locations. But many of
 16 the other tributaries are not well gaged.

17 CHAIRMAN COOLEY: Okay. The last
 18 item on the agenda before we go to
 19 housekeeping, and so forth, is the report by
 20 Doug on the-- reports and studies on the
 21 Arkansas basin in 1990 and '91. Were there any
 22 studies conducted?

23 MR. CAIN: There's a number of studies
 24 that are ongoing and in various stages
 25 of completion and I'll try to give you a brief

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1 report on those that I think are of broad
2 enough interest to be of importance to the
3 compact.

4 One report, that hopefully will be printed
5 by the time this board meets next year, is one
6 that I discussed last year that was-- has been
7 done in conjunction with the Southeastern
8 Colorado Water Conservancy District, and that
9 is to compile the bibliography of water
10 resources related studies and investigations
11 for the Arkansas River basin.

12 That was begun in conjunction with a
13 project that we completed several years ago to
14 develop a basin wide model of the Arkansas
15 basin. The reason that it's not published yet
16 is because of-- primarily because the
17 publication will be done by the Southeast
18 District and their financial resources have
19 been oriented towards compact litigation for
20 the last two years and so the report has not
21 been published yet. But it is a compilation of
22 over a thousand different citations related to
23 the water resources in the Arkansas basin in
24 Colorado.

25 CHAIRMAN COOLEY: Mr. Milenski, is

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1 there anyone here from the Southeast District,
2 are there board members here from the Southeast
3 District today.

4 MR. MILENSKI: Carl Genova and I.

5 CHAIRMAN COOLEY: The two of you
6 are both board--

7 MR. MILENSKI: Oh, Bob Northrup.

8 MR. SIMPSON: And I'm Tom Simpson. I
9 work for the Southeast District.

10 CHAIRMAN COOLEY: Okay, fine.
11 Thank you, sir. This business of the
12 bibliography of studies by the survey-- or is
13 it limited to the survey?

14 MR. CAIN: No, it's as comprehensive
15 as we could make it. I don't think that you
16 can say that you found every report, but it's
17 not strictly survey reports.

18 CHAIRMAN COOLEY: The bibliography
19 is a subject that's near and dear to me. I'm
20 aware of some wonderful reports and have copies
21 of some. And I know there is-- Carl, there's
22 some marvelous things that have been done and
23 that we have used and I'm always afraid that
24 there may be, back in there, data that has been
25 gathered that has not come to light, or has

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1 come to light only to those who researched in
 2 it to a great extent. Do you know where this
 3 bibliography is in respect to the-- does any of
 4 the three of you know where it is in respect to
 5 the budgeting process of the district and so
 6 on?

7 MR. SIMPSON: Mr. Chairman, I can't
 8 answer that question right now, but I would be
 9 happy to get back to you later and try to give
 10 you some answer.

11 CHAIRMAN COOLEY: I'd sure like,
 12 you know, a one paragraph note on the subject.
 13 Yes, Mr. Milenski.

14 MR. MILENSKI: I think we have
 15 considerably over \$100,000 coop that is going
 16 on with the USGS at the present time.

17 CHAIRMAN COOLEY: You understand
 18 the thrust of my question was the publication
 19 of that bibliography.

20 MR. MILENSKI: When the USGS gets
 21 around to it, you'll get a copy of it.

22 CHAIRMAN COOLEY: Good.

23 MR. CAIN: You mail out quite a bit of
 24 data all the time. Carl, this is a separate
 25 project and based on discussions with Tommy

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1 Thompson, we've backburnered, and it's-- my
 2 understanding has been that the district has
 3 backburnered the actual publication of it,
 4 because of budgetary concerns primarily related
 5 to the lawsuit. What Frank is-- Milenski has
 6 said is definitely true, there are other
 7 aspects of the cooperative program between the
 8 Southeast District and the USGS that certainly
 9 are proceeding.

10 CHAIRMAN COOLEY: Well, I can't
 11 imagine anything that would have more bang for
 12 the buck than the publication of that
 13 bibliography of work that has been done. Is
 14 there anything else that you can report to us,
 15 or desire to report to us?

16 MR. CAIN: Yes, I would. We are doing
 17 a study also in conjunction with the Southeast
 18 District to look at the April 15th date for
 19 release-- or for evacuation of the joint use
 20 pool at John Martin-- or excuse me, at Pueblo
 21 Reservoir. It's a study that should be
 22 completed later this year. We're-- we are
 23 close to having a draft report of that study.

24 Just for a little background information,
 25 the-- there's a 66,000 acre foot joint use pool

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1 in the Pueblo that can be used to regulate both
 2 imported and native waters, during the period
 3 of November 15th through April 14th. But based
 4 on the original design of Pueblo Dam, the Corps
 5 designated April 15th as the date each year
 6 when that joint use pool must be evacuated to
 7 allow it to be used for flood control storage.

8 What we have done, or are in the process
 9 of completing really is a study to look at
 10 whether or not that date might be safely
 11 extended for up to a month during certain years
 12 based upon the stream flow and the snow pack
 13 conditions during those years. We've worked
 14 and tried to keep the Corps abreast of that
 15 study because the final decision on whether
 16 that is appropriate to extend that date or to
 17 alter the way that the flood control pool is
 18 operated at Pueblo reservoir will be a decision
 19 of the Corps of Engineers. But we expect that
 20 study-- the report of that study to be in draft
 21 form within a couple of months.

22 And the major importance behind that
 23 study, initially, was because of spills during
 24 some of the higher water years in the-- in the
 25 mid '80's where water that had been stored in

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Pueblo was required to be spilled by the April 15th date.

A couple other studies I'd like to report on, but it might be best to take questions as I go.

CHAIRMAN COOLEY: No, keep going.

MR. CAIN: We are in the process of completing a study and, again, have a draft report nearing the completion. A study that was begun in 1989, really, to look at water use on the Fort Lyon Canal. Which is the largest canal system in the Arkansas basin. The objectives of the study were to estimate the quantity of surface water withdrawals, ground water withdrawals, to look at conveyance losses and also consumptive use within the Fort Lyon Canal. That study, again, is nearing completion, and should have a draft report out within a couple of months.

The last study I'd like to report on is one, I think, of fairly major importance to the basin. We began about a year and a half ago a basin wide water quality study of the Arkansas basin in Colorado. And it's being done in conjunction with 15 agencies-- cooperating

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1 agencies, local and federal, primarily within
2 the basin.

3 The study began-- initially, there was an
4 outgrowth of concerns about potential effects
5 on water quality as many of the water
6 operations-- changes that are going on within
7 the basin, sales and exchanges of water among
8 those. We're about a year and a half through a
9 three year data collection period which
10 includes collection of water quality data at 20
11 sites on the main stem of the Arkansas River.
12 About 10 of which are within the lower
13 Arkansas, downstream from Pueblo. Thirty-two
14 sites on tributary streams. All of the major
15 transmountain versions and also some mine
16 drainage sites in the upper basin.

17 The plan for the study is to complete data
18 collection in about a year and a half. And
19 there'll be a report-- really a descriptive
20 report on water quality within the Arkansas
21 basin that will be prepared at the end of that
22 time.

23 The second part of the study is to take
24 much of the information that's collected during
25 that three year period plus data that's being

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1 collected on a routine basis, at stream gaging
 2 stations and at continuous reporting water
 3 quality monitors throughout the basin, and try
 4 to develop a picture of how water operations
 5 within the Arkansas basin affect water
 6 quality. And that will continue-- that part of
 7 the study will continue over the next several
 8 years.

9 Those are the-- that's a summary of the
 10 primary work that we're doing in the basin
 11 right now that I think is of broad enough
 12 interest to be important to the compact. Two
 13 other reports of studies that were-- that have
 14 been completed, have been approved to be
 15 published, and should be printed within the
 16 next couple of months. One of those,
 17 particularly, may be of interest to the
 18 compact.

19 We began in about 1980 doing studies in
 20 cooperation with the Department of the Army at
 21 Fort Carson, the Canyon maneuver site, which is
 22 tributary to the Purgatoire River. The Army
 23 acquired about 450 square miles of land within
 24 that area for mechanized maneuvers.

25 We were asked to do two things as part of

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1 that, and the first was just to do an
 2 assessment of the water resources of that
 3 area. And that work was published a couple
 4 years ago. The second part of our charge at
 5 the maneuver site was to look at the affects of
 6 military maneuvers on the water resource of the
 7 maneuver site. We have a report that's
 8 approved at this point, and will be
 9 distributed, that looked at both stream flow
 10 and ground water, water quality, and sediment
 11 transport on the maneuver site for about 3
 12 years before maneuvers began and about 3
 13 years-- it included 3 years after maneuvers
 14 began.

15 The-- I guess in a short sentence to
 16 summarize that, given the relatively short
 17 period of record after maneuvers, we couldn't
 18 distinguish any statistically significant
 19 affects of maneuvers on the water resource on
 20 that 450 square miles.

21 We continued to do monitoring and some
 22 studies in cooperation with the Army that we
 23 anticipate will continue over the long-term to
 24 look at those points. So that report will be
 25 distributed during the coming year. And I

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1 believe some of the-- at least the Colorado
2 members of the compact will receive that, and
3 if there's any interest from other people we'd
4 be glad to distribute that.

5 CHAIRMAN COOLEY: Thank you very
6 much. Are there any questions of Doug or of
7 the-- yes, Carl?

8 MR. GENOVA: What changes were you
9 anticipating due to these maneuvers?
10 Sedimentation or--

11 MR. CAIN: Primarily the concerns were
12 about potential increase in sedimentation and
13 possible changes in water quality, especially
14 salinity. And potential changes in stream flow
15 because of the change in land use from a
16 grazing land use to a land use that involved
17 mechanized military maneuvers.

18 CHAIRMAN COOLEY: Any other
19 questions? Thank you very much. Lee Rolfs has
20 the attendance sheet. I-- We are coming to a
21 change in the nature of the program, but I
22 sincerely request that none of you leave the
23 room without signing the sign-up sheet, which I
24 have been too late in circulating. Do not let
25 my delay mean that we don't have your name,

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1 because we have an accurate record of most
2 everyone that's come to these meetings for much
3 more than 10 years and we want to preserve that
4 record.

5 MR. POPE: Mr. Chairman?

6 CHAIRMAN COOLEY: Yeah.

7 MR. POPE: I think there may have been
8 an incorrect comment a minute ago that there
9 was not anyone here from the Kansas U.S.
10 Geological Survey Office. I think I've spotted
11 a gentleman there in the back I don't know
12 whether he has comments to make, but I thought
13 we should clarify that.

14 CHAIRMAN COOLEY: Fine.

15 MR. SAUER: Yeah, I'm Curt Sauer with
16 USGS in Garden City and I have no further
17 comments.

18 CHAIRMAN COOLEY: We're glad
19 you're here and we'll be discussing some money
20 matters with USGS pretty soon, so all the
21 more-- we're all the more happy that you're
22 here. Pardon me. Bob Jesse, I had a couple of
23 questions that I wanted to ask about the
24 drainage in Leadville. The Leadville Tunnel
25 drains along the road to Tennessee Pass just up

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1 by the-- on the north end of Leadville. And
2 then there is another bunch of mines that are
3 draining on the highway into Leadville on the
4 south end of town. Is that not right.
5 MR. JESSE: That's correct. I believe
6 you're referring to the Yak Tunnel and the
7 California Gulf drainage, which is not a Bureau
8 project. The Leadville mine drain tunnel is a
9 Bureau project. We are building a treatment
10 plant that will be immediately under the road--
11 a tunnel, itself, goes under the highway and
12 the treatment plant will be partially visible
13 from the highway. And it will treat through a
14 chemical process the effluent of the Leadville
15 mine drain tunnel. The Yak Tunnel is on the
16 other side of the same mountain, but comes out
17 into California Gulch and is a project that is
18 being conducted by the-- a combination of the
19 EPA and the CERCLA mining people, and is a
20 process of stabilizing the tunnel and then
21 building-- selling the bonds and treatment
22 devices on California Gulf, itself. The
23 tunnels kind of come together under the
24 mountain, but they are separate in there-- how
25 they come out of the mountain.

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1 CHAIRMAN COOLEY: Which one is by
2 far larger than the other in putting out
3 effluents?

4 MR. JESSE: I don't know. I think
5 they're about the same. The-- they both-- both
6 of the effluent-- all of the effluence of both
7 of them are high in heavy metal and contain
8 most every-- most every kind of heavy metal
9 from arsenic to cadmium of that sort of thing.
10 And that's what's being treated two different
11 processes, but the result will be the same.

12 And the-- one of the goals of the-- when
13 the two are done, should be a-- near a 50
14 percent reduction in the heavy metal in the
15 upper region of the Arkansas head water and
16 should make the upper Arkansas head water a
17 naturally reproducing brown trout fishery.

18 CHAIRMAN COOLEY: Most-- one of
19 the most beautiful minerals in Colorado is ruby
20 silver. Beautiful, beautiful crystal and
21 rubies. And it's silver and arsenic. The town
22 of Silver Plume has these gorgeous minerals in
23 it's tunnels above town, and it's been very
24 difficult in Silver Plume and elsewhere to get
25 a decent water supply. You'd kill anybody with

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1 the arsenic compound.

2 The meeting will go into the-- such
3 matters as the annual report, the auditor's
4 report, and the budget at this time, and I
5 would like to suggest that we keep going for
6 another 10 or 15 minutes rather than come-- or
7 we can do it when we come back after lunch.
8 What's your pleasure?

9 MR. WALKER: Some of us need to
10 checkout. Is there any difficulty in doing
11 that after noon? Is there a checkout-- what's
12 the checkout time?

13 CHAIRMAN COOLEY: I think it might
14 be prudent for some of us to checkout now.

15 MR. POPE: I think a break at this
16 point to check out and perhaps lunch may be
17 just as well, but I'm open. It's kind of a
18 natural break, I think.

19 MR. WALKER: Yeah.

20 CHAIRMAN COOLEY: It is a nature
21 break.

22 MR. WALKER: Yeah.

23 CHAIRMAN COOLEY: I do sincerely
24 request those of you who are here, please, wait
25 and sign the sign-up sheet which has gone

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1 through only part of the-- is into the second
2 row on the right-hand side. Please hang around
3 and sign that sheet. We do want your
4 signature.

5 (THEREUPON, a lunch recess was
6 had).

7 CHAIRMAN COOLEY: We are now back
8 and on the record. And after the recess we
9 readjourn the meeting of the Arkansas River
10 Compact Commission. And we're going to deal
11 exclusively with housekeeping measures.
12 Principally those shown on 13, 14, and 15 of
13 the agenda. Before we do that, however, is it
14 appropriate for me yet to sign the ribbon copy
15 of the transcript from the court reporter of
16 the meeting of December, 1990.

17 MR. POPE: Mr. Chairman, I think the
18 states have had an opportunity some time ago to
19 exchange our suggestions-- corrections, but we
20 had the final version run just very recently--

21 CHAIRMAN COOLEY: Yeah.

22 MR. POPE: -- and I guess I would ask
23 David or Steve if they've had a chance to look
24 those over.

25 MR. WALKER: Yeah, we have.

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MR. POPE: Go ahead and sign the three copies.

CHAIRMAN COOLEY: All right. Yes. And Colorado, we'll take that to be a unanimous approval for the signature of the Chairman on all three ribbon copies of the transcript of last year and I'm doing that right now.

MR. POPE: Mr. Chairman, I--

CHAIRMAN COOLEY: Mr. Pope?

MR. POPE: I'll ask a question now seeking information because I don't know logistically how the rest of this is being handled, but I-- it was our presumption that the original transcript would end up in the recording secretary's office with the official files and then we have the two additional copies, certainly one of which--

CHAIRMAN COOLEY: One ought to go to Kansas, at the least.

MR. POPE: I would suggest that. And I assume that Colorado would like to copy.

MR. WALKER: Yes.

MR. POPE: And if there are others-- we've only made three because of the-- official

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1 copies, but certainly that doesn't mean that
2 more can't be distributed if there are others.
3 I didn't know whether you'd like to keep a
4 copy, Mr. Chairman, for example or not.

5 CHAIRMAN COOLEY: No, I do keep a
6 pretty complete record and have files of the
7 compact going back many years, but some of
8 these came from the General. But, in fact, Ms.
9 Carr and the offices here, should and are the
10 proper repositories for records of the compact
11 administration. And I don't see Mr.-- Well, I
12 see Mr. Montgomery here. I would hope that at
13 the final conclusion of the lawsuit that as
14 much of those records, and some of them are
15 going to be priceless, as may be will be kept
16 at Lamar, Colorado. I understand the attorneys
17 and all litigants, and so forth, have a vested
18 interest in those, but an immense amount of
19 data are generated and I would hope that Lamar
20 would be a repository for a significant amount
21 of that stuff. Do you have anything to say Mr.
22 Montgomery?

23 MR. MONTGOMERY: Let me just make a
24 comment. I don't think that I'm in a position
25 to make any commitment to do that. Although, I

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1 do think there has been a substantial amount of
2 data that has been collected that certainly is
3 available to both states at this time.

4 We've compiled a set of resolutions
5 effecting the operation of John Martin
6 Reservoir and have provided that to the compact
7 administration members. So I think there is a
8 lot of beneficial data and records that are
9 being compiled that are coming out of this. I
10 will suspect that the State of Colorado and the
11 State of Kansas will want to archive many of
12 the documents and exhibits and I suspect that
13 will be difficult unless there are extra copies
14 to provide everything to the compact
15 administration.

16 CHAIRMAN COOLEY: I understand
17 what you're saying and I know that's true. But
18 I'm suggesting in the age of the xerox machine
19 there will be a plethora of other materials and
20 I would hope that as many copies as reasonably
21 can go to Lamar and end up with Bernice, to
22 whom I'm going to hand the original minutes
23 from last year at this time. Thank you, Lee.

24 The-- let's see, the next item on the
25 agenda is the approval of the 1988 annual

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1 report. What is the status of the 1988 annual
2 report? I've seen the thing and I have no
3 corrections with the draft I've seen.

4 MR. MILLER: Well, I guess it's to me
5 to speak here. I confused the issue by sending
6 out a revised table just last week which was
7 wrong. And so--

8 CHAIRMAN COOLEY: You mean it was
9 wrong of you to send it out or it was wrong of
10 you to confuse the issue--

11 MR. WALKER: Both.

12 MR. MILLER: I prepared it wrong.

13 CHAIRMAN COOLEY: -- or it was
14 wrong as an ab initio.

15 MR. MILLER: So the draft that I sent
16 out approximately November 25th, with the
17 corrections, excluding Table 10, that I
18 mentioned in my December 5th memo, is the way I
19 propose to finalize the report. I haven't had
20 any feedback, other than some brief discussions
21 with David Pope a minute ago, on either the
22 original submission of a draft or these
23 correction sheets.

24 CHAIRMAN COOLEY: David, I don't
25 see-- Mr. Pope, I don't see how we can approve

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1 the report-- or how an approval by us at this
2 time would be meaningful on the way of this to
3 the printers.

4 MR. POPE: I don't understand your
5 comment, Frank.

6 CHAIRMAN COOLEY: Are we so far
7 along that we they can comfortably approve the
8 report at this time.

9 MR. POPE: I don't know. We-- Steve
10 has clarified questions that we had regarding
11 the additional material submitted. I think-- I
12 presume that-- that in minimum we need to get
13 the revised figures that Steve has offered to
14 send out, subsequent to this meeting, and have
15 a chance to look those over. Procedurally, how
16 we go after that and at what time is another
17 question.

18 CHAIRMAN COOLEY: I have an idea.
19 David, I know the work that has gone into this
20 particular copy that we're talking about, the
21 '88, has picked up many errors that have been
22 in the report for 20 years or so. I have the
23 idea that subject to the final revisions we're
24 going to have a better report actually--

25 MR. WALKER: Yeah.

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1 CHAIRMAN COOLEY: -- than we've
2 had for several years. And therefore, with the
3 understanding that either state may at any time
4 bring forward corrections or infelicities in
5 the report. I think that because of the
6 improvements that Steve has in this report it
7 might very well be appropriate for us to
8 approve it with that understanding.

9 MR. POPE: I think if that-- if what
10 you're saying is that in essence we can
11 disregard the second transmission.

12 MR. MILLER: Well, the errata page.

13 MR. POPE: Oh, the errata page.
14 That's appropriate. And the draft which says--
15 with the revised tables we can go back to the
16 original format on the table and correct them
17 accordingly to the numbers.

18 CHAIRMAN COOLEY: Uh-huh.

19 MR. POPE: So those tables now in this
20 year, in the '88 annual report would mirror
21 those in prior years, except for the numbers.

22 MR. WALKER: Yeah.

23 MR. POPE: And subject to-- if the
24 members of the administration are comfortable
25 with that I think David and I, perhaps, in our

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1 respective offices could assume the burden of
2 checking the numbers and having-- making sure
3 everything is in order and then as a formality
4 we could probably proceed.

5 CHAIRMAN COOLEY: That's exactly
6 what I propose we do right now.

7 MR. POPE: If that's acceptable I'm
8 willing to do that.

9 MR. MILLER: I would send a-- rather
10 than you having to piece together--

11 MR. POPE: Send a complete version.

12 MR. MILLER: A complete version,
13 properly typed.

14 CHAIRMAN COOLEY: All the better.
15 Is that a formal resolution that we-- with
16 those understandings we adopt-- that we adopt
17 the 1988 annual report.

18 MR. POPE: I would so move with the
19 caveat previously spoken.

20 CHAIRMAN COOLEY: Sure.

21 MR. WALKER: Second.

22 CHAIRMAN COOLEY: And there's a
23 second. Is Kansas ready to vote?

24 MR. POPE: Kansas votes "aye".

25 CHAIRMAN COOLEY: Colorado?

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MR. WALKER: "Aye".

CHAIRMAN COOLEY: Colorado votes "aye". Fine. I can hardly wait to hear Steve Miller pronounce the word F-I-S-C-A-L. That's going to be the exciting thing to look forward to. It's an inside joke.

MR. MILLER: Well, how am I supposed to pronounce it?

CHAIRMAN COOLEY: Well--

MR. MILLER: Do you want me to say fiscal?

CHAIRMAN COOLEY: Yeah, that would be great and it would also be a complete innovation.

MR. MILLER: I brought extra copies of these-- are you moving to the budget.

CHAIRMAN COOLEY: I think you've moved us to the auditor's-- no, you've moved us to the auditor's report for '90, '91. Mr. Rogers? That's not the auditor's.

MR. ROGERS: No, I've got it right here somewhere, let me dig it out.

CHAIRMAN COOLEY: Have you handed this out to each of us?

MR. ROGERS: Yes, I think everyone has

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1 a copy of this now.

2 CHAIRMAN COOLEY: Most of us do.

3 MR. ROGERS: Okay. Most of you do?

4 CHAIRMAN COOLEY: Most of us do.

5 MR. ROGERS: I thought I gave everyone
6 a copy.

7 CHAIRMAN COOLEY: I probably
8 disposed of mine.

9 MR. ROGERS: Okay. If you have looked
10 this over, why, the auditor's summary is that
11 the administration maintains financial records
12 using the cash basis of accounting. By using
13 the cash base of accounting certain revenues
14 and recognitions when received rather than when
15 earned a certain expenses in purchases of the
16 assets are recognized when cash is disbursed
17 rather than when it is obtained. Obligation is
18 incurred. So therefore according to our
19 budget, why, we're within our budget lines.

20 CHAIRMAN COOLEY: And do you move
21 the approval of the audit report?

22 MR. ROGERS: I so move.

23 CHAIRMAN COOLEY: Okay. Is there
24 a second.

25 MR. HAYZLETT: Second.

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1 CHAIRMAN COOLEY: All right.
2 Thank you. Before we go on, please, turn to
3 the bottom of page four in that report and you
4 will notice that apparently we have-- in order
5 to reduce our surplus we have budgeted to go
6 into the hole \$14,280 and we have failed in
7 that objective because we've gone into the hole
8 only \$4,941. And, therefore, with respect to
9 the budget, we are operating 9,000 some odd
10 dollars to the good, in that sense of the
11 word. But we have really gone down \$4,900. Is
12 that not the consensus-- the understanding that
13 we all--

14 MR. WALKER: Yes.

15 CHAIRMAN COOLEY: All right. It's
16 been moved and seconded that we approve the
17 audit report. Colorado?

18 MR. WALKER: Votes "aye".

19 CHAIRMAN COOLEY: Kansas?

20 MR. POPE: Kansas votes "aye".

21 CHAIRMAN COOLEY: The audit report
22 has been approved, and I would like a copy of
23 that to go to the court reporter. Can one of
24 you sacrifice one.

25 MR. POPE: Chairman--

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

MR. POPE: Chairman, just for the-- I think it needs to be appended. I think we have labeled that earlier in the discussions--

CHAIRMAN COOLEY: Yes.

MR. POPE: As--

MR. ROGERS: Item B.

CHAIRMAN COOLEY: B.

MR. POPE: As item B.

CHAIRMAN COOLEY: All right.

MR. POPE: So I think it's already appropriately labeled. And the cash statement as I recall is C. I think we also attached that, too.

CHAIRMAN COOLEY: One moment.

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

MR. POPE: Do they match? Is that what you're trying to tell me?

CHAIRMAN COOLEY: I only had eight pieces-- or I only had five pieces of paper. I lost one of them and that threw me off.

MR. POPE: I thought we had already acted on this. I guess I was out of order.

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1 Apparently it was the cash statement treasurers
2 report that we acted on earlier this morning.
3 Is that correct, Jim?

4 CHAIRMAN COOLEY: We may well have
5 approved--

6 MR. ROGERS: I think we did.

7 CHAIRMAN COOLEY: -- the audit
8 twice, but I regard that as no great harm done.

9 MR. POPE: I think it was the
10 treasurers report that we apparently intended
11 to approve, whether we did or not--

12 CHAIRMAN COOLEY: Okay. Now
13 then, in affect the point was that Bill
14 McDonald, bless him for all his other good or
15 evil qualities, had his own unique
16 pronunciation of the word F-I-S-C-A-L.

17 MR. WALKER: That's true. That's
18 true.

19 CHAIRMAN COOLEY: It was something
20 between physical and fisical (sic) and it was a
21 source of unending amusement and it's gone.

22 MR. MILLER: I'm sorry.

23 CHAIRMAN COOLEY: We're into
24 another age now apparently. Steve, I would
25 like you to lead us through the budget and make

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1 sure that we're all turned to the same-- the
2 same page and so on.

3 MR. MILLER: I have extra copies of
4 what we mailed out if that would help anybody.

5 MR. POPE: I think for the-- if
6 they're the same as what was mailed out, I have
7 it.

8 MR. MILLER: They are.

9 MR. POPE: We need a copy for the
10 court reporter, I think.

11 CHAIRMAN COOLEY: Yes.

12 MR. MILLER: Do you want me to give it
13 to her now or--

14 CHAIRMAN COOLEY: Why not.

15 MR. MILLER: I'm not giving anything
16 out until called to from now on.

17 CHAIRMAN COOLEY: That's right.
18 It causes all kinds of mischief. All right.
19 Now, Steve.

20 MR. MILLER: I'll do this by physical
21 (sic) year.

22 CHAIRMAN COOLEY: Here we go
23 again.

24 MR. POPE: Tradition.

25 MR. MILLER: The commission-- or the

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1 administration currently has 3 budgets already
2 approved. And those are fiscal year '91-'92
3 budget, which was adopted in 1989 and revised
4 in 1990. It covers expenditures until June
5 1990-- through June 1992. We sent that out to
6 you as the first page, with our recommendation
7 that it did not need to be changed. It's
8 customary to look at it and decide if you're
9 going to be within it or without it. We think
10 you'll be within it. Individual line items
11 might shift around, but the bottom line should
12 stay close enough that it's not worth revising.

13 CHAIRMAN COOLEY: And the bottom
14 line is that we lose \$11,300.

15 MR. MILLER: Total. Incidentally, if
16 you're interested in why we didn't lose the
17 14,000--

18 CHAIRMAN COOLEY: No, that's
19 past. Too late.

20 MR. MILLER: So we sent you that. We
21 want you to look at it. And we don't believe
22 it needs to be changed.

23 The next budget that's out there is the
24 fiscal year '92-'93 budget that you first
25 approved last December. The version with Jim

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1 Rogers signature at the bottom is what's
2 currently been approved. The next page we
3 have, with handwritten additions, the way we
4 think that should be revised at this meeting
5 today.

6 CHAIRMAN COOLEY: There is nothing
7 on the page with the handwritten additions that
8 isn't on the previous page.

9 MR. WALKER: Yes.

10 CHAIRMAN COOLEY: There's nothing
11 that-- on the corrected page that wasn't
12 already on the first page. So we can turn to
13 the handwritten corrected page.

14 MR. MILLER: That's right.

15 MR. WALKER: Yeah.

16 MR. MILLER: The second page of the
17 set what's currently-- the third page of the
18 set is what Colorado proposed needed to be done
19 to that budget to bring it into line with what
20 you'll actually be spending in '92-'93. Those
21 handwritten numbers-- and my copy here looks
22 like the copier ran off the edge. It may not
23 be entirely clear. I can walk you through
24 those. I haven't had any feedback.

25 MR. WALKER: I have one question, Mr.

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1 Chairman. On-- we have under C-2-- C-- yeah,
2 C-2 2, '89, '90, and '91 annual reports, but I
3 also see on the '91-'92 budget the '89-'90
4 annual report. Isn't that double counting?

5 MR. MILLER: No, that was one of the
6 changes when I said individual line items might
7 change, but the bottom line shouldn't change.

8 MR. WALKER: Yeah, but a \$5,000 hit is
9 a--

10 MR. MILLER: Well, here's how I
11 figured it would balance. I don't think the
12 interest rates are now--

13 MR. WALKER: Right.

14 MR. MILLER: -- where they were when
15 we made this budget.

16 MR. WALKER: That's true.

17 MR. MILLER: So I thought we would
18 lose some income on interest and we would save
19 some money on printing.

20 MR. WALKER: And it will all come out
21 in the auditor's report.

22 MR. MILLER: It will come out about
23 the same for that year.

24 MR. WALKER: Okay.

25 MR. MILLER: And we hope to accelerate

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1 our printing expenditures in the next year by
2 cranking out these reports that are backlogged.

3 MR. WALKER: I would certainly hope so
4 in the interest of a diligent staff.

5 CHAIRMAN COOLEY: So that-- I am
6 so thrilled that we were-- we are where we were
7 five years ago. When the budget is presented
8 half the compact administration are nodding
9 their heads sagely, yes, good idea. And the
10 other half have these blank stares that you can
11 associate only with total confusion. I have
12 always been in the second category. The sage
13 people, for the record, stenographer, are
14 nodding their heads in agreement.

15 MR. POPE: Mr. Chairman, in an essence
16 of time, it's appropriate-- I think Steve has
17 taken a look at the numbers. What he's
18 proposed seems to make sense to me. I'm
19 certainly appreciative of the fact that we have
20 some catching up to do in terms of the annual
21 reports. And in light of that, I move that we
22 approve the proposed amendment to the FY '90--
23 1992-'93 budget as contained in the handout.

24 CHAIRMAN COOLEY: Mr. Walker?

25 MR. WALKER: Second.

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1 CHAIRMAN COOLEY: Is Kansas ready
2 to vote?

3 MR. POPE: Kansas votes "aye".

4 CHAIRMAN COOLEY: Kansas votes
5 "aye".

6 MR. WALKER: Colorado votes "aye".

7 CHAIRMAN COOLEY: Colorado votes
8 "aye". We now pass from the handwritten
9 corrections '92-'93 to the '93-'94, which I
10 take it to be new cloth entirely.

11 MR. MILLER: Exactly. And I had sent
12 out a long sized chart just to give you-- we
13 don't need to look at that, maybe we better
14 not. But if anyone was interested in what the
15 budget trends were, why the numbers, for the
16 most part, were able to stay exactly where they
17 have been for a long time--

18 CHAIRMAN COOLEY: We have some of
19 these that have been reduced in the xerox
20 machine and some are at length. The original
21 ones were on legal paper, so called, and the
22 others have been reduced in the xerox process.
23 Okay. Keep on going.

24 MR. MILLER: I would say if you
25 haven't looked at what's called ARCA Annual

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1 Budget and Assessments, dated 11-26-91, by now,
2 don't look at it now, but it was more to give
3 you a history.

4 CHAIRMAN COOLEY: When ignorance
5 is bliss, t'is folly to be wise.

6 MR. MILLER: The long and the short of
7 that handout was that most of your expenses
8 have stayed within budget for a long time. We
9 didn't need to change any of them other than
10 USGS.

11 CHAIRMAN COOLEY: Always goes up.

12 MR. MILLER: Always goes up slightly.
13 Which incidently has gone up a couple hundred
14 dollars in the one that you've just approved.
15 Although, I don't know that you've approved the
16 cooperative agreement, though.

17 CHAIRMAN COOLEY: We're trapped
18 into it, we've approved the budget which
19 incorporates it. We're too late to turn back.

20 MR. GENOVA: Any projection for the
21 '93-'94 budget, the printing of the '91 annual
22 report is at 4,000. Is 4,000 enough?

23 MR. MILLER: Yeah. The set that I
24 brought down here was printed sometime last
25 year and that was done for about 25 to 28

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1 hundred dollars, as I understand it. I have
2 not gone out and checked bids for printers, I
3 just--

4 MR. WALKER: We may want to do that.
5 Okay. But that--

6 MR. MILLER: I'm also hoping that
7 maybe we can get a package rate for doing about
8 four of these things in a one year period.

9 MR. GENOVA: I was just questioning
10 about three or four-- three years down the
11 line, we're going to be--

12 MR. MILLER: Right.

13 MR. GENOVA: -- able to do that.

14 MR. MILLER: I'm guessing we could.
15 There's a thousand dollars contingency.

16 MR. WALKER: Yeah.

17 MR. MILLER: So I have-- that's
18 actually more, I think, than we put in for a
19 single years printing before. That's gone up a
20 little bit. We tried to hold the state
21 assessments about level. There was a slight
22 increase there of 600 for Colorado and 400 for
23 Kansas and the rest came out of surplus.
24 There is a chart here that shows you where the
25 surplus fund is headed. And I think once we

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1 get it down for the 9-- hit the \$9,000 level,
2 that's about where you want to hold it. I'm
3 not concerned with that we can address that
4 next year. If we can spend it the way we're
5 budgeting it right now you'll have 10,000 in
6 the bank as of-- June 30th, 1994.

7 CHAIRMAN COOLEY: On the theory
8 that let posterity take care of itself, I think
9 that-- that these budgets have excess cuts in
10 the balance. I never approved cutting the
11 budget-- my own view, cutting the budget so--
12 surplus so far back. But-- and I suppose if
13 you wanted to carp about it this meeting would
14 be the one to do so. But how can one object to
15 a reduction in budget of only 2,000-- reserves
16 of only 2,605 American bucks when there's still
17 so much in the budget.

18 MR. WALKER: Exactly.

19 MR. POPE: I think I have one quick
20 question, but I'm basically pretty comfortable
21 with what's been proposed here. Just looking
22 at-- the primary item really goes up in the
23 satellite system and I take it, Steve, that
24 there's some built-in cost expected by the time
25 we get to '93-'94 for that particular--

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1 MR. MILLER: The number from GS 14155,
2 that's a number they provided to us in writing.

3 MR. POPE: I was referring to the
4 state.

5 MR. WALKER: State.

6 MR. MILLER: The number below that, I
7 called the State Engineers Office who operates
8 that and they're currently under some pressure
9 to develop rules and regulations. Is-- that
10 will force them to recover more of their actual
11 cost. The state will not subsidize with
12 general revenue. That was only a prediction,
13 he said it certain can't go up any higher than
14 that when these rules and regs go out. But he
15 couldn't guarantee that it would stay the
16 same. I think it's gone up twice probably in
17 the last five years.

18 MR. POPE: Yeah, I think if we just
19 look back at the '91-'92 it was 8,000, and I
20 think we've got 9,000 in each of the two
21 subsequent years and then we go to 10. Those
22 aren't unreasonable increases, but they're some
23 increases. I'm willing to pass on it and see
24 what the final numbers end up being in case we
25 have an opportunity to look at this again next

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year.

MR. MILLER: We should know more. I don't know if you actually sign an agreement with them.

CHAIRMAN COOLEY: You have to each year in advance, but the-- some of the increases by the USGS have been significant in the past two or 3 years. Some of those jumps are healthy.

MR. POPE: Yeah.

CHAIRMAN COOLEY: Is Colorado ready to move on the proposed '93-'94 budget?

MR. WALKER: I am. I move that we adopt the '93-'94 budget as presented.

CHAIRMAN COOLEY: As presented. Is there a second?

MR. HAYZLETT: Second.

CHAIRMAN COOLEY: All right. Thank you, Randy. Colorado?

MR. WALKER: Votes "aye".

CHAIRMAN COOLEY: Kansas?

MR. POPE: Kansas votes "aye".

CHAIRMAN COOLEY: Good job.

MR. MILLER: Yes.

CHAIRMAN COOLEY: Not in the

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1 tradition of the compact administration, but a
2 good job, nevertheless.

3 MR. POPE: We offer our thanks as well
4 for the work that Steve Miller has put into
5 this. I would like, just a matter of record
6 keeping, suggest that we make this packet that
7 we sent out-- well, as-- dated November, 21,
8 1991, that whole packet of the series of
9 budgets--

10 MR. WALKER: She has it.

11 MR. POPE: I think that the next
12 Exhibit G. I think--

13 MR. WALKER: G, okay, that's the top
14 one there.

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

17 MR. MILLER: I guess it's customary
18 for us now to go back and take that exhibit,
19 type in the handwritten changes, send them to
20 Mr. Rogers for signature, and then distribute
21 them.

22 MR. WALKER: Yes.

23 MR. ROGERS: That's right. That's the
24 way it's been done in the past.

25 CHAIRMAN COOLEY: Mr. MacDougall?

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MR. MACDOUGALL: Sir.

CHAIRMAN COOLEY: Do you have anything else you want to slide through the compact administration today.

MR. MACDOUGALL: Is this the time to do it, with the bad guys gone?

CHAIRMAN COOLEY: Mr. Witte?

MR. WITTE: Mr. Chairman.

MR. GENOVA: Did we get into this cooperative USGS or did we just--

MR. WALKER: Did you regard your-- the approval of the budget--

CHAIRMAN COOLEY: No, I did not.

MR. WALKER: Okay.

CHAIRMAN COOLEY: Have we got a copy of the cooperative agreement to approve?

MR. POPE: They were mailed out from each of the respective GS offices, I think. At least we received one. I assume each member did. I'm not sure.

MR. MILLER: I've got the letter that sets the dollar figure, but is that the cooperative agreement?

CHAIRMAN COOLEY: No.

MR. MILLER: Then I haven't seen it.

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1 CHAIRMAN COOLEY: It's a boiler
2 plate three page--
3 MR. MILLER: We haven't seen that.
4 MR. WALKER: And we have--
5 MR. POPE: I haven't seen the boiler
6 plate language, but I think we have the numbers
7 that have been proposed that would be necessary
8 to fund the offering.
9 MR. WALKER: Yeah.
10 CHAIRMAN COOLEY: Give me the
11 numbers-- is there one from each state?
12 MR. MILLER: Yes.
13 CHAIRMAN COOLEY: What are those
14 numbers? For Colorado first.
15 MR. MILLER: Well, if Doug can give it
16 to you quicker than I can find it that's fine
17 with me, but I should have--
18 CHAIRMAN COOLEY: He may not have.
19 MR. CAIN: There's only two numbers
20 here one is--
21 MR. MILLER: Here we are.
22 MR. CAIN: -- with consideration of
23 putting in a data collection platform at Lamar
24 and that would be 12,000 from the compact and
25 without that it would be \$8,250.

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1 MR. POPE: What was the last figure,
2 Doug.

3 MR. CAIN: \$8,250.

4 CHAIRMAN COOLEY: Well, did we
5 make a decision on a platform at Lamar?

6 MR. POPE: Not yet.

7 MR. MILLER: Well, we did when you
8 approved the budget, I believe. The budget
9 figure I gave you was without the data
10 collection.

11 CHAIRMAN COOLEY: Was without--

12 MR. MILLER: Without the data
13 collection.

14 CHAIRMAN COOLEY: -- the platform.
15 Okay. And I take it that that is consistent
16 with the wisdom of the general assembly.

17 MR. MILLER: Well, I think it was more
18 consistent with the wisdom of the past
19 deliberations by this administration and by
20 some consultations between Colorado and our
21 state engineer as to the need for the
22 platform. We have not consulted with Kansas,
23 but the matter was considered by, I think, last
24 year and was not--

25 MR. CAIN: The matter was considered

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1 last year and a decision was delayed because
 2 there didn't seem to be adequate time to
 3 consider it adequately. And I guess I would
 4 respectfully request from this group that full
 5 consideration be given since this subject has
 6 been brought up twice before without full
 7 consideration. I think it's only proper that
 8 that consideration be given and a full
 9 discussion be had before a decision is made.

10 CHAIRMAN COOLEY: Tell me two
 11 things. First, what the present measuring
 12 devices at Lamar are, which are intended to be
 13 upgraded by a platform, and secondly, briefly
 14 what the nature of the platform is.

15 MR. CAIN: One point of
 16 clarification. The data collection platform is
 17 not a measuring device. It's a device to
 18 transmit information. There would not be a
 19 change to the measuring device at the station,
 20 which I believe is a mercury manometer. The
 21 idea of putting a data collection platform in
 22 would be so that our office, for one, and
 23 anybody else who has access to that information
 24 would be able to have that information
 25 instantaneously. I guess, from our standpoint,

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1 we feel like that would help us to keep better
2 track of what's happening at that station. To
3 make measurements as appropriate, with better
4 information, would probably provide a more
5 accurate record.

6 CHAIRMAN COOLEY: Is this a
7 capital item of almost 4,000 bucks?

8 MR. WALKER: Yes.

9 MR. CAIN: Yes, correct.

10 CHAIRMAN COOLEY: And what are the
11 maintenance or operational consequences of that
12 capital expenditure in subsequent years?

13 MR. CAIN: The way that it's proposed,
14 and in the letter that was sent out, would be
15 that installation would be an initial cost of
16 \$7,000 which would be split equally between the
17 compact and the survey. An annual operating
18 cost would be \$500 for this year and then that
19 would be the only cost it would carry in future
20 years.

21 MR. WALKER: Mr. Chairman?

22 CHAIRMAN COOLEY: Mr. Walker.

23 MR. WALKER: With due respect to our
24 relationship with Geological Survey we are well
25 aware-- I think this has been discussed. Our

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1 concern is not so much with the merit of the
2 proposal, but with the simple fact that I am
3 unprepared to ask the general assembly to
4 increase our contribution to the administration
5 by that amount.

6 CHAIRMAN COOLEY: Mr. Pope, I
7 think that comment is dispositive of the
8 question for this year and we don't need to
9 consider it further for this year. Try next
10 two or three years. It's say not the struggle,
11 not avail it. Maybe you'll wear them down.

12 MR. CAIN: Okay.

13 CHAIRMAN COOLEY: Okay. The
14 budget item is therefore for Colorado \$8,250 in
15 American money. Do you have the Kansas
16 figure?

17 MR. MILLER: Yes, I do.

18 MR. POPE: Which fiscal year are we
19 speaking of on that particular number.

20 MR. CAIN: The billing for that would
21 occur in October of '92, so wherever that
22 falls within your--

23 MR. MILLER: That's your fiscal year
24 '93.

25 MR. POPE: For the compact fiscal

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1 year.

2 MR. MILLER: Yeah, ARCA fiscal year
3 and that number is the number that's in the
4 budget you just approved-- just revised for
5 '92-'93.

6 MR. POPE: Yeah.

7 MR. MILLER: I used those--

8 CHAIRMAN COOLEY: You used the
9 figure \$8,250.

10 MR. MILLER: For the Colorado USGS and
11 \$4,975 for the Kansas USGS.

12 CHAIRMAN COOLEY: Can any one
13 verify that \$4,975.

14 MR. CAIN: Yes.

15 CHAIRMAN COOLEY: And that's
16 correct. Okay. I would entertain a motion
17 that the secretary of the compact
18 administration be authorized to enter into the
19 formal cooperative agreements of \$8,250 for
20 Colorado-- for Colorado as a participating
21 share and \$4,975 for the participating share in
22 the State of Kansas. Would someone make that
23 motion?

24 MR. WALKER: Colorado so moves.

25 CHAIRMAN COOLEY: It's been

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1 moved. Is there a second.

2 MR. POPE: Kansas-- or I would second.

3 CHAIRMAN COOLEY: It's been
4 seconded. Colorado?

5 MR. WALKER: Votes "aye".

6 CHAIRMAN COOLEY: Colorado votes
7 "aye".

8 MR. POPE: Kansas votes "aye.

9 CHAIRMAN COOLEY: Kansas votes
10 "aye" . Those operating agreements may be
11 signed on behalf of the compact administration.

12 MR. POPE: Mr. Chairman, this is a
13 strictly housekeeping thing I just-- dawned on
14 me as I was looking through the pages on the
15 handout we just approved in the form of the
16 budgets, that each of the years, as you flip
17 through pages, refer to the cooperative
18 agreements of the federal fiscal year 1990,
19 each succeeding year that-- the number of
20 fiscal year should be advanced one.

21 CHAIRMAN COOLEY: Okay.

22 MR. WALKER: Yes, indeed.

23 MR. POPE: A typing thing.

24 CHAIRMAN COOLEY: A delicious
25 typo.

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1 MR. WALKER: Did you catch that Steve.
2 MR. MILLER: Yes, I did.
3 CHAIRMAN COOLEY: Delicious.
4 CHAIRMAN COOLEY: Now, Mr. Witte?
5 MR. WITTE: I don't believe I have
6 anything else, sir.
7 CHAIRMAN COOLEY: Mr. Robbins,
8 you've be quiescent for the duration of this
9 entire effort to please.
10 MR. ROBBINS: I'm quite satisfied, Mr.
11 Chairman. Thank you very much.
12 CHAIRMAN COOLEY: Okay. He tends
13 to remain quiescent. Anything else? Hearing
14 nothing. The meeting is adjourned.
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C E R T I F I C A T E

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Jana L. Willard, a Certified Shorthand Reporter, in and for the State of Kansas, duly commissioned as such by the Supreme Court of the State of Kansas, do hereby certify that I was present at and reported in shorthand the foregoing proceedings had at the aforementioned time and place; further that the foregoing 164 pages is a true and correct transcript of my notes requested transcribed.

IN WITNESS WHEREOF, I have hereunto affixed my Official Seal this _____ day of _____, 1992.

Jana L. Willard
CERTIFIED SHORTHAND REPORTER

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ARKANSAS RIVER COMPACT ADMINISTRATION

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JAMES G. ROGERS, Lamar

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

KANSAS
DAVID L. POPE, Topeka
RANDY HAYZLETT, Lakin
LOLA FOX, Syracuse

NOTICE OF ANNUAL MEETING

Arkansas River Compact Administration

8:30 a.m. (MST), Tuesday, December 10, 1991

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, 1990, annual meeting
4. Reports of officers for compact year 1991
 - a. Chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary
5. Committee reports for compact year 1991
 - a. Administrative and legal
 - b. Engineering
 - c. Operations
6. Purgatorie River Water Conservancy District
 - a. proposed amendments to the Trinidad Reservoir Project operating principles
 - b. request to establish an account at John Martin Reservoir

7. City of Trinidad: proposed amendments to the Trinidad Reservoir Project operating principles
8. Status report: Kansas v. Colorado litigation
9. Election of officers for compact year 1992
 - a. Vice-chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary
10. Appointment of committee members for compact year 1992
 - a. Administrative and legal
 - b. Engineering
 - c. Operations
11. Reports of federal agencies
 - a. Bureau of Reclamation
 - b. Corps of Engineers
 - c. Geological Survey
12. USGS Reports and Studies Conducted in the Arkansas River Basin 1990-1991
13. Approval of 1988 Annual Report
14. Auditor's report for FY 1990-91
15. Budget matters:
 - a. Review of current fiscal year budget
 - b. USGS Cooperative Agreement
 - c. Review of previously adopted FY 1992-93 budget and assessments
 - d. Adoption of FY 1993-94 budget and assessments
16. Adjournment

B

ARKANSAS RIVER COMPACT ADMINISTRATION

CASH BASIS FINANCIAL STATEMENTS

June 30, 1991

ARKANSAS RIVER COMPACT ADMINISTRATION
TABLE OF CONTENTS
June 30, 1991

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
NSPA
PASC

Certified Public Accountants

Gary L. Anderson, C.P.A.
Ronald D. Anderson, P.A.

October 17, 1991

We have audited the accompanying statements of assets, liabilities and equity - cash basis - of the Arkansas River Compact Administration as of June 30, 1991, 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, 1991 and its revenue collected and expenses paid during the year then ended, on the basis of accounting described in Note 1a.

Anderson & Company, P.C.

Anderson & Company, P.C.

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF ASSETS AND LIABILITIES - CASH BASIS
June 30, 1991

ASSETS

Cash	\$ 29,949
Equipment	29,811
Concrete Control	<u>8,000</u>

TOTAL ASSETS \$ 67,760

LIABILITIES

Liabilities	<u>\$ 0</u>
-------------	-------------

CASH BASIS EQUITY

Expended:	
Equipment	\$ 29,811
Concrete Control	8,000
Unexpended	<u>29,949</u>

TOTAL LIABILITIES AND CASH BASIS EQUITY \$ 67,760

ARKANSAS RIVER COMPACT ADMINISTRATION
 STATEMENT OF REVENUES COLLECTED AND EXPENSES PAID
 and CHANGES IN CASH BALANCE
 For the Year Ended June 30, 1991

CASH BALANCE - July 1, 1990 \$ 34,890

REVENUES

Revenues from Assessments		
Colorado - 60%	\$ 15,000	
Kansas - 40%	10,000	
Interest	2,302	
Payroll Tax Refund	<u>515</u>	
<u>TOTAL REVENUES</u>		27,817

EXPENSES

Treasurers Bond	\$ 100	
Geological Survey	11,830	
Satellite Access Fee	8,000	
Operations Secretary	3,602	
Printing Annual Report - 1987	2,557	
Office Rent	600	
Auditor Fee	350	
Office Supplies and Postage	174	
Copying	132	
Meeting Expense	199	
Court Reporter Fee	643	
Telephone	1,071	
Recording Secretary and Treasurer	<u>3,500</u>	
<u>TOTAL EXPENSES</u>		<u>32,758</u>

EXCESS OF EXPENSES OVER REVENUES (4,941)

CASH BALANCE - June 30, 1991 \$ 29,949

ARKANSAS RIVER COMPACT ADMINISTRATION
 STATEMENT OF REVENUES COLLECTED
 and EXPENSES PAID WITH BUDGET COMPARISON
 For the Budget Year July 1, 1990 to June 30, 1991

	<u>ACTUAL</u>	<u>BUDGET</u>	<u>OVER(UNDER)</u>
<u>REVENUES</u>			
Revenues from Assessments:			
Colorado - 60%	\$ 15,000	\$ 15,000	\$ 0
Kansas - 40%	10,000	10,000	0
Interest	2,302	1,500	802
Miscellaneous	<u>515</u>	<u>0</u>	<u>515</u>
<u>TOTAL REVENUES</u>	<u>27,817</u>	<u>26,500</u>	<u>1,317</u>
 <u>EXPENSES</u>			
U.S. Geological Survey	\$ 11,830	\$ 11,830	\$ 0
Satellite Access Fee	8,000	8,000	0
Operation Secretary	3,602	6,100	(2,498)
Treasurers Bond	100	100	0
Telephone	1,071	1,000	71
Court Reporter Fee	643	600	43
Recording Secretary & Treasurer	3,500	3,000	500
Meeting Expense	199	150	49
Auditor Fee	350	700	(350)
Office Supplies & Postage	174	400	(226)
Printing and Copying	132	300	(168)
Printing Annual Reports - 1988 and 1989	0	7,000	(7,000)
Print Annual Report- 1987	2,557	0	2,557
Office Rent	600	600	0
Contingency	<u>0</u>	<u>1,000</u>	<u>(1,000)</u>
<u>TOTAL EXPENSES</u>	<u>32,758</u>	<u>40,780</u>	<u>(8,022)</u>
<u>BUDGET DEFICIT</u>	<u>\$(4,941)</u>	<u>\$(14,280)</u>	<u>\$ 9,339</u>

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION
NOTES TO CASH BASIS STATEMENTS
June 30, 1991

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.

C

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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, 1991 THRU DECEMBER 9, 1991

CASH BALANCE: July 1, 1991		\$29,948.83
RECEIPTS:		
Colorado	\$15,750.00	
Kansas	10,500.00	
Interest Earned since July 1	<u>991.37</u>	
TOTAL RECEIPTS		\$27,241.37
DISBURSEMENTS:		
Refund-Leo Idler- $\frac{1}{2}$ SS overpay- ment-1986	\$ 257.40	
Treasurer's Bond	100.00	
U. S. Geological Survey	7,675.00	
Salaries	2,000.00	
Telephone	445.49	
Office Rent	300.00	
Postage	80.00	
Supplies & Copies	58.05	
Audit	350.00	
Operations Secretary Account	<u>3,604.15</u>	
TOTAL DISBURSEMENTS		<u>\$14,870.09</u>
EXCESS RECEIPTS OVER DISBURSEMENTS		<u>\$12,371.28</u>
CASH BALANCE:		<u><u>\$42,320.11</u></u>
FUNDS ON HAND:		
Checking Account	\$ 210.08	
Money Market Account	<u>42,110.03</u>	
TOTAL		<u><u>\$42,320.11</u></u>

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P.O. Box 98
Meeker, Colorado 81841

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

CHECKS WRITTEN SINCE JUNE 30, 1991

DATE	CHK NO.	PAYABLE TO:	FOR	AMOUNT
July 10	263	Lower Arkansas Water Mgmt.	Office rent-July	\$ 50.00
" 10	264	James G. Rogers	½ annual salary-'91-92 yr.	1,000.00
" 10	265	Bernice R. Carr	½ annual salary-'91-92 yr.	1,000.00
" 10	266	Leo Idler	Refund ½ overpayment-Social Security tax-1986 yr.	257.40
July 10	267	Gobin's	Copying & storage boxes	28.34
" 10	268	U S West	Phone 719-336-2422	62.58
" 10	269	Void		
" 10	270	Cellular, Inc.	Mobile phone charges	58.15
" 10	271	First Federal Bank	Petty cash fund-postage	40.00
Aug. 8	272	Eastman, Inc.	Notebooks & sheet lifters	205.50
" 8	273	Lower Arkansas Water Mgmt.	Office rent-August	50.00
" 8	274	U S West	Ph. 719-336-2422	64.25
" 8	275	Gobin's Inc.	Manila envelopes & supplies	9.30
" 8	276	Guaranty Abstract Co.	Prem.-Bond Position Schedule	100.00
" 8	277	Cellular, Inc.	Mobile phone charges	50.33
" 8	278	Aberdeen	Computer-Oper. Secretary	1,220.12
Sept. 9	279	Lower Arkansas Water Mgmt.	Office rent-September	50.00
" 9	280	AT&T	Quarterly phone rental	23.10
" 9	281	U S West	Ph. 719-316-2422	61.22
" 9	282	Cellular, Inc.	Mobile phone charges	192.43
Oct. 3	283	Lower Arkansas Water Mgmt.	Office rent-October	50.00
" 3	284	Michael Graber	Mobile phone-July & Aug. '91	43.90
" 3	285	Western Temporary Services, Inc.	Receptionist-Fall Water Comm. Mtg.	52.24
" 3	286	Cellular, Inc.	Mobile phone charges	168.81
" 3	287	Michael Graber	Mobile phone-Sept.	21.95
" 3	288	Best Buy Computers	Hard drive controller	214.00
" 3	289	U S West	Ph. 719-336-2422	53.18
Nov. 5	290	Dept. of Interior-U.S. Geological Survey	Operation & Maintenance-6 stream flow gaging stations in Colorado	7,675.00
Nov. 5	291	Tredex	Mitsubishi 286 computer	719.99
" 5	292	Compuadd	Modem-Inv. #6268731	46.50
" 8	293	Cellular One	Mobile phone charges	78.40
" 8	294	National Computer ribbons	Computer ribbons	133.87
" 8	295	Anderson & Company P.C.	1990-91 Audit	350.00
" 8	296	U S West	Ph. 719-336-2422	63.33
" 8	297	Lower Arkansas Water Mgmt.	Office rent-November	50.00
" 8	298	Compuadd	2 Modems-Inv. 6283297	93.00
" 12	299	Michael Graber	Mobile phone service	21.95
" 12	300	Best Buy Computers, Inc.	Computer reset-Inv. 1028910	35.00
" 12	301	Cellular, Inc.	Mobile phone charges	52.42
SUB-TOTAL				\$14,446.26

Total carried forward to page 2

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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, 1991

<u>DATE</u>	<u>CHK NO.</u>	<u>PAYABLE TO</u>	<u>FOR</u>	<u>AMOUNT</u>
Dec. 9		<u>TOTAL DISBURSEMENTS CARRIED FORWARD FROM PAGE 1</u>		<u>\$14,446.26</u>
Dec. 9	302	Lower Arkansas Water Mgmt.	Office rent-December	50.00
" 9	303	First Federal Bank	Petty Cash Fund-Postage	40.00
" 9	304	Gobin's	Misc. Office supplies	20.41
" 9	305	U S West	Ph. 719-336-2422	94.73
" 9	306	AT&T	Quarterly phone rental	23.10
" 9	307	Michael Graber	Mobile phone services-Nov.'91	21.95
" 9	308	CompuAdd	MS DOS Upgrade-Inv.6290092	44.00
" 9	309	Best Buy Computers, Inc.	10' printer cable-Inv. 2503	29.95
" 9	310	Cellular One	Mobile phone service-E.Taylor	63.30
Dec. 9	311	Cellular, Inc.	Mobile phone service	36.39
Dec. 9-1991		<u>TOTAL EXPENSES PAID</u>		<u>\$14,870.09</u>

D

LAW OFFICES
M.E. MACDOUGALL
102 NORTH CASCADE AVENUE
SUITE 208
COLORADO SPRINGS, COLORADO 80903-1414

M.E. MACDOUGALL
JULIANNE M. CRUISE

November 8, 1991

TELEPHONE
(719) 520-9288
FAX
(719) 520-9447

Frank G. Cooley, Esq.
Chairman and Federal Representative
Arkansas River Compact Administration
Post Office Box 98
Meeker, CO 81641

**Re: Proposed Amended Operating Principles - Trinidad
Project - Administration Agenda December 10, 1991**

Dear Mr. Cooley:

This letter supplements my letter of November 1, 1991, on the above subject.

It is possible that I will be in trial in Salida on December 10, 1991, and my associate - Miss Julianne Cruise - may appear before the Compact Administration. I know the Administration will treat her with its exemplary courtesy and consideration.

Meanwhile, I have prepared the following lists of items in the record, and for the record, to try to make the job of the District, the Chair and Members of the Compact Administration, easier, and the meeting better. I suggest the following are, or should be, in the record:

A. Items admitted to the record, and items officially noticed for the record, at meeting of December 12, 1989:

Exhibit D (letter dated November 2, 1989, to Frank G. Cooley from M.E. MacDougall with enclosures);

Exhibit E (letter dated November 17, 1989, to Frank G. Cooley from David L. Pope);

Exhibit F (letter dated November 28, 1989, to Frank G. Cooley from M.E. MacDougall with enclosures);

Exhibit G (letter dated November 20, 1989, to M.E. MacDougall from J. William McDonald);

Frank G. Cooley, Esq.
November 8, 1991
Page Two

Exhibit H (letter dated December 9, 1989, to Frank G. Cooley from M.E. MacDougall with enclosures);

Exhibit I (letter dated November 22, 1989, to Roger K. Patterson from Mike Hayden, Governor of Kansas);

"Final Report" - Review of Operating Principles - Trinidad Project, Colorado, U.S. Department of the Interior, Bureau of Reclamation - December, 1988 (presented to the Compact Administration at the annual meeting in 1988. Requested by the Compact Administration at its annual meeting in 1984).

U.S.G.S. Water Supply Papers 2200 and 2253.

House Document No. 325, 54th Congress, Second Session, U.S. Govt. Printing Office January 30, 1956;

Minutes of Meeting, December 12, 1989 - Especially the part related to the Proposed Amendments to the Trinidad Project Operating Principles.

1990:

B. Items from the record of the meeting of December 11,

Letter dated November 9, 1990, from M.E. MacDougall to Frank G. Cooley, with enclosures;

All items admitted and noticed at the December 12, 1989, meeting.

Minutes of Meeting, December 11, 1990 - Especially the part related to the Proposed Amendments to the Trinidad Project Operating Principles.

C. Items for the record on December 10, 1991:

Letter dated November 1, 1991, from M.E. MacDougall to Frank G. Cooley;

This letter;

Frank G. Cooley, Esq.
November 8, 1991
Page Three

All items admitted and noticed at the December 12, 1989 and the December 11, 1990, meetings.

For convenience of recollection, I have copied the two Colorado Motions from 1990, to-wit:

FIRST:

"Whereas Condition number two of the five Conditions of the State of Kansas to the Trinidad Project Operating Principles provides that any subsequent amendment of the Operating Principles should be subject to review and approval of the same interests as provided for in the original procedure; and

Whereas Condition number four of the five Kansas Conditions provides that five years after beginning operation of the Trinidad Reservoir for irrigation purposes, the Operating Principles be reviewed to determine the effect, if any, the operation has had on other Colorado and Kansas water users and the Principles amended as necessary; and

Whereas the Bureau of Reclamation has conducted a review of the Operating Principles; and

Whereas the Purgatoire River Water Conservancy District has submitted Proposed Amendments to the Operating Principles to the Compact Administration for review and approval; and

Whereas the Purgatoire River Water Conservancy District has submitted documentation to support the Proposed Amendments.

Frank G. Cooley, Esq.
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Page Four

Now, therefore, the Compact Administration shall approve the Proposed Amendments if they will not materially deplete the usable inflows to John Martin Reservoir beyond the average annual depletions during the period 1925 through 1957 as determined in the Bureau of Reclamation's prior studies."

SECOND:

"Whereas Condition number two of the five Conditions of the State of Kansas to the Trinidad Project Operating Principles provides that any subsequent amendment of the Operating Principles should be subject to review and approval of the same interests as provided for in the original procedure; and

Whereas Condition number four of the five Kansas Conditions provides that five years after beginning operation of the Trinidad Reservoir for irrigation purposes, the Operating Principles be reviewed to determine the effect, if any, the operation has had on other Colorado and Kansas water users and the Principles amended as necessary; and

Whereas the Bureau of Reclamation has conducted a review of the Operating Principles; and

Whereas the Purgatoire River Water Conservancy District has submitted Proposed Amendments to the Operating Principles to the Compact Administration for review and approval, and

Whereas the Purgatoire River Water Conservancy District has submitted documentation to support the Proposed Amendments; now, therefore, "That the Compact Administration direct the Engineering Committee to prepare a report to determine whether the Proposed

Frank G. Cooley, Esq.
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Page Five

Amendments will materially deplete the usable inflows to John Martin Reservoir beyond the average annual depletions during the period 1925 to 1957 as determined by the Bureau of Reclamation in prior studies and to report back to the Administration within a period of 60 days on its findings. And if the Engineering Committee cannot agree upon findings, that the Committee members will submit individual reports on their findings within a period of 75 days."

Very truly yours,


M.E. MacDougall

MEM:slj

cc: David W. Walker
Carl G. Genova
James G. Rogers
Lola Fox
Randy Hayzlett
Patricia Weiss
Wendy C. Weiss
Dennis Montgomery
David L. Pope
John B. Draper
Andrew F. Walch
Leland E. Rolfs
Purgatoire River Water
Conservancy District

7

E

WHEREAS, the Arkansas River Compact Administration approved Operating Principles for the Trinidad Dam and Reservoir Project, Colorado, and five conditions requested by Governor William H. Avery of Kansas at a meeting of the Compact Administration held on June 6, 1967; and

WHEREAS, Condition No. 2 of the five Kansas conditions to the Operating Principles provides that any subsequent amendment of the Operating Principles should be subject to review and approval of the same interests as provided for in the original procedure; and

WHEREAS, Condition No. 4 of the five Kansas conditions to the Operating Principles provides that five years after beginning operation of the Trinidad Reservoir for irrigation purposes, the Operating Principles be reviewed to determine the effect, if any, the operation has had on other Colorado and Kansas water users and the Principles amended as necessary; and

WHEREAS, the Compact Administration requested the Bureau of Reclamation to conduct a review of the Operating Principles at the annual meeting of the Compact Administration held on December 11, 1984; and

WHEREAS, the Bureau of Reclamation has conducted a review of the Operating Principles and submitted its "Final Report" to the

Compact Administration at its annual meeting on December 13, 1988; and

WHEREAS, the Purgatoire River Water Conservancy District has submitted Proposed Amendments to the Operating Principles to the Compact Administration for review and approval at its annual meetings in 1989, 1990, and now again this year; and

WHEREAS, the Purgatoire River Water Conservancy District has submitted documentation to support the proposed amendments; and

WHEREAS, the United States Bureau of Reclamation has approved the proposed amendments, which are also the subject of a pending application filed by the Purgatoire River Water Conservancy District, Case No. 88CW21, Water Division 2, Colorado;

NOW, THEREFORE, the Compact Administration approves the proposed amendments if the operation of the Trinidad Project in accordance with the proposed amendments will not materially deplete the usable inflows to John Martin Reservoir beyond the average annual depletions during the period 1925 through 1957 as determined in the Bureau of Reclamation's prior studies.

In order to make this finding, the Compact Administration directs the Engineering Committee to determine whether the

proposed amendments will materially deplete the usable inflows to John Martin Reservoir beyond the average annual depletions during the period 1925 through 1957 as determined in the Bureau of Reclamation's prior studies and to report back to the Compact Administration within a period of 60 days on its findings. If the Engineering Committee cannot agree upon findings, the Committee members shall submit individual reports on their findings within a period of 75 days.

(RESOL-PR.WCD)
(287ceb)

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	\$13,000 13,225
2. St. of Colo. Satellite System	<u>\$ 9,000</u>

~~\$22,000~~ 22,225

C. OPERATING EXPENSES:

1989, 1990, &

1. Treasurer's Bond	\$ 100
2. 1991 Annual Report (Printing)	1,000 9,000
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~~ 11,450

D. EQUIPMENT:

\$ 0

E. CONTINGENCY:

1,000

~~\$41,045~~ 46,450

INCOME

A. ASSESSMENTS:

1. Colorado (60%)	\$23,400
2. Kansas (40%)	<u>15,600</u>

\$39,000

B. INTEREST EARNINGS:

~~2,000~~ 0

C. MISCELLANEOUS:

0
\$41,000 40

EXPENDITURES FROM SURPLUS

\$ 45

Adopted by the Arkansas River Compact Administration at its
December 11, 1990, Annual Meeting, and revised at its December
10, 1991, Annual Meeting.

Treasurer

Date

FY 1993-94 BUDGET
July 1, 1993 - June 30, 1994)

[Draft Proposed]
[11/20/91]

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 2,000
3. Recording Secretary	2,000
2. 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	\$14,155
2. St. of Colorado Satellite System	10,000

\$24,155

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100
2. 1991 Annual Reports (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
\$43,105

INCOME

A. ASSESSMENTS

1. Colorado (60%)	\$24,000
2. Kansas (40%)	<u>16,000</u>

\$40,000
500

B. INTEREST EARNINGS

C. MISCELLANEOUS

0

EXPENDITURES FROM SURPLUS

\$ 2,605

Adopted by the Arkansas River Compact Administration at its
December 10, 1991, Annual Meeting.

Treasurer

ANALYSIS OF ARCA SURPLUS FUNDS

	Actual ^{1/} \$L 87-88	Actual ^{2/} \$L 88-89	Actual ^{3/} \$L 89-90	Actual ^{4/} \$L 90-91	Estimated ^{5/} \$L 91-92	Estimated \$L 92-93	Estimated ^{7/} \$L 93-94
Balance fwd.	\$57,800	\$51,300	\$46,700	\$34,890	\$29,949	\$18,649	\$12,474
Plus Income							
Colorado	12,000	12,000	12,000	15,000	15,750	23,400	24,000
Kansas	8,000	8,000	8,000	10,000	10,500	15,600	16,000
Interest & Misc.	3,400	4,200	3,100	2,817	3,000	1,000	500
Total	23,400	24,200	23,100	27,817	29,250	40,000	40,500
From Surplus	6,500	4,600	11,800	4,941	11,300	6,175	2,605
Less Expense	29,900	28,800	34,900	32,758	40,550	46,175	43,105
Balance	\$51,300	\$46,700	\$34,900	\$29,949	\$18,649	\$12,474	\$ 9,869

- 1/ June 30, 1988 Auditor's Report
- 2/ June 30, 1989 Auditor's Report
- 3/ June 30, 1990 Auditor's Report
- 4/ June 30, 1991 Auditor's Report
- 5/ 1991-1992 Budget (12/11/90 Revision)
- 6/ 1992-1993 Budget (adopted 12/11/90) (Proposed revision 11/20/90)
- 7/ 1993-1994 Budget (Proposed 11/20/91)

a/ all numbers rounded to nearest \$100

Miller 11/26/91

ARCA ANNUAL BUDGETS AND ASSESSMENTS

EXPENDITURES	87-88 Actual (i)	88-89 Actual (ii)	89-90 Actual (ii)	90-91 Actual (ii)	91-92 Budget (ki)	92-93 Budget (mi)	92-93 Proposed (m) Revision	93-94 Proposed (q)
A. SALARIES AND CONTRACTUAL SERVICES:								
1. Treasurer - Recording Secretary (1/2 each)	\$ 2,000	\$ 2,000	\$ 2,000	\$ 3,500	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000
2. Operations Secretary	2,000	6,334	6,501	3,602	6,100	6,100	6,100	6,100
3. Auditor's fees	1,224	691	700	350	700	700	700	700
4. Court Reporter's fees	188	0	453	643	600	600	600	600
SUBTOTAL	\$ 5,412	\$ 9,025	\$ 9,654	\$ 8,095	\$11,400	\$11,400	\$11,400	\$11,400
B. GAGING STATIONS:								
1. U.S. Geological Survey Coop. Agreements	\$10,290(a)	\$10,810(b)	\$11,375(c)	\$11,830(d)	\$12,600(e)	\$13,095(f)	\$13,225(f)	\$14,155(g)
2. Satellite System	7,000(h)	7,000(h)	8,000(h)	8,000(h)	8,000(h)	9,000(h)	9,000(h)	10,000(h)
SUBTOTAL	\$17,290	\$17,810	\$19,375	\$19,830	\$20,600	\$22,095	\$22,225	\$24,155
C. OPERATING EXPENSES:								
1. Treasurer's Bond	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100
2. Annual Report (Printing)	3,263	0	3,678(ii)	2,557(i)	5,000(n)	4,000(o)	9,000(o)	4,000(p)
3. Telephone	867	790	749	1,071	1,000	1,000	1,000	1,000
4. Office Supplies/Postage	220	197	159	174	400	400	400	400
5. Printing/Copying	160	165	321	132	300	300	300	300
6. Meetings & Travel	0	106	239	199	150	150	150	150
7. RENT	600	600	600	600	600	600	600	600
SUBTOTAL	\$ 5,210	\$ 1,958	\$ 5,846	\$ 4,833	\$ 7,550	\$ 6,550	\$11,550	\$ 6,550
D. EQUIPMENT	\$ 1,984	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
E. CONTINGENCIES	\$ 0	\$ 0	\$ 0	\$ 0	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000
TOTAL EXPENDITURES	\$29,896	\$28,793	\$34,870	\$32,758	\$40,550	\$41,045	\$46,175	\$41,105
INCOME								
A. ASSESSMENTS								
COLORADO	\$12,000	\$12,000	\$12,000	\$15,000	\$15,750	\$23,400	\$23,400	\$24,000
KANSAS	8,000	8,000	8,000	10,000	10,500	15,600	15,600	16,000
SUBTOTAL	\$20,000	\$20,000	\$20,000	\$25,000	\$26,250	\$39,000	\$39,000	\$40,000
B. INTEREST EARNINGS & MISCELLANEOUS	\$ 3,366	\$ 4,181	\$ 3,075	\$ 2,817	\$ 3,000	\$ 2,000	\$ 1,000	\$ 500
TOTAL INCOME	\$23,366	\$24,181	\$23,075	\$27,817	\$29,250	\$41,000	\$40,000	\$40,500
EXPENDITURES FROM SURPLUS	\$ 6,530	\$ 4,609	\$11,795	\$ 4,941	\$11,300	\$ 45	\$ 6,175	\$ 2,605

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.



Treasurer Date

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

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



Roy Romer
Governor
David W. Walker
Director

MEMORANDUM

TO: Chairman and Members
Arkansas River Compact Administration

FROM: E.I. Jencok *SEM for EIJ*

DATE: November 21, 1991

SUBJECT: Budget Matters

The following actions need to be taken at the annual meeting:

1. Review FY 91-92 expenditures to date to see if we are in line with the budget (the FY 91-92 budget is enclosed),
2. Review and revise, if needed, the previously adopted FY 92-93 budget. The budget adopted on December 11, 1990 and a proposed first revision for your consideration are enclosed.
3. Adopt an FY 93-94 budget (draft proposed budget enclosed). and
4. Authorized the USGS cooperative agreements for federal FY 92, these being payable from the Administration's FY 92-93 budget (i.e., USGS bills us in August/September 1992).

I have also enclosed an analysis of future surplus funds.

EIJ/SM/gl

Enclosures: as stated

cc: Operations secretary (w/enc.) (Witte)
Recording secretary (w/enc.) (Carr)

December 1991

Frank G. Cooley	Chmn. ARCAD	Medley, Co.
Randy L. Hayzlett	member ARCA	Lakin, KS
David L. Pope	member ARCA	Topeka, KS
John B. Dwyer	Counsel for Kansas	Santa Fe, N.M.
Brent E. Sprink	Engr. Consultant, KS	Denver, CO
Leland E. Rolfs	Legal counsel, Ka.	Topeka, KS
STEVEN FROST	KSBA / DWR	Garden City
Law Bentrud		Deerfield, KS
DAVE BREW	GREASER	Garden City
MARK RUDE	KSBA - DWR	GARDEN CITY
Bernice Carr	ARCA Recording Sec	Lamar
Sulianne Mcruise	Purg RWCD	Colo Springs
Sandy MacDougall	Purg. RWCD	Colo Springs
Reuben Gutierrez	Purg RWCD	TRINIDAD
Thelma Kujan	PRWCD	Trinidad, CO
Erma Evans	PAWCD	Trinidad, Co
Phil Bosman	Corps of Engineers	Pueblo, CO
Dick Keiner	" " "	Albuquerque, NM
Donald Gallegos	" " "	" "
Jerry Sullaway	" " "	John Martin, Tex
LAWRENCE J. THURSON	Homebnd INC CO	LA Junta Edu
Tom Simpson	SECINCD	ARBO CO
Paul Springer	Fort Lyon Canal Co	Lamar Co
Ed Blackburn	" "	Las Animas
Joe Chino	" "	Wiley
Ray Duman	Purg RWCD	Trinidad CO
JAMES FERNANDEZ	CITY OF TRINIDAD	TRINIDAD, Co.
Paul Frank	Amity	Holly Co
Frank Melanthe	Callen	2306K RD B/B La Junta, Col 81050
Steve Malott	catliv	Swink
John DeForest	Amity	Bristol Pz 20
Elyse Bauman	Callen	Manitou, Colo
Chuck Roberts	Colo. Div. of Wtr Res.	Pueblo
Doc Higbee	Lamar, DIST 67, LAUMA	Lamar, Co

Dec. 10, 1991

William Howland	Colo. Div. Water Resource,	Las Animas Co.
Dale Mueab	Kendrick Water Resources	Garden City
Curtis K. Sauer	U.S. G.S. - The Dist	Garden City
Steve Miller	Colo. Water Cons. Bd	Denver Co
Benny Marques	Colo. Div. of Water Resources	Talbot, Co 6
Steve Zentner	"	Pueblo, CO
David W. Robbins	State of Colorado	Denver, CO
DAVID L. HARRISON	CITY OF TRINIDAD	BOULDER, CO
Hal Simpson	Colorado State Engineer Office	Denver
Steven L. Witte	"	" Pueblo

James L. Rogers	Co. Corp member
Carl G. Burns	Co. Corp member
David W. Walker	Colorado Water Conservation Bd
Carl Bentrup	Deerfield, KS
David Bren	GARDEN CITY, KS
Oliver Hines	Coolidge, KS