

1 M I N U T E S

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6 MINUTES

7 OF

8 SPECIAL MEETING

9 OF THE

10 ARKANSAS RIVER COMPACT ADMINISTRATION

11 ON

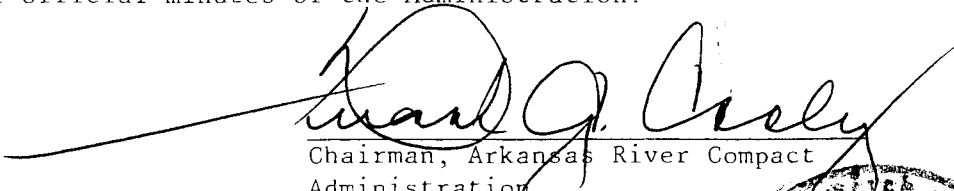
12 AUGUST 10, 1992, 12:45 P.M.

13 AT

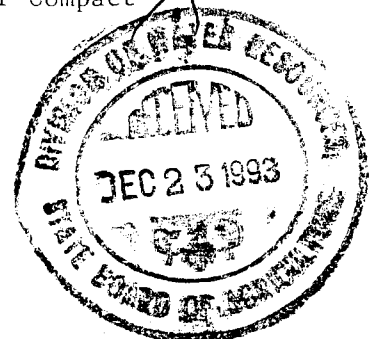
14 1313 SHERMAN STREET

15 DENVER, COLORADO

16
17 The following minutes were approved by a vote of Arkansas River
18 Compact Administration at a meeting on December 13 1993 Admav
19 and the Chairman was thereby authorized to sign below, signifying
20 adoption as the official minutes of the Administration.

21 
22 Chairman, Arkansas River Compact
23 Administration

24 A-1 REPORTING SERVICE
25 Certified Shorthand Reporters
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1 APPEARANCES:

2

3 Frank G. Cooley

Steven Frost

4 Leland E. Rolfs

Randy Hayzlett

5 David L. Pope

Steve Witte

6 Brent Spronk

Jim Rogers

7 John Draper

Gene Jencsok

8 Lola Fox

Wendy Weiss

9 James Bagley

Carl G. Genova

10 Mark Rude

Steve Miller

11 Bill Howland

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P R O C E E D I N G S

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2 MR. COOLEY: For the purpose of making a
3 record, I'm going to call to order a special meeting of the
4 Arkansas River Compact Administration. The time is 12:45.
5 We are at the Centennial Building on Sherman Street in
6 Denver, Colorado. Both state delegations are here in full.
7 We have, I would note for the record as well, Mr. Gene
8 Jencsok, who is acting as an interim head of the Colorado
9 Water Conservation Board, ex-officio, Colorado
10 representative. And we have an agenda. The most important
11 thing on the agenda, and by consent of both states is where
12 we are going to move, is an executive session of the
13 Compact Administration; Item 10 on the agenda.

14 We will, for the record, review the basis
15 for having an executive session. The Compact
16 Administration, I understand, has been sued in the United
17 States District Court for the District of Colorado. And a
18 response has been filed to that suit by the Compact
19 Administration under a committee of attorneys in a pleading
20 signed by Wendy Weiss, who is here.

21 Is there any other comment needful for us to
22 form a basis for going into executive session? I
23 overlooked the fact that we do not have an attorney to
24 represent the Compact Administration at this time, since
25 Wendy's representation is agreed by all of us to be limited

1 in duration. Mr. Rolfs, do you have any comments on that?

2 MR. ROLFS: No.

3 MR. COOLEY: Any other points?

4 MR. POPE: No, other than at the time we
5 actually go into executive session. I think we need to
6 make a determination as to who needs to be present in the
7 session, or at the time we go into it, I think we ought to
8 do that.

9 MS. WEISS: I would like to state for the
10 record that I have not been solely representing ARCA, that
11 it's been a legal committee, although I, as a local
12 attorney, signed the pleadings, and that legal committee is
13 no longer representing ARCA.

14 MR. COOLEY: I deem that my remarks are
15 sufficient reason for there to be a vote to go into
16 executive session. Mr. Jencsok, are you ready to move on
17 behalf of Colorado that we go into executive committee?

18 MR. JENCOSK: Yes.

19 MR. COOLEY: Mr. Pope, are you ready for
20 that to be seconded?

21 MR. POPE: Yes, I'll second it.

22 MR. COOLEY: How does Colorado vote?

23 MR. JENCOSK: Aye.

24 MR. COOLEY: How does Kansas vote?

25 MR. POPE: Aye.

1 MR. COOLEY: The vote is unanimous. We will
2 go into Executive Session.

3 * * * * * *

4 IN EXECUTIVE SESSION

5 (Privileged communications: Attorney-client consultation)

next page is page
number 50

Returning from Executive Session
The remaining discussions are
not privileged.

11 MR. MILLER: Well, do you want me to go
12 through the agenda and decide what we should try to get
13 done today?

14 MR. COOLEY: I'm willing to listen to you.
15 You put that silly thing together. Go ahead.

16 MR. MILLER: We could ask Kansas quickly if
17 there is any way to approve the minutes of the previous
18 two--if they are ready to act on the changes. Then we
19 would need to do the bylaw change.

20 MR. COOLEY: Are you ready for approval of
21 the minutes at this meeting?

22 MR. POPE: I probably want to pass on all
23 the administrative items. We do have them, and I
24 appreciate that. I think they are--quite frankly, with the
25 time schedule we all had, we have not all been together at

1 and the other one is the changed water rights. What are
2 they called? Muddy Creek Reservoir. Neither of those have
3 been sufficient to keep the permanent pool full. So
4 there's a concerted effort to find a long-term solution to
5 maintaining the permanent pool.

6 The other one is an effort to develop a
7 state park system at the Great Plains Reservoirs. The
8 governor had appointed a commission consisting of a number
9 of county commissioners in the valley and several state
10 agencies, including the State Engineer's Office, Water
11 Conservation Board, Division of Wildlife, Division of
12 Parks. I believe Local Affairs came up with a workplan to
13 look at how the Great Plains Reservoirs can be developed,
14 what would be the cost, and how we would go with
15 implementing a plan for that.

16 Basically, it's to look at whether we can
17 obtain water without adversely affecting either
18 agricultural uses in the valley, if that can be done, and
19 not having an impact on the Compact issues that are before
20 us. And basically, find the water source for the--how much
21 would it cost, how long would it take to implement such a
22 plan, and so on.

23 We are supposed to get a plan to the
24 governor and to the legislature by November 1 of this year
25 that outlines what needs to be done and how, and so on. We

1 have had a number of meetings in the valley with local
2 water users. The commission has actually met several
3 times. And there will be another meeting later on this
4 week to look at the Great Plains Reservoir system, and so
5 on. We can certainly send you a copy of the workplan, once
6 it's developed, and whatever else is being developed as
7 part of this effort.

8 The Division of Wildlife is conducting
9 various studies to determine how they can get at the water
10 supply, what the water supply needs to be, what water
11 quality issues are, as far as the Great Plains Reservoirs,
12 and simply, what can be done to develop that as a reliable
13 resource in Southeast Colorado. That's basically it.

14 MR. COOLEY: Thank you.

15 MR. POPE: I appreciate the comments. I
16 guess, primarily, I'd just like to respond to your
17 offering, if you could send us the documents as they are
18 available. The plan study, and anything else related, we
19 would appreciate it. That would be helpful in having an
20 understanding of what's going on.

21 MR. JENCOSK: The reason the State
22 Engineer's Office and the Water Conservation Board are on
23 the commission is to assure that the water rights issues
24 are reasonably addressed, and that the Compact-related
25 issues are properly addressed. So we certainly have

1 not--can't forget about those issues.

2 MR. POPE: You bet. You mentioned the Great
3 Plains issue as it relates to the proposed park. The other
4 is finding more water for the permanent pool at John
5 Martin. Have any specific resources yet been identified in
6 addition to anything already there?

7 MR. JENCOSK: I think they are looking at
8 Amity water as a high priority, as in fact they do own the
9 system. So anything that is done there has to be with
10 their current agreement. So Amity is a high priority. But
11 beyond, you know, discussion, we really haven't
12 accomplished anything concrete.

13 MR. MILLER: On John Martin, I think the
14 division is treating it as confidential, and has not
15 revealed which party they are negotiating with. They are
16 negotiating with an existing water right holder, to buy him
17 out and transfer that water to the permanent pool.

18 MR. POPE: That would be at John Martin.

19 MR. MILLER: That's much closer to
20 happening. In fact, when they feel they're done
21 negotiating, then it will go public.

22 MR. COOLEY: There is no thought of
23 increasing the pool beyond 10,000 acre-feet at this time,
24 is there?

25 MR. MILLER: Not that I know of. I think

1 they are having a hard enough time the way it is.

2 MR. COOLEY: Mr. Pope and Mr. Jencsok, I
3 don't know how you feel, but I feel that we have
4 accomplished a great deal today, notwithstanding we don't
5 seem to have been able to close on anything, but I think
6 that's the nature of the beast. I feel we have made
7 progress. I'm willing to hear any comment from any person
8 present on some matter that's been overlooked and should be
9 mentioned. Is there any area that we have not touched upon
10 that should be? Gene thinks he may have found one.

11 MR. JENCOSK: I think we are in a position
12 where we could ask our attorneys to proceed with developing
13 a contract, assuming the discussions with Hillhouse go
14 according to what we would like to see happen. I think we
15 could direct our attorneys to proceed with developing a
16 draft agreement, contract, that incorporates all the points
17 that we have discussed, and that draft be circulated to the
18 Administration members whenever it is ready.

19 MR. COOLEY: Wendy, would you be the lead
20 attorney for the State of Colorado?

21 MS. WEISS: I believe so.

22 MR. COOLEY: Lee would be the lead attorney
23 for the State of Kansas or John?

24 MR. POPE: It might be simpler to have John.

25 MR. COOLEY: John will be the lead attorney

1 for the State of Kansas. Okay, let's consider that done by
2 "a sense of the meeting."

3 MR. JENCOSOK: I have one other item. 7a, as
4 I recall, there was a presentation by David Harrison on the
5 Trinidad Reservoir. Where are we on that? I guess it was
6 sort of left unresolved what we were going to do beyond the
7 presentation by him.

8 MR. COOLEY: Did he make a request of us?

9 MR. MILLER: He has made a request for a
10 number of years, and it's not as controversial as what
11 Mr. MacDougall wants to do, either with the operating plan
12 or his account. And I think Kansas' position was that they
13 perceived it as not so controversial either, that they
14 could do some looking at it now, and not wait for the
15 Supreme Court case.

16 MR. POPE: Fundamentally, I think Steve
17 probably described it, for the most part, correctly. Our
18 main issue is: Do we have the time to get to it?

19 As we told David in December, when we've got
20 some time, Kansas would be willing to look at it. So we
21 don't have to say anything more to him. He asked that we
22 just ask if that opportunity was going to present itself.

23 MR. MILLER: Mr. Hillhouse is on the phone.

24 MR. COOLEY: The question is: Is that taken
25 care of? Is there a chance that will be looked at by you

1 folks? Can it be?

2 MR. POPE: The previous issue? I think our
3 posture is we will get to it as soon as we can.
4 Unfortunately, the litigation has gone on longer than we
5 ever hoped, but it's still there, and we are still
6 committed to do it as soon as we can get to it.

7 MR. COOLEY: Okay. That's all we can do.
8 I've been rattling along towards a conclusion of the
9 meeting. Is there anything else? We are going to go to a
10 conference call. Is there anything else that has to come
11 before this meeting of the Compact Administration?

12 MR. ROGERS: Are you going to recall the
13 meeting to discuss what he says after the conference call?

14 MR. COOLEY: That's probably not a bad idea.

15 MR. MILLER: Do we want to do it with the
16 reporter?

17 MR. COOLEY: No, we'll do that without a
18 reporter. We will do that informally. Jim, that brings it
19 to a closure, except for any agreement we reach on the
20 telephone, so that report will be made. Is that okay with
21 you?

22 MR. ROGERS: Okay.

23 MR. COOLEY: Anything else? The meeting is
24 adjourned.

25 (Meeting was adjourned at 3:05 p.m., August 10, 1992.)