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ANNUAL MEETING  
ARKANSAS RIVER COMPACT ADMINISTRATION  
TUESDAY, DECEMBER 12, 1995  
LAMAR, COLORADO

*Janet J. J. J. J.*  
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APPEARANCES:

CHAIRMAN: Mr. Larry Trujillo

FOR COLORADO:

- Mr. Steve Witte
- Ms. Wendy Weiss
- Mr. Dennis Montgomery
- Mr. Carl Genova
- Mr. Chuck Lile
- Mr. Jim Rogers

FOR KANSAS:

- Mr. Robert Buerkle
- Mr. Gene Overton
- Mr. David Pope
- Mr. John Draper
- Mr. Brent Spronk
- Mr. Dale Book
- Mr. Leland Rolfs

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

2  
3 CHAIRMAN LARRY TRUJILLO: We'll call  
4 this meeting to order, and the first item on  
5 the agenda -- can you folks hear back there?

6 THE AUDIENCE: No. Turn the mike  
7 on.

8 CHAIRMAN LARRY TRUJILLO: Okay.  
9 Does that help matters? Can you hear better?

10 THE AUDIENCE: Yeah.

11 CHAIRMAN LARRY TRUJILLO: First off  
12 on the agenda, we'll have introduction of the  
13 Administration, and let me start with myself,  
14 take that prerogative, since I know very few  
15 of you folks. My name is Larry Trujillo,  
16 recent appointee of the President to chair the  
17 Administration. This appointment was made  
18 several weeks ago and I have had an  
19 opportunity to meet a lot of you folks in the  
20 room. I hope to meet more of the players,  
21 because I understand and realize that this is  
22 an important issue.

23 I'll state my background. I'm a  
24 Colorado native. My family goes back to  
25 having settled in the San Luis Valley of the

1 state back to the middle 1800's, so I have  
2 good understanding of the state. I have  
3 served in the House of Representatives of the  
4 State of Colorado, where I served as minority  
5 leader, and also in the Senate of the State of  
6 Colorado, where I served 8 years; 6 years as  
7 minority leader. I resigned that position  
8 last year when requested by Governor to serve  
9 on the parole board. I presently serve as  
10 chairman of the Colorado Board of Parole.

11 I have some background in dealing  
12 with water matters; certainly not to the  
13 extent that most of you, if not all of you,  
14 have here, because my involvement was that of  
15 a member of the Agriculture Committee of the  
16 state senate. I think that's a good enough  
17 introduction of myself. If you have any other  
18 questions, certainly feel free to ask me after  
19 the meeting or feel free to communicate with  
20 me. My office is in Pueblo and I can  
21 certainly give a phone number if indeed that  
22 is necessary or you folks want to be in  
23 contact with me.

24 I would like to call on Mr. Pope to  
25 introduce the Kansas delegation of the

1 Administration.

2 MR. DAVID POPE: Thank you, Larry.  
3 It's my pleasure this morning to introduce two  
4 new members to the Arkansas River Compact  
5 Administration from Kansas. On my far right  
6 is Mr. Bob Buerkle. Bob is a resident of  
7 Finney County and was appointed to the Compact  
8 Administration by Governor Finney just after  
9 the last annual meeting. To my immediate  
10 right is Mr. Eugene Overton, who resides in  
11 Hamilton County, and again was also appointed  
12 at the same time late last year. Each of  
13 these gentlemen are very interested in Compact  
14 matters and we welcome them to the delegation  
15 from Kansas.

16 Mr. Chairman, sometimes in the past,  
17 we've introduced a few extra people, or would  
18 you like for us to do that or stop here at  
19 this point?

20 CHAIRMAN LARRY TRUJILLO: Why don't  
21 you go ahead and introduce the Kansas folks,  
22 if indeed that's what you would like to do,  
23 and then we'll introduce the Colorado folks,  
24 and then I want to have the audience  
25 participants introduce themselves.

1 MR. DAVID POPE: The table to my  
2 left, I would like to introduce first to my  
3 immediate left, Mr. John Draper, who's the  
4 counsel for the State of Kansas in the  
5 litigation between Kansas and Colorado. To  
6 his left is Brent Spronk, an engineering  
7 consultant, and his partner, Dale Book, both  
8 from Spronk Water Engineering, L.C. in Denver.  
9 To their left, Mr. Leland Rolfs, who's my  
10 legal counsel for the Division of Water  
11 Resources of the Kansas Department of  
12 Agriculture.

13 We have several other people here  
14 from the State of Kansas, both on the staff  
15 and representing the various ditch  
16 associations. I think the one individual I  
17 should go ahead and introduce that's in the  
18 audience myself is our water commissioner for  
19 the Division of Water Resources at the Garden  
20 City field office, and that's Mark Rude.  
21 Mark, if you'd stand, and I believe at this  
22 point, rather than overlooking some other  
23 people, I believe I'll stop at that point.

24 CHAIRMAN LARRY TRUJILLO: Thank you  
25 very much. Chuck?

1 MR. CHUCK LILE: Thank you,  
2 Mr. Chairman. My name is Chuck Lile. I'm  
3 Director of the Colorado Water Conservation  
4 Board and a member of the Administration for  
5 Colorado. I'd like to express a welcome to  
6 you, Mr. Chairman. We're glad to have you on  
7 the board and look forward to working with  
8 you.

9 To my left, we have Jim Rogers, who  
10 is the Compact Commissioner from the lower  
11 basin of Colorado, Water District 67. On my  
12 right, we have Carl Genova, who represents the  
13 upper basin of the Arkansas River in Colorado.  
14 We also have with us Dennis Montgomery,  
15 Special Attorney General on the litigation  
16 that we're involved with. We have Wendy Weiss  
17 from the Attorney General's office. We have  
18 Mr. Steve Witte, who acts as secretary of the  
19 Administration and division engineer. We have  
20 Mr. Hal Simpson, state engineer, and David  
21 Robbins, of counsel with us, and we also have  
22 Steve Miller, and Steve does all the work of  
23 putting this together and we appreciate those  
24 efforts. Other than introduce the rest of the  
25 people from Colorado, I think we ought to call

1 on them individually. Thank you.

2 CHAIRMAN LARRY TRUJILLO: Why don't  
3 we start over here to my left, front row, and  
4 go back and then do the same thing here on the  
5 right and introduce ourselves.

6 MR. SANDY MACDOUGALL: My name is  
7 Sandy MacDougall and I'm the lawyer for the  
8 Purgatoire River Water Conservancy District  
9 and for the Colorado Water Protection and  
10 Development Association.

11 MR. JIM FERNANDEZ: I'm Jim  
12 Fernandez. I'm the city water superintendent  
13 for the City of Trinidad.

14 CHAIRMAN LARRY TRUJILLO: Would you  
15 please speak up so that the reporter can get  
16 your name, and also, I might remind you at  
17 this point that throughout the day during the  
18 meeting, if you are going to speak and you're  
19 recognized, please start off by stating your  
20 name so that we make sure we have a good and  
21 clear record of the meeting. Go ahead, sir.  
22 Go ahead. Do it again.

23 MR. JIM FERNANDEZ: I'm Jim  
24 Fernandez. I'm the water superintendent for  
25 the City of Trinidad.



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MS. ERMA EVANS: Erma Evans,  
director of the Purgatoire River Conservancy  
District.

MS. THELMA LUJAN: Thelma Lujan with  
the Purgatoire River Water Conservancy  
District.

MR. REUBEN GUTIERREZ: Reuben  
Gutierrez, Purgatoire River Water Conservancy  
District.

MR. DON ANDERSON: Don Anderson,  
Purgatoire River Water Conservancy District.

MR. JERIS DANIELSON: Jeris  
Danielson, a consultant for the Purgatoire  
District.

MR. DOUG CAIN: Doug Cain. I'm the  
Subdistrict Chief of the U. S. Geological  
Survey in Pueblo.

MR. RON STEGER: Ron Steger from the  
Pueblo subdistrict office of USGS.

MR. CURTIS SAUER: Curt Sauer, U. S.  
Geological Survey. I'm lead technician at the  
Garden City field headquarters.

MR. DAVID ANDERSON: David Anderson,  
technician, USGS, Garden City, Kansas.

MR. LARRY GENNETTE: Larry Gennette,

1 technician for the Kansas Division of Water  
2 Resources.

3 MR. STEVEN HINES: Steven Hines,  
4 Coolidge, Kansas, Frontier Ditch.

5 MR. OLIVER HINES: Oliver Hines,  
6 Frontier Ditch.

7 MR. RANDY HAYZLETT: Randy Hayzlett,  
8 Southside Ditch, Lakin, Kansas.

9 MR. STEVEN FROST: Steve Frost,  
10 Executive Director of the Southwest Kansas  
11 Ground Water Management District in Garden  
12 City.

13 MR. DONALD STEERMAN: Don Steerman,  
14 attorney for District 67 Ditch Association,  
15 the Amity and Buffalo Canal Companies.

16 MR. MARVIN HAMILTON, JR.: Junior  
17 Hamilton, Amity Canal Board.

18 MR. DAVID BRENN: David Brenn,  
19 president of the Great Eastern Irrigation  
20 Corporation.

21 MR. ROD THOMPSON: Rod Thompson,  
22 Amity Canal, Buffalo Canal.

23 MR. COLIN THOMPSON: Colin Thompson,  
24 Amity Canal.

25 MR. KEVIN SALTER: Kevin Salter,

1 Assistant Water Commissioner, Garden City,  
2 Kansas Division of Water Resources.

3 MR. ROBERT LYTLE: Bob Lytle. I'm  
4 an environmental scientist with the Division  
5 of Water Resources, State of Kansas.

6 MR. MIKE GITTINGS: Mike Gittings  
7 with Colorado Beef.

8 MS. BEVERLY SPADY: Beverly Spady,  
9 consultant.

10 MR. GRADY McNEILL: Grady McNeill  
11 with the Colorado Division of Wildlife.

12 MS. MARY CLAY: Mary Louise Clay  
13 from LAWMA.

14 MR. DICK KREINER: Dick Kreiner with  
15 the Corps of Engineers in Albuquerque.

16 LT. COL. STEVE WAGNER: Lieutenant  
17 Colonel Steve Wagner. I'm the District  
18 Commander for the Albuquerque district.

19 MR. JIM TOWNSEND: Jim Townsend with  
20 the Corps of Engineers, Albuquerque district,  
21 in Pueblo.

22 MR. BART RICKENBAUGH: Bart  
23 Rickenbaugh, Colorado Attorney General's  
24 office.

25 MR. FRANK MILENSKI: Frank Milenski,

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Catlin Canal.

MR. ELMER BAUMAN: Elmer Bauman,  
superintendent of the Catlin Canal.

MR. STEVE MALOTT: Steve Malott,  
Catlin Canal.

MR. BRIAN KNAPP: Brian Knapp,  
Catlin Canal.

MR. GERALD KNAPP: Jerry Knapp,  
Rocky Ford Ditch.

MR. JAMES AMOS: James Amos, Pueblo  
Chieftain.

MR. DANNY MARQUES: Danny Marques,  
water commissioner, Trinidad.

MR. DAN NEUHOLD: Dan Neuhold, water  
commissioner, District 67.

MR. JOE FLORES: Joe Flores,  
Division 2, Engineer's Office.

MR. BILL HOWLAND: Bill Howland. I  
perform hydrographic work above and below John  
Martin and also do the accounting for John  
Martin Reservoir.

MR. DON TAYLOR: Don Taylor, water  
commissioner, Division 2, District 17.

MR. JERRY SULLAWAY: Jerry Sullaway,  
manager of the John Martin Dam, Corps of

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Engineers.

MS. GAIL STOCKTON: Gail Stockton,  
Corps of Engineers, Albuquerque district.

MR. KEY MERCHANT: Key Merchant,  
reservoir manager at Trinidad, Corps of  
Engineers.

MR. DON HIGBEE: Don Higbee,  
recording secretary, ARCA.

MR. STEVE ARVESCHOUG: Steve  
Arveschoug, general manager of Southeast  
Colorado Water Conservancy District.

MR. TOM GIBBENS: Tom Gibbens,  
Bureau of Reclamation, Loveland, Colorado.

MR. TOM MUSGROVE: Tom Musgrove,  
Bureau of Reclamation in Pueblo.

MR. RUSS PALLONE: Russ Pallone,  
Colorado State Parks, Trinidad.

MR. PAUL FLACK: Paul Flack,  
Colorado State Parks.

MR. DONNY HANSEN: Donny Hansen,  
president of Holbrook Mutual Irrigation.

MR. BOB BARNHART: Bob Barnhart,  
superintendent of Holbrook Mutual Irrigation.

MR. JAKE BROYLES: Jake Broyles.

MR. BOB REED, JR.: Bob Reed, Jr.,

1 Fort Lyon Canal.

2 MR. HOWARD BOGNER: Howard Bogner,  
3 Fort Lyon.

4 MR. JOE CLINE: Joe Cline, Fort Lyon  
5 Canal.

6 MR. LEROY MAUCH: Leroy Mauch,  
7 Lamar. I'm with Fort Lyon Canal and Prowers  
8 County Commissioner.

9 MR. JOHN LEFFERDINK: Last but not  
10 least, John Lefferdink, Fort Lyon.

11 CHAIRMAN LARRY TRUJILLO: Thank you,  
12 folks, and welcome to the meeting. At this  
13 time, everybody, I'm sure, has an agenda  
14 before them. If some of you folks don't have  
15 an agenda and you'd like some, there's some  
16 extra ones up here in the front. At this  
17 time, I would like to entertain a motion to  
18 approve the present agenda.

19 UNIDENTIFIED SPEAKER: So moved.

20 CHAIRMAN LARRY TRUJILLO: Second?

21 MR. DAVID POPE: Second.

22 CHAIRMAN LARRY TRUJILLO: All in  
23 favor, signify by saying, "Aye."

24 COMPACT MEMBERS: Aye.

25 CHAIRMAN LARRY TRUJILLO: All

1           opposed, "No." The agenda is approved. We'll  
2           move over to Item 3 on the agenda; the  
3           resolution commemorating retired Federal  
4           Representative Mr. Cooley. Steve Miller, are  
5           you in the room? I believe that this matter  
6           was going to be put off till Mr. Cooley got  
7           here. Is that right, sir?

8                       MR. STEVE MILLER: That's right.

9                       CHAIRMAN LARRY TRUJILLO: So I would  
10           then take the prerogative, if there's anyone  
11           in the Compact that disagrees with this, we'll  
12           put this item down further on the agenda and  
13           we will move to Item 4, Chuck, the approval of  
14           the transcripts and summaries for the prior  
15           meetings.

16                      MR. CHUCK LILE: I guess the '93  
17           minutes haven't been completed and the '94  
18           have. Is this right, David?

19                      MR. DAVID POPE: Chuck, my  
20           understanding is that yes, we have not -- I'm  
21           not sure what the status is on the '93. I do  
22           not think those have been circulated yet for  
23           approval.

24                      MR. CHUCK LILE: So we should defer  
25           those.

1 MR. DAVID POPE: Probably defer the  
2 '93. The '94, it may be that Steve Miller or  
3 Lee Rolfs can clarify, but my understanding  
4 was that both of our offices have had an  
5 opportunity to review and agree on the  
6 corrections to the transcript from the '94  
7 annual meeting, and that while it has not  
8 been -- the version with the corrections has  
9 not been yet received from the court reporter  
10 as of the last couple of weeks, but that  
11 otherwise, we're in agreement on that  
12 transcript.

13 MR. CHUCK LILE: So moved, we adopt  
14 those minutes.

15 MR. DAVID POPE: I would second the  
16 motion, subject to receipt of the final agreed  
17 to corrections to the transcript.

18 CHAIRMAN LARRY TRUJILLO: And the  
19 motion is for the December 13, 1994 minutes?

20 MR. DAVID POPE: That's correct,  
21 Mr. Chairman.

22 CHAIRMAN LARRY TRUJILLO: Are there  
23 any objections? If not, the minutes for the  
24 1994 annual meeting are approved. The minutes  
25 for the 1993 minutes will -- for the 1993



1 minutes will be taken up, I suppose, at a  
2 later Compact meeting. What about the summary  
3 minutes to the June 10, 1994 special meeting?

4 MR. STEVE MILLER: The June, '94  
5 minutes are very brief, and I think if the  
6 members would agree, the chief officials from  
7 each state could approve them and take care of  
8 them in the next 3 or 4 weeks. Lee and I have  
9 talked. I just haven't put it on paper.

10 CHAIRMAN LARRY TRUJILLO: Let's come  
11 up here, Steve, to the front.

12 MR. STEVE MILLER: On the June, '94  
13 minutes, if we could take an action to have  
14 Lee and I finalize those and circulate them to  
15 the members outside of a formal meeting.  
16 They're very brief. There's actually a  
17 prepared statement that would be the main body  
18 of those minutes, and I don't think we need to  
19 hold them until next December.

20 MR. DAVID POPE: Mr. Chairman, in  
21 light of that, I do think that is possible to  
22 accomplish, and I would move that we approve  
23 the summary of the minutes from the June 10,  
24 1994 special meeting, subject to review and  
25 approval by the state agency members of the

1 Compact Administration, if that's acceptable.

2 CHAIRMAN LARRY TRUJILLO: Do I hear  
3 a second?

4 MR. CHUCK LILE: Yes.

5 CHAIRMAN LARRY TRUJILLO: Any  
6 objection? Motion carries. We'll go to Item  
7 Number 5, reports of officers for the Compact  
8 Year. Chairman Cooley, of course, is not with  
9 us this morning. I, being the new chairman,  
10 do not have a report.

11 We'll go to Item b., Recording  
12 Secretary Higbee. I believe he wanted this  
13 item put off till later on the agenda, and  
14 Treasurer Rogers, same with you on Item 16?

15 MR. JIM ROGERS: Yeah.

16 CHAIRMAN LARRY TRUJILLO: So we'll  
17 move Item 5. b. and Item 5. c. to be taken up  
18 under Item 16 on the agenda and call on  
19 Mr. Witte for the report of the Operations  
20 Secretary. Mr. Witte.

21 MR. STEVE WITTE: Good morning,  
22 Mr. Chairman, members of the Administration.  
23 I generally start out with a short recap of  
24 the year in very general terms.

25 The beginning of the last Compact

1 year, starting in last fall, the water supply  
2 in the basin was below average for the greater  
3 part of the winter. Beginning in the month of  
4 May, we had some extremely cool, wet weather  
5 that brought snow to the higher elevations of  
6 the Arkansas Basin. The cool weather also  
7 retarded the runoff or the snow melt, and so  
8 by June 1st, we had an accumulation of snow  
9 pack that was about 303% of average. The  
10 precipitation during the month of September  
11 being about 287% of average for the month, and  
12 at that point in time, runoff was expected to  
13 be about 170 to 200% of average for the basin.

14 By June 29th, the inflow to John  
15 Martin Reservoir had caused an accumulation in  
16 storage such that there was the maximum  
17 invasion of the flood pool by the permanent  
18 pool of 10,000 acre feet was reached and we  
19 had what constituted a physically full  
20 reservoir. Thereafter, spill from accounts  
21 occurred to conservation storage per the  
22 sequence and procedures as outlined in Section  
23 II g. of the 1980 operating plan, and by  
24 August 3rd, the level of the reservoir had  
25 dropped back to that level of 345,698 acre

1 feet, which is that maximum invasion into the  
2 flood pool by the permanent pool.

3 There were various releases of water  
4 from accounts, including a release to water  
5 users in Kansas. The delivery of those runs  
6 and the various operations that were conducted  
7 are all summarized in my report, which was  
8 submitted to the Operations Committee last  
9 evening, and I believe that they determined to  
10 recommend acceptance of that report.

11 The final status of the reservoir at  
12 the end of the Compact year was that there was  
13 57,164 acre feet remaining in conservation  
14 storage that had not yet been distributed into  
15 individual accounts. There was 191,000 acre  
16 feet in agreement accounts, including a little  
17 over 11,000 acre feet that was excess transit  
18 loss water that had not been utilized during  
19 the Compact year. The permanent pool status  
20 was at 9,469 acre feet, for a total content of  
21 257,884 acre feet.

22 So with that brief overview, I would  
23 ask formal action to accept my Operation  
24 Secretary's report and would entertain any  
25 questions.

1 CHAIRMAN LARRY TRUJILLO: Are there  
2 any questions?

3 MR. DENNIS MONTGOMERY: Yes, sir.  
4 Steve, the conservation water that wasn't  
5 distributed, will it be distributed in the  
6 summer when you start again in April?

7 MR. STEVE WITTE: That's correct.

8 CHAIRMAN LARRY TRUJILLO: Any other  
9 questions?

10 MR. DAVID POPE: I have one  
11 additional question, Steve. Last evening at  
12 the Engineering Committee or at the Operations  
13 Committee meeting, I believe there was some  
14 discussion and questions about the timing of  
15 when the spill is considered to occur. Could  
16 you summarize how that was handled and  
17 characterize for us why that it was done the  
18 way it was? I think there's some concern  
19 about that.

20 MR. STEVE WITTE: Yes. As I said,  
21 the reservoir reached the level of 345,698  
22 acre feet about 11:00 on June 29th. That is  
23 the level that corresponds to the maximum  
24 invasion of the flood pool allowed by the  
25 permanent pool to the extent of 10,000 acre

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feet.

At that point in time, I believe that Article II g. of the 1980 operating plan specifies that there is to be, I think the words used are "spill from accounts according to a certain sequence," and that sequence is first of all any water in excess of the -- in excess of the 10,000 acre feet of the permanent pool that is allowed to invade the flood pool should be spilled. At that point in time, there was about 11,840 acre feet in the flood pool, so the excess would be 1,840 acre feet.

Next in the order of spill are Article III accounts. Next are Article II accounts to the extent of their content on the date on which they begin to spill, and finally, a transit loss account is to spill prior to any conservation storage being spilled.

So on June 29th, we began that process of converting water from the permanent pool and to the extent of 1,840 acre feet and the conversion of Article III water storage to conservation storage. That continued until

1 those conversions to those amounts were  
2 accomplished, and that occurred on July the  
3 6th at, I believe, 18:35 hours.

4 At that point in time, we had the  
5 first spill of Article II water, and that  
6 began at that point in time and proceeded at  
7 the rate of inflow to the reservoir to the  
8 extent of the content of Article II storage on  
9 that date. There was about 132,805 acre feet  
10 in Article II accounts at that point in time.  
11 Some of it, which is the Kansas account, and  
12 there was also Colorado summer stored water  
13 and Colorado winter stored water in that  
14 category. That was spilled.

15 All the while, there is transfer of  
16 water from conservation storage also occurring  
17 concurrently back into those accounts. At the  
18 point in time that that Article, that quantity  
19 of Article II water was converted into  
20 conservation storage to the extent of the July  
21 6th content, that reestablished a balance of  
22 Article II water within or between Colorado  
23 and Kansas on the 60-40 percentage basis.

24 From that point on in time,  
25 transferred out water from the transit loss

1 account until August 3rd, when the level of  
2 the reservoir fell back to the maximum  
3 allowable incursion into the flood pool when  
4 the spill conversion of that water ceased. I  
5 hope that answers your question.

6 MR. DAVID POPE: Steve, I think it  
7 answers the question in terms of describing  
8 the way in which it was done. I think it  
9 probably would not serve any useful purpose to  
10 belabor the point, but I would suggest that  
11 we'd like an opportunity to review the way in  
12 which that's done and perhaps bring that up at  
13 a later time in terms of whether that is the  
14 appropriate way to determine when conservation  
15 storage is actually spilling in the reservoir.

16 I think at this point, I would just  
17 suggest, Mr. Chairman, that we maybe proceed  
18 with approval of the Operations Secretary's  
19 report subject to concerns that we would have  
20 an opportunity to raise at a later time, and  
21 I'd make that in the form of a motion.

22 CHAIRMAN LARRY TRUJILLO: Do I hear  
23 a second to adopt the Operations Secretary's  
24 report?

25 MR. CHUCK LILE: Second.



1 CHAIRMAN LARRY TRUJILLO: And you  
2 agree with visiting this matter later?

3 MR. CHUCK LILE: Yes.

4 CHAIRMAN LARRY TRUJILLO: Any  
5 objections? The report is adopted. Thank  
6 you, Officer Witte.

7 MR. STEVE WITTE: That concludes my  
8 report.

9 CHAIRMAN LARRY TRUJILLO: Go to Item  
10 6 on the agenda on Page 2, Committee Reports  
11 for Compact Year. We will lay over Item  
12 a. under 6 and we will bring that up before  
13 the Compact under Item 15. Is there any other  
14 business before the administrative legal  
15 committee, Mr. Pope?

16 MR. CHUCK LILE: We have none.

17 CHAIRMAN LARRY TRUJILLO: We'll go  
18 to Item b., the engineering report, Mr. Pope.

19 MR. DAVID POPE: Thank you,  
20 Mr. Chairman. Last night, beginning at  
21 approximately 6:30 p.m., the Engineering  
22 Committee did meet. The committee consists of  
23 myself as chairman for this year and Carl  
24 Genova, representing Colorado. We proceeded  
25 to discuss each of the items that are set

1       forth in Item 6. b. on the agenda for the  
2       Compact Administration. This was a rather  
3       lengthy meeting that actually went beyond the  
4       hour that was set forth in the original  
5       schedule.

6               My purpose, I guess, this morning  
7       would be to try to summarize briefly those  
8       discussions that occurred, and given the late  
9       hour, we do not have a formal prepared written  
10      report. Carl, I would suggest I take a shot  
11      at giving a verbal report here and then you  
12      could suggest any things you feel I haven't  
13      mentioned or don't agree with and then we can  
14      see if that will become an acceptable way to  
15      have the report for the record.

16              MR. CARL GENOVA: That would be  
17      fine.

18              MR. DAVID POPE: On Item Number 1  
19      related to the additional gauges on the  
20      tributaries, we did receive a report from Doug  
21      Cain and Ron Steger from the USGS and the  
22      Colorado subdistrict office regarding the  
23      activities that have taken place since the  
24      last year when the Compact Administration  
25      authorized expending funds for the

1 installation of the three additional gauges on  
2 the tributaries, and I believe there was four  
3 additional gauges actually, total, with the  
4 reestablishment of one additional gauge that  
5 had previously been dropped out of the Co-Op  
6 program.

7 The concern that had been raised  
8 last year was related to the determination of  
9 locations of the gauges, and one of the  
10 reasons that Kansas had specifically suggested  
11 the gauges was to collect additional data,  
12 particularly on the amount of runoff from the  
13 previously ungauged tributaries.

14 The USGS gentleman did propose a  
15 method pursuant to those communications back  
16 and forth between the parties to try to  
17 separate out base flow from runoff. It was, I  
18 think, also acknowledged by all that the low  
19 flow component is really not just base flow;  
20 that there's irrigation return flows and other  
21 complications in terms of what is there to  
22 measure at the sites where the gauges have  
23 actually been installed. USGS had proceeded  
24 to go ahead and make the installation so as to  
25 be able to collect data during 1995, subject

1 to agreement between the states on the methods  
2 to analyze the data.

3 I believe we concluded the  
4 discussion with comments that were made by  
5 USGS that it would be possible to use the  
6 computer separation method, and it would also  
7 be very helpful to be able to install some  
8 additional devices to determine when flow  
9 actually occurs upstream, at least on the Big  
10 Sandy location, so as to determine when there  
11 is actually runoff from the upper basin as  
12 compared to other water that is measured at  
13 the location that has been chosen.

14 I believe there was a consensus  
15 between Mr. Genova and I to recommend to the  
16 full body that, subject to our budget  
17 discussion, we would be in agreement with  
18 installation of that additional device, and if  
19 that can be done, then we'll be willing to  
20 accept the gauge locations that have been  
21 installed by USGS, and for at least this next  
22 year, look at the additional data that would  
23 be available and see if that would be  
24 acceptable to us.

25 MR. CARL GENOVA: Colorado would

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concur with that.

MR. DAVID POPE: So the dollar amounts, of course, will be taken up at the time of the budget discussion, but I think we were in conceptual agreement. Item Number 2 dealt with the request by the Purgatoire Water Conservation District for a storage account at John Martin Reservoir. We heard briefly from Mr. MacDougall on behalf of the district, and I believe it was acknowledged at that point that this item also related to the matter of the transit loss/travel time study. The committee then took no action on this item but then deferred to the discussion regarding the status of the transit loss/travel time study.

On that Item Number 3, discussion about the transit loss/travel time study, we then heard a report from the USGS in regard to the status of that work. I believe their report indicated that -- well, they summarized the preliminary results for the three reaches that have been studied and gave us some information that has been distributed I think to the cooperators, including ARCA, regarding their findings. They further indicated that

1 they expected to have a draft report for Phase  
2 1 of the study available within about the next  
3 30 days.

4 It was then, I believe, the  
5 consensus of the committee to support the  
6 continuation and completion of Phase 1 of the  
7 study and support that, but defer again to the  
8 budget discussion as to what extent of  
9 financial contribution, if any, would be  
10 provided by the Compact Administration.

11 Mr. Genova, I think, also offered  
12 support for continued studies that might  
13 proceed beyond this. I believe my comment at  
14 the time was that we would like to see the  
15 final report from the Phase 1 studies before  
16 making further commitments in terms of any  
17 additional support for study of this matter.  
18 Carl, does that summarize your recollection?

19 MR. CARL GENOVA: That's right.

20 MR. DAVID POPE: In regard to Item  
21 Number 4 dealing with the augmentation storage  
22 account at John Martin Reservoir, this item on  
23 the agenda was perhaps the most lengthy and  
24 detailed discussion that occurred. The  
25 committee had available to us -- to it, two

1 proposals; one that had been prepared by  
2 Colorado in the form of a draft resolution  
3 that had been received here the last few days,  
4 and that followed the correspondence from  
5 Chuck Lile a few weeks earlier indicating that  
6 Colorado intended to propose an account.  
7 Kansas, based upon that correspondence, then  
8 also chose to prepare a proposed resolution.  
9 The committee discussed the two approaches and  
10 recognized the fact that there were  
11 substantial and significant differences  
12 between the provisions of the two resolutions.

13 At that time, the committee heard  
14 comments from Dennis Montgomery on behalf of  
15 the State of Colorado and suggested some  
16 potential amendments to the language in the  
17 Colorado resolution. There were four or five  
18 items, as I recall, that went through some of  
19 the key differences, or at least the  
20 differences between the two proposals. Each  
21 of those items were discussed in some detail  
22 so that there was a better understanding of  
23 the nature of what was being proposed and what  
24 was being suggested as changes.

25 I believe the committee, at that

1 point, reached a time frame where it was  
2 necessary to take under consideration the  
3 discussions that had thus far occurred in some  
4 detail and agree to move on to later items in  
5 the agenda and then come back to this item  
6 later in the evening for a subsequent  
7 discussion.

8 On Item Number 5, for the channel  
9 capacity issue, we called upon the  
10 representatives from the Corps of Engineers  
11 and we heard from two representatives there of  
12 the Corps, Dick Kreiner, and I'm sorry -- the  
13 other name escapes me.

14 UNIDENTIFIED SPEAKER: Gail  
15 Stockton.

16 MR. DAVID POPE: Gail Stockton. I'm  
17 sorry. The issue there relates to channel  
18 capacity. The Corps provided information on  
19 both the Purgatoire River below Trinidad, the  
20 Arkansas River below Pueblo, and also the  
21 Arkansas River below John Martin. The Corps  
22 described to us the federal authorities that  
23 would provide assistance for planning  
24 assistance under Section 22, and also,  
25 depending on the results from those studies,



1 the possibility of a construction project that  
2 could be considered at some future time,  
3 depending on the nature of those results of  
4 those studies and financial capability and  
5 cost share moneys.

6 I believe the committee, rather than  
7 going further into that, indicated that Kansas  
8 would -- each state basically would need to go  
9 back and determine what kind of request they  
10 would be able to make to the Corps of  
11 Engineers for additional estimates and  
12 development of scopes of study, and thought  
13 perhaps the best thing to do would then be to  
14 wait for some report for the full body here  
15 today regarding the possibilities that exist  
16 in this matter, so we, I think, had some  
17 understanding of the process and would defer  
18 it then on terms of other action.

19 In regard to the Item Number 6 on  
20 the agenda which related to the Colorado  
21 explanation of exchanges to the Trinidad  
22 Reservoir permanent pool, the hour was getting  
23 quite late, but we did have brief discussion  
24 about this item. On behalf of Kansas, I  
25 indicated that we were willing to consider the

1 potential amendment to the Operating  
2 Principles for Trinidad Reservoir to allow the  
3 use of an enlarged recreation or fish and  
4 wildlife or fisheries pool, and that we had  
5 some language we were working on. I think it  
6 was also indicated that Colorado was drafting  
7 some language that would be potentially  
8 something to be looked at for resolution, and  
9 I think we decided to wait and try to each  
10 work on our language and then come back today  
11 and try to come to agreement on what might be  
12 an acceptable action by the Administration.

13 After the Operations Committee had  
14 had an opportunity to meet, we then  
15 informally, several of us convened, Carl and I  
16 and I think the attorneys and others from each  
17 of the states, to get back to the issue of the  
18 storage account at John Martin Reservoir.  
19 Some informal discussion did occur. Some of  
20 the differences that still existed between the  
21 approaches set forth in the resolutions,  
22 particularly the matter of the length of time  
23 for the resolution and other considerations  
24 that related to whether or not agreement could  
25 be reached were briefly discussed, and no

1 specific action or agreement was reached at  
2 that point in time by the committee.

3 At that point, we chose to not  
4 formally reconvene, but to defer further  
5 action until each state had had an opportunity  
6 to further consider the proposals of the other  
7 side, and that we would expect additional  
8 discussion today before the Compact meeting.

9 Carl, I would then now defer to you  
10 and see if I've reasonably characterized the  
11 discussions that occurred and see if you have  
12 additions. I'd be glad to hear those.

13 MR. CARL GENOVA: I think you  
14 covered just about everything, David. I think  
15 we visited these other two items, the  
16 augmentation storage account at John Martin  
17 and the Trinidad issue in Item 10 and 11, is  
18 that correct?

19 MR. DAVID POPE: Yes. They're on  
20 the agenda for further discussion here at the  
21 full Compact meeting.

22 MR. CARL GENOVA: Then I have  
23 nothing more to add to your report.

24 MR. DAVID POPE: Mr. Chairman, I --  
25 Chuck, did you have a comment?

1 MR. CHUCK LILE: Well, I would like  
2 to ask a question. I was looking on the  
3 agenda, and you mentioned in your report we  
4 may be discussing in some more detail about  
5 the channel capacity. Do we need to do that  
6 now, because I don't see it on the agenda  
7 items further down, David.

8 MR. DAVID POPE: My understanding  
9 was that during the Corps of Engineers report,  
10 Item 2, Number b., we'd cover that. I'd be  
11 happy to do it either way.

12 MR. CHUCK LILE: No, I think that's  
13 appropriate. I just wanted to make sure we  
14 got it on there.

15 CHAIRMAN LARRY TRUJILLO: Thank you,  
16 Carl and David, for the report. Do I hear a  
17 motion to adopt your report?

18 MR. DAVID POPE: Mr. Chairman, I  
19 would move that the committee report just  
20 given be adopted by the Administration.

21 CHAIRMAN LARRY TRUJILLO: Do I hear  
22 a second?

23 MR. CARL GENOVA: Second.

24 CHAIRMAN LARRY TRUJILLO: Any  
25 objection? The report is declared adopted.

1 We'll go to operations and -- yes, sir.

2 MR. STEVE MILLER: One question,  
3 please. Steve Miller. Do you intend to do a  
4 written report, or will we not have, just so  
5 we can keep the exhibits straight. Also, if  
6 it's a written report, I will include it in  
7 the annual report, but it's not necessary, I  
8 don't think.

9 MR. DAVID POPE: I was not planning  
10 a written report at this point. If there's  
11 someone who feels that that would be  
12 appropriate, we could try to do so. I think  
13 the transcript will provide essentially what  
14 has been summarized here.

15 CHAIRMAN LARRY TRUJILLO: Does that  
16 answer your question, Mr. Miller?

17 MR. STEVE MILLER: Yes. Thank you.

18 CHAIRMAN LARRY TRUJILLO: On the  
19 Operations Committee report, Mr. Rogers?

20 MR. JIM ROGERS: The Operations  
21 Committee met last night and Steve Witte gave  
22 us an overview of the way the operations was  
23 run for the Compact for 1995 and we agreed to  
24 adopt his operations report, and there was no  
25 other business brought up before the

1 Operations Committee.

2 CHAIRMAN LARRY TRUJILLO: Thank you  
3 very much. Any addition to that report? I'd  
4 entertain a motion to adopt the Operations  
5 Committee report. The actual secretary's  
6 report has already been adopted.

7 MR. JIM ROGERS: So moved.

8 CHAIRMAN LARRY TRUJILLO: Do I hear  
9 a second?

10 MR. DAVID POPE: Second.

11 CHAIRMAN LARRY TRUJILLO: Any  
12 objection? The report of the Operations  
13 Committee is hereby adopted. We'll move to  
14 Item Number 7. David or Chuck, how do you  
15 propose we handle this?

16 MR. DAVID POPE: We haven't had any  
17 discussions this year about the matter.  
18 Normally, if there's any question about need  
19 for changes, we discuss those, but I'm not  
20 aware that there are any per se this year.

21 MR. CHUCK LILE: I would move,  
22 Mr. Chairman, that we just adopt the officers  
23 from last year and continue them this year.

24 CHAIRMAN LARRY TRUJILLO: Shall I  
25 consider that a motion?

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MR. CHUCK LILE: Yes.

CHAIRMAN LARRY TRUJILLO: Do I hear a second? The motion would be to adopt Mr. Genova as Vice-chairman, Mr. Higbee as Recording Secretary, Mr. Rogers as Treasurer and Mr. Witte as Operations Secretary.

MR. DAVID POPE: I think for purposes of this year, I would second the motion. I think at some point, we may want to give some consideration to rotating some of the officers, and we just really haven't prepared to do so at this point in time. I'm not suggesting any criticism with any of the current officers, but it may be appropriate to do that at some time.

CHAIRMAN LARRY TRUJILLO: Okay. Thank you. We'll discuss that at a later time. Any objections to the motion? Then gentlemen, congratulations. You'll be the new officers for 1996.

We'll move over to Item Number 8, appointment of committees, and again, I defer to Dave and Chuck. What has been the traditional method of appointing the various committees?

1 MR. DAVID POPE: We traditionally  
2 have named one of the three members of each of  
3 the delegations from Kansas and Colorado  
4 respectively to these three committees and  
5 then I think historically rotated the  
6 chairmanships.

7 For purposes of this coming year, we  
8 have two new members of the Administration  
9 from Kansas, and our procedures last night and  
10 I think what we would suggest for next year  
11 was to have the new members of the  
12 Administration fill in from where their  
13 predecessors were, and that would result in  
14 the member from Kansas for the Administrative/  
15 Legal Committee being Eugene Overton. The  
16 member from the Engineering Committee from  
17 Kansas would be myself, David Pope, and the  
18 member to the Operations Committee would be  
19 Bob Buerkle, and I would then turn to Colorado  
20 for their selections.

21 MR. CHUCK LILE: We would continue  
22 with myself, Chuck Lile, as the  
23 Administrative/Legal representative;  
24 Engineering, Carl Genova; and Operations, Jim  
25 Rogers.



1 MR. DAVID POPE: Do we need to  
2 determine the chairmanship of those, Chuck?

3 MR. CHUCK LILE: Yes, I think we do.  
4 Isn't it traditional we rotate?

5 MR. DAVID POPE: I think that's  
6 right. Were we chairman this year of all  
7 three committees? Steve Miller is shaking his  
8 head yes, so I presume it would be.

9 MR. STEVE MILLER: That's my  
10 recollection, although it used to be staggered  
11 that not all three chairmen were from the same  
12 state. Somehow, we got off that cycle. This  
13 might be a good chance to get back on the  
14 cycle where not all the chairmen are from the  
15 same state by shuffling a little bit.

16 MR. DAVID POPE: Why don't we do  
17 this? Do you have a suggestion in that  
18 regard, Chuck?

19 MR. CHUCK LILE: Well, I think  
20 that's fine, but I think you maybe ought to  
21 shuffle it so that we have a chair like we  
22 have traditionally. Last night, you were  
23 chair of Engineering, and I presumed I was  
24 chair of Administration. Perhaps it's time  
25 for Kansas to be chair of Administration, or

1 Colorado to be chair of Engineering and then  
2 Kansas chair of Operations. Is that  
3 appropriate?

4 MR. DAVID POPE: I think that would  
5 be acceptable to us.

6 MR. STEVE MILLER: That's a little  
7 different than you've done before, too.  
8 Usually the new member got to sit on the  
9 committee for one year and kind of get his  
10 feet wet.

11 MR. DAVID POPE: Gene is saying here  
12 that might not be a bad idea. Would you --  
13 how about flipping this around to where  
14 Colorado would be the chair of the  
15 Administrative/Legal and of Operations and I  
16 would continue another year in Engineering.  
17 Would that be acceptable?

18 MR. CHUCK LILE: That's fine.

19 MR. DAVID POPE: Okay.

20 CHAIRMAN LARRY TRUJILLO: Since this  
21 is an appointment, does that require a motion?  
22 Chuck, Dave?

23 MR. DAVID POPE: I think it probably  
24 should. I would move that we appoint the  
25 committee members and chairs for Compact year

1 as was just recited on the record with the  
2 chairmanship of the Administrative/Legal and  
3 Operations with the Colorado member and the  
4 Engineering Committee with the Kansas member.

5 CHAIRMAN LARRY TRUJILLO: For the  
6 record, let me make sure I've got this  
7 correct. Administration will be Overton; Lile  
8 as chairman. Engineering will be Genova; Pope  
9 as chairman. Operations, Buerkle; Rogers as  
10 chairman. Is that correct?

11 MR. DAVID POPE: That would be my  
12 understanding.

13 CHAIRMAN LARRY TRUJILLO: Do I hear  
14 a second to that motion?

15 MR. CHUCK LILE: So moved.

16 CHAIRMAN LARRY TRUJILLO: Do I hear  
17 a second?

18 MR. DAVID POPE: Oh. Second, yes.

19 CHAIRMAN LARRY TRUJILLO: Any  
20 objection? Motion carries and is adopted.  
21 We'll go to Item Number 9, reports of federal  
22 agencies; a., the Bureau of Reclamation.

23 MR. TOM GIBBENS: I'm Tom Gibbens  
24 with the Bureau of Reclamation and Eastern  
25 Colorado Projects Office in Loveland. My

1 report will be pretty brief this morning.

2 On November 21st, we held our first  
3 meeting for review of the operating principles  
4 for the Trinidad Lake project. We heard the  
5 concerns of the various parties and seemed  
6 like --

7 CHAIRMAN LARRY TRUJILLO: Sir, could  
8 you get a little closer to the mike? Some  
9 folks in the back are signaling they can't  
10 hear you. Thank you.

11 MR. TOM GIBBENS: We heard the  
12 concerns from the various parties, primarily  
13 representatives from Kansas, Colorado and the  
14 Purgatoire River Conservancy District. There  
15 was also some issues raised by the increase in  
16 the recreation pool for the Trinidad project.  
17 We have heard all those concerns and we have  
18 not really initiated our review yet. We have  
19 started collecting some data. We expect to  
20 probably have a first draft of our review by  
21 mid-summer, somewhere around June or July, so  
22 we haven't really got too far underway on that  
23 project yet.

24 Presently, we are storing water in  
25 the joint use pool in Pueblo Dam and

1 Reservoir. We are probably about 2 feet into  
2 the joint use pool with the storage of winter  
3 water for the Southeastern Colorado Water  
4 Conservancy District. That water will either  
5 have to be used by April 15th or it must be  
6 evacuated for flood control purposes. The  
7 kind of year it looks like we are having at  
8 the present time, we may be storing more water  
9 than what we initially thought. It looks  
10 pretty dry right at the moment.

11 That essentially concludes our  
12 report. If you have any questions, we'll be  
13 happy to answer them.

14 CHAIRMAN LARRY TRUJILLO: Any  
15 questions? Dave, any questions?

16 MR. DAVID POPE: Tom, I was just  
17 going to follow up, and you provided some  
18 brief comments regarding the Trinidad 10-year  
19 review. Did I understand you to say, based on  
20 the meeting that we had recently in Denver,  
21 that you would be putting out a scope of work  
22 fairly soon for the study?

23 MR. TOM GIBBENS: Yes, we'll be  
24 putting out a scope of work with some of the  
25 concerns outlined in detail that we proposed

1 to address in the report.

2 MR. DAVID POPE: Okay. And I take  
3 it then there will be an opportunity for each  
4 of the parties to comment and provide  
5 additional information?

6 MR. TOM GIBBENS: Yes, there will.

7 CHAIRMAN LARRY TRUJILLO: Thank you.  
8 Any other questions? If not, thank you very  
9 much for your report, Tom. The Corps of  
10 Engineers, Colonel?

11 LT. COL. STEVE WAGNER: Good  
12 morning. It's a pleasure to be here as the  
13 new District Engineer for the Albuquerque  
14 District for the Corps of Engineers.  
15 Particularly since we're in the process of  
16 moving to a new headquarters building in  
17 Albuquerque and most of the district is in  
18 boxes, I'd rather be here enjoying this  
19 meeting than working out of a box.

20 As I watched the meeting so far, one  
21 question keeps coming to my mind.

22 CHAIRMAN LARRY TRUJILLO: Colonel,  
23 excuse me for interrupting. Could we have  
24 your name for the record, please?

25 LT. COL. STEVE WAGNER: Lieutenant

1 Colonel Steve Wagner. One question keeps  
2 going through my mind as I sit through here.  
3 That is, what would this room look like if we  
4 turned the lights down and turned on these  
5 Christmas lights? I think it would be  
6 something to behold.

7 You might have heard about the Corps  
8 of Engineers' efforts to do some downsizing  
9 and restructuring. Rest assured the Corps,  
10 like the rest of the federal agencies, is  
11 involved in that process. We'll probably  
12 reduce the number of operating divisions down  
13 somewhere between 6 to 8 divisions. However,  
14 the number of districts will remain the same,  
15 so you can rest assured that as we move into a  
16 new building in Albuquerque and as the  
17 restructuring of the District is considered,  
18 you should feel confident that the Albuquerque  
19 District will continue to service the Arkansas  
20 River.

21 The next 6 minutes, I'd like to give  
22 you a quick review of what the Albuquerque  
23 District has been doing. In general, during  
24 calendar year 1995, activities of the Corps of  
25 Engineers, Albuquerque District in the

1                   John Martin Reservoir began storing  
2                   in the flood space on June 29th. Releases  
3                   were stepped up, beginning on that day, to  
4                   3,000 CFS by July 1st and continued until July  
5                   28th. Flood releases reached as far as Great  
6                   Bend, Kansas.

7                   There were two deviations at John  
8                   Martin Reservoir. On 15 July, we temporarily  
9                   reduced the release to help in the removal of  
10                  a truck that had rolled into the channel  
11                  downstream of the dam. The second deviation  
12                  was from 28 July to 3 August when the outflow  
13                  was reduced from 3,000 CFS to 2,250 CFS, at  
14                  the request of Colorado and Kansas, to help  
15                  minimize agricultural damages along the  
16                  Arkansas River.

17                  In the special topics area, Trinidad  
18                  Lake excess space. On November 16, 1994, the  
19                  Trinidad Lake Water Control Manual was revised  
20                  to increase the recreation pool from 4,500  
21                  acre feet to 15,967 feet, and again, this is a  
22                  topic for additional discussion later on in  
23                  the agenda.

24                  Flood control studies. In 1995, the  
25                  Corps of Engineers worked with the City of



1 modifications to Lake Hasty and the Arkansas  
2 River immediately below John Martin Dam.

3 Alternatives include the routing of  
4 5 to 8 CFS through Lake Hasty when irrigation  
5 releases are being made to improve its water  
6 quality; a barrier in the Arkansas River  
7 Channel to prevent downstream movement of fish  
8 into and their subsequent death in irrigation  
9 works and on fields; and a potential nesting  
10 area in Lake Hasty for the least tern and  
11 piping plover. A modification report and  
12 environmental assessment is expected to be  
13 completed in January of 1996 on this Section  
14 1135.

15 Dealing with floodplain management  
16 services, the objective of the Floodplain  
17 Management Services Program is to support  
18 comprehensive floodplain management planning  
19 with technical services and planning guidance  
20 at all appropriate government levels. Thus  
21 far in 1995, the Albuquerque District has  
22 responded to 15 requests for technical  
23 services and flood hazard evaluations of  
24 specific sites in the Arkansas River basin.  
25 One flood preparedness plan was completed in

1 1995 for the community of Canon City,  
2 Colorado.

3 In the regulatory arena in 404  
4 permits, Section 404 of the Clean Water Act  
5 prohibits discharge of dredged or fill  
6 materials into waters of the United States,  
7 including adjacent wetlands, without a permit  
8 from the Corps of Engineers. The fiscal year  
9 '95, in fiscal year '95, we issued 11  
10 individual permits in the Arkansas River  
11 basin. An additional 315 activities in the  
12 basin were received during the period, and  
13 most were covered under permits. Also, the  
14 new statewide general permits for excavation  
15 activities and recreational placer mining were  
16 developed for the use in Colorado.

17 In regard to emergency engineering  
18 assistance, the Corps of Engineers has 25  
19 contracts in the Arkansas River basin for  
20 information or assistance regarding flood  
21 related issues. Emergency engineering  
22 assistance was provided to the Arkansas River  
23 Conservancy District for an erosion problem on  
24 the Las Animas flood control ~~level.~~ <sup>levee.</sup> *PER*  
*SPM*

25 You mentioned earlier the

1 authorities under Section 22 and the Arkansas  
2 River below John Martin Dam, and I'll turn to  
3 that for a minute or two longer. The  
4 authorities under Section 22. Although there  
5 were no planning assistance to state studies  
6 under Section 22 of the Water Resource  
7 Development Act of 1974 in the Arkansas River  
8 basin in 1995, the Corps can provide technical  
9 planning assistance under this program on a  
10 50-50 cost sharing basis. The Corps can use  
11 its technical expertise in such subjects as  
12 hydrology, hydraulics, sediment transport and  
13 environmental restoration to help states,  
14 Indian tribes or other public entities with  
15 their water resource problems.

16 Dealing with the Arkansas River  
17 below John Martin Dam, the channel capacity of  
18 the Arkansas River below John Martin Dam has  
19 steadily decreased since the construction of  
20 the dam. When the dam was constructed, the  
21 channel capacity was estimated to be 15,000  
22 CFS. The capacity has been reduced over the  
23 years, primarily by vegetative growth and the  
24 lack of channel flows, maintenance flows.

25 During the 1995 spring flood control

1 releases, the channel was not able to convey  
2 the releases of the 3,000 CFS through  
3 Coolidge, Kansas without causing backwater  
4 effects, including a high water table and  
5 subsurface damage to crops in many areas of  
6 the floodplain. The district has met with  
7 Colorado and local officials to discuss our  
8 capabilities to assist them with this problem  
9 under the planning assistance to states  
10 program. Under this Corps program, we can  
11 provide studies related to water resources  
12 planning as long as there is a local sponsor  
13 that is willing to share 50-50 in the cost of  
14 the study. The states of Colorado and Kansas,  
15 the Arkansas River Compact Administration  
16 and/or any entity that has taxing authority  
17 can serve as local sponsors.

18 We have developed a preliminary  
19 draft scope of work for a planning assistance  
20 to states studies, which outlines a planning  
21 study which would accomplish the following  
22 four items:

23 (1) We would determine what the  
24 existing capacity is in the reach from John  
25 Martin to Garden City, Kansas.

1 (2) Determine how best to  
2 eventually get to at least 3,000 CFS at  
3 Coolidge, Kansas and keep it there.

4 (3) We would determine if there has  
5 been a significant similar deterioration in  
6 riparian <sup>e</sup>and value due to the construction of <sup>Lee</sup>  
7 John Martin, and if so, initiate a Section <sup>SR</sup>  
8 <sup>1</sup>135 report. Again, this authority has a <sup>Lee</sup>  
9 75-25% cost share with construction to restore <sup>SR</sup>  
10 the riparian values to pre-dam conditions as  
11 justified.

12 (4) Closely coordinate with  
13 regulatory so that any interim maintenance  
14 activities recommended in the study will have  
15 gone through a 404 review process prior to  
16 implementation by the local entity.

17 Subject to any questions that you  
18 may have, that concludes my report.

19 CHAIRMAN LARRY TRUJILLO: Questions?

20 MR. DAVID POPE: Colonel, I might  
21 have a quick question regarding the downsizing  
22 effort. We've heard a fair amount about that  
23 for some time, including some earlier  
24 proposals, but it's my understanding that  
25 language related to division level in the

1 organization has been approved by Congress, I  
2 guess.

3 LT. COL. STEVE WAGNER: It has been  
4 directed by Congress, yes.

5 MR. DAVID POPE: It has been  
6 directed by Congress. Has a proposal been  
7 submitted yet by the Corps of Engineers in  
8 terms of which division headquarters will be  
9 affected at this time?

10 LT. COL. STEVE WAGNER: At this  
11 time, they're studying. They did not act on  
12 it until it was signed. The President has  
13 signed the language to require us to do that.  
14 We're awaiting guidance from the Assistant  
15 Secretary of the Army for Civil Works on how  
16 to do that. Once we get their guidelines,  
17 there's a time frame. This has to be done  
18 during this fiscal year, so the reorganization  
19 of the divisions will be done this fiscal  
20 year. I can't tell you what those are going  
21 to be, because we haven't received the  
22 guidelines from headquarters yet.

23 MR. DAVID POPE: And Albuquerque is  
24 a part of the division headquartered at  
25 Dallas, is it?

1 LT. COL. STEVE WAGNER: Yes, sir.

2 MR. CHUCK LILE: I was going to ask  
3 some questions considering the technical  
4 assistance. We have been working with the  
5 Army Corps, and as I understand it last night,  
6 David, you expressed an interest in also at  
7 least looking at the scoping issues, and so I  
8 would like to be sure that we move forward on  
9 that; that Colorado is interested in seeing  
10 that the channel is improved below John  
11 Martin.

12 David, I don't know whether it's  
13 something that the Compact Administration  
14 wants to partnership with or whether it should  
15 be done in each state individually. What's  
16 your feelings on that?

17 MR. DAVID POPE: Chuck, I certainly  
18 think the Compact Administration has a  
19 significant interest in this matter. The  
20 dilemma, I think, that we may have is in order  
21 to proceed with the planning assistance, I  
22 think there is the commitment for the 50-50  
23 cost share, and I'm not really sure that this  
24 body would have the financial capability to  
25 play that role. Maybe we'll find out

1 something magic later this afternoon on our  
2 budget discussion, but I guess this is as much  
3 a question as a comment. Because of that, I  
4 presume we may have to look to our own  
5 appropriate entities in our states to consider  
6 whether or not they can agree to whatever cost  
7 share requirements there may be along with the  
8 course of the details of the study.

9 MR. CHUCK LILE: I tend to agree  
10 with you. It's a matter of economics with the  
11 Administration. I think it's important that  
12 the Administration voices its support for the  
13 program, because I feel it's important to both  
14 states to be able to have adequate channel  
15 capacity.

16 MR. DAVID POPE: I appreciate that  
17 and agree. I'd certainly be willing to  
18 conceptually support, as an Administration,  
19 the need for Section 22 planning assistance by  
20 the Corps of Engineers and would like to see  
21 this body, if it's possible somehow, to be a  
22 participant in any such studies and projects  
23 that might evolve from that. If it's  
24 appropriate, we could, I think, move forward  
25 in that direction and then defer to -- I



1 frankly need to go back to my state and figure  
2 out where this fits in with everything else  
3 that we can do and maybe take a separate  
4 action in regard to any financial commitments.

5 MR. CHUCK LILE: I think we would  
6 have to do the same, as far as financial, but  
7 we would like to certainly show support for  
8 the program and the scoping work, and I think  
9 we'll have to look at the dollars.

10 MR. DAVID POPE: Would it be  
11 appropriate -- and this may be a question for  
12 Colonel Wagner. If the Administration was to  
13 conceptually support the need for the planning  
14 assistance for the entire reach from John  
15 Martin to Garden City, would it be possible  
16 then to get a more detailed cost estimate of  
17 the planning assistance that might be  
18 available and some of the options for  
19 different levels of study? We've talked about  
20 that a little bit last night, I think, with  
21 your staff, and that might be helpful for us  
22 each to go back then to our respective  
23 decision-making bodies, as far as the  
24 financial capability and our own budgets.

25 In our case, we normally look to the

1 Kansas Water Office to be the agency that is  
2 the direct participant in the planning  
3 assistance work, rather than my office, but I  
4 think we can move it forward by doing that.  
5 I'd certainly be willing to consider some sort  
6 of a motion.

7 MR. CHUCK LILE: I would move that  
8 the Compact Administration pass just a  
9 resolution stating our support for looking at  
10 assistance to improve channel capacity below  
11 John Martin Reservoir and that we ask the Army  
12 Corps of Engineers, as part of the motion, to  
13 submit to us a written proposal of costs and  
14 outlining a program of work, and we would  
15 defer this perhaps to the Engineering  
16 Committee and the individual states to look at  
17 the sources of funding.

18 MR. DAVID POPE: I think I'd be  
19 willing to second that. Colonel, does that  
20 give you enough to go on in terms of how we  
21 proceed?

22 LT. COL. STEVE WAGNER: This is a  
23 fairly standard procedure which you've just  
24 described. We'll scope this and provide you  
25 with a range of costs associated with it, and

1 then we'll work the sponsorship procedures  
2 through with the states individually.

3 MR. DAVID POPE: With that, I think,  
4 Mr. Chairman, I'd second the motion that  
5 Mr. Lile just made, subject to concurrence  
6 here with my counterparts.

7 CHAIRMAN LARRY TRUJILLO: Any  
8 questions regarding the motion? If not, are  
9 there any objections? The motion is adopted,  
10 and thank you, Colonel Wagner, for your  
11 report. We now go to Item c., the Geological  
12 Survey report.

13 MR. DOUG CAIN: Thank you,  
14 Mr. Chairman. I'd like to first hand out a  
15 summary of U. S. Geological Survey activities.

16 CHAIRMAN LARRY TRUJILLO: Doug, your  
17 name for the record.

18 MR. DOUG CAIN: I'm sorry. I'm Doug  
19 Cain, U. S. Geological Survey in Pueblo. I'd  
20 like to hand out a report of our activities in  
21 the basin in the last year for the  
22 Administration, and also Ron Steger has copies  
23 available for the audience if they would like  
24 one. The report I've just handed out  
25 summarizes both our data collection activities

1 in the basin over the last year and what's  
2 anticipated in the coming year and our  
3 activities as far as studies that are ongoing  
4 and studies that have been completed resulting  
5 in reports. I'm not going to go over that  
6 report in detail.

7 I would like to summarize the  
8 activities of the USGS especially related to  
9 the Compact over the last year. As Mr. Pope  
10 indicated in the Engineering Committee report,  
11 at the Compact meeting last year, a decision  
12 was made to provide funding to the  
13 U. S. Geological Survey to take over operation  
14 of one gauging station on the Apishapa River  
15 near Fowler. That was completed and we've  
16 been operating that gauge since January of  
17 this year.

18 We also constructed new stream  
19 gauges on Two Butte Creek, Wild Horse Creek  
20 and Big Sandy Creek. Those went into  
21 operation during June or July of this past  
22 year. You've heard some discussion about the  
23 location of two of those sites, Wild Horse  
24 Creek and Big Sandy Creek, and I think we have  
25 some resolution to those concerns that were

1 discussed.

2 We presented last night to the  
3 Engineering Committee a method to separate  
4 base flow from storm flow, especially at Wild  
5 Horse Creek and Big Sandy Creek, and we'll  
6 plan to apply that method in future years and  
7 provide a report to the Compact of that  
8 separation at each annual meeting of the --  
9 that separation technique for the previous  
10 water year. As Mr. Pope indicated, there will  
11 be some revisiting of the location of the  
12 gauges and how that technique is operating at  
13 the next Compact meeting.

14 The other thing I'd like to report  
15 on briefly is the status of the study that the  
16 Compact is cooperating with, along with the  
17 Purgatoire River Water Conservancy District,  
18 to look at stream flow losses on the  
19 Purgatoire River. A written summary report of  
20 that was provided to the Engineering Committee  
21 and I made an oral report last night. The  
22 only thing I'd like to add at this time is  
23 that a draft report of that study should be  
24 available for review by the Compact and the  
25 Purgatoire District in about a month.

1                   The other item on the agenda for the  
2                   USGS report is cooperative agreements. Our  
3                   Kansas District has sent a proposed agreement  
4                   for this year to the Compact about two months  
5                   ago, and our office sent a proposed agreement  
6                   during November. The outcome of the  
7                   Engineering Committee meeting might result in  
8                   a minor change to the cooperative agreement  
9                   with Colorado, and I guess your pleasure as to  
10                  how you'd like to handle that, whether that  
11                  should be now or under the budget discussions  
12                  later today. I'll entertain any other  
13                  questions on my report at this time.

14                 CHAIRMAN LARRY TRUJILLO: Are there  
15                 any questions, first of all?

16                 MR. DAVID POPE: I'm not sure  
17                 there's any questions. I suspect that it is  
18                 appropriate to defer the actual action on the  
19                 co-op agreements to the budget discussion.  
20                 Doug, will you be able to stay for that?

21                 MR. DOUG CAIN: Yes, sir, I'll stay  
22                 for that.

23                 CHAIRMAN LARRY TRUJILLO: Thank you  
24                 very much for your report, Mr. Cain.

25                 MR. CHUCK LILE: I would ask that we

1 take a short break before we go into Item 10.

2 CHAIRMAN LARRY TRUJILLO: I'd  
3 welcome that suggestion, and let's take a  
4 break.

5 MR. DAVID POPE: Sounds good to me.

6 (A break was then taken at 10:05  
7 a.m.)

8 (The meeting resumed at 10:20 a.m.)

9 CHAIRMAN LARRY TRUJILLO: Thank you.  
10 We'll reconvene the meeting, and if you'd look  
11 at your agenda, we're going back to Item  
12 Number 5. a. and we will now have the  
13 chairman's report. Chairman Cooley.

14 MR. FRANK COOLEY: Thank you very  
15 much, Mr. Trujillo. I'm going to put the  
16 microphone down, and the gentleman with the  
17 beard in the back row and the gentleman over  
18 here in the back row, if you would prefer I  
19 use the microphone, I'll do so. Otherwise,  
20 I'll speak without it. I think I can reach  
21 you with my voice. One of the most exciting  
22 things that ever happened to me physically was  
23 standing in the Roman theater in the city of  
24 Ephesus, to which Paul wrote the Letter to the  
25 Ephesians. Ephesus is in Turkey, and we

1 fortunately made an Aegean and Mediterranean  
2 tour, and I got fascinated by Roman theaters  
3 and I found out a lot of things about the  
4 acoustics of the Roman theaters that I hadn't  
5 seen published and still haven't seen  
6 published, but if you stand with your feet  
7 astraddle the Maltese cross that's cut in the  
8 marble, every row of seats for 14,000 people  
9 is focused on that spot, and there are marble  
10 floors in front of you, marble wall behind  
11 you, carved out acoustic amplifiers under the  
12 legs of the people there, and if you have a  
13 loud voice, you can project yourself and your  
14 voice to 18,000 people, and I did it, and I've  
15 got some remarks.

16 As you know, I have been happily  
17 replaced as Chairman and Federal  
18 Representative of the Compact Administration  
19 by Mr. Trujillo, and he has treated me with  
20 the utmost courtesy, as fortunately has the  
21 White House when I had to go over the side of  
22 the canoe. I said my terms of going out  
23 quietly would be a signed photograph of the  
24 President, and by golly, three days later,  
25 here it came. It's on my mantelpiece now and



1 people come in and say, "Hey, Cooley, I  
2 thought you were a Republican."

3 I am tempted to talk about some of  
4 the people that are here and some of the  
5 people that are not here, and that way, it  
6 presents all sorts of dilemmas. If I rattle  
7 down and mention 15, there are 30 others who  
8 deserve to be mentioned and therefore, other  
9 than to say a word or two about Carl Bentrup  
10 and a word or two about Leo Idler,  
11 Mr. Chairman, I'm just going not to talk about  
12 the people here and the kindnesses I have  
13 received. I do feel that Kansas's senior  
14 representative on the Compact Administration  
15 for much of the life of the Compact, Carl  
16 Bentrup -- what town is that he's from in  
17 Kansas?

18 MR. DAVID POPE: Deerfield.

19 MR. FRANK COOLEY: Deerfield, yeah,  
20 right outside of Garden City, is one of the  
21 finest persons I've ever met in my life, and  
22 he contributed very, very greatly to the  
23 successful operation of the Compact  
24 Administration, and not enough good can be  
25 said about him.

1                   There's another man that's  
2                   contributed to the administration of the  
3                   river, and I'm compelled to say a word or two  
4                   about him, because God does not treat us all  
5                   according to our desserts. God's ways are not  
6                   our ways. We aren't all equally rewarded or  
7                   blessed in accordance with our merits. Leo,  
8                   fortunately, was given a wonderful name by his  
9                   parents. He is a lion of a man. He has been  
10                  visited with tragedies that go beyond what  
11                  anyone should suffer, and I think that with  
12                  respect to him and his work on the river, all  
13                  that any of us can do is to tell him that we  
14                  love him, we admire him, we respect him, and  
15                  wish him all the rewards that a noble life  
16                  under adversity can achieve.

17                  This is my twentieth appearance in  
18                  this room and I have been, as I've already  
19                  alluded, treated with a great deal more  
20                  respect than I probably deserve. I've enjoyed  
21                  it. As an egotist, I just wallowed in the  
22                  title of this non-paying job, and I wish you,  
23                  Larry, the very best as you proceed.

24                  There are several points that I want  
25                  to make that have to do with the substance of

1 the Compact. They will not come as a surprise  
2 to either state or those many of you who have  
3 heard me at meetings before, but I wish to say  
4 something about these as possible goals or  
5 considerations or jobs that are worthy to be  
6 done by the Arkansas River Compact  
7 Administration.

8 The first task that I commend for  
9 your consideration, not this meeting or  
10 possibly the next or the one after that, but  
11 the first task I commend again to your  
12 consideration is one that I brought up at the  
13 beginning of the lawsuit, and therefore, the  
14 timing of it or the background of it may be  
15 distasteful to some of you, but it's not  
16 intended to be distasteful, and that is that  
17 although the Compact itself provides for the  
18 arbitration of disputes between the states,  
19 yet there is no arbitration proceeding in the  
20 by-laws of the Compact or within the formal  
21 records of the Compact. At either end of this  
22 horseshoe, holding the whole necklace in  
23 place, are representatives of Kansas and of  
24 Colorado with great ability as attorneys and  
25 as representative of their states, and I

1 believe that with work without too much  
2 pressure time-wise, that there might be  
3 mechanisms for arbitration of disputes between  
4 the states, whether they are large or small.

5 Now, to be sure, I do recognize that  
6 the Compact Administration itself acts in this  
7 role. I'm aware of that, and it's been  
8 successful in some ways very well indeed, but  
9 I think that there may be a mechanism that the  
10 states can achieve whereby short, Chuck and  
11 David, of resort to the Supreme Court of the  
12 United States, there may be one additional  
13 step that may be taken to resolve disputes,  
14 and I commend that idea to you once more. Of  
15 the four things I want to commend for your  
16 consideration, it seems to me that would be  
17 the easiest to be done and might provide  
18 lasting benefit.

19 The second one of my favorite  
20 interests, which will surprise virtually none  
21 of you, is the size and the care and the  
22 treatment of the permanent pool in John Martin  
23 Reservoir, which as far as I know is 10,000  
24 acre feet of water, and I presume that there  
25 may be 10,000 acre feet of water attributed to

1 it on the books of the Compact Administration.  
2 John Martin is so large in size and the  
3 vagaries of the climate on the High Plains and  
4 in the mountains are so great that it would --  
5 it would seem to me to be a worthwhile goal to  
6 edge that figure upward so that the  
7 recreational values in the valley, not just of  
8 Colorado but also of Kansas, might be improved  
9 and enhanced, and I know of -- I can't think  
10 of a better way of enhancement of those  
11 values, and they are becoming of more  
12 importance in our society, than increasing the  
13 amount of water in the pool with the huge  
14 amount of riches that the Division of Wildlife  
15 has of the State of Colorado from fines on  
16 innocent hunters and fishermen, but also with  
17 the cooperation of the states to avoid the  
18 dead fish flopping in the mud, if you please;  
19 the front page newspaper story 15 years ago.  
20 If there is a way in which those values can be  
21 enhanced without a serious detriment to  
22 agriculture or the other uses, I thought that  
23 it would be worthy of commendation to you,  
24 after 19 years of pretty good behavior on my  
25 part of trying to play a neutral position.

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1                   The third item is perhaps nearest  
2                   and closest to my heart, if not my head, as is  
3                   well-known, particularly by David Pope. In  
4                   the early -- in the early 1600's, Dante was  
5                   writing The Inferno; William Shakespeare had  
6                   lost his son, whose name was Hamlet, and had  
7                   begun to write the great tragedies which are  
8                   among the blessings that all of us enjoy;  
9                   Queen Elizabeth was on the throne of England;  
10                  we were just on the verge of the voyage of the  
11                  Mayflower; and in our country, the tree rings  
12                  and the Indian stories tell us that there was  
13                  a period of long, prolonged and terrible  
14                  drought, and the drought was so great that the  
15                  Indians from the mountains, Mesa Verde people  
16                  and the other Indians in the southwest, had to  
17                  come starving to the valley of the Rio Grande  
18                  and increase the size of the Pueblos and the  
19                  Indian Pueblo culture, leaving places like  
20                  Mesa Verde empty and dry. We none of us know  
21                  what the future may bring with respect to  
22                  water, and each dry spring, there can pop into  
23                  our minds or our plans the fear that there  
24                  will not be enough water. I think it is  
25                  always a concern.

1                   With that statement, I want to -- I  
2                   want to give you a little dirty politics,  
3                   partly for the humor in it. Lyndon Johnson  
4                   was a remarkable person, and politically, he  
5                   seemed to be aware of the sparrow's fall.  
6                   There was nothing that went on in the houses  
7                   of Congress that he was not apparently tuned  
8                   to. One afternoon, he got several people in  
9                   the White House together, some of whom were  
10                  from Colorado, and he said words to the effect  
11                  that, "What can we do for Judge Chenowith?"  
12                  And there was kind of an appropriate silence  
13                  and one of the Colorado personalities there  
14                  spoke up and said, "Well, the Trinidad  
15                  project, Mr. President, has always been near  
16                  and dear to Judge Chenowith's heart," and this  
17                  met the support of President Johnson and  
18                  resulted, according to this story, which I  
19                  hope is not apocryphal, but it may be, in the  
20                  construction of the Trinidad Reservoir.

21                   Now, many times, in the last 5 years  
22                   particularly, I have called David and said,  
23                   "David, I sure want, especially if this is a  
24                   good, wet year, to get Trinidad full, and I'd  
25                   like to see it done without injury to the

1 State of Kansas, but I want you to know that  
2 I'll be making these telephone calls, and if  
3 you object, you know that I won't make them.  
4 Furthermore, that when I make the calls, I'm  
5 going to preface them the same way that I'm  
6 making the call to you, and that is if it can  
7 be done without injury to the State of Kansas,  
8 I would like to see Trinidad spill." And a  
9 glorious thing happened. We had a marvelous  
10 wet year, but Trinidad didn't spill, and I  
11 don't know all the reasons. Maybe it's just  
12 as well I don't know any of the reasons, but  
13 it strikes me within the -- within the  
14 expertise and the knowledge and the science  
15 and the technology that's encompassed in this  
16 room, there ought to be a way in which during  
17 a wet year, Trinidad Reservoir could fill and  
18 spill and thus give the reward to Judge  
19 Chenowith that President Johnson wanted to  
20 give to him on the occasion of his retirement.

21 After all, Carl Hayden of Arizona,  
22 on his 90th birthday in the Senate, while he  
23 was being walked into the Senate on every trip  
24 by a man on each side with a wheelchair out  
25 and being told by his staff which way to vote



1 and so forth, the United States Congress gave  
2 him the Central Arizona project for a 90th  
3 birthday present. I would think that allowing  
4 that vessel on the Purgatoire River to fill  
5 with water a couple of times would be a tiny  
6 gift in comparison to that which the Congress  
7 awarded to Arizona, but I guess maybe I'm  
8 showing my Colorado point of view on that one,  
9 David, and kind of on ground that has the  
10 capability of being quicksand or shaky, but I  
11 cannot adequately express my gratitude to  
12 David and to the State of Kansas for allowing  
13 me to play that role, but part of the role is  
14 that I believe that the reservoir can be  
15 filled with water and allowed to spill without  
16 there being injury to the State of Kansas by  
17 the cooperation and the science and the  
18 knowledge of both states. If water is -- if  
19 under Colorado, water can play musical chairs  
20 with its water as being switched from one  
21 container to another, I would hope that there  
22 would be a manner in which water could be put  
23 into Trinidad Reservoir without depletion of a  
24 drop of water.

25 Before I get to my last point, and

1 I'm not using up quite as many minutes as I  
2 asked Larry for a second ago, I wish to state  
3 to all of you how delighted and pleased and  
4 proud I am of what one thing that I may have  
5 helped to accomplish, and that is the travel  
6 time study on the Purgatoire, whose  
7 preliminary results I find to be startling and  
8 amazing, and David, different somewhat from  
9 the folklore of that river. It had been, I  
10 think, treated by most of us as a canyon of  
11 125 miles or a long one that was sort of a  
12 Bermuda Triangle; that if water went into that  
13 area, who knows where it would come out, when  
14 it would come out, and the preliminary results  
15 of the transit loss study indicate it isn't  
16 near as much of a Bermuda Triangle as any of  
17 us had previously thought, and that a study of  
18 that river came up with results that I think  
19 will be useful to the Compact from here on,  
20 and I think and I hope that it leads to a --  
21 to a better and more knowledgeable, more  
22 equitable manner for the administration of  
23 waters in the Arkansas River if the improved  
24 knowledge of the hydrology and the  
25 characteristics of the Purgatoire River are

1 known, rather than treated as a great  
2 mysterious unknown. This may allow for more  
3 water for the benefit of all. I hope that it  
4 does.

5 The next point and the last point  
6 that I wish to talk to you about contains an  
7 element of bragging because it happened on my  
8 watch, but the -- I think there is a lesson to  
9 be had for this group from what I believe is  
10 the pretty near unqualified or nearly  
11 unquestioned success of the account system.  
12 It's a dangerous thing for anyone to give  
13 credit to the account system, but we know that  
14 Duane Helton had a significant share in  
15 writing the account system; that Carl Bentrup  
16 was at least a godfather, if not more, of the  
17 account system in John Martin; that Howard  
18 Corrigan, a man whom I loved and respected  
19 with all my heart, was significant in working  
20 out the account system. Was Bill McDonald one  
21 of the -- no, it wasn't Bill. Who was it?  
22 Larry Sparks was influential in doing this and  
23 it had the cooperation of both states and it's  
24 worked, I believe, substantially to the  
25 benefit of both states.

1 I haven't got to the point yet, but  
2 I'll try to, but I want to digress. I want to  
3 digress for another minute. In my limited  
4 knowledge and view, it strikes me that the  
5 account system is not strictly in accordance  
6 with the water law of the West or of any  
7 particular state, but is rather an agreement  
8 of a way in which to make a river system more  
9 effective by the cooperation of all. I think  
10 that is a worthy thing, and worthy of  
11 emulation by the Compact Administration. I  
12 believe that the Compact is going to be a  
13 working unit and a working body after the  
14 conclusion, the playout of the present  
15 litigation, and that it may be here for many,  
16 many, many, many decades.

17 I envision that there may be ways,  
18 by the cooperation of both states in the  
19 future, to further utilize the water in the  
20 river by agreement within the Compact to the  
21 benefit of all. I have no specifics. One of  
22 the ones that is floating around in the back  
23 of my limited knowledge or experience is in  
24 finding ways that the more efficient use of  
25 water can be utilized in part to the benefit

1 of that person who is using water more  
2 efficiently. Too often in the water law of  
3 the West, we have the "use it or lose it"  
4 problem, so that if someone determines to  
5 conserve water, he places the water he  
6 conserved at risk. If there be ways in which,  
7 by mutual understanding, water can be utilized  
8 so that that person who is making better use  
9 of the water is rewarded rather than punished,  
10 that may work to the benefit of all of us and  
11 to the fellow out on the ditch who, after all,  
12 is of great concern to each of us.

13 I thank you very sincerely for the  
14 opportunity of talking to you one more time.  
15 I want to tell you how immensely I enjoyed the  
16 job and the courtesies and the friendships  
17 that have grown thereupon. I wish you all  
18 well. I wish Larry well, and thank you and  
19 God bless you all.

20 (Applause.)

21 CHAIRMAN LARRY TRUJILLO: Thank you  
22 very much, Chairman Cooley, and at this time,  
23 I'd like to ask both the other members of the  
24 Compact, do you have any remarks that you'd  
25 like to make? Go ahead, David.

1 MR. DAVID POPE: Thank you,  
2 Mr. Chairman. After the comments that our  
3 distinguished outgoing chairman has made, it's  
4 always difficult to come up with words to  
5 express oneself. I would simply just like to  
6 express appreciation personally and on behalf  
7 of the State of Kansas and those members of  
8 the Administration and other participants I'm  
9 sure, over the years, for your leadership,  
10 Frank, and for your humor; for your ability to  
11 conduct proceedings in a way that we were able  
12 to make some progress on a number of issues  
13 and agree as gentlemen on things that we  
14 weren't able to resolve as well, so it's with  
15 a great deal of respect and appreciation that  
16 I commend you for your service. We wish you  
17 well in the future and hope that you will stay  
18 in contact.

19 MR. FRANK COOLEY: Thank you.

20 MR. CHUCK LILE: Thank you,  
21 Mr. Chairman, and Mr. Cooley, I appreciate the  
22 time that I've been able to serve on the  
23 Administration with you, and although my time  
24 has been limited, I know that my fellow  
25 Compact commissioners have had more

1 opportunity to serve with you and I would like  
2 to turn the microphone over to them, because  
3 each one of them would like to express their  
4 views, and I appreciate that opportunity.

5 MR. JIM ROGERS: Frank, it has been  
6 a pleasure working with you through the years.  
7 We have accomplished things and it has been to  
8 the point to where I think it would have got  
9 awful stagnant if you wasn't here with your  
10 humor. Thank you.

11 MR. CARL GENOVA: Frank, I'd just  
12 like to say how much I appreciate your efforts  
13 down through the years. You've done a  
14 wonderful job. I wish you well in the future.

15 MR. CHUCK LILE: Mr. Chairman, I  
16 might add that there will be a luncheon. We  
17 will be adjourning for a luncheon before noon  
18 in honor of Mr. Cooley and look forward to  
19 having the chance to make further comments on  
20 the fine work that Frank Cooley has done for  
21 the Arkansas River Compact.

22 CHAIRMAN LARRY TRUJILLO: Thank you,  
23 gentlemen. Frank, I've just met you today,  
24 but I feel like I've known you for a long time  
25 because of your graciousness and the fact that

1 you've had many conversations with me and the  
2 ideas and the guidance you've given me of  
3 various people to contact in the last few  
4 weeks, and I thank you from the bottom of my  
5 heart for that. It would have been even  
6 harder to get started without your guidance  
7 and counsel, and I thank you again, sir.

8 What we're going to do at this  
9 point, we're at Item 10 on the agenda on Page  
10 3. Unless there is objection by the members  
11 of the Compact, we will have that item come  
12 before the Compact first thing after lunch.  
13 What we will do is go to Item Number 11. Upon  
14 completing that, we will adjourn for lunch at  
15 11:30. Lunch will be served and then we will  
16 reconvene at 12:45. Are there any objections  
17 to those changes in the agenda? There being  
18 none, we'll proceed to go to Item Number 11,  
19 the Trinidad project, Chuck.

20 MR. CHUCK LILE: We need to or I  
21 think that we need to do Item 11. a., which  
22 pertains to the ten year review of the  
23 operating principles. Do you need to expand  
24 on that further, Tom, than what we have  
25 already? Do you feel there's any additional



1 stuff, Mr. Pope? Then I would propose that we  
2 go to -- oh, yes.

3 MR. SANDY MACDOUGALL: My name is  
4 Sandy MacDougall. I represent the Purgatoire  
5 River Water Conservancy District. I would  
6 merely like to remind the Compact  
7 Administration that there are really two  
8 proposals up for the ten year review of  
9 operating principles. We proposed a proposed  
10 amendment after the five year review, which  
11 was approved by the Bureau and by the  
12 District. It was tendered to Kansas and never  
13 approved. The City of Trinidad has also got a  
14 proposal that was tendered to the Engineering  
15 Committee and has never been approved. So  
16 there are really going to be three different  
17 items under review, and I would like to remind  
18 the Administration of that fact. The three  
19 different things that will be under review are  
20 of course what happened after the five year  
21 review; what needs to happen as a result of  
22 the ten year review; and then Trinidad's  
23 proposals for its reuse of water, that is  
24 project water, for municipal and industrial  
25 purposes, so I want to remind you there are

1 three things that we should do.

2 MR. CHUCK LILE: Thank you,  
3 Mr. MacDougall. At this time, I would like to  
4 call on Wendy Weiss of the Attorney General's  
5 office to propose a resolution that Colorado  
6 will be making concerning the Trinidad  
7 project. Wendy?

8 MS. WENDY WEISS: Colorado was  
9 prepared to propose a resolution today  
10 establishing or endorsing an amendment to the  
11 operating principles for Trinidad Reservoir,  
12 and the amendment is pretty basic. It is to,  
13 because the Corps found additional space in  
14 Trinidad, to enlarge the recreation permanent  
15 pool, the fishery pool, from 4500 acre feet to  
16 15,967 acre feet, and also to amend the total  
17 capacity. Those are the basic changes in the  
18 operating principles that we were proposing,  
19 so that Parks would be able to fill that pool  
20 by exchange this coming year.

21 We've been discussing our proposed  
22 resolution with the State of Kansas. I think  
23 we have conceptual agreement on some  
24 conditions for allowing that exchange to go  
25 forward and that additional space to be filled

1 the nature of this issue, that we would both  
2 again like to look at the specific language,  
3 and since that's not possible to have before  
4 us today, that the telephonic meeting is  
5 probably the appropriate way to proceed.

6 CHAIRMAN LARRY TRUJILLO: Mr. Draper?

7 MR. JOHN DRAPER: Thank you,  
8 Mr. Chairman. What Ms. Weiss has said is  
9 correct. We have been working on a specific  
10 proposal to implement the proposal with regard  
11 to the additional space for the recreational  
12 pool at Trinidad Reservoir, and I think we are  
13 in conceptual agreement about what the terms  
14 should be and we need some time to work out  
15 the details, but to give you and the other  
16 members of the Administration the outline of  
17 what we are intending to finalize, we have  
18 been working off a draft resolution proposed  
19 by the State of Colorado that would embody the  
20 specific proposals that were made by the Corps  
21 of Engineers with respect to changes to the  
22 Operating Principles, together with a  
23 recognition that the act of amending the  
24 Operating Principles for Trinidad for the  
25 Trinidad Project required the -- or requires

1 the concurrence of all the parties who  
2 participated in the original adoption of the  
3 Operating Principles, and with certain  
4 conditions that have been proposed by Mr. Lile  
5 in his letter of December 6th, which we have  
6 adapted to the -- or are in the process of  
7 adapting to the formal language of the  
8 resolution, I think that covers the essential  
9 features of the resolution that we intend in  
10 the near future, at the latest by the end of  
11 January, to bring before the Administration by  
12 means of a telephonic meeting with your help  
13 for approval, and then subsequent execution of  
14 the actual hard copy document signifying that  
15 agreement. Thank you, Mr. Chairman.

16 MS. WENDY WEISS: I think that is an  
17 accurate summary of where we are and what  
18 we're agreeing to, and I'm hopeful that we'll  
19 be able to read the specific language and  
20 bring that before the Administration at the  
21 special meeting.

22 MR. CHUCK LILE: Mr. Chairman, if I  
23 may, I appreciate Kansas's willingness to work  
24 with us on this issue and I certainly in  
25 retrospect, thinking of Mr. Cooley's remarks

1 about Trinidad Reservoir, this doesn't spill  
2 Trinidad Reservoir, but it will go a long way  
3 to improving the pool. We appreciate your  
4 help and we will certainly concur that that's  
5 how we should proceed.

6 MS. WENDY WEISS: John, could I add  
7 one thing to that? I do want to make it clear  
8 that as we proceed, we will be coordinating  
9 with the Purgatoire District and with Parks  
10 and that they will have input on these drafts  
11 as we exchange them, so we do anticipate  
12 having their involvement also.

13 CHAIRMAN LARRY TRUJILLO: Thank you.  
14 We then will take up Item 11. b. when prepared  
15 and ready for the special meeting that we  
16 anticipate in January. What about the other  
17 two items? Are you going through those; the  
18 five year and the ten year?

19 MR. STEVE MILLER: I'm sorry. I was  
20 thinking maybe I could get rid of Item 12 and  
21 possibly even take care of 13.

22 CHAIRMAN LARRY TRUJILLO: Was any  
23 further action needed on Item a.?

24 MR. SANDY MACDOUGALL: Mr. Chairman,  
25 I think the further action needed now is for

1 the Bureau to commence its scoping work and  
2 for further meetings to occur among the  
3 parties on the ten-year review of the  
4 principles, because I think it's all -- I hope  
5 it's all going to get put together in one  
6 package and accomplished, so we don't do it  
7 piecemeal.

8 CHAIRMAN LARRY TRUJILLO: So we  
9 won't have to address that issue any further  
10 here. Mr. Miller, did you want to go into  
11 Item 12?

12 MR. STEVE MILLER: Is there  
13 something that needs to be done between 11:00  
14 and 11:30?

15 CHAIRMAN LARRY TRUJILLO: No, we can  
16 continue.

17 MR. STEVE MILLER: Would you mind  
18 trying to take care of a couple items?

19 MR. DAVID POPE: Mr. Chairman, I  
20 think we could proceed perhaps with Item 12,  
21 but if we actually adjourn somewhat ahead of  
22 11:30, it might be helpful for us to have some  
23 time to caucus and have some additional  
24 discussion on getting ready for Item Number  
25 10, and I think some us also need to check

1 out, and so I don't think it would be a waste  
2 of time to adjourn a little before 11:30.  
3 Maybe we might -- how long would it take,  
4 Steve, on your --

5 MR. STEVE MILLER: I believe I can  
6 do 12 in about two minutes and Wendy can  
7 probably do 13 in about two minutes.

8 MR. DAVID POPE: Why don't we  
9 proceed with those?

10 CHAIRMAN LARRY TRUJILLO: Let's  
11 proceed with Item 12 and Item 13. We'll  
12 adjourn immediately after Item 13 and  
13 reconvene at 12:45.

14 MR. STEVE MILLER: Thanks. Steve  
15 Miller with the Colorado Water Conservation  
16 Board. I just wanted to update the  
17 Administration on the preparation of the  
18 annual reports. I'm disappointed I didn't get  
19 this done before Mr. Cooley left. It's a  
20 problem for the new chairman, but we should  
21 have all the backlog on the reports removed  
22 soon. In the back of the room, the '89 and  
23 the '90 reports have been printed and are  
24 available for picking up. I haven't formally  
25 transmitted that to the members of the

1 Administration. I will do that when I get  
2 back to Denver tomorrow. The 1991 report is  
3 currently out for review by both states, and  
4 I'm expecting a phone call any day telling me  
5 that that one is ready to print, and then in  
6 rapid succession, January, February, March,  
7 I'd like to do '92, '93 and '94, so that by  
8 the end of this fiscal year, we are back on  
9 schedule, and we'll do the 1995 report prior  
10 to coming together for the meeting next year.

11 I've got two invoices which I'll  
12 give to the treasurer in a few moments, and  
13 that's \$4500 approximately. One other item  
14 that has to be taken care of, I believe, and  
15 we can probably do that informally after  
16 lunch, is draft a letter to the President of  
17 the United States and the governors of the two  
18 states to transmit the annual reports that  
19 have been completed. Maybe we could agree on  
20 some language to put in that and make kind of  
21 a standard letter that we do for each of these  
22 reports as they become ready.

23 The other thing I want to do is  
24 thank Kansas for reviewing the reports so  
25 quickly once I finally got them out in



1 circulation. If we can follow through on that  
2 a couple of more months, we should be over the  
3 hump on that. Thank you.

4 MR. CHUCK LILE: I would just like  
5 to say thanks, Steve. Appreciate all the  
6 efforts you're making on this. He's been  
7 working real hard to get this done, and I  
8 appreciate all the efforts that your state is  
9 doing to help us get everything finalized.

10 CHAIRMAN LARRY TRUJILLO: Thank you.  
11 We'll go to Item 13, Ms. Weiss.

12 MS. WENDY WEISS: Status report on  
13 the Highland and Nine Mile cases. I think  
14 when I reported to you last year, I said that  
15 these cases were before the Colorado Supreme  
16 Court. A year has gone by and they're back in  
17 front of the Colorado Supreme Court. What has  
18 happened in the interim is this:

19 First let me just give you a very  
20 brief background on the cases. They are  
21 cases, consolidated cases, that challenge the  
22 validity of the 1980 Operating Plan. The  
23 Division Engineer issued orders to those  
24 ditches when water had been transferred fully  
25 from conservation storage to accounts, and

1 they refused to comply with those orders.  
2 Their argument is the 1980 Operating Plan and  
3 the Administration's authority to adopt.

4 We initially tried that case in the  
5 Division 2 Water Court in front of Judge  
6 Tracy. He ruled that Highland and Nine Mile  
7 did not have, in legal terminology, standing  
8 to challenge the 1980 operating plan because  
9 it didn't cause injury to them and in fact  
10 benefited them, and so he did not rule on  
11 whether the operating agreement was valid or  
12 not.

13 They appealed that decision to the  
14 Colorado Supreme Court and the Colorado  
15 Supreme Court held earlier this year that in  
16 fact Highland and Nine Mile do have standing  
17 to challenge the 1980 Operating Plan, and the  
18 Court remanded the case to the Water Court to  
19 make a decision as to whether the Operating  
20 Plan was valid. The Supreme Court did not  
21 rule on that issue. It simply said that the  
22 issue was properly in front of the Division 2  
23 Water Court and that Judge Tracy could decide  
24 that issue, so the case went back before Judge  
25 Tracy.

1                   We did not have to have any  
2 additional trial taking of evidence because we  
3 had done it already. Judge Tracy received  
4 additional briefs and he ruled that the 1980  
5 Operating Plan is valid and is properly used  
6 by the Division Engineer in administering  
7 water rights on the Arkansas basin. Highland  
8 and Nine Mile then appealed that decision.  
9 It's now back before the Colorado Supreme  
10 Court. Initial briefs have been filed with  
11 the Court. Highland and Nine Mile have an  
12 opportunity to file a reply brief.

13                   One thing that I think is very  
14 significant is that a number of Colorado water  
15 organizations have filed amicus curiae briefs  
16 in the Colorado Supreme Court expressing their  
17 support for the 1980 Operating Plan. The  
18 Colorado Water Conservation Board filed briefs  
19 and other briefs were filed by LAWMA and  
20 Colorado Beef, by the District 67 ditches, and  
21 they were joined by Fort Lyon, I believe, and  
22 I think one other water user filed a brief,  
23 and I'm drawing a blank on it at the moment.  
24 Southeastern District also filed an amicus  
25 brief, so I think -- I think it's very

1 important that the Supreme Court is now going  
2 to know that this 1980 Operating Plan is not  
3 simply the invention of the Administration,  
4 but it's something the water users strongly  
5 support.

6 What will happen now is that  
7 Highland and Nine Mile will have an  
8 opportunity to file a reply brief and then I  
9 will expect that in the next few months, the  
10 Supreme Court will set the case for argument  
11 and hear arguments and then decide the case.  
12 Time frame is really very variable. I can't  
13 say that I'll have an answer by the start of  
14 next irrigation season, but we'll have it  
15 probably within a year, but it's very hard to  
16 estimate time here, because it varies greatly.  
17 That is my report. If anyone has any  
18 questions, I'll be glad to answer them.

19 Steve brings up that we have  
20 separate counsel for ARCA because initially,  
21 before these enforcement actions, there was a  
22 case filed by Highland and Nine Mile against  
23 various entities, including the  
24 Administration, in federal court. That case  
25 has been stayed for a number of years now

1 while the state proceedings go on. We do have  
2 it on the agenda for executive session. I  
3 don't believe there's anything I have to  
4 report in executive session that I haven't  
5 told you here publicly, but if there are  
6 Administration members who want to ask  
7 questions in executive session, we can  
8 certainly go into executive session and I can  
9 respond to those questions, but that case  
10 remains stayed while we resolve it in the  
11 state court.

12 CHAIRMAN LARRY TRUJILLO: Do you  
13 have any questions for executive session?

14 MR. DAVID POPE: I don't believe we  
15 do.

16 MR. CHUCK LILE: I don't believe we  
17 have any questions.

18 MS. WENDY WEISS: Then we can remove  
19 that item from the agenda.

20 CHAIRMAN LARRY TRUJILLO: At this  
21 point, we'll adjourn and reconvene promptly at  
22 12:45 to complete the agenda. Thank you very  
23 much, folks.

24 (The meeting was adjourned for lunch  
25 at 11:15 a.m.)

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(The meeting resumed at 1:00 p.m.)

CHAIRMAN LARRY TRUJILLO: The meeting will come back to order, and before we go into Item 10, we would please entertain a motion on the resolution that was proposed during lunch hour. Chuck.

MR. CHUCK LILE: Thank you, Mr. Chairman. For those of you who attended lunch, which was the majority of the Compact Administration, I would like to now move the resolution which was read at lunch be admitted into the record of the Arkansas River Compact Administration to be included in those records with the appropriate actions as outlined in the resolution honoring Mr. Frank Cooley as our past chairman. So move.

MR. DAVID POPE: Mr. Chairman, I'd be happy to second the motion for the adoption of the resolution honoring Mr. Cooley. After we proceed by that item, I think we may want to talk about exhibit numbers, but why don't we go ahead and take care of the action.

CHAIRMAN LARRY TRUJILLO: Fine. Thank you. Are there any objections to the motion to adopt the resolution and that it be

1 reprinted in its entirety for the record?  
2 There being none, the motion is adopted and  
3 the resolution is hereby adopted. Dave.

4 MR. DAVID POPE: Mr. Chairman, and  
5 for the benefit of the court reporter and for  
6 our record, it may be helpful before we  
7 proceed further to review the documents that  
8 would be made exhibits of the record of this  
9 meeting. Let me run through those, and if  
10 Steve or Lee or others here can keep me  
11 straight, I have down as Exhibit A would be  
12 the agenda for the meeting. Exhibit B would  
13 be the report of the Operations Secretary, and  
14 let me pause and say I'm a little unsure about  
15 whether that has in the past become an  
16 attachment to the minutes or not, or does that  
17 stand on its own?

18 MR. STEVE MILLER: You're talking  
19 about the full one-inch report? I don't  
20 believe we've ever made that a part of the  
21 minutes. I don't think we've even made the  
22 title page a part of the minutes.

23 MR. DAVID POPE: I think we can skip  
24 that, then. I guess what I was really  
25 thinking of was the report from the committee

1 and we really didn't have a written report  
2 from any of the committees, so we can pass  
3 over that. Item B then would be the written  
4 report that was distributed by the Corps of  
5 Engineers?

6 MR. STEVE MILLER: I want to back up  
7 one. I see there's a part of an attendance  
8 list there and I have a part of an attendance  
9 list. Our paper doesn't match, but I think we  
10 want to get that as an exhibit.

11 MR. DAVID POPE: Let's go ahead and  
12 make the attendance list then Exhibit B, and  
13 we need to make sure that we have the complete  
14 list. If there are those in the audience that  
15 have not signed that, I think this would be a  
16 good time, Mr. Chairman, for them to get their  
17 name on before we leave today.

18 CHAIRMAN LARRY TRUJILLO: Yes.

19 MR. DAVID POPE: If that's Item B,  
20 then Item C would be the report from the Corps  
21 of Engineers. I believe that would then make  
22 Item D the report by the USGS Geological  
23 Survey, and then that should bring us up to  
24 Exhibit E, which could then be the resolution  
25 we just acted on honoring Frank Cooley. That



1 should bring us up to date, if I'm correct.

2 CHAIRMAN LARRY TRUJILLO: Are there  
3 any other exhibits that anyone knows about?  
4 Okay. Thanks a lot, Dave. I guess at this  
5 time, we'll visit Item 10, proposals for  
6 augmentation storage at JMR, the John Martin  
7 Reservoir. Are you ready to proceed on that?

8 MR. CHUCK LILE: Mr. Chairman,  
9 Colorado has a proposal which we would like to  
10 have Mr. Dennis Montgomery of our counsel read  
11 and discuss with the Compact Administration.

12 CHAIRMAN LARRY TRUJILLO: Mr. Mont-  
13 gomery.

14 MR. DENNIS MONTGOMERY: Thank you.  
15 For the record, my name is Dennis Montgomery.  
16 By letter dated November 14th, 1995, Mr. Lile  
17 submitted a request by the State of Colorado  
18 to establish an account in John Martin  
19 Reservoir for the purpose of storing water to  
20 replace past depletions to usable Stateline  
21 flow caused by post-Compact well pumping in  
22 Colorado and to prevent future depletions to  
23 usable Stateline flow caused by post-Compact  
24 well pumping in Colorado.

25 On December 4th, Mr. Pope submitted

1 a letter to Mr. Cooley and to Mr. Trujillo  
2 enclosing a draft resolution that Kansas  
3 proposed to govern this account, and on  
4 December 6th, Colorado submitted a draft  
5 resolution for a storage account in John  
6 Martin Reservoir.

7 At the Engineering Committee meeting  
8 last night, we had considerable discussion  
9 about the differences between the two  
10 resolutions. Mr. Pope and I had considerable  
11 discussion, and I think we hopefully have at  
12 least addressed some of the concerns that  
13 Kansas had about the Colorado proposal.

14 This morning, I presented a copy of  
15 a revised resolution for a storage account in  
16 John Martin Reservoir that attempts to respond  
17 to many of the concerns that were raised by  
18 Mr. Pope last night. I will not attempt to go  
19 through all the reasons that are set forth in  
20 the resolution for the creation of this  
21 account.

22 I do want to mention two things for  
23 people in the audience, however, and that is  
24 first of all, in July of 1994, Special Master  
25 Arthur Littleworth concluded that post-Compact

1 well pumping in Colorado had depleted usable  
2 Stateline flows of the Arkansas River in  
3 violation of the Arkansas River Compact. In  
4 an opinion that was issued by the U. S.  
5 Supreme Court on May 15th, the Supreme Court  
6 agreed with the Special Master's determination  
7 and overruled exceptions that both states took  
8 to the Special Master's report.

9 In response to the U. S. Supreme  
10 Court's decision and the Special Master's  
11 report, in September of this year, the  
12 Colorado State Engineer, Hal Simpson adopted  
13 proposed amended rules and regulations to  
14 govern the diversion of groundwater in the  
15 Arkansas River basin in Colorado, and those  
16 rules require that effective April 1st of  
17 1996, that well users who pump from the valley  
18 fill aquifer and its off channel bench  
19 aquifers that were the subject of the evidence  
20 and the modeling in Kansas versus Colorado  
21 replace depletions to usable Stateline flows  
22 caused by post-Compact well pumping. The  
23 purpose of this account is to provide an  
24 effective means by which well users in  
25 Colorado could replace depletions to usable

1 Stateline flow and protect water users in  
2 Kansas from depletions from post-Compact well  
3 pumping in Colorado.

4 I think it might be helpful to the  
5 Administration members if I identified the  
6 changes that were made in the resolution we  
7 presented today to make sure that the Kansas  
8 representatives and the attorneys and  
9 engineers understand the changes that we made  
10 in an attempt to respond to Mr. Pope's  
11 concerns that were expressed last night.

12 Before I do that, I would like to  
13 make as part of the record Colorado's request  
14 for the account, the letter submitted by  
15 Mr. Lile. I'd like to have the resolution,  
16 the draft resolution that Colorado submitted,  
17 which is dated November -- or December 6th  
18 made as an exhibit to the record, and if I  
19 might, I'd like to have the letter dated  
20 December 4th, 1995 from Mr. Pope attaching the  
21 Kansas resolution made as an exhibit.

22 With that, then I'd like to then go  
23 to the proposed resolution and identify the  
24 changes that were made in the current  
25 resolution. I think the easiest place to

1 start is on Page 4 in the "Now therefore"  
2 clause. The language of the clause  
3 establishing the account has been simplified,  
4 and in particular, we eliminated the language  
5 that said that water could be stored to  
6 prevent or replace future depletions to the  
7 inflows to John Martin Reservoir.

8 We did that in response to  
9 Mr. Pope's concern that he expressed last  
10 night about the proposal to permit transfers  
11 from this account to Article II accounts or to  
12 conservation storage. There was concern that  
13 by allowing these transfers, that the  
14 transfers would get complicated and they'd  
15 have difficulty tracking transfers of water,  
16 so we've eliminated that as an option for this  
17 account.

18 The next change occurs in Condition  
19 Number 3. I'm sorry. Condition Number 4.  
20 Paragraphs 1, 2 and 3 of the resolution did  
21 not change. Condition Number 4, based on the  
22 discussion last night, has been changed  
23 considerably. We added a provision that would  
24 allow Kansas to demand release of water  
25 contained in this account for delivery to the

1 Stateline at any time, at whatever rate it  
2 desires, with the condition that Colorado  
3 would get credit for the delivery of water to  
4 the Stateline as a reduction or a replacement  
5 of depletions to usable Stateline flow.

6 The advantage of this provision from  
7 our standpoint, and I think the way we see it  
8 working for Kansas, is that Kansas could  
9 decide at what time and at what rates it  
10 wanted to call for a release of water from  
11 this account, so it could call for water from  
12 this account at a time when it would be most  
13 usable to water users in Kansas. That would  
14 give substantial flexibility to water users in  
15 Kansas to make calls against this account, and  
16 all we're asking is that if Kansas calls for  
17 the water, we get credit as a reduction of a  
18 depletion to usable Stateline flow when it  
19 gets to the Stateline.

20 Now, we all know that we do not have  
21 a method at this time to determine what the  
22 depletions to usable Stateline flow will be  
23 for the next year. We're currently proposing  
24 to use the Kansas Hydrologic-Institutional  
25 Model, but at the present time, that model is

1 always being run after the fact, and given the  
2 data requirements for that model, it's taking  
3 up to a year before a model can be run to  
4 determine whether there were depletions from  
5 the past year, so during 1996, we won't have  
6 any way of knowing the exact amount or whether  
7 there are depletions to usable Stateline flow  
8 during 1996.

9 The advantage of having this account  
10 is that it would put an amount of water that  
11 could be called for at the discretion of  
12 Kansas and delivered to the Stateline at a  
13 time when it would be usable, and the Kansas  
14 Chief Engineer would have the discretion to  
15 call for that water.

16 If it turned out, after running the  
17 model or whatever other method we determined  
18 to determine depletions to usable Stateline  
19 flow, that the releases called for exceeded  
20 the amount of depletions calculated by the  
21 model for that year, we would just get a  
22 credit against our past depletion to usable  
23 Stateline flows, so that we could handle  
24 the -- if there was an overdelivery, if there  
25 was not sufficient water called for out of the

1 account, well then, there would be a debit  
2 that the well owners might owe to Kansas, but  
3 at least if there was water in the account,  
4 there wouldn't have been any practical injury  
5 to water users in Kansas, because they had a  
6 source of water in the account but it was not  
7 called for.

8 Paragraph 5, there was one change  
9 where we deleted. The original language had  
10 said "releases or transfers from this  
11 account." We've eliminated the provision for  
12 transfers because of the concern expressed by  
13 Mr. Pope.

14 Paragraph 6, there was a change.  
15 The language had originally stated, in the  
16 second sentence, "Releases shall be measured  
17 at the Stateline as provided in Compact  
18 Article V. E. 3." Mr. Pope raised a concern  
19 about that language as provided in Compact  
20 Article V. E. 3., and so we've deleted that.

21 Paragraph 7 in our proposed  
22 resolution had permitted transfers of water  
23 from the account. We deleted that provision,  
24 based on Mr. Pope's concern, and instead  
25 inserted a limit on the size of this account



1 to 20,000 acre feet, based on the proposal  
2 submitted by Kansas.

3 In Paragraph 9, we had deleted the  
4 second sentence in the Colorado proposal,  
5 which stated, "Accounting under this  
6 resolution shall not be conclusive in any  
7 court or before any agency or tribunal, but  
8 shall constitute prima facie evidence of the  
9 facts found." Mr. Pope had indicated he had a  
10 concern about that sentence, so we've deleted  
11 that.

12 In Paragraph 12, we deleted language  
13 that stated, "Water in this account may be  
14 released if it was not needed to replace past  
15 depletions to usable Stateline flow." The  
16 Kansas proposal had limited the use of this  
17 account to replacement of future depletions  
18 and didn't want water that is stored in this  
19 account to be used to replace past depletions.

20 While we think we -- I think from  
21 the other changes, we've responded to that  
22 concern, like limiting the amount that can be  
23 stored and by handling the way credits are  
24 obtained for deliveries from this account. We  
25 would only take credit for a release to the

1 Stateline as a reduction in a past depletion  
2 in the event that the releases exceeded the  
3 amount of the depletions to usable Stateline  
4 flow in any year that the releases were made.

5 Paragraph 13 is an attempt to  
6 compromise between the two resolutions that  
7 were submitted. The Kansas proposal was to  
8 establish an account for one year only, for  
9 Compact Year 1996. The Colorado proposal  
10 would have established an account which could  
11 be terminated by the Administration, but  
12 Mr. Draper had indicated a concern about  
13 establishing an account that could only be  
14 terminated upon the unanimous consent of the  
15 Compact Administration.

16 We've tried to handle that by  
17 creating an account for five years. Our  
18 concern with establishing an account that's  
19 only valid for one year is that for Compact  
20 Year 1996, we won't know what the depletions  
21 are to usable Stateline flow, because the  
22 tool -- first of all, we don't have any method  
23 to determine what those depletions are.  
24 That's been agreed upon by Colorado and Kansas  
25 at this time. The tool we have been using,

1           which is the Kansas model, you have to  
2           complete the water year, the Compact Year, and  
3           then you have to collect the data before you  
4           can run the model to determine what the  
5           depletions were during that year, so we find  
6           the one-year account not a very workable  
7           concept. We thought an account that's set up  
8           for five years should give a trial period.

9                       Kansas expressed some concerns about  
10           how accounting would be done, how transfers  
11           would be done or how deliveries would be made  
12           to this account, how they'd be accounted for  
13           at the Stateline. We've recognized those as  
14           concerns and we've tried to address those by  
15           setting up an account that is only good for  
16           five years.

17                      In Paragraph 14, we tried to address  
18           concerns that were raised both by Colorado  
19           water users and by Kansas on sources of water  
20           that could be stored in this account. Under  
21           our proposal that's currently before you,  
22           we've limited it to sources of water which are  
23           fully consumable could be stored in the  
24           account, with the exception that return flows  
25           from deliveries of water for agricultural

1 irrigation could not be quantified and stored  
2 in this account.

3 The Kansas proposal had limited  
4 approval, at least initially, to imported  
5 water or return flows from imported water.  
6 From our perspective, that was the least  
7 likely source of water to be stored in this  
8 account because of concerns about delivering  
9 Colorado River water to a non-Colorado River  
10 basin state. We believe there are likely  
11 sources of water that would be acquired by  
12 well users for storage in this account would  
13 be native sources of water that are fully  
14 consumable, such as Colorado Canal water that  
15 has been purchased by the City of Colorado  
16 Springs. It's been changed so the water is  
17 stored in Lake Meredith, which has been  
18 changed and is fully consumable, but that's  
19 the type of water we see as a much more likely  
20 source for storage in this account.

21 In Paragraph 15, we amended the  
22 introduction to Paragraph 15 to say, "Except  
23 as provided in Paragraph 4 above."

24 Adoption of this resolution does not  
25 constitute an admission by Kansas that any

1 release from this account is, in fact, a  
2 repayment or replacement of depletions to  
3 usable Stateline flows of the Arkansas River.  
4 The exception provided in Paragraph 4 is that  
5 if Kansas calls for a release from this  
6 account that's delivered to the Stateline,  
7 then it would be a credit as a reduction or  
8 replacement of depletions to usable Stateline  
9 flow.

10 If Colorado or well users in  
11 Colorado decided to make a release, then  
12 Kansas isn't acknowledging that that release  
13 is in fact a replacement of usable Stateline  
14 flow. That would be determined, I believe, as  
15 part of ongoing pleadings in Kansas versus  
16 Colorado or might be in some other form, but  
17 simply because a release was made at the  
18 request of Colorado wouldn't prejudice Kansas  
19 in any way from saying that the release or the  
20 water that was delivered to the Stateline was  
21 not usable.

22 That is my best effort to explain  
23 the current resolution that we have submitted.  
24 I'd be happy to answer any questions or to  
25 give the floor back to Mr. Lile to make a

1 motion, if that's what the Administration's  
2 preference would be.

3 CHAIRMAN LARRY TRUJILLO: Are there  
4 any questions of Mr. Montgomery, and does  
5 Kansas have anything to present before we move  
6 on to the motion?

7 MR. DAVID POPE: Mr. Chairman, I  
8 think we maybe do have some questions it would  
9 probably be appropriate to take up at this  
10 time. I wanted to start with going back to  
11 one of the points that you made, just to make  
12 sure I understood what you said, Dennis, and  
13 there may be other questions.

14 I was a little unsure about the  
15 changes that had been proposed that relate to  
16 Condition 12, I think it was, and I really  
17 haven't had a chance to actually compare  
18 those, but I just didn't comprehend your  
19 explanation on that particular item.

20 MR. DENNIS MONTGOMERY: Do you have  
21 a copy of the December 6th draft?

22 MR. DAVID POPE: I'm looking at that  
23 right now.

24 MR. DENNIS MONTGOMERY: The third  
25 line on Page 8 of the December 6th draft.

1 You'll see there are some changes in the  
2 current draft.

3 MR. DAVID POPE: Am I correct in  
4 saying that the language after the "or" in  
5 Line 3 has been deleted?

6 MR. DENNIS MONTGOMERY: Look at the  
7 December 6th draft. It stated that water  
8 stored in the account could be released by  
9 exchange or otherwise to avoid a spill in the  
10 event the water in the account was not needed  
11 to repay past depletions to usable Stateline  
12 flow or replace depletions to inflows to John  
13 Martin Reservoir.

14 MR. DAVID POPE: Right.

15 MR. DENNIS MONTGOMERY: Well, you  
16 had raised a concern about the transferring of  
17 water from this account to replace depletions  
18 to inflows to John Martin Reservoir, so that  
19 is not a purpose for this account under our  
20 current resolution and so we've deleted that  
21 language.

22 MR. DAVID POPE: Okay. I think I  
23 see that now. Thanks.

24 CHAIRMAN LARRY TRUJILLO: Any other  
25 questions, Mr. Pope?

1 MR. DAVID POPE: Let me ask if  
2 others have questions from Kansas while I'm  
3 looking at this for a minute.

4 CHAIRMAN LARRY TRUJILLO: Are there  
5 any questions?

6 MR. DAVID POPE: I don't think we  
7 have any further questions right now. Why  
8 don't we go ahead and proceed and see where we  
9 go from here.

10 MR. CHUCK LILE: Thank you.  
11 Mr. Chairman, Colorado would move that the  
12 resolution as explained by Mr. Montgomery be  
13 before the Administration for approval.

14 CHAIRMAN LARRY TRUJILLO: And do I  
15 hear a second?

16 MR. CARL GENOVA: Second.

17 CHAIRMAN LARRY TRUJILLO: It's been  
18 moved and seconded. Now, are you ready to  
19 vote on this or do you want further  
20 discussion, Mr. Pope?

21 MR. DAVID POPE: I think,  
22 Mr. Chairman, we may need some discussion at  
23 this point before action is called for.

24 CHAIRMAN LARRY TRUJILLO: Let's go  
25 ahead and proceed then with your discussion.



1 MR. DAVID POPE: First of all, let  
2 me indicate that I think, as Dennis had noted  
3 earlier, prior to the meeting each of us had  
4 provided proposed resolutions, and even though  
5 the time has been relatively short, we have  
6 had a chance to consider those at these  
7 meetings. The proposed changes that have been  
8 made by Colorado subsequent to our discussions  
9 last night certainly are appreciated and  
10 those, I think, begin to move the proposal  
11 substantially closer to the resolution  
12 proposed by Kansas.

13 There are still differences in those  
14 and we certainly acknowledge and appreciate  
15 your attempt to try to deal with that.  
16 Notwithstanding that, we've just barely had  
17 time to read this over. This is, in our view,  
18 an important matter. It's one that requires  
19 careful thought on our part and we're still  
20 uncertain about, or at least I am, about some  
21 of the provisions.

22 One of the issues that we also  
23 talked about, as Dennis described, was what  
24 length of time is necessary to consider the  
25 resolution. You've come back with a proposal

1 related to five years and still substantially  
2 beyond the one-year period that we had  
3 proposed in our resolution, so we've got to  
4 somehow deal with that issue.

5 I guess it would be my preference at  
6 this point to acknowledge that this is a  
7 matter that we continue to be willing to give  
8 more consideration to and hopefully some of  
9 that can occur, to the extent possible, in the  
10 weeks or whatever time frame that is  
11 necessary, but I suspect that we're going to  
12 be reluctant to support the resolution at this  
13 moment.

14 Let me ask if my colleagues or  
15 others here from Kansas have additional  
16 comments, and we can see where we go with  
17 this.

18 MR. JOHN DRAPER: Thank you,  
19 Mr. Chairman. I'm John Draper. We have been  
20 looking at the proposed resolution from the  
21 State of Colorado as it has been first  
22 submitted in response to the one that we  
23 prepared and has most recently been modified,  
24 and I appreciate the explanation by  
25 Mr. Montgomery. I think we are progressing in

1 dealing with the question of a possible new  
2 account in John Martin Reservoir to facilitate  
3 increased post-Compact pumping in Colorado,  
4 but as Mr. Pope suggests, this is an important  
5 issue and we need to give it careful  
6 consideration; more consideration than we've  
7 been able to give it in the short time frame  
8 we've had just in the discussions last night  
9 and this morning.

10 We do feel that the shorter term  
11 that we have proposed in our December 4th  
12 draft resolution is important for the reason  
13 that a short-term resolution would allow the  
14 Administration and the states to see how such  
15 an account might function and work out the  
16 mechanics of administering such an account.

17 Neither of the states in their  
18 resolutions at this point have any recognition  
19 of the need, as we see it, to follow the  
20 intent of Article I. B. of the Compact, which  
21 states that one of the purposes of the Compact  
22 is to equitably apportion the benefits of John  
23 Martin reservoir. That has been done to a  
24 certain extent in the Compact, as we  
25 understand the resolutions that look toward

1 creating a new account to facilitate  
2 additional post-Compact pumping in Colorado.  
3 That would afford new benefits from John  
4 Martin Reservoir, and we believe that if we  
5 are going to consider that in a long-term  
6 fashion, that there needs again to be  
7 equitable sharing of those benefits between  
8 the two states.

9 As we understand the present  
10 resolution proposed by Colorado, the benefits  
11 will go to Colorado, allowing it to put  
12 additional water to beneficial use beyond what  
13 was available at the time of the Compact,  
14 without providing any benefit to Kansas beyond  
15 the benefits that the State of Kansas is  
16 entitled to in the Compact itself. However,  
17 we are, as we have proposed, willing to look  
18 at a short-term account that would not deal  
19 with that longer term requirement that we see  
20 in the interest of facilitating Colorado's  
21 bringing into compliance the additional  
22 pumping that has arisen since the time of the  
23 Compact.

24 We do feel that some of the concerns  
25 that are shown by the differences between our

1 two proposed resolutions and that have arisen  
2 as a result of our discussions at the  
3 Engineering Committee meeting last night and  
4 this morning, that some of those are on the  
5 way to being resolved, and we would like to  
6 pursue this further with the State of  
7 Colorado, but unfortunately, given the  
8 complexity of the endeavor, it would be my  
9 suggestion that the states look toward further  
10 discussions subsequent to the meeting today,  
11 and if the spirit of constructive cooperation  
12 that we have seen in the discussions so far is  
13 able to continue to consummation of a  
14 resolution, that we could again bring this  
15 before the Compact Administration in an  
16 expeditious fashion if the representatives of  
17 the states were able to subsequently come to  
18 agreement on the terms.

19 Mr. Chairman, I'd turn the  
20 microphone back to Mr. Pope.

21 CHAIRMAN LARRY TRUJILLO: Any  
22 discussion?

23 MR. CHUCK LILE: Mr. Chairman, I  
24 would like to visit with the Colorado  
25 Commissioners for a moment; take a five-minute

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recess and visit.

CHAIRMAN LARRY TRUJILLO: Mr. Pope, did you have anything further before we recess for five minutes and I make some comments?

MR. DAVID POPE: No, I think that's fine.

CHAIRMAN LARRY TRUJILLO: It would appear -- first of all, thanks to both states. It appears that an awful lot of movement has taken place since last night when I listened to the engineer report. It appears to me now that there's two areas; one, the length of the proposal to be in place, and second, Kansas's feeling that maybe some additional benefit is due them or should be due them under the resolution. It appears to me that two areas need to be worked on, and I would hope that some movement would take place there before we act on the motion and try to resolve them. If the time isn't at hand today, we will still vote on the motion, unless it's withdrawn, and see where the Compact is at, but it seems that at least on the length of time, that some resolution could be arrived at.

The second matter, at least to the

1 chairman, as to the benefit that Kansas would  
2 be seeking is not clear to me, but I'm sure  
3 that that can be clarified. At this time,  
4 we'll stand for five minutes in recess.

5 (A recess was taken at 1:35 p.m.)

6 (The meeting was resumed at 1:50  
7 p.m.)

8 CHAIRMAN LARRY TRUJILLO: Call the  
9 meeting back to order. We have a motion  
10 before the Administration and a second, and  
11 Colorado asked for a recess. Chuck?

12 MR. CHUCK LILE: Thank you,  
13 Mr. Chairman. Colorado would at this time,  
14 after our caucus, we would like to amend our  
15 motion to help facilitate some of the concerns  
16 we heard from Kansas. We would like to amend  
17 Paragraph 13, where we're saying five years is  
18 the term of the account, to one year is the  
19 term of the account. Further, we would like  
20 to have Dennis Montgomery expand on some of  
21 the discussions concerning that point.

22 CHAIRMAN LARRY TRUJILLO: Mr.  
23 Montgomery.

24 MR. CHUCK LILE: Do we need a second  
25 to the amendment?

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CHAIRMAN LARRY TRUJILLO: Yes. Do I hear a second to the amendment to amend Paragraph 13 to read "one year"?

MR. CARL GENOVA: Second.

CHAIRMAN LARRY TRUJILLO: Fine. Mr. Montgomery, would you explain the amendment?

MR. DENNIS MONTGOMERY: Thank you. I would like to respond to Mr. Draper's comments about the need for what he described as equitable sharing of the benefits for the two states in creating an account in John Martin.

First of all, I'd like to say that the creation of this storage account under our proposed resolution would in no way interfere with existing storage in John Martin Reservoir. This water stored in this account would be the first to spill, so it doesn't interfere in any way with existing storage in John Martin Reservoir.

With regard to additional benefits for water users in Kansas, this account may not be essential or necessary for Colorado well owners to comply with the Compact, but on



1 the other hand, having an account in John  
2 Martin with water in it that is available for  
3 water users in Kansas to call for provides an  
4 effective means of providing protection to  
5 Kansas water users from depletions to usable  
6 Stateline flow caused by post-Compact well  
7 pumping, and under this proposed resolution,  
8 it would give Kansas water users the  
9 flexibility to call for this water at times  
10 when they most need it.

11 It would seem to me, from the  
12 standpoint of Kansas water users, that that's  
13 a substantial benefit to having water in an  
14 account that they would be able to call upon  
15 at a time when it would be most beneficial for  
16 crop production and reduce well pumping in  
17 Kansas, so I do think that there are benefits  
18 that run both ways in this account. It would  
19 allow existing well owners in Colorado to  
20 replace depletions to usable Stateline flow.  
21 It would give Kansas water users an account  
22 that they could call upon at times when it  
23 would be most needed.

24 CHAIRMAN LARRY TRUJILLO: To the  
25 amendment, there's a motion to amend the

1 resolution and a second. We'll do this by the  
2 roll call vote, unless there is an objection  
3 to that amendment, Mr. Pope.

4 MR. DAVID POPE: Let me see if  
5 there's a need for discussion here.  
6 Mr. Draper, did you have any comments on this?

7 MR. JOHN DRAPER: Yes.  
8 Mr. Chairman, if I may, with regard to  
9 Mr. Montgomery's comments, it is our view that  
10 the provision of replacement water through an  
11 account such as is proposed for John Martin to  
12 offset depletions of usable Stateline flows  
13 that would otherwise occur and would otherwise  
14 constitute violations of the Compact is  
15 essentially making Kansas whole under the  
16 Compact and helping insure that Kansas does  
17 not suffer any further violations. We do not  
18 see it as providing Kansas any material net  
19 benefit beyond what it's already entitled to  
20 under the Compact. On the other hand, it  
21 would facilitate the continuation of increased  
22 post-Compact pumping in Colorado.

23 With regard to the amendment to the  
24 resolution proposed by Mr. Lile, we appreciate  
25 the consideration in going to the one-year

1 time period, but as I have suggested to the  
2 Colorado delegation, while Kansas is confident  
3 that it can vote in favor of its own one-year  
4 resolution today, we need to take some time to  
5 analyze whether or under what conditions  
6 Kansas might be able to agree to the Colorado  
7 version of a one-year resolution and we would,  
8 even though we are not in a position today, we  
9 feel, to approve that, we would be willing and  
10 are committed to pursuing the issue further in  
11 the near future, so that if there is room for  
12 further negotiation and agreement on the issue  
13 of an account in John Martin Reservoir, that  
14 that can be realized in a expeditious time  
15 frame. With that, I will turn the mike back  
16 to Mr. Pope.

17 CHAIRMAN LARRY TRUJILLO: Mr. Pope,  
18 anything in addition?

19 MR. DAVID POPE: Just a minute.

20 CHAIRMAN LARRY TRUJILLO: While they  
21 are discussing this, I might make a point  
22 here. I guess parliamentary rules, of course,  
23 are interpreted differently by different  
24 chairpersons, but I guess for future reference  
25 for the Administration, while we're discussing

1 the amendment, I usually like a broad latitude  
2 of parliamentary procedure to let discussion  
3 flow, inasmuch as Mr. Montgomery discussed  
4 something other than the amendment that I had  
5 asked for discussion for, and I have no  
6 problem with it. It's certainly relevant to  
7 the total matter before the Administration,  
8 and certainly you also addressed a broader  
9 issue. I will never interject or try to stop  
10 discussion as long as it's relevant when it's  
11 not specific on a motion unless, of course,  
12 objected by someone on the Administration.  
13 Just thought I'd make that statement for  
14 future reference. Mr. Pope, anything else?

15 MR. DAVID POPE: No.

16 CHAIRMAN LARRY TRUJILLO: The motion  
17 is for the amendment of Paragraph 13 to one  
18 year, and I will call for the vote. Mr. Lile?

19 MR. CHUCK LILE: Colorado votes yes.

20 CHAIRMAN LARRY TRUJILLO: And  
21 Mr. Pope?

22 MR. DAVID POPE: Kansas is willing  
23 to support the amendment to the motion.

24 CHAIRMAN LARRY TRUJILLO: The  
25 amendment carries and Paragraph 13 is amended

1 to read, "one year." Now to the resolution,  
2 Mr. Lile, any further comment?

3 MR. CHUCK LILE: I would call for  
4 the question in the resolution.

5 CHAIRMAN LARRY TRUJILLO: Question  
6 being called for, again, we'll have a roll  
7 call vote. Mr. Lile?

8 MR. CHUCK LILE: Colorado votes yes.

9 CHAIRMAN LARRY TRUJILLO: Mr. Pope?

10 MR. DAVID POPE: Kansas votes no.

11 CHAIRMAN LARRY TRUJILLO: Okay. The  
12 resolution fails. Is there any further  
13 discussion regarding the matter before the  
14 commission?

15 MR. CHUCK LILE: Thank you,  
16 Mr. Chairman. If I may, I appreciate Kansas's  
17 willingness to expedite this. I understand  
18 that, as we just heard, that they want to have  
19 some time to evaluate our proposal. I would  
20 propose that Kansas consider evaluating that  
21 proposal and in early January, try to hold a  
22 special meeting of the Compact to see if we  
23 can obtain their approval. Colorado water  
24 users are in a position of having to plan for  
25 next year, and it's very important to Colorado

1 water users to know where we stand on this  
2 issue. Additionally, we would like to know  
3 what additional benefits Kansas would want to  
4 allow us to obtain this account.

5 CHAIRMAN LARRY TRUJILLO: Thank you,  
6 Mr. Lile. I would hope then that both states,  
7 if it's agreeable to you, Mr. Pope, that we  
8 bring this matter back before the special  
9 meeting, and since we're already going to have  
10 a special meeting in January regarding the  
11 Trinidad Project, I suppose we could do it at  
12 that time. Hopefully, through negotiations  
13 between the two states between now and at that  
14 time, if agreeable with the Administration,  
15 Kansas could propose, of course, the benefits  
16 that they are seeking and negotiations would  
17 start. Hopefully, you could come back with  
18 some conclusion either in agreement or at  
19 least agreeing to disagree on the matter at  
20 that point.

21 MR. DAVID POPE: Mr. Chairman, at  
22 this point, we've got to go back and reflect  
23 carefully on this matter, but I certainly --  
24 we would certainly intend to follow through  
25 with the comments that we've made earlier

1 about being willing to sit down and talk about  
2 this matter further, and we can provide a --  
3 perhaps some discussions can occur and we can  
4 give a status update, as a minimum, by the  
5 time of the special meeting that has been  
6 previously scheduled for the end of January.  
7 At this point, I'm unable to commit to exactly  
8 how far we'd be able to go at that point, but  
9 we would certainly be willing to proceed as  
10 fast as we can on this.

11 CHAIRMAN LARRY TRUJILLO: Mr. Lile?

12 MR. CHUCK LILE: David, I would hope  
13 that -- you know, I would like more than a  
14 status report. I understand that you're --  
15 you know, you need time to digest what is  
16 written here, but I would hope you would  
17 seriously consider our proposal and that you  
18 would take the time to analyze it and be  
19 prepared to give us direction as to what  
20 additional needs and additional conditions we  
21 need to place in it. We have done everything  
22 I believe we can to try to comply with your  
23 concerns, and we would hope that you would be  
24 willing to take a very serious look at this  
25 and give us a response.

1 MR. DAVID POPE: Well, I understand  
2 your comments, Chuck, and we'll make our best  
3 attempt to do that.

4 CHAIRMAN LARRY TRUJILLO: Okay,  
5 gentlemen. Then correct me if I'm wrong, but  
6 we will have some negotiation or at least some  
7 discussion between the two states prior to the  
8 special meeting in January and will revisit  
9 this matter at that point, is that correct?

10 MR. DAVID POPE: That's correct. I  
11 think perhaps, Mr. Chairman, for the record,  
12 going back to the earlier comments of  
13 Mr. Montgomery, he had made reference to the  
14 three items that would be appended to the  
15 minutes of today, and those do include  
16 Mr. Lile's letter of November 14th, the  
17 December 6th letter and draft by Colorado, and  
18 then the December 4th letter from Kansas and  
19 draft resolution, and those will be appended  
20 to this meeting's records.

21 In regard to this discussion, we do  
22 have still item 10. b. that we really haven't  
23 discussed. We've talked about the issue, but  
24 Kansas would like to, at this time, renew its  
25 offer to proceed with its proposed resolution.



1 CHAIRMAN LARRY TRUJILLO: Anything  
2 else on 10. a. before we move to 10. b. and  
3 the Kansas proposal, which I understand is  
4 really the same subject we've been talking  
5 about? Go ahead, Mr. Pope, on Item b.

6 MR. DAVID POPE: Well, I don't think  
7 it's probably necessary to have a lot of  
8 further introductory discussion about this,  
9 but we simply wanted to indicate for the  
10 record that we have proposed the Kansas  
11 alternative, and at this time, I would like to  
12 move the adoption of the Kansas resolution  
13 that was forwarded to Colorado on December  
14 4th.

15 CHAIRMAN LARRY TRUJILLO: Second?

16 MR. ROBERT BUERKLE: I'll second.

17 CHAIRMAN LARRY TRUJILLO: The motion  
18 is properly before us. Mr. Lile?

19 MR. CHUCK LILE: Thank you,  
20 Mr. Chairman. I know we've spent a lot of  
21 time on this point today. What we tried to do  
22 is there was language in Kansas's proposal  
23 which particularly pertained to transmountain  
24 water, which we cannot accept that. We tried  
25 and attempted to modify and negotiate or place

1 into the -- built, in effect, a joint motion  
2 that took elements from both states and made  
3 it workable, but because of the language as  
4 structured in the Kansas motion, I don't  
5 believe Colorado can support that, and I would  
6 like to ask Mr. Montgomery to elaborate.

7 MR. DENNIS MONTGOMERY: In  
8 particular, Colorado cannot accept the  
9 provision in the Kansas resolution which  
10 stated that deliveries from the offset account  
11 will be made upon the request of the Kansas  
12 Chief Engineer or his delegate, who shall have  
13 complete discretion as to the timing, the rate  
14 and amount of such requests, but the  
15 resolution doesn't state that Colorado would  
16 get any credit for releases which were made  
17 out of this account. That was one of the  
18 issues we attempted to address in the  
19 resolution we presented this morning, so that  
20 is at least one of the reasons we could not  
21 support the resolution that Kansas proposed.

22 CHAIRMAN LARRY TRUJILLO: Any  
23 further discussion on the motion before the  
24 Administration? If not, we will take a vote  
25 at this time. Mr. Pope?

1 MR. DAVID POPE: Kansas votes aye.  
2 CHAIRMAN LARRY TRUJILLO: Mr. Lile?  
3 MR. CHUCK LILE: Colorado votes no.  
4 CHAIRMAN LARRY TRUJILLO: The motion  
5 fails. Any further business to come before  
6 the Administration under Item 10? I would  
7 hope, gentlemen, that both states, and with  
8 the spirit of the previous chairman,  
9 Mr. Cooley, that these items can be resolved,  
10 and I feel that with the great amount --  
11 practically quoting Mr. Cooley, with the great  
12 amount of talent on both sides of this table  
13 and in the audience out there, that some  
14 resolution could come to this, and hopefully  
15 instead of having Items A and B, the Colorado  
16 resolution and the Kansas resolution, we  
17 could, at a special meeting in January, have a  
18 Colorado/Kansas resolution that we could agree  
19 to.  
20 Having said that, we'll move over to  
21 Item 15, I believe. Item 14 is no longer  
22 necessary, right, Ms. Weiss?  
23 MS. WENDY WEISS: That's correct.  
24 CHAIRMAN LARRY TRUJILLO: Thank you,  
25 ma'am. Item 15, we'll take up the approval of

1 the audit report, and who will give that?

2 MR. STEVE MILLER: I can do it.

3 Could we take maybe a two minute break so we  
4 could get some travel started? I've got a  
5 plane sitting out there that I've got to get a  
6 few people on.

7 CHAIRMAN LARRY TRUJILLO: Okay.

8 We'll take another 120 second break.

9 (A break was taken at 2:10 p.m.)

10 (The meeting resumed at 2:15 p.m.)

11 CHAIRMAN LARRY TRUJILLO: The  
12 meeting will come back to order. We will now  
13 take Item 15, the audit report for '94-'95.  
14 Mr. Miller.

15 MR. STEVE MILLER: I think I'm  
16 actually doing this for Mr. Rogers, so maybe  
17 we can do this as a team. Jim is the  
18 treasurer. Copies of the audit were prepared  
19 quite awhile ago and distributed last night.  
20 They might have gotten lost in the shuffle  
21 because we didn't have an administration  
22 committee meeting, so I've got a couple of  
23 extras here. Is everybody finding one? Jim,  
24 I think you and Chuck might have one.

25 MR. CHUCK LILE: I've got 'em right

1 here.

2 MR. STEVE MILLER: They're dated  
3 June 30th, 1995, Ark River Compact  
4 Administration Financial Statements. Two  
5 pages back is a cover letter from Anderson and  
6 Company in Lamar. Everybody finding that?  
7 Okay. Basically, I've looked at it. I think  
8 Jim's looked at it and Don Higbee's looked at  
9 it. We think it's fine and tracked the budget  
10 categories exactly, and of course, we didn't  
11 spend as much as we have budgeted, so I would  
12 recommend you accept the audit report for  
13 fiscal year '94-'95.

14 CHAIRMAN LARRY TRUJILLO: Any  
15 questions, Chuck?

16 MR. CHUCK LILE: Colorado would so  
17 move.

18 CHAIRMAN LARRY TRUJILLO: Second?

19 MR. GENE OVERTON: Second.

20 CHAIRMAN LARRY TRUJILLO: Moved and  
21 second the audit report for '94-'95 be  
22 adopted. Any objections? There being no  
23 objections, the report is adopted. Thank you  
24 very much, Mr. Miller.

25 MR. STEVE MILLER: I'm going to stay

1 here.

2 CHAIRMAN LARRY TRUJILLO: Okay.

3 Have you got Item 16?

4 MR. STEVE MILLER: Yeah, and the  
5 audit kind of sets the stage for the budget.  
6 I didn't have enough copies of this  
7 information last night, so let me circulate a  
8 few items here. You could take one of each of  
9 those and kind of pass it down.

10 MR. DAVID POPE: Is that the same as  
11 this packet?

12 MR. STEVE MILLER: Some of it is.  
13 It's not a full set. My packet last night was  
14 a little larger and I've abbreviated it,  
15 because I think the four pieces of paper that  
16 are going down the aisle right now are all we  
17 really need to do the budgets. In that set,  
18 there is a horizontal spread sheet analysis of  
19 our surplus account. There should be three  
20 different years' budget.

21 CHAIRMAN LARRY TRUJILLO: What do we  
22 need here?

23 MR. STEVE MILLER: Take one of each  
24 of the stacks. Oh, by the way, we often do  
25 this off the record, if that would be all

1 right with everybody.

2 MR. DAVID POPE: I think we could go  
3 off the record for just the informal part and  
4 then go back on for the official actions.

5 (Discussion held off the record  
6 regarding the budget calculations.)

7 CHAIRMAN LARRY TRUJILLO: Why don't  
8 we go back on the record. Okay, Mr. Miller.

9 MR. STEVE MILLER: Okay. We don't  
10 have a motion, so we're going to do the motion  
11 on the record, right? I've got the three  
12 budgets. The first is a fiscal year '95-'96,  
13 second revision, and in that I proposed that  
14 ARCA spend \$78,180; collect assessments from  
15 the states, \$30,000 from Colorado and \$20,000  
16 from Kansas. A slight addition to our income  
17 from interest on money on account. Expend  
18 from surplus \$27,180. We're going to do these  
19 as a package?

20 MR. DAVID POPE: Why don't we do  
21 them one at a time.

22 MR. STEVE MILLER: That would be the  
23 sheet you have in front of you with no  
24 changes; fiscal year '95-'96 second revised  
25 budget.

1 MR. DAVID POPE: So Mr. Chairman, I  
2 would move the -- well, if there are no  
3 changes from our adopted --

4 MR. STEVE MILLER: Oh, no. There  
5 are changes from your previously adopted --

6 MR. DAVID POPE: Let me back up on  
7 that then. I would move that we adopt the  
8 proposed changes for the fiscal year 1995-96  
9 budget entitled "Second Revision" that has  
10 just been reviewed by Mr. Miller.

11 CHAIRMAN LARRY TRUJILLO: Do I hear  
12 a second?

13 MR. CHUCK LILE: So moved, or  
14 second.

15 CHAIRMAN LARRY TRUJILLO: Any  
16 objection? The motion carries. The '95-'96  
17 second revision is adopted with the changes as  
18 stated.

19 MR. STEVE MILLER: Then the next  
20 sheet would be the '96-'97 budget, first  
21 proposed revision. On that sheet that was  
22 handed out to you, you should make one change  
23 to Item b. 1., which in print, it says  
24 \$22,350. It should be changed to \$23,350, and  
25 that change would increase the total



1 expenditures to \$64,025. The assessments are  
2 as previously approved by the Administration  
3 for that year last year at \$37,200 to Colorado  
4 and \$24,800 to Kansas. Anticipated  
5 expenditure from surplus of \$1,025.

6 CHAIRMAN LARRY TRUJILLO: Thank you.  
7 Do I hear a motion to adopt the '96-'97 first  
8 revision?

9 MR. CHUCK LILE: I would so move.

10 CHAIRMAN LARRY TRUJILLO: Second?

11 MR. DAVID POPE: Second it.

12 CHAIRMAN LARRY TRUJILLO: Any  
13 objections? The '96-'97 first revision with  
14 the changes to Item b. in the total are  
15 adopted.

16 MR. DAVID POPE: Mr. Chairman, I  
17 know of no objections. I think it might be  
18 appropriate to clarify at this time that the  
19 \$1,000 added onto the USGS joint funding  
20 agreement for Colorado would include \$500 for  
21 the addition of a crest gauge on the Big Sandy  
22 above the Amity Canal crossing, and secondly,  
23 \$500 as the additional contribution to finish  
24 up Phase 1 of the Purgatoire River transit  
25 loss study.

1 CHAIRMAN LARRY TRUJILLO: Thank you,  
2 Mr. Pope. The record will reflect that.  
3 Mr. Miller.

4 MR. STEVE MILLER: I'll note that on  
5 the budgets also. Then the last budget before  
6 you would be fiscal year '97-'98. This is the  
7 first adoption. On the printed sheet, you  
8 need to change Item b. 1., USGS Colorado  
9 District, by \$500, so it now reads \$24,000.  
10 That's to reflect the operation of the crest  
11 stage gauge that we've just approved the  
12 previous year.

13 We've also decided to hold the  
14 assessments at the level of the previous  
15 fiscal year, so change item Roman numeral II  
16 a., 1 and 2, the Colorado and Kansas  
17 assessments. Colorado would be \$37,200.  
18 Kansas would be \$24,800. The total brought  
19 into assessments would be \$62,000 rather than  
20 \$60,000.

21 With the increase in assessment and  
22 the increase in expense, my mind is shot and I  
23 can't tell you what we're spending out of  
24 surplus, so if someone can think better  
25 sitting down than I can standing up, they can

1 give the right number, but I will prepare the  
2 budget to reflect the right number.

3 MR. DAVID POPE: Mr. Chairman, I  
4 move that we adopt the fiscal year 1997-98  
5 budget as prepared with the changes described  
6 by Mr. Miller to reflect holding the  
7 assessments level at the total it is, \$62,000,  
8 and increasing the expenditure for the crest  
9 gauge by \$500 for the USGS program.

10 MR. CHUCK LILE: Second.

11 CHAIRMAN LARRY TRUJILLO: Moved and  
12 seconded. Any objections? There being none,  
13 the '97-'98 first adoption is hereby adopted.  
14 Is that the end of your report, sir?

15 MR. STEVE MILLER: I believe it is.

16 CHAIRMAN LARRY TRUJILLO: I would  
17 like to call next on Mr. Higbee for the  
18 Secretary's report.

19 MR. STEVE MILLER: I believe it's  
20 customary to put ---

21 CHAIRMAN LARRY TRUJILLO: Go ahead.

22 MR. DAVID POPE: I was just going to  
23 suggest that I think probably we ordinarily  
24 would --

25 CHAIRMAN LARRY TRUJILLO: Why don't

1 we just add it to the exhibit list.

2 MR. DAVID POPE: I think the next  
3 exhibit would be Item I, would be the audit,  
4 and then we have the -- is the financial  
5 statement document different?

6 MR. STEVE MILLER: That's what I'm  
7 referring to as an audit. Two pages back, he  
8 calls it an independent auditor's report.

9 MR. DAVID POPE: So that will be I,  
10 and then the next three would be the three  
11 budgets that we just covered here.

12 CHAIRMAN LARRY TRUJILLO: J, K, and  
13 L? Okay. Thank you. Okay, Mr. Rogers.

14 MR. JIM ROGERS: Our 1995 total cash  
15 in the bank account at this time is  
16 \$29,622.33. Our total assets are that of  
17 \$29,622.33. Overall total is the same amount.  
18 Are there any questions? The bills for  
19 December have not been paid.

20 CHAIRMAN LARRY TRUJILLO: Is there a  
21 motion to adopt the Treasurer's report?

22 MR. JIM ROGERS: I'll so move.

23 CHAIRMAN LARRY TRUJILLO: Second?

24 MR. ROBERT BUERKLE: Second.

25 CHAIRMAN LARRY TRUJILLO: Any

1 objections? There being none, the Treasurer's  
2 report is adopted. Any further business?  
3 Yes, sir.

4 MR. SANDY MACDOUGALL: Mr. Chairman,  
5 my name is Sandy MacDowell. I was gone for a  
6 little bit. Did you schedule a day certain  
7 for the meeting in January?

8 CHAIRMAN LARRY TRUJILLO: Yeah, we  
9 have discussed a date, and I guess we just as  
10 well get it on the record. It seems like both  
11 Kansas and Colorado agreed to have our meeting  
12 on the 19th. A tentative date would be the  
13 19th of January, and would you like to set a  
14 time specific, Mr. Higbee or Mr. Pope?

15 MR. DAVID POPE: Yes, I think it  
16 might be good to do that. My preference would  
17 be for the afternoon. I normally have  
18 meetings on Friday mornings and I would  
19 offer -- would 2:00 Kansas time, 1:00 Colorado  
20 time work?

21 CHAIRMAN LARRY TRUJILLO: Would that  
22 work for you, Mr. Higbee?

23 MR. STEVE MILLER: Is there a  
24 location?

25 MR. CHUCK LILE: Telephonic.

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MR. STEVE MILLER: Oh, it's telephonic?

MR. CHUCK LILE: Yes.

MR. DAVID POPE: And in all fairness, this is a tentative date. We need to confirm with our other players that aren't here with us today and insure that we can really accomplish this, but we will try for this date.

MR. CHUCK LILE: And we will have two agenda items?

CHAIRMAN LARRY TRUJILLO: Yes; the Trinidad and also the John Martin Kansas-Colorado proposal. Yes, Mr. Miller?

MR. STEVE MILLER: I hope I'm not out of order here, but some of these telephonic meetings get almost as expensive to conduct and almost as hard to schedule. This is going to be a more elaborate meeting than just rubber stamping an initially agreed on permanent pool. Was any thought given to perhaps --

CHAIRMAN LARRY TRUJILLO: No discussion has taken place with regard to that matter, but certainly if any member would like

1 to discuss that further.

2 MR. DAVID POPE: Well, it has  
3 complicated our original intention with regard  
4 to a brief telephonic meeting for the Trinidad  
5 item. I think it's probably still efficient  
6 to do it telephonically, however. Face to  
7 face meetings are more difficult, I think, yet  
8 to arrange. My suggestion is that we have  
9 some of those informal dialogues, and if it  
10 appears then that we are going to need a face  
11 to face meeting, well then we can try to  
12 schedule that in lieu of it. We've only got  
13 basiclly about a month, so we'll have to get  
14 on this issue.

15 MR. CHUCK LILE: I think that's  
16 acceptable to us. I would hope that you would  
17 particularly agree on how we're going to  
18 circulate drafts on the Trinidad proposal.  
19 Certainly if we get into a December thing with  
20 the account proposal, maybe that would bring  
21 it to closure. We have to work with some of  
22 our attorneys that have already left and I  
23 have to check the dates for that, so I think  
24 we ought to keep it telephonic. It can get  
25 quite expensive to fly around for an hour's

1 meeting. I would rather do it by phone if we  
2 could.

3 MR. DAVID POPE: I think we, as a  
4 minimum, can have the telephonic meeting to  
5 deal with the Trinidad matter for sure, and  
6 then hopefully we'll be in a position to deal  
7 with the other matter, having the discussions  
8 prior to that time. If again, as we have  
9 those discussions, if it appears that another  
10 alternative plan is necessary, then I hope  
11 we'd have the latitude to talk about that.

12 MR. CHUCK LILE: I think we should  
13 stay flexible.

14 MR. DAVID POPE: At a minimum, we'll  
15 address that second topic, you know, and  
16 hopefully, we will have an opportunity to talk  
17 about and submit drafts and whatever is  
18 necessary.

19 MR. CHUCK LILE: Okay. That's fine.

20 MR. STEVE MILLER: Just one last  
21 thing, for Mr. Steerman's benefit. We will  
22 set up the ARCA office in Lamar as a listening  
23 site for that telephonic meeting. There's  
24 been some complaints, and if Kansas wanted to  
25 do a similar, at Garden City, for instance.



1 MR. CHUCK LILE: And further, I  
2 would hold that probably in my -- in the  
3 Conservation Board's library or my office, and  
4 we have access for the public to attend and  
5 listen in at that time.

6 MR. DAVID POPE: If we --

7 MR. CHUCK LILE: And if there are  
8 other places that you might want to link, I  
9 don't have any objection to that.

10 MR. DAVID POPE: I think I would  
11 certainly support that, and we would offer to  
12 have sites at both Garden City and Topeka at  
13 the Division of Water Resources offices for  
14 anyone that wants to sit in on the call from  
15 the Kansas office.

16 MR. CHUCK LILE: We could use the  
17 Pueblo office and the Lamar office and my  
18 office, and then that would make it a little  
19 more economical to have those people linked  
20 and to give the public an opportunity to be  
21 present.

22 MR. DAVID POPE: I would probably  
23 anticipate, and I look to my colleagues here,  
24 that if you gentlemen would be able to make it  
25 to Garden City, we'll work that out later, but

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the Garden City office at least will be open for any public to come in, and we'll have to get back with Steve Miller in terms of who all to call individually versus those offices, otherwise.

CHAIRMAN LARRY TRUJILLO: Any other business? If not, the chair would entertain a motion to adjourn.

MR. DAVID POPE: So move.

CHAIRMAN LARRY TRUJILLO: Without objection, we're adjourned.

(The meeting adjourned at 2:55 p.m.)

1 STATE OF KANSAS )  
2 COUNTY OF BARTON )

3  
4 This is to certify that I, Lee Ann Bates, a  
5 Certified Shorthand Reporter in and for the State of  
6 Kansas, reported in shorthand the proceedings had at  
7 the time and place set forth on the title page hereof  
8 and that to the best of my ability, the above and  
9 foregoing pages contain a full, true and correct  
10 transcript of the said proceedings.

11 Certified to on this 8th day of January,  
12 1996.

13 *Lee Ann Bates CSR RPR*  
14 ADVANCED COURT REPORTING SERVICES  
15 LEE ANN BATES, CSR, RPR  
16 1215 Stone Street  
17 Great Bend, Kansas 67530  
18 (316) 793-6555  
19 (316) 793-9331  
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23  
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25

ADVANCED COURT REPORTING SERVICES  
LEE ANN BATES, CSR, RPR      -\*-      (316) 793-6555

ATTACHMENTS TO DECEMBER 12, 1995  
ARKANSAS RIVER COMPACT MINUTES

DESIGNATION	DESCRIPTION	PAGE
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C	Corps of Engineers Report	61
D	U.S. Geological Survey Report	61
E	Resolution Honoring Frank Cooley	97
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G	Colorado Draft Resolution for Augmentation Account dated 12/6/95	103
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L	Budget as Approved, FY 97-98	141

A

# ARKANSAS RIVER COMPACT ADMINISTRATION

307 SOUTH FIFTH STREET, LAMAR, COLORADO 81052

719-336-9696

CHAIRMAN AND FEDERAL REPRESENTATIVE

LARRY E. TRUJILLO, SR.  
PUEBLO, COLORADO

FOR COLORADO

DARIES C. LILE, DENVER  
CARL G. GENOVA, PUEBLO  
JAMES G. ROGERS, LAMAR

FOR KANSAS

DAVID L. POPE, TOPEKA  
ROBERT BUERKLE, HOLCOMB  
EUGENE OVERTON, SYRACUSE

## NOTICE OF ANNUAL MEETING

### ARKANSAS RIVER COMPACT ADMINISTRATION

Tuesday, December 12, 1995, 8:30 a.m. (MST)

Empire Room, Cow Palace Inn, Lamar, Colorado

The 1995 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 as necessary. Meetings of the Administration are operated in compliance with the federal Americans with Disabilities Act. If you anticipate needing a special accommodation as a result of a disability please contact Steve Miller at 303-866-3441 or Don Higbee at 719-336-9696 at least 7 days before the meeting.

The following Committees of the Administration will meet on Monday, December 11, 1995 in the Colorado Room at the Cow Palace:

Engineering	6:30 p.m.
Operations	7:30 p.m.
Administrative/Legal	8:30 p.m.

For a description of items to be discussed by the Committees refer to agenda item 6, below. The public is welcome to attend the Committee meetings, but time for comments may be limited.

### TENTATIVE AGENDA FOR THE ANNUAL MEETING (subject to change)

1. Call to order and introductions
2. Approval of agenda
3. Resolution commemorating retired Federal Representative and Chairman, Mr. Frank Cooley
4. Approval of transcripts and/or summaries from prior meetings
  - a. December 14, 1993 Annual Meeting
  - b. December 13, 1994 Annual Meeting
  - c. summary minutes from June 10, 1994 Special Meeting
5. Reports of Officers for Compact Year 1995:
  - a. Chairman - Cooley/Trujillo
  - b. Recording Secretary - Higbee
  - c. Treasurer - Rogers (defer until agenda item 16)
  - d. Operations Secretary - Witte

EXHIBIT

A

6. Committee reports for Compact Year 1995:

a. Administrative/Legal:

- (1) Budget and audit review (defer to agenda item 15)
- (2) Other

b. Engineering, Chair Pope:

- (1) Additional gages on tributaries, review of installation, initial data, and hydrograph separation methods.
- (2) Purgatoire River Water Conservancy Dist. (PRWCD): request for storage account at JMR
- (3) PRWCD: Purgatoire River transit loss/travel time study
- (4) Augmentation storage account at JMR
  - (a) Colorado proposal
  - (b) Kansas proposal
- (5) Channel capacity problems below John Martin, Pueblo, and Trinidad Reservoirs
- (6) Colorado explanation of exchanges to Trinidad Reservoir permanent pool
- (7) Other

c. Operations:

- (1) 1995 Operations Secretary Report
- (2) 1996 Annual Agreement
- (3) Other

7. Election of officers for Compact Year 1996:

- a. Vice-chairman, currently Genova
- b. Recording Secretary, currently Higbee
- c. Treasurer, currently Rogers
- d. Operations Secretary, currently Witte

8. Appointment of Committee members and chairs for Compact Year 1996:

- a. Administrative/Legal
- b. Engineering
- c. Operations

9. Reports of federal agencies:

- a. Bureau of Reclamation
- b. Corps of Engineers
  - (1) 1995 flood operations at Corps controlled reservoirs
  - (2) channel capacity issues in basin
  - (3) Trinidad Reservoir excess space allocation to permanent pool
- c. Geological Survey:
  - (1) Status of gaging efforts and costs
  - (2) USGS Cooperative Agreement for federal FY 1996
  - (3) Purgatoire River transit loss & travel time study status report

10. Proposals for augmentation storage account at JMR
  - a. Colorado request
  - b. Kansas request
  
11. Trinidad Project
  - a. Ten year review of operating principles
  - b. Change in Operating Principles for Trinidad Reservoir recognizing enlarged permanent fishery and recreation pool.
  
12. Status of annual report preparation
  
13. Litigation status report re Highland and Nine Mile Cases
  
14. Explanation of basis for, and public comment re, matters to be discussed in Executive Session.  
Executive Session: Discussion and necessary actions related to Case No. 92-C-1151  
U.S. District Court-COLORADO; Highland Irrigation Co., et al. v. ARCA, et al.
  
15. Review and approval of Audit Report for FY 1994-95 (7/1/94-6/30/95)
  
16. Treasurer's Report- deferred from agenda item 5
  
17. Budget matters:
  - a. Review of current fiscal year (1995-96) budget
  - b. Review of previously adopted FY 1996-97 budget and assessments
  - c. Adoption of FY 1997-98 budget and assessments
  
18. Adjournment



**B**

# ATTENDANCE LIST

## ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING

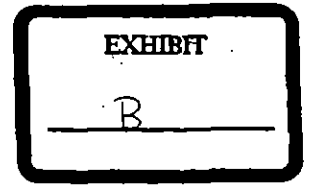
Tuesday, December 12, 1995, 8:30 a.m. (MST)

Cow Palace Inn, Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE #
Larry E. Trusillo	ARCA	1155 21st LN <sup>81006</sup> Pueblo	719 5426912
Jim Rogers	ARCA	22259 Rd 13 <sup>81052</sup> Lamar	719 336 2134
Chuck Lile	A.R.C.A.	1313 Sherman St. Denver	303 866 3491
Carl G. Genova	A.R.C.A.	33032 South Rd. Pueblo 81006	719-945-3631
Dennis Montgomery	State of Colorado	1441 18th St. # 100 DENVER CO 80202	303-296-8100
Wendy Weiss	" " "	1525 Sherman St, Denver <sup>80203</sup>	303/866-5110
Steve Wille	ARCA OpSec/COO/WR	P.O. 5728 Pueblo, CO	(719)542-3368
David W Robbins	State of Colorado	1441 18 <sup>th</sup> # 100 DENVER, CO 80202	303 296 8100
HAL SIMPSON	State Engineer	Rm 813, 1313 Sherman Denver, CO 80203	303-866-9524
Jart Rickenhaug	State of Colorado	1525 Sherman Denver Co 80203	303 866-5110
Jim Townsend	US Army Corps of Engineers	720 N. Main, Suite 205 Pueblo CO 81003	719 543-6915
STEVE WAGNER	US ARMY CORPS OF ENGINEERS	4104 Jefferson Plaza, Albuquerque NM <sup>87109</sup> P.O. Box 1580, ALBUQUERQUE NM 87103	(505) 254-3432
Dick Kreiner	" " " " "	4104 Jefferson Plaza, Albuquerque, NM <sup>87109</sup>	(505) 254-3383
James Amos	Pueblo Chieftain	324 Carson Ave, La Junta, 81000	(719) 384-2606
GERARD KNAPP	Rocky Ford Ditch	18455 Hwy 50 W Rocky Ford Co 81002	719 254-6560
Brian Knapp	Cattlin Canal Co.	29742 Hwy 71 Rocky Ford Co 81067	719-254-6265
Steve Malott	Cattlin Canal	P.O. Box 344 Swink CO 81077	719 384 7890
Elmer Brauman	Cattlin Canal	P.O. Box 207 <sup>81058</sup> Mansfield Co	719-462-5250
FRANK DALL	CAT L 14	23064 RD BB <sup>81058</sup> La Junta	719 384 4484

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COLO  
81058



ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING  
 Tuesday, December 12, 1995, 8:30 a.m. (MST) Cow Palace Inn, Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE #
Don Taylor	Colo Water Resources	P.O. Box 221 Swink Co 81077	384-5103
Bill Howard	Colo Div. Water Resources	11240 W 6th Cas Animas Co 81054	726-5593
Joe Flores	Colo Div. Water Resources	P.O. BOX 5728 Pueblo CO 81003	547-9539
DAN NEURICH	Colo Div. Water Resources	3020 P.O. Box 24119, CO 81002	336-5314
Denny Marquis	Colo Div. of Water Resources	16340 Cord 45.7 Trinidad, Co 81032	719 846-3518
DON HIGBEE	ARCA RECORDING SEC	P.O. Box 1161 LAMAR, CO. 81052	(719) 336-9696
Key MERCHANT	Trinidad Lake - Corps	Box 771, Trinidad, CO 81082	719 846-7890
Gail Stockton	U.S. Army Alb. Dist. Corps of Engineers	4104 Jefferson Plaza NE Albuquerque, NM 87109	505- 254-9348
Jerry SULLIVAN	John Martin Dam Corps of Engineers	Star Rt Hasty Co 81044	336-3476
Paul Flack	Colo. State Parks	1313 Sherman St Denver CO	866-3203
RUSS PALLONE	CO. STATE PARKS, TRINIDAD	3260 Hwy 12, TRINIDAD CO. 81082	719-846-6951
TOM GIBBENS	USBR	LOVELAND CO	970 667-4512
Tom Musgrove	U.S. Bureau of Reclamation	Pueblo, CO	719-544-8171
STEVE ANTESCHUIS	SERCUS	905 West Hwy 50	719-544-2040
Joe Dutton	Foothill Canal Co.	12 Circle Lz Truitt, Pa.	719 384-0818
Howard Rogner	Foothill Canal Co	9795 Hwy 194 Cas Animas CO	456-0137
Bob Brandt	Holbrook Mutual	27696 Hwy 266 Rocky Ford	853-6381
DONNY HANSEN	Holbrook Mutual Inc	30109 Rd 809 LaJUNTA Colo	719-853-6228
John S. Leffler	Ft Lyon Canal	Box 110, Lamar, W	336-7411
LEROY MAUCH	FT LYON CANAL CO. PROWERS CTY. COMM.	8725 Rd. NN LAMAR, COLO.	336-3895
Joe Chinc	Ft Lyon Canal	33111 Hwy 196 W. Hwy	879-4416

ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING  
 Tuesday, December 12, 1995, 8:30 a.m. (MST) Cow Palace Inn, Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE #
Bob Reed Jr	FT Lyon Canal	34343 RDP W. Hwy Colo 719-529-4747	
Robert Temple	Producers Co	2022 RR P.R. Wiles, Colo 719-829-4853	
Mary Louise Clay	LAWMA	P.O. Box 1161 LAMAR, CO 81052 719-336-3696	
Emie Neiswister	Lamar Canal	P.O. Box 287 Lamar CO 81052 719-336-7398	
Mike Gittings	Colorado Beef	P.O. Box 1197 Lamar, CO 81052 719-829-4841	
Beverly Spady	ARS Consulting	420 Vigil Las Animas, CO 81054 719-456-1899	
Gracie M. ...	CSO	622 Broadway, Denver, CO 80202 303-291-9223	
KEVIN L. SALTS	KS DWR	2508 Johns, Garden City 67846 (316) 276-2901	
Robert Lutz	Div. Water Res. (KS)	901 Kansas, Topeka KS 66612 913-296-3717	
David A. Bruna	Great Eastern Irrigation Assn.	Box 597, Garden City, KS 316-276-3741	
Norman Hammett	Amity	Box 105 Holly Colo 81047 719-537-6427	
Donald J. Stevenson	Dist 67 Canal Assoc Amity, Buffalo	P.O. 390, LAMAR, CO 81052 (719) 336-1803	
Harry Genette	DWR / KDA	2508 Johns, Garden City, KS 316 276 2901	
Steven Hines	Frontier Ditch	Box 147 Coolidge, Ka 316-372-8241	
Oliver Hines	Frontier Ditch	Box 147 Coolidge, Ka 316-372-8247	
Randy Ziegler	Southside Ditch	Rt #1 Box 44 Lakin, KS 316-355-7499	
STEVEN FROST	SJKS & M.D	409 Campus Dr #106 Garden City, KS 316-276-2901	
Mark Ruce	Ks DWR	2508 Johns St., GARDEN CITY, KS 316-276-2901	
David W. Anderson	USGS Garden City, KS	206 Fulton Terrace Garden City, KS 316-276-2446	
Curtis G. Souer	''	'' '' '' ''	
LOW STEGER	USGS WARD PUEBLO CO	201 W. 8th St. Pueblo CO 81003 719-544-7155 x121	



ARCA attendance List  
12/12/95

<u>Name</u>	<u>Representing</u>	<u>City/State</u>
Leland E. Rolfs	DWR/KDA	Topeka, KS
ME "Sandy" MacDonnell	Aug River WCD Colo. Water DWA	Colorado, CO
JAMES FERNANDEZ	CITY OF TRINIDAD	TRINIDAD, CO
Erma Evans	P. R. W. C. D.	Trinidad, CO
Thelma Lujan	PRWCD	Trinidad, CO
Reuben Gutierrez	PRWCD	TRINIDAD, CO
Don Anderson	PRWCD	Trinidad, CO
JERIS A. DANIELSON	Purgatoire River WCD	LAKEWOOD, CO
MARK RUDE	KS. DWR - GARDEN CITY, Ks.	
David W. Anderson	U.S.G.S. Garden City, KS	
Curtis G. Sauer	USGS Garden City, KS	
RON STEGER	USGS WRD PUEBLO, CO	
Doug Cain	USGS Pueblo, CO	
Larry Genette	DWR/KDA Garden City, KS	
Steven Hines	Coolidge, Ka.	
Oliver Hines	Coolidge, Ka.	
Randy Ziegler	Waxton, KS	
STEVEN FOST	SWKSLD Garden City	
David A Brenn	Great Eastern	Garden City, KS
Marvin Hamilton Jr.	Amity	Holly
Donald P. Steerman	Dist 67 Ditch Assoc. Amity + Buffalo Canals	Lamar, CO
Rod Thompson	Amity Canal, Buffalo Canal	Holly, Co.
Lewin Thompson	Amity Canal Co.	Holly, Co.
Donny Hansen	Holbrook Mutual Ins.	Cheraw Co.
Bob Barnhart	Holbrook Mutual Ins.	Cheraw Co.

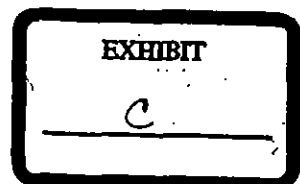
<u>Name</u>	<u>Representing</u>	<u>City/State</u>
KEVIN L. SAUER	KS DWR, GCO	GRAND CITY KS
ROBERT LYTLE	DIV. WATER RES.	TOPEKA, KANSAS
Mike Gittings	Colorado Beef	LAMAR, CO
Beverly Spady		Las Animas, CO
James W. ...	CDBW	Denver CO
MARY LOUISE CLAY	LAWMA	LAMAR, CO
MARK O. BROUHAUS	K. F. ...	LAMAR, CO
Bob Reed Jr	Fort Lyon Canal	Wiley Colo
John ...	FT Lyon Canal	Wiley Colo
LEROY F. MAUCH	FT. LYON CANAL & POWERS	CTY. COMM. LAMAR, COLO.
John S. Letford	FT Lyon Canal Co	Lamar
Howard Begner	Fort Lyon Canal Co	Los Animas CO
Joe Dutton	Fort Lyon Canal Co.	Lafayette, Colo.
STEVE AMERSCHONG	SECWCO	Pueblo, CO
TOM GIBBENS	USBR	LOVELAND CO
Tom Musgrove	U.S.B.R	Pueblo, Colo
RUSS FALLONE	CO. STATE PARKS	TRINIDAD CO.
Paul Flack	11	Denver, CO
Jerry Sullaway	Corps of Eng	Hasty Co
Gail Stockton	Corps of Eng	Albuquerque, NM
Key MERCHANT	Corps of Eng.	Trinidad, CO.
DON HIGBEE	ARCA Recording Secretary	LAMAR, CO
Danny Marques	Dir of Water Resources (CO)	Trinidad, Co.
DAN NEUHOLD	DIR OF WATER RES (CO)	LAMAR, CO.
JOE FLORES	DIV OF WATER RES (CO)	PUEBLO CO
Bill ...	Colo Div. Water Resources	Las Animas CO
Don Taylor	Colo. Div. Water Resources	Swink, CO

<u>Name</u>	<u>Representing</u>	<u>City/State</u>
Burt Kickenbaugh	Colo Atty General	Den. Colo
Jim Townsend	Corps of Engineers	Pueblo Colo
LTC Steve Wagner	" "	Albuquerque NM
Dick Krainer	" " "	" "
Steve Miller	Colo Water Cons Bd	Denver Colo



C

Report of Civil Work Activities by the  
Albuquerque District, Corps of Engineers  
in the Arkansas River Basin  
During Calendar Year 1995



1. General. During calendar year 1995, activities of the Corps of Engineers, Albuquerque District, in the Arkansas River Basin consisted of reservoir regulation, flood control related studies, flood plain management services, the regulation of dredged or fill materials into waterways under Section 404 of the Clean Water Act, and emergency engineering assistance.

2. Flood Control Operations. In 1995 the Arkansas River snowmelt runoff at Pueblo, Colorado was near 200% of normal. Snowpack conditions increased from below average in January, February, and March to slightly above average in April and much above average in May and June, with the June 1 forecast being 178% of normal. Snow and snowmelt runoff came late with the snowpack increasing in May when it normally declines. There were flood control operations at Pueblo and John Martin Reservoirs.

Pueblo Reservoir was the first to store flood control runoff. A storm in the Fountain Creek and upper Arkansas River Basin just above Pueblo Reservoir on May 17 produced an estimated peak inflow to the reservoir of 14,000 cubic feet per second (cfs). Almost 8,000 acre-feet was stored by reducing the release to 216 cfs, with the peak flow at Avondale reduced to 6,800 cfs. The operation of Pueblo Reservoir resulted in flood control benefits of approximately \$832,000. Several times during June and July, rainfall events created a need to store runoff in Pueblo Reservoir.

John Martin Reservoir began storing in the flood space on June 29. Releases were stepped up beginning on that day to 3,000 cfs by July 1 and continued until July 28. Flood releases reached as far as Great Bend, Kansas.

There were two deviations at John Martin Reservoir. On 15 July, we temporarily reduced the release to help in the removal of a truck that had rolled into the channel downstream of the dam. The second deviation was from 28 July to 3 August when the outflow was reduced from 3,000 cfs to 2,250 cfs at the request of Colorado and Kansas to help minimize agricultural damages along the Arkansas River.

### 3. Special Topics.

a. Trinidad Lake Excess Space. On November 16, 1994, the Trinidad Lake Water Control Manual was revised to increase the recreation pool from 4,500 acre-feet (273 acres, elevation 6144.54 ft) to 15,967 acre-feet (563 acres, elevation 6171.86 ft). On June 23, 1995, we wrote concurrent letters to Mr. David L. Pope, Kansas Division of Natural Resources and Mr. James Lochhead, Colorado Department of Natural Resources, recommending changes to the Operating Principles for Trinidad Dam and Reservoir Project to reflect the increase in the permanent fishery pool capacity.

4. **Flood Control Studies**. In 1995, the Corps of Engineers worked with the city of Manitou Springs to prepare a Reconnaissance Study that addressed flooding caused by Fountain Creek as it passes through Manitou Springs. The Reconnaissance Study was completed in May 1995. There was no flood control plan that could be economically justified. There will be no further work on this project.

5. **Continuing Authorities Program**. Under Section 14 of the 1946 Flood Control Act, as amended, the Corps of Engineers provides emergency streambank protection works to prevent damage to public facilities. Up to \$500,000 in Federal funds can be spent for each project. Under our Section 205 authority, small flood control projects may be constructed with a maximum Federal contribution of \$5,000,000.

The non-federal sponsor, under both of these authorities, must contribute 25% of the cost for these projects. This program is available to communities, flood control organizations, and other governing entities. Those having a need for this program should contact the U.S. Army Corps of Engineers, Formulation Section, 4104 Jefferson Plaza NE., Albuquerque, New Mexico 87109, telephone (505) 254-3348.

Activities conducted under these authorities in 1995 consisted of construction of one Section 14 project sponsored by the state of Colorado. The project protects State Highway 194 from the Arkansas River at Bents Old Fort at La Junta by using rock groins, and was completed in April 1995.

6. **Section 1135**. The 1986 Water Resources Development Act authorizes the review of completed projects to determine opportunities for modifications for improving environmental quality. A Section 1135 investigation currently is evaluating modifications to Lake Hasty and the Arkansas River immediately below John Martin Dam. Alternatives include the routing of 5 to 8 cfs through Lake Hasty when irrigation releases are being made to improve its water quality; a barrier in the Arkansas River channel to prevent downstream movement of fish into and their subsequent death in irrigation works and on fields; and a potential nesting area in Lake Hasty for the least tern (a Federally endangered species) and piping plover (a Federally threatened species). A Project Modification Report and Environmental Assessment is expected to be completed in January 1996.

7. **Flood Plain Management Services**. The objective of the flood plain management services program is to support comprehensive flood plain management planning with technical services and planning guidance at all appropriate governmental levels. This is intended to encourage and to guide local governments toward prudent use of our nation's flood plains.

Services available include: help in interpretation and evaluation of basic flood hazard data; guidance in preparation of flood plain regulations; advice on use of data regarding possible alternative developments in flood-prone areas; guidance on structural and nonstructural measures which might be employed to reduce flood hazard; and in some cases, development of basic flood hazard data. Section 321 of the Water Resources Development Act of 1990 requires recovering the costs of services provided to Federal agencies, private persons and organizations. A fee schedule has been established. These services are provided to state and local governments at no cost.

Thus far in 1995, the Albuquerque District has responded to 15 requests for technical services and flood hazard evaluations of specific sites in the Arkansas River Basin. One Flood Preparedness Plan was completed in 1995 for the community of Canon City, Colorado.

Governmental agencies or persons having a need for these services should contact the U.S. Army Corps of Engineers, Hydrology and Hydraulics Section, 4104 Jefferson Plaza NE., Albuquerque, New Mexico 87109, telephone (505) 254-~~3461~~.

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8. 404 Permits. Section 404 of the Clean Water Act prohibits discharges of dredged or fill materials into waters of the United States, including adjacent wetlands, without a permit from the Corps of Engineers. In Fiscal Year 1995, we issued 11 individual permits in the Arkansas River Basin. An additional 315 activities in the Basin were reviewed during the period and most were covered under permits. Also, the new state-wide general permits for excavation activities and recreational placer mining were developed for use in Colorado. The development of general permits results in increased efficiency and more timely permit decisions. Persons or agencies who are planning to conduct fill or excavation activities in any waterway are advised to contact the Southern Colorado Project Office, #20 North Main, Suite 205, Pueblo, Colorado 81003, (719) 543-9459. 7

9. Emergency Engineering Assistance. The Corps of Engineers had 25 contacts in the Arkansas River Basin for information or assistance regarding flood related issues. Emergency engineering assistance was provided to the Arkansas River Conservancy District for an erosion problem on the Las Animas Flood Control Levee.

**D**

Report of U.S. Geological Survey Activities  
in the Arkansas River Basin  
of Colorado

to the

Arkansas River Compact Administration  
December 12, 1995

During 1996, the U.S. Geological Survey will operate continuous-recording stream gages at 49 sites in the basin, seasonal or non-continuous stream gages at 20 sites, continuous recording gages at 3 reservoirs, daily sediment stations at 3 sites, periodic sediment stations at 5 sites, continuous recording water-quality stations at 22 sites, and periodic water quality sampling at 18 surface-water sites and 270 wells (including about 255 wells at the U.S. Army's Pueblo Depot Activity and 15 wells along Fountain Creek south of Colorado Springs). Several networks of ground-water level measurements will be operated in the basin, including 70 wells measured twice a year between Pueblo and the state line, 40 wells measured twice a year between Leadville and Pueblo, 35 wells measured annually at Fort Carson, 10 wells measured annually at the U.S. Army's Pinon Canyon Maneuver Site, 40 wells measured twice a year in the alluvial aquifer south of Colorado Springs, 30 wells measured every other month in the Upper Black Squirrel Creek Basin and 130 wells measured annually in El Paso County. Additionally, during FY95, the USGS made real-time data at many surface-water sites available on the World Wide Web.

Monitoring of precipitation, streamflow, water quality, and suspended sediment continued at the U.S. Army's Pinon Canyon Maneuver Site between La Junta and Trinidad.

A report describing the relation between the alluvial and bedrock aquifers in the Upper Black Squirrel Creek Basin east of Colorado Springs was published early in 1995.

A report describing the water quality of Pueblo Reservoir was published early in 1995. Water quality monitoring of the reservoir continues.

The water quality evaluation of the Arkansas River Basin in Colorado continued during 1995. A three-year water-quality data-collection period was completed during March 1993 at 20 Arkansas River sites, 32 tributaries, and 9 transmountain diversions. A report that includes all data collected during the study is being printed. Data collected during the study are being analyzed and evaluated, and preparation of a draft report describing water-quality conditions in the basin will be completed by March 1, 1996. The second part of the study, which will evaluate the water-quality effects of water operations, is well under way, with several reports to be prepared in 1996: 1) a description of the effects of water exchanges upstream from Pueblo on salinity; 2) an evaluation of the effects of water operations upstream from Pueblo on metal concentrations and speciation; 3) an evaluation of the potential effects of changes in irrigation patterns (dry-up of agricultural load and decreases in ground water pumpage) on salinity in an irrigated area between La Junta and Las Animas; and 4) an evaluation of the historic effects of water operations on surface- and ground-water quality downstream from Pueblo.

EXHIBIT

D

E



**ARKANSAS RIVER COMPACT ADMINISTRATION**

307 SOUTH FIFTH STREET, LAMAR, COLORADO 81052

719-336-9696

FOR COLORADO

DARIES C. LILE, DENVER  
CARL G. GENOVA, PUEBLO  
JAMES G. ROGERS, LAMAR

CHAIRMAN AND FEDERAL REPRESENTATIVE

LARRY E. TRUJILLO, SR.  
PUEBLO, COLORADO

FOR KANSAS

DAVID L. POPE, TOPEKA  
ROBERT BUEKLE, HOLCOMB  
EUGENE OVERTON, SYRACUSE

**RESOLUTION**

OF THE

**ARKANSAS RIVER COMPACT ADMINISTRATION**

**Honoring Mr. Frank G. Cooley**

WHEREAS, Mr. Frank G. Cooley has ended his tenure as the federal representative and chairman of the Arkansas River Compact Administration after twenty distinguished years and nineteen skillfully conducted Annual Meetings; and

WHEREAS, his wit, charm, and genuine concern for the Arkansas River basin will be sorely missed by water users and officials from the States of Kansas and Colorado; and

WHEREAS, his length of service to the Administration as the federal representative and chairman far exceeds any of his predecessors; and

WHEREAS, he guided the Administration through difficult as well as productive times with courtesy and a sincere desire to foster interstate comity; and

WHEREAS, he used his skills as a scientist to foster a better understanding amongst all in the basin of the physical system of the Arkansas River and the importance of careful stewardship of the precious resources the river provides in the arid climate of the Great American Desert; and

WHEREAS, he was an outspoken advocate of the preservation and enhancement of the natural environment and the recreation and fishery resources of the basin, in particular the permanent pool at John Martin Reservoir; and

WHEREAS, he used his skills as an attorney to make sure that all issues were fully heard and that both states had full opportunity to articulate their positions in a civil manner, while also knowing when to foreclose needless debate; and

WHEREAS, his perseverance and desire to conserve the precious waters of the Arkansas River helped water users in both States and the State members of the Administration to work diligently to develop the 1980 Operating Plan for John Martin Reservoir; and

WHEREAS, Frank Cooley represented the United States and the federal agencies working in the basin's interests with loyalty to his country, fairness to his associates, and in a gentlemanly manner at all times during his Chairmanship of the Administration.


EXHIBIT

E

NOW, THEREFORE, BE IT RESOLVED by the Arkansas River Compact Administration that it does hereby express its sincerest gratitude and appreciation to Mr. Frank Cooley for the opportunity afforded members of the Administration and water users in the Basin to have known and worked with Frank and for his outstanding service, dedication, and courtesy to the Administration and to the States.

BE IT FURTHER RESOLVED that the Administration honor Mr. Cooley by including this Resolution and his photograph in the Administration's 1995 Annual Report and instruct the Recording Secretary to send a copy of the Resolution to the President of the United States, to the Governors of Kansas and Colorado, and to the appropriate newspapers.

Entered this 12th day of December, 1995, at the Annual Meeting of the Arkansas River Compact Administration held in Lamar, Colorado.

  
Larry E. Trujillo Sr., Chairman

**F**

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  
FAX (303) 866-4474



NOV 19 1995  
KS DEPT OF AGRICULTURE

Roy Romer  
Governor  
James S. Lochhead  
Executive Director, DNR  
Darius C. Lile, P.E.  
Director, CWCB

November 14, 1995

Mr. Larry F. Trujillo, Sr., Chairman  
Arkansas River Compact Administration  
1155 21st Lane  
Pueblo, CO 81006

Dear Mr. Trujillo:

The State of Colorado hereby requests that the Arkansas River Compact Administration establish an account in John Martin Reservoir for the storage of water to replace past depletions to usable Stateline flow caused by post-compact well pumping in Colorado and to prevent future depletions to usable Stateline flow caused by post-compact well pumping in Colorado.

This account is necessary as the result of the United States Supreme Court's decision in Kansas v. Colorado affirming the July 1994 Report by Special Master Arthur L. Littleworth finding that post-compact well pumping in Colorado has depleted usable Stateline flow.

Kansas and Colorado have stipulated that depletions to usable Stateline flow for the period 1950-85 are 328,505 acre-feet. The depletions for the period 1986-94 have yet to be determined. The Special Master has not determined the amount or method for repayment of past depletions, however, Colorado believes that repayment of some or all of past depletions will be ordered or agreed upon with Kansas. An account in John Martin Reservoir would be the simplest and easiest way to replace past depletions to usable Stateline flow and can be done without interfering with conservation storage under the Compact or accounts established under the 1980 Operating Plan for John Martin Reservoir.

The Colorado State Engineer has adopted Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin, Colorado, which require that on or after April 1, 1996, all diversions of tributary ground water for irrigation use from the Valley Fill and surficial aquifers along the Arkansas River by well users having water rights with a priority of, or junior to, December 14, 1948, shall be discontinued unless depletions to usable Stateline flow are replaced. In addition, the Rules provide that diversions for irrigation use from the Valley Fill and surficial aquifers by well users having decreed pre-compact water rights shall be limited to an aggregate total of 15,000 acre-feet per year unless depletions to usable Stateline flow caused by diversions of amounts greater than 15,000 acre-feet per year are replaced in accordance with a plan approved by the state and division engineers pursuant to the Rules. To prevent or replace depletions to usable Stateline flow in compliance with these Rules

Mr. Larry F. Trujillo, Sr.  
November 14, 1995  
Page Two

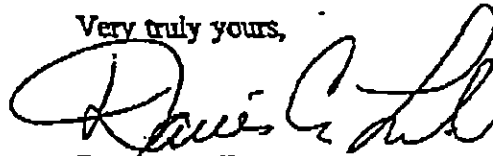
and the Compact, Colorado believes well users in Colorado should store water in an account in John Martin Reservoir where it will be available to prevent depletions to usable Stateline flow.

Colorado therefore requests that an account be established to store water to replace past depletions to usable Stateline flow and to store water to prevent or replace depletions to usable Stateline flow in the future. Colorado proposes that this account be in addition to the accounts established by the April 24, 1980 Operating Plan for John Martin Reservoir and the permanent recreation pool authorized by the August 14, 1976 Resolution of the Compact Administration.

Colorado further proposes that this account stand its prorata share of evaporation and that water in this account spill before the accounts granted in Subsections III A, B, and C, accounts granted in Section II, the Kansas Transit Loss Account, the permanent recreation pool, and conservation pool water. However, Colorado does not propose, nor does Colorado consider it appropriate for the Compact administration to impose, the transfers provided in Subsection III D of the 1980 Operating Plan on water stored in this account, since it is being stored to replace or prevent depletions to water users in Kansas and is water which would otherwise be beneficially consumed in Colorado. Finally, Colorado proposes that water from the account be released in accordance with Article III E(1) and (2) of the 1980 Operating Plan, and if transit losses occur, the transit losses shall be borne by such releases.

I will be placing this topic on the agenda for the Administration's Annual meeting on December 12, 1995, and further request that the Engineering Committee consider our request at a meeting on the evening of December 11. I believe the account, as we have proposed herein, meets the mutual needs and objectives of both states and look forward to productive discussions during our December meetings.

Very truly yours,



Darics C. Lile  
Director

cc: Carl Genova, Colo. Rep.  
Jim Rogers, Colo. Rep.  
Hal D. Simpson, Colo. SEO  
James Lochhead, EDO, DNR  
Steven J. Witte, Oper. Sec.  
Wendy C. Weiss, Colo. AGO  
David W. Robbins  
David Pope, Kansas Rep.  
Robert Buerkle, Kansas Rep.  
Eugene Overton, Kansas Rep.  
Don Higbee, Recording Sec.

DCL/vt

(ARCA)Account1.ltr

G

**HILL & ROBBINS, P.C.**

ATTORNEYS AT LAW  
 100 BLAKE STREET BUILDING  
 144 EIGHTEENTH STREET  
 DENVER, COLORADO 80202-1256

TELEPHONE  
 303 296-8100  
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 KAREN A. TOMS  
 RONALD L. WILCOX  
 JOHN B. EVANS  
 MARK J. WAGNER  
 JEFFREY M. HALL  
 ANNE K. LAPORTA

TELECOPIER TRANSMITTAL SHEET

DATE: December 6, 1995

TIME: \_\_\_\_\_

DELIVER TO:

RECEIVING PHONE NO.

Daries C. Lile	866-4474
Simpson, Hal	*14
Steve Witte	719-544-0800
Steve Miller	866-4474
Wendy Weiss	#05
Jennifer L. Gimbel	#05
Bart Rickenbaugh	#05
Jim Rogers c/o Don Higbee	719-336-2422
Carl Genova c/o Steve Witte	719-544-0800
Larry E. Trujillo, Sr.	719-546-0363
John Draper	*12
David Pope	913-296-1176
Lee Rolfs	913-296-1176

**RE: John Martin Reservoir Storage Account**

**FROM: Dennis Montgomery**

**TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: 10**

**COMMENTS: Attached is a copy of the proposed Resolution to establish a storage account in John Martin Reservoir.**

**IF YOU DO NOT RECEIVE ANY OF THE PAGES, PLEASE CALL OUR OFFICE IN DENVER, COLORADO, AT 303-296-8100**

The information contained in this telecopy is confidential and/or privileged. This telecopy is intended to be reviewed only by the individuals named above. If the reader of this telecopy transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this telecopy or the information contained herein is prohibited. If you have received this telecopy in error, please immediately notify the sender by telephone and return this telecopy to the sender at the above address.

DRAFT, December 8, 1965

RESOLUTION  
CONCERNING  
STORAGE ACCOUNT FOR THE STATE OF COLORADO  
IN JOHN MARTIN RESERVOIR

WHEREAS, pursuant to Article VIII B(2) of the Arkansas River Compact, the Arkansas River Compact Administration has power to prescribe procedures for the administration of the Compact, including procedures involving the operation of the John Martin Reservoir Project, provided that where such procedures involve the operation of the John Martin Reservoir Project, they shall be subject to the approval of the District Engineer in charge of said Project; and

WHEREAS, pursuant to Article VIII B(3) of the Compact, the Administration has the power to perform all functions required to implement the Compact and to do all things necessary, proper or convenient in the performance of its duties; and

WHEREAS, Article IV-D of Compact provides:

This Compact is not intended to impede or prevent future beneficial development of the Arkansas River basin in Colorado and Kansas by Federal or State agencies, by private enterprise, or by combinations thereof, which may involve construction of dams, reservoirs and other works for the purposes of water utilization and control, as well as the improved or prolonged



DRAFT, December 8, 1995

functioning of existing works: Provided, that the waters of the Arkansas River, as defined in Article III, shall not be materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas under this Compact by such future development or construction.

and

WHEREAS, after the adoption of the Arkansas River Compact, water users in Colorado with pre-compact wells installed more efficient pumps and improved or prolonged the functioning of such wells; and

WHEREAS, various water users in the Arkansas River Valley in Colorado constructed wells and pumped ground water for irrigation use after the adoption of the Arkansas River Compact; and

WHEREAS, in his July 1994 Report in Kansas v. Colorado, No. 105, Original, United States Supreme Court, Special Master Arthur L. Littleworth concluded that post-compact well pumping in Colorado had caused material depletions of usable Stateline flows of the Arkansas River in violation of the Arkansas River Compact; and

WHEREAS, in an opinion issued on May 15, 1995, the United States Supreme Court agreed with the Special Master's determination and overruled

DRAFT, December 8, 1995

exceptions to the Special Master's Report filed by the States of Kansas and Colorado, Kansas v. Colorado, 514 U.S. \_\_\_, 115 S.Ct. \_\_\_, 131 L.Ed.2d 759 (1995); and

WHEREAS, on October 30, 1995, Kansas and Colorado stipulated that depletions to usable Stateline flow caused by post-compact well pumping in Colorado for the period 1950-85 are 328,505 acre-feet, which stipulation was approved by the Special Master; and

WHEREAS, depletions to usable Stateline flow caused by post-compact well pumping in Colorado for the period 1986-94 have yet to be determined; and

WHEREAS, neither the Special Master nor the U.S. Supreme Court have determined a method for repayment of past depletions; and

WHEREAS, Colorado believes that repayment in water of some or all of past depletions may be ordered by the U.S. Supreme Court or agreed upon with Kansas; and

WHEREAS, the Colorado State Engineer has proposed Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin, Colorado, which require that on or after April 1, 1995, all diversions of tributary ground water for irrigation use from the Valley Fill and surficial aquifers along the Arkansas River by well users having water rights with a

DRAFT, December 8, 1985

priority of, or junior to, December 14, 1948, shall be discontinued unless depletions to usable Stateline flow are replaced; and

WHEREAS, the Amended Rules and Regulations further provide that diversions for irrigation use from the Valley Fill and surficial aquifers by well users having decreed water rights with a priority date senior to December 14, 1948, shall be limited to an aggregate total of 15,000 acre-feet per year unless depletions to usable Stateline flow caused by diversions of amounts greater than 15,000 acre-feet per year are replaced in accordance with a plan approved by the State and Division Engineers pursuant to the Rules; and

WHEREAS, release or transfer of water from a storage account in John Martin Reservoir would be an effective means to prevent or replace depletions to the inflows to John Martin Reservoir and/or to usable Stateline flow caused by post-compact well pumping in Colorado; and

WHEREAS, a storage account for the State of Colorado can be established in John Martin Reservoir without interfering with conservation storage under the Compact or accounts established under the Administration's Resolution Concerning an Operating Plan for John Martin Reservoir adopted April 24, 1980, and revised on May 10, 1984, and December 11, 1984 (hereinafter "the 1980 Operating Plan"), or the John Martin Reservoir Permanent Pool authorized by the

DRAFT, December 5, 1985

August 14, 1976 Resolution of the Compact Administration (hereinafter "permanent pool"); and

WHEREAS, the creation of a storage account for the State of Colorado in John Martin Reservoir would permit the future beneficial development of the Arkansas River basin in Colorado in a manner consistent with Article IV-D of the Compact;

NOW THEREFORE BE IT RESOLVED that the Administration hereby approves the creation of a storage account for the State of Colorado, which account may be used to store water to replace past depletions to usable Stateline flow and/or to store water to prevent or replace future depletions to the inflows to John Martin Reservoir and/or to usable Stateline flow caused by post-compact well pumping in Colorado, subject to the following conditions:

1. This account shall be in addition to the accounts established by the 1980 Operating Plan and the permanent pool.

2. Evaporation charges shall be made against water stored in this account in the manner set forth in Subsection II F of the 1980 Operating Plan. The evaporation charges shall be prorated amongst conservation storage and the accounts, including this account, according to the amounts in them.

3. In the event that runoff conditions occur in the Arkansas River basin upstream from John Martin Reservoir that cause water to spill physically over the

DRAFT, December 5, 1983

Project's spillway, then water stored in the permanent pool in excess of 10,000 acre-feet shall spill before water stored in this account, which shall spill before the accounts granted in Subsection III A, B, and C of the 1980 Operating Plan, which shall spill before the accounts granted in Section II of the 1980 Operating Plan, which shall spill before the Kansas Transit Loss Account, all of which shall spill before the conservation pool water.

4. Colorado may demand the release or transfer of water contained in this account at any time and at whatever rate it desires.

5. Releases or transfers from this account may be made simultaneously with deliveries into this account. However, such simultaneous releases or transfers and deliveries cannot create a deficit in this account.

6. All releases of water from this account for delivery to the Stateline are subject to transit losses between John Martin Dam and the Stateline, as determined by the Colorado Division Engineer, and the transit losses shall be borne by such releases. Releases of water from this account for delivery to the Stateline shall be measured at the Stateline as provided in Compact Article V E(3) allowing appropriate arrival times. Transit losses on such releases shall not be replenished from the Kansas transit loss account.

DRAFT, December 8, 1983

7. Transfers of water may be made from this account to conservation storage or to accounts granted in Section II of the 1980 Operating Plan to replace depletions to inflows to John Martin Reservoir during a period of storage.

8. Deliveries to this account shall not be subject to transfers provided in Subsection III D of the 1980 Operating Plan.

9. Not later than December 1 of each year, the Colorado Division Engineer shall make an accounting of the operation under this resolution for the previous compact year available to the Operations Committee of the Administration and to interested parties. The accounting under this resolution shall not be conclusive in any court or before any agency or tribunal but shall constitute prima facie evidence of the facts found.

10. Creation of this account does not give any water user in Colorado a right to store water in this account to prevent or replace depletions caused by post-compact well pumping, and storage of water in this account shall be subject to the approval of the Colorado State Engineer. This account may not be used for the storage of water for augmentation plans for wells having priority dates later than 1995 without the approval of the Administration.

11. This account shall be subject to the approval of the District Engineer of the U.S. Army Corps of Engineers in charge of the John Martin Reservoir Project.

12. Water stored in this account may be released by exchange or otherwise to avoid a spill or in the event more water is delivered into the account than is needed to replace past depletions to usable Stateline flow or to prevent or replace depletions to inflows to John Martin Reservoir and/or to usable Stateline flow.

13. This resolution may be amended or terminated by the Administration; however, this account shall not be affected by the termination of the 1980 Operating Plan and termination of this account shall not cause water in this account to revert to conservation storage. If this account is terminated, any water in the account at that time may be released or transferred in accordance with this resolution until no water remains in the account.

14. Any source of water approved by the Colorado State Engineer may be stored in this account, provided that adequate transit losses are charged during its delivery to this account, which losses shall be determined by the Colorado Division Engineer. A source of water which is not fully consumable may be stored in this account and releases may be made from this account to replace historical return flows from such source; provided, however, that releases for the purpose of replacing historical return flows shall not constitute an admission by Kansas that the remaining amount of water is fully consumable or usable to repay,

DRAFT, December 8, 1995

prevent, or replace depletions to the inflows to John Martin Reservoir or to usable Stateline flow.

15. Adoption of this resolution does not constitute an admission by Kansas that any release or transfer from this account is in fact a repayment or replacement of depletions to the inflows to John Martin Reservoir or to usable Stateline flows of the Arkansas River and shall not prejudice the ability of Kansas to object or to otherwise represent its interest in Kansas v. Colorado, No. 105, Original, or in any future cases or controversies before the Administration or in a court of competent jurisdiction in the event Kansas does not agree with Colorado's accounting of any repayment or replacement of depletions to the inflows to John Martin Reservoir or to usable Stateline flows of the Arkansas River.

Entered this \_\_\_\_ day of December, 1995.

---

Chairman  
Arkansas River Compact  
Administration

---

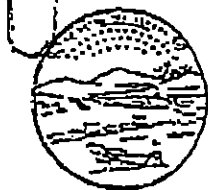
Secretary  
Arkansas River Compact  
Administration

(6-287ceb)  
[RESOLUTION JM]



H

STATE OF KANSAS



Bill Graves, Governor  
Tom A. Devine, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David L. Pope, Chief Engineer-Director  
901 South Kansas Avenue, 2nd Floor  
Topeka, Kansas 66612-1233  
(913) 296-3717 FAX (913) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

December 4, 1995

Mr. Frank G. Cooley  
P. O. Box 98  
Meeker, CO 81641

Mr. Larry F. Trujillo, Sr.  
1155 21st Lane  
Pueblo, CO 81006

Dear Messrs. Cooley and Trujillo:

The State of Kansas has received the proposal by the State of Colorado contained in Mr. Lile's letter to Mr. Trujillo of November 14, 1995, for the establishment of an account in John Martin Reservoir. Kansas intends to submit the enclosed Draft Resolution providing for the establishment of such an account in a form that would be acceptable to Kansas. I am also providing this draft resolution to the other members of the Compact Administration for their review prior to the annual meeting.

Sincerely,

Handwritten signature of David L. Pope in cursive.

David L. Pope  
Chief Engineer

Handwritten signature of David L. Pope in cursive, appearing to be a second or more legible version of the signature above.

enc.

cc: Robert Buerkle, Kansas Representative  
Eugene Overton, Kansas Representative  
Chuck Lile, Colorado Representative  
Carl Genova, Colorado Representative  
Jim Rogers, Colorado Representative  
Hal D. Simpson, Colorado SEO  
Steve Miller  
John B. Draper  
David W. Robbins

6th Draft

Resolution Concerning  
An Offset Account for  
Colorado Pumping in  
John Martin Reservoir

WHEREAS, the State of Colorado has been determined by the United States Supreme Court to have violated the Arkansas River Compact [hereinafter the "Compact"] during the period 1950 through 1985, Kansas v. Colorado, 115 S.Ct 1733 (1995); and

WHEREAS, the State of Colorado is currently not in compliance with the Compact; and

WHEREAS, the State of Colorado desires to continue to allow ground water pumping by its water users in excess of the pre-Compact pumping entitlement of 15,000 acre-feet per year determined by the United States Supreme Court; and

WHEREAS, Article IX-A of the Compact contains the following proviso:

Provided, that the Chief of Engineers is hereby authorized to operate the conservation features of the John Martin Reservoir Project in a manner conforming to such Compact with such exceptions as he and the Administration created pursuant to the Compact may jointly approve; and

WHEREAS, the issue of Compact compliance by Colorado is presently pending before the Special Master appointed by the United States Supreme Court; and

WHEREAS, the existence of an account in John Martin Reservoir [hereinafter the "Reservoir"] is not necessary for Colorado's compliance with the Compact, but it is recognized that it would be of benefit to Colorado to establish such an account and that Colorado has requested such an account; and

WHEREAS, the existence of an account in the Reservoir does not, in and of itself, assure Colorado's compliance with the Compact; and

WHEREAS, the Administration recognizes that neither the Administration nor either of its member states has any obligation to create the account provided for in this Resolution;

NOW THEREFORE, BE IT RESOLVED that the Administration and the Chief of Engineers of the Corps of Engineers, pursuant to Article IX-A of the Compact, jointly approve a temporary storage account in the Reservoir to be established and operated as follows:

- I. Establishment of the Offset Account for Colorado Pumping.

There is hereby established for Compact Year 1996 only a new storage account in the Reservoir to be known as the "Offset Account" for Colorado Pumping (in John Martin Reservoir) [hereinafter the "Offset Account"]. The size of the Offset Account shall be 20,000 acre-feet. Water in the Offset Account shall not be considered to be water in the conservation pool. The establishment of the Offset Account is for purposes of facilitating Compact compliance by Colorado after the effective date of this Resolution and is not for the purpose of repayment for violations of the Compact by Colorado prior to the effective date of this Resolution.

## II. Operation of the Offset Account

A. The Colorado State Engineer or his delegate may deliver water to the Offset Account upon prior notice to the Kansas Chief Engineer or his delegate. Such notice shall specify the source of the water to be delivered, the amount of water, the time of delivery and the rate of delivery.

B. Only water imported to the Arkansas River Basin or return flows from such imported water shall be delivered to the Offset Account, unless the Administration gives its prior approval for the delivery of water from another source.

C. The Offset Account shall bear its pro rata share of evaporation losses with other water in the Reservoir.

D. Deliveries from the Offset Account shall be made upon the request of the Kansas Chief Engineer or his delegate, who shall have complete discretion as to the timing, rate and amount of such requests.

E. Deliveries from the Offset Account shall be made and measured at the state line. The amount of a delivery shall be the difference between the amount of water that otherwise would have reached the state line and the total measured amount of water that arrived at the state line during such delivery.

F. In recognition of the fact that the operation of the Offset Account is for the purpose of facilitating increased post-Compact pumping by Colorado water users, Colorado shall report to Kansas and the Administration on a monthly basis the timing and amount of deliveries to the Offset Account, the monthly pumping in location and amount in excess of Colorado's pre-Compact entitlement and Colorado's monthly accounting of Compact compliance, within two months of the end of the month reported. Colorado shall also pay to Kansas a reasonable amount of at least \$25,000 for Kansas' costs to monitor pumping by Colorado users in excess of Colorado's pre-Compact entitlement during Compact Year 1996 and the effects of such pumping. Colorado shall pay such sum to Kansas within 60 days after the effective date of this Resolution. Additional sums shall be paid to Kansas upon a showing of such expenses in excess of \$25,000 by Kansas.

G. In the event that runoff conditions occur in the Arkansas River Basin above the Reservoir such that water must be released or spilled to prevent the unauthorized invasion of flood control storage, water in the Offset Account shall be released or spilled before conservation storage but after all other water, except as otherwise required by federal statute.

III. Definitions

All terms employed in this Resolution which are defined in the Compact shall have the same meaning as set out in the Compact.

IV. No Waiver or Accord and Satisfaction

A. Except as provided below in Article IV-B, neither the adoption of this Resolution nor the establishment or operation of the Offset Account shall constitute a waiver of either State's rights under the Compact (if such a waiver is possible as a matter of law) or prejudice the ability of either State to represent its interests in present or future cases or controversies before the Administration or any court of competent jurisdiction.

B. Except for actual deliveries pursuant to Article II-D hereof, the existence or use of the Offset Account shall have no bearing on the determination of depletions to usable stateline flows or Compact compliance.

V. Term

The effective date of this Resolution shall be the date on which the Chief of Engineers of the Corps of Engineers gives his approval by signing and dating below in the space provided. The Offset Account shall expire at the end of Compact Year 1996, except that water remaining in the Offset Account at that time will remain in storage and be released as provided above until exhausted.

JOINTLY APPROVED:

---

Chairman  
Arkansas River Compact  
Administration

---

Secretary  
Arkansas River Compact  
Administration

---

Colorado Member  
Arkansas River Compact  
Administration

---

Kansas Member  
Arkansas River Compact  
Administration

\_\_\_\_\_  
Chief of Engineers  
U.S. Army Corps of Engineers

\_\_\_\_\_  
Date

I

ARKANSAS RIVER COMPACT ADMINISTRATION

FINANCIAL STATEMENTS

June 30, 1995

EXHIBIT

I



ARKANSAS RIVER COMPACT ADMINISTRATION  
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June 30, 1995

Independent Auditor's Report	1
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Statement of Revenues and Expenses with Budget Comparison	3
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Notes to Financial Statements	5

Members  
NSPA  
PASC

Certified Public Accountants

Ronald D. Anderson, P.A.  
Gary L. Anderson, C.P.A.  
Cynthia S. Anderson, A.B.A.

INDEPENDENT AUDITOR'S REPORT

October 4, 1995

To the Representatives of  
Arkansas River Compact Administration  
Lamar, Colorado 81052

We have audited the accompanying statements of assets, liabilities and equity - cash basis - of the Arkansas River Compact Administration as of June 30, 1995, 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, 1995 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.

ARKANSAS RIVER COMPACT ADMINISTRATION  
STATEMENT OF ASSETS AND LIABILITIES - CASH BASIS  
June 30, 1995

ASSETS

Cash \$ 52,820

TOTAL ASSETS \$ 52,820

CASH BASIS EQUITY

Unexpended 52,820

TOTAL CASH BASIS EQUITY \$ 52,820

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION  
STATEMENT OF REVENUES and EXPENSES  
with BUDGET COMPARISON  
For the Budget Year July 1, 1994 to June 30, 1995

	<u>ACTUAL</u>	<u>BUDGET</u>	<u>OVER(UNDER)</u>
<b><u>REVENUES</u></b>			
Revenues from Assessments			
Colorado - 60%	\$ 24,000	\$ 24,000	\$ 0
Kansas - 40%	16,000	16,000	0
Special Assessments			
Colorado - 60%	6,000	6,000	0
Kansas - 40%	4,000	4,000	0
Interest	<u>1,698</u>	<u>500</u>	<u>1,198</u>
<b><u>TOTAL REVENUES</u></b>	<u>51,698</u>	<u>50,500</u>	<u>1,198</u>
<b><u>EXPENSES</u></b>			
U. S. Geological Survey-Colorado District	\$ 9,665	\$ 9,675	\$ ( 10)
U. S. Geological Survey - Kansas District	5,375	5,375	0
Satellite Access Fee-State of Colorado	8,000	8,000	0
Operation Secretary	6,060	6,100	( 40)
Treasurers Bond (Note 2)	100	0	100
Telephone	934	1,200	( 266)
Court Reporter	1,058	1,000	58
Recording Secretary	2,000	2,000	0
Treasurer	2,000	2,000	0
Meeting Expense	144	500	( 356)
Auditor Fee	350	400	( 50)
Incidental Office Expense	418	400	18
Printing/Copying	0	300	( 300)
Printing Annual Report-1989 (Note 3)	1,000	10,000	( 9,000)
Office Rent	600	600	0
Legal Fees (Note 4)	612	2,500	( 1,888)
Contingency	<u>0</u>	<u>2,000</u>	<u>( 2,000)</u>
<b><u>TOTAL EXPENSES</u></b>	<u>38,316</u>	<u>52,050</u>	<u>(13,734)</u>
<b><u>BUDGET SURPLUS (DEFICIT)</u></b>	<u>\$ 13,382</u>	<u>( 1,550)</u>	<u>\$ 14,932</u>

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION  
 CHANGES IN CASH BALANCE  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 For the Year Ended June 30, 1995

CASH BALANCE - July 1, 1994 \$ 39,338

RECEIPTS

Revenues from Assessments	
Colorado	\$ 30,000
Kansas	20,000
Interest	<u>1,698</u>

TOTAL RECEIPTS 51,698

DISBURSEMENTS

Geological Survey - Gaging Stations	\$15,040
Satellite Access Fee - Gaging Stations	8,000
Operations Secretary	6,060
Office Rent	600
Auditor Fee	350
Legal Fees and Expenses	612
Incidental Office Expense	418
Annual Report-1989 (Partial Payment)	1,000
Meeting Expense	144
Court Reporter and Transcripts	1,058
Telephone	934
Recording Secretary	2,000
Treasurer	<u>2,000</u>

TOTAL DISBURSEMENTS (38,216)

RECEIPTS IN EXCESS OF DISBURSEMENTS 13,482

CASH BALANCE - June 30, 1995 \$ 52,820

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION  
NOTES TO FINANCIAL STATEMENTS  
June 30, 1995

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.
- b. The *Statement of Receipts and Disbursements* is shown only to reconcile the beginning and ending cash balances. It is not intended to reflect *income* and *expense* recognition. Income and expenses are reflected in the *Statement of Revenues and Expenses with Budget Comparison*.

NOTE 2 - The treasurer bond expense was paid prior to the preceding fiscal year ending 06/30/94, recorded as a prepaid expense at that time.

NOTE 3 - The expense of \$1,000 for printing of the 1989 Annual Report was partial payment towards the total cost of approximately \$2,500.

NOTE 4 - Legal fees were for services rendered through 04/30/95. Legal fees incurred after that date have been very minor.

**K**

**ARKANSAS RIVER COMPACT ADMINISTRATION  
FY 1996 - 97 BUDGET [1st. Rev.]**

(July 1, 1996 - June 30, 1997)

DRAFT AS REVIEWED AT 1995 ARCA ANNUAL MEETING [rev. 12/13/95]

**I. EXPENDITURES**

**A. PROFESSIONAL SERVICE CONTRACTS**

1. Treasurer.....	\$2,000	
2. Recording Secretary .....	\$2,000	
3. Operations Secretary .....	\$6,100	
4. Auditor Fee .....	\$400	
5. Court Reporter Fee .....	\$1,000	
subtotal services	\$11,500	\$11,500

**B. GAGING STATIONS & STUDIES**

1. U.S.G.S. Colorado Dist. Joint Funding fed. FY95-96 * .....	\$23,350	
2. U.S.G.S. Kansas Dist. Joint Funding fed. FY95-96 .....	\$6,175	
3. State of Colorado Satellite System .....	\$8,400	
subtotal gaging	\$37,925	\$37,925

**C. OPERATING EXPENSES**

1. Treasurer Bond .....	\$100	
2. Annual Report Printing (CY 95, 96) .....	\$4,500	
3. Telephone .....	\$1,200	
4. Miscellaneous Office Expense .....	\$300	
5. Postage/Copying/Supplies .....	\$400	
6. Meetings .....	\$500	
7. Travel .....	\$0	
8. Rent .....	\$600	
subtotal operating	\$7,600	\$7,600

**D. EQUIPMENT**..... \$0

**E. CONTINGENCY**..... \$2,000

**F. LITIGATION**..... \$5,000

**TOTAL ALL EXPENDITURES** \$64,025

**II. INCOME**

**A. ASSESSMENTS**

1. Colorado (60%).....	\$37,200	
2. Kansas (40%).....	\$24,800	
subtotal assessments	\$62,000	\$62,000

**C. INTEREST EARNINGS**..... \$1,000

**D. MISCELLANEOUS**..... \$0

**TOTAL ALL INCOME** \$63,000

**III. CASH SURPLUS ACCOUNT**

**A. EXPENDITURES FROM SURPLUS** \$1,025

**B. ADDITION TO SURPLUS**

\* USGS Colorado District includes \$500. for new crest stage gage on Big Sandy Creek and \$500. for completion of Phase 1 of Purgatoire River Transit Loss Study.

Adopted by the Arkansas River Compact Administration at its December 13, 1994 Annual Meeting and revised at its December 12, 1995 Annual Meeting.

DRAFT NOT FOR SIGNATURE

\_\_\_\_\_  
James Rogers, Treasurer

\_\_\_\_\_  
Date

**EXHIBIT**

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**ARKANSAS RIVER COMPACT ADMINISTRATION**

**FY 1997 - 98 BUDGET**

(July 1, 1997 - June 30, 1998)

**DRAFT AS REVIEWED AT 1995 ARCA ANNUAL MEETING [rev. 12/13/95]**

**I. EXPENDITURES**

**A. PROFESSIONAL SERVICE CONTRACTS**

1. Treasurer.....	\$2,000	
2. Recording Secretary .....	\$2,000	
3. Operations Secretary .....	\$6,100	
4. Auditor Fee .....	\$400	
5. Court Reporter Fee .....	\$1,000	
subtotal services	<u>\$11,500</u>	\$11,500

**B. GAGING STATIONS & STUDIES**

1. U.S.G.S. Colorado Dist. Joint Funding fed. FY96-97.....	\$24,000	
2. U.S.G.S. Kansas Dist. Joint Funding fed. FY96-97 .....	\$6,680	
3. State of Colorado Satellite System .....	\$8,400	
subtotal gaging	<u>\$39,080</u>	\$39,080

**C. OPERATING EXPENSES**

1. Treasurer Bond .....	\$100	
2. Annual Report Printing (CY 97) .....	\$2,500	
3. Telephone .....	\$1,200	
4. Miscellaneous Office Expense .....	\$300	
5. Postage/Copying/Supplies .....	\$400	
6. Meetings.....	\$500	
7. Travel.....	\$0	
8. Rent.....	\$600	
subtotal operating	<u>\$5,600</u>	\$5,600

**D. EQUIPMENT.....** \$0

**E. CONTINGENCY.....** \$2,000

**F. LITIGATION .....** \$0

**TOTAL ALL EXPENDITURES** \$58,180

**II. INCOME**

**A. ASSESSMENTS**

1. Colorado (60%).....	\$37,200	
2. Kansas (40%).....	\$24,800	
subtotal assessments	<u>\$62,000</u>	\$62,000

**C. INTEREST EARNINGS .....** \$1,000

**D. MISCELLANEOUS .....** \$0

**TOTAL ALL INCOME** \$63,000

**III. CASH SURPLUS ACCOUNT**

**A. EXPENDITURES FROM SURPLUS .....**

**B. ADDITION TO SURPLUS .....** \$4,820

Adopted by the Arkansas River Compact Administration at its December 12, 1995 Annual Meeting.

**DRAFT NOT FOR SIGNATURE**

\_\_\_\_\_  
James Rogers, Treasurer

\_\_\_\_\_  
Date

