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ORIGINAL

ARKANSAS RIVER COMPACT ADMINISTRATION

COMPACT YEAR 2010

ANNUAL MEETING

December 14, 2010

HELD AT THE

LAMAR COMMUNITY BUILDING

LAMAR, COLORADO

Randy Laygett vice chairman
12/8/2011

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ADVANCED COURT REPORTING SERVICES

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APPEARANCES

COLORADO:

Matt Heimerich

Colin Thompson

KANSAS:

David Barfield

Randy Hayzlett

P R O C E E D I N G S

MR. HAYZLETT: Good morning. I think we're ready to get started. Welcome to the annual meeting of ARCA, 2010. We're a little skimpy up here. One of the Kansas representatives was sick and unable to make it and our chairman, Robin Jennison, was unable to make it, so I'm Randy Hayzlett. I'll fill in this morning for the Chairman.

Couple of instructions to start with. If you're a presenter, come to the podium, please, and state your name loudly and speak for our reporter so that she can capture all of that; and if you have documents you're going to present, be sure you get those to us, and I understand we need four copies of those as you turn those in.

We are going to try to be out of here by noon if we can. There's another meeting that most of us have to be in at 1:00, so we'll try to move right along if we possibly can, so you might bear that in mind as we move along there. I think that covers our instructions. Try to keep the side conversations down so we can hear a little better up here and we appreciate that.

We'll do introductions. I think we'll start

1 here on my right with introductions and then I'll
2 follow that with an attendance sheet, which when it
3 gets back will be Exhibit A, I believe.

4 MR. BARFIELD: I'm David Barfield. I am
5 Chief Engineer for the Division of Water Resources,
6 part of the Kansas Department of Agriculture, and
7 commissioner for Kansas.

8 MR. HAYZLETT: I'm Randy Hayzlett from
9 Lakin, Kansas.

10 MR. HEIMERICH: I'm Matt Heimerich,
11 commissioner for Colorado, Olney Springs, Colorado;
12 and just for the record, Jennifer Gimbel, the
13 Director of CWCB, was unable to join us as well, so
14 there are two representatives here from Colorado.

15 MR. THOMPSON: I'm Colin Thompson from
16 Holly.

17 MS. McDONALD: My name is Eve McDonald.
18 I'm from the Colorado Attorney General's office.
19 I'm not an ARCA representative; I'm just visiting.

20 MR. HAYZLETT: We can start at that end
21 of the room.

22 MR. SCHNOBEL: Henry Schnobel.

23 MR. RIDDLE: Rich Riddle, Army Corps of
24 Engineers, Trinidad Lake.

25 MS. DOWNEY: Karen Downey, Operations

1 Manager of John Martin Reservoir, Corps of
2 Engineers.

3 MS. CUMMINS: Kelly Cummins with
4 Tri-State Generation and Transmission.

5 MR. TYNER: I'm Bill Tyner with Colorado
6 Division of Water Resources, Pueblo.

7 MR. WITTE: I'm Steve Witte. I'm with
8 the Colorado Division of Water Resources in Pueblo
9 and I'm also the Operations Secretary to the
10 Administration.

11 MR. BEIGHTEL: I'm Chris Beightel, Kansas
12 Division of Water Resources in Topeka.

13 MR. GRIGGS: Burke Griggs, lawyer for the
14 Kansas Division of Water Resources in Topeka.

15 MR. GRUNEWALD: Chris Grunewald,
16 Assistant Attorney General with the office of the
17 Kansas Attorney General in Topeka.

18 MS. JURICEK: Chelsea Juricek with the
19 Kansas Division of Water Resources in the Stockton
20 Field Office.

21 MR. SALTER: Kevin Salter. I'm with the
22 Kansas Division of Water Resources in Garden City.
23 I'm also the Assistant Operations Secretary to the
24 Administration.

25 MS. COLE: Brandy Cole, Kansas Division

1 of Water Resources, Garden City.

2 MR. MEYER: Mike Meyer, Kansas Division
3 of Water Resources out of Garden City, and also the
4 Water Commissioner out of that office.

5 MR. BOOK: Dale Book with Spronk Water
6 Engineers.

7 MR. HINES: Steven Hines, Frontier Ditch,
8 Coolidge.

9 MR. SCHEUERMAN: Hal Scheuerman, Kearny
10 County Farmers Irrigation Association out of
11 Deerfield and Lakin, Kansas.

12 MR. MAXFIELD: I'm Dan Maxfield, Amazon
13 Canal, Lakin, Kansas.

14 MR. McELROY: Brady McElroy,
15 USDA-NRCS here in Lamar.

16 MR. MORRIS: Larry Morris, Teeter
17 Irrigation out of Kansas.

18 MR. STEERMAN: Don Steerman, Shinn,
19 Steerman and Shinn, attorneys for District 67,
20 Amity, Buffalo, and several of the others.

21 MR. GARCIA: Dennis Garcia. I'm with the
22 Reservoir Control Branch of the Albuquerque District
23 U. S. Army Corps of Engineers.

24 MAJ. COLLINS: Major Richard Collins,
25 U. S. Army Corps of Engineers, Albuquerque District

1 Deputy Commander.

2 MR. SIDLOW: Marc Sidlow, U. S. Army
3 Corps of Engineers, Reservoir Control Branch,
4 Albuquerque District.

5 MR. YUSKA: Mark Yuska, U. S. Army Corps
6 of Engineers, Operations Division in the Albuquerque
7 District.

8 MR. TRUAN: Van Truan, Corps of
9 Engineers, Regulatory Branch in Pueblo.

10 MR. DANIELSON: Jeris Danielson, Manager
11 of Purgatoire Conservancy District.

12 MR. CLARK: Andrew Clark. I'm with the
13 U. S. Geological Survey, Kansas representative.

14 MR. EDELMANN: Pat Edelmann, U. S.
15 Geological Survey, located in Pueblo, Colorado.

16 MR. CABOT: I'm Perry Cabot with the
17 Colorado Water Institute, Colorado State University.

18 MS. PEARSON: Julie Pearson. I'm with
19 the Colorado Division of Water Resources out of
20 Pueblo.

21 MR. SPADY: Lonnie Spady, Water
22 Commissioner, Division of Water Resources, Colorado.

23 MR. MILLER: Steve Miller, Colorado Water
24 Conservation Board. I'm on Jennifer Gimbel's staff.

25 MR. VAUGHAN: Roy Vaughan. I'm with

1 Reclamation out of the Pueblo office.

2 MS. TERAUDS: Valda Terauds, Reclamation,
3 Loveland.

4 MR. GILMORE: Andrew Gilmore,
5 Reclamation, Loveland.

6 MR. REYNOLDS: Phil Reynolds, Project
7 Manager for Southeast Water Conservancy District.

8 MR. HECKMAN: Fred Heckman, McClave,
9 Super Ditch.

10 MS. SCHENK: Angela Schenk, Spronk Water
11 Engineers.

12 MS. FROST: I'm Janis Frost. I'm
13 representing Chris Frost for KWAY radio.

14 MS. GONZALES: Stephanie Gonzalez. I'm
15 the Recording Secretary and Treasurer for the
16 Administration.

17 MR. WINNER: I'm Jay Winner with the
18 Lower Arkansas Valley Water Conservancy District.

19 MR. HAYZLETT: Okay. Thank you. First
20 item is review and revision of the agenda. Is there
21 any additions or corrections to the agenda?

22 MR. BARFIELD: Mr. Chairman, I would
23 offer a few that we've sort of discussed last night.
24 If you have your agenda, under Agenda Item Number 9,
25 it's currently titled Compact Compliance Update.

1 We'd like to sort of broaden that, in view of the
2 scope of the issues that are sort of in that agenda,
3 to be titled Compact Compliance/Decree Issues
4 Update.

5 Under Item 9-B, Offset Account Review, that
6 will be the report by Bill Tyner and Kevin Salter.
7 In addition, there will be some brief comments by
8 the States on the status of the LAWMA Decree
9 discussions.

10 Under Item 9-C, I actually will provide for
11 Kansas the update on the H-I groundwater model
12 efficiency change that we have proposed; and because
13 of absences of some of the players here at the
14 table, we're going to have different people give
15 some of the committee reports.

16 Under Item 9-A on Engineering Committee, I
17 will -- I'm sorry. 10-A. the report of the
18 Engineering Committee, I will give that report.
19 Under Item 11-A, report of the Operations Committee,
20 Colin will give that report. Under Item 12-A,
21 report of the Admin and Legal, Matt will give that
22 report. And I missed one, under Item 11-B,
23 Operations -- no, I'm sorry. Which one? Oh, I'm
24 sorry. 11-D, Offset Account Report, Bill Tyner will
25 be giving that one.

1 MR. HEIMERICH: Colorado has no changes
2 and we're fine with those additions and changes.

3 MR. BARFIELD: Thank you.

4 MR. HAYZLETT: We'll work off of this
5 agenda then, as corrected. Next item is reports of
6 officers. Mr. Jennison, obviously, isn't here. I
7 did speak with him. Nothing particular to report,
8 other than encouragement to continue moving the
9 annual reports forward. He'd like to see that
10 progress made. That's kind of a goal of his, to get
11 those caught up and get them moving forward.

12 As far as Vice-Chairman, I don't have anything
13 necessarily to report, other than the usual.
14 Stephanie sends the checks to me and I just want to
15 compliment her on her efficiency on getting that
16 done for my cosignature on those.

17 With that, I think the rest of the items there
18 will be deferred to later in the agenda, so that
19 brings us to the Number 5, which is the Irrigation
20 Improvement Rules Update, and that's going to be Eve
21 McDonald and Chris Grunewald.

22 MR. MILLER: Steve Miller. Do you want
23 to put the markup, as amended this morning, in the
24 minutes, or the agenda as published and distributed
25 in the minutes?

1 MR. HAYZLETT: We'll put the marked up
2 agenda in.

3 MR. MILLER: So we'll have to get you a
4 marked up reflecting the changes to Kansas's
5 proposal and put that in the minutes as an exhibit.

6 MR. HAYZLETT: Very good. Good morning.

7 MS. McDONALD: Good morning,
8 commissioners. Thank you, Chairman Hayzlett. My
9 name is Eve McDonald from the Colorado Attorney
10 General's office and I'm here to give a briefer
11 version today of my update on our new Compact rules
12 in the Arkansas River basin in Colorado, briefer
13 than the slide presentation I presented to the
14 Engineering Committee yesterday.

15 I'm happy to announce to all the rest of you
16 in the room that we do have new Compact rules in
17 place in the Arkansas River Basin to enforce the
18 Arkansas River Compact, and they will become
19 effective on January 1st of 2011. This has been a
20 successful and not unpleasant process, starting in
21 the year 2006, but a big effort by the Division 2
22 staff and by Dick Wolfe, the State Engineer, who
23 began in 2007 to find a solution to make sure and
24 ensure that improvements to surface water irrigation
25 systems are in full compliance with Article IV-D of

1 the Compact, and we are pleased that the rules have
2 been approved by the Water Court and that they do
3 enforce, fully enforce the Compact.

4 The rules address improvements to surface
5 water irrigation systems and ensure that any change
6 in historic return flows that is caused by improving
7 that system does not violate Article IV-D by causing
8 a depletion of Stateline flow.

9 As I said, the effort began several years ago,
10 and starting in the year 2007, it went to a public
11 advisory committee that Dick Wolfe, the State
12 Engineer, convened and that committee process took
13 about a year and-a-half, and through public input
14 with water users down here in the Division, the
15 State Engineer's office was able to develop methods
16 that both evaluate the change in return flows and
17 that enable farmers and ranchers to maintain their
18 return flows, despite the improvement, with flexible
19 methods that are affordable and that were devised
20 not by the regulatory agency, but by the water
21 users, in a collaborative effort.

22 Then in September of 2009, the State Engineer
23 filed those rules with the Water Court in Case
24 Number 09CW110, and received 22 objections or
25 statements of protest and spent the next year

1 working with those objectors to resolve their
2 concerns and to continue to find flexible and
3 affordable methods to ensure compliance with the
4 Compact, so that water users can improve their
5 system with assurance that they will not be in
6 violation of the Compact. We were able to resolve
7 all 22 objections.

8 We were also able to work with Kansas's
9 representatives about the rules before they were put
10 in their final form. We had several exchanges,
11 written exchanges, regarding drafts of the rules
12 over the past three to four years with Kansas staff
13 and legal review and engineering review, the two
14 states working together. Engineering review of the
15 model that's called the ISAM, which is used to
16 evaluate the change and return flow, and of
17 Colorado's use of the H-I Model to evaluate effects
18 at the Stateline of improvements, and it was a
19 successful process of everybody collaborating
20 together.

21 In October of 2010, the Water Court for
22 Division 2 entered a stipulated Decree that approves
23 of the rules, and I have copies of that Decree
24 available for everybody on the table in the back. I
25 also brought copies of the stipulations that were

1 entered with individual protesters. There are 22
2 stipulations with an index on the front in a
3 pdf that I printed back there for future reference;
4 and I also want to refer anyone who is looking for
5 details about the rules in the future to our
6 Statement of Basis and Purpose which we filed in the
7 Water Court, which is available in the record of
8 Case 09CW110.

9 Finally, I have 50 copies of the rules
10 themselves, with their attachments, available in the
11 back, and I want to emphasize to everyone that this
12 is a very trans- -- we're beginning to implement the
13 rules now and it's a very transparent process,
14 because you can watch applications be received and
15 processed by joining the notification list, which is
16 a subscriber e-mail list that you can join on the
17 State Engineer's web site, www.state.water.co.us
18 will lead you to a link to click on the notification
19 list signup link.

20 That's all. I'm happy to answer questions. I
21 know Mr. Grunewald is going to add some comments for
22 Kansas.

23 MR. HAYZLETT: Why don't we have him do
24 his comments and then both of you maybe be available
25 for questions?

1 MS. McDONALD: Thank you.

2 MR. GRUNEWALD: Thank you, Mr. Chairman.

3 Good morning, commissioners, and everyone else here
4 attending the meeting. Following on Ms. McDonald's
5 explanation of Colorado rules, I'm just going to
6 make a short statement of comments from the Kansas
7 perspective.

8 Surface water irrigation system improvements
9 in Colorado do have the potential to reduce or
10 otherwise affect return flows of historical seepage,
11 causing the waters of the Arkansas River to be
12 materially depleted in quantity or availability for
13 use to the water users in Colorado and Kansas.

14 In developing its rules governing surface
15 water irrigation system improvements within the
16 Arkansas River Basin for their water users, Colorado
17 has provided Kansas the opportunity to comment.
18 Kansas offered comments and raised a number of
19 concerns, several of which were addressed by
20 Colorado. We have appreciated the opportunity to
21 participate in the process and we believe the rules
22 that were ultimately adopted by the Colorado Water
23 Court are better because of our involvement.

24 However, we do wish to note that Kansas --
25 several of Kansas's stated concerns were not

1 addressed in the adopted rules. Kansas continues to
2 hold these concerns. I'll briefly mention one of
3 the concerns regarding the scope of the rules.

4 The adopted rules govern improvements made
5 since 1999 for center pivot sprinkler systems and
6 drip irrigation systems, and from January, 2011, of
7 course, certain other improvements. We believe the
8 rules should govern any type of surface water
9 improvement that has occurred since 1949, because
10 the Compact protects flows as of that day.

11 We would also note that these are exclusively
12 Colorado's rules that govern Colorado water users
13 under Colorado water laws, and the Arkansas River
14 Compact Administration had no role in promulgating
15 the rules. Although we continue to have concerns,
16 we do recognize that Colorado has made a significant
17 positive achievement with the adoption of these
18 rules. Kansas will monitor the implementation and
19 enforcement of the rules and we encourage Colorado
20 to keep us informed and involved in future rule
21 development to ensure that Stateline flows are
22 protected, as expressly prescribed by the Compact.

23 Also related to irrigation efficiency, there
24 was an exchange of letters involving the Arkansas
25 River Compact Administration, and I wanted to

1 mention that as well. In January, 2010, Mr. Wayne
2 Whittaker of Rocky Ford, Colorado sent a letter to
3 the Administration concerning irrigation efficiency
4 in the Arkansas River Compact. In June, 2010, the
5 Chairman of the Administration sent a response
6 letter to Mr. Whittaker that was drafted jointly by
7 the professional staff from both States and was
8 reviewed by the Administration representatives.
9 These letters will be provided as an exhibit to the
10 transcript. I'll get copies. We have copies of
11 those letters, both the letter to the Administration
12 and the response letter.

13 MR. HAYZLETT: Okay.

14 MR. GRUNEWALD: Thank you, Mr. Chairman.

15 MR. HAYZLETT: Thank you. Any questions
16 for either one of these individuals? Question from
17 the audience?

18 MR. HINES: Steven Hines, Frontier Ditch.
19 I can't see what difference, what Colorado's
20 efficiency does, as long as Colorado delivers to the
21 Stateline. I'd like an explanation on that.

22 MR. HAYZLETT: Eve, do you want to
23 respond to that?

24 MS. McDONALD: It is possible under
25 certain circumstances for a more efficient system to

1 allow the crop to consume more water than it used to
2 be able to consume. It usually happens on a
3 water-short farm, as opposed to a water-long farm.
4 If the crop irrigation requirement was not
5 previously fully served by the available water
6 supply but the sprinkler system, for example,
7 enables a more even application of water to fulfill
8 more of the crop irrigation requirement, it can
9 reduce return flows.

10 This is a very general principle that is
11 agreed to by all engineers and we didn't have any
12 objections to that concept in the Water Court
13 process. We put in some expert reports supporting
14 that concept. Mr. Grunewald has just mentioned that
15 Kansas agrees it's true. Everybody agrees it's
16 true.

17 So what we do under these rules is evaluate
18 whether such a change occurs from an improvement.
19 If it's a reduction in return flow, then we use
20 terms and conditions on the subject water right to
21 restore that historic amount of return flow.

22 MR. HINES: But that shouldn't make any
23 difference on what Colorado has to deliver to the
24 Stateline. That's a Colorado issue, right?

25 MS. McDONALD: The State -- yes, Kevin?

1 MR. SALTER: Can I add some clarification
2 to that? The Compact -- Kevin Salter. The Compact
3 protects both those flows that Colorado delivers to
4 Kansas from John Martin Reservoir as well as the
5 flows that come across the Stateline otherwise, so
6 what the Irrigation Improvement Rules are trying to
7 do is protect those other flows that come across the
8 Stateline outside the deliveries; so if those flows
9 are reduced to the State of Kansas, then that is a
10 concern to us.

11 The deliveries are a completely separate issue
12 and the interaction between the deliveries and the
13 State of Kansas. There may be some impact, but it's
14 going to be fairly minimal, so there's no
15 relationship between the deliveries to the State of
16 Kansas and the other waters that we otherwise
17 receive across the Stateline, outside of those
18 deliveries.

19 MR. HINES: But Colorado is required to
20 deliver so much water, period, right?

21 MR. SALTER: Subject to the H-I Model
22 check, so that goes into a different realm.

23 MS. McDONALD: Just briefly, Article IV-D
24 allows future development in Colorado as long as it
25 does not materially deplete -- materially deplete

1 useable Stateline flow, and that is a difficult
2 standard to enforce, but the two States have agreed
3 on the H-I Model to enforce it.

4 MR. HINES: I guess.

5 MS. McDONALD: I'd be happy to talk to
6 you about this after the meeting.

7 Mr. Chairman, I'd like to offer an additional
8 exhibit to that ARCA letter. Here is a four -- here
9 are four sets of the final rules that have been
10 approved by the Water Court.

11 MR. HAYZLETT: Okay. I was going to ask
12 if you wanted to have that as an exhibit. I believe
13 that will be Exhibit B, I believe. Is that right,
14 Steve? Are you tracking?

15 MR. MILLER: Off the record for a second.

16 (Discussion held off the record. It
17 was determined during this
18 discussion that the Compact Rules
19 Governing Improvements to Surface
20 Water Irrigation Systems in the
21 Arkansas River Basin in Colorado are
22 Exhibit D.)

23 MR. HAYZLETT: Back on the record then.
24 Are there other questions for either one of Eve or
25 Chris?

1 MR. HEIMERICH: Nothing from Colorado.

2 MR. HAYZLETT: Thank you for the update.

3 MS. McDONALD: Thank you.

4 MR. HAYZLETT: Move into the Reports of
5 Federal Agencies. The first one I have is USGS.
6 Pat Edelmann, is that correct?

7 MR. EDELMANN: Correct.

8 MR. HAYZLETT: Good morning.

9 MR. EDELMANN: Good morning. I'll
10 provide you all with copies of the status report.
11 Pat Edelmann, U. S. Geological Survey.

12 In 2010, 10 streamflow gages were operated
13 under the USGS/ARCA Cooperative Program; eight in
14 Colorado, two in Kansas. The final annual flows for
15 Water Year 2010 are presented in the table that I
16 handed you, just to summarize a few of the flows for
17 certain sites.

18 At Arkansas River at Las Animas between
19 October 1, 2009 through September 30th, 2010,
20 there's a total of 155,400 Acre Feet. Purgatoire
21 River near Las Animas was 49,860. Arkansas River
22 below John Martin Reservoir was 213,900. Arkansas
23 River at Lamar, 55,550. Arkansas River near
24 Granada, 86,120. Arkansas River near Coolidge was
25 112,500. Frontier Ditch was 7,870. In addition,

1 Big Sandy Creek had 10,490 and Wild Horse Creek,
2 which is operated seasonally, so during the months
3 of October, November, and April through September,
4 had 7,010.

5 There are no significant problems that were
6 encountered in the network, with the exception of
7 the continuing beaver dam problem that we have at
8 Big Sandy. During the past year, the Department --
9 Colorado Department of Transportation turned over
10 the maintenance of the bridge to Prowers County.
11 They've been doing a very good job of removing the
12 beaver dams. There are still some beaver dams
13 downstream that do affect the stage, which will
14 result in that records still being basically rated
15 as a poor, poor record until those things can be
16 totally removed; but this past year, things operated
17 much better than the previous year.

18 Just a few other activities that are on the
19 back of the page that I gave you to mention is in
20 addition to these gages, the USGS operates about
21 another 60 stream gages throughout the Arkansas
22 Basin. We measure water levels in about 320 wells
23 in the Basin. In 2010, we completed a retrospective
24 analysis of existing water quality data for
25 dissolved solids, selenium and uranium in surface

1 water and groundwater for the period from 1970
2 through 2009. That report is published and is
3 online.

4 I made a few copies of abstracts. There's
5 only about 10 to 15 back there that show the
6 executive summary there. I'd like to hit on just a
7 couple of points that may be of interest. One of
8 the things that was done in the report was to look
9 at long-term variations in specific conductance,
10 which is an indicator of how much dissolved solids
11 or salinity occurs. We looked at those temporal
12 patterns from the headwaters down to the Stateline,
13 and since 1970, the data shows quite a bit of
14 variation, but the overall pattern or trend in
15 specific conductants generally has shown to be
16 relatively constant or decreasing during that period
17 of time, depending on the site.

18 The other thing we have operated for a number
19 of years is about 15 continuous specific conductance
20 monitors that record daily specific conductance, so
21 we basically looked at the period when all of those
22 gages monitors were running, and between 2000
23 through 2006, about 66% of the average annual
24 dissolved solids load, so in tons per year at
25 Arkansas River Coolidge could be attributed to

1 sources upstream of Arkansas River at Avondale, so
2 I'd say basically by that, you'd say that about a
3 third of the load that's at Coolidge is new sources
4 that are coming in downstream of the Arkansas River
5 at Avondale and two-thirds are upstream.

6 That concludes my report. If you have any
7 questions, I'd be happy to try to address those.

8 MR. HAYZLETT: Any questions? One I have
9 is on the beaver dam. What are they, when you --
10 the process for the others that are further up the
11 creek?

12 MR. EDELMANN: They're just tearing them
13 out right now. There are some trappers that are
14 coming in and doing some trapping. We probably need
15 to continue to try to request that to be done.

16 MR. HAYZLETT: That was kind of the
17 process last year, of working on it?

18 MR. EDELMANN: Right.

19 MR. HAYZLETT: Any other questions?

20 MR. BARFIELD: I guess I have one, Pat.
21 So on the water quality trends, you're saying the
22 trends, at least as indicated, seem to be stable?
23 They're not -- is that true at the Stateline as
24 well, then?

25 MR. EDELMANN: Yes. If you look at the

1 report, there will be a period where it shows an
2 increase within that period and then came back down
3 and decreased; and of course, dissolved solids,
4 concentrations and flow are, so during drought
5 years, you're going to see generally a higher
6 dissolved solids than when you have more water,
7 you're going to see lower, so overall, the pattern
8 is, from 1970 through present, that the conditions
9 are relatively stable.

10 MR. BARFIELD: They're not further
11 degrading, but I mean obviously, they're not good,
12 at least as we experience it.

13 MR. EDELMANN: Yeah, I'd say the water
14 quality is definitely would not be qualified as
15 being high quality water, with respect to dissolved
16 solids. The concentrations are quite high, but
17 basically, there's no indication here that they're
18 continuing to degrade, so with -- and I should maybe
19 put, as a caveat, with the status that we have
20 available, so --

21 MR. HAYZLETT: Is the process for
22 monitoring those just continue to monitor water
23 quality or --

24 MR. EDELMANN: Continue to monitor the
25 sites. It's a pretty rich dataset that at the

1 stream gaging sites, we try to collect specific
2 conductance measurement when we're there, so we
3 actually have some data that goes back at certain
4 sites to 1918; some data back to 1945; pretty
5 consistently from about 1970 through present; and
6 then we basically have it, at Coolidge and several
7 other places, we have a continuous water quality
8 monitor. Of course, we'll continue to operate that
9 subject to available funds, so --

10 MR. HEIMERICH: Pat, if two-thirds of the
11 load is occurring above Avondale, what does that
12 tell us? I mean, obviously, the dam is intercepting
13 solids and precipitating out. Is it occurring
14 between the dam and Avondale or is -- and what's
15 Fountain Creek's --

16 MR. EDELMANN: There's about 30% that's
17 coming from Fountain Creek, and roughly 30% of that
18 two-thirds is maybe -- I'm trying to remember the
19 exact numbers. I shouldn't do this on record.
20 There is still, there's a significant percentage
21 that's occurring upstream of the reservoir, and part
22 of that is that load combines both concentration and
23 flow, so it's taking the mass of the salt and most
24 of that is being transported down, so a lot of the
25 quality in the upper basin is high quality water,

1 but the total loading, so it does say that you have
2 sources that, if you're looking at mitigation
3 strategies, would be worthwhile looking at above
4 that, if you really are trying to also do part of
5 your long-term mitigation; so, you know, looking at
6 the whole basin rather than just a certain segment,
7 I think, is the take-home message.

8 MR. HEIMERICH: Very good. Thanks, Pat.

9 MR. HAYZLETT: Are you submitting this
10 for an exhibit then? Do you want to submit it to
11 the administration as an exhibit?

12 MR. EDELMANN: No, I -- if that would be
13 helpful, that would be fine.

14 MR. HAYZLETT: Okay.

15 MR. BARFIELD: This would be Exhibit E,
16 then if I'm tabulating correctly here. Very good.

17 MR. HAYZLETT: Next item is Corps of
18 Engineers. Major Collins, good morning.

19 MAJ. COLLINS: Good morning, Mr. Chairman
20 and members. I'm Major Richard Collins, Deputy
21 Commander of the Albuquerque District, U.S. Army
22 Corps of Engineers. On behalf of Lieutenant Colonel
23 Jason Williams, it's truly an honor and privilege to
24 be here. Lieutenant Colonel Williams had planned on
25 giving this presentation himself today personally

1 but, unfortunately, his schedule precluded him from
2 being able to do so. He sends his regards, and me,
3 as well.

4 I thank you for this opportunity to present
5 key topics from our report for this last year and
6 items of current interest. I have copies of our
7 reports and have a few extra copies as well, if
8 anybody needs them.

9 Joining me from the Albuquerque District
10 Office is our Operations Division Chief, Mark Yuska;
11 and Dennis Garcia, our Reservoir Control Branch
12 Chief. We also have Marc Sidlow, our Arkansas River
13 Basin Coordinator; Van Truan, our Pueblo Regulatory
14 Chief; Karen Downey from John Martin Lake, she's our
15 Operations Project Manager; and Rich Riddle from
16 Trinidad Lake as the Operating Project Manager. If
17 you have any of the hard questions, this team would
18 be more than happy to answer those questions.

19 In 2010, the upper Arkansas Basin, in terms of
20 snowpack, reached 94% of average, while the southern
21 subbasins were about 130% of average, so there were
22 no Corps-related flood control operations required
23 at Trinidad, John Martin, or Pueblo Reservoirs this
24 year.

25 Regarding our work on studies and projects

1 with basin sponsors under Corps mission areas of
2 flood damage reduction, ecosystem restoration, and
3 Clean Water Act compliance, I'll highlight a few of
4 these actions from 2010.

5 First, the Arkansas River Fisheries Habitat
6 Restoration, a Section 206 Aquatic Restoration
7 project, is nearing completion in the 10-mile main
8 stem reach downstream of Pueblo Dam. This project
9 was sponsored by the City of Pueblo and initiated in
10 2002. It will improve fish and riparian habitat
11 along the river. Stream habitat, channel
12 structures, and some riparian/bank plantings were
13 completed in 2006, and exotic vegetation removal and
14 planting are scheduled through 2011.

15 The Albuquerque District issued 11 individual
16 Section 404 Clean Water Act permits in the basin in
17 2010, with 237 additional activities reviewed and
18 covered by nationwide permits.

19 As well in the Arkansas River Basin in 2010,
20 we completed two projects using American Recovery
21 Reinvestment Act funding, otherwise known as ARRA or
22 stimulus funding. One was replacing the dam at John
23 Martin Lake and Dam. The other -- excuse me. One
24 was replacing the elevator at John Martin Dam. The
25 other was an Aquatic Invasive Species Control

1 project.

2 Current items of interest for the Board is
3 sediment surveys. In an effort to update the
4 area-capacity tables at both John Martin Reservoir
5 and Trinidad Lake, the Corps conducted hydrologic
6 surveys in the spring of 2009. The new tables are
7 undergoing a final review and will be available and
8 in place by October of 2011.

9 The U. S. Bureau of Reclamation requested a
10 deviation from normal operations at Pueblo Reservoir
11 in February of 2010 to extend by two weeks the
12 joint-use pool. This pool was -- excuse me. In
13 February, 2010, they requested to extend by two
14 weeks the joint-use pool evacuation period from
15 April 15th to May 1st. The deviation was approved
16 by the Albuquerque District and the South Pacific
17 Division. All the conditions to implement the
18 deviation were met, and water stored in the
19 joint-use pool beyond the April 15th normal deadline
20 was evacuated by May 1st.

21 At Trinidad, the Corps, along with Bureau of
22 Reclamation and other state and local agencies,
23 pursued efforts to combine resources and conduct a
24 study to definitively determine the existing
25 hydraulic capacity of the Purgatoire River below

1 Trinidad Dam. The hydrologic model development and
2 final report are now complete. The collaborative
3 effort undertaken for this study was instrumental to
4 the success of this effort. A letter reporting the
5 key findings of the study is being delivered to the
6 collaborative agencies.

7 As you're all aware, we have also some other
8 important activities around the country and the
9 world I wish to highlight. I want to include a few
10 words about one priority mission for the Corps of
11 Engineers, and this is our support to the Overseas
12 Contingency Operations, or OCO, which was formally
13 the Global War On Terror or GWOT. While I'm
14 frequently reminded by the Corp employees, some of
15 which are sitting here, that they are not soldiers,
16 I am proud to say that this year, 22 Albuquerque
17 District members volunteered to deploy to Iraq and
18 Afghanistan. We currently have, this holiday
19 season, five employees in harm's way.

20 Also this year, the Albuquerque District has
21 40 volunteers who are members of the National Ice
22 Planning and Response Teams, which is one of two
23 nationwide emergency response teams prepared and
24 standing ready to deploy anywhere in the country, at
25 any given time, to support any FEMA directed

1 National Emergency Response mission in the event of
2 national disasters. These team members are
3 responsible for overseeing the purchasing,
4 transportation and delivering of emergency supplies
5 under -- as part of the FEMA National Emergency
6 Response framework.

7 This concludes my report. If there are any
8 questions, I'll be glad to answer the easy ones and
9 throw the hard ones at my staff.

10 MR. HAYZLETT: Thank you, and just
11 certainly want to note that your services are
12 greatly appreciated to the country. Any questions?

13 MR. MILLER: This is really a hard one.
14 On the new area capacity tables, the report said it
15 was complete at the beginning of the water year in
16 October. Is it possible to do it at the beginning
17 of the Compact Year on November 1st, as opposed to
18 the middle of the Compact Year?

19 MR. GARCIA: Yeah, that's our target.
20 That's not a big deal. We've got some really good
21 data for the water portion of it at both lakes, but
22 the reservoir levels were down, so what we're doing
23 right now is trying to mesh that good water data
24 with the topography to get a really good area
25 capacity table.

1 MR. MILLER: Probably more important to
2 know what Steve Witte would prefer in terms of the
3 implementation, but seems to me it will work well on
4 doing it on November 1st, rather than October 1st.

5 MR. GARCIA: We can shoot for that date.

6 MR. HAYZLETT: Any other questions?
7 Colorado questions?

8 MR. HEIMERICH: Thanks, Major.

9 MR. HAYZLETT: Thank you. This will be
10 an exhibit attached to the meeting then.

11 MR. BARFIELD: That would be F.

12 Did you get that? That was Dennis Garcia that
13 gave that one comment.

14 MR. HAYZLETT: I'd remind you to state
15 your name for the reporter. That will help us out
16 up here as you have comments.

17 Next item is Bureau of Reclamation.

18 MR. VAUGHAN: I'm going to do a little
19 Power Point. My name is Roy Vaughan. I'm the
20 facility manager of Pueblo Dam and also the
21 operations specialist for the east slope reservoirs
22 of the Fryingpan-Arkansas Project. We had an
23 average year last year. I'm going to highlight some
24 of the operations and then we'll talk about some of
25 the projects, but the initial May forecast was for

1 56,500. Runoff started slow but then just picked up
2 dramatically and then dropped off as the snow melt
3 completed.

4 Our net to the project was 55,300-Acre Feet of
5 water, and that's right at our 30 year average for
6 the project.

7 Just a little graph here kind of highlights
8 just what I talked about. The average is in the
9 gray. I hope everybody can see or you can follow
10 along. The blue line is kind of what happened in
11 2010. We talked about coming off so hard, and you
12 can see most of it came off in June and July. We
13 were well below average, as far as our input. It
14 was kind of a strange year, but I say that every
15 year for the last 20, anyway.

16 Here's kind of a current status. Turquoise is
17 about 94% of average. Twin is 99% of average.
18 Pueblo Reservoir is about 120% of average. This is
19 this year's Water Year, and I'll go over these real
20 quickly. I have this presentation in the back if
21 anybody in the audience would like it, but the black
22 line is average; the blue line is 2010; and the gray
23 line is where we started in this Water Year; so not
24 a lot of difference in Turquoise; Twin's about the
25 same place for December; and Pueblo is a little bit

1 lower than where we were this time last year.

2 I want to go over these next three slides kind
3 of quickly. This is last year's Water Year. It's
4 just to kind of give you an idea of where the
5 average was and where we ended up. You can see
6 Pueblo's been well above average for the last two
7 years.

8 I want to touch a little bit on the Southern
9 Delivery System. Final details for the SDS Excess
10 Capacity Contract are still in progress. Once the
11 terms of the contract are agreed upon and signed, it
12 will be released to the public for a 60-day review
13 period. SDS is a large water project 62 miles long,
14 anticipated to produce or transport 96 billion
15 gallons a day to north of Pueblo to the
16 SDS participants, which are Colorado Springs,
17 Security, Fountain, and Pueblo West.

18 A little update on the mussels. The facility
19 assessment for Pueblo Dam are complete. Here's the
20 web site where you can go to look at that report.
21 The action response are being finalized right now as
22 to what we anticipate doing if we ever start
23 detecting adult mussels. To date, we have found no
24 adults on substrate samples, but we continue to
25 sample. I mean, it's an effort broader than just

1 Reclamation. The State is involved, as well as the
2 Corps, on some of these. We continue to find larvae
3 in the reservoir, but no adults at this time.

4 10-Year Review. Long time coming, anyway.
5 The final reports -- and Andrew Gilmore is with us
6 today. He's kind of taken the lead and finished
7 this off. I mean, there's been quite a few
8 different people that have worked on this, but
9 Andrew took the lead and kind of finished it off for
10 us, so we appreciate that, but they were mailed out
11 within the last two weeks. Here's the web site you
12 can go to, to download that. The next review will
13 be 2014, and I think we've talked about this a
14 little bit earlier. We're going to have a meeting
15 following this, either after lunch or 1:00, or I
16 guess you guys will have to meet. I won't be here,
17 but anyway, they want to refine the process so it
18 still can be done in a more timely manner; get some
19 technical teams involved and do some annual reports,
20 so we just want to thank you for all your patience
21 and assistance in waiting on and finishing this
22 review.

23 We do have an ARRA project at Pueblo Dam. The
24 contract was awarded to Richard Phillips Marine and
25 the contract is currently -- the contractor is

1 currently preparing submittals to start the work
2 that is on the south outlet works, municipal outlet
3 works in Pueblo Dam.

4 So, I don't know. What's your pleasure?
5 Questions?

6 MR. HAYZLETT: Are there any questions
7 for Roy? The mussel issue could be a serious one,
8 then, if you're finding larvae?

9 MR. VAUGHAN: Well, in the report, it
10 kind of -- that's what we continued to find. In the
11 report, it talks about an oxygen dead zone in Pueblo
12 Reservoir and because of the way it cycles annually,
13 that the consultants that get the report don't see
14 it as progressing like you have in the other
15 reservoirs; and so far, without finding adults, that
16 seems to be the case. Not saying that can't change,
17 because they're very adaptive critters, but --

18 MR. HAYZLETT: Any other questions?

19 MR. HEIMERICH: And the work on the south
20 outlet, is that in combination with SDS?

21 MR. VAUGHAN: No, that's a separate
22 issue.

23 MR. HEIMERICH: It's a separate issue.
24 It's just the mechanics of operating the south
25 outlet?

1 MR. VAUGHAN: Of replacing the south
2 outlet actuators that have failed under the
3 ARRA funds that the administration have made
4 available.

5 MR. HAYZLETT: If I remember right, the
6 SDS has been through a NEPA review, is that right?

7 MR. VAUGHAN: Yes, and that is available
8 as well on that web site that I mentioned, USDS -- I
9 think I have it here. Yeah. You can go to that web
10 site, and it's only like 1400 pages. Wonderful
11 reading.

12 MR. HAYZLETT: Any other questions for
13 Roy?

14 MR. VAUGHAN: Valda Terauds is here. She
15 is the Area Manager Special Assistant and she's the
16 project manager for the Arkansas Valley Conduit as
17 far as Reclamation, so with that, I'll let her take
18 over. Thank you.

19 MR. HAYZLETT: Okay. Thank you.

20 MS. TERAUDS: Good morning.

21 MR. HAYZLETT: Good morning. How are
22 you?

23 MS. TERAUDS: My name is Valda Terauds,
24 Reclamation, Loveland, and we're here to present on
25 our new initiatives the Arkansas Valley Conduit and

1 long-term excess capacity master contract
2 environmental impact statement. This is being
3 prepared in cooperation with the Southeastern
4 Colorado Water Conservancy District and the
5 cooperating agency team, and I would like to commend
6 both States for participating on the cooperating
7 agency team and giving us their input as we proceed
8 in the preliminary stages of this analysis.

9 The proposed project is the Arkansas Valley
10 Conduit, an authorized feature of the
11 Fryingpan-Arkansas project. In 1962, the conduit
12 was authorized and included construction from Pueblo
13 to Lamar, Colorado, but it was never built because
14 of the inability of the local communities to pay the
15 construction costs.

16 Recently, there was renewed interest in the
17 AVC and a change to the law in 2009 provided for a
18 65% federal/35% nonfederal cost share. An EPA STAG
19 grant to Southeastern started the project planning
20 in 2010, and NEPA was initiated by Reclamation in
21 July of 2010 with filing of the notice of intent to
22 the Federal Register.

23 AVC is intended to serve communities in the
24 lower Arkansas Valley and we're looking to construct
25 a municipal water supply pipeline from Pueblo

1 Reservoir to Lamar, including spurs to participants,
2 and possibly an interconnect between the north and
3 south outlet works at Pueblo Dam. Currently, there
4 are 41 participants, and we are projecting
5 AVC deliveries based on demands with population
6 growth out to 2070, and the goal is to help provide
7 our partners with water that meets drinking water
8 standards.

9 The EIS also includes a long-term excess
10 capacity master contract. This would allow storage,
11 if and when available, of non-Fry-Ark Project water
12 in Pueblo Reservoir. The master contract was added
13 to the AVC EIS at Southeastern's request, and the
14 NEPA costs are being paid for by Southeastern and
15 master contract participants. Currently, there are
16 35 participants that are within Southeastern's
17 district boundaries seeking to be in the master
18 contract.

19 Then there is also a potential interconnect
20 conveyance contract, should it be built. The
21 interconnect participants and conveyance needs are
22 not yet fully defined. The interconnect would
23 provide emergency service during periods of outlet
24 interruptions, such as maintenance, emergencies,
25 mussel issues, et cetera. The interconnect is not

1 intended to provide 100% redundant supply, but most
2 of the same parties draw from both the north and
3 south outlet works at the dam, and we're still
4 trying to refine the details of what that might look
5 like.

6 The environmental impact statement is being
7 conducted within the National Environmental Policy
8 Act or NEPA framework. Reclamation is the lead
9 federal agency. Southeastern is working in
10 partnership with us. They are coordinating AVC and
11 master contract participants data, they're working
12 to secure nonfederal cost share funding, and they're
13 assisting us throughout the project.

14 Right now, the cooperating agency team is
15 fairly diverse. It includes participants from
16 Colorado, Kansas, some of the local communities,
17 cities, counties, state agencies, resource agencies.
18 Corps of Engineers is one of our partners. Fish and
19 Wildlife Service, EPA. Others are still weighing
20 their participation but are coming to our meetings
21 and providing input.

22 The requirements of NEPA are to disclose the
23 effects of the federal actions and to consider those
24 effects in our decision-making process, and we begin
25 with purpose and need. The Arkansas Valley Conduit

1 is needed to replace poor quality existing municipal
2 and industrial supplies. There are various
3 communities with enforcement actions regarding water
4 quality, and there's also a concern that current
5 supplies may not meet future demands resulting with
6 population growth.

7 The master contract is looking to meet
8 existing and future storage needs for the
9 AVC project, as well as provide additional municipal
10 and domestic supplies and the well augmentation.

11 We're in the middle of developing alternatives
12 at this moment. We are studying various diversion
13 locations, pipeline routes, water treatment
14 locations and levels, water supplies, and various
15 storage and conveyance contracts.

16 We are also considering what things would look
17 like in the valley here without the project, so
18 without AVC, some of the communities would need to
19 regionalize, potentially haul water, do additional
20 treatment at the tap or at their systems, build
21 other systems, purchase new supplies, or simply do
22 nothing and continue as they are currently.

23 Thirteen communities with enforcement actions may be
24 forced into some expensive alternatives without this
25 project. Without the master contract, we're

1 currently assuming that annual if and when storage
2 contracts would be executed every year, and that
3 would be with individual participants.

4 The EIS analysis is going to evaluate a full
5 range of direct, indirect and cumulative effects.
6 We're considering water-based issues, including
7 hydrology, floodplain, wetland, riparian issues,
8 water quality, water-based recreation. We're also
9 looking at land-based concerns relative to
10 terrestrial plants, animals and habitat, cultural
11 resources, socioeconomic impacts, construction
12 impacts, and then linkages with any reasonably
13 foreseeable actions and a cumulative effects
14 analysis, and compliance with executive orders,
15 federal, state, and local statutes.

16 Our next cooperative agency meeting that may
17 be of interest to many in this room is scheduled
18 right now in early January. They're targeting the
19 dates of January 10th or 11th, and we'll be further
20 discussing the work plan, the hydrologic modeling
21 and preliminary development of alternatives, so I
22 encourage those that are participating to attend
23 those meetings, and if there's options to go to
24 individual agencies because of staff shortages and
25 such, we are willing to do that.

1 We can get more information on the EIS on the
2 Reclamation Project web site, and the address is
3 www.usbr.gov/avceis, and there's also information
4 available on Southeastern's web site; and with that,
5 I think I will segue to Phil Reynolds, our partner.

6 MR. HAYZLETT: Any questions before you
7 leave?

8 UNIDENTIFIED SPEAKER: Do you have some
9 preliminary cost estimates?

10 MS. TERAUDS: Not at this time. The STAG
11 report prepared by Southeastern does provide some
12 preliminary estimates, but we will be doing
13 appraisal level engineering in evaluating costs of
14 various alternatives, so we're just beginning this
15 analysis. The draft EIS is expected in December,
16 2011; the final in December, 2012; so we're fairly
17 early in the process.

18 MR. HAYZLETT: David, did you have a
19 question?

20 MR. BARFIELD: Can you just repeat the
21 scope of the master contract on excess capacity?
22 Who could be the players in that?

23 MS. TERAUDS: Right now, there are 35
24 participants, including 23 of the AVC participants,
25 and then there are 12 non-AVC participants, all of

1 whom are within Southeastern's district boundaries,
2 so there are participants from Chaffee, Freemont,
3 Pueblo, El Paso, Otero and Crowley Counties at the
4 moment.

5 MR. BARFIELD: So additional municipal
6 industrial sorts of --

7 MS. TERAUDS: Municipal, yes. Municipal,
8 local water districts, local counties.

9 MR. BARFIELD: Thank you.

10 MR. HAYZLETT: Do you know how many
11 communities have reverse osmosis now along that
12 route?

13 MS. TERAUDS: I would have to say there's
14 two or three, but not very many.

15 MR. HEIMERICH: Randy, the larger
16 communities, Las Animas, the city of La Junta, all
17 have reverse osmosis plants that the participants
18 that Valda was describing that have been trying
19 to -- that have been part of the process from the
20 beginning are either rural water systems or very
21 small systems. The cost for them to install RO and
22 the subsequent waste streams are really issues that
23 we're struggling with, so I think those of us that
24 have been involved in the conduit are very
25 appreciative of Southeastern. We're very anxious to

1 try to get the process going.

2 MR. HAYZLETT: Appreciate the report and
3 particularly the involvement and being able to stay
4 involved with it.

5 MR. HEIMERICH: Where does the work group
6 for the cooperative group typically meet? In
7 Pueblo?

8 MS. TERAUDS: Typically in Pueblo, at
9 Southeastern's offices. Subject to availability,
10 that's the current projected location.

11 MR. HEIMERICH: Very good. Thank you for
12 joining us.

13 MR. BARFIELD: Mr. Chairman, before we
14 get further, do we want to have the Bureau's report
15 be included as an exhibit?

16 MR. HAYZLETT: Yes, and I'm assuming that
17 you want this report submitted as an exhibit?

18 MR. VAUGHAN: Whatever your pleasure is,
19 if you think it's beneficial.

20 MR. HAYZLETT: It's beneficial?

21 MR. VAUGHAN: If you think it's
22 beneficial.

23 MR. HAYZLETT: It would be nice to track
24 what's submitted to the Administration, so I don't
25 see any reason not to.

1 MR. HEIMERICH: Let's assign it an
2 exhibit letter.

3 MR. BARFIELD: So it would be Exhibit G,
4 I think.

5 MR. HAYZLETT: Thank you. Next up, who
6 do we have?

7 MR. REYNOLDS: Thank you, Mr. Chairman.
8 I'm Phil Reynolds with the Southeastern Colorado
9 Water Conservancy District. Our Executive Director,
10 Jim Broderick, sends his regards. He's at the
11 Colorado River Water Users annual convention. As
12 you know, we're a west slope importer, so we got to
13 play both sides of the divide here.

14 I did want to thank Valda for a fine
15 presentation on the Arkansas Valley Conduit and
16 excess capacity. We at the district, as was
17 mentioned, the conduit was an original component of
18 the Fry-Ark project, and so we're excited to
19 finally, after 40 some years, to have this project
20 become a -- it's going to become a reality for the
21 towns and municipalities in the lower district for
22 water quality for municipal and industrial purposes.
23 The excess capacity is strictly the best utilization
24 of our facilities and to help the participants of
25 our project.

1 Just to let you know, in preparations for
2 these activities as we saw these coming on the
3 horizon, we've been in a 10-year cooperative
4 agreement with USGS on water quality monitoring
5 along the river to verify the -- if there are any
6 effects as a result of any activities that the
7 district performs. We are monitoring the river for
8 any of those things, so we do appreciate USGS's
9 cooperation on those water quality monitoring
10 programs.

11 Other than that, I just want to thank Division
12 2 and the Bureau of Reclamation for the cooperative
13 working relationship that we have with them on the
14 Arkansas River.

15 MR. HAYZLETT: Any questions? Thank you,
16 Phil. Next is the Lower Ark Valley Water
17 Conservancy District.

18 MR. WINNER: For the record, my name is
19 Jay Winner with the Lower Arkansas Valley Water
20 Conservancy District. Thank you for having me.
21 We've had many project going on in the year 2010.

22 First one, I think Eve already talked about,
23 with the irrigation efficiency rules. We worked
24 hand in hand with the State Engineer, Eve McDonald,
25 Mr. Witte and Mr. Tyner, for 18 glorious months; 17

1 of which were really, really good. That last one
2 was tough to get through, but we did get through it.

3 We've been working hard in the IBCC,
4 Inter-Basin Compact Committee, for about the last
5 five years. After five years, we have come up with
6 a draft mission statement. It is a draft. We do
7 not have consensus on it yet. We have come up with
8 a white paper on how we will meet the gap going
9 forward by the year 2030 and the year 2050.

10 A couple different means. Conservation is a
11 big part of it. Change of plumbing code. Local
12 appliances. Water wise, irrigation systems on any
13 type of new construction. New water supply. The
14 first part of the new water supply, Jeris Danielson,
15 who will be speaking after me, he came up with it
16 first. It didn't last very long. It was a pump
17 back from Milford Reservoir in northern Kansas to
18 Pueblo Reservoir. We thought that would really help
19 the Arkansas Basin, but that fell off the radar
20 screen pretty fast. Another possible transmountain
21 diversion, and Western Slope water banks, which we
22 think could help avoid any kind of compact call in
23 the future.

24 Another project we're working on is the ag to
25 urban transfers. I think what's happened in the

1 State of Colorado over the last five years with the
2 IBCC is we have realized that you cannot continue to
3 take water out of agriculture. You got to create
4 this relationship between municipalities and
5 agriculture. Colorado is looking at doubling in
6 size by the year 2050. That means double the water
7 supply. That means 40% more food production in the
8 United States, so we've really got to keep an eye on
9 keeping ag in production, so what we are looking at
10 is projects like the Super Ditch. The Super Ditch
11 is a project the Lower Ark has been working on. The
12 last 14 months, we've been in some very intense
13 negotiations with Colorado Springs, Aurora, a
14 community called Pikes Peak Regional Water
15 Authority, which is actually 17 communities in
16 northern El Paso County.

17 After working on negotiations about 14 months,
18 we finally figured out the only thing we were doing
19 was the Employment Act of 2010 for lawyers and
20 engineers, so what we did is we sat down with the
21 farmers and the municipalities and we finally got to
22 a deal so we could find out who wants what. Now I
23 think we can start engineering for what is really
24 out there, as opposed to what we think is out there.

25 Super Ditch is actually going along very well.

1 Some people said it would take 20 years to put it
2 together. I think we're on about our third year.
3 28 objectors in court, which is six more than the
4 irrigation efficiency rules. That was a race, and
5 that will end my report. Any questions?

6 Can I introduce our next guest? Jeris
7 Danielson.

8 MR. HAYZLETT: Thank you, Jay.

9 MR. DANIELSON: Mr. Chairman, how are
10 you, members of the commission. You know, I don't
11 know if you watch TV very much, but one of my
12 favorite commercials is the AFLAC commercial, and
13 every time I hear Jay, I'm thinking, AFLAC. We have
14 a working relationship.

15 MR. HAYZLETT: That is on record.

16 MR. DANIELSON: Let me just give you a
17 little update on the Purgatoire District's
18 activities for this past year and the Trinidad
19 Project. The irrigation season opened on May 1st.
20 At that time, we had the full 20,000 Acre Feet of
21 storage in the model project account. Reservoir was
22 declared empty September 6. That doesn't mean it
23 was empty. It just means we go on priority
24 operations rather than storage water. We closed the
25 irrigation season on October 15. That's mandated in

1 the operating principles. Otherwise, my guys would
2 still be irrigating.

3 Total diversions, 52,018 Acre Feet, which I
4 found it kind of interesting. That's about roughly
5 the size of the import for Fry-Ark, or 84% of a full
6 supply. A full supply is 62,100. The average
7 diversion was 2.67 Acre Feet per acre, and we
8 irrigated a little over 15,000 acres out of the
9 19,499 that's allowable.

10 Now, when I wrote this report last night, I
11 started the next section as highlights, and then I
12 read what I had to talk about and I may want to
13 change that, but there were some highlights. One of
14 them was not the litigation that we were involved in
15 for several years contesting the State Engineer's
16 rules and regulations, not only on surface water
17 efficiency, but primarily on coal bed methane rules
18 that he's promulgating. There are how many, Eve?
19 3500 coal bed methane wells, I think, above Trinidad
20 Reservoir. These withdraw water from the aquifers,
21 and we're very concerned that that withdrawal,
22 without being augmented, could severely impact the
23 project's water supply, so we're watching those
24 rules very closely.

25 Oh, and I forgot to introduce my attorney,

1 Julianne Woldridge, who has made a career out of
2 coal bed methane. We're, what, looking at Greeley
3 in six months?

4 MS. WOLDRIDGE: Approximately.

5 MR. DANIELSON: Yeah, because these rules
6 cut across several water divisions, so they've been
7 consolidated into the Division 1 Water Court.

8 A highlight was the installation of a new
9 satellite gauging station at Fisher's Crossing.
10 This is an area that probably captures about 95% of
11 the return flows that come from the project. This
12 was a recommendation, I think, in the last 10-year
13 review. We got that installed this year with the
14 help of the Water Conservation Board furnishing us
15 from some funds, and I think it's going to be very
16 interesting to see what that gage reveals.

17 Right now, the gage or the gates at Trinidad
18 are closed. There's less than a half a CFS of water
19 coming through the dam, and at the Fisher Gauge,
20 which is about 15 miles downriver, we see 20 to 25
21 CFS of return flow, so it's going to, I think, help
22 us manage the project with -- by knowing, you know,
23 what the returns are looking like.

24 The 10-Year review finding, I think that was
25 reported on by the Bureau, it's ended in 2004. This

1 is 2010. Hopefully we can speed that process a bit,
2 but I'm pleased to tell you that the project was
3 found to be operating pursuant to the operating
4 principles, and I think I look forward to the
5 meeting we're going to have after this one.

6 One glitch that happened during the year, the
7 repayment contracts to the Bureau of Reclamation
8 are -- were set from 1967, I think, and expired in
9 1972. I may have those years off a little bit. The
10 Bureau has done an audit and found that at the
11 present rate of repayments, we will fall short of
12 meeting our obligation to the federal government.

13 My first question was: Why don't you just
14 foreclose? You know, if you want that thing, take
15 it, I mean, but we're going to be renegotiating our
16 repayment contract with the Bureau, and it's not
17 going to be pretty.

18 Probably the biggest highlight is the district
19 is sponsoring a river restoration project in
20 conjunction with the Trinity Community Development
21 Fund and Trout Unlimited and a bunch of other
22 operators to restore a cold water fishery in about a
23 half a mile of the Purgatoire that flows through the
24 City of Trinidad. The entire project envisions a
25 fishery from Trinidad Dam for five miles downstream.

1 We've had fish biologists look at it. It looks to
2 be feasible. The district put \$15,000 into it. The
3 Arkansas Round Table is going to contribute \$75,000.
4 The total budget for the first phase is about
5 \$160,000, but we think it's going to be a real
6 addition to the City of Trinidad and the community,
7 and it will help the district in delivering water
8 from the reservoir to our ditch head gates.

9 Any questions? Thank you.

10 MR. HAYZLETT: Thank you, Jeris. I think
11 we'll take a short break before we move into the
12 next part of the agenda here, so by about 10 after,
13 let's reconvene.

14 (A break was then taken from
15 10:57 a.m. to 11:14 a.m.)

16 MR. HAYZLETT: We'll call the meeting
17 back to order here. During the break, I realized
18 that I intended to, on the introductions, say that
19 Dave Brenn and myself have been reappointed to the
20 Compact commission for another year by the governor
21 of the State of Kansas, and I think we --

22 MR. BARFIELD: Another term.

23 MR. HAYZLETT: Yeah. Another term, not
24 another year, but it might be a year. Anyway, we
25 have some letters of appointment here that we'll

1 make as an exhibit to the Administration, Exhibit H.

2 I think with that, we're ready to move into
3 Item 9 on the agenda, which is now Compact
4 Compliance/Decree Issues update. Ten-year Compact
5 Compliance Accounting Table and Joint Report.
6 That's Bill Tyner.

7 MR. TYNER: Those are for the exhibit,
8 Randy.

9 MR. SALTER: Those are for the exhibit.

10 MR. HAYZLETT: Exhibit I.

11 MR. GRIGGS: What is the exhibit?

12 MR. BARFIELD: Ten-Year Accounting of
13 Depletions and Accretions to Useable Stateline Flow,
14 2000 to 2009.

15 MR. TYNER: I'm Bill Tyner and I wanted
16 to present this exhibit. It was the agreed-upon
17 format to present it to the commission in order to
18 have it included in the record. This particular
19 Compact Compliance table was prescribed in Appendix
20 A-1 of the Kansas-Colorado decree, and the format of
21 the exhibit is as supplied in these four tables.

22 This particular table shows Colorado's efforts
23 to comply with the Compact with respect to
24 post-Compact well depletions and the replacement of
25 those depletions. The first Ten-Year Accounting

1 period was from 1997 through 2006 and then each
2 year, we've progressed forward, gradually dropping
3 off the years at the beginning of the cycle; so
4 1997, '98 and '99 have been dropped off, and this
5 year's Ten-Year Compliance table is for the years
6 2000 through 2009.

7 This compliance table shows a number of
8 columns of data that are the result of running the
9 Compact Compliance Model, the H-I Model, and for
10 each year, the results of that Compact Compliance
11 Model are shown in the third column of the table.

12 For example, for 2009, the model showed a
13 small accretion at the Stateline as a result of
14 Colorado's operations to comply with the Compact and
15 operate our well rules. In addition to the H-I
16 Model results, there are some data items that are
17 provided that are operations outside of the H-I
18 Model run that are physical operations having to do
19 with the Offset Account and replacement of some
20 depletions that are not part of the H-I Model.

21 The Offset Account deliveries that Kansas
22 takes are represented in the fourth column, and for
23 Compact Year 2009, the delivery credit at the
24 Stateline, for example, was 5511 Acre Feet. If
25 Colorado has used their Stateline credits and

1 charged well depletions against water that sits in
2 the Offset Account and Kansas decides to hold onto
3 that water for delivery at another time, evaporation
4 that occurs off that account is charged as if it
5 were a credit for Colorado. In 2009, we had 0
6 evaporation credits.

7 Colorado also uses the deliveries of water to
8 the Stateline, the credits, to offset post-Compact,
9 post-1985 uses that deplete the river that are not
10 represented in the H-I Model, and the replacement
11 for those depletions is shown in this table and
12 deducted from Colorado's credit to land on a net
13 credit for each year.

14 Then over that Ten-Year Accounting period, as
15 prescribed in the Kansas Colorado Decree, we look at
16 the total impact at the Stateline, and although it
17 may show a depletion in some of the years, like
18 2000, 2001, 2002 and 2003, and accretions in other
19 years, like 2004 all the way through 2009, the
20 Ten-Year Compact Accounting calls for the total of
21 those depletions and accretions at the end of the
22 ten-year period to be the measure of whether
23 Colorado has complied with the Compact, and the net
24 result at the end of that 2000 through 2009 period
25 is that Colorado was 34,000 Acre Feet to the good on

1 this Compact Compliance mechanism.

2 So we submit that as a joint exhibit,
3 submitted by both States, to be attached to the
4 record. Are there any questions?

5 MR. HAYZLETT: Any questions? Kevin, do
6 you have comments?

7 MR. SALTER: No. That is the table we've
8 agreed to.

9 MR. HAYZLETT: Okay. Thank you, Bill.
10 The next item we have is the Offset Account Review
11 and that, again, is Kevin and Bill?

12 MR. SALTER: Yes. Kevin Salter. I want
13 to describe Offset Account Review. As the States
14 were negotiating through various different decree
15 issues, we had created an agreement between the
16 States on how to measure water. Part of that was
17 calling for a review of Offset Account operations
18 every five years, starting in September, 2010, but
19 that was part of the Offset Account crediting
20 agreement, which is an appendix to the *Kansas*
21 *v. Colorado* decree.

22 We had a start date of September, 2010 but we
23 didn't have much detail beyond that, so as the
24 States realized that we needed some additional
25 detail to that, Appendix A-4 was a spot where we

1 added that detail, and we now have a review that
2 starts in September, 2010 and that both States will
3 submit a joint report to ARCA in December, 2012.

4 The Colorado State Engineer and the Kansas
5 Chief Engineer sent a joint notice to ARCA
6 signifying that that review had started in
7 September, 2010 as prescribed, and I do have a copy
8 of the transmittal letter and joint notice, if the
9 Commission would like to attach that as part of the
10 record.

11 MR. HAYZLETT: I think probably.

12 MR. SALTER: Okay. So that would be the
13 Exhibit J.

14 As a part of this review, Dale Straw, along
15 with other designated State exerts, have developed a
16 scope of work and a schedule of completion, and Bill
17 Tyner will go through that process.

18 MR. TYNER: If I could, before I quickly
19 go through this scope and schedule, the Offset
20 Account, when it was developed in 1997, was a
21 cooperative effort that I think has ended up
22 benefitting both States by allowing the Colorado
23 well associations to have a place to deliver
24 replacement water that can be reviewed by Kansas
25 upon its notice of that water being delivered to the

1 account, and then can be called for by Kansas when
2 it's most needed by their water users.

3 I think it's played a very important role in
4 the ability of Colorado to comply with the Compact
5 and, hopefully, a significant role in Kansas
6 managing their water supply. For example, as you'll
7 see when Steve presents his report and we talk about
8 the Offset Account report later at the meeting,
9 during 2010, this past Compact year, the Offset
10 Account represented approximately half of the amount
11 that was released from the Kansas Section 2 account,
12 so the Kansas Section 2 account release was about
13 26,000 Acre Feet and the Offset Account release was
14 approximately a little less than 13,000 Acre Feet,
15 so it does allow Kansas to group those two types of
16 water together and make a pretty successful water
17 delivery to their ditches, their water users.

18 Kevin mentioned the -- one of the key
19 milestones, which is the final report due in
20 December of 2012, to ARCA. On our way to that final
21 report, the outlying scope of work that we're hoping
22 to accomplish would call for reviewing the crediting
23 agreement that the States had worked on back in
24 September of 2005 to ensure that both States agree
25 that that's a good tool to continue to move forward

1 on.

2 We'll start off the report with a broader
3 introduction of all the elements of the Offset
4 Account. We'll talk about historical operations;
5 how the storage charge has been handled; a charge
6 that allows that account to exist in John Martin.
7 Colorado's well associations must deliver 500 Acre
8 Feet initially to open the account for 10,000 Acre
9 Feet of storage, and then must deliver 5% of the
10 water that's supplied to the account above that
11 10,000 foot mark as a storage charge to Kansas.
12 We'll talk about how that has worked in the report
13 and review those operations.

14 This will be an opportunity to talk about the
15 consumable water sources that are provided by
16 Colorado to the account. It may give us an
17 opportunity to discuss a few of the issues that
18 Kansas has raised about the LAWMA Decree, with
19 respect to some of the changed water rights that
20 LAWMA uses to supply water to the Offset Account.

21 Delivery operations, how those calls for water
22 by Kansas from John Martin Reservoir are handled by
23 Colorado to get water past the Colorado ditch head
24 gates to the Stateline.

25 We'll talk about Offset Account spill events,

1 if only we could be so lucky to have another one of
2 those sometime soon.

3 Notices, monthly reports and annual report.
4 We provide a lot of information to Kansas. There
5 may be ways to do that more efficiently or more
6 clearly. We can talk about that as we go through
7 this.

8 Related operations that we identified when
9 we -- the staff from Kansas and Colorado got
10 together initially were the Highland Canal
11 consumptive use credit has a transit loss component
12 from the historic ditch head gate on the Purgatoire
13 River down to the reservoir. We deliver only the
14 net amount of the Highland consumable water at the
15 reservoir, but in the H-I Model input, we have a
16 place where we can recoup some of the consumptive
17 use lost in transit that isn't physically lost to
18 the system. We'll talk about that topic.

19 When water is delivered from above John Martin
20 to John Martin, reservoir-to-reservoir, there are
21 delivery transit losses on those physical
22 deliveries, and we need to talk about how that's
23 fairly handled in the H-I Model and in the
24 accounting that takes care of those deliveries to
25 the Offset Account.

1 The interaction between the Offset Account
2 operations and how Colorado does their monthly
3 accounting of well depletions and replacements for
4 those stream depletions that are not a part of the
5 Offset Account and yet are represented in the H-I
6 Model and how we provide annual updates to Kansas.

7 Operations when the Offset Account is full.
8 Kevin, you may have to help me remember. I believe
9 20,000 Acre Feet is the limit on the Offset Account?

10 MR. SALTER: That's right.

11 MR. TYNER: We haven't had a year where
12 we've achieved that 20,000 Acre Feet, but it could
13 conceivably reach that upper limit. We need to know
14 what to do when that happens, and then any
15 suggestions, recommendations that we received from
16 the Compact commissioners or others, we certainly
17 would consider as part of this process.

18 Real briefly, the schedule. January, 2011,
19 the two States will have a meeting of the engineers
20 involved, the staff engineers involved, and we'll
21 divide up the research and writing assignments,
22 spend the first half of 2011 working on those
23 activities to prepare draft sections of the report.
24 We meet again in June of 2011 to make sure that we
25 have covered all of the areas and identify any new

1 sections or areas that may have come up as we work
2 our way through the report. During June through
3 October of 2011, we'll work back and forth to
4 exchange drafts of the report and finalize, in
5 November of 2011, that preliminary draft report;
6 deliver that to the Special Engineering Committee
7 that's been approved by ARCA to continue some
8 negotiations and discussions; and will be approved
9 again for this period in a later action this
10 morning, in December of 2011.

11 January through October of 2012, we will work
12 on any final revisions and any additional topics
13 that might be brought up by the Special Engineering
14 Committee, finally completing a joint report of the
15 two States in November of 2012, so that it might be
16 delivered to the commission in this -- at the
17 December, 2012 meeting. Any questions?

18 MR. HAYZLETT: Any questions? Thank you,
19 Bill. I think there might be a comment to be
20 offered by Chris Grunewald.

21 MR. GRUNEWALD: Thank you, Mr. Chairman.
22 I'm Chris Grunewald from the Kansas Attorney
23 General's office. Mr. Tyner noted, as part of the
24 review process, he mentioned Kansas's concerns about
25 the operation of the LAWMA Decree, and I just wanted

1 to add a note that Kansas has expressed concerns and
2 stands by those stated concerns, and we look forward
3 to continue to work with Colorado through the
4 professional staffs on those concerns. That's it.
5 Thank you.

6 MR. HAYZLETT: Thank you, Chris. Next
7 item I have on the agenda is the H-I Model
8 groundwater efficiency change.

9 MR. GRUNEWALD: Oh, Mr. Chairman,
10 Ms. McDonald was going to follow.

11 MR. HEIMERICH: Chris, there was a
12 discussion yesterday when we -- when you made a
13 presentation to the subcommittee. Was there
14 something that you wanted to enter into the record,
15 I thought? Was there a piece of correspondence that
16 you wanted to introduce?

17 MR. GRUNEWALD: I did initially mention
18 that during the committee meeting, and I'm sorry for
19 not following up with the rest of the Colorado side.
20 I had a chance to mention this to Ms. McDonald and
21 some of the Kansas folks.

22 I had initially made mention of a letter, and
23 I was wrong about the subject of the letter. There
24 was a letter that Kansas had provided to the
25 Administration last year regarding the Tri-State

1 Decree, not the LAWMA Decree, so with that, I
2 wasn't -- there is no --

3 MR. HEIMERICH: There is no exhibit.
4 Just offering your comments?

5 MR. GRUNEWALD: That's right.

6 MR. HEIMERICH: Very good.

7 MR. HAYZLETT: Eve, I apologize. I was
8 trying to hurry this agenda along.

9 MS. McDONALD: I will be brief. I just
10 want the record to reflect that Colorado is aware
11 that Kansas has outstanding questions about the
12 LAWMA Decree, and we have recommended that the best
13 way to address those is with engineer to engineer
14 talks. Those have been so successful in the past
15 five years or so, the Mission Inn Agreements, and
16 the list of issues that LAWMA -- that Kansas raised
17 regarding the LAWMA Decree is mostly engineer to
18 engineer type issues, and Colorado sent a letter,
19 which I would like to offer for the record, last
20 year, walking through some of the some of those
21 issues, such as maintenance of return flows from the
22 changed water rights in the LAWMA Decree, volumetric
23 limits on the changed water rights in the LAWMA
24 Decree, and transmitting three engineering
25 memoranda, which we believe directly addressed those

1 of Kansas's issues, so we think it would be helpful
2 to put that letter on the record and to reaffirm
3 that we stand by, ready to talk with Kansas. The
4 State Engineer's office, the Division Engineer's
5 office does, and whatever level of priority Kansas
6 wants to put on this is fine with the division
7 staff.

8 We don't -- I do not believe that Kansas has a
9 deadline by which it must raise these issues. I
10 understand that the Offset Account review is
11 requiring staff persons' time, and some of the
12 overlap and expertise might allow these issues to be
13 addressed at the same time. To the extent that they
14 can be, Colorado would appreciate knowing where
15 Kansas stands on that list of issues as soon as
16 possible, but we really enjoy the collaborative
17 process that we've developed and the engineer to
18 engineer talks are successful and the State of
19 Colorado wants to continue that as much as possible.

20 MR. HAYZLETT: Okay. Appreciate that,
21 and we'll take those for an attachment to the
22 meeting then.

23 MS. McDONALD: These are four copies.
24 Shall I put those over here?

25 MR. HAYZLETT: That's Exhibit J? K. Any

1 other comments or questions then on that agenda
2 item? If not, then I think we're now ready for Item
3 C, the H-I Model groundwater change, Dave Barfield.

4 MR. BARFIELD: Right. Thank you,
5 Mr. Chairman. On July 22nd, 2010, I transmitted a
6 proposed change to the H-I Model to Colorado State
7 Chief Engineer Dick Wolfe. In my transmittal, I
8 designated experts for Kansas and provided a report
9 detailing the effects of the proposed change.

10 Changes to the H-I Model can be proposed by
11 either State under Section 5 of Appendix B-1 to the
12 decree entered under Kansas v. Colorado. This is
13 the first change to the H-I Model that has been
14 proposed, and it follows a timeline set out in
15 Appendix B-1.

16 Kansas has expressed concern about the impact
17 of groundwater efficiency improvements due to center
18 pivots and drip irrigation systems being installed
19 in the Arkansas River Basin. Such improvements
20 ultimately reduce return flows to the Arkansas
21 River. The current version of the H-I Model does
22 not recognize these improvements.

23 The proposed change provides the capacity
24 within the H-I Model to represent the increases in
25 groundwater efficiency due to such improvements. If

1 adopted, the proposed change would be implemented
2 for the 2011 annual update, which will be done in
3 2012.

4 Colorado has six months to review the proposed
5 change, which is until January 24, 2011. By the end
6 of this review period, Colorado can accept, reject
7 or modify the proposal. If Colorado rejects or
8 modifies the proposal, then Kansas will have one
9 month to either accept the rejection, modification,
10 or submit the proposed change to the dispute
11 resolution process as laid out in Appendix H of the
12 decree.

13 This proposal is a substantive change under
14 Appendix B-1 and would therefore be handled in the
15 dispute process as a non-fast track issue. We look
16 forward to Colorado's response to the proposed
17 change and are willing to work with the appropriate
18 staff to answer any questions they may have, so --

19 MR. HAYZLETT: Any questions or comment?

20 MS. McDONALD: May I respond for
21 Colorado, please? Thank you.

22 Mr. Chairman, I'm happy to say, from the
23 information I've received, this is not going to be a
24 proposed change that needs to go to the dispute
25 resolution procedure, I do not believe.

1 Colorado agrees that the model should be
2 adjusted as farm efficiency adjusts and to most
3 accurately reflect water on the ground, and as we've
4 said earlier today, we acknowledge that sprinklers
5 can and do have the capacity to reduce return flow.

6 Colorado's engineers have reviewed the
7 proposal and have had -- have communicated to
8 Kansas's engineers general agreement with the
9 principle that the model can be more reliable and
10 accurate by adjusting to reflect changes in maximum
11 farm efficiency.

12 Colorado will submit a -- an acceptance with
13 modification by the deadline, because Colorado's
14 engineers have decided that it can be more reliable
15 and more accurate -- more accurately reflect that
16 change, with a slight change in the methodology that
17 Kansas proposed, but we do not expect that this will
18 be disputed in the dispute resolution procedure; so
19 we'll propose a modification by the January
20 24th date, which we've already -- our engineers have
21 already communicated to Kansas's engineers. It
22 should make the model even more accurate for
23 reflecting the actual efficiency changes due to
24 groundwater sprinklers.

25 If I may have permission to just add one more

1 comment on the previous topic, I overlooked
2 mentioning, regarding the LAWMA Decree, that
3 Colorado's experts of course work with the water
4 users that are involved, if a particular water
5 user's decree is challenged by Kansas, and that
6 Colorado's engineers involved and relied upon
7 LAWMA's engineers for developing the
8 February 25th letter that I offered into the record
9 and will continue to work with the water users as
10 they work with Kansas to resolve these questions.
11 Thank you, Mr. Chairman.

12 MR. HAYZLETT: Thank you. Any questions
13 for Eve? Okay. Thank you, Eve. I think that
14 brings us the report of the committees, the
15 Engineering Committee. Dave, are you making that
16 report?

17 MR. BARFIELD: I am making the report of
18 the Engineering Committee. I believe, distributed
19 with the notice of the meeting, that you also had
20 notice of the agendas for the Engineering Committee,
21 so we worked through that agenda, had a presentation
22 that you heard a brief summary on here about the
23 Irrigation Improvement Rules, a brief presentation
24 on Colorado's efforts to develop in this basin a
25 decision support system, as it has in others, and

1 sort of where it is in the process. It's in the
2 feasibility phase right now, and an update from
3 Colorado on the transit loss study that is being
4 conducted above John Martin Reservoir in the reach
5 between Pueblo and John Martin, and a presentation
6 by the Corps on the Purgatoire River Channel
7 Capacity study, and a statement by Dennis Garcia
8 that we'll soon be getting a letter that sort of
9 summarizes the end of that process.

10 Then under new business, we discussed the
11 Special Engineering Committee, and in our lone
12 action item as a committee, we recommend that ARCA
13 extend the -- that committee for another year; and
14 finally, there was a review of the Colorado
15 Satellite Monitoring Network, so I guess that
16 concludes my report.

17 MR. HAYZLETT: Okay.

18 MR. HEIMERICH: I think David did a good
19 job of capturing what happened at the meeting.
20 Thank you.

21 MR. HAYZLETT: Thanks. Operations
22 Committee report. Dave Brenn is absent. Colin, are
23 you going to give that report?

24 MR. THOMPSON: I reckon, and so we met
25 yesterday. We've got a list of action items we'll

1 get to at the end. I think that first up, we'll
2 hear the Operations Secretary report from Mr. Witte.

3 MR. HAYZLETT: Okay.

4 MR. WITTE: Members of the
5 Administration, my name is Steve Witte. I submitted
6 my unabridged report to the Operations Committee by
7 mail and e-mail on December 2nd. It was actually
8 completed on December 1st, as is required by the
9 1980 Operating Plan, and that this report was
10 reviewed by the Operations Committee at yesterday's
11 meeting. There are a few copies of either the
12 unabridged version or summary versions or electronic
13 versions on DVD available here at the meeting for
14 the public to pick up.

15 I'd like to begin my report by acknowledging
16 the contributions of Mr. Rob Phillips and Mr. Bill
17 Tyner throughout the year in the day-to-day
18 operations and accounting of operations at John
19 Martin Reservoir.

20 We began the Compact Year November 1st, 2009,
21 with total content of 22,851 Acre Feet in storage in
22 John Martin. Over the course of the winter, up to
23 March 31st, we had stored a total of 22,851 Acre
24 Feet of -- excuse me -- 39,594 Acre Feet of Compact
25 water. On April 1st, we began the transfer of that

1 water into accounts, so that by the time that
2 transfer was completed on May 1st, 65,100 Acre Feet
3 was transferred into Section 2 accounts of Kansas
4 and Colorado water users.

5 Early in the Compact Year, beginning on
6 November 16th, that date marks the beginning of
7 storage of other water, pursuant to the Pueblo
8 Winter Water Storage Program. The allocation of
9 inflow between Compact storage and other water under
10 Section 3 was determined in the usual way, in
11 reliance on a series of streamflow measurements that
12 are made throughout the month of November.

13 You may recall at last year's meeting and in
14 this year's report of the Assistant Operations
15 Secretary, there were unexplained observations of
16 flow at Purgatoire Las Animas by the Assistant
17 Operations Secretary. A joint field investigation
18 was conducted this November which failed to reveal
19 anything alarming or out of the ordinary with
20 respect to Compact storage this year, for Compact
21 Year 2011, or to corroborate the Assistant
22 Operations Secretary's suspicions regarding Compact
23 storage in 2010, or for that matter, the concerns
24 that have been expressed about the division of
25 inflows in previous years' reports issued by the

1 Assistant Operations Secretary.

2 During the Compact Year, a total of 4,607 Acre
3 Feet was added to the Permanent Pool. Kansas called
4 for release of its Section 2 water beginning on
5 June 17th, which continued through July the 8th. A
6 total of 26,948 Acre Feet was released, with a joint
7 determination of zero transit loss on that release
8 and delivery.

9 Consecutive to the end of the Section 2
10 release, there was a continued release of water
11 available to Kansas from the Offset Account and a
12 total of 12,867 Acre Feet was released from that
13 account.

14 In the letter -- after the Winter Water
15 Storage Program ended, there were other occasions,
16 five other occasions during the year, when the Amity
17 was determined to be entitled to store additional
18 water, other water under Section 3, and in total,
19 that amounted to 6,732 Acre Feet.

20 On October 27th, there was a transfer of 251
21 Acre Feet of water that was made available as a
22 replacement for out of priority depletions caused by
23 Colorado water users, and pursuant to communications
24 with the Operations Committee, those -- that amount
25 of water was distributed pro rata to various Section

1 2 accounts. At the end of the Compact Year, the
2 total amount of water in storage was 26,583 Acre
3 Feet.

4 Another concern that has been raised that has
5 prevented approval of the Operations Secretary's
6 report of accounting in recent years is the
7 reservoir-to-reservoir deliveries. As we are now in
8 a new Compact Year, we have such a delivery in
9 progress at the present time, and I would urge that
10 the Assistant Operations Secretary monitor that
11 operation very closely and to notify us of any
12 concerns than Kansas may have related to this
13 specific operation and any other similar operations
14 in the coming year, to notify us in a timely enough
15 fashion so that if possible, reasonable
16 accommodations can be made that would remove any
17 objections to the approval of future accounting
18 reports.

19 I felt like from Colorado's perspective, the
20 communications between my office and the Assistant
21 Operations Secretary's office throughout the year
22 was very good. I think we maintained a high level
23 of communication and that certainly smoothed the
24 workings interstate throughout the year.

25 The Operations Committee met on one occasion

1 in Compact Year 2010, and there were three meetings
2 of the Special Engineering Committee that both the
3 Assistant Operations Secretary and I participated
4 in, as well as other staff members from both States.

5 I think that concludes my report, unless there
6 are any questions.

7 MR. HAYZLETT: Questions for Steve?
8 Thank you. Kevin?

9 MR. SALTER: Kevin Salter, Assistant
10 Operations Secretary. I transferred my report
11 electronically on December 1st to the Operations
12 Committee and to Steve Witte and select staff. I do
13 have a limited number of copies of my report. If
14 anyone desires a copy of it, we do have some
15 available.

16 I'd like to start off by thanking Brandy Cole
17 of my staff and the Division 2 staff for maintaining
18 a level of communication. For the Division 2 staff
19 to provide us with heads up on permanent pool
20 deliveries and other operations that may raise
21 questions; specifically, Bill Tyner, Lonnie Spady,
22 and Rob Phillips.

23 As a part of those communications, the
24 Assistant Operations Secretary and the Operations
25 Secretary met on two different occasions here in

1 Lamar, once in April and once in November. We
2 discussed various current issues, including the
3 Pueblo Winter Water Storage Program split, the
4 concerns we had Purgatoire at Las Animas,
5 reservoir-to-reservoir deliveries, water issues
6 matrix, among other issues.

7 With that, you know, Kansas has long been
8 concerned about how the split between the Compact
9 conservation storage and the Pueblo winter water
10 storage in John Martin is done. We have spent
11 considerable time reviewing that issue and will
12 continue to look at that to come to some sort of
13 resolution.

14 It was in November of last year that we
15 noticed the flows in the Purgatoire River near Las
16 Animas dropped 30 CFS between November 14th and
17 November 15th. When we looked upstream on the
18 Purgatoire, we did not see a corresponding flow
19 change. Up there, the flows were relatively stable,
20 so that raised a question about what was happening
21 at that particular gage. We exchanged some e-mails
22 and, after some discussions, we conducted the field
23 tour this November. It was agreed that we would
24 conduct a field tour in November.

25 As Steve said, when we went out there in

1 November, we saw some places where water was
2 returning both to the Purgatoire and the Ark, but
3 they were kind of in the normal operations of the
4 ditch and there didn't seem to be a significant
5 amount of water returning above the Purgatoire at
6 Las Animas gage.

7 In some review that's been shared with the
8 Operations Secretary, from 1979 to 2009, there's an
9 average drop of about 7 CFS that occurs between
10 November 14th and November 15th. For the prior
11 period, 1948 to 1979, the decrease is less than 1
12 CFS, so we still need to kind of take a look at
13 what's happening at that gage and try to understand
14 more of the operations that are occurring. That
15 flow could potentially impact that split between
16 Compact conservation storage and the Pueblo water
17 storage program water in John Martin Reservoir.

18 The operational tour was very helpful. That
19 might be something we want to repeat in succeeding
20 years to try to understand what is going on with
21 that particular gage.

22 Steve Witte did a very good job of -- a good
23 job of describing the deliveries. There was -- very
24 good, good, excellent, most excellent -- one of the
25 things that that did occur that he touched on last

1 night, that wasn't touched on, is there was a
2 transfer error that was found as the Division 2
3 staff was reviewing the Offset Account, and that was
4 brought up, and I appreciate the staff's time
5 working with us to get that resolved so that that
6 accounting was properly communicated and corrected
7 going forward. I appreciate the Operations
8 Secretary including in total the pass through status
9 accounting spreadsheet that I provided to him. That
10 was something that he requested many years of the
11 Operations Secretary to provide as an assistance to
12 his operations.

13 One of the other issues we, or one of the
14 other things we used to track issues is the water
15 issues matrix, and that's something that we
16 developed as kind of a score card on it. As of the
17 latest update in September, there were 35 issues on
18 that water issues matrix. Ten of those are still
19 pending and we're working on. Seven have been
20 removed or suspended from consideration at this
21 time, and the States have resolved 18 of those
22 issues.

23 At the November meeting, it was noted that one
24 of the issues needs to be modified to include some
25 additional recent concerns that have been raised, so

1 after the ARCA meeting, we'll go ahead and work
2 through those modifications of that issue that I've
3 provided you. After the ARCA meeting, we will
4 modify the water issues matrix and provide that to
5 the appropriate parties.

6 Again, in ad. . .outside the Assistant
7 Operations Secretary's it's noteworthy to note that
8 there's other communications going on between these
9 two offices. We really appreciate the opportunity
10 to have the involvement in the Irrigation
11 Improvement Rules, which Kansas was allowed. There
12 are still some outstanding concerns there that we'll
13 kind of monitor as we see how those are implemented.

14 The Special Engineering Committee has tasked
15 Steve and I in some issues that we have worked
16 through. The State staff's developed the outline
17 for the Offset Account Joint Review, which you heard
18 about earlier, and then there are some other
19 discussions that occurred that it's just very
20 helpful to have that high level communication that
21 Steve talked to, so I am done unless there's some
22 questions.

23 MR. HEIMERICH: Kevin?

24 MR. SALTER: Yes.

25 MR. HEIMERICH: I think we all appreciate

1 Kansas's concern over the winter water split and the
2 conservation storage split, so you would
3 characterize the field tour that you and Mr. Witte
4 went on in 2010 as being successful, in the sense
5 that it laid to rest maybe some of your concerns
6 about what was going on and how Colorado was
7 operating, how Colorado ditches were operating?

8 MR. SALTER: It was helpful for this
9 particular month and this particular time. I do
10 think that there's still some unexplained things
11 happening with the Purgatoire gage there at Las
12 Animas that we need to keep an eye on and watch, and
13 maybe it's worthy of another field trip next year or
14 in succeeding years to understand what is happening
15 with the system.

16 MR. HEIMERICH: I'm glad that you and
17 Steve actually had an opportunity to go and visit
18 down there. We appreciate you doing that. I'm just
19 trying to, since Mr. Jennison isn't here, I mean,
20 his -- the one comment he relayed to Mr. Hayzlett
21 was to get the Operations Secretary's reports and
22 get annual reports produced so that we can actually
23 comply with our responsibility, and I think it would
24 lend ARCA a better level of credibility if we could
25 get ourselves to that point, so I want to thank you

1 for all your work and want to continue to urge you
2 and Mr. Witte to work together so that we can
3 resolve some of these issues. Thank you very much.

4 MR. THOMPSON: Next up, we've got the
5 Offset Account report. Bill.

6 MR. TYNER: Beginning at the beginning of
7 this Compact Year, in the Offset Account, there was
8 6,186 Acre Feet of water stored, and during the
9 Compact Year, additional deliveries were made to the
10 Offset Account by the Colorado well associations.
11 This particular year, it was all from the Lower
12 Arkansas Water Management Association, LAWMA.
13 Approximately 45% of the 15,400 Acre Feet of
14 consumable water that was delivered to the Offset
15 Account this year came from upper reservoirs, from
16 leases of fully consumable water from
17 municipalities, primarily from Colorado Springs
18 Utilities, but also a small amount through a
19 sublease with the Arkansas Groundwater Users
20 Association, AGUA, and some Pueblo Board Of Water
21 Works, fully consumable water stored at Pueblo
22 Reservoir.

23 About 45% of the delivery to the Offset
24 Account came from two of LAWMA's changed water
25 rights, the Highland Canal and the Keesee Canal, and

1 then the remaining 10% was a result of transferring
2 consumable water from Section 2 accounts in John
3 Martin Reservoir that LAWMA owns to the Offset
4 Account.

5 The release called for by Kansas was described
6 by Mr. Witte and totaled 12,867 Acre Feet, as he
7 reported. The crediting agreement that the two
8 States use is a spreadsheet tool that each State can
9 independently complete and then compare results to
10 make sure we have an accurate result. That process
11 took place and showed that Colorado had a credit of
12 10,241 Acre Feet of consumptive use water delivered
13 at the Stateline, and actually, a pretty efficient
14 delivery this year. It was only about a 10% loss on
15 that water released from John Martin from the Offset
16 Account.

17 The Compact Year ended with 7913 Acre Feet in
18 the Offset Account, just about 30% of the remaining
19 volume in the reservoir at that point, so it's a
20 significant amount of the stored water at John
21 Martin for this winter.

22 I do want to reiterate a topic that Kevin
23 Salter talked about. We do appreciate Kansas
24 working with us to correct an accounting error that
25 we made early in the year in the Offset Account,

1 related to the Offset Account. Most of the time, we
2 have daily communications on accounting, and to
3 Kansas's credit, we usually catch those things right
4 away and then just correct the accounting within a
5 week of the time any error occurs, but when you're
6 having hundreds, thousands of transactions in a
7 reservoir, you're bound to make some mistake
8 sometime. This just happened to be one that was a
9 little more complicated to unravel, and I
10 appreciated Kevin taking the time to work through a
11 fair way to correct the error, even though it
12 couldn't easily be corrected in the John Martin
13 accounting.

14 If you have any questions, I'd be glad to
15 answer them, but --

16 MR. THOMPSON: I think that's great that
17 you guys work together, Bill, and Kevin, if you find
18 out that the Amity is being shorted any water, I
19 want you to point it out to them. Steve?

20 MR. WITTE: Excuse me. I failed to
21 mention something on the record that I thought was
22 important to include, which was that in the process
23 of storing water last year under Section 3, there is
24 that storage charge that's available, and that was
25 used in part to retire the transit loss that was

1 determined on the delivery in July of 2009, so that
2 transit loss that rolled over from 2009 into this
3 Compact Year was completely retired.

4 MR. THOMPSON: Then I think we're up to
5 our recommendations that we went through yesterday.

6 MR. HAYZLETT: Yes, that's correct.

7 MR. THOMPSON: Should I read that into
8 the record?

9 MR. HAYZLETT: Yeah.

10 MR. THOMPSON: Okay. This is the
11 Operations Committee Action Items from yesterday,
12 and as Chairman Jennison was unable to be present,
13 David Brenn was unavoidably absent, and then Dave
14 Barfield took his place and I chaired. Colin
15 Thompson, I chaired the meeting and we instructed
16 Chelsea Juricek and Steve Miller to produce a list
17 of action items, which they have done outstandingly.
18 Worked till midnight, did we?

19 MR. MILLER: Not on this issue.

20 MR. THOMPSON: All right. Number one was
21 the committee received the Compact Year 2010 reports
22 of the Operations Secretary and the Assistant
23 Operations Secretary. The committee also received
24 the 2010 report for the Offset Account.

25 Number 2, the status of the 2006 Operations

1 Secretary report was discussed. It was confirmed
2 that the report was not approved and no action was
3 taken in this meeting.

4 Number 3, the committee took no action on
5 2007, 2008, 2009 and 2010 Operations Secretary's
6 reports.

7 Number 4, the committee received the Ten-Year
8 Accounting Table, Appendix E, for 2000 through 2009,
9 to be included in the calendar year 2010 annual
10 report.

11 Number 5, the committee recommends to ARCA
12 that the Special Engineering Committee be extended
13 for calendar year 2011.

14 Number 6, the committee refers the Water
15 Matrix Issues, Number 25, Number 26, Number 27 and
16 Number 33, to the ARCA Special Engineering Committee
17 for their review. Signed, David Barfield and
18 myself, Colin Thompson.

19 MR. HAYZLETT: Thank you, Colin. Those
20 action items, I assume we'll accept them as a
21 recommendation from the Operations Committee.

22 MR. THOMPSON: Yes.

23 MR. GRIGGS: Is it offered by the
24 Operations Committee?

25 MR. THOMPSON: Do we just need a motion?

1 MR. HEIMERICH: Do we need a motion to
2 actually have the Operations Committee's submittal
3 with recommendations, or is that just --

4 MR. MILLER: I don't think you need a
5 motion, but could you clarify whether the
6 Engineering Committee -- that was a written document
7 as well, wasn't it, David?

8 MR. BARFIELD: It is a written document
9 with the one action item.

10 MR. MILLER: I would recommend putting
11 that as an exhibit; each of the three committee
12 action lists be an exhibit to the minutes.

13 MR. HEIMERICH: Mr. Chairman, I think
14 Mr. Salter has his hand up.

15 MR. HAYZLETT: Kevin?

16 MR. SALTER: Kevin Salter. I concur that
17 those action items would be appropriate as an
18 exhibit. There was also some discussion, too, about
19 the attendance list for the committees yesterday
20 maybe becoming an exhibit as well.

21 MR. MILLER: I think Chelsea has the only
22 copy of that right now, but that would be -- you
23 want to do that as one single exhibit, the
24 attendance list and the three action lists as one
25 exhibit, or separately?

1 MR. HAYZLETT: You said the attendance
2 and the committee attendance list?

3 MR. MILLER: There's a single attendance
4 list from all three committee meetings, and then
5 there's the three separate action lists from the
6 three committees. All of that could be one exhibit
7 or you could break them out.

8 MR. HEIMERICH: Or do you want A, B, C,
9 D, or whatever the series is?

10 MR. GRIGGS: We're at L right now.

11 MR. SALTER: I would recommend one
12 exhibit.

13 MR. BARFIELD: All right. So Exhibit L
14 is going to be the action items of the three
15 committees and the attendance list from yesterday's
16 committee meetings. We've had the Operations
17 Secretary report, the Assistant Operations Secretary
18 report, and the Offset Account reports offered. Are
19 those to be exhibits as well?

20 MR. GRIGGS: They are not exhibits.

21 MR. BARFIELD: Okay.

22 MR. HAYZLETT: So we're ready for the
23 report of the Administrative and Legal Committee,
24 and since I'm filling Chairman Jennison's position,
25 I'd asked Matt if he wanted to give that report.

1 MR. HEIMERICH: Thanks, Randy. As Randy
2 mentioned, Robin was unable to join us and
3 Ms. Gimbel was also unable to join us, so I sat in
4 her stead on the Administration and Legal Committee
5 and Randy actually ran that meeting, that
6 subcommittee meeting, that committee meeting
7 yesterday.

8 We had presentations from Mr. Miller, who ran
9 through the, kind of a budget review for us and also
10 presented an audit review of our current fiscal year
11 for us to examine and look at. That will be
12 discussed later in recommendations. He also went
13 ahead and made a presentation to us based on the
14 budgeting that -- and the suggested budgeting for
15 fiscal year 2011-12; got a little bit clearer
16 presentation. Since we actually signed agreements
17 with state and federal government agencies, we work
18 on three budget years, if you could believe it. I
19 thought that that was only -- that didn't happen as
20 much as it did even in county government, but we
21 work on a federal fiscal year, a state fiscal year,
22 and then we have a calendar year for our own
23 accounting, and Steve was able to mesh that all
24 together so we have some recommendations to give
25 later in the day, and we were also -- had a chance

1 to visit with Steve and Mr. Salter, Steve Miller and
2 Mr. Kevin Salter, giving us the status of
3 transcripts and kind of where we are in that
4 process, and there will be a recommendation
5 following that as well.

6 Mr. Chair, I think at this point in time, we
7 can move on and ask Ms. Gonzalez, who acts as our
8 secretary/treasurer, I believe, to give her report.

9 MS. GONZALES: Stephanie Gonzalez, ARCA
10 Recording Secretary and Treasurer. I only have a
11 few items on which I need to report. We've
12 successfully completed the audit for 2009-2010. The
13 joint funding agreements have been received for both
14 Colorado and Kansas and they're awaiting signature.

15 I will continue to work on the organization of
16 the ARCA files stored at the Prowers County annex.
17 I purchased a table and a chair for the room, in
18 case there's a request from anyone wishing to view
19 any of the files. Then I would like to note that
20 upon discovery of about 15 more file boxes that
21 still contain documents that need to be put away, I
22 will be working on that throughout the year, and
23 then upon completion of putting everything away,
24 Kevin Salter and Steve Miller will come down and we
25 will go through the files and make sure everything's

1 in order.

2 Finally, I will continue to work with Eve
3 McDonald in regards to acquiring the necessary
4 PDPA number, which is the Public Deposit Protection
5 Act, for the ARCA funds at Valley National Bank. We
6 need a number and a person or position assigned as
7 the custodian of the funds, and the number is being
8 required by the bank. That concludes my report.
9 Thank you.

10 MR. HEIMERICH: Thanks for all your work,
11 Stephanie. We appreciate it. Mr. Chair, would you
12 like us to proceed to Item C, where it talks about
13 recommendations?

14 MR. HAYZLETT: I think so, and then we'll
15 take each of those separately and take action on
16 those at this time.

17 MR. HEIMERICH: I guess my question is do
18 we actually --

19 MR. HAYZLETT: I'm sorry. We'll take
20 action on those in D. No, I'm sorry. Yeah, we'll
21 take action on those now.

22 MR. HEIMERICH: Okay. So Kevin and
23 Steve, just so I got this right, we've got action
24 items here that deal with Items I through Item VII,
25 Roman numeral 7, I suppose? No, we just answer --

1 we just go through our punch list and direct them,
2 or is it the -- is it the -- is ARCA taking action
3 on I, I-2, I-3, in separate motions? How does that
4 work, Randy?

5 MR. HAYZLETT: What part of election of
6 officers? I think you should --

7 MR. HEIMERICH: Just make those
8 recommendations?

9 MR. HAYZLETT: -- make the
10 recommendations and motion as we deal with those.

11 MR. HEIMERICH: All right. It's the
12 election of officers then. It's the Legal and
13 Administrative Committee's recommendations that for
14 2011, the following slate of officers be approved:
15 Randy Hayzlett, Kansas vice-chair; Stephanie
16 Gonzalez, Recording Secretary and Treasurer;
17 Mr. Steve Witte, Operations Secretary; and Mr. Kevin
18 Salter, Assistant Operations Secretary.

19 MR. BARFIELD: I would move that we adopt
20 that slate of officers for the coming year.

21 MR. HEIMERICH: Colorado seconds.

22 MR. HAYZLETT: It's been moved and
23 seconded. All in favor, say "Aye."

24 (Response.)

25 MR. HAYZLETT: Opposed, same sign?

(No response.)

MR. HEIMERICH: All right. We can move now to committee chairs. Okay. Committee, Admin and Legal Committee recommends, for the Compact Year 2011, the following committee chairs: Engineering, Mr. Dave Barfield, Kansas, serving as chair; Operations Committee, Mr. Colin Thompson, Colorado, serving as chair; and for the Administrative and Legal Committee, Ms. Jennifer Gimbel, Colorado, as chair.

MR. BARFIELD: I would so move those chairs for the coming Compact Year.

MR. HEIMERICH: Colorado seconds.

MR. HAYZLETT: Moved and seconded. All in favor, say "Aye."

(Response.)

MR. HAYZLETT: Opposed, same sign.

(No response.)

MR. HEIMERICH: Okay. Let's see where we are here. Now we're under item triple I. The Admin and Legal Committee recommends approving the audit report for fiscal year 2009 through 2010, which actually, which is dated July 1st, 2009 through June 30th, 2010.

MR. HAYZLETT: Steve, do you have a

1 comment?

2 MR. MILLER: Steve Miller. I have three
3 copies of the audit report for the minutes, and then
4 there's four original copies of the audit report
5 that Stephanie has that we've asked the vice -- if
6 you approve it, that the Vice-Chairman would sign
7 and the States would get a copy and Stephanie will
8 keep a copy of that for the minutes. It will be the
9 next exhibit.

10 MR. HEIMERICH: So this is Exhibit M, and
11 this is titled Arkansas River Compact Administration
12 Audited Financial Statements, June 30, 2010.

13 MR. MILLER: And that is the audit we
14 reviewed at your committee last night. It shows a
15 current fund balance of July 1st of 2010 of \$92,075.

16 MR. HEIMERICH: Very good.

17 MR. BARFIELD: I would move adoption of
18 the audit report.

19 MR. HEIMERICH: Colorado seconds.

20 MR. HAYZLETT: It's been moved and
21 seconded. All in favor, say "Aye."

22 (Response.)

23 MR. HAYZLETT: Opposed, same sign.

24 (No response.)

25 MR. HAYZLETT: Okay.

1 MR. HEIMERICH: Steve, you're sitting
2 there -- you're apparently there for the budget
3 discussion.

4 MR. MILLER: Well, let me help you with
5 the next Roman numeral IV, the approval of the
6 contracts and agreements.

7 MR. HEIMERICH: Yes.

8 MR. MILLER: These will not be exhibits,
9 but there are original copies of an agreement with
10 the Colorado District of the U.S. Geological Survey,
11 and the amount is -- oh, Stephanie, don't leave
12 right now. What's the dollar amount on that one?
13 It's 46,000 -- I want to get the numbers in the
14 record, but -- and then the action for you would be
15 to authorize Stephanie to sign these agreements.

16 MS. GONZALES: 47,660.

17 MR. MILLER: \$47,660 contract with the
18 Colorado District of the U. S. Geological Survey for
19 gauging network and calendar year 2011. Similar
20 agreement with the Kansas District that covers two
21 gages that are located in Kansas, and that amount --

22 MS. GONZALES: \$8,600.

23 MR. MILLER: \$8,600 for calendar year
24 2011; and the third agreement is with the State of
25 Colorado for the satellite monitoring system. Data

1 collection on 12 gages, the amount is \$12,400 per
2 year, and that's a three-year agreement beginning
3 July 1st of 2011, so I would recommend that you, by
4 motion, authorize Stephanie to sign those. I don't
5 know if you want to do them as individually or as
6 all three.

7 MR. HEIMERICH: In this case, they're
8 actually broken down. I suppose it could be one
9 motion. What's your pleasure, Randy? We've got it
10 broken down as joint funding agreements with
11 Stephanie signing Colorado, Kansas. Then her
12 signing the monitoring station agreement, so one
13 motion to maybe authorize her or break it down this
14 way?

15 MR. BARFIELD: I'll offer a motion.

16 MR. HEIMERICH: Very good. Thank you.

17 MR. BARFIELD: I would move that we
18 authorize Stephanie Gonzalez to, on behalf of ARCA,
19 to enter into these agreements with the Kansas and
20 Colorado sections of the USGS, as well as with the
21 State of Colorado for the satellite monitoring
22 contract.

23 MR. HEIMERICH: Seconds.

24 MR. HAYZLETT: Moved and seconded. All
25 in favor, say "Aye."

1 (Response.)

2 MR. HAYZLETT: Opposed, same sign.

3 (No response.)

4 MR. HAYZLETT: Motion carried. Now we're
5 ready for the adoption of the budget. We went
6 through those last night. Do you want to go through
7 those again?

8 MR. MILLER: Well, we did look at the
9 current fiscal year budget, which we're halfway
10 through. We looked at next year's budget, which
11 would begin on July 1st of 2011; made no changes to
12 those budget; and then we do have a proposed budget
13 for fiscal year 2012 through 2013. If you approve
14 them, Stephanie could sign these and then we could
15 make it a part of the record after she signs it.
16 Let me just, for identification, it shows
17 expenditures of \$88,500; anticipated income of
18 \$96,500. A contribution towards a surplus of \$8,000
19 is the net of those two numbers. It does hold the
20 current level of the state assessments level.

21 MR. HEIMERICH: Mr. Chair, I'll offer
22 that the Admin and Legal Committee recommended that
23 ARCA approve and authorize Ms. Gonzalez to sign the
24 approved budget and assessments for 2012-2013.

25 MR. HAYZLETT: Okay. Do we need a motion

1 on that?

2 MR. HEIMERICH: I think maybe if David
3 would be willing to make a motion to that effect,
4 that would follow our template of what we kind of --
5 how we're doing business here.

6 MR. BARFIELD: I think it's prudent, so
7 yeah, I would move that we authorize Stephanie to
8 sign the approved budgets and assessments for
9 2012-2013.

10 MR. HEIMERICH: Colorado seconds.

11 MR. HAYZLETT: It's been moved and
12 seconded. All in favor, say "Aye."

13 (Response.)

14 MR. HAYZLETT: Opposed, same sign.

15 (No response.)

16 MR. HAYZLETT: Motion carried.

17 MR. MILLER: We'll give this one an
18 Exhibit letter.

19 MR. GRIGGS: N.

20 MR. MILLER: And we'll give you one after
21 Stephanie signs it.

22 MR. HEIMERICH: Mr. Chair, we're up to
23 Roman numeral 6. It says approval of the
24 transcripts, and Kevin, I think, will do that.

25 MR. SALTER: The State staffs have worked

1 through three transcripts. Kevin Salter, wearing a
2 different hat again.

3 We have worked through three transcripts for
4 ARCA's consideration. It's the recommendation of
5 the State staffs that ARCA accept these transcripts.
6 One transcript is for the annual meeting that was
7 held telephonically on December 10th, 2002; the
8 annual meeting of last year in December, 2009; and
9 then a special meeting of the Compact Administration
10 held February 11th, 2010, to consider accepting a
11 modified 1980 Operating Plan, so I have three copies
12 that, if you so desire, can be approved today.

13 MR. HEIMERICH: And Mr. Chair, I want to
14 thank Mr. Miller and Mr. Salter for their hard work
15 on those transcripts and their staff. The committee
16 recommends that ARCA approve the transcripts for
17 2002, 2009, and February 10, 2010 telephonic special
18 meeting.

19 MR. BARFIELD: All right. I would move
20 adoption of the transcripts for December 10, 2002
21 telephonic meeting, the regular annual meeting of
22 December, 2009, as well as the special meeting of
23 February 11, 2010.

24 MR. HEIMERICH: Colorado seconds.

25 MR. HAYZLETT: Moved and seconded we

1 approve these transcripts and accept those three
2 transcripts. All in favor, say "Aye."

3 (Response.)

4 MR. HAYZLETT: Opposed, same sign.

5 (No response.)

6 MR. HAYZLETT: Motion carried. Status of
7 the annual report then, Matt?

8 MR. HEIMERICH: Yeah. Steve, do you want
9 to -- there's a recommendation here concerning this
10 status of the annual reports. Is that appropriate
11 just to read that -- read that synopsis of what we
12 decided?

13 The Admin and Legal Committee makes the
14 following recommendations concerning 2011, Compact
15 Year 2011. The committee recommends that ARCA give
16 the Administrative and Legal Committee, I mean, this
17 committee, the authority to approve backlogged
18 annual reports for completion and printing. I think
19 the sense is that this committee can act as a
20 gatekeeper, and we will obviously speak to any of
21 our other delegation if there's any concerns or
22 questions.

23 MR. HAYZLETT: Okay. I think that's
24 similar to what we had last year. You want to offer
25 that motion again, or if that was on the record last

1 year, do we need to do anything, since it's simply
2 another action item?

3 MR. HEIMERICH: It's down here as an
4 action item. What do you want, Kevin?

5 MR. SALTER: I would suggest that you do
6 need to adopt this, because your authority to
7 approving backlogged annual reports ended in the
8 last Compact Year. If you remember right, that went
9 through Compact Year 2010. It wasn't open-ended.

10 MR. HEIMERICH: It wasn't open-ended. It
11 was a specific year.

12 MR. HAYZLETT: I think that's probably
13 better to have it as a specific year, probably, so
14 we need that motion then.

15 MR. BARFIELD: Okay. I would move that
16 we authorize the members of the Admin and Legal
17 Committee to authorize or approve the -- any of the
18 backlogged annual reports.

19 MR. HEIMERICH: Colorado seconds.

20 MR. HAYZLETT: Moved and seconded. All
21 in favor, say "Aye."

22 (Response.)

23 MR. HAYZLETT: Opposed, same sign.

24 (No response.)

25 MR. HAYZLETT: Motion carried.

1 MR. HEIMERICH: Mr. Chair, there's one
2 other item that the committee recommended as an
3 action item, and we'll just go ahead and make this
4 part of the exhibit for purposes of keeping track
5 of. Under this document, Item 6, the committee
6 encourages the States to find a convenient time and
7 location to complete the annual reports. This says
8 preferably within six months. Actually, there was
9 some body language yesterday that suggested that
10 they -- that we try to do it sooner than later, but
11 again, we're trying to keep in the spirit of
12 Mr. Jennison's desires and our own fiduciary
13 responsibility to get those annual reports to the
14 President.

15 Then the only other thing that the committee
16 would like to add is that this committee, the Admin
17 and Legal Committee, would also recommend that the
18 Special Engineering Committee be extended for the
19 Calendar Year 2011.

20 MR. HAYZLETT: Okay. That's the next
21 item on the agenda then. Is there a resolution for
22 that?

23 MR. SALTER: I do have a resolution.

24 MR. HEIMERICH: We'll enter those minutes
25 into the record as Exhibit -- that was kind of like

1 O, is that what it was? No, it was actually the
2 three committee reports, Burke?

3 MR. GRIGGS: Those came in under Exhibit
4 L.

5 MR. HEIMERICH: Okay, L. Very good.

6 MR. SALTER: I've given one original to
7 each of the States and I'll put the rest over
8 here by the court reporter for your consideration.

9 MR. HEIMERICH: Colorado will make a
10 motion. Typically, do we read the entire
11 resolution? Is that how it's done?

12 MR. SALTER: It's up to the commission,
13 what they prefer.

14 MR. HEIMERICH: Resolution 2010,
15 Regarding Fifth Extension of the Term of the Special
16 Engineering Committee.

17 Whereas, pursuant to Bylaw Article V.5, the
18 Arkansas River Compact Administration by Resolution
19 created the Special Engineering Committee at its
20 December, 2005 annual meeting to resolve certain
21 accounting and interpretation issues arising from
22 the resolution concerning an Operating Plan for John
23 Martin Reservoir, parentheses, the 1980 operating
24 plan, close parentheses; and whereas, the special
25 provisions of the 2005 resolution creating the

1 committee specified that: Term, the Special
2 Engineering Committee shall be authorized for a
3 period expiring on December 31, 2006. ARCA may
4 extend this period by resolution adopted at any
5 regular or special ARCA meeting prior to such date;
6 and whereas, on December 12th, 2006, at the 2006
7 annual meeting, the administration adopted
8 Resolution 2006-2007 extending the term of the
9 Special Engineering Committee until December 31,
10 2007; and whereas, on December 11, 2007, at the 2007
11 annual meeting, the Administration adopted
12 Resolution 2007-04 extending the term of the Special
13 Engineering Committee until December 31, 2008; and
14 whereas, on December 9th, 2008, at the 2008 Annual
15 Meeting, the Administration adopted 2008-04
16 extending the term of the Special Engineering
17 Committee until December 31, 2009; and whereas, on
18 December 8, 2009, at the 2009 Annual Meeting, the
19 Administration adopted resolution 2009-01 extending
20 the term of the Special Engineering Committee until
21 December 31, 2010; and whereas, the Committee has
22 successfully resolved disputed issues placed before
23 it during its term and disputed issues still remain
24 with the potential for further agreement.

25 Now therefore, be it resolved the Arkansas

1 River Compact Administration does hereby extend the
2 term of the Special Engineering Committee for one
3 full year to expire on December 31, 2011. All other
4 Special Provisions of the 2005 Resolution shall
5 remain unchanged and govern the actions of the
6 Special Engineering Committee during this fifth
7 extension through 2011.

8 Colorado would offer that as a motion.

9 MR. BARFIELD: I would second. We need
10 to designate that, I believe, 2010-01.

11 MR. HEIMERICH: Okay, dash 01. You're
12 right. Do we write that in pencil?

13 MR. BARFIELD: Yes, we do.

14 MR. GRIGGS: That would be Exhibit O.

15 MR. HAYZLETT: It's been moved that we
16 adopt that resolution, so second by Kansas?

17 MR. BARFIELD: Yes.

18 MR. HAYZLETT: It's been moved and
19 seconded. All in favor, say "Aye."

20 (Response.)

21 MR. HAYZLETT: Opposed, same sign.

22 (No response.)

23 MR. HAYZLETT: Motion carried. That, I
24 think, brings us to the end of the Administrative
25 and Legal Committee report, so we're ready for 13,

1 New Business and Public Comment. Is there any
2 comments from the public? Everyone still awake?

3 Assignments to the committees. The action
4 items that we developed at the committee meetings, I
5 think, are the items that we would have for
6 assignments, unless there are some others.

7 Hearing none of those comments, I think that
8 takes us to future meetings. Spring and/or
9 midsummer meetings of the Operations Committee,
10 we'll leave that to, I guess, those on the
11 Operations Committee. Colin and Dave can work out
12 what times you want to do those or if you want to do
13 them, in coordination with Steve and Kevin and
14 however that needs to happen.

15 Any special meetings of the Administration or
16 any other committee coming up? I think the only
17 other committee would be the Administrative and
18 Legal when you get the backlog of annual reports to
19 us.

20 MR. HEIMERICH: I think you're right,
21 Randy.

22 MR. HAYZLETT: In 2011, the annual
23 meeting looks like that will be December 13th of
24 2011.

25 MR. BARFIELD: And we'd expect that to be

1 here in Lamar, and we'll just leave it at that next
2 year. We may be making a suggestion that we have
3 the following year in Garden City, but we'll leave
4 that for then.

5 MR. HEIMERICH: We enjoy ourselves in
6 Garden City, Randy. Thank you very much. You're
7 very hospitable.

8 Mr. Chairman, I think Mr. Miller has a
9 comment.

10 MR. HAYZLETT: Steve?

11 MR. MILLER: Just for the record, on
12 Agenda Item B, I guess it is other committees.
13 Colorado has two representatives on the Special
14 Engineering Committee that aren't here, Dick Wolfe
15 and Jennifer, but I do think that there will be a
16 need for a Special Engineering Committee, and the
17 procedures that are set out would allow them to
18 schedule that with the two Kansas counterparts
19 without further notice that work for new issues from
20 the matrix transfer to the professional engineering
21 committee, so I think, David, if you want to give
22 Jennifer and Dick an e-mail or a call and set
23 something up.

24 MR. HAYZLETT: I think they can handle
25 that or set that up as they need to. Then I guess

1 the request we have then, we're nearing our
2 adjournment here, and I think I'd just like to ask
3 Andrew Gilmore, since we do have a meeting scheduled
4 with you at 1:00, is there any -- would you rather
5 to shift into that soon and have that out of the
6 road, or is there a desire for comments about that?

7 MR. SALTER: You have to remember, the
8 official meeting will end for ARCA here in the next
9 few minutes, hopefully --

10 MR. HAYZLETT: Yes.

11 MR. SALTER: -- but you guys have
12 probably about 20 or 30 minutes of work to get
13 exhibits put together, transcript signed and stuff
14 like that, so it may be appropriate to meet at 1:00
15 or a little bit after 1 for that next meeting.

16 MR. MILLER: It's 11:30 now.

17 MR. GILMORE: You've got business with
18 the committee to get through, or the board to get
19 through, all the documentation. That might take
20 till 12, and then lunch, and then meet at 1.

21 MR. SALTER: That would be my suggestion.

22 MR. HEIMERICH: It was just an idea to
23 perhaps make it more user friendly, but I mean, we
24 want to make sure that everybody -- Mr. Danielson?
25 I'm sorry, Mr. Chairman.

1 MR. DANIELSON: Is there another room we
2 could go to? How many people are going to go to
3 this thing? I hate to hang around Lamar for another
4 hour and-a-half.

5 MR. HAYZLETT: I think we're done on the
6 ARCA meeting, so we'll adjourn. So we don't get too
7 many on the record comments here, we'll adjourn the
8 ARCA meeting and we'll work on the Trinidad meeting
9 then.

10
11 (Proceedings adjourned at 11:35 a.m.
12 Mountain Time)

EXHIBIT LIST

Exhibits accepted by ARCA follow in the order introduced:

- A. Attendance List
- B. Notice & Agenda
- C. Letter from and Response to Wayne Whittaker
- D. Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado
- E. USGS Report
- F. U.S. Army Corps of Engineers Report
- G. Reclamation Bureau Power Point Presentation
- H. 10/4/2010 Letter from Governor Parkinson reappointing Randy Hayzlett as Compact Commission Representative
- I. Ten-Year Accounting of Depletion and Accretions to Usable Stateline Flow, 2000-2009
- J. Notice of Joint Offset Account Review
- K. 2/25/10 Letter from Eve McDonald to John Draper re: Kansas's concerns with LAWMA Decree
- L. Attendance List and Operations Committee Action Item List, Engineering Committee Action Item List, and Administrative & Legal Committee Action Item List
- M. ARCA Audited Financial Statements, 6/30/2010

1 N. FY12-13 Proposed Budget

2 O. Resolution 2010-01 Regarding Fifth Extension of
3 the Term of the Special Engineering Committee
4

5
6 ADOPTED RESOLUTION

7 ARCA adopted following resolution:

8 2010-01 Fifth Extension of the Term of the Special
9 Engineering Committee
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25

1 STATE OF KANSAS)

2 COUNTY OF RENO)

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 4th day of October, 2011.

12 Lee Ann Bates, CSR, RPR, CRR
13 ADVANCED COURT REPORTING SERVICES
14 LEE ANN BATES, CSR, RPR, CRR
15 6101 North Plum Street
16 Hutchinson, Kansas 67502
17 (620) 793-6555 or (620) 664-7230
18
19
20
21
22
23
24
25

ATTENDANCE LIST

2010 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING

Tuesday, December 14, 2010, 8:30 A.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE & FAX	EMAIL
David Barfield	Kansas	109 SW 9th St Topeka, KS 66612	785-296-3710	David.Barfield@ksa.ks.gov
Randy Hayzlett	Kansas	1112 Road T Lafayette, KS	620-355-7499	hayzlett@p1d.com
MATT HEIMERICH	COLORADO	5325 LN 9.5 D.S. CO 81062	719-980-5173	mheimerich@wildblue.net
Erin Thompson	CO AREA	30255 Hwy 1203/ Hwy 60	719 537 6777	erinthompson@hannu.com
Eve McDonald	Colo AG	1525 Sherman St Denver CO 80210	303 866 5072	eve.mcdonald@state.co.us
Henry Schuchel	Producers County Comm.	23903 CR. KK.5 Bristol, Co. 81047	719-688-0408	h.schuchel@producerscounty.net
Rich Riddle	Army Corps Trinidad Lake	PO Box 771 Trinidad, CO 81082	719-846-9200	richard.w.riddle@usace.army.mil
Karen Downey	Army Corps of Engineers John Martin Res.	29955 CR 25.75 Hasty, CO 81044	719-336-3476 719-336-9711	Karen.S.Downey@usace.army.mil
Kelly Cummins	Tri-State GFT	1100 W 116th Ave Litchfield, CO 80234	303/254-3102	kccummins@tristategt.org
BILL TYNER	CO DIV OF WATER RESOURCES	310 E. ARIZONA AVE PUEBLO, CO 81003	719-542-3368 719-544-0080	bill.tyner@state.co.us
Steve White	" "	" "	719-542-3368	steve.white@state.co.us
Chris Beightel	Kansas-DWR	109 SW 9th St. Topeka, KS 66612	785.296.2830	chris.beightel@ksa.ks.gov

EXHIBIT

A

ATTENDANCE LIST
2010 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING
Tuesday, December 14, 2010, 8:30 A.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE & FAX	EMAIL
Burke Griggs	Kansas DWR	109 SW 9 th St 4 th Fl. Topeka, KS 66612	(785) 296-4616	burke.griggs@kda.ks.gov
Chris Grunewald	Kansas AG	120 SW SW 10 th Ave, 2 nd Fl. Topeka KS 66612	(785) 296-2215	chris.grunewald@ksag.org
Chelsea Turick	KS DWR	1520 S. Woodlawn Stockton, KS 67669	785-425-6787	Chelsea.Turick@kda.ks.gov
KEVIN SALTER	KS DWR / KDA	2508 JOHN STREET GARDEN CITY KS 67846	(620) 276-2901	Kevin.Salter@kda.ks.gov
Brandy Cole	KS DWR	2508 John St. G.C., KS 67846	620-276-2901	BRANDY.COLE@kda.ks.gov
Mike Meyer	KS DWR	2508 Johns. St. Garden City KS 67846	620-276-2901	mike-meyer@kda.ks.gov
Dale Buck	Sprink Water Engineers	1000 Logan St DENVER, Co 80203	(303) 861-9700	d.buck@sprinkwater.com
Steven Hines	Frontier Ditch	Box 147 Coolidge Ks	620 372 8251	
Hal Scheuerman	Kearney County Farmers Irrigation Association	PO Box 222 Deerfield, Ks. 67838	620-426-6073	
DAN MAXFIELD	AMAZON CANAL	Box 1270 LAKIN, Ks 67860	620-355-7637	
BRADY McElroy	USDA-NRCS	3503 S. MAIN LAMAR CO 81052	719.336.3437	brady.mcelroy@co.usda.gov
Larry Morris	Teeter Irrigation	125 N Frontage Rd Johnson Ks 67855	620-492-2362	ldmteeter@yahoo.com

ATTENDANCE LIST

2010 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING

Tuesday, December 14, 2010, 8:30 A.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE & FAX	EMAIL
Don Steerman	District 67 / Ariz. / Buffalo, Arizona	P.O. Box 890 LAMAR, CO 81052	719-336-4313 719-336-4315 (FAX)	shinnsteermanlaw@centurytel.net
DENNIS E. GARCIA	US ARMY CORPS OF ENGINEERS	4101 JEFFERSON PLAZA ALBUQUERQUE, NM 87109	505 342-3380	DENNIS.E.GARCIA@USACE.ARMY.MIL
MAJOR RICHARD COLLINS	US ARMY CORPS OF ENGINEERS	4101 JEFFERSON PLAZA ALBUQUERQUE, NM 87109	505 342-3433	RICHARD.C.COLLINS@USACE.ARMY.MIL
MARC SIDLOW	US ARMY CORPS OF ENGINEERS	4101 JEFFERSON PLAZA, NE ALBUQUERQUE, NM 87109	505-342-3381	marc.s.sidlow@usace.army.mil
Mark Yuska	USACE	" "	505-342-3403	mark.e.yuska@usace.army.mil
VAN TRUAN	USACE	2005 Santa Fe Ave. 2nd fl. Pueblo, Colo. 81003	719-543-6915	van.a.truan@usace.army.mil
GENE MILBRAND	Prowers County Board of Commissioners	407 Willow Valley LAMAR, CO. 81052	719-336-9748	gmilbrand@prowerscounty.net
JAY SKINNER	Colo. Div. of Wildlife	6560 Broadway DENVER 80216	303-291-7260 - 7456 FAX	jay.skinner@state.co.us
Tulianne Woldridge	PRWCD	530 Communication City #204 Colo. Sp. 80961	719-520-9288	twoldridge@waterlaw.tv
JERIS DANIELSON	PRWCD	517 BELLEVUE AVE. LA JUNTA, CO 81050	719-383-2598	jeris-danielson@hotmail.com
Andrew Clark	USGS - KS	1390 E 3rd St Hays, KS 67601	785-760-3100	alclark@usgs.gov

ATTENDANCE LIST

2010 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING

Tuesday, December 14, 2010, 8:30 A.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE & FAX	EMAIL
Pat Edelmann	USGS	201 E 9th St Pueblo, CO 81002	(719) 544-7155 x 1114	pedelmann@usgs.gov
Perry Cass	Colorado Water Institute / CSU Ext.	417 Chemistry Bldg. 2200 Bonforte Pkwy Pueblo, CO 81002	(719) 544-2045	perry.cass@colorado.edu
Julie Pearson	COLORADO DIVISION OF WATER RESOURCES	310 E Abriendo Ave #E Pueblo, CO 81003	719 542-3368	julie.pearson@state.co.us
Lonnie Spady	Colorado Division of Water Resources	2nd & Colorado La Junta, CO 81054	719-384-1000 EL 2205	lonnie.spady@state.co.us
Steve Mille	Colorado Water Conservation Bd	1313 Sherman St #71 Denver, CO 80203	303-866-3441 Ext 3228	Steve.Mille@state.co.us
ROY VAUGHAN	Reclamation - Pueblo	610 Reservoir Rd. Pueblo Dam Pueblo, CO. 81005	719-561-9855	RVAUGHAN@USBR.GOV
Valda Terauds	Reclamation	11056 W. City Rd 18E Loveland, CO 80537	970-962-4390	vterauds@usbr.gov
Andrew Gilmore	Reclamation		970 962-4352	agilmore@usbr.gov
Philip Reynolds	SE Colorado Water Conservation District	31717 United Ave Pueblo, CO 81001	719-948-2400	phr@seccwd.com
FRED HECKMAN	Super-Ditch	28440 US Highway 50 McClave, CO 81057	719-229-4637	FredCary@hottmail.com
JANIS FROST	WAF	MAIN STREET PUEBLO	719-682-4472	janis.frost@lafayette.edu

ATTENDANCE LIST

2010 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING

Tuesday, December 14, 2010, 8:30 A.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	PHONE & FAX	EMAIL
Angela Schenk	Sprink Water Engineers	1102 Logan St, DENVER, CO 80203	(303) 861-9700	ASchenk@sprinkwater.com
Stephanie Gonzales	Arkansas River Compact Admin. - Recording Sec. & Treasurer	Po Box 97 Granada CO 81041	(719) 734-5102	jsgraphics@centurytel.net
Mark Rude	SW KANSAS GROUNDWATER DIST.	2009 E. SPRUCE ST GARDEN CITY, KS 67846	620 275-7147	MRUDE@GWD3.ORG

Exhibit B
Revised Agenda
Dec. 14 2010

ARKANSAS RIVER COMPACT ADMINISTRATION

Lamar, Colorado 81052

For Colorado

Chairman and Federal Representative

For Kansas

Jennifer Gimbel, Denver
Colin Thompson, Holly
Matt Heimerich, Olney Springs

Robin Jennison
Healy, Kansas

David Barfield, Topeka
Randy Hayzlett, Lakin
David A. Brenn, Garden City

NOTICE & AGENDA 2010 ANNUAL MEETING ARKANSAS RIVER COMPACT ADMINISTRATION

**TUESDAY, DECEMBER 14, 2010
8:30 A.M. (MST)**

**Lamar Community Building
610 South Sixth Street
Lamar, Colorado**

The 2010 Annual Meeting of the Arkansas River Compact Administration ("ARCA") will be held on Tuesday, December 14, 2010, commencing at 8:30 A.M. MST (9:30 A.M. CST) in the Lamar Community Building, 610 South Sixth Street, in Lamar, Colorado. The meeting will be recessed for lunch at about 12:00 PM and reconvened for the completion of business in the afternoon as necessary. Meetings of ARCA are operated in compliance with the federal Americans with Disabilities Act. If you need a special accommodation as a result of a disability please contact Stephanie Gonzales at 719-734-5367 at least three days before the meeting. The tentative agenda for the Annual Meeting, which is subject to change, is set out below.

The Engineering, Operations, and Administrative/Legal Committees of the Administration will meet on Monday, December 13, 2010, The Lamar Community Building, 610 South Sixth Street, in Lamar, Colorado at 1:30 PM. MST (2:30 P.M. CST) and continuing to completion. Tentative agendas for the Committee meetings are also set out below. The public is welcome to attend the Committee meetings, but time for comments may be limited.

EXHIBIT

B

ENGINEERING COMMITTEE MEETING
MONDAY, DEC. 13, 2010, 1:30 P.M. (MST)
Lamar Community Building
TENTATIVE AGENDA (subject to change)
Presiding: Matt Heimerich

1. Review committee agenda and preparation of action item(s) – *assign staff*
2. Old business
 - A. Irrigation Improvement Rules – Colorado staff
 - B. Colorado Decision Support System for Arkansas River basin – Colorado staff
 - C. Transit Loss Study between Pueblo and John Martin Reservoir update – Colorado staff
 - D. Purgatoire River channel capacity study – Dennis Garcia, Corps
3. New business and other matters
 - A. Special Engineering Committee discussion/extension – *action item*
 - B. Review of Colorado Satellite Monitoring Network
4. Summary of action items / Committee assignments to staff
5. Future meetings
6. Adjourn

OPERATIONS COMMITTEE MEETING
MONDAY, DEC. 13, 2010*
Lamar Community Building
TENTATIVE AGENDA (subject to change)
Presiding: Dave Brenn

1. Review committee agenda and preparation of action item(s) – *assign staff*
2. Reports of Operations Secretary and Assistant Operations Secretary
 - A. Operations Secretary – Steve Witte
 - B. Assistant Operations Secretary – Kevin Salter
 - C. Committee recommendation concerning CY2010 Operations and Assistant Operations Secretaries' reports
3. Offset Account Operations Report – Colorado Division of Water Resources
4. Ten-year Compact Compliance Accounting table (2000-2009) – Joint report of the States
5. Old business
 - A. Water Issues Matrix – Kevin Salter
 - B. Confirm Status of 2006 Operations Secretary Report
 - C. Approval of 2007 Operations Secretary Report – *action item*
 - D. Approval of 2008 Operations Secretary Report – *action item*
 - E. Approval of 2009 Operations Secretary Report – *action item*
6. New business and other matters
 - A. Approval of 2010 Operations Secretary Report – *action item*
 - B. Offset Account Review – joint report of the States
 - C. Referral of Matrix Issues 25, 26, 27 and 33 to ARCA Special Engineering Committee – *action item*
 - D. Special Engineering Committee discussion / extension – *action item*
7. Summary of action items / Committee assignments to staff
8. Future meetings: April and/or mid-Summer meetings
9. Adjourn

* The Operations Committee will start following the conclusion of the Engineering Committee

ADMINISTRATIVE & LEGAL COMMITTEE MEETING
MONDAY, DEC. 13, 2010*
Lamar Community Building
TENTATIVE AGENDA (subject to change)
Presiding: Randy Hayzlett

1. Review committee agenda and preparation of action item(s) – *assign staff*
2. Review 2010 Annual Meeting Agenda
3. Recording Secretary/Treasurer Report
4. Financial Matters
 - A. Audit Report: review and approval of Fiscal Year(FY) 2009-10 Report (7/1/2009-6/30/2010) – *action item*
 - B. Treasurer Report
 - C. Budget review and recommendations to ARCA
 - i. Review of current FY 2010-11
 - ii. Review of adopted FY 2011-12
 - iii. Approval of USGS Cooperative Agreements – *action item*
 - iv. Approval of 3-year Colorado Satellite Monitoring Contract – *action item*
 - v. Proposed FY 2012-13 budget and assessment – *action item*
5. Old business
 - A. Status of transcripts from prior meetings –Steve Miller & Kevin Salter
 - i. Annual meetings: 1993, 1998-2005 & 2009
 - ii. Special meeting minutes and/or summaries: Feb 2010
 - B. Recommendation / approval of transcripts and/or summaries – *action item*
 - C. Annual Report preparation: 1994-2009 status – Steve Miller
 - i. 1994 Draft
 - ii. 1997 Draft
 - iii. 1995 & 1996 Drafts
 - iv. Remaining years
 - v. Process to complete reviews and publish
 - D. Special Engineering Committee – *action item*
 - i. discussion of extension
 - ii. review of ARCA resolution
6. New business and other matters
 - A. In memoriam – recognizing the passing of ARCA representatives in annual reports
 - B. Nomination of Officers – *action item*
 - i. Vice-Chairman
 - ii. Recording Secretary and Treasurer
 - iii. Operations Secretary
 - iv. Assistant Operations Secretary
 - C. Recommendation on appointment of Committee chairs – *action item*

* The Administrative & Legal Committee will start following the conclusion of the Operations Committee

- 7. Summary of action items / Committee assignments to staff**
- 8. Future meetings**
- 9. Adjourn**

800 S. 6th Street
Rocky Ford, CO 81067
January 28, 2010

Arkansas River Compact Administration
307 South Fifth Street
Lamar, CO 81052

Gentlemen:

As a user of the waters of the Arkansas River in Colorado Water District No. 17, Article VII-A subjects me to all of the bylaws, rules and regulations of the Arkansas River Compact.

In recent years it has become economically viable for some farmers to purchase and install irrigation systems which are more efficient in applying water to the soil. The Colorado Division of Water Resources ("CDWR") has created models which predict that because of more efficient means of applying water to the soil, there will be a material depletion of the waters of the Arkansas River in usable quantity or availability for use to the water users in Colorado and Kansas. Has the prediction of the CDWR of material depletion been investigated by the Administration as called for in Article VII-H?

In accordance with Article V-G, Kansas users are not entitled to water entering John Martin Reservoir during times when Colorado reverts to administration of decree priorities. The exception to this rule is that Kansas is to receive its share of the natural flow of the river during the winter storage event, with such natural flow being undiminished by Colorado's Winter Water Storage Program. This limiting clause makes it seem implausible that any user would be deprived of water in usable quantity or availability.

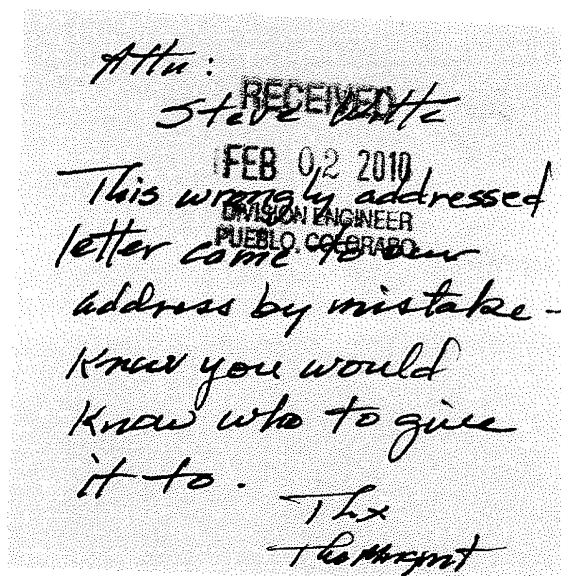
If the Administration does not find material depletion as predicted by CDWR, might it consider, whether or not, the compact is being used to impose rules impeding efficient application of irrigation water, and thus interfering with the future beneficial development of the Arkansas river basin in Colorado and Kansas?

Sincerely,

Wayne W. Whittaker

Wayne W. Whittaker

cc. Tell-it to the Chieftain



ARKANSAS RIVER COMPACT ADMINISTRATION

Lamar, Colorado 81052

For Colorado

Chairman and Federal Representative

For Kansas

Jennifer Gimbel, Denver
Colin Thompson, Holly
Matt Heimerich, Olney Springs

Robin Jennison
Healy, Kansas

David Barfield, Topeka
Randy Hayzlett, Lakin
David A. Brenn, Garden City

June 9, 2010

Wayne W. Whittaker
800 S. 6th St.
Rocky Ford, CO 81067

Re: Colorado's Proposed Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado ("Irrigation Improvement Rules")

Dear Mr. Whittaker,

Thank you for your letter dated January 28, 2010, which has been provided to the Arkansas River Compact Administration (ARCA). I have been asked to respond to your questions on behalf of ARCA. The response below was written jointly by professional staff from both States and reviewed by the ARCA representatives.

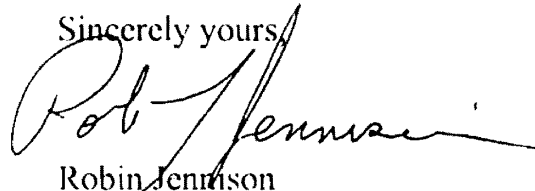
First, your letter refers to Article VII-H of the Compact, but we presume you meant Article VIII-H, which states that "[v]iolation of any of the provisions of this compact or other actions prejudicial thereto which come to the attention of the administration shall be promptly investigated by it." Professional staff and the ARCA representatives from both States are aware of the potential for a Compact violation from improvements to surface water irrigation systems in Colorado, and also that the Colorado Division of Water Resources is acting promptly to enact rules to prevent such violations. They do not believe that Article VIII-H requires further investigation by ARCA at this time under these circumstances.

Second, you are correct that Article V-G does provide that Kansas is not entitled to water entering John Martin Reservoir during times when Colorado reverts to administration of decree priorities. However, Article V-G apportions to Kansas those waters of the Arkansas River originating in Colorado which may flow across the Stateline during those times when Colorado reverts to administration of decree priorities. Therefore, even during periods when Colorado reverts to administration of decree priorities, there is the potential for usable Stateline flows to be materially

depleted by activities in Colorado in violation of the Compact. To answer your question, we do not find it implausible that there could be a Compact violation during these periods.

Colorado's intent with the proposed Rules is to adequately measure changes to historical seepage losses and return flows caused by surface water irrigation system efficiency improvements and provide maintenance flows needed so that Stateline flows are not materially depleted. The ARCA representatives do not believe the Rules, as filed with the water court, inappropriately interfere with future beneficial development. To the contrary, the Rules are intended to allow for development in a manner that reduces the potential for future conflict. Colorado has kept Kansas updated during the development of these proposed Rules, including a presentation at the ARCA 2008 annual meeting. The States' staffs have held meetings concerning the Rules and the Irrigation System Analysis Model (ISAM), and Kansas has provided written comments concerning them. Colorado will continue to keep Kansas updated on any changes that may occur to both the Rules and ISAM. The ARCA representatives believe the passage of the Rules is a proactive effort by Colorado to meet its Compact obligations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robin Jennison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robin Jennison
Chairman, ARCA

cc: Eve W. McDonald
Christopher M. Grunewald

**COMPACT RULES GOVERNING IMPROVEMENTS TO SURFACE WATER
IRRIGATION SYSTEMS IN THE ARKANSAS RIVER BASIN IN COLORADO**

ORDER OF THE STATE ENGINEER

BY THIS ORDER the State Engineer adopts the following rules and regulations to govern improvements to surface water irrigation systems in the Arkansas River Basin in Colorado to comply with Article IV-D of the Arkansas River Compact.

Rule 1. Title

The title of these Rules is "Compact Rules Governing Improvements to Surface Water Irrigation Systems in Arkansas River Basin in Colorado." The short title for these Rules is "Irrigation Improvement Rules," and they may be referred to herein collectively as the "Rules" or individually as a "Rule."

Rule 2. Authority

These Rules are promulgated pursuant to the authority granted the State Engineer in § 37-80-102(1)(a), § 37-80-104, and § 37-92-501, C.R.S., to ensure compliance with the terms of the Arkansas River Compact, 63 Stat. 145; § 37-69-101, *et seq.*, C.R.S. (Compact).

Rule 3. Purpose

- A. The purpose of these Rules is to ensure that improvements to surface water irrigation systems in the Arkansas River Basin in Colorado comply with Article IV-D of the Compact.
- B. These Rules have as their objective the optimum use of waters of the Arkansas River in a manner consistent with preservation of the priority system of water rights while ensuring that the State of Colorado complies with the terms of the Compact.

Rule 4. Scope and Exceptions

- A. On or after the effective date of these Rules, water users must file an application and obtain approval from the Division Engineer before making an improvement to a surface water irrigation system. In addition, water users with a surface water sprinkler or surface water drip system installed on or after October 1, 1999, within the H-I Model Domain must file an application and obtain approval from the Division Engineer in order to continue using that sprinkler or drip system.

- B. These Rules apply throughout the drainage basin of the Arkansas River in Colorado.
- C. These Rules apply to any person or entity using, claiming, or in any manner asserting any right to use waters of the Arkansas River, as defined in Article III of the Compact, which includes its tributaries, under the authority of the State of Colorado in whole or in part for irrigation or for the replacement of depletions caused by ground water diversions, except as provided in paragraph D, E and F of this Rule.
- D. These Rules do not apply to diversions of ground water (except as specified in the definition of "surface water irrigation system" in Rule 5.A.13) or to structures, facilities, equipment, or works used exclusively for the diversion, conveyance, or application of ground water.
- E. These Rules do not apply to surface water irrigation systems that serve less than one acre.
- F. These Rules apply to improvements to surface water irrigation systems within the Trinidad Dam and Reservoir Project, except that they do not apply to: (1) increases in off-farm transportation efficiency derived from improved facilities that are considered in the allocation of District Water Supply under the Operating Principles - Trinidad Dam and Reservoir Project ("Operating Principles") and the Purgatoire River Water Conservancy District Operating Criteria ("Operating Criteria") or (2) any improvement that becomes expressly approved after the effective date of these Rules by duly-authorized amendment of the Operating Principles.

Rule 5. Definitions

A. As used in these Rules:

- 1. "Designated Agent" means a person or entity who is authorized by the owner or user of a surface water irrigation system to file an application or otherwise comply with these Rules.
- 2. "Division Engineer" means the Division Engineer for Water Division 2.
- 3. "H-I Model" means the Hydrologic-Institutional Model that is used to determine Compact compliance in accordance with the judgment and decree in *Kansas v. Colorado*, No. 105, Original, United States Supreme Court (Decree), as described in Appendix C.1 to the Decree, which includes the model documentation. The term "H-I Model" also includes any future updates and revisions to said model under the terms of the Decree.

4. "H-I Model Domain" means the geographic area in which the hydrologic and institutional processes simulated in the H-I Model occur, as shown on the attached map.

5. "Historical seepage losses and return flows" means the seepage losses and/or return flows that would occur from use of a surface water irrigation system in the absence of an improvement to the surface water irrigation system.

6. "Improvement to a surface water irrigation system" or "Improvement" means the following man-made changes to a surface water irrigation system: lining of canals and off-farm laterals; installation of pipelines to replace off-farm earthen ditches or laterals; application of chemicals to reduce canal or off-farm lateral losses; installation of head stabilization ponds and tailwater recovery pits, including those that facilitate reuse of surface water; installation of sprinkler systems, drip systems, or other irrigation technologies to replace flood and furrow irrigation methods; replacement of side-roll irrigation systems with center-pivot irrigation systems; replacement of impact sprinklers with spray nozzles; and adding surface water as an additional or exclusive source of supply to a sprinkler or drip system that only applied ground water prior to the effective date of these Rules, including to a sprinkler or drip system that was installed prior to October 1, 1999.

Other man-made changes, including but not limited to the following, are not considered an "improvement to a surface water irrigation system" under these Rules: lining of on-farm ditches and laterals, installation of on-farm underground pipe or gated pipe; crop selection; crop rotation; changes to plant population; irrigation scheduling; cultivation; application of fertilizers; and general maintenance activities, such as the control or eradication of vegetation; dredging of canals, ditches, laterals and reservoirs; repair or replacement of deteriorated pipe; repair or replacement of existing lining of canals or laterals; sluicing operations to remove sediment from canals; and similar practices.

7. "Irrigation" means the application of waters of the State in excess of natural precipitation to grow crops or other plant life for production of food, forage, or other uses, including revegetation and sod production but not including lawn irrigation or landscaping.

8. "Irrigation System Analysis Model (ISAM)" means the peer-reviewed computer programs developed by the Division Engineer's Office to compare monthly water budgets of surface water irrigation systems with and without an improvement in order to evaluate the impacts of an improvement to a surface water irrigation system located within the H-I Model Domain. For surface water irrigation systems that are represented in the H-I Model, the ISAM incorporates the assumptions on canal and lateral losses, tailwater runoff, secondary evapotranspiration losses, soil moisture accounting, and irrigation efficiencies

and the data on irrigated acreage, potential crop evapotranspiration, and effective precipitation used for those systems in the H-I Model. For surface water irrigation systems within the H-I Model Domain that are not represented in the H-I Model, the ISAM uses assumptions and data for similar systems that are represented in the H-I Model.

To determine the timing and location of historical and predicted seepage losses and return flows, the ISAM shall incorporate or be used in conjunction with (1) the unit response functions that were developed by the State and Division Engineers under Rule 8 of the Amended Rules and Regulations Governing the Diversion of Tributary Ground Water in the Arkansas River Basin, Colorado ("Use Rules"); (2) the Analytical Stream Depletion Model as described in the Ground Water Software Publication No. 1, Office of the State Engineer, Colorado Division of Water Resources, dated September, 1987 authored by Dewayne R. Schroeder; or (3) IDS AWAS (Alluvial Water Accounting System) as maintained by the Integrated Decision Support Group and described at www.ids.colostate.edu. In these Rules, the term "ISAM" includes these three methods.

9. "Notification List" means the electronic contact information submitted by those persons who request notification of decisions or proceedings under these Rules.

10. "Off-farm" means those ditches, laterals, and pipelines that are not "on-farm."

11. "On-farm" means those ditches, laterals, and pipelines that are used to transport irrigation water within or along the borders of irrigated fields. On-farm ditches and laterals do not include the main canal that conveys water from the decreed source to farm turnouts on the main canal or ditches and laterals that serve more than one water user.

12. "Subject water right" means the water right or rights, including shares in a mutual ditch or reservoir company, used with a surface water irrigation system to which an improvement has been made or is proposed. "Subject water right" includes the portion of a water right or water rights that a water user is entitled to use by contract or as the beneficial owner.

13. "Surface water irrigation system" means any and all structures, facilities, equipment, or works used to receive, deliver, control, apply, or return surface water for irrigation, including, but not limited to: dams; diversion works; canals; off-farm laterals; reservoirs; and farm-scale irrigation application facilities, such as sprinkler systems, drip systems, and head stabilization ponds. "Surface water irrigation system" includes (1) systems that receive ground water from a well or structure that is decreed as an alternate point of diversion for a surface water right; (2) systems that also receive ground water in addition to surface

water and; (3) systems that receive, deliver, control, or return surface water for the purpose of replacing depletions caused by diversions of tributary ground water.

- B. Any term used in these Rules that is defined in Articles 69, 80, and 92 of Title 37, C.R.S., shall have the same meaning given therein unless the context requires otherwise.

Rule 6. Principles and Findings

- A. Article IV-D of the Compact states as follows: "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 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."
- B. Article VII-A of the Compact states as follows: "Each State shall be subject to the terms of this Compact. Where the name of the State or the term 'State' is used in this Compact these shall be construed to include any person or entity of any nature whatsoever using, claiming or in any manner asserting any right to the use of the waters of the Arkansas River under the authority of that State."
- C. The State Engineer is responsible for discharging the obligations of the State of Colorado imposed by the Compact.
- D. Future beneficial development of the Arkansas River basin within the meaning of Article IV-D of the Compact includes improvements to surface water irrigation systems within the scope of these Rules. In making this finding, the State Engineer has been guided by the terms of the Compact and the decisions of the United States Supreme Court and its Special Master interpreting the Compact. See, e.g., *Kansas v. Colorado* (No. 105 Original), 514 U.S. 673 (1995); 533 U.S. 1 (2001); 543 U.S. 86 (2004); First Report (1994); Second Report (1997); Third Report (2000); Fourth Report (2003); and Fifth and Final Report (2008).
- E. Improvements to surface water irrigation systems within the scope of these Rules can materially deplete the waters of the Arkansas River in usable quantity or availability for use to the water users in Colorado and Kansas in violation of Article IV-D of the Compact by increasing beneficial consumptive use and reducing historical seepage losses and return flows to the Arkansas River.

- F. The Compact is deficient in establishing standards for administration within Colorado to provide for meeting its terms with respect to improvements to surface water irrigation systems and these Rules are necessary to ensure that the State of Colorado meets its Compact obligations.
- G. Compact Compliance Plans under these Rules do not authorize out-of-priority use of water and do not authorize replacement of depletions caused by out-of-priority use of water. See Simpson v. Bijou, 69 P.3d 50 (2003); § 37-92-308, C.R.S.
- H. In adopting these Rules, the State Engineer has been guided by the recognition that the Arkansas River Basin is a separate entity (§ 37-92-501(2)(a), C.R.S.); that the purpose of the Compact was to equitably divide and apportion between the States of Colorado and Kansas the waters of the Arkansas River and their control, conservation, and utilization for irrigation and other beneficial purposes (Article I-A); that the Compact deals only with the waters of the Arkansas River as defined in Article III of the Compact (Article IV-A); and that the Compact establishes no general principle or precedent with respect to any other interstate stream (Article VII-B).

Rule 7. Requirement for Division Engineer Approval of Improvements to Surface Water Irrigation Systems

- A. On or after the effective date of these Rules, no improvement to a surface water irrigation system within the scope of these Rules shall be made unless the user makes an application in writing to the Division Engineer in accordance with Rule 8 or Rule 10 of these Rules for approval of the improvement and receives written approval from the Division Engineer allowing the improvement, except that improvements authorized by a general permit under Rule 11 only require written notice pursuant to the terms of the general permit, rather than an application.
- B. On or after the effective date of these Rules, any person who wants to continue using a sprinkler or drip irrigation system to apply surface water within the H-I Model Domain that was installed on or after October 1, 1999, but before the effective date of these Rules, must file an application in writing to the Division Engineer in accordance with Rule 8 or Rule 10 of these Rules for approval of the sprinkler or drip irrigation system and must receive written approval from the Division Engineer allowing the use of the sprinkler or drip irrigation system in accordance with these Rules. Ninety days after the effective date of these Rules, no sprinkler or drip irrigation system that is used to apply surface water within the H-I Model Domain and was installed on or after October 1, 1999, but before the effective date of these Rules, shall be used unless the owner or user has received written approval from the Division Engineer allowing the use of the sprinkler or drip irrigation system in accordance with these Rules.

- C. In the event written approval of an improvement to a surface water irrigation system has not been given by the Division Engineer in accordance with a Rule 8 application or a Rule 10 Compact Compliance Plan and is not permitted under a general permit as provided in Rule 11 below, or if the Applicant is out of compliance with the terms and conditions of a written approval, the State or Division Engineer shall order the total or partial discontinuance of any diversion or use of the subject water right (but only to the extent that the water being diverted is used in connection with such improvement) or take other appropriate action authorized by law to prevent a violation of Article IV-D of the Compact. If the subject water right is based on contract or shares in a ditch or reservoir company, any such order will be issued to the person or entity responsible for the improvement.

Rule 8. Application Contents, Notice and Comment Period, and Timeline for Review

- A. An application for approval of an improvement shall be in a form to be prescribed by the State Engineer. The application shall describe the surface water irrigation system and the improvement in sufficient detail to allow the Division Engineer to evaluate the effect of the improvement and shall be signed by the owner or user of the surface water irrigation system or his or her Designated Agent. The Division Engineer prefers that the applicant submit the form and any exhibits electronically. An applicant is not required to submit an engineering report with an application, but the applicant may submit any relevant information, including a report from a licensed professional engineer or other qualified expert, information pertinent to the leaching requirement to prevent soil salinity from reaching harmful levels for land irrigated by the improvement, or information from the manufacturer, distributor, or installer describing the improvement and its effect on consumptive use of water or historical seepage losses and return flows. The application may also propose terms and conditions to be imposed on the use of the improvement or the use of the subject water right that will prevent a violation of Article IV-D of the Compact.
- B. As soon as practicable after the application is filed, the Division Engineer shall send a copy of the application and any exhibits, or information on where they are available to be reviewed, to all persons on the Notification List. Anyone may join the Notification List by submitting an email address to the Division Engineer's Office. The Division Engineer will consider comments on pending applications if they are received within 30 days after the application is sent to persons on the Notification List. The Division Engineer will also inform those on the Notification List of any hearing on an application and of any decision approving or denying an application or Compact Compliance Plan.
- C. Within ninety (90) calendar days of the receipt of an application, the Division Engineer will provide the applicant or his or her designated agent and all

persons on the Notification List with a written decision that may be in the form of approval, denial, or approval with terms and conditions. If the Division Engineer requires additional information from the applicant to evaluate the improvement, the Division Engineer shall notify the applicant and all persons on the Notification List, and the applicant shall have up to 90 calendar days from the date of the notification to provide the additional information to the Division Engineer and the time for the Division Engineer to provide a written decision on the application shall be extended for 90 calendar days from the date of the receipt of the additional information.

- D. In making the determinations necessary to approve or deny an application, the Division Engineer shall not be required to hold or conduct a hearing, but the Division Engineer may hold or conduct a hearing if he determines a hearing is necessary or useful to make any such determination. All hearing procedures will be guided by the State Engineer's Procedural Regulations for adjudicatory procedures (2 CCR 402-5, Section 1.1.4), where applicable.

Rule 9. Standards for Division Engineer Review of Rule 8 and Rule 10 Applications

- A. If the Division Engineer determines that an improvement will not materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact, he shall approve the application and allow the improvement. If the Division Engineer determines that an improvement will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact, he shall deny the application and disallow the improvement unless terms and conditions can be imposed under Rule 9(C) below that will prevent such material depletion or the improvement is included in a Compact Compliance Plan approved by the Division Engineer in accordance with this Rule 9 and Rule 10 below. Once an improvement has been approved pursuant to Rule 8, no further application shall be required unless the Division Engineer revokes the approval for violation of a term and condition of the approval.
- B. To determine whether an improvement will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact, the Division Engineer shall determine whether the improvement will increase consumptive use or will reduce the amount or change the timing or location of historical seepage losses and return flows from waters of the Arkansas River diverted, conveyed, stored, applied, or returned by the surface water irrigation system. The Division Engineer shall consider any relevant data or information submitted with the application, and may consider any change in non-beneficial consumptive use that would result from the improvement to the surface water irrigation system, to the extent permitted by law.
 - i. For surface water irrigation systems located within the H-I Model Domain, the Division Engineer shall use the ISAM for these determinations.

a. There shall be a rebuttable presumption that the version of the ISAM in use at the time an application is filed accurately determines whether an improvement will increase consumptive use or will reduce the amount or change the timing or location of historical seepage losses and return flows. However, the Division Engineer shall consider any farm-specific data or engineering analysis submitted by the applicant that varies from assumptions or data used in the ISAM and shall incorporate such data or engineering analysis if appropriate.

b. The initial version of ISAM and its documentation shall be filed in the water court action concerning promulgation of these Rules. The Division Engineer shall update or revise the ISAM as appropriate to incorporate applicable changes to the H-I Model that have been approved in accordance with Section V of Appendix B to the Decree in *Kansas v. Colorado* and to incorporate new or updated data and/or engineering information for assumptions and data that are not derived from the H-I Model. Such update or revision shall be based on sufficient and reliable engineering and/or scientific information. The Division Engineer shall notify interested parties of any significant proposed changes to the ISAM through the Notification List and the DWR website. The Division Engineer shall make available electronic copies of the ISAM and associated data upon request, and shall allow reasonable time for peer review and responsive comments before using the updated or revised ISAM, unless it would be unreasonable not to use the updated or revised ISAM, e.g., where the updated or revised ISAM corrects an arithmetic error.

ii. For surface water irrigation systems located outside the H-I Model Domain, the Division Engineer shall develop appropriate models or methods for these determinations. Said model or method shall be similar to the ISAM, but shall use data and information appropriate to the hydrologic and institutional circumstances of the surface water irrigation systems to be evaluated, based upon sufficient and reliable engineering and/or scientific information.

a. For surface water irrigation systems located outside the H-I Model Domain, there shall not be a rebuttable presumption that the version of the model or method in use at the time an application is filed accurately determines whether an improvement will increase consumptive use or will reduce the amount or change the timing or location of historical seepage losses and return flows unless the State Engineer files a request with the district court for Water Division 2 to establish such a rebuttable presumption, notice is given to interested persons, and the rebuttable presumption is established by order of the Court.

b. The Division Engineer shall update or revise such model or method as appropriate to incorporate new or updated data and/or information. Such

- update or revision shall be based on sufficient and reliable engineering and/or scientific information. The Division Engineer shall notify interested persons of any significant update or revision to such model or method through the Notification List and the DWR website. The Division Engineer shall make available electronic copies and associated data upon request, and shall allow reasonable time for peer review and responsive comments before using a new, updated or revised model or method, unless it would be unreasonable not to use the new, updated or revised model or method, e.g., where the updated or revised model or method corrects an arithmetic error.
- C. The Division Engineer may approve an application and allow an improvement that would otherwise violate Article IV-D of the Compact if the Division Engineer determines that terms and conditions can be imposed on the use of the improvement or the use of the subject water right that will prevent a violation of Article IV-D of the Compact. Such terms and conditions may include a limitation on the use of the subject water right, including a limitation on the time, place, or method of use of the subject water right or the surface water irrigation system; a requirement to install, maintain and verify appropriate measuring devices; a requirement to periodically record and report measurements to the Division Engineer; a requirement for a periodic accounting; or such other terms and conditions as may be necessary to maintain historical seepage losses and return flows, such as discontinuing the irrigation of historically irrigated land. If delayed effects on historical seepage losses and return flows from an improvement are projected, the Division Engineer's approval shall specify the time period for which such terms and conditions must remain in effect to offset such effects in the event the applicant discontinues use of the improvement. The Division Engineer may adjust the terms and conditions of a Rule 8 application approval within the first three years after approval, after which time the terms and conditions may be modified only as necessary to comply with a final court order.
- D. In determining whether an improvement will cause a material depletion of Stateline flow under Article IV-D of the Compact, no reduction for usability shall be applied; provided, that no person or entity subject to these Rules shall be required to maintain historical seepage losses and return flows at the Stateline if John Martin Reservoir is spilling and Stateline water is passing Garden City, Kansas. See 2 Fifth and Final Report of the Special Master, *Kansas v. Colorado*, No. 105, Orig., U.S. Sup. Ct., Appendix J.2, at J.26.

Rule 10. Compact Compliance Plans

- A. In lieu of filing an application under Rule 8, any person subject to these Rules or an entity acting on behalf of such person or a group of such persons may submit a proposed Compact Compliance Plan (Plan) for review by the Division Engineer to prevent a violation of Article IV-D of the Compact from an improvement or group of improvements subject to Rule 7(A) or 7(B). The

proposed Plan shall describe the surface water irrigation system(s) and the improvement(s) it is intended to cover in sufficient detail to allow the Division Engineer to calculate the effects of the improvement(s). A copy of the form required by Rule 8.A, signed by the owner or user of the surface water irrigation system or his or her Designated Agent, must be maintained on file by the filing entity for each improvement to be covered under a proposed Plan and shall be available for inspection by the Division Engineer. The proposed Plan shall be in an electronic form. As soon as practicable after the proposed Plan is filed, the Division Engineer shall send a copy of the proposed Plan and any exhibits, or information on where they are available to be reviewed, to all persons on the Notification List. The Division Engineer will consider comments on pending Plan if they are received within 30 days after the proposed Plan is sent to persons on the Notification List. The Division Engineer will also inform those on the Notification List of any hearing on a proposed Plan and of any decision approving or denying a proposed Plan.

- B. A Compact Compliance Plan may include use of water other than the subject water right to prevent a violation of Article IV-D of the Compact if the other water is imported water or other fully consumable water pursuant to the decree controlling the use of said water. However, if a proposed Compact Compliance Plan requires a change of water right or plan for augmentation, the Division Engineer will deny the application and direct the applicant to file an application for approval of a change of water right or plan for augmentation in accordance with § 37-92-302, C.R.S. If this occurs, the applicant must cease use of the improvement to the surface water irrigation system until an application has been approved under Rule 8 above, a substitute water supply plan has been duly approved under section 37-92-308, C.R.S., or the water judge has entered a decree approving a change of water right or plan for augmentation allowing the use of the surface water improvement.
- C. Within ninety (90) calendar days of the receipt of a proposed Compact Compliance Plan, the Division Engineer will provide the Plan applicant and all persons on the Notification List with a written decision that may be in the form of approval, denial, or approval with terms and conditions. If the Division Engineer requires additional information from the Plan applicant to evaluate the Compact Compliance Plan, the Division Engineer shall notify the applicant and all persons on the Notification List, and the applicant shall have up to 90 calendar days from the date of the notification to provide the additional information to the Division Engineer and the time for the Division Engineer to provide a written decision on the proposed Plan shall be extended for 90 calendar days from the date of the receipt of the additional information.
- D. If the Division Engineer determines, pursuant to the standards in Rule 9, that a proposed Compact Compliance Plan will prevent a violation of Article IV-D of the Compact from the improvement(s), he shall approve the Plan and allow the improvement(s). If the Division Engineer determines, pursuant to the standards

in Rule 9, that a proposed Compact Compliance Plan will not prevent a violation of Article IV-D of the Compact from the improvement(s), he shall deny the Plan and disallow the improvement(s) unless terms and conditions, including but not limited to those described in Rule 9(C), can be imposed that will prevent such violation.

- E. Compact Compliance Plans shall require annual review and approval unless the Division Engineer determines that a longer period of approval is warranted, such as where the applicant owns or has a long-term right to use the source of water and controls or has a long-term right to use any storage space necessary to prevent a violation of Article IV-D of the Compact.
- F. Compact Compliance Plans approved by the Division Engineer shall require an annual accounting to the Division Engineer of the actual operations under the Plan during the prior year, including the change in historical seepage losses and return flows by month from each improvement covered under the Plan and the amount, time, and location of all water provided under the Plan to maintain historical seepage losses and return flows, as well as the projected monthly operations under the Plan for the upcoming year. The Division Engineer shall determine an appropriate "plan year" or 12 month period for operation under each approved Plan, and may grant temporary approval at the beginning of the plan year to allow verification of projected water availability or other assumptions in the plan. Improvements may be added and deleted from the Plan at any time by submitting a request for amendment of the Plan and receiving Division Engineer approval of the amendment. As soon as practical after any request for amendment of the Plan is filed, the Division Engineer shall send a copy of the amendment and any exhibits, or information on where they are available to be reviewed, to all persons on the Notification List. The Division Engineer will consider comments on pending amendments if they are received within 30 days after the amendment is sent to persons on the Notification List. The Division Engineer will also inform those on the Notification List of any hearing on an amendment and of any decision approving or denying an amendment.
- G. In making the determinations necessary to approve or deny a proposed Compact Compliance Plan, or a request to amend a Compact Compliance Plan, the Division Engineer shall not be required to hold or conduct a hearing, but the Division Engineer may hold or conduct a hearing if he determines a hearing is necessary or useful to make any such determination. All hearing procedures will be guided by the State Engineer's Procedural Regulations for adjudicatory procedures (2 CCR 402-5, Section 1.1.4), where applicable.

Rule 11. General Permits

- A. The State Engineer may issue general permits to approve any type or category of improvements, including improvements in specific locations of the Arkansas

River Basin, that the State Engineer determines will not materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact. The State Engineer has determined that the general permits attached to these Rules will be issued with the adoption of these Rules.

- B. The State Engineer may modify or revoke a general permit, in whole or in part, if the State Engineer determines, based upon sufficient and reliable engineering and/or scientific information, that the continued use of improvements authorized under the general permit or the installation of additional improvements in the area covered by the permit will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact without compliance with these Rules. However, no person or entity that made an improvement in reliance on a general permit shall be required to submit an application pursuant to these Rules for that improvement unless these Rules are amended to require such an application or as necessary to comply with an order of the United States Supreme Court.
- C. The State Engineer shall provide advance notice and opportunity to comment on any proposed issuance, revocation, or modification of any general permit via the Notification List, and shall provide notice of any new, revoked or modified general permit to the water clerk for Water Division 2 so that such notice shall be included in the resume prepared by the water clerk and shall be included in the copy of the resume posted on the water court's web site prior to its effective date.

Rule 12. Effect Of An Evaluation Under The Rules On A Determination Of The Historical Consumptive Use Of The Subject Water Right

- A. An evaluation of an improvement to a surface water irrigation system under these Rules to determine whether an improvement will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact is not intended to be an evaluation of the historical consumptive use or return flows of the subject water right for the purpose of changing the subject water right.
- B. The Division Engineer's evaluation of an improvement to a surface water system pursuant to these Rules shall have no precedential effect in any proceeding to change the subject water right, including use of the subject water right in an exchange or plan for augmentation.

Rule 13. Process to Appeal a Decision Under These Rules

- A. Administrative review of decisions by the State and Division Engineers under these Rules shall be available if timely requested as provided below. Such review shall be guided by the adjudicatory procedures and reconsideration procedures set out in Rule 1.1.4 and 1.1.6 (A) of the State Engineer's Procedural Regulations (2 CCR 402-5) ("Procedural Regulations").

- B. If the Division Engineer denies an application or approves the application with terms and conditions, the applicant or any person adversely affected or aggrieved by the decision may appeal the Division Engineer's decision to the State Engineer within 30 days after the Division Engineer issues the decision. If the Division Engineer has not held a hearing on the application, the applicant or any person adversely affected or aggrieved by the decision may file a request for an adjudicatory hearing under the Procedural Regulations. The State Engineer may refer the matter to a Hearing Officer. If the Division Engineer has already held a hearing on the Application, the applicant or any person adversely affected or aggrieved by the decision may file a request for rehearing or reconsideration under the Procedural Regulations.
- C. If the State Engineer issues, revokes or modifies a general permit, any person adversely affected or aggrieved by the decision may file a request for an adjudicatory hearing under the State Engineer's Procedural Regulations, provided the request is filed by the end of the month following the month in which the notice of the issuance, revocation or modification of the general permit is included in the copy of the resume posted on the water court's web site. The State Engineer may refer the matter to a Hearing Officer.
- D. If the Division Engineer updates or revises a model or method as provided in Rule 9.B.i.b. or 9.b.ii.b., any person adversely affected or aggrieved by the update or revision may appeal to the State Engineer by filing a request for an adjudicatory hearing under the State Engineer's Procedural Regulations within 90 days after the update or revision is provided to those on the Notification List. The State Engineer may refer the matter to a Hearing Officer.
- E. The intent of Rule 13 is to provide a timelier and less expensive alternative to an applicant or person adversely affected or aggrieved by a decision of the Division Engineer or the State Engineer. Nothing herein is intended to preclude de novo review by the water judge of a decision by the Division Engineer or the State Engineer under these Rules.

Rule 14. Effect of Rules

Improvements to a surface water irrigation system subject to these Rules are not exempt from the requirements of any other lawful Rules or statutes governing the use of waters of the State in Water Division 2, whether now existing or hereafter adopted.

Rule 15. Variance

When the strict application of any provisions of these Rules would cause unusual hardship, the Division Engineer may grant a variance. No variance shall waive the requirement for Division Engineer substantive evaluation and approval of an

improvement to a surface water irrigation system according to the standards set by these Rules. Any request for a variance shall be made in writing and shall state the basis for the requested variance. As soon as practical after any request for a variance is filed, the Division Engineer shall send a copy of the variance and any exhibits, or information on where they are available to be reviewed, to all persons on the Notification List. The Division Engineer will consider comments on pending variances if they are received within 30 days after the variance is sent to persons on the Notification List. The Division Engineer will also inform those on the Notification List of any hearing on a variance and of any decision approving or denying a variance. If the Division Engineer finds that the request is justifiable, the Division Engineer may issue a written order granting the variance and setting forth the terms and conditions on which the variance is granted.

Rule 16. Severability

If any Rule or part thereof is found to be invalid by a court of law, the remaining Rules shall remain in full force and effect, including any part thereof not found to be invalid.

Rule 17. Effective Date

These Rules shall take effect January 1, 2011, or sixty calendar days after publication in accordance with § 37-92-501(2)(g), C.R.S., whichever is later, and shall thereafter remain in effect until amended as provided by law. In the event that protests are filed with respect to these Rules in the time frame set by § 37-92-501(3), C.R.S., the effective date of such Rules shall be stayed until such protests are judicially resolved pursuant to the procedures set forth in § 37-92-304, C.R.S. In the event such protests are resolved prior to January 1, 2011, applications required by these Rules may be submitted prior to the effective date of the Rules.

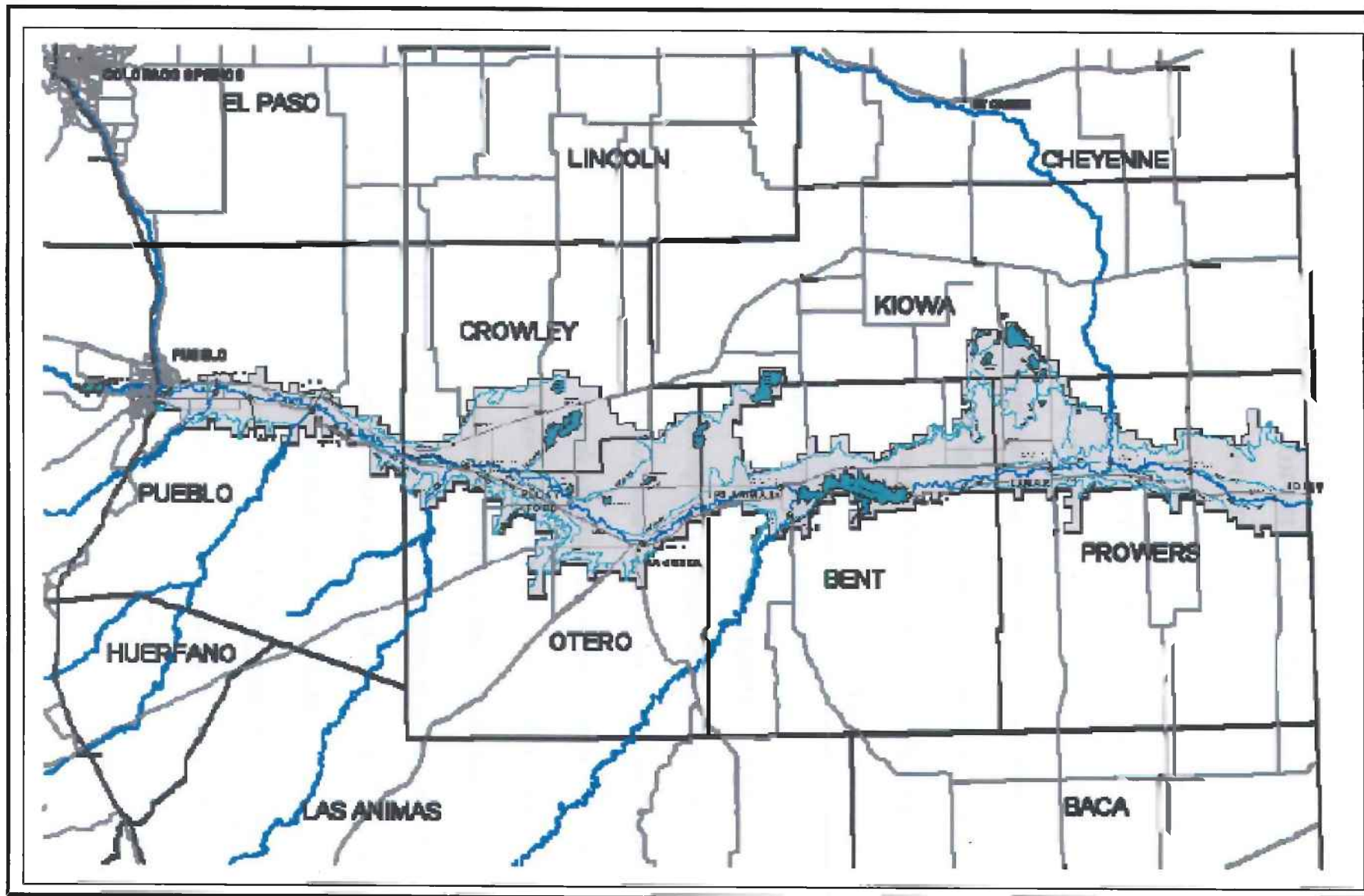
IT IS FURTHER ORDERED that any person who wishes to protest these proposed Rules may do so by filing a protest in writing with the Division 2 Water Clerk in Pueblo, Colorado, in the same manner as for the protest of a ruling of the referee. Any such protest must be filed by the end of the month following the month in which these Rules are published.

Dated this 22nd day of October, 2010, by:



Dick Wolfe,
State Engineer/Director of Colorado
Division of Water Resources

Attachment 1: Map of H-I Model Domain referenced in Rule 5.A.4.
Attachment 2: General Permits referenced in Rule 11.A.



H-I MODEL DOMAIN

Attachment 1 to Irrigation Improvement Rules (Rule 5.A.4)

GENERAL PERMITS ISSUED UNDER RULE 11 OF THE IRRIGATION IMPROVEMENT RULES

REVISED APRIL 16, 2010

In accordance with Rule 11 of the Compact Rules Governing Improvement to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado ("Irrigation Improvement Rules" or "Rules"), the State Engineer has issued the general permits listed in Part A below, to approve of improvements that the State Engineer has determined will not materially deplete the waters of the Arkansas River in violation of Article IV-D of the Arkansas River Compact. Conditions applicable to all general permits are listed in Part B below.

A. General Permits

1. Improvements to surface water irrigation systems that are used with senior water rights that are diverted from the Arkansas River or its tributaries upstream from Pueblo Reservoir. This general permit approves of improvements to surface water irrigation systems that are used with water rights that are diverted from the Arkansas River or its tributaries upstream from Pueblo Reservoir and that have a decreed date of appropriation senior to April 15, 1884. This general permit is not applicable if the water right is covered under General Permit A.2. If the improvement is used or will be used with water rights that are both senior and junior to April 15, 1884, the user must make an application in writing to the Division Engineer for approval of the improvement in accordance with the Irrigation Improvement Rules.

2. Improvements to surface water irrigation systems that are used with water rights that are diverted from specified tributaries. This general permit approves of improvements to surface water irrigation systems that are used with water rights that are diverted from the following tributaries. The following tributaries include tributaries to the listed rivers and creeks, provided that if the listed river or creek is limited to a point upstream from a designated location,

only tributaries that flow into the listed river or creek upstream from the designated location are included.

- a. Cottonwood Creek
- b. Trout Creek
- c. South Arkansas
- d. Brown's Creek
- e. Hardscrabble Creek
- f. Texas Creek
- g. Grape Creek
- h. Beaver Creek
- i. Fountain Creek at or upstream of the Greenview Ditch point of diversion
- j. Chico Creek
- k. Horse Creek upstream of the Horse Creek (Reservoir) Supply Ditch point of diversion
- l. Adobe Creek upstream of the Adobe Creek (Reservoir) Supply Ditch point of diversion
- m. St. Charles River at or upstream of the Edson Ditch point of diversion
- n. Huerfano River upstream of the Welton Ditch point of diversion
- o. Apishipa River at or upstream of the Escondida Ditch point of diversion
- p. Two Buttes Creek upstream of Two Buttes Reservoir
- q. Big Sandy Creek upstream of the Amity Canal point of diversion

3. Improvements to surface water irrigation systems that are within a designated ground water basin formed under §37-90-101, et seq., C.R.S. This general permit

approves of improvements to surface water irrigation systems that are used with water rights that are diverted within a designated ground water basin.

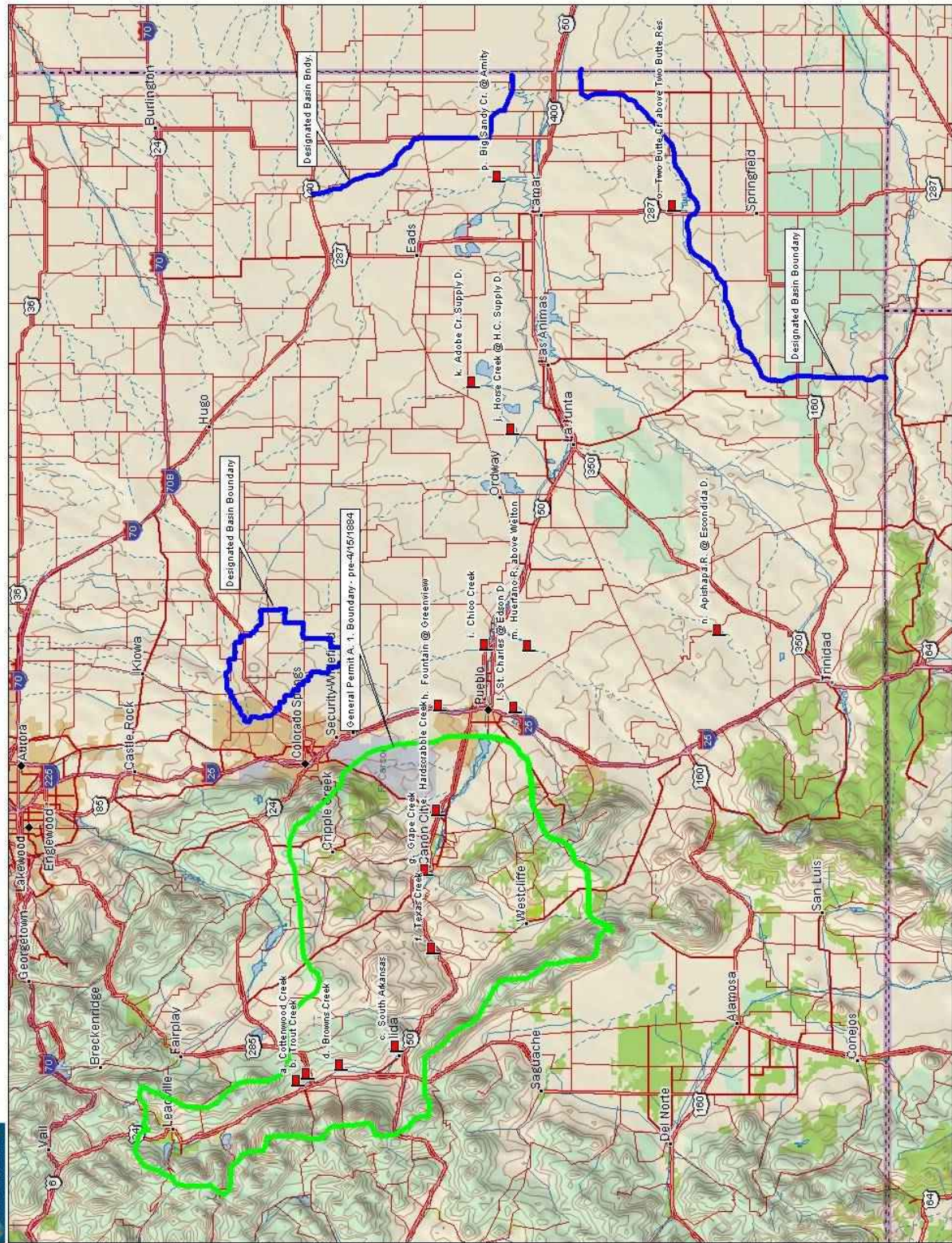
B. General Permit Conditions

1. For an improvement to be covered by a general permit, the surface water user must give written notice of the type and location of the improvement to the Division Engineer's Office prior to using the improvement, on a form to be provided by the Division Engineer's Office. Said notice shall acknowledge the general permit conditions listed below.

2. The State Engineer may modify or revoke the permit under the conditions and with the notice required by Rule 11. The permittee understands and agrees that the permittee can be required to discontinue use of the improvement to a surface water irrigation system previously covered by a general permit, or otherwise to comply with the Irrigation Improvement Rules, if required to do so by an amendment of the Rules or as necessary to comply with an order of the United States Supreme Court. No claim shall be made against the State of Colorado on account of such discontinuance or compliance.

3. The permittee understands and agrees that merely because an improvement to a surface water irrigation system is covered by a general permit, the improvement is not necessarily permitted by or consistent with the decree adjudicating the water right used in connection with the surface water irrigation system or the Water Right Determination and Administration Act of 1969, § 37-92-101 *et seq.*, C.R.S. In particular, an improvement to a surface water irrigation system may not be used to irrigate land for which the water right was not decreed without filing an application for a change of water right.

4. In cases where the Division Engineer determines the improvement to a surface water irrigation system is not covered by a general permit, the Division Engineer may take such action as authorized by the Irrigation Improvement Rules.



U.S. Geological Survey Water-Resources Activities in the Arkansas River Basin of Colorado to the Arkansas River Compact Administration

December 14, 2010

In 2010, 10 streamflow gages were operated under the USGS/ARCA cooperative program; eight in Colorado and two in Kansas. Final annual flows for WY2010 are shown in the following table.

No significant problems were encountered in the network with the exception of continuing beaver dam problems at the Big Sandy near Lamar gage. The Colorado Department of Transportation (CDOT) has turned the maintenance of Highway 196 over to Prowers County. Beaver dams were removed frequently from the culvert inlet. As was described in the 2009 report, beaver dams constructed downstream of the highway are causing a significant affect on the gage height record. Until the affects of the beaver dams are removed completely the record will continue to be rated poor.

In 2011, the USGS proposes to continue operation of the 10 streamflow gages.

Summary of Mainstem and Tributary Flows, Water Years 2009 and 2010

Station Name	WY2010 Annual Flow, in Acre Feet	WY2009 Annual Flow, in Acre Feet	2010 as % of 2009	2010 as % of Average ¹
Arkansas River at Las Animas	155,400	154,700	100	81
Purgatoire River near Las Animas	49,860	33,220	150	109
Arkansas River below John Martin Reservoir	213,900	192,000	111	104
Arkansas River at Lamar	55,550	47,550	117	66
Big Sandy Creek near Lamar	10,490	8,490	124	97
Baseflow	6,380	6,340	--	--
Above Baseflow	4,110	2,150	--	--
Arkansas River near Granada	86,120	70,890	121	66
Wildhorse Cr. above Holly (Oct, Nov, Apr-Sept) ²	7,010	7,540	69	--
(April – Sept) ³	2,510	3,590	70	108
Arkansas River near Coolidge	112,500	99,330	113	73
Frontier Ditch near Coolidge	7,870	8,770	90	--

¹Including 2010 water year²Beginning 2002 to present³From 2002 to present

Other USGS water activities within the Arkansas River Basin includes:

measuring water levels in approximately 320 wells in the Arkansas River Basin. Approximately 150 of these wells are located between Pueblo and the CO-KS Stateline and are measured twice per year.

In 2010, we completed a report of the occurrence and distribution of dissolved solids, selenium, and uranium in ground water and surface water in the Arkansas Basin in Colorado.

We continue an investigation to better quantify surface – and groundwater inflows, outflows, and ET for the area between Salida and Buena Vista, CO.

We continue a long-term study to determine source areas, and the dominant processes that effect water quality in various stream reaches between Canon City and Las Animas including Fountain Creek.

Arkansas River Basin



US Army Corps
of Engineers.
Albuquerque District

Report of Civil Works
Activities for 2010

1. General

During 2010, activities of the U.S. Army Corps of Engineers (Corps), Albuquerque District, in the Arkansas River Basin consisted of reservoir regulation, flood-control-related studies, floodplain management services, regulation under Section 404 of the Clean Water Act, and emergency assistance.

2. Water Control Operations

In 2010, the Arkansas River Basin snowmelt runoff was slightly above normal throughout the upper basin and slightly below normal in the southern sub-basins. Snowpack in the upper Arkansas River Basin reached 94% of average. However, snowpack in the southern sub-basins reached 130% of average.

The Corps did not operate for flood control at Trinidad, John Martin or Pueblo Reservoirs in 2010.



Trinidad Lake, 2005. USACE photograph.

a. John Martin Reservoir and Trinidad Lake Sediment Surveys

In an effort to update the area-capacity tables for both John Martin Reservoir and Trinidad Lake, the Corps conducted hydrologic sediment surveys in the spring of 2009. The new area-capacity tables are undergoing a final review and will be available and in use by the water year beginning October 2011.

b. Trinidad Lake Downstream Capacity Study

The Corps, in cooperation with the United States Bureau of Reclamation (Reclamation) and other state and local agencies, combined resources in Fiscal Year 2008 (FY08) in an effort to definitively determine the existing hydraulic capacity of the Purgatoire River channel downstream of Trinidad Lake. To date, aerial mapping and surveying data were collected, and the hydrologic model development and final report are complete. The collaborative effort undertaken for this study was instrumental to the success of the effort. A letter reporting the key findings of the study is being drafted and will be sent to the collaborating agencies.

c. Pueblo Reservoir Deviation

Reclamation requested a deviation from normal operations at Pueblo Reservoir in February 2010 to extend by two weeks the joint-use pool evacuation period from April 15, 2010, to May 1, 2010. The deviation was approved by Albuquerque District and South Pacific Division. All the conditions to implement the deviation were met, and the deviation allowed for approximately 5,300 acre feet to be stored in the joint-use pool beyond April 15, 2010, and evacuated by May 1, 2010.

3. Civil Works Authorities and Programs

a. Continuing Authorities Program

The Continuing Authorities Program (CAP) is a group of ten legislative authorities under which the Secretary of the Army, acting through the Chief of Engineers, is authorized to plan, design, and implement certain types of water resources projects without additional project-specific congressional authorization. The Corps had one active CAP project in the Arkansas River Basin.

1. Section 205

Section 205 of the 1948 Flood Control Act, as amended, provides authority to the Corps to plan and construct small flood damage reduction projects that have not been specifically authorized by Congress. The Corps had no active Section 205 projects in the Arkansas River Basin in 2010.



Arkansas River, 2001. Photograph
Van Truan, USACE.

2. Section 206

Section 206 of WRDA 1996 provides authority to the Corps for aquatic ecosystem restoration projects in areas unrelated to existing Corps water projects.

The one active Section 206 project in the Arkansas River Basin is the Arkansas River Fisheries Habitat Restoration project. The Corps signed the Project Cooperation Agreement with the City of Pueblo in April 2002. The project will improve fish and riparian habitat along ten miles of the Arkansas River downstream of Pueblo Dam. The majority of construction work has been completed, including J-hooks, weirs, a fish ladder, vegetated bars, boulder clusters, exotic vegetation removal, and replanting of native vegetation. The project is scheduled for completion in FY11.

3. Section 14

Section 14 of the 1946 Flood Control Act, as amended, provides authority for the Corps to plan and construct emergency streambank protection projects to protect endangered highways, highway bridge approaches, public facilities such as water and sewer lines, churches, public and private nonprofit schools and hospitals, and other nonprofit public facilities. The Corps had no active Section 14 projects in the Arkansas River Basin in 2010.

4. Section 1135

Section 1135 of WRDA 1986, as amended, provides the authority to modify existing Corps projects to restore the environment and construct new projects to restore areas degraded by Corps projects.

Currently, the Corps has no active Section 1135 projects in the Arkansas River Basin. One potential Section 1135 feasibility study would determine federal interest in the removal of exotic vegetation and replanting with native vegetation at John Martin Reservoir. The proposed sponsors are Colorado State Parks and Colorado Division of Wildlife. The project is currently unfunded.

b. General Investigations Program

The Corps General Investigations (GI) program provides for comprehensive solutions to large complex problems relating to flooding, ecosystem restoration, loss of land and property, floodplain management, and watershed planning and analysis. The GI program consists of two steps: the reconnaissance phase and the feasibility phase. The reconnaissance phase identifies the problem, identifies a potential non-federal sponsor, ensures a federal interest, and outlines a study plan. During the feasibility phase, an in-depth, comprehensive analysis is performed, which results in an array of alternative solutions to the problems identified. The solutions are evaluated and a "best plan" is determined based on economic justification, technical adequacy, environmental compliance, social-economic effects, and other factors. The feasibility report is the document on which Congressional authorization is based. If the project is approved by Congress, the Corps and the project sponsor can move forward with detailed design and construction. The Corps had no active General Investigations in the Arkansas River Basin in 2010.

4. Planning Assistance to States (Section 22) Program

Section 22 of the Water Resources Development Act (WRDA) of 1974 provides authority for the Corps, under the Planning Assistance to the States (PAS) program, to assist states, local governments, and other non-federal entities in the preparation of comprehensive plans for the development, use, and conservation of water and related land resources. Section 208 of WRDA 1992 amended WRDA 1974 to include Indian tribes. The studies are cost shared on a 50%-federal-50%-non-federal basis. The Corps had no active PAS studies within the Arkansas River Basin in 2010.

5. Flood Plain Management Services Program

The Corps Flood Plain Management Services (FPMS) program authority stems from Section 206 of the Flood Control Act of 1960 (Public Law 86-645), as amended. The objective of the FPMS program is to support comprehensive floodplain management with technical services and planning guidance at all appropriate governmental and community levels. These services are provided to state, regional, and local governments and Indian tribes at no cost. Section 321 of the WRDA 1990 requires recovering the cost of services provided to federal agencies and to private entities. A fee schedule has been established. Section 202 of WRDA 1999 (Public Law 106-53) authorizes the Secretary of the Army to collect funds contributed voluntarily from state, regional, and local governments,

Indian tribes, and other non-federal public agencies for the purpose of recovering the cost of providing services pursuant to Section 206.

Services available include assistance relating to the interpretation and evaluation of basic flood-hazard data, including the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps; guidance in preparation of floodplain regulations; advice on the use of data regarding possible alternative developments in flood-prone areas; guidance on structural and nonstructural measures that might be employed to reduce flood hazards; and, in some cases, development of basic flood-hazard data.

Under authority of an *Interagency Agreement* with FEMA Region VIII, the Corps initiated in 2004 a Flood Insurance Study for a portion of Black Squirrel Creek and five tributaries in El Paso County, Colorado. The digital topographic mapping for the study area was developed by the El Paso County Department of Transportation and funded by the Corps. The study was submitted to FEMA for review, and comments are currently being addressed. In addition to this study, the Corps received several requests for technical services at specific sites within the Arkansas River Basin.

Governmental agencies or persons having a need for floodplain management services should contact the U.S. Army Corps of Engineers, Albuquerque District; Planning, Programs, and Project Management Division; Planning Branch; Hydrology and Hydraulics Section, 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109-3435 or telephone 505-342-3471.

6. Flood Risk Management Program

The Corps established the National Flood Risk Management Program (FRMP) in May 2006 to integrate and synchronize Corps activities, both internally and with counterpart activities of the Department of Homeland Security, FEMA, other federal agencies, state organizations, and regional and local partners and stakeholders.

One component of the FRMP is the Levee Safety Program. The Corps Levee Safety Program was established as a result of the National Levee Safety Act of 2007, which was authorized in WRDA 2007. The program entails a robust inspection program akin to the Corps Dam Safety Program and has consolidated current Corps guidance on levee evaluation into one Engineering Technical Letter (ETL) that was issued April 10, 2009. The final ETL 1110-2-571, "Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures", provides vegetation standards. This document is available at the national FRMP website <http://www.iwr.usace.army.mil/nfrmp/> under the "Guidance & Policy" link. Levee certification by the sponsor is required before levees can be accredited by FEMA to provide base flood protection.

Another component of the FRMP is the Inspection of Completed Works/Rehabilitation and Inspection Program (ICW/RIP). The ICW/RIP is the Corps program that provides for the inspection and rehabilitation of federal and non-federal flood risk management projects. Historically, the purpose of the Corps inspections was to verify that projects were operated and maintained in accordance with guidance specifically identified in the project's Operations and Maintenance (O&M) Manual. Beginning in mid-2006, the purpose of the Corps inspections changed, and these inspections now verify that projects are being maintained and, when necessary, upgraded to meet current Corps standards. Under ICW/RIP authority, the Corps conducted an inspection of Pinon Canyon Dam in the Arkansas River Basin in 2010.

Information regarding the Levee Safety Program and the ICW/RIP can be obtained by contacting the Levee Safety Program Manager, U.S. Army Corps of Engineers, Albuquerque District, Geotechnical and Environmental Engineering Branch, Engineering and Construction Division, 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109-3435 or telephone 505-342-3487.

An additional component of the FRMP is the Albuquerque District FRMP Manager. The FRMP Manager focuses on the building of relationships at the local level to maximize both human and capital resources to solve water resources problems. Partnerships at federal, state, and local levels are essential for creating risk-informed, watershed-based solutions for reducing overall flood risks while maintaining environmental sustainability.

The Silver Jackets Program stemmed from the National Flood Risk Management Program. The Silver Jackets Program proposes establishing an interagency team in each state with a representative from FEMA, the Corps, the State National Flood Insurance Program Coordination Office, and the State Hazard Mitigation Office as standing members and lead facilitators. Other agency representatives may vary based on current team focus and activities. The intent of this program is not to duplicate interagency teams that might already exist, but rather to establish relationships when they do not exist, strengthen relationships that need improvement, and supplement and expand already successful teams. The lead FRMP Manager for the formation of the Silver Jackets Program in Colorado and the Arkansas River Basin resides in the Corps Omaha District, and the Albuquerque District performs a support role. Formation of the Silver Jackets team in Colorado is underway.

Any questions concerning the activities of the Omaha District FRMP Manager or the Colorado Silver Jackets Program should be addressed to the U.S. Army Corps of Engineers, Omaha District, 1616 Capitol Avenue, Omaha, Nebraska 68102 or telephone 402-995-2322.

7. Regulatory Program

Section 404 of the Clean Water Act prohibits discharges of dredged or fill materials into waters of the United States, including wetlands, without a permit from the Corps. In 2010, the Corps issued 11 individual permits in the Arkansas River Basin. An additional 237 activities in the basin were reviewed during this period, and most activities were covered under nationwide permits. Nationwide permits are activity-specific general permits, issued by the Chief of Engineers, for projects that have minimal impact on the aquatic environment. Nationwide Permits are designed to regulate these minimal impacts with little, if any, delay or paperwork. Nationwide permits were reauthorized March 17, 2007, and are valid for five years from that date.

Persons or agencies who are planning to conduct fill or excavation activities in any waterway are advised to contact the Southern Colorado Project Office, 200 South Santa Fe Avenue, Pueblo, Colorado 81003 or telephone 719-543-9459. Information, including all public notices, is also available on the Corps Albuquerque District web home page <http://www.spa.usace.army.mil/reg/>.

8. Emergency Management Coordination

Public Law 84-99 provides the Corps the authority to assist state and local governments before, during, and after flood events. In the Arkansas River Basin, the Corps works with the Colorado Water Conservation Board to prepare for flood fight activities in years with significant snowpack and spring snowmelt runoff. In 2010, the Readiness and Contingency Operations Office (formerly Emergency Management Branch) received no requests for information or assistance regarding flood-related activities from local governments or private citizens in the Arkansas River Basin.



USACE Emergency Management employee in Waveland, Mississippi. USACE photograph.

Assistance can be obtained by contacting the U.S. Army Corps of Engineers, Albuquerque District, Readiness and Contingency Operations Office, 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109-3435 or telephone 505-342-3686.

RECLAMATION

Managing Water in the West

Arkansas River Compact Administration Meeting

2010 Report

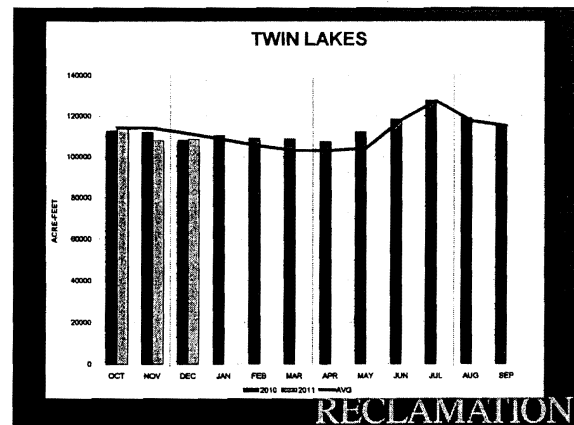
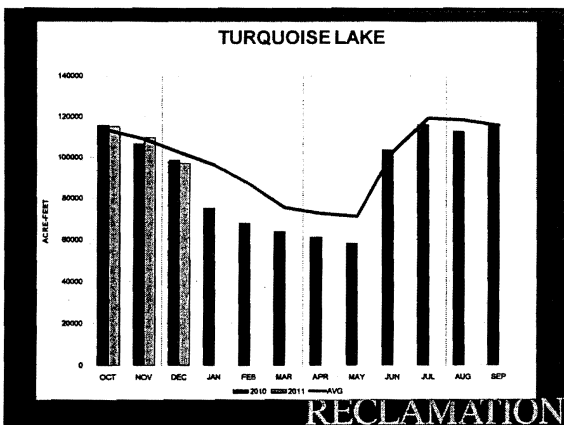
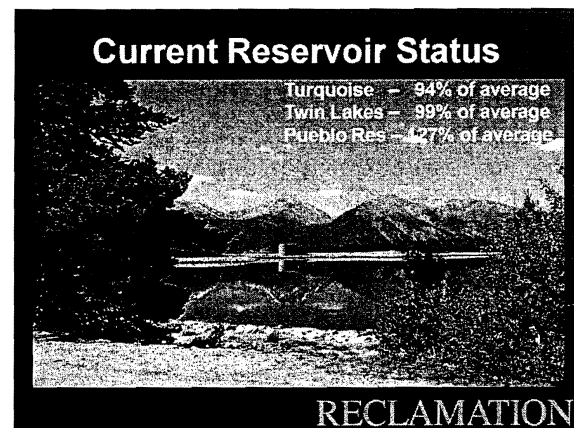
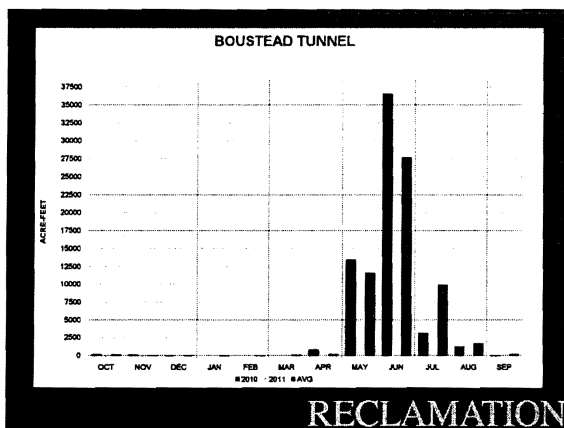
Roy Vaughan
Facility Manager
Pueblo Dam

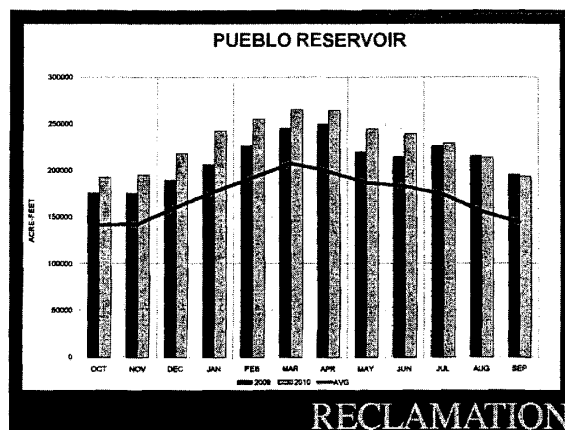
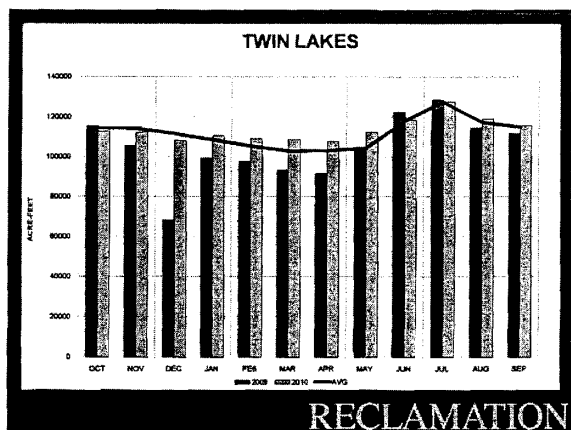
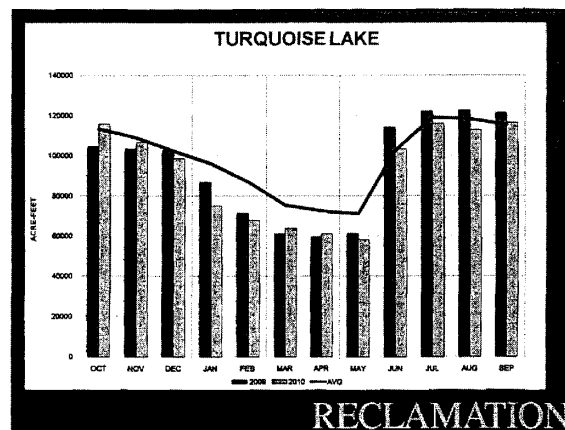
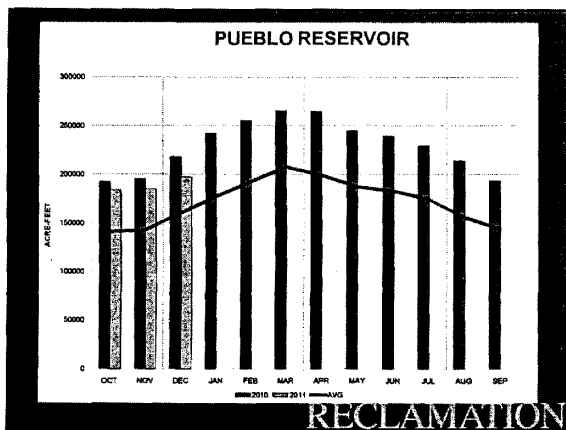
U.S. Department of the Interior
Bureau of Reclamation

Fry-Ark Project 2010 Water Year

- I'm pleased to report we experienced average yield this year on the Fry-Ark .
- The initial May 1 forecast projected 56,500 acre-feet. Runoff began very slow in May, but dramatically increased the first week of June. This resulted in a total of 55,300 acre-feet of imports for water year 2010.
- That is approximately 100% of our 30-year average.

RECLAMATION





Southern Delivery System

- Final details for the SDS Excess Capacity Contract are in progress.
- Once the terms are agreed upon the contract will be released to the public for a 60 day review period.
- SDS is a \$1.1 billion dollar proposal by Colorado Springs, Security, Fountain and Pueblo West to build a 62-mile, 5-foot diameter pipeline from Pueblo Dam with a capacity of 96 million gallons a day.
- <http://www.sdseis.com/>

RECLAMATION

Mussels

- Facility assessment for Pueblo Dam are complete.
- Report is available at:
http://libr6canet.bor.doi.net/FinalPuebloReport_1.pdf
- The action response plans are currently being drafted.
- To date we have found no adults on substrate samples, but sampling continues to find Mussel larvae present in Pueblo reservoir.

RECLAMATION

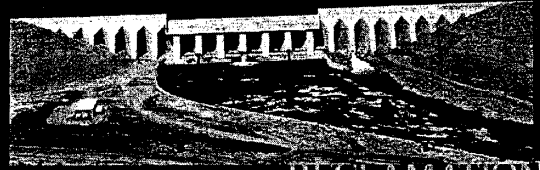
Trinidad 10 Year Review report

- Reports were mailed out within the last two weeks.
- <http://www.usbr.gov/gp/eco/trinidad/index.html>
- Next review process will cover period ending 2014.
- Trinidad Project review issues meeting follows at 1pm.
- Refining the process for the next review:
 1. Create process for more timely discussion and resolution of issues.
 2. Create technical team to address modeling and other concerns.
 3. Annual process reports/team meeting reports would make up bulk of the next 10 year review.
- Thanks for all your patience, assistance, and attention during the development of this review.

RECLAMATION

Pueblo Dam ARRA project

- The contract was awarded to Richard Phillips Marine Inc.
- The contractor is currently preparing submittals for review.



RECLAMATION



Mark Parkinson, Governor

www.governor.ks.gov

October 4, 2010

Mr. Randy L. Hayzlett
Route 1, Box 44
Lakin, KS 67860

Dear Randy:

I am pleased to confirm your reappointment as a member of the Kansas-Colorado Arkansas River Compact Commission, effective October 4, 2010, to serve a four-year term ending October 31, 2014. Our State will face many challenges in the coming years, and your efforts will help advance our vision for Kansas.

You will receive a Certificate of Appointment and oath of office from the Secretary of State's Office within the next few weeks. The oath of office should be completed, notarized and returned to the Secretary of State as soon as possible. Once the Secretary of State's office receives the notarized oath, you will be authorized to perform the official duties of your appointment.

Your willingness to serve the people of Kansas is commendable, and I hope you find your service rewarding. Congratulations on your reappointment.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Parkinson". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Mark Parkinson
Governor of Kansas

MP:mg

Office of the Governor

STATE OF KANSAS

CERTIFICATE OF APPOINTMENT

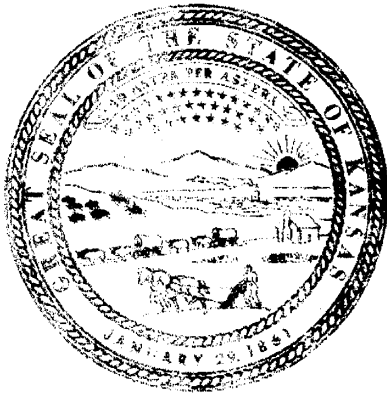
I, Mark Parkinson, Governor of the State of Kansas,
hereby appoint and commission

David Brenn

as a member of the

*Kansas-Colorado-Arkansas
River Compact Commission*

and authorize this appointee to discharge the duties of this office
upon fulfilling all legal requirements



Signed this 4th day of October, 2010

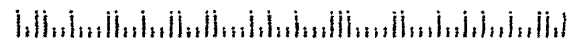
Mark Parkinson
Governor

Chris Biggs
Secretary of State

STATE OF KANSAS
OFFICE OF THE GOVERNOR
CAPITOL, 300 SW 10TH AVE., STE. 212S,
TOPEKA, KS 66612-1590
25201

Mr. Randy L. Hayzlett
Route 1, Box 44
Lakin, KS 67860

6786089706 R001



Ten-Year Accounting of Depletions and Accretions to Usable Stateline Flow
2000-2009

1	2	3	4	5	6	7	8	9
Year of Ten-year Cycle	Model Year	H-I Model Usable Depletion/ Accretion ¹	Offset Account Credits ²					Remaining Usable Depletion/ Accretion ⁶
			Stateline Delivery to Kansas	Evaporation Credit	Gross Credit ³	Applied to Post-1985 Depletions ⁴	Net Credit ⁵	
1	2000	2,022	1,277	17	1,294	964	330	1,692
2	2001	12,116	1,714	62	1,776	352	1,424	10,692
3	2002	8,525	2,098	22	2,120	222	1,898	6,627
4	2003	3,299	0	0	0	210	-210	3,509
5	2004	-3,442	6,565	1,850	8,415	260	8,155	-11,597
6	2005	-2,039	11,220	93	11,313	607	10,706	-12,745
7	2006	-1,493	8,507	0	8,507	619	7,888	-9,381
8	2007	-301	6,650	0	6,650	1,025	5,625	-5,926
9	2008	-2,198	11,617	0	11,617	1,288	10,329	-12,527
10	2009	-148	5,511	0	5,511	1,256	4,255	-4,403
Total		16,341	55,159	2,044	57,203	6,803	50,400	-34,059
Shortfall for 2010								0

Water quantities are in acre-feet.

¹ Positive values in Columns 3 and 9 reflect depletions; negative values, accretions. H-I Model results in Column 3 for 2009 are based on input file "update2009august.dat."

² Positive values in Columns 4, 5, 6, and 8 reflect credits; negative values, debits.

³ Column 6 is the sum of Columns 4 and 5.

⁴ Column 7, a positive value, is the amount of Offset Credit applied to Post-1985 depletions, determined pursuant to Appendix A.3 of the 2009 Judgement and Decree in KS v CO.

⁵ Column 8 is Column 6 minus Column 7.

⁶ Column 9 is Column 3 minus Column 8.

FM. J



Mark Parkinson, Governor
Joshua Svaty, Secretary

www.ksda.gov/dwr

September 30, 2010

Robin Jennison
236 North Rural Eagle Road
Healy, KS 67850

RE: Notice of Joint Offset Account Review

Dear Robin:

On behalf of Colorado State Engineer Dick Wolfe and myself, enclosed please find a joint *Notice of Initiation of Review Offset Account Resolution and The Offset Account Crediting Agreement*. The notice provides the basis for review, that the review has been initiated before the September 30, 2010 deadline, and names the respective State experts who will participate in the review. The end product of the review is a joint report which will be presented at the ARCA Annual Meeting in December 2012.

Should you have any questions, please feel free to call Mr. Wolfe or myself.

Sincerely,

David W. Barfield, P.E.
Kansas Chief Engineer

DWB:spf

Enclosure

PC Dick Wolfe
Stephanie Gonzales
Jennifer Gimbel
Matt Heimerich
Colin Thompson
Randy Hayzlett
David Brenn

NOTICE OF INITIATION OF REVIEW OFFSET ACCOUNT RESOLUTION AND THE OFFSET ACCOUNT CREDITING AGREEMENT

Notice is being provided to the Arkansas River Compact Administration ("ARCA") by the Colorado State Engineer and the Kansas Chief Engineer concerning the initiation of the required five-year review of the *Resolution Concerning an Offset Account in John Martin Reservoir for Colorado Pumping*, as Amended March 30, 1998 ("Offset Account Resolution") and *Agreement Concerning the Offset Account in John Martin Reservoir for Colorado Pumping, Determination of Credits for Delivery of Water Released for Colorado Pumping, and Related Matters* ("Offset Account Crediting Agreement").

The Offset Account Resolution was jointly approved by ARCA and the U.S. Army Corps of Engineers on March 30, 1998 and is Appendix L to the Special Master Arthur Littleworth's Fifth and Final Report (January, 2008), entered as Final Judgment and Decree, 129 S.Ct. 1294 (March 9, 2009) ("Decree"). The Offset Crediting Agreement was jointly approved by the Colorado State Engineer, the Kansas Chief Engineer and their respective counsels on September 30, 2005 and is Appendix F.2 to the Decree.

In June 2009, the States agreed to amend Appendix A.4 to the Decree (*Amended Agreement Regarding The Colorado Use Rules, PDF Evaluation, Implementation Processes, And Related Matters, And Not To Terminate The Offset Account Resolution*) which provides the following:

7. Five-Year Review

The review of the operations of the Offset Account Resolution and the Agreement Concerning the Offset Account in John Martin Reservoir for Colorado Pumping, Determination of Credits for Delivery of Water Released for Colorado Pumping, and Related Matters dated September 29, 2005, ("Offset Account Crediting Agreement") (Appendix F.2 to the Decree), as well as the provisions of the October 31, 2007 version of Appendix A.4, required by paragraph 5 of the October 31, 2007 version of Appendix A.4 and paragraph 11 of the Offset Account Crediting Agreement is hereby modified and replaced as follows: The States will conduct a review of the operations of the: (a) Offset Account Resolution; and (b) the Offset Account Crediting Agreement beginning no later than September 30, 2010. The review by the States shall be completed and a joint report presented to the Administration at its December 2012 annual meeting. Notwithstanding anything in the Offset Account Crediting Agreement to the contrary, this review shall satisfy the requirements for the first five-year review required by paragraph 11 of the Offset Account Crediting Agreement. Thereafter, the five-year review required by paragraph 11 of the Offset Account

Crediting Agreement shall be presented to the Administration every five years starting in 2017.

By this notice, the Colorado State Engineer and the Kansas Chief Engineer have initiated this Five-Year Review. The Colorado State Engineer designates the following experts to participate in the review.

Bill Tyner, P.E.
Dale Straw, P.E.

The Kansas Chief Engineer designates the following experts to participate in the review.

Kevin Salter, P.E.
Dale Book, P.E.
Angela Schenk

The above listed experts have proposed a topic outline for the Five-Year Review which is attached at Enclosure 1. The experts have been tasked to prepare a scope of work and a schedule for completion of the review which will be presented to the Operations Committee of ARCA during the ARCA Annual Meeting in December, 2010.

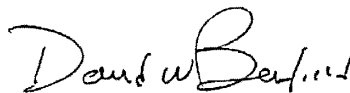
JOINTLY SUBMITTED AS OF September 30, 2010

STATE OF COLORADO

STATE OF KANSAS



Dick Wolfe
Colorado State Engineer



David W. Barfield
Kansas Chief Engineer

Enclosure 1

Offset Account Review

Outline – draft September 13, 2010

- I. Introduction
- II. Offset Account Resolution & Offset Account Crediting Agreement – description of
- III. Historical Operations
 - a. Storage Charge
 - b. Consumable Water Sources
 - c. Delivery Operations
 - d. Offset Account Spill
 - e. Notices, Monthly Reports and Annual Report
- IV. Related Operations
 - a. Highland transit loss – H-I Model input
 - b. Delivery transit loss below John Martin – H-I Model input
 - c. Interaction between Offset Account, Colorado monthly accounting and H-I Model annual updates
 - d. Operations when Offset Account is full
- V. Suggestions / Recommendations

En. K



JOHN W. SUTHERS
Attorney General

CYNTHIA H. COFFMAN
Chief Deputy Attorney General

DANIEL D. DOMENICO
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street - 7th Floor
Denver, Colorado 80203
Phone (303) 866-4500

February 25, 2010

John Draper, Esq.
Montgomery & Andrews
325 Paseo de Peralta
Santa Fe, New Mexico 87501

RE: Kansas's concerns with LAWMA Decree, Case No. 02CW181, Division 2 Water Court, State of Colorado

Dear John:

Thank you for your letter dated August 31, 2009, stating that it is time for the two States to turn their attention back to Kansas's list of concerns with the LAWMA decree. Colorado does stand ready to resume talks about the decree. I apologize that it has taken me this long to review the list of issues in the email that was attached to your letter, consult our experts, and develop this response. As I mentioned at our September 2, 2009 meeting regarding the Irrigation Improvement Rules, I did coordinate efforts for Colorado's team to refresh our recollection of Kansas's list of concerns after the new Irrigation Improvement Rules were filed in water court on September 30, 2009. I returned from an extended leave on January 11, 2010, and Colorado's engineers and counsel were finally able to hold a meeting with LAWMA's engineers and counsel last Friday, February 19, to discuss which concerns can be resolved in a substantive way to the satisfaction of Kansas.

The last formal communications between the States about the LAWMA decree were the three telephonic meetings of the States' respective experts referenced in your letter. These occurred in July of 2008. On July 21, 2008, Bill Tyner sent Kansas's experts electronic copies of three engineering memoranda prepared by LAWMA's engineers in support of the Decree. Mr. Tyner understood that Kansas's experts would review the memos, consult Kansas's counsel, and get back to him about whether they resolved certain of the concerns. In particular, he believed those memos more fully explain the contents of the Decree in a way that should resolve the following concerns:

Issue 2, regarding the transfer rate for X-Y and Keesee: The attached December 1, 2005 memo from Jim Slattery and Randy Hendrix (LAWMA's engineers) to LAWMA's attorneys with the subject line "Agreement B Terms and Conditions" details the terms in the decree which ensure that LAWMA cannot transfer water out of its "summer storage accounts" in John Martin Reservoir (including but not limited to the accounts for these two ditches) faster than the historical rate, and thus will not cause a call to be placed through the reservoir earlier than the case was historically.

Issues 3 and 4, related to maintenance of summer and winter return flows: The attached November 30, 2006 memo, also from LAWMA's engineers to its attorneys, explains how and where the decree provides the full quantity of return flow from each changed water right, or more, and provides for the Division Engineer's Office to protect it from re-diversion in the few instances when a small amount is re-timed from the winter to the irrigation season.

Issue 6, concerning Stubbs Ditch provisions to prevent injury: The attached December 1, 2005 memo with the subject line "Volumetric Limits Based on Historical Diversion" explains in part that the decree specifically limits the Stubbs Ditch credits pursuant to Appendix B.5 of the decree in *Kansas v. Colorado*.

Issue 12, concerning Highland Credits including volumetric limits: The same attached memo explains that the volumetric limits on Highland Canal credits are significantly more restrictive than the limits originally proposed by LAWMA in their court application, and are sufficient to prevent injury to Kansas.

Issues 14 and 15, related to the Keesee Ditch: The same attached memo explains that the decreed volumetric limits on Keesee Ditch direct flow diversions do limit credits based on decreed pre-compact acreage.

Colorado's engineers left that series of expert telephonic meetings believing that well more than half of the issues are virtually resolved. In addition to the above, it appeared that Issue # 5 regarding protection of Kansas's Section II water in times of spill can be resolved when the next spill occurs, and that Issue 11, regarding implementing Appendix J.2 on post-1985 uses, can be resolved by an agreement between the State Engineer and Chief Engineer detailing how Colorado will implement J.2. In addition, Colorado needs clarification on what Kansas's concern is under issue #9, regarding computation of transit loss. Finally, we believe that issues # 8 and 10 may already have been adequately addressed through the recent revisions to Appendix A4.

Our team has concluded that the best way to proceed is to reconvene the experts to close the loop on the issues they were close to resolving. Because the working days in March are already packed with deadlines under the Use Rules and in the Irrigation Improvement Rules case, we propose that the experts schedule a meeting for April. If you agree, please suggest that Kansas's experts contact Mr. Tyner to get a meeting on the schedule for April.

Sincerely,

/s/ Eve W. McDonald

EVE W. MCDONALD
Assistant Attorney General
Federal and Interstate Water Unit
Natural Resources Section
(303) 866-5072
(303)-866-3558 (FAX)
Email: eve.mcdonald@state.co.us

cc: Dick Wolfe Steve Witte
Dennis Montgomery Bill Tyner

ATTENDANCE LIST
ARKANSAS RIVER COMPACT ADMINISTRATION COMMITTEE MEETINGS
Monday, December 13, 2010, 1:30 - 5 P.M. (MST), Lamar, Colorado

<u>NAME</u>	<u>REPRESENTING</u>	<u>ADDRESS</u>	<u>Attending Engineering</u>	<u>Attending Operations</u>	<u>Attending Legal & Ad</u>
MATT HEINERLY	COLORADO	5325 Ln 9.5 U.S 68/062	X		
Dan Barfield	Kansas	109 SW 9th, Topeka, KS	X		
MARC SIDLOW	COE	4101 Jefferson Plaza, NE Albuquerque, NM 87109	X	X	
Andrew Gilmore	Reclamation	14056 W CR 18E Loveland, CO 80537	X	X	
Valda Terauds	Reclamation	11056 W. CR 18E Loveland, CO 80537	X		
DENISE GARCIA	COE	4101 JEFFERSON PLAZA ALBUQUERQUE, NM 87109	X	X	
Brandy Cole	KDA-DWR-GCFO	2508 Johns St. G.C., KS 67846	✓	✓	✓
Mike Meyer	KDA-DWR	2508 JOHNS ST Garden City, KS 67846	✓	✓	✓
Chelsea Jurick	KDA-DWR	820 S. Walnut / PO Box 192 Stockton, KS 67669	✓	✓	✓
Randy Haylett	ARCA Representative	1112 Road T Lakin, KS 67860	✓	✓	✓
Steve Miller	Colorado Water Cons Bd	1313 Shuman Denver CO 80203	✓	✓	✓

ATTENDANCE LIST
ARKANSAS RIVER COMPACT ADMINISTRATION COMMITTEE MEETINGS
Monday, December 13, 2010, 1:30 - 5 P.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	Attending Engineering	Attending Operations	Attending Legal & Ad
Eve McDonald	Colo Attorney General	1525 Sherman St Denver CO 80203	✓	✓	✓
Steve White			✓	✓	✓
Kelly Cummins	Tri State C&T	1100 W. 116th Ave Westminster, CO 80234	X	X	
Donald L. Steerman	District 67	P.O. Box 390 LAMAR, CO 81052	✓	✓	
Colin Thompson	ARCH 67	30255 Cty Rd 31 Holy CO	✓	✓	✓
Steven Hines	Frontier Detail	Box 147 Coolidge KS	✓	✓	✓
Steve White	Colo Div Water Res/ops Sec	310 E Abriendo Av. Suite B Pueblo, CO 81004			
KEVIN SALTER	KS DWR / KDA	2508 JOHN GARDEN CITY KS	✓	✓	✓
CHRIS BELKATZ	901 S 9th St. KDA-DWR Topeka KS 66611		✓	✓	✓
Burke Griggs	Kansas DWR	109 SW 9th St, 4th Floor Topeka KS 66612	✓	✓	✓
Chris Gronewald	Kansas AG	120 SW 10th Ave, 2nd Floor Topeka KS 66612	✓	✓	✓

12/10/2010

2010attendlistcommittees.doc

ATTENDANCE LIST

ARKANSAS RIVER COMPACT ADMINISTRATION COMMITTEE MEETINGS

Monday, December 13, 2010, 1:30 - 5 P.M. (MST), Lamar, Colorado

NAME	REPRESENTING	ADDRESS	Attending Engineering	Attending Operations	Attending Legal & Ad
Dale Bout	Kansas consv Nat	Sprink Water Engineers, Inc 1000 Logan St. Denver 80203	✓	✓	✓
Angela Schenk	CONSULTANT FOR THE STATE OF KANSAS	SPRINK WATER ENGINEERS, INC 1000 Logan St. DENVER, CO 80203	✓	✓	✓
Stephanie Gonzales	Sec./Treas. ARCA	PO Box 97 Granada CO 81041	✓	✓	✓
BILL TYNER	COLORADO DIV OF WATER RESOURCES	310 E. ABRIENDO AVE STE B, PUEBLO, CO 81003	✓	✓	✓
JULIE PEARSON	COLORADO DIVISION OF WTR RESOURCES	310 E Abriendo Ave #B Pueblo, CO 81003	✓	✓	✓
JAY SKINNER	COLORADO DIV OF WILDLIFE	6060 Broadway Denver CO 80216	✓	✓	✓
Pat Edelmann	USGS	201 E 9th St Pueblo, CO	✓	✓	✓
Lorie Spady	Colorado Division of Water Resources	P.O. Box 676 La Junta, CO 81054	✓	✓	✓
Gwe McDonald	Colo AG's Office	1525 Sherman St Denver CO 80203	✓	✓	✓

Arkansas River Compact Administration
Engineering Committee
Action Items
December 13, 2010
Lamar, Colorado

Chairman Robin Jennison was unable to be present.

1. The committee recognizes the value of the Special Engineering Committee and recommends to ARCA that the Special Engineering Committee be extended for calendar year 2011.



Matt Heimerich, Chair

Date: 12/13/10



David Barfield, Member

Date: 12/13/2010

No. 2 of 4 originals

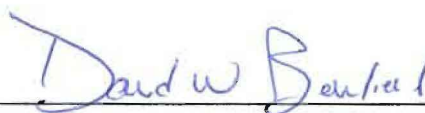
Arkansas River Compact Administration
Operations Committee
Action Items
December 13, 2010
Lamar, Colorado

Chairman Robin Jennison was unable to be present.

David Brenn was unavoidably absent; therefore David Barfield sat on the committee for Kansas in his place. Colin Thompson chaired the meeting in Mr. Brenn's absence.

The committee instructed Chelsea Juricek and Steve Miller to produce a list of action items for this committee meeting.

1. The committee received the Compact Year (CY) 2010 reports of the Operations Secretary and Assistant Operations Secretary. The Committee also received the 2010 report for the Offset Account.
2. The status of the 2006 Operations Secretary report was discussed. It was confirmed that the report was not approved and no action was taken in this meeting.
3. The committee took no action on the CY 2007, CY 2008, CY 2009, and CY 2010 Operations Secretary's Reports.
4. The committee received the Ten-Year Accounting table (Appendix E) for 2000-2009 to be included the CY2010 annual report.
5. The committee recommends to ARCA that the Special Engineering Committee be extended for calendar year 2011.
6. The committee refers the Water Issues Matrix Issues #25, #26, #27, and #33 to the ARCA Special Engineering Committee for their review.



David Barfield



Colin Thompson, Acting Chair

Date: 12/13/2010

Date: 12/13/2010

No. 5 of 4 originals

Arkansas River Compact Administration
Administrative & Legal Committee
Action Items
December 13, 2010
Lamar, Colorado

Chairman Robin Jennison was unable to be present.

Jennifer Gimbel was unavoidably absent; therefore Matt Heimerich sat in her place.

The committee instructed Chelsea Juricek and Steve Miller to produce a list of action items for this committee meeting.

- 1) The committee instructed Eve McDonald to work with Stephanie Gonzales to secure a PDPA number for ARCA.
- 2) Kansas will offer changes to the title of agenda item 9 to read "Compact Compliance/Decree Issues Update". On agenda item 9c, David Barfield will make comments instead of Chris Grunewald.
- 3) Financial
 - a. The committee recommends approving the audit report for the Fiscal Year 2009-10 (July 1, 2009 to June 30, 2010).
 - b. The committee recommends ARCA approval of and authorizes Stephanie Gonzales to sign the USGS Joint Funding Agreements for both Colorado and Kansas.
 - c. The committee recommends to ARCA that Stephanie Gonzales sign the approved budget and assessments for 2012-13.
 - d. The committee recommends that Stephanie Gonzales sign the Colorado Satellite Monitoring Contract.
- 4) The committee recommends ARCA approve transcripts for 2002, 2009, and the February 10, 2010 telephonic special meeting.
- 5) For the upcoming CY 2011 the committee recommends that ARCA give the Administrative and Legal Committee the authority to approve backlogged annual reports for completion and printing.
- 6) The committee encourages the states to find a convenient time and location to complete the annual reports, preferably within six months.

- 7) The committee recommends to ARCA that the Special Engineering Committee be extended for calendar year 2011.
- 8) The committee approved the slate of officers and committee chairmen for 2011:
- a. Officer to be:
- Vice-chair..... Randy Hayzlett
Recording/Secretary- TreasurerStephanie Gonzales
Operations SecretarySteve Witte
Assistant Operations Secretary Kevin Salter
- b. Committee Chairs, Compact Year 2011:
- Engineering.....Dave Barfield as Chair
Operations..... Colin Thompson as Chair
Administrative & Legal..... Jennifer Gimbel as Chair


Randy Hayzlett, Chair


Matt Heimerich, Member

Date: 12/13/10

Date: 12/13/10

No. 2 of 4 originals

ARKANSAS RIVER COMPACT ADMINISTRATION

Audited Financial Statements

June 30, 2010

Randy Haylett. Vice-Chairman
12/14/10

ARKANSAS RIVER COMPACT ADMINISTRATION

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June 30, 2010

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Statement of Assets, Liabilities, and Fund Balance - Cash Basis	2
Statement of Revenues and Expenses with Budget Comparison	3
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Notes to Financial Statements	5



Members
NSA
PASC

Certified Public Accountants

Gary L. Anderson, C.P.A.
Cynthia S. Anderson, A.B.A., A.T.P.
Howard Hampson, P.A.
Ronald D. Anderson, P.A., Retired

INDEPENDENT AUDITOR'S REPORT

November 15, 2010


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, 2010, 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, 2010 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, LIABILITIES, and FUND BALANCE - CASH BASIS

	June 30 2010	June 30 2009	June 30 2008
ASSETS			
Cash in Bank	92,075	56,241	51,462
TOTAL ASSETS	92,075	56,241	51,462
LIABILITIES			
None	0	0	0
FUND BALANCE			
Unrestricted Fund Balance	92,075	56,241	51,462
TOTAL FUND BALANCE	92,075	56,241	51,462

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION

STATEMENT OF REVENUES and EXPENSES with BUDGET COMPARISON

For the Budget Year July 1, 2009 to June 30, 2010

	<u>ACTUAL</u>	<u>BUDGET</u>	<u>OVER (UNDER)</u>
<u>REVENUES</u>			
Revenues from Assessments:			
Colorado 60%	57,600	57,600	0
Kansas 40%	38,400	38,400	0
Interest	847	500	347
Miscellaneous	0	0	0
TOTAL REVENUES	96,847	96,500	347
<u>EXPENDITURES</u>			
Professional Service Contracts:			
Treasurer	2,000	2,000	0
Recording Secretary	2,000	2,000	0
Operations Secretary	6,097	6,100	(3)
Auditor Fee	725	700	25
Court Reporter (transcripts)	1,092	2,500	(1,408)
Gauging Stations & Studies:			
U.S. Geological Survey - Colorado District	26,663 (Note 3)	46,800	(20,137)
U.S. Geological Survey - Kansas District	8,300	8,000	300
State of Colorado Satellite System	12,400	12,400	0
Operating Expenses:			
Treasurer Bond	100	100	0
Printing Annual Report	0	500	(500)
Telephone	0	100	(100)
Miscellaneous Office Expense	0	100	(100)
Postage/Copying/Supplies	110	400	(290)
Meetings	926	500	426
Travel	0	0	0
Rent	600	600	0
Other:			
Equipment	0	0	0
Contingency	0	2,000	(2,000)
Litigation	0	0	0
Special Projects & Studies	0	0	0
TOTAL EXPENDITURES	61,013	84,800	(23,787)
NET INCREASE IN FUND BALANCE	35,834	11,700	24,134
Fund Balance at Beginning of Year	56,241		
Fund Balance at End of Year	92,075		

See Accountant's Audit Report.

ARKANSAS RIVER COMPACT ADMINISTRATION

CHANGES IN CASH BALANCE STATEMENT OF RECEIPTS AND DISBURSEMENTS For the Year Ended June 30, 2010

CASH BALANCE - July 1, 2009 56,241

RECEIPTS

Revenues from Assessments	96,000
Interest	847
Miscellaneous	<u>0</u>

TOTAL RECEIPTS 96,847

DISBURSEMENTS

Professional Service Contracts	11,914
Gauging Stations & Studies	47,363
Operating Expenses	1,736
Other	<u>0</u>

TOTAL DISBURSEMENTS (61,013)

RECEIPTS in EXCESS of DISBURSEMENTS 35,834

CASH BALANCE - June 30, 2010 92,075

ARKANSAS RIVER COMPACT ADMINISTRATION

NOTES TO FINANCIAL STATEMENTS

June 30, 2010

NOTE 1 Organization:

The Arkansas River Compact was formed in 1948 to settle existing disputes and remove causes of future controversy between Colorado and Kansas concerning the waters of the Arkansas River and their control, conservation and utilization for irrigation and other beneficial purposes.

NOTE 2 Summary of significant accounting policies:

a. The Arkansas River Compact Administration (the Compact) 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 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 3 Cost of Gauging Stations - USGS Colorado District:

It should be noted that the expense of gauging stations is reflected in the financial statements on the cash basis of accounting. Some payments made this fiscal year are for charges not due until the following fiscal year. And some payments made in the previous fiscal year were for charges due this fiscal year. The Compact has been reporting its costs and expenses consistently on the cash basis, which may not be consistent with budgeted amounts. The following table compares the Joint Funding Agreement with payments made during ARCA's fiscal periods:

	Amount Paid	Agreement CO-07-034	FYE 6/30/08	Agreement CO-08-051	FYE 6/30/09	Agreement CO-09-054	FYE 6/30/10
4-23-07	10,377	10,377					
08-17-07	10,377	10,377	10,377				
11-20-07	2,155	2,155	2,155				
01-21-08	14,670	14,670	14,670				
01-21-08	3,911	3,911	3,911				
06-25-08	14,746		14,746	14,746			
08-28-08	9,162			9,162	9,162		
10-17-08	9,162			9,162	9,162		
01-19-09	9,880			9,880	9,880		
05-18-09	15,454				15,454	15,454	
06-29-09	15,453				15,453	15,453	
10-21-09	6,193					6,193	6193
06-21-10	9,260					9,260	9260
06-21-10	11,210						11210
		41,490	45,859	42,950	59,111	46,360	26,663

ARKANSAS RIVER COMPACT ADMINISTRATION

Lamar, Colorado 81052

For Colorado

Jennifer Gimbel, Denver

Colin Thompson, Holly

Matthew Heimerich, Olney Springs

Chairman and Federal Representative

Robin Jennison, Healy, Kansas

For Kansas

David Barfield, Topeka

Randy Hayzlett, Lakin

David A. Brenn, Garden City

FY 2012 - 2013 BUDGET

(July 1, 2012 - June 30, 2013)

I. EXPENDITURES		
A. PROFESSIONAL SERVICE CONTRACTS		
1.	Treasurer	\$2,000
2.	Recording Secretary	\$2,000
3.	Operations Secretary	\$6,100
4.	Auditor Fee	\$700
5.	Court Reporter Fee	\$2,000
	subtotal services	\$12,800
B. GAGING STATIONS & STUDIES		
1.	U.S.G.S. Colorado District Joint Funding [est. = 3/4 of 2012JFA, 1/4 of 2013 JFA]	\$50,000
2.	U.S.G.S. Kansas District Joint Funding [est. = 3/4 of 2012 JFA, 1/4 of 2013 JFA]	\$9,000
3.	State of Colorado Satellite System [7/1/12 - 6/30/13]	\$12,400
	subtotal gaging	\$71,400
C. OPERATING EXPENSES		
1.	Treasurer Bond	\$100
2.	Annual Report Printing	\$500
3.	Telephone	\$100
4.	Miscellaneous Office Expense	\$100
5.	Postage/Copying/Supplies	\$400
6.	Meetings	\$500
7.	Travel	\$0
8.	Rent	\$600
	subtotal operating	\$2,300
D. OTHER		
1.	Equipment	\$0
2.	Contingency	\$2,000
3.	Litigation	\$0
4.	Special Projects and Studies	\$0
	subtotal other	\$2,000
	TOTAL ALL EXPENDITURES	\$88,500
II. INCOME		
A. ASSESSMENTS		
1.	Colorado (60%)	\$57,600
2.	Kansas (40%)	\$38,400
	subtotal assessments	\$96,000
B. OTHER		
1.	Interest Earnings	\$500
2.	Miscellaneous	\$0
	subtotal other	\$500
	TOTAL ALL INCOME	\$96,500
III. CASH RESERVE BALANCE		
A.	ESTIMATED BALANCE JULY 1, 2012	\$99,000
B.	DECREASE FROM PRIOR BALANCE	
C.	ADDITION TO BALANCE	\$8,000
D.	PROJECTED BALANCE JUNE 30, 2013	\$107,000

Adopted by the Arkansas River Compact Administration at its Dec. 14, 2010 Annual Meeting.


Stephanie Gonzales, Recording Secretary and Treasurer

12-14-10
Date

ARKANSAS RIVER COMPACT ADMINISTRATION

Lamar, Colorado 81052

For Colorado

Chairman and Federal Representative

For Kansas

Jennifer Gimbel, Denver
Colin Thompson, Holly
Matt Heimerich, Olney Springs

Robin Jennison
Healy, Kansas

David Barfield, Topeka
Randy Hayzlett, Lakin
David A. Brenn, Garden City

RESOLUTION 2010 - 01

Regarding Fifth Extension of the Term of the Special Engineering Committee

WHEREAS, pursuant to Bylaw Article V.5., the Arkansas River Compact Administration by Resolution created the "Special Engineering Committee" at its December 2005 Annual Meeting to resolve certain accounting and interpretation issues arising from the Resolution Concerning an Operating Plan for John Martin Reservoir ("1980 Operating Plan"); and

WHEREAS, the Special Provisions of the 2005 Resolution creating the Committee specify that: "Term: The Special Engineering Committee shall be authorized for a period expiring on Dec. 31, 2006. ARCA may extend this period by Resolution adopted at any regular or special ARCA meeting prior to such date"; and

WHEREAS, on December 12, 2006 at the 2006 Annual Meeting the Administration adopted Resolution 2006-07 extending the term of the Special Engineering Committee until December 31, 2007; and

WHEREAS, on December 11, 2007 at the 2007 Annual Meeting the Administration adopted Resolution 2007-04 extending the term of the Special Engineering Committee until December 31, 2008; and

WHEREAS, on December 9, 2008 at the 2008 Annual Meeting the Administration adopted Resolution 2008-04 extending the term of the Special Engineering Committee until December 31, 2009; and

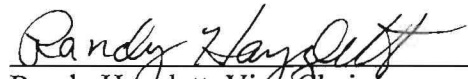
WHEREAS, on December 8, 2009 at the 2009 Annual Meeting the Administration adopted Resolution 2009-01 extending the term of the Special Engineering Committee until December 31, 2010; and

WHEREAS, Committee has successfully resolved disputed issues placed before it during its term and disputed issues still remain with the potential for further agreement.

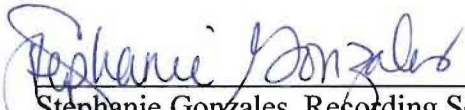
NOW THEREFORE, BE IT RESOLVED that the Arkansas River Compact Administration does hereby extend the term of the Special Engineering Committee for one full year to expire on December 31, 2011. All other Special Provisions of the 2005

Resolution shall remain unchanged and govern the actions of the Special Engineering Committee during this fifth extension throughout 2011.

ADOPTED by the Arkansas River Compact Administration at its 2010 Annual Meeting on December 14, 2010 in Lamar, Colorado.



Randy Hayzlett, Vice-Chairman
Arkansas River Compact Administration



Stephanie Gonzales, Recording Secretary
Arkansas River Compact Administration

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