

ARKANSAS RIVER COMPACT ADMINISTRATION

ANNUAL MEETING

DECEMBER 9, 1986

LAMAR, COLORADO

1-3-97

I compared the following minutes
of 12-9-86 ARCA meeting to copies
marked "review copy" and find the
handwritten edits have been made on
this copy. There is no other designation
that these are the final approved
minutes, but I assume they are.
Steve Miller

1 DECEMBER 9, 1986.

2 TIME: 9:15 a.m.

3 THE CHAIRMAN: The meeting of the Arkansas River
4 Compact Administration will come to order. I'm Frank Cooley,
5 the chairman. Mr. David Pope at the end of the table is the
6 head of the Kansas delegation, and he will introduce the
7 members from Kansas as well as some of the Kansas staff who
8 are here today.

9 MR. POPE: Thank you, Mr. Chairman. On my immediate
10 left is, as I think everyone knows, Ron Olomon, Commissioner
11 of -- member of the Administration from Garden City. To his
12 left of course is Carl Bentrup also our other member of the
13 administration from Deerfield, Carl, I guess is your address?

14 MR. BENTRUP: Right.

15 MR. POPE: To my right is Richard Simms, Special
16 Assistant Attorney General representing the state of Kansas.
17 And out in the audience I might introduce Leland Rolfs,
18 attorney working for the Division of Water Resources, State
19 Board of Agriculture. Howard Corrigan, our Water Commissioner
20 in charge of the Garden City field office of the Division of
21 Water Resources. To his left, Brent Spronk and Dale Book,
22 both with Spronk Water Engineers, consultants for the state of
23 Kansas. And on my staff, Jim Bagley with the Division of
24 Water Resources, State Board of Water Resources in Topeka.

25 There are also several representatives of the

1 associated ditches and individual ditch members here with us
2 today in the audience, Mr. Chairman.

3 MR. CHAIRMAN: Thank you. Jim, is this your first
4 visit?

5 MR. JIM BAGLEY: Yes, to one of these meetings it is.

6 THE CHAIRMAN: Welcome. To my left is William
7 McDonald, the chairman of the delegation of the state of
8 Colorado. And Bill would you please introduce the Colorado
9 members and some of your staff.

10 MR. McDONALD: Yes, thank you, Frank. Just
11 proceeding on to my left, Carl Genova representing Districts
12 14 and 17 in Colorado. Jim Rogers representing District 67
13 here below John Martin Reservoir. Dennis Montgomery, Special
14 Assistant Attorney General for the state of Colorado. And
15 then finally Gene Jencsok from my staff. Bob Jesse,
16 Operations Secretary and Division Engineer, and some of his
17 staff are here also.

18 THE CHAIRMAN: Thank you. I don't see Frank Milenski
19 here. Is he coming? First meeting I'm aware of I haven't
20 seen him.

21 There has been circulated a tentative agenda for the
22 meeting. And without objection I'll proceed on that agenda.
23 As it turns out, we're going to have approval of the agenda.
24 Is there any objection or corrections to the agenda? David?

25 MR. POPE: No objection.

1 MR. McDONALD: That's fine with us. Could I suggest
2 that we make that Exhibit A in the transcript?

3 THE CHAIRMAN: The agenda will be Exhibit A in the
4 transcript. Karen -- Our Court Reporter this morning is Karen
5 Voepel. And we will make sure that she has the identity of
6 every person speaking as well as those from the audience. And
7 if you need to interrupt to get a name, please do so.

8 The next item on the agenda is the approval of the
9 transcript of the December 1985 meeting. Is that the -- Is
10 this the court reporter, yes, we're talking about the court
11 reporter's transcript of the 1985 meeting. David, have you
12 had an opportunity to go through the transcript of last year's
13 meeting?

14 MR. POPE: Yes, Frank, we have reviewed the
15 transcript, and Bill McDonald and his staff and our staff have
16 conferred I believe on suggested corrections. We don't have a
17 final product in front of us, so I'd have to defer to them as
18 to what the exact status of that transcript is at this time.

19 THE CHAIRMAN: Bill?

20 MR. McDONALD: We have the final corrected transcript
21 and I too just got it. I presume that it has made all the
22 necessary corrections. David, I wonder if we should proceed
23 by approving it subject to my printing it, distributing it,
24 and if anybody finds anything different than the corrections
25 you and I agreed to, we can straighten it out. This Recorder

1 has always done a good job of making the corrections.

2 MR. POPE: I believe that's acceptable to us.

3 MR. McDONALD: I would so move the approval of the
4 transcript of the annual meeting of December 1985 as the
5 minutes of that meeting subject to David Pope and I double
6 checking that the final corrections were accurately made as
7 agreed to.

8 MR. POPE: I'd second that motion.

9 THE CHAIRMAN: Colorado?

10 MR. McDONALD: Colorado votes aye.

11 THE CHAIRMAN: Kansas?

12 MR. BENTRUP: Aye.

13 THE CHAIRMAN: Motion carried.

14 We have the reports of officers. The chairman has no
15 report. I'll remark that with the pendency of a suit between
16 the states in the Supreme Court of the United States the
17 business of this meeting may be less in the areas of
18 controversy than might otherwise be the case. And it
19 certainly might as well be less colorful than some of the
20 other meetings have been.

21 We'll pass to the report of the recording secretary.
22 I saw Leo last night. Is he here this morning?

23 MR. McDONALD: Frank, it's my understanding that Leo
24 Idler will be here in his capacity as recording secretary.
25 However, it's my understanding that he has nothing to report.

1 He will as treasurer provide us with relevant information.
2 And I'd suggest we skip item 4-C if we could until Leo
3 arrives.

4 THE CHAIRMAN: All right, the most fun part of the
5 meeting is the show-and-tell provided by Mr. Jesse, the
6 operations secretary. At least I look forward to it every
7 year. Mr. Jesse, would you like to give us your report at
8 this time? Where is Bob? Would you give us your report at
9 this time and then we're going to open you up to questions?

10 MR. JESSE: Okay, Mr. Chairman, thank you. I'll try
11 not to get into too many numbers to start her up with. But I
12 would like for you, if you have your operations report handy,
13 I do have some corrections to make in that.

14 If you would turn first to page 8 of the operations
15 report. On the top table, table 17, "releases and deliveries
16 to Kansas," under the column headed "Transit Loss." The last
17 number, the number 2,215.0 should be deleted, and in its place
18 substituted the number 948.39. That does not change the total
19 since that's a typo, and I don't know where that number come
20 from.

21 THE CHAIRMAN: Please stop. We're at page 8?

22 MR. JESSE: Yes, page 8.

23 THE CHAIRMAN: Which table?

24 MR. JESSE: This table right here.

25 THE CHAIRMAN: Top of the page.

1 MR. JESSE: This number right here. Twenty-two
2 fifteen should be lined out and in its place the 948.39.

3 THE CHAIRMAN: Thank you.

4 MR. JESSE: If you would then turn to the Kansas
5 account release, the next one to the left, the first number
6 33,636.85 should be changed to 33,636.86. That will change
7 the total from 82,015.36 to 82,015.37.

8 THE CHAIRMAN: Wow.

9 MR. JESSE: I don't know where that 2215 comes from.
10 Okay, we've got one more minor correction on page 7. On page
11 7, transit loss account table 16, under the release in acre
12 foot, there's a transposed number, it's the second number, a
13 hundred and 96.03 should be a hundred and 96.30.

14 That should be the numbers I'm going to -- that we've
15 discovered in our operations report. If anybody's found any
16 others that don't add up, why I'll let them know.

17 THE CHAIRMAN: Other than those bomb shells, what
18 have you got for us this morning, Bob?

19 MR. JESSE: That might be the high point of the whole
20 thing. If anybody's got any specific questions they want to
21 go through with them, we'll -- I have my staff here, and we
22 can go through and explain any of the tables or any of the
23 stuff.

24 The valley looks pretty -- generally pretty wet. If
25 anybody looks outside, why it is snowing here now. I talked

1 to my office a few minutes ago, it is snowing in Pueblo. The
2 storm is moving from west to east. It looks like we're going
3 to get some precipitation out of it. At least they're
4 catching it in Pueblo right now. We've already got the start
5 of a fairly good snow pack. It's tough to tell at this time,
6 but you got to start off with a lot of snow, and we seem to be
7 doing fairly well.

8 The reservoirs upstream of Pueblo are all full or
9 nearly so. I've got the contents; if anyone wants a specific
10 reservoir, I can give you some numbers.

11 There's not going to be much of a place to store next
12 year's transmountain water. There wasn't much of a place to
13 store last year's. They left quite a bit of it on the western
14 slope. We've got the same prospect it looks in '87 as we had
15 in '86.

16 During the compact winter of 1985-1986, or November
17 the 1st of '85 to April the 1st, '86, a total of 76,000 acre
18 foot was stored. The Fort Lyon did not store in John Martin
19 in 1985-86. The Consolidated Ditch did. Its unused water was
20 rolled into the conservation pool in '86 but that will appear
21 on next year's compact or operations secretary's report.

22 During the Pueblo winter period of November the 15th
23 through March 15th, '86, a total of 30,000 acre foot was
24 stored in Pueblo under the voluntary winter storage program.
25 Two of the participating entities did not -- elected not to

1 keep their winter storage.

2 The remaining winter storage was all run or called
3 for with the exception of 253 acre feet which was released on
4 June the 18th when the Pueblo pool reached the bottom of the
5 flood pool and that winter water was forced out. At that time
6 all intervening water rights between Pueblo and John Martin
7 were satisfied so that water went to John Martin.

8 There were no major flood events. When the flow at
9 Avondale was curtailed to 6,000 cfs, there was no flood water
10 stored in any of the flood pools last year in either Pueblo or
11 in Trinidad.

12 Pueblo I might mention right now is at the bottom of
13 the joint use pool. And I don't know what the plans are to
14 invade the joint use pool. But we have 265,000 acre feet,
15 which is the top of the conservation pool.

16 THE CHAIRMAN: Mr. Milenski, we noted that you
17 weren't here and decided to go ahead anyway.

18 MR. MILENSKI: Sorry about that.

19 THE CHAIRMAN: We've approved some minutes, and Mr.
20 Jesse has made some corrections down to the second decimal
21 place in a couple of his accounts. And I don't think you've
22 missed a thing. And with your acquiescence, we'll go ahead.

23 MR. MILENSKI: Thank you.

24 THE CHAIRMAN: Go ahead.

25 MR. JESSE: I'll correct Frank's report when I get

1 there. We're up to the bottom of the joint use pool in
2 Pueblo. We go downstream. Henry and Meredith are full. The
3 Holbrook's full. The Fort Lyon has got probably a little less
4 than 50,000 acre foot of space available. John Martin has got
5 less than a hundred thousand as you can see from the contents.
6 We're going to the Fort Lyon at about 1800 or so acre foot per
7 day.

8 We did store water this summer for the Amity Canal
9 under its Great Plains Decree in John Martin under the
10 authorization of the 1980 operating plan and the consent of
11 all upstream users. Now this water is in addition to the
12 winter water and their compact water. It's Article 3 water.

13 We did charge the 35 percent transit loss as we do
14 all Article 3 water, and it all went into the transit loss
15 account as we call for in the distribution plan between the
16 two states. The transit loss account will be pretty big. Of
17 course the unused amount rolls back into a division between
18 the two states at the end of the year.

19 Kansas has 96,231 acre feet in its account now, not
20 counting their share of the water stored so far this winter.
21 If you count that, you've got a hundred and four-thousand
22 nine-hundred and sixty acre feet.

23 You might notice in your reports this year I've added
24 a new table that reports the deliveries to Kansas by runs
25 instead of by months. Last year we got into some confusion

1 about accounting by months, and this year I did it by runs.

2 THE CHAIRMAN: What page is that on?

3 MR. JESSE: That's page 8. I think that's the one we
4 screwed up.

5 All runs were delivered. The apparent overdelivery
6 is caused in some cases by precipitation events that occur
7 during the rundown period. The precipitation events probably
8 were what caused the runs to be shut off in the first place.

9 We did get two storage events. On Muddy Creek you'll
10 find them, they're very small, but we did get two of them that
11 we accounted for going to the permanent pool. There again was
12 one period in May when the call from below John Martin was
13 effective above John Martin. But other than that it was not
14 effective for the entire year.

15 I want to report that the satellite system, the
16 satellite gauging system, is now on line. We've got a total
17 of 45 stations. We do have one on Cheyenne Creek, and it's
18 now on line. I'll be glad to show anybody that's interested.
19 I brought my reservoir accountant, and I'm presuming he's set
20 up his machine or will. If anyone wants a demonstration of
21 how the Sutron works, we can give you one here. We brought
22 our terminal with us.

23 MR. C.V. MILLS: Bob, how many stations did you say
24 there were?

25 MR. JESSE: Forty-five. That's from the head waters,

1 well, the state line stations are operated by the GS in
2 Kansas, but the one at Cheyenne Creek is operated by Colorado.
3 And we can give you a printout of them. We run them last
4 night at the operations meeting but we can run them for
5 anybody that wants to look at them.

6 THE CHAIRMAN: We'd like those run, if not at some
7 other time, at least at the noon hour.

8 MR. JESSE: We'd be glad to demonstrate it any time.
9 We brought our people with us, and if the phones are working,
10 why we can get you anything you want.

11 Our computer system that we purchased for our Las
12 Animas office is up and operating. We had quite a chore
13 getting the programming done, but we did finally get the
14 program written. It's in operation, and their part of the
15 operations report and the entire thing will be on the computer
16 next year.

17 That about concludes my report. If there's any
18 questions or anybody wants to add anything why --

19 THE CHAIRMAN: I have a couple of questions. Would
20 you characterize in words instead of numbers John Martin
21 during the last 12 months?

22 MR. JESSE: We've had a lot of water. We have --
23 We've managed the water. I think that's the word I keep
24 thinking about is management. We've operated it close in
25 inches and for Kansas as on demand. We have a pretty good

1 record of turning the water on and turning it off on demand.
2 We've got a lot of water. We've got a lot of management
3 potential and it's actually pretty easy. It was fairly
4 uneventful last year.

5 THE CHAIRMAN: All right, and I'd like you to in a
6 few words similarly describe what's happened to the Great
7 Plains Reservoirs in the last 12 months.

8 MR. JESSE: We have stored water in the Great Plains.
9 They do have unused capacity now. I've got that number right
10 here. We've got about 90,000 acre foot of unused capacity out
11 there. We have all of them up to usable capacity. The ditch
12 storage is filled. There is usable water in John Martin or
13 was. And they all have usable capacity but they do have some
14 unused capacity.

15 THE CHAIRMAN: I realize that Tommy is here and
16 people from the Conservancy District, but in winter years when
17 the reservoirs are full, does the Boustad Tunnel then get used
18 to its maximum ability, or is that related to storage capacity
19 in the reservoirs?

20 MR. JESSE: Well, I would probably want to defer to
21 Tommy for that. But I can tell you that it was not used last
22 year to capacity. There was water that could have been
23 brought over that wasn't brought over. The storage capability
24 I'm sure has an impact on it. I know Jack from the Bureau is
25 here, maybe he'd like to expand on that a little bit.

1 THE CHAIRMAN: Now, are there any other questions
2 about this? This is a great opportunity.

3 MR. POPE: Mr. Chairman, I might have one to follow
4 up on your question about the Great Plains storage. Bob,
5 you'd indicated there was about 90,000 acre feet of available
6 capacity still in the individual lakes up there. I believe
7 you previously had indicated and I think it's my understanding
8 that the Amity is now storing water in John Martin in their
9 Article 3 account; is that correct?

10 MR. JESSE: They did store water in their Article 3
11 account during the summer period. They are now storing water
12 under the Pueblo winter storage program in their winter water
13 account in Pueblo. This is winter water which is also Article
14 3 water. But it's under the winter storage program as opposed
15 to the Great Plains Program.

16 MR. POPE: Are they -- So they're not storing in
17 Great Plains right now?

18 MR. JESSE: They are not, no.

19 MR. POPE: So any storage there that otherwise would
20 have historically taken place is now going in the winter
21 storage program?

22 MR. JESSE: Yes.

23 MR. POPE: Where is that water being stored then, in
24 John Martin?

25 MR. JESSE: Yes, the Amity's portion -- the Amity's

1 share of the winter storage program is being stored in John
2 Martin, and that of course pays 35 percent transit loss.

3 MR. POPE: And that water is contained in their
4 Article 3 account?

5 MR. JESSE: Yes.

6 MR. POPE: How does that differ from the situation
7 where they would normally store in the Great Plains
8 Reservoirs? Is that one or the other?

9 MR. JESSE: Well, we have not, in the past they have
10 not been allowed over objections of the other upstream ditches
11 to store in the summer in John Martin, although the compact
12 has given them authority under the 1980 operating plan to
13 store in the summer.

14 This year the other ditches upstream agreed to allow
15 them even though their decree is not yet final to store in
16 John Martin under their Great Plains decrees. That makes it
17 also Article 3 water in the summer. But they haven't done
18 that. This last year is the first year they've stored in the
19 summer. But they have consistently, except in 77-78 when
20 there was no program, stored their winter water in John Martin
21 as Article 3 water.

22 MR. POPE: Did I understand that the Pueblo winter
23 storage program has now been terminated or deferred or
24 whatever word I'm looking for?

25 TOMMY THOMSON: Temporarily suspended.

1 MR. POPE: Temporarily suspended, okay. That doesn't
2 affect what they're doing in John Martin?

3 MR. JESSE: It does not affect anyone except the
4 entities that store in Pueblo. We stored in Pueblo until we
5 reached the bottom of the joint use pool, then we stopped
6 storing in Pueblo and continued storing in the other
7 off-channel reservoirs including the Amity storage in John
8 Martin.

9 MR. POPE: Thank you.

10 THE CHAIRMAN: Now we'll open it up to questions for
11 Mr. Jesse. And seriously, it's important that not only the
12 Commission but everyone here have an understanding of the
13 operation of the river and the activities. And this is your
14 best opportunity to get clarified on any point that you may
15 wish to ask.

16 Are there any questions? You're getting off awfully
17 easy, Mr. Jesse. Thank you.

18 MR. JESSE: Thank you.

19 MR. CHAIRMAN: Leo just arrived and we welcome him.
20 We passed over the treasurer's report to Mr. Jesse's report.
21 We'd like now to go back and have the treasurer's report if
22 you would give it, sir. I believe it's been distributed or
23 copies of it were in circulation.

24 MR. McDONALD: Not the treasurer's report.

25 MR. CHAIRMAN: Not the treasurer's report, okay.

1 MR. McDONALD: Here, I'll just pass them down.

2 MR. CHAIRMAN: Here, here's a couple. And here's a
3 couple more. Okay. Thank you.

4 MR. LEO IDLER: I think it's rather self-explanatory,
5 at least as to the checks that are written to start with and
6 the balance of business is next.

7 THE CHAIRMAN: Okay. Mr. Idler has given us a list
8 of checks written since June 30th, 1986, that goes through
9 December 1st as well as the statement of receipts and
10 disbursements. Mr. McDonald, your worst fears are realized.
11 We continue to accumulate money.

12 MR. McDONALD: I was about to ask Leo and Carl if I
13 could invest with their corporation here. They're doing their
14 job well.

15 THE CHAIRMAN: Off the record a minute.

16 (A conversation was had not on the record.)

17 THE CHAIRMAN: Thank you very much, Leo. The
18 treasurer's report will be received into the record.

19 The more significant function we've got today will be
20 in connection with the budget. And that's going to require
21 more of our skill.

22 MR. McDONALD: Frank, could we have the several
23 pages reflected as Exhibit B?

24 THE CHAIRMAN: Indeed. The materials furnished by
25 Mr. Idler less the agenda will be Exhibit B. And we'll make

1 sure you have copies, Karen.

2 Yes, Mr. McDonald?

3 MR. McDONALD: Leo or Carl, we have a C.D. for
4 \$40,000, or certificates if it's more than one. Do I read
5 your stuff right, Leo?

6 MR. LEO IDLER: (Nodding head yes.)

7 THE CHAIRMAN: Do you know when it rolls next?

8 MR. LEO IDLER: Sometime in the spring. I don't know
9 exactly when it would be.

10 THE CHAIRMAN: Not in time for a winter party?

11 MR. LEO IDLER: No.

12 THE CHAIRMAN: Leo, do you have the auditor's report
13 or is he here?

14 MR. LEO IDLER: I have -- You fellows have a copy,
15 don't you?

16 THE CHAIRMAN: We've received copies of the auditor's
17 report.

18 MR. McDONALD: I have a couple here if they need to
19 be examined.

20 THE CHAIRMAN: Well, frankly, have you been over it,
21 David?

22 MR. POPE: Yes, I think we've reviewed it and have no
23 comments unless Carl or Ron do.

24 THE CHAIRMAN: It struck me it was a straight mash
25 potato sandwich type report. Why don't we approve the

1 auditor's report if there is no objection. Is there a motion,
2 David?

3 MR. POPE: I'd so move.

4 THE CHAIRMAN: It's been moved that the auditor's
5 report as received and distributed to the members be approved.
6 Is there a second?

7 MR. McDONALD: Frank, I'll second that. And that
8 would become Exhibit C.

9 THE CHAIRMAN: Kansas? How does Kansas vote?

10 MR. BENTRUP: Aye.

11 THE CHAIRMAN: Colorado?

12 MR. McDONALD: Aye.

13 THE CHAIRMAN: All right. The auditor's report is
14 distributed as approved and becomes Exhibit C. You'll furnish
15 a copy to Karen.

16 The next item before us are committee reports. Mr.
17 McDonald, do you want a short break at this time?

18 MR. McDONALD: Please.

19 THE CHAIRMAN: We'll be in recess for not exceeding
20 ten minutes. At 10:00 o'clock by my watch we'll roll again,
21 gentlemen.

22 (A short recess was taken.)

23 THE CHAIRMAN: The meeting will be back in order.
24 We now have -- We're now at committee reports. The first
25 committee to be heard from is the Administrative and Legal

1 Committee.

2 MR. McDONALD: Frank, the Administrative and Legal
3 Committee, which this past year has consisted of Carl Bentrup
4 and myself, met once in the past twelve months, and that was
5 last night, to consider the positions of recording secretary
6 and treasurer for the Administration.

7 We would recommend to you as a committee, and it will
8 be acted upon under item 7, that effective January 1, 1987, we
9 make arrangements to have as recording secretary a lady by the
10 name of Bernice Carr who is officed on a part-time basis with
11 the Colorado Division of Wildlife and the Well Pumpers
12 Association here in Lamar. That will give us some continuity
13 and record keeping that seems for at least 40 years to have
14 not been the history of the Administration office, due to no
15 one's fault certainly.

16 We recommend, and this recommendation can be acted
17 upon under budget items, that she be remunerated at the rate
18 of \$1,000 per year, effectively on a retainer fee basis that
19 we would have one hundred hours of her time per year maximum
20 under that arrangement.

21 Our second recommendation, again to be effective
22 January 1, 1987, is that Jim Rogers be the treasurer for the
23 Administration with compensation to be at the annual rate of
24 \$1,000 per year. Those are the only matters that the
25 committee took up last night.

1 THE CHAIRMAN: All right. Understanding that the
2 action on the committee reports will be made at a later item
3 on the agenda, are there any questions concerning this report
4 of the Administrative and Legal Committee? If there are none,
5 we'll go to the Engineering Committee report.

6 MR. POPE: Mr. Chairman, I believe that I'm chairman
7 of the committee and would simply report that no meetings have
8 been held since the last annual meeting of the Engineering
9 Committee, and I'm not aware of any specific assignments
10 really that were given beyond any normal activities of the
11 committee.

12 THE CHAIRMAN: And, frankly, here's one of the areas
13 of impact of the litigation, is it not, Mr. Pope?

14 MR. POPE: Perhaps.

15 THE CHAIRMAN: Possibly. All right, the Operations
16 Committee.

17 MR. OLOMON: Yes, Mr. Chairman, we have some last
18 minute corrections on that. And rather than distribute
19 copies, I think that Jim plans to read the report into the
20 record, if that's all right.

21 THE CHAIRMAN: Sure it is, Mr. Olomon. Have you got
22 that report now, Mr. Rogers?

23 MR. ROGERS: Yes.

24 THE CHAIRMAN: Would you --

25 MR. ROGERS: The Operations Committee report on

1 December 9th, 1986. It is much too early to tell about the
2 snow pack for 1987. Most reservoirs upstream are full or
3 nearly so. There was not much space to store last year's
4 transmountain water. There was some left on the western slope
5 in 1986 because of lack of storage space.

6 During the winter of 1985-86 -- November 1, 1985, to
7 April 1, 1986 -- a total of 75,000 acre feet of winter stored
8 water was stored. The Fort Lyon did not store in John Martin
9 Dam in 1985-86 but the Consolidated Ditch did. And its unused
10 water was rolled into the conservation pool on November 1,
11 1986, according to the operation plan.

12 There were no flood events during 1985-86. The
13 Pueblo Reservoir is at the bottom of the joint use pool now
14 and the downstream reservoirs have about 50,000 acre feet of
15 space available. And John Martin has less than a hundred
16 thousand acre feet of space available.

17 Water was stored this summer for the Amity Canal
18 under the Great Plains decrees. This was done under the
19 authorization of the 1980 operation plan with the consent of
20 all upstream users, this water being in addition to the
21 Amity's water and compact water. 35 percent went into the
22 transit loss account, as it has in the past, as called for by
23 the agreement between the two states. The transit loss
24 account will again be quite large.

25 Kansas has 104,960 acre feet in its account now

1 counting their share of the water that was stored so far this
2 winter. The new table in the operations secretary's report
3 shows the delivery to Kansas by runs instead of by months as
4 was shown last year. All Kansas runs were delivered last
5 year.

6 There were two storage events on Muddy Creek stored
7 in the permanent pool. The satellite communications system is
8 operating with a total of 45 stations in the Arkansas drainage
9 including the Cheyenne Creek gauge. The computer program for
10 John Martin accounting is now functional. And that concludes
11 our report.

12 THE CHAIRMAN: Thank you. Are there any questions
13 about the Operations Committee report?

14 MR. C.V. MILLS: One thing I'd like to know, Mr.
15 Cooley, how much water would you say is stored from Muddy
16 Creek into the permanent pool?

17 THE CHAIRMAN: Why don't we let Mr. Jesse field that
18 one. It's too much fun asking these questions of Mr. Jesse,
19 Mr. Mills.

20 MR. JESSE: Hang on just a minute and I'll get it.
21 The two events, one occurred in July, where they stored 136.55
22 acre feet, another in September where they got 61.65 acre feet
23 making a total of 198.2 acre feet.

24 THE CHAIRMAN: And, Mr. Jesse, give Mr. Mills today's
25 total for John Martin.

1 MR. JESSE: This morning it's 267,664.

2 THE CHAIRMAN: You don't want to put papers where Mr.
3 Romph can get ahold of them, Mr. Jesse. The meeting will now
4 turn to the election of officers for the next year.

5 MR. McDONALD: Frank, I'd like to raise one other
6 point. It's kind of in the vein of operations items. There
7 was a request by the Southeast Colorado Water Conservancy
8 District in June and early July of this past summer for a
9 storage account in John Martin Reservoir, which, because we
10 were unable to reach an agreement with Kansas, never became
11 the subject of a special meeting, it being obvious that we
12 would have had a divided vote. But it was a request that was
13 clearly made of the Administration.

14 There was a June 20th, 1986, letter from the general
15 manager of the district to you, Frank, in your capacity as
16 Chairman of the Administration requesting that storage account
17 and an exchange of correspondence between Dennis Montgomery
18 and myself on the one hand and Richard Simms, counsel for the
19 state of Kansas, on the other hand.

20 And I would just like to reflect, since we did not
21 have a special meeting at the time, that the request was made,
22 and there was this exchange in correspondence, which I would
23 suggest be in the record, and I think that would dispose of
24 the matter. And we request no further action.

25 THE CHAIRMAN: Well, I don't want to exacerbate the

1 situation. At the same time I think that part of that
2 exchange contained a resolution. And it's my view as chairman
3 that that exchange including that resolution should be a part
4 of the record. Because it's an event that did take place.
5 Mr. Pope.

6 MR. POPE: Thank you, Mr. Chairman. We disagree I
7 guess that the exchange of correspondence and other materials
8 that may have been referred to there should become a part of
9 the record of this meeting for the following reasons. The
10 activity that took place did occur, there's no doubt that
11 there are -- there is correspondence that exists, but there's
12 no action on the agenda proposed for this meeting; no special
13 meeting of the Administration was held. There was discussion
14 at the time about whether or not a special meeting of the
15 Administration should be called, and it was our understanding
16 at that time that there was agreement that no meeting would
17 be, or should be, called as a result of the nature of the
18 discussions that had occurred.

19 Consequently, I guess I think it's out of place for
20 that to become a record of this meeting when it's not being
21 dealt with other than these discussions here have now popped
22 up.

23 THE CHAIRMAN: Well, the matter is before us like it
24 or not and needs to be addressed. The essence I think of what
25 you say is that if there be disagreement between the two

1 states during a meeting or at a special meeting, that that is
2 part of the official business of the Compact Administration.
3 But if there is a proposed action, an action proposed by one
4 state which does not meet the acquiescence of the other, and
5 it doesn't result in there being a meeting at which no action
6 is taken in order to formalize the action of the moving state,
7 that there in effect is -- has been no action, nothing for the
8 record. And my view is to the contrary.

9 And, but before I -- before I go so far as to say
10 that I would rule so and so, I would -- I'd be most happy to
11 hear from Mr. Simms if he cared to say anything on this
12 subject. I don't want to take any action without at least the
13 opportunity for a hearing on that question.

14 MR. SIMMS: One of the reasons that we do not
15 believe it should be a matter of this record is because that
16 exchange contains allegations and matters that relate to the
17 pending litigation. And as we discussed at the time, Kansas
18 would not have even discussed the proposal if those matters
19 were attempted to be made a part of the public record of the
20 Administration. For that reason, it is obvious we believe
21 that they should not be made a part of this record.

22 THE CHAIRMAN: Well, I have no desire or willingness
23 to affect a legal position of one state or the other with
24 respect to that litigation which has been commenced except in
25 so far as I have made my opinion clear on what was necessary

1 for there to be litigation between two states. And therefore,
2 I'm not going to make a statement that those matters are a
3 part of the record. But certainly the effort of Mr. McDonald
4 is before us today. Now, we'll go onto the --

5 MR. McDONALD: Frank, pardon me, let me just say I
6 think the implication of this situation, let's just get an
7 understanding, I think a meeting could have been called
8 pursuant to the bylaws. I as a courtesy didn't waste the
9 Administration's money on a conference call when we knew that
10 the result would have been a divided vote.

11 But if it's going to be the position that I've got to
12 create a record, then henceforth we'll just have special
13 compact meetings if we can't have an accomodation which I
14 thought we had usually had in the past that what's in writing
15 we aren't going to be clever about. We'll simply let that
16 sort of thing be introduced in the record.

17 I simply didn't ask for a meeting as a courtesy this
18 summer, and had thought it could be disposed of in this way.
19 But we'll henceforth create the record at that time, and we
20 can just take care of it that way.

21 THE CHAIRMAN: The next item is the election of a
22 vice-chairman. The present vice-chairman is Carl Bentrup. Is
23 there a nomination for vice-chairman of the Arkansas River
24 Compact Administration?

25 MR. McDONALD: Frank, Colorado would like to nominate

1 Carl Bentrup.

2 THE CHAIRMAN: A nomination has been placed before
3 us. Are there any other nominations? Are there any other
4 nominations? Are there any other nominations?

5 MR. POPE: Mr. Chairman, I would move that we elect
6 Mr. Bentrup by acclamation?

7 MR. CHAIRMAN: The motion has been made that Carl be
8 railroaded into the office of vice-chairman, is there a
9 second?

10 MR. McDONALD: Second.

11 THE CHAIRMAN: Colorado?

12 MR. McDONALD: Votes aye.

13 THE CHAIRMAN: Kansas?

14 MR. POPE: Aye.

15 THE CHAIRMAN: Congratulations, Carl, it was a
16 squeaker. The other three officers are recording secretary,
17 treasurer and operations secretary. Mr. McDonald, I believe
18 that there are -- there could be a nomination now for each of
19 those three offices.

20 MR. McDONALD: Why don't I speak to the two that Carl
21 Bentrup and I have a recommendation on as a committee, and why
22 don't I do them one at a time. I would place in nomination
23 the name of Mrs. Bernice Carr to be the recording secretary
24 effective January 1, 1987.

25 THE CHAIRMAN: All right. You don't want to go all

1 the way down the list?

2 MR. McDONALD: Let's do them one at a time.

3 THE CHAIRMAN: All right, Ms. Carr's name has been
4 placed in nomination. Is there -- Are there any other
5 nominations? Hearing none, I'll entertain a motion that she
6 be elected by acclamation.

7 MR. BENTRUP: I so move.

8 THE CHAIRMAN: It's been moved. Is there a second?

9 MR. GENOVA: I'll second that.

10 THE CHAIRMAN: Colorado?

11 MR. McDONALD: Votes aye.

12 THE CHAIRMAN: Kansas?

13 MR. BENTRUP: Aye.

14 THE CHAIRMAN: Treasurer, Mr. McDonald?

15 MR. McDONALD: Again, I would place in nomination per
16 the recommendation of the Administrative and Legal Committee
17 the name of Jim Rogers for treasurer effective January 1,
18 1987.

19 THE CHAIRMAN: Is he bondable?

20 MR. McDONALD: Well, I forgot to ask that.

21 THE CHAIRMAN: The name of Mr. Rogers has been placed
22 in nomination. Is there a second?

23 MR. OLOMON: I'll second it.

24 THE CHAIRMAN: Are there any other nominations?

25 Kansas?

1 MR. BENTRUP: Aye.

2 THE CHAIRMAN: Colorado?

3 MR. McDONALD: Aye.

4 THE CHAIRMAN: Operations secretary. Now, this one
5 is going to be interesting.

6 MR. McDONALD: I have no motions to make with respect
7 to the operations secretary.

8 THE CHAIRMAN: David, there's been a finesse in the
9 electoral process.

10 MR. POPE: I suppose we should ask, but we'll presume
11 that Mr. Jesse would be an appropriate candidate and willing
12 to serve for the coming year; is that correct, Bob?

13 MR. JESSE: That's correct.

14 THE CHAIRMAN: The ordeal this year didn't deter you
15 from being willing to serve again?

16 MR. JESSE: It's been easy so far.

17 THE CHAIRMAN: All right. Is there a second?

18 MR. Genova: I'll second that.

19 THE CHAIRMAN: All right, any other nominations?
20 Colorado?

21 MR. GENOVA: Aye.

22 THE CHAIRMAN: Colorado votes aye. Kansas?

23 MR. BENTRUP: Aye.

24 THE CHAIRMAN: Contratulations. I'll light the first
25 cigar.

1 We have the committees. And, Carl, haven't the
2 chairmanships of the committees switched back and forth?
3 Hasn't that been the tradition?

4 MR. BENTRUP: They have at times, yes, I think so.
5 They probably should.

6 THE CHAIRMAN: All right, then has there been any
7 discussion of changing the committees from those of prior
8 years? Let's see, the Administrative and Legal would be Mr.
9 McDonald then chairman for the ensuing year, Carl Bentrup
10 member of the committee. Any discussion of those
11 appointments?

12 MR. BENTRUP: I would move that committees remain the
13 same except that Jim Rogers would replace Leo Idler on the
14 Operations Committee.

15 THE CHAIRMAN: Okay. And I'll read those into the
16 record if that's all right. That would mean the following.
17 J. William McDonald would be chairman again, and Carl Bentrup
18 would constitute the memberships of the Administrative and
19 Legal Committee. The Engineering Committee, Carl Genova would
20 become chairman, David Pope the member. And on the Operations
21 Committee, Jim Rogers would become chairman and Ronald Olomon,
22 O-L-O-M-O-N, would be the member.

23 There's been a motion that these be the committees
24 for the ensuing year. Is there a second?

25 MR. GENOVA: I'll second it.

1 THE CHAIRMAN: All right, Kansas?

2 MR. BENTRUP: Aye.

3 THE CHAIRMAN: Kansas votes aye. Colorado?

4 MR. McDONALD: Colorado votes aye.

5 THE CHAIRMAN: The -- sure. Go ahead, Mr. McDonald.

6 MR. McDONALD: I'd like to call, Frank, on Jim Rogers
7 since we're through the official change of officers and what
8 have you to suggest a resolution recognizing Leo Idler's
9 tremendous years of service to this Administration. Jim?

10 MR. ROGERS: The resolution (Exhibit D) is:

11 "Whereas, Leo Idler served on the Arkansas River
12 Compact Administration as the representative of Colorado
13 Water District 67 for two terms from 1977 through 1985;
14 and

15 "Whereas, he ably and steadfastly represented the
16 interests of District 67 water users with equanimity
17 and fairness; and

18 "Whereas he also served for ten years as the
19 Administration's recording secretary and treasurer; and

20 "Whereas, he at all times conducted these offices in
21 a competent and thorough manner; and

22 "Whereas Leo Idler was instrumental in developing and
23 implementing the 1980 operating plan for John Martin
24 Reservoir to the benefit of both Kansas and Colorado; and

25 "Whereas, Leo Idler has been a gentleman and a

1 friend to his fellow members of the Administration and to
2 all who had occasion to come before the Administration.

3 "Now, therefore, be it resolved by the Arkansas River
4 Compact Administration that it does hereby express its
5 gratitude and appreciation to Leo Idler for the services
6 he has rendered and for the courtesies which he has
7 extended to all during his tenure as a member and an
8 officer of the Administration."

9 THE CHAIRMAN: Thank you very much. I believe that
10 Carl Bentrup wishes to move the adoption of that resolution,
11 and that a copy of this be, I don't know the word, illuminate,
12 I think, is the --

13 MR. BENTRUP: Spread upon the pages.

14 THE CHAIRMAN: Well, we'll spread it on the pages,
15 too, by golly, and present it to Leo. Is there a second?

16 MR. GENOVA: I'll second it.

17 THE CHAIRMAN: Okay. And, let's see, Colorado?

18 MR. McDONALD: Colorado votes aye.

19 THE CHAIRMAN: Kansas?

20 MR. BENTRUP: Aye.

21 THE CHAIRMAN: Thank you very much, Leo.

22 (A round of applause was given.)

23 MR. McDONALD: Leo tried to tell me that he was going
24 to retire now, but I indicated to him that was not part of the
25 motion. He's still on call.

1 THE CHAIRMAN: We also have the suggestion that Mr.
2 Bentrup thinks that there have been enough pictures of the
3 John Martin cement on the cover of the annual report and that
4 we see if we can't find a picture of Leo that wouldn't be
5 suitable for this year's addition. We'll try to do something
6 about that.

7 Yes, I'm reminded that that resolution will be
8 Exhibit D.

9 C.V., is there someone in this community who does
10 handlettering with a great deal of skill or should we find
11 someone somewhere?

12 MR. C.V. MILLS: Not that I know of.

13 THE CHAIRMAN: You're not aware of any.

14 MR. C.V. MILLS: No.

15 THE CHAIRMAN: Okay, there are a number of people
16 that have taken up that business in the last few years, and I
17 think one of us will be able to find a way to have that done.

18 MR. C.V. MILLS: Sandy Reifschneider might know
19 someone.

20 MS. SANDY REIFSCHNEIDER: There was someone but I
21 can't remember now who it was.

22 THE CHAIRMAN: Well, someone's bridge club knows
23 about one that's awfully good and all we've got to do is run
24 that down, thank you.

25 We have the annual report for the compact year for

1 1985, and this has been circulated. I have corrected a few
2 typographical errors and straightened out some language that
3 perpetuated a bit of Americana for posterity and translated
4 that into English and made a couple of other minor corrections
5 that I have sent to Mr. Pope and Mr. McDonald. But all of the
6 members of the -- all of the members of the Compact
7 Administration have been mailed late in October the draft of
8 the annual report.

9 David, is there any -- is there any controversy or
10 comment on the report with the corrections that I circulated?

11 MR. POPE: Mr. Chairman, I don't know whether -- I
12 don't know that there's necessarily a controversy, but we have
13 received your letter and appreciate that. We've looked over
14 the report and do have some suggested changes in, I believe
15 it's item number 11.

16 There's a section that deals with the investigation
17 that the Administration undertook during that particular year
18 which obviously is of special interest to I think both states.
19 In that regard, I would be prepared to ask Mr. Simms to make a
20 few suggested changes to that section if --

21 THE CHAIRMAN: We're on page 16 then I take it. And
22 this certainly has the possibility of impinging upon the
23 pending litigation that we don't really want to impinge upon.
24 Mr. Simms.

25 MR. SIMMS: Well, notwithstanding the round of briefs

1 and exchanges on the motion for leave to file in the pending
2 litigation and the Court's order granting that leave to file,
3 an issue of administrative exhaustion has been raised by
4 Colorado in the pending proceedings. And they have asserted
5 that the exchange of briefs and the Court's order granting the
6 motion did not resolve the issue of administrative exhaustion.
7 As a result, the statement of the investigation in the '85
8 report is rather important.

9 I would note also that the statement as prepared was
10 prepared solely by Colorado under the procedure that has been
11 used historically. And no contribution to the proposal
12 appearing or beginning on page 16 has been made by the state
13 of Kansas.

14 There are two basic problems that Kansas has with the
15 statement as it has been submitted. And that is it goes
16 beyond the 37th compact year on both sides. The compact year
17 runs from November 1, 1984, and terminates on October 31st,
18 1985.

19 And notwithstanding the compact year and what ought
20 be the essence of the '85 annual report, the last one, two,
21 three, four paragraphs of the proposal relate to events that
22 happened in December of 1985, beyond the subject matter of the
23 report. And the first paragraph goes back to events that
24 transpired in 1983. We would suggest initially that all of
25 those references be deleted from the report.

1 Kansas' second basic concern is that the statement of
2 facts has been made selectively and does not really state the
3 sense of what transpired. Nor does it completely state all of
4 what transpired as a literal factual matter.

5 We would suggest the following changes: We would
6 delete the first sentence in paragraph 1. We would replace
7 that sentence with the following:

8 "On February 26, 1985, the Kansas Attorney General
9 wrote to the Colorado Attorney General outlining concerns
10 about the operation of Trinidad and Pueblo Reservoirs and
11 the lack of ground water regulation in Colorado and
12 inquired whether any of the designated concerns were,
13 quote, within the purview of the Administration, end quote,
14 under Article VIII (d)."

15 Following that insertion, we would go on to the
16 second sentence in paragraph 1. Paragraph 2 we would leave
17 the same. Pardon me, I'm sorry. Paragraph 2 and paragraph 3
18 we would turn into one paragraph. Following the present
19 paragraph 2, we would add "At the special meeting on March 28,
20 1985, Colorado voted that the question of Trinidad and Pueblo
21 Reservoirs was not subject to arbitration under Article
22 VIII (d)," period. From that sentence we would delete the
23 parenthetical part of the first sentence in the second
24 paragraph up through Kansas, comma, and start a new sentence.

25 THE CHAIRMAN: Pardon me, stop. You lost me at the

1 beginning of the sentence you're on. Could you get me right
2 into the language that you're talking about, Mr. Simms?

3 MR. SIMMS: In the present paragraph 2 we would add
4 a sentence to that paragraph and then make that paragraph a
5 part of paragraph 3.

6 THE CHAIRMAN: Yes.

7 MR. SIMMS: The sentence we would add is: "At the
8 special meeting on March 28, 1985, Colorado voted that the
9 operation of Trinidad and Pueblo Reservoirs was not subject to
10 arbitration under Article VIII (d)," period. We would then
11 delete the first part of the next sentence, that is, the
12 parenthetical statement that begins "at a special meeting" and
13 concludes with "in Garden City, Kansas." We would make the
14 article following initial capitalized so that it begins "The
15 Administration adopted" and proceed with the remainder of
16 everything on page 16. And onto page 17 we would add at the
17 end of the last sentence the phrase "as a first step in the
18 investigation."

19 THE CHAIRMAN: Where is that, sir?

20 MR. SIMMS: That is on the second line right after
21 "mass curves." We would add -- We would insert "as a first
22 step in the investigation." So that that sentence now reads:
23 "The resolution established a committee consisting of the
24 director of the Colorado Water Conservation Board, Mr. J.
25 William McDonald or his designee, and the chief engineer of

1 Kansas, Mr. David L. Pope or his designee, to conduct the
2 investigation. At a meeting on June 3rd, 1985, the
3 Investigating Committee agreed to compile stream flow data and
4 to prepare a series of mass curves as the first step in the
5 investigation," period.

6 At the end of line 2 on page 17 we would make the
7 following insertion. Right after "1985" we would insert:
8 "The states could not agree on the conclusions to be drawn
9 from the mass curves." So that the sentence reads: "At a
10 meeting of the committee on July 12th, 1985, the states could
11 not agree on the conclusions to be drawn from the mass
12 curves," period. We would then capitalize "it." And the
13 sentence would read: "It was agreed that Mr. McDonald and Mr.
14 Pope would delete each, would prepare a separate" -- pardon
15 me -- "would prepare separate reports analyzing the mass
16 curves," period.

17 We'd leave the following sentence the way it is:
18 "The reports were exchanged on September 6, 1985," period. We
19 would delete the parenthetical part of the introductory part
20 of the first sentence in the next paragraph through the phrase
21 "of the Kansas representatives." And we would initial cap the
22 article "the" and lead straight into that sentence as the
23 concluding sentence of this larger paragraph.

24 And it would read: "The Administration agreed to
25 amend on March 28, 1985 -- amend the March 28, 1985,

1 resolution to include an investigation of whether Colorado had
2 complied with the provisions of Article V (f) of the compact."

3 In the next paragraph, 5 lines down we would insert
4 the word "separate" after "their" and before "reports," so
5 that the sentence reads: "At the meeting Mr. McDonald and Mr.
6 Pope were unable to agree on conclusions to be drawn from the
7 mass curves and agreed to submit their separate reports to the
8 Administration along with a separate statement explaining the
9 reasons for the differences in their conclusions."

10 At the end of the next paragraph we would add two
11 sentences: "In the resolution Kansas agreed to investigate
12 Colorado's allegations of compact violations, and Colorado
13 refused to investigate Kansas' allegation, allegations of
14 compact violations," period. The last sentence would be a new
15 paragraph. And it would read simply "As of October 31, 1986,
16 the investigation had not progressed further." We would then
17 delete all of the remaining paragraphs.

18 THE CHAIRMAN: It strikes me -- Two things strike me.
19 One is that the differences between the proposed draft and the
20 suggested changes are going to be difficult to work out
21 without working documents to address these sentence by
22 sentence and word by word. Secondly, that it strikes me as
23 being virtually impossible of resolution at an open and formal
24 meeting of the compact.

25 I'm going to be open to Mr. McDonald's or anyone

1 else's suggestions as to how we may proceed to resolve this
2 question. But before I get to that, is there anything else in
3 the report that -- is there anything else in the report that
4 needs to be addressed this morning, either Richard or David?
5 Is there another matter that comes before us?

6 MR. POPE: Just a second. I'm not aware any other
7 concerns that need to be addressed. I think this is the item
8 that --

9 THE CHAIRMAN: Let me go ahead with this
10 procedurally. Is there anything else in the annual report
11 besides the reference to investigations that needs to be
12 addressed?

13 MR. McDONALD: Gene, do we have any other corrections
14 we've noticed?

15 MR. JENCOSK: Yes, we have some from Bob Jesse.

16 THE CHAIRMAN: I want to pass to the stuff that's not
17 in dispute and get as much of that behind us as possible and
18 we'll get back to the Section 11. Mr. Jesse, nothing beyond
19 the second decimal point for this.

20 MR. McDONALD: Frank, my suggestion would be this: I
21 think when we have reached this point each year there have
22 always been some numbers that slipped through and we have left
23 that to be resolved between Bob and Howard as a double check
24 before we went to printing. And if they were resolved, we
25 proceeded. Why not do the same thing.

1 Would it find favor to approve the annual report
2 subject to the condition that Bob's changes would be reviewed
3 by Howard or whoever else David wished and resolved, and
4 subject secondly to the condition that the text with respect
5 to the investigation would be something for David Pope and I
6 to work out before it went to print. And if it could not be
7 worked out, then we simply would not have a section in the
8 annual report about the investigation. That way we won't have
9 to reconvene and worry about the other 60 pages that are not
10 in dispute.

11 THE CHAIRMAN: That's about where I am. Mr. Pope?

12 MR. POPE: I think generally that's acceptable, with
13 the caveat I guess that we can assume that we can reach an
14 agreement on the summary. If nothing else, rather than total
15 deletion, we would reserve the right for each of us to put our
16 version in, I guess. I don't think it would come to that.

17 THE CHAIRMAN: I don't really want a -- you can't
18 say a -- minority report. We have two states in this thing.
19 I don't want two sections in the annual report on
20 investigations. I'd rather have a blank or a statement that
21 the states did not agree on the analysis of investigations.

22 MR. POPE: Why don't we just leave it, Mr. Chairman,
23 that we would, Bill McDonald and I would -- we would defer
24 the -- we would authorize basically the approval of the annual
25 report with that section to be resolved by Bill and I.

1 THE CHAIRMAN: All right. Is that in the form of a
2 motion?

3 MR. POPE: Yes, it is.

4 THE CHAIRMAN: Mr. McDonald, is there a second to
5 that motion?

6 MR. McDONALD: Yes, we will second that.

7 THE CHAIRMAN: Is there any further discussion of
8 that motion which essentially is that the entire report be
9 adopted subject to two things: One, any minor adjustment of
10 numbers necessary brought to the attention of the two state
11 departments by Mr. Jesse. And, secondly, that those two
12 officers try to resolve the questions of investigations under
13 Section 11. The motion's been made and seconded. Colorado?

14 MR. McDONALD: Colorado votes aye.

15 THE CHAIRMAN: Kansas?

16 MR. BENTRUP: Aye.

17 THE CHAIRMAN: Kansas votes aye. The motion is
18 passed.

19 We are now at item 10 on the agenda reports of
20 federal agencies. The -- I've asked Mr. Livingston to be
21 prepared to make a report from the Geological Survey. One of
22 the thrusts -- Oh, there you are. One of the things that I
23 am very -- Is Mr. Abbott here with you, sir? Okay, good, Mr.
24 Abbott. One of the things that I'm personally very much
25 interested in is Mr. Abbott's report which was published this

1 year. I find it to be a work of brilliance and of great
2 interest to this group. And I hope that there is a full
3 explanation and covering of the report. The next item on
4 the -- and there will be the other USGS matters as well. In
5 short that this is a matter of substance. Then we will deal
6 with the Corp of Engineers and Mr. Romph. And I don't -- Bob,
7 I don't think that will be a lengthy part of the -- a lengthy
8 part of this.

9 MR. ROMPH: It will be short.

10 THE CHAIRMAN: And following which there will be a
11 report from the Bureau of Reclamation and Mr. Willms. And I
12 believe that there will be some matters of real interest to
13 this meeting.

14 Now, what I'm leading up to is can you, Bob, put on
15 your report in the configuration of the room the way we are
16 now? Do you want any of us to move our chairs or anything of
17 that sort?

18 MR. ROMPH: I think people can shuffle around enough
19 to see the overheads and so forth.

20 THE CHAIRMAN: Is there anyone here from the USGS
21 from the state of Kansas this morning? Yes. Mr. Stevens?

22 MR. STEVENS: Right, Mark Stevens.

23 THE CHAIRMAN: Will you have anything to present to
24 the Compact Administration? There is a budget request that we
25 received from your office.

1 MR. STEVENS: That's all I have.

2 THE CHAIRMAN: Fine. We'll now turn to Mr.
3 Livingston.

4 MR. LIVINGSTON: Mr. Chairman, members of the
5 Compact Administration, I'd like to cover three things. First
6 of all, some report on the operations of stream flow gauging
7 stations during the compact year; a mention made of some of
8 the activities of the Survey over the past year that may be of
9 interest to the Administration; and then lastly we'll get into
10 the presentation on a couple of our recent publications as
11 requested by the Chairman.

12 During the compact year in both the states of
13 Colorado and Kansas we operated and maintained 7 stream flow
14 gauging stations plus the station on John Martin Reservoir.
15 At this time I'll give a copy to each delegation and to Bob
16 Jesse of the records for those stations.

17 As you mentioned, Mr. Chairman, we'll discuss the
18 funding for the upcoming year on those stations.

19 Speaking of the stream flow data and so forth, I
20 would mention that the Survey has been inundated by requests
21 for hydrologic data during the past year. We've provided or
22 fulfilled the request for numerous entities that have
23 requested information over the year and expect to continue to
24 do that.

25 We have done a number of investigations that I'll

1 just briefly mention. One is a transit loss study that is
2 being done for the city of Colorado Springs that involves the
3 losses associated with the transmountain portion of return
4 flows, their discharge to Fountain Creek at the waste water
5 treatment plant in Colorado Springs and travel down Fountain
6 Creek to the confluence of the Arkansas. That study has
7 another year to go. And the technical report on that study is
8 just being completed.

9 The next phase of the effort would be to develop an
10 accounting package by which the transit losses can be
11 accounted for on a daily basis for administration.

12 THE CHAIRMAN: Russ, for my benefit, the loss of the
13 effluent from the sewage plants between Colorado Springs and
14 Pueblo essentially is what we're talking about?

15 MR. LIVINGSTON: The transmountain return flow
16 portion of those effluents; that's correct.

17 THE CHAIRMAN: How do you sort them out?

18 MR. LIVINGSTON: It involved a pretty complex ground
19 water surface water flow model. And through that modeling
20 effort we were able to identify the incremental losses that
21 would be associated with just that portion of the flow.

22 THE CHAIRMAN: And there have been some very
23 substantial flood events on Fountain Creek in the past decade
24 I'm aware of. Is the daily or the average contribution of
25 Fountain Creek significant in the overall Arkansas system?

1 MR. LIVINGSTON: At times it certainly is, that's
2 correct. For the most part these exchanges and the accrual of
3 these transit losses would be associated with less than
4 unusual flood events, just routine stream flow and so forth.
5 During extreme flood events the transit losses are reduced
6 considerably.

7 THE CHAIRMAN: Will you come up with a cookbook
8 again?

9 MR. LIVINGSTON: That's correct, the next step in the
10 process is to develop a computer accounting model that will on
11 a user oriented basis compute the transit losses, daily taking
12 into account changes in diversions, changes in the antecedent
13 stream flow conditions, changes in the effluents that are
14 discharged, and account for the transit losses and make
15 adjustments accordingly.

16 THE CHAIRMAN: That brings to mind, if you don't mind
17 a couple more questions. I take it from what you've said that
18 the existing transit loss study for the Arkansas is programmed
19 into the computers and the models for the river?

20 MR. LIVINGSTON: Mr. Jesse maybe could answer that
21 portion of it. But I would say that we used a very, very
22 similar type accounting model for the transit loss studies on
23 Fountain Creek. The approach has been about the same.

24 THE CHAIRMAN: Has there be any whisper or murmur
25 that's come to your ear that the existing transit loss study

1 and formula and cookbook is less than a hundred percent
2 accurate in any particular phase?

3 MR. LIVINGSTON: We understand that some of the
4 travel times in the original transit loss study on the
5 Arkansas need updating. That the times of travel are
6 different from those shown in the report. To what degree I
7 don't know. That perhaps may be needed to be updated. Mr.
8 Jesse probably could comment on the transit losses themselves
9 and that portion of the study. I have heard nothing myself.

10 THE CHAIRMAN: And my last question on this
11 interruption is this, are there -- has there been demonstrated
12 a need for an extension of the transit loss study or studies
13 on other reaches of the stream that are not covered by the
14 study? For example, does the present formula and report cover
15 the stretch of the river from John Martin to Garden City, say?

16 MR. LIVINGSTON: No, it doesn't. It just includes
17 the reach from Pueblo Reservoir to John Martin Reservoir. And
18 the last subreach of that total reach has been used below John
19 Martin, but we have done no specific investigations on that
20 lower reach. I believe there was a proposal offered perhaps
21 to this Administration at one time in that regard. But we
22 have not done any studies to date on that.

23 THE CHAIRMAN: And I suppose it would be for Mr.
24 Jesse or someone else to identify whether there were a great
25 need for such an extension or continuation?

1 MR. LIVINGSTON: Yes.

2 THE CHAIRMAN: Now that the interruption is over,
3 will you please keep going? Any of the questions on the
4 transit loss study that was reported on, would the conclusions
5 that you reach during this wet period, are they different from
6 a dry period?

7 MR. LIVINGSTON: They would, but that's the reason we
8 use a computer model. Because we model the hydrological
9 system and do not go out and gather data during this
10 particular period of time or any other approach like that. So
11 the model does take into account dry periods as well as wet
12 periods. That's the reason for that type of approach real
13 quickly than a couple of other investigations.

14 As I believe I mentioned last year, we're doing
15 extensive work in the Pinon Canon military maneuver area.
16 That of course is a tributary to the Purgatoire. And our
17 studies at this point have been in a reconnaissance nature. A
18 report of the general hydrology of that area is being prepared
19 at this time and being offered to the military in January, and
20 possibly will be published about six months from this time.
21 The next phase of that work will address the assessment of
22 military impacts on the receiving waters, those being
23 tributary to the Purgatoire.

24 We're doing a lot in the area of water quality. And
25 one of the reports Mr. Cooley has asked us to brief you on

1 involves water quality. Other studies that we're doing would
2 be a water quality study of Pueblo Reservoir, and we're about
3 halfway through that study. That study's being done in
4 cooperation with the Pueblo Board of Water Works and many
5 other entities to get a better idea of the water quality
6 changes in that reservoir and the effects of upstream sources
7 of pollution.

8 I would also mention that as part of our cooperative
9 agreement with the Southeastern District this year we'll be
10 adding some water quality sampling on other lakes and
11 reservoirs in the basin. And we've also been talking with the
12 Corps of Engineers about adding John Martin to those studies.
13 We have not heard back at this point. But it appears very
14 possible that we may extend those studies to include John
15 Martin.

16 THE CHAIRMAN: You have not heard back from whom?

17 MR. LIVINGSTON: The Corps of Engineers in
18 Albuquerque.

19 Lastly, one of the studies that has drawn a lot of
20 interest of course --

21 THE CHAIRMAN: Pardon me, we have a question here.
22 Identify yourself.

23 MR. REX MITCHEL: Rex Mitchel.

24 THE CHAIRMAN: Thank you, Rex.

25 MR. MITCHEL: Does your water quality also -- Are you

1 making a study to include the return, the transmountain return
2 flows from Colorado Springs? Is your study extended to the
3 water quality?

4 MR. LIVINGSTON: No, sir, it does not.

5 MR. REX MITCHEL: Thank you.

6 MR. LIVINGSTON: The last one I would mention in
7 passing is the Arkansas River basin water quantity and water
8 quality model. That was a 4-year study. It was reported two
9 years ago to this board. And we did make a presentation at
10 that time. That study developed a monthly accounting model
11 for planning purposes that was -- had the ability of
12 addressing changes in hydrology or water operations in the
13 basin.

14 Briefly, the progress on that, we have two published
15 reports, one of which is the operations report that Mr. Abbott
16 will report on. Another one is a summary and statistical
17 report that a Mr. Burns published. And I had some copies on
18 the back table, but I understand they're gone right now.

19 We had three other reports that are still unpublished
20 at this point. One discusses the water quality in the basin.
21 Another documents the model that was used. And then finally
22 there's a report that documents application of that model to
23 the Arkansas River. And we would hope that all those reports
24 would be published in the next six months. We're trying
25 desperately to get those out.

1 If there are no questions then, Mr. Chairman, on
2 those general activities, I'd like to now move to a brief
3 presentation on that water quality study and then we'll go to
4 Mr. Abbott's report.

5 THE CHAIRMAN: We have two reports of the USGS before
6 us. Mr. Pope and Mr. McDonald, I suggest we go off the record
7 for these two reports with our Court Reporter. Is this
8 satisfactory to Kansas?

9 MR. POPE: I think it is. What type -- Are you going
10 to mainly be using graphics?

11 MR. LIVINGSTON: That's correct.

12 MR. POPE: I think as we probably might, the graphics
13 aren't going to show up on the court report anyway. Might it
14 be possible to get copies of those?

15 MR. LIVINGSTON: It would.

16 THE CHAIRMAN: You do get copies of virtually --

17 MR. POPE: Well, we've got the whole report, the
18 actual public report.

19 THE CHAIRMAN: Yes.

20 MR. POPE: Sure, that's fine.

21 THE CHAIRMAN: And Mr. McDonald?

22 MR. McDONALD: I have no objection.

23 THE CHAIRMAN: If there's -- Karen is here, if
24 there's any reason to be back on the record, she'll be back on
25 at once.

1 (A presentation was given off the record.)

2 THE CHAIRMAN: Why don't we go back on the record for
3 this report.

4 MR. P.O. ABBOTT: The purpose of doing this report
5 was primarily to give a basis to the model. If you're going
6 to model a river basin and you should have a full --

7 THE REPORTER: Could you please speak up?

8 MR. P.O. ABBOTT: I'll try to speak louder. It's
9 hoped that the report will be of use to managers in the basin
10 especially those that are dealing with water in one segment of
11 the basin and may not have a concept of the overall water in
12 the basin. This is supposed to be a general description of
13 the Arkansas basin in Colorado.

14 I am -- I think the thing would be important to
15 anyone who's using the stream flow records in the basin to
16 understand exactly what those records entail. In the
17 description of the records, at least those published by the
18 GS, there are records that imply there's diversions above and
19 diversions in and out of the basin above and storage above.
20 But this report would expand on it.

21 Now, I'd like to cover how the body of the report was
22 done. It's not a report that I sat down and made up. It was
23 made by going to the different representatives and water
24 officials in the basin and finding out how their system
25 worked.

1 For example, we need to know how the Pueblo Water
2 Works raw water system worked. I went over to Bud O'Hara, sat
3 down across the desk from Bud and discussed it with him for
4 several hours and made notes on that; went back to my desk,
5 wrote down the conversation as I understood it. Then there
6 was an editorial review that then would go back to Bud, and he
7 would say, yes, with a letter saying that this is the way I
8 understood our conversation the other day. And he would
9 review it and send it back to me and say, yes, this is right,
10 with these exceptions, and we'd incorporate that into the
11 report. We did this for the irrigation -- pardon me, for the
12 municipal users and the industrial users and the systems,
13 ingrade systems for the agricultural users. We didn't have
14 the time or the budget to go to each ditch.

15 I did go to the Water Commissioner of all the
16 districts in the basin. That's some 11 commissioners I think.
17 I didn't send the results of the interview back to each
18 commissioner, but I sent that into Bob's office. And Bob or
19 Tom or Jim or Ken or someone there reviewed the ag portion of
20 it, the report.

21 Roughly, the contents of the report, it has an
22 introductory section which covers the location and the weather
23 and the physiology of the area. And the GS likes to have a
24 glossary where each of the technical terms are defined as used
25 in the report. And there are some terms that are in fairly

1 common use in the basin that I think might be indigenous from
2 the basin. The water users outside the basin might not know
3 the word "slink" or any of the local words that we might use,
4 so we took the opportunity of the glossary to explain those
5 words.

6 There is a short distance in the water plasma
7 excluded. It's very general. Then the main body of the
8 report, which I'll come back to in a minute, is a description
9 of the system, supplemental data which are tables describing
10 conduits, tunnels, reservoirs and the major ditches. The
11 ditches are the ones on the main stream of the Arkansas plus
12 any that were mentioned in the text.

13 There are four plates in the back of the book and two
14 of them are just location maps, base maps with the location of
15 the relationship of each of the figures that -- in the
16 descriptive part of the book -- outline the water districts
17 and show the location on each of the features on the plate --
18 the conduits, tunnels, main ditches and reservoirs. The third
19 plate is an oversize schematic of the Arkansas basin from
20 Canon City to the Kansas line. And the fourth plate is a
21 tabulation of water rights.

22 The GS has this on the computer and it's their
23 intention from time to time to update this plate as sales of
24 water rights or transfers of water rights change the picture.
25 They'll come out with a later addition of the plate. That's

1 the current plan.

2 The types of systems described are municipal systems.
3 I think in these the main ones we described was Colorado
4 Springs, Pueblo, Walsenburg and Trinidad. And the irrigation
5 systems, primarily those that were a little -- not just the
6 straight diversion, but out of the river and on the crop, with
7 a lot of our irrigation systems involve exchanges in storage
8 and transmountain diversions. And it was these that we're
9 trying to describe.

10 Industrial. The only industrial system that we
11 described was CF&I's, and it, at least the storage part of it,
12 has since changed. This -- By the way, we finished this in
13 about '84. And the valley's in a state of flux. So what it
14 describes is the way things were up to '84 as reflected in the
15 record.

16 And then we had multi-purpose systems. And in
17 describing these we used schematics. I have one of each type
18 just as examples. This would be Colorado Springs and the city
19 of Aurora's Homestake system. Where the water comes from, how
20 it gets from the mountain and what happens when these pick up
21 the system. This would be CF&I's near Pueblo system, the
22 water just downstream from Canon City, how water is diverted
23 into the Miniqua Canal or diverted out of there into the Union
24 Canal for irrigation around Florence. It comes -- It's taken
25 down and stored in the reservoir south of Pueblo where it's

1 joined by water out of the St. Charles. In the canal there's
2 the ability to waste in any one of a number of creeks crossed.

3 THE CHAIRMAN: P.O., before you change that plate, I
4 think that these schematics are one of the most remarkable
5 parts of the report. And I've been playing around for 25
6 years and have never seen anything that was so helpful or
7 illustrative either here or anywhere else. Was the layout of
8 these things on scratch paper on the first draft, were these
9 your diagrams, or were they a special draftsman or who's going
10 to get the credit?

11 MR. P.O. ABBOTT: The credit?

12 THE CHAIRMAN: The credit for these?

13 MR. P.O. ABBOTT: It's -- I got them where -- Some of
14 them were in existence, most of them were in existence. And I
15 got them wherever I could get them. I'm doing this with tax
16 payer money, and so we don't want to reinvent the wheel.

17 The city of Colorado Springs furnished me a packet of
18 schematics they had describing their system. Unfortunately,
19 it had no names on this packet and no date, no title. It
20 was -- Ed just gave me a package. So that got credited. I
21 tried in every case on the thing to give credit where credit
22 was due.

23 THE CHAIRMAN: But there's some hundred known
24 geniuses back in the woodwork there?

25 MR. P.O. ABBOTT: There's some hidden back there.

1 And I think that particular one from Colorado Springs was
2 created just, how do we say, oral and written communications
3 from Ed Martinez. And I think I believe I did this one
4 myself. I did several of them myself. There were different
5 styles and different types, so they all went to draftsmen.

6 No, I'm not claiming originality at this point. They
7 were hopefully checked and hopefully brought to date. But
8 this is a case in point, this one's straight out of the
9 Bureau's with some modification. But the main part is
10 straight out of the Bureau's report. And hopefully it says
11 so, but it doesn't. The Trinidad report I think is
12 acknowledged in the, yeah, references, right.

13 I think that's all I have to say. I would like to
14 entertain questions.

15 THE CHAIRMAN: I'd like to compliment again. I think
16 there will be people standing on your shoulders for many years
17 because of this work. And I think this work will be helpful
18 to anyone that works in the Arkansas River trying to sort out
19 what's going on. You're to be commended.

20 MR. P.O. ABBOTT: Thank you, and thank you for all of
21 us. Because there was some work done by an awful lot of
22 people. And that page 4 is -- I tried to acknowledge some of
23 it.

24 THE CHAIRMAN: Are there any other questions? Thank
25 you again, P.O. Congratulations. Could we have the lights on

1 again? Mr. Romph, do you have any slides?

2 MR. ROMPH: No, I don't have any slides. I will
3 stand up.

4 THE CHAIRMAN: We'll be back on the record and in
5 order. We've been on the record. Mr. Bob Romph from the
6 Corps of Engineers.

7 MR. ROMPH: Thank you very much, Mr. Chairman. I
8 have a short matter of my report that I will go ahead and
9 present to you here. Some of these things that are covered in
10 my report have been discussed by Mr. Jesse and others this
11 morning. So I will go ahead and summarize beyond the written
12 record that you have there.

13 THE CHAIRMAN: Your written report will be attached
14 to the minutes of the meeting and will be an exhibit (E)
15 thereto.

16 MR. ROMPH: The three major items I'd like to cover
17 is the Corps of Engineer's operation dollars, studies within
18 the basin, and construction within the basin.

19 First topic is operations. As you heard before,
20 there were no flood control operations in any of the Corps of
21 Engineer's regulated reservoirs in the basin in your last
22 compact year. Trinidad Reservoir reached peak storage of
23 about 26,492 acre feet, and this is well below the 62,943 acre
24 feet at which flood storage begins.

25 The Pueblo Reservoir was at the top of the

1 conservation pool during mid-July; however, the flow at the
2 Avondale gage and on downstream in which flood operations are
3 determined did not reach 6,000 cfs so there were no flood
4 control storage operations in the Pueblo reservoir.

5 John Martin Reservoir reached about 337,000 feet in
6 early March. This is about 18,000 acre feet short of the
7 point at which flood control operations in John Martin
8 Reservoir would begin.

9 Conditions look right in the basin, so that we expect
10 it will be at the top of the conservation pool or basically at
11 the flood pool in Pueblo Reservoir. Probably the next runoff
12 season we could very well be at the base of the flood pool in
13 John Martin Reservoir during the '87 runoff season. So we
14 would expect that we would get flood control operations or
15 could get flood control operations in either or both of these
16 operations.

17 Last year I reported that we were going to do our new
18 sediment surveys in John Martin and Trinidad Reservoir during
19 '86. We did do the underwater portions of the surveys.
20 During 1987 we will do the land portion of the surveys. Next
21 time we meet here in a general compact meeting we should have
22 new area-capacity tables for both reservoirs.

23 THE CHAIRMAN: Do you have any idea already how many
24 tens of thousands of this acre storage have been lost to
25 sedimentation?

1 MR. ROMPH: We have not analyzed the reports. We
2 have no information available.

3 MR. McDONALD: A new area-capacity for Trinidad?

4 MR. ROMPH: Yes.

5 MR. McDONALD: Wasn't there one just a couple of
6 years ago?

7 MR. ROMPH: The one a few years ago was based on 1980
8 data. So we have 1986-87 data.

9 MR. McDONALD: Thank you.

10 MR. ROMPH: I think perhaps that information was in
11 my report at the last compact meeting on December 10. Mr.
12 Cooley here most specifically grilled as to why we had not
13 changed the official elevations at Trinidad Reservoir. That
14 determines the base of flood control operations. You should
15 have a copy of a letter. Probably Mr. Cooley received a copy.
16 Each of the state chairmen received a copy that was dated
17 January 27, 1986. And within that letter we described the
18 establishment of new elevations for each of the pools within
19 Trinidad Reservoir to make it clear that the 8,000 acre feet
20 of additional storage that was found in our 1980 survey was
21 clearly established for the flood control operations.

22 We've been working with the city of Trinidad since
23 that time to try to get them to maintain the condition and
24 reestablish the condition on the channel on downstream of the
25 reservoir so we could conduct normal flood control operations.

1 We have not been successful so far.

2 So our intention is that should be used for design
3 flood control operations. We would restrict the Trinidad
4 Reservoir to 7500 cfs instead of the 15,000 cubic feet per
5 second that was originally planned.

6 The second item that I would like to report on is the
7 results of the flood control studies. Last year we
8 reevaluated the economics of the originally planned Arkansas
9 river channelization project from Pueblo Reservoir down
10 from -- Pueblo down to Las Animas. That project was planned
11 in the 1968 time period. That was following the '65 flood.

12 The purpose was to control flood damage from Pueblo
13 down to Las Animas. A side benefit of that would have been a
14 salvage perhaps of 41,000 acre foot of evapo-transportation
15 losses. And these losses would have been reduced from the
16 removal of phreatophytes and the channelization of our
17 project. They also would have been reduced due to lowering of
18 ground flood level as the base of the channel was lowered.

19 We found out that costs have risen very significantly
20 since 1968. The interest rate at which the federal government
21 evaluates these types of projects went from 3 1/4 percent to
22 8 5/8. The benefit/cost ratio went down from 1.3 to 0.1
23 today. So we terminated those studies. No more of these
24 studies have been conducted.

25 The last item, last year I reported that there are

1 areas in Colorado Springs where we found some favorable
2 reports. We require 50 percent cost-sharing to continue those
3 studies any further. The city of Colorado Springs has
4 announced an intention to go ahead and cost-share with the
5 Corps of Engineers in one of those studies that would be a
6 potential channelization of Fountain Creek below Manitou
7 Springs on down to the interstate crossing, which would happen
8 to be the crossing where Monument Creek begins. So we'll
9 begin that 1987 report.

10 The last item I'd like to report upon is
11 construction. We had a Water Resources Development Act in
12 1986. This is the first major Water Resources Development Act
13 authorizing the Corps of Engineers construction on projects
14 since 1970. Happily, Fountain Creek at Pueblo was one of the
15 new starts within that particular authorization.

16 In addition to that, we got \$700,000 worth of funding
17 for fiscal year '87 to go ahead and begin that flood control
18 project. That will involve channelization and levees along
19 the lower two levels of Fountain Creek just before Fountain
20 Creek comes into the Arkansas River. That will provide 200
21 years of flood control for the City of Pueblo. Pueblo will
22 pay 2.3 million dollars of an estimated cost of 8.6 million.
23 We're in the planning and specification stage right now. We
24 plan to begin the project in September of 1987.

25 Mr. Chairman, that completes my report.

1 THE CHAIRMAN: Thank you, Mr. Romph. Are there any
2 questions of Mr. Romph or the Corps of Engineers? Thank you
3 again for your presentation.

4 Mr. Willms, the floor is yours for the report of the
5 Bureau of Reclamation.

6 MR. WILLMS: Thank you, Mr. Chairman. To start out
7 with, on the project operations for the past year we've of
8 course heard most of it already. But because I didn't keep
9 notes, just what you have heard, I'll run through the whole
10 thing.

11 This year we're going to start out just about in the
12 same situation as we were last year with essentially full
13 reservoirs on the east slope. Last year we had only about
14 30,000 acre feet of vacant space the beginning of the water
15 year. About half of that was obligated to storage
16 contractors. We stored about 30,000 acre feet of winter
17 water; used some of the joint use space for that storage. I
18 think it was someplace in the neighborhood of 14,000 acre
19 feet. All of the winter water was run out by early June.

20 We imported from the west slope 30,270 acre feet.
21 The amount that we imported was limited by the storage
22 available on the east slope. We delivered 9,820 acre feet of
23 project water. 3,850 was for municipal-industrial purposes;
24 5,970 for irrigation.

25 We also diverted about 7,000 acre feet from Half Moon

1 Creek through the Mt. Elbert conduit, Mt. Elbert Power Plant
2 and back into the Arkansas River. It's the first year we've
3 extensively used Half Moon diversion.

4 We had a flow-through of Mt. Elbert Power Plant of
5 67,380 acre feet. We had a pump-back operation where we
6 pumped back 414,580 acre feet. The total generation of Mt.
7 Elbert was 173,000,600 kilowatt hours.

8 Currently Pueblo Reservoir is at the top of the
9 conservation storage. We have approximately 9,000 acre feet
10 of vacant space in the upstream reservoirs on the east slope.
11 There's 417,000 acre feet of project water in storage.
12 There's 15,000 acre feet of winter water in storage or
13 approximately 15,000. There's approximately 95,000 acre feet
14 of storage under our storage contracts.

15 The project is presently using a little over 6,000
16 acre feet of space that's obligated to our storage contracts.
17 The winter storage which has been in Pueblo has been
18 temporarily suspended because of lack of space.

19 And that's the extent of my report on the Fry-Ark
20 operations. If there are any questions on those, I might
21 entertain them before I go on.

22 THE CHAIRMAN: It seems to me that the system in a
23 sense can break down because of too much water as well as too
24 little.

25 MR. WILLMS: Well, that's correct. We, this year we

1 wouldn't anticipate importing anymore water than necessary to
2 meet immediate demands to make up for evaporation and fill the
3 small amount of space that's available in the reservoir
4 systems, just a few thousand actually for project water.

5 So most of the water will go down the Colorado River.
6 It does alter our operations on the Colorado side quite a lot
7 particularly from a flood control standpoint.

8 As a result of the Ruedi Reservoir, there's been
9 quite a lot of development on the Fryingpan River below Ruedi.
10 And we normally can control that flow fairly well, but we
11 control that substantially by the amount of water we bring
12 through Boustad Tunnel which on peak runoff periods would be
13 about 960 cubic feet per second.

14 We have our reservoirs full. We can't make that
15 diversion. That water has to go into Ruedi. And consequently
16 we have to draw Ruedi further down. In order to accommodate
17 that, we have to bring it up slower. It results in some
18 degradation of the recreation in the reservoir.

19 THE CHAIRMAN: The bizarre situation is that the
20 principal effect in this year may be that the rafters on the
21 Fryingpan have a faster ride.

22 MR. WILLMS: We hope not. We hope to control the
23 water down the Fryingpan.

24 The other issue I'll touch on briefly is the
25 operation study for -- the operating principle study for

1 Trinidad project.

2 As you're all aware at about this time last year we
3 sent out the draft of the report. We received substantial
4 comments, most of them being received by March, some of them
5 not coming in until on in until later in the spring months.
6 Many comments. Quite a few of them asked for a more in-depth
7 studies. Quite a few of them questioned some of the basic
8 data. There were, of course, comments on our interpretations.
9 And some comments on the engineering work itself.

10 The questions on the basic data concerned us quite a
11 little bit because we're completely dependent on other sources
12 for data other than our own sources. Most of the data we used
13 had come from either state of Colorado or from the Corps of
14 Engineers.

15 After some analysis of the comments, we decided that
16 the first step we needed to do was to get the data verified.
17 So we asked each, the Corps and the state of Colorado, to
18 verify and attest to the accuracy of data we were using. The
19 Corps in effect declined to do so stating that their data was
20 operational data. And it was whatever it is. And they really
21 would not attest to its accuracy.

22 From the standpoint of using from the studies that we
23 have done, the Corps data, however, is necessary, and I think
24 that we'll have little choice but to use it. And the way the
25 data is used, we'll try to minimize the effects of any

1 inconsistencies in the data. But whatever is there will have
2 to be accepted.

3 We just last week received certification of the data
4 from the state of Colorado. And so I think those issues are
5 at least behind us for the time being.

6 We had made an additional decision after reviewing
7 the comments that we didn't want to do very much more work on
8 it until the data was verified. So we've not done very much
9 in the intervening period. We have resumed work on the
10 comments. We're evaluating them further. We will, of course,
11 make some determination from our perspective as to whether the
12 comments are valid on a comment-by-comment basis.

13 Those requests for additional studies we will analyze
14 those requests and make a determination as to whether those
15 studies are doable with a reasonable engineering certainty.
16 And of course whether they're within our resources to do. And
17 that of course includes whether there's data available to do
18 them since data seems to be one of the major shortages.

19 Once we've completed these steps and done the
20 additional studies that we feel are doable, we will then issue
21 a second draft for comment.

22 And I think that's pretty much the status of where we
23 are. I'll entertain any questions concerning operations
24 studies.

25 THE CHAIRMAN: What is the timetable for the second

1 draft?

2 MR. WILLMS: We haven't set a timetable yet, Frank.
3 We've not yet determined how many of these extra requests for
4 analysis that we can really do or what data is available to do
5 them and what resources are available to do them. So I'm
6 really not in a position to make any commitments on time.

7 THE CHAIRMAN: Is the Trinidad -- Are there any
8 people here from the Trinidad District? Are they represented?
9 The Purgatoire?

10 THE CHAIRMAN: Do you know whether they were planning
11 to come, Bob?

12 MR. JESSE: They were planning to come, but I got a
13 call, and they did not come because of the storm.

14 THE CHAIRMAN: There are some unresolved issues
15 between the Bureau of Reclamation and Purgatoire and the
16 Compact Administration that I would like to see resolved and
17 moved ahead. There are loose threads concerning the report
18 and the operation of Trinidad. And if there's anything that
19 can be done to take care of the loose threads or the Irish
20 penance, I'd like to do it.

21 Is there anything that can be done by either of the
22 states at this stage of the proceeding that would expedite the
23 issuance of your report, Ray?

24 MR. WILLMS: Well, other than for the two states to
25 get together and agree on some resolution and issues, I would

1 doubt it.

2 THE CHAIRMAN: We'll take that up at a later hour.
3 Nothing specific needed now?

4 MR. WILLMS: I am not aware of anything specific.

5 MR. McDONALD: Frank?

6 THE CHAIRMAN: Yes, Mr. McDonald.

7 MR. McDONALD: David Pope, it occurs to me that you
8 had in your correspondence, I guess, last March, suggested
9 that a meeting would be useful. I know the Purgatoire Water
10 Conservancy District is prepared to do that, now that you've
11 got certified records, or declines to certify, I take it the
12 data that is is in front of us.

13 I would think -- and for the most part I think I can
14 speak for the Purgatoire District based on the correspondence
15 I've seen and certainly for the state of Colorado -- I think a
16 meeting would be useful within the next several weeks prior to
17 the Bureau moving into figuring out how it's going to get to
18 the second draft. I don't know why at least some of the stuff
19 can't be put behind us, David, with respect to basic data
20 questions or what have you, and maybe we can even get further
21 than that. And then get as much of a common ground as we can
22 for the 5-year -- purposes of the 5-year review. Get the
23 second draft and another meeting after that might be
24 appropriate. I wonder if that wouldn't been an expeditious
25 way to proceed.

1 MR. POPE: I think what we stated in our original
2 letter is still our thought, you know, as far as if there
3 would be merit in something productive that can be
4 accomplished, why then certainly we're willing to participate
5 in a meeting.

6 MR. McDONALD: Ray, would you folks be willing to sit
7 down?

8 MR. WILLMS: Most certainly. Because I don't think
9 there's any question the nature of the comments extended the
10 study considerably, and that it's going to extend the time if
11 we go through all of them. If there's some of those issues
12 that can be resolved without further or limiting the study
13 somewhat, I think it could be useful. And we're certainly
14 amenable to a meeting.

15 THE CHAIRMAN: Apparently some of those are nonissues
16 or can be disposed of in an hour's time. So by all means,
17 let's try to have that meeting. And I would think that there
18 would only be four entities necessary to be at the meeting.
19 One would be Kansas, Colorado, the District and the Bureau.
20 And can we have it -- Could we have it as shortly after
21 Christmas as possible? Would that be a reasonable time frame?

22 MR. WILLMS: I would think we'd want to look for
23 January or probably not before the first of January.

24 THE CHAIRMAN: All right, early in January. And why
25 don't you and Bill pick the -- pick a time in advance and then

1 let Ray handle the logistics of when and where and what can be
2 done.

3 MR. WILLMS: Sounds fair to me.

4 THE CHAIRMAN: And the two of you agree on an agenda
5 as well. Would that be all right?

6 MR. McDONALD: That's fine with me. I would like to
7 contact the Purgatoire District too but I'm sure they're
8 amenable to doing this.

9 MR. WILLMS: Well, yes, Sandy MacDougall expressed
10 several times that we would like to have a meeting.

11 MR. McDONALD: Good.

12 THE CHAIRMAN: Thank you very much. Are there any
13 questions of the -- of Ray?

14 MR. BENTRUP: Just a second.

15 THE CHAIRMAN: Apparently we're going to have a
16 question.

17 MR. WILLMS: I almost got away.

18 THE CHAIRMAN: Yeah, tried.

19 MR. BENTRUP: I have one. I think Mr. Romph can
20 answer it. I notice there's a pipe line running from the
21 Trinidad to the military establishment in Pinon Canon. Where
22 is that water coming from?

23 MR. JESSE: That's coming from the city of Trinidad.

24 MR. BENTRUP: City water then?

25 MR. JESSE: City water and treated water. And I

1 don't know if it's operational or not. Maybe somebody that's
2 seen it can -- Tommy probably --

3 MR. THOMSON: It is fully operational.

4 MR. JESSE: It is operational.

5 MR. POPE: Mr. Chairman?

6 THE CHAIRMAN: Yes.

7 MR. POPE: My question, I think I just for
8 clarification, Ray, you indicated you received a certification
9 on the data. I take it that was just a certification, it was
10 not changes to the data or additional data?

11 MR. WILLMS: Well, actually we received certified
12 data and a whole box full of it. And I have been told by the
13 state that there are only a few minor changes in the data.
14 However, we have not gotten all the way through it. So I
15 really can't personally --

16 THE CHAIRMAN: Well, there's another reason. It
17 seems to me there's another reason why progress ought to be --
18 we ought to make the effort on progress notwithstanding the
19 litigation. And that is that there are some issues in the
20 river today that are relatively modest in amounts of water in
21 volume of water. And if those issues can be disposed of, it
22 would appear to me to be in everyone's best interest.

23 And I think that some of the Purgatoire issues aren't
24 of major significance in comparison to some of the other
25 issues. Thank you very much, sir.

1 The hour is twelve. I understand from Mr. McDonald
2 that the state of Colorado is going to host a buffet luncheon
3 which -- whose particular characteristics are that you pay as
4 you go. It's alleged to be a superior opportunity to break
5 bread.

6 MR. POPE: Mr. Chairman.

7 THE CHAIRMAN: Yeah, David.

8 MR. POPE: Before we do that. I would, just glancing
9 at the agenda, and knowing the weather as it is, I was
10 wondering if really items 11 through 14 would really take more
11 than just a very few minutes, if we couldn't proceed with
12 those.

13 THE CHAIRMAN: You could then get rid of most of the
14 crowd.

15 MR. POPE: That's right.

16 THE CHAIRTMAN: Okay, because of the storm, let's
17 continue. Is it all right with you and your cooks, Mr.
18 McDonald?

19 MR. McDONALD: Just so you all go to lunch afterwards
20 so I don't get in hock with the hotel.

21 THE CHAIRMAN: The decline of sales tax makes it
22 imperative that you stay for lunch at the hotel. We'll pass
23 to item number 11. And I think some of these, Mr. McDonald,
24 you have a report. I don't -- I should know how to pronounce
25 it but I don't want to try. Keesee. K-E-E-S-E-E. All right.

1 Mr. McDonald.

2 MR. McDONALD: An application has been filed in the
3 Colorado Water Court, as the members of the Administration
4 know, concerning a proposed change of water rights for the
5 Keesee Ditch to the points of diversion upstream of John
6 Martin Dam.

7 The Administration, if my memory serves me correctly,
8 has previously advised the Water Court by letter and the
9 applicant by letter that the Administration's of the view that
10 the findings of facts must be made by the Administration
11 pursuant to the appropriate provision of the compact.

12 As I recall, the last communication from the
13 Administration to the applicant advised the applicant of the
14 provisional report from the applicant to the Administration
15 would be necessary so that the Administration could make the
16 review and appropriate findings. That engineering report has
17 now been completed. The copies should have been transmitted
18 to the members of the Administration at my request from the
19 consulting engineer and attorney for the applicant.

20 It's Colorado's view that we now need to have the
21 Administration review that engineering report and move towards
22 the making of findings. And our suggestion would be that the
23 matter of the engineering report be referred to the
24 Administration's engineering committee for review and for them
25 to report back to the Administration. And that may well take

1 a special meeting in the not too distant future. Beyond that,
2 I don't know of any action that needs to be taken today.

3 THE CHAIRMAN: It strikes me that that sounds highly
4 appropriate. Mr. Pope.

5 MR. POPE: I think we would concur with that as the
6 way to proceed.

7 THE CHAIRMAN: All right, that matter will be,
8 without any further action of the Compact Administration, be
9 referred to the engineering committee with the understanding
10 that they will report back and that it may be appropriate for
11 there to be a special meeting whether telephonic or otherwise
12 to act upon that report.

13 Is Mr. Broyles here? Does that sound satisfactory to
14 you, Mr. Broyles?

15 MR. JAKE BROYLES: Yes.

16 THE CHAIRMAN: Fine. We'll proceed to item 12, the
17 Frontier Ditch. Mr. McDonald again.

18 MR. McDONALD: Frank, again, a matter that had been
19 brought to the Administration's attention when the Frontier
20 Ditch, whose headgate of course is in Colorado but the
21 administrative jurisdiction of which per the compact is under
22 the Kansas Chief Engineer's control, they applied for water
23 rights to the Colorado Water Court.

24 David and I put it on the agenda as an informational
25 item and in the intervening weeks since the agenda went out

1 the Colorado Water Court has ruled on that water right
2 application and has dismissed it for lack of jurisdiction. I
3 provided David, did I not, copies of that --

4 MR. POPE: Yes, sure did, thank you.

5 MR. McDONALD: -- opinion to you last night. At this
6 point in time it's my understanding that the applicant has two
7 courses of action. They can move for reconsideration by the
8 Water Court, or they can appeal the decision. I have no
9 knowledge of whether they will pursue either of those courses
10 of action. And I think there's nothing for the Administration
11 to do but to watch this one play out as it might.

12 THE CHAIRMAN: I think that's clearly the appropriate
13 action for us to take. And that is to continue to watch the
14 unfolding saga. And now the Hammit application.

15 MR. McDONALD: Could I back up on Frontier?

16 THE CHAIRMAN: Yes.

17 MR. McDONALD: I'd suggest that we put in the record,
18 I think it would be Exhibit E at this point, the Water Court
19 decision.

20 THE CHAIRMAN: You may be one exhibit off. But if
21 you get that to Karen, it will go in the record, otherwise it
22 won't. (See Exhibit F.)

23 MR. McDONALD: I've got a couple of questions about
24 where we stand on that now, Frank, if I could. David I --
25 Well, our court obviously has ruled you can't come here and

1 get a water right. There's been litigation in Kansas that I
2 understand went to your Supreme Court with respect to the
3 authority of the Kansas Chief Engineer to administer that
4 water right. Where does all of that stand, and why was there
5 an issue about your control given what the compact says?

6 MR. POPE: Bill, I don't think there was an issue in
7 terms of our control per se, at least in the -- in Kansas.
8 The Supreme Court litigation that you referred to did deal
9 with an issue between Frontier Ditch and our office regarding
10 the use of water pursuant to their vested right.

11 It's my understanding, and I've not really had much
12 contact at all with any -- really formally with Frontier Ditch
13 on the application filed in Colorado. But it's my
14 understanding that that was essentially filed from a defensive
15 posture in light of the Hammit filing since that dealt with
16 flows that otherwise would be intercepted and diverted by the
17 Frontier Ditch. So I don't think they really were questioning
18 it in any other aspect. And I don't really see that there's
19 any question that they have always agreed that their headgate
20 for administrative purposes is treated by the compact as it
21 is.

22 MR. McDONALD: I take it part of the issue in the
23 case that went to your Supreme Court was --

24 MR. OLIVER HINES: Sir, I'm Oliver Hines, secretary
25 of the Frontier Ditch. The court in Colorado has agreed that

1 there's legal precedence to establish a water right to protect
2 the water that we are allowed by the state of Kansas.
3 However, they have interpreted a compact to read that the
4 Compact Administration now has the authority to do this. For
5 that reason, they have not allowed this in our behalf. Thank
6 you.

7 THE CHAIRMAN: I didn't --

8 MR. POPE: The decision was rendered by the Court.
9 You can read it for yourself as to what the reasons were.

10 MR. McDONALD: The further question I wanted to ask,
11 David, I take it what precipitated the litigation in your
12 state that went to your Supreme Court was claims by the Kansas
13 ditches below Frontier that Frontier, who does have an
14 acknowledged vested property right as I understand it, was
15 diverting twice as much as they were entitled to. And that
16 case is disposed of. And it's been found by your Supreme
17 Court that they were and they were not entitled to do so. And
18 that this was occurring during the '60s and '70s when we had
19 drought problems.

20 MR. POPE: Bill, I think a total discussion of
21 everything involved in that court case would be beyond the
22 scope of any issue raised here as I understand them in terms
23 of the filing that was on hand. The essence, the bottom line
24 was that they upheld -- the Supreme Court upheld the Kansas
25 position that their vested right was valid, and that they

1 didn't reopen. A determination had been made long ago. I
2 don't think there's any other --

3 MR. McDONALD: But that vested right was less than
4 what they had been diverting. That's what precipitated the
5 debate I take it. And they have a vested right for what,
6 about 4,000 or 4500 acre feet if I recall. And they've been
7 diverting, if I remember the case, 9,000 acre feet during the
8 '70s?

9 MR. POPE: Yeah, well again, Bill, I think, you know,
10 like I say, there's a lot of complexities and a lot of reasons
11 for why that ultimately ended up in litigation. I don't
12 remember the specific numbers, but I guess I would just say
13 that I think that opinion speaks for itself in terms of the
14 issues that were raised.

15 THE CHAIRMAN: Are we getting into theology here?

16 MR. McDONALD: No, I'm trying to find out if the
17 Chief Engineer's got exclusive administrative control of his
18 headgates. There's been some concern to us if there's any
19 unresolved issue in Kansas about the ability of the Kansas
20 state engineer to administer that headgate within the bounds
21 of the appropriate vested water rights because obviously it
22 has an impact of how the water gets called down the river.

23 MR. POPE: No, I don't think there's any doubt in
24 terms of the aftermath of that case. I think we have total
25 jurisdiction over the amount and the way in which it would

1 divert water.

2 MR. McDONALD: Why, David, was there an issue about
3 the -- or why was it not being administered? I take it that
4 was the problem in the late '60s and '70s.

5 MR. POPE: Bill, again, I think you're going beyond
6 any issue that's before the Administration for any
7 consideration. You know, I think we're obviously getting into
8 some specific instances of diversions by various ditches that
9 really aren't in issue as far as I know as a part of this
10 agenda item.

11 Like is the case in Colorado, there's various
12 internal administration that takes place from time to time for
13 lots of different reasons. I'd be, you know, were it not for
14 the fact that I think it's inappropriate for this format, I'd
15 be happy to explain the evolution of Kansas water law and why
16 things have been handled the way they have been.

17 MR. McDONALD: Well, I may take you up on that,
18 because I think Colorado is going to have to give
19 consideration to perhaps having a special meeting so that I
20 can be sure we understand that the Frontier Ditch is
21 appropriately administered. We have clear interests in how
22 that happens. I think I understand the Supreme Court
23 decision. But I think it's something that the Administration
24 may well need to review and we'll get back to you if we find a
25 need for a special meeting.

1 MR. POPE: Well, I think that's probably perhaps the
2 way we need to leave it. I just certainly assure you that the
3 ditch is being administered in accordance with their vested
4 right in the opinion of the Supreme Court.

5 THE CHAIRMAN: I would hope that you would be able to
6 do everything possible to avoid a special meeting on the
7 Frontier Ditch.

8 MR. McDONALD: Would mid-February in Garden City
9 with a possibility of a blizzard be in time?

10 THE CHAIRMAN: The Hammit Water Right Application,
11 I've seen a Xerox copy of a motion to dismiss. And Mr.
12 McDonald or Mr. Pope, it would seem to me that the status of
13 that would be similar and one that could be observed by the
14 Compact Administration but doesn't require action at this
15 time; is that right?

16 MR. McDONALD: Again, David accurately points out
17 that the Frontier and Hammit kind of come as a pair. The
18 Hammit Water Rights Application was filed in the Colorado
19 Water Court first. It contemplates diversion of water for use
20 in small part on lands in Colorado, in larger part on lands in
21 Kansas.

22 Frontier filed what David characterized as a
23 defensive water right application themselves. The Hammit
24 applications, unlike Frontier Ditch application, has not moved
25 along in the Colorado court process. It has not been set per

1 our term date procedures.

2 What has happened, and I think all we can do is
3 report at this point in time, the Southeast Water Conservancy
4 District, and Carl you advised me the Arkansas Water Valley
5 Ditch Association and somebody else --

6 MR. ROGERS: The Amity, I think.

7 MR. McDONALD: The Amity, have filed motions with the
8 Colorado Water Court seeking to have the water rights
9 application for Hammit now dismissed based on the ruling of
10 the Frontier Ditch case. I am not advised that the Court has
11 ruled yet. And again I don't -- I'm not aware of anything
12 that the Administration needs to pursue at this point in time.

13 THE CHAIRMAN: Certainly the situation of a ditch
14 with a headgate in one state and irrigated fields in another
15 presents an anomalous situation. It's going to continue to be
16 intriguing wherever encountered. Mr. Pope, anything more on
17 that?

18 MR. POPE: No.

19 THE CHAIRMAN: Now the last item of excitement on the
20 menu for the entire group here, the Clay Creek Dam and the
21 water rights thereunder. Mr. McDonald.

22 MR. McDONALD: Frank, this one arose when Kansas
23 asked by way of letter, oh, last spring or this summer, if
24 some sort of dam had been constructed on Clay Creek. Let me
25 summarize what I understand the facts to be. Bob Jesse can

1 fill in better than I.

2 It apparently turned out that a dike had been put
3 across the creek by the city of Lamar. The state was not
4 aware of it because it was an embankment under ten feet in
5 height and therefore people don't have to file plans and
6 specifications which is the device by which something is
7 brought to the state engineer's attention. Before the matter
8 was really dealt with one way or the other, it turned out that
9 this embankment washed out during a summer rainstorm. And
10 this embankment was downstream, am I right, Bob, from the real
11 dam that was of debate back in the mid '60s?

12 MR. JESSE: Right, in the breach of it.

13 MR. McDONALD: Oh, that's right. What the pool
14 really had been through the previous 1965 dam. Anyhow, so the
15 thing was gone and there was nothing there to hold water. We
16 now learned however I guess in the last couple of days that
17 they moved back in and put the thing up.

18 It is again to our understanding less than 10 feet
19 high. So we don't have plans and designs, and we can't tell
20 exactly what's there. Bob does have, however, and we can
21 report to you we have authority to check into those things to
22 be sure they are in compliance with state water law and the
23 compact even, though they don't have to file any plans and
24 specs. And Bob advises me that he will be out there to check
25 it out and find out what the heck they have built.

1 To our knowledge it's another 8 or 9 footer. It will
2 probably blow out the first time the creek runs. But beyond
3 that, we really as a matter of fact can't tell you what's
4 there. We have not been out to see her. But Bob has the
5 authority and jurisdiction to do that, and we'll do so.

6 THE CHAIRMAN: Colorado has two sets of water
7 administration. And either on speaking terms or not on
8 speaking terms, depending largely on the personality of the
9 local division engineer, in this sense, in this area, Mr.
10 Jesse. One, the Water Courts and the water administration
11 through the courts. The other is the administration of water
12 through the system of the division engineer. And trying to
13 keep them sorted out is a challenge not only to the irrigator
14 but also to the practitioner. And the business of the
15 reservoirs is in one church, and they worship one god. And
16 the administration of the decrees is entirely another. That's
17 what we have here.

18 Do you desire any further discussion of Clay Creek
19 other than Mr. Jesse's attention to it?

20 MR. POPE: I think that's probably appropriate. I do
21 appreciate the update. And it was merely a concern expressed
22 by the state of Kansas originally because as projects evolve
23 and take place, there's not an opportunity for us to
24 frequently know what is going on. And therefore the concern
25 was raised. And in this particular instance, because of the

1 nature of the project, I really don't see that we need to go
2 any further with it, at least at this time.

3 THE CHAIRMAN: Now, here's where we are. The only
4 item left on the agenda is the budget. And that's going to
5 take some work by the Compact Administration, and it is an
6 area that is not of great interest to the public at large.
7 The compact is in session. We're working. And if there is
8 any other matter or question or comment that should be made,
9 now is the time to do it. Because after lunch, we'll be
10 concerned exclusively with the budget of an unusually dry
11 subject.

12 MR. McDONALD: Frank?

13 THE CHAIRMAN: Yes, Mr. McDonald?

14 MR. McDONALD: I regret there's a difference between
15 us, but I am not satisfied with the disposition of the matter
16 of an account for Southeast District. I would like to return
17 to that and indicate that what I had hoped for is to introduce
18 into the record and I will tender to you now a June 20, 1986,
19 letter from Tommy Thomson to you in your capacity as chairman
20 of the Administration requesting the account, and a sequence
21 of letters then dated July 9, 1986, from Dennis Montgomery to
22 Richard Simms covered by a July 9th letter from myself to
23 David Pope proposing a resolution for adoption by the
24 Administration and indicating our understanding of why the
25 Kansas representatives to the Administration by virtue of

1 previous telephone conversations found that resolution
2 unacceptable; a response of July 17, 1986, to Dennis
3 Montgomery from Richard Simms, and finally a July 22nd, 1986,
4 letter from Dennis back to Richard Simms.

5 I guess my concern frankly is that I think we've
6 always been quite liberal in the mutual concerns of respective
7 states for creating records particularly with respect to
8 things that are already in writing. And I would think a
9 better way to handle this is note Kansas' continuing
10 objections if there are some but enter them into the record.
11 And if it's a matter that is particularly sensitive because of
12 litigation, let some future court of law determine what is or
13 is not appropriate in the matter of evidence.

14 THE CHAIRMAN: Mr. Pope, your position and Mr. Simms'
15 position and the state of Kansas' position on this matter is
16 very clear and has been enunciated. And I think your remarks
17 are continuing.

18 My own personal view as representative of the United
19 States and chairman of this Administration is that unless
20 there is something to do with rules of order or administration
21 of the Administration, I've been presented with a
22 contra-attempt in which I ultimately would have no choice
23 other than to accept the tendered documents from Colorado to
24 be a part of the record of this meeting. I, of course, will
25 hear you now and always. But there would have to be, before I

1 would not accept it, there would have to be something of --
2 that would --

3 MR. SIMMS: Mr. Chairman?

4 THE CHAIRMAN: Yes, sir.

5 MR. SIMMS: Again I would like to reiterate on behalf
6 of Kansas, that when counsel for Colorado discussed the matter
7 with me, it was understood that these were private
8 discussions. And one of the matters specifically raised by
9 the state of Kansas was that this would not be brought to the
10 court's attention. The obvious purpose of submitting these as
11 a matter of record in this proceeding is to do just that,
12 contrary to what we agree upon and discussed. It is Kansas'
13 view that this cannot be done unilaterally, and should not be
14 done.

15 THE CHAIRMAN: Well, I don't know what the purpose is
16 of the introduction of these into the record. Your remarks
17 are preserved and indeed these are now part of the record of
18 this meeting. Is there anything further that anyone wishes to
19 bring up?

20 MR. LEO IDLER: Mr. Cooley.

21 THE CHAIRMAN: Yes.

22 MR. LEO IDLER: I have a number of 1984 annuals with
23 me if anybody would like a copy of it.

24 THE CHAIRMAN: Thank you. When did they come off the
25 press, the 1984? Were they this year, printed this year?

1 MR. LEO IDLER: Yes, they were printed this summer.

2 THE CHAIRMAN: We have some reports from the summer
3 this year, they go to 1984. The -- It is now 25 minutes after
4 12:00. The Compact Administration will come back for business
5 at 1:30 or such other earlier moment as -- We're still on the
6 record. There's another matter pending from Colorado before
7 we go into recess.

8 MR. MONTGOMERY: Mr. Chairman, before we adjourn,
9 I'm not sure whether we heard the matters that are left with
10 respect to the tendered documents.

11 THE CHAIRMAN: They are a part of the record of this
12 meeting. (See Exhibit G).

13 MR. MONTGOMERY: I would just like to state for the
14 record that insofar as my discussions with Mr. Simms were
15 concerned about the creation of the temporary storage
16 accounts, that I had no understanding with Mr. Simms that
17 those discussions were somehow confidential or that they
18 involved settlement negotiations of a lawsuit, and that is set
19 forth in my letter to Mr. Simms which is tendered with the
20 letters that Mr. McDonald has submitted to the Administration.

21 THE CHAIRMAN: Mr. Montgomery, the Reporter has your
22 remarks. The meeting will be in recess.

23 (A lunch recess was taken at 12:25 p.m.)

24 THE CHAIRMAN: There's been a discussion off the
25 record with the persons that are aware of the intricacies and

1 the complexities of communication satellites and availability
2 of data. Prior to that there was a consensus that the fiscal
3 year 86-87 budget required no further attention. And if the
4 nodding of heads of the informed people in the audience is any
5 indication, we're ready to adopt a fiscal year 87-88 budget as
6 presented. And those dates are July 1st, '87, to June 30th,
7 1988. Mr. McDonald.

8 MR. McDONALD: I think there's maybe one other item
9 that we should discuss -- consider adding to the budget. Leo
10 advises that in the context of catching up on the record
11 keeping for the Administration, we probably need to purchase
12 some file cabinet equipment. And I had not anticipated that
13 in the draft budget. It would seem to me that we ought to add
14 a line item for that kind of equipment. Five hundred bucks
15 ought to be enough.

16 THE CHAIRMAN: Five hundred bucks ought to be plenty.
17 Lee?

18 MR. LEE HANCOCK: That will buy about one 4 to
19 5-drawer file cabinet.

20 THE CHAIRMAN: Oh, are things that bad?

21 MR. LEE HANCOCK: They run about four or five hundred
22 dollars for a good quality file cabinet.

23 THE CHAIRMAN: Age is creeping up on me in all sorts
24 of ways. And a \$500 file cabinet, which to me means one with
25 an inch of ceramic on the edges so it preserves paper through

1 bombs is --

2 MR. McDONALD: Okay, let me suggest this, why don't
3 we add a new expenditure: D - office equipment, \$2,000.
4 Give ourselves plenty of room. And then the current item D
5 and E would be relettered accordingly. And then the totals
6 for expenditures would be refigured accordingly. The total
7 budget would become \$35,490.

8 THE CHAIRMAN: Oh, dear, I'm on the wrong page.

9 MR. POPE: I don't think we have any problem at all
10 with that.

11 THE CHAIRMAN: Oh, I see. Give me the figure again
12 for total? \$35,490?

13 MR. McDONALD: With that change if it is found
14 acceptable.

15 THE CHAIRMAN: Yes, that's on the expenditure side,
16 and it's the income. All right.

17 MR. McDONALD: David, you had something else?

18 MR. POPE: No, I think it's probably been adequately
19 discussed. I think, you know, where we were getting to back
20 when -- excuse me for just a second -- but back on the gauges,
21 where we were getting to is we -- the joint decision where the
22 radio relays were not needed. Therefore, we go with the USGS
23 proposed budgets without that included.

24 Then the secondary question I guess I was about ready
25 to ask was how was the \$7,000 other than just the thousand

1 dollars per gauge determined as far as the appropriate share
2 that the compact ought to bear to the cost of running the
3 DCP's?

4 MR. McDONALD: What Jeri's letter suggests, I've been
5 looking at it here, the approximate cost to the state of
6 Colorado to run a DCP is \$1900 per station. We clearly use
7 those gauges for Colorado's own benefit in administering our
8 water requirements. Jeri offers the judgment that it's
9 roughly a 50 percent benefit to Colorado and 50 percent to the
10 Administration. And that's how we arrived at a thousand
11 dollars of each station out of its total \$1900 cost being paid
12 for by the Compact Administration.

13 MR. POPE: Okay.

14 THE CHAIRMAN: There continues to be the nodding of
15 heads on both sides of the aisle.

16 MR. POPE: Are there other --

17 MR. McDONALD: Some people might just be getting
18 sleepy.

19 MR. POPE: I think -- You know, I don't think we want
20 to quarrel with the exact dollars there. It's really more a
21 matter, are there other gauges that are part of that network
22 that entities cost-share on other than the Compact
23 Administration's, or is it something you do anyway.

24 MR. JESSE: I understand you get the whole net, the
25 one we printed out back here if you wanted.

1 MR. POPE: So basically what you're saying is paying
2 a pro rata share of the seven gauges then the entire system
3 becomes available --

4 MR. JESSE: Yes.

5 MR. POPE: Inside out.

6 MR. McDONALD: And other nonstate entities are
7 contributing money throughout the Arkansas River Basin, David,
8 throughout the state of Colorado for that matter. It is -- I
9 don't have the particulars but I specifically remember our
10 General Assembly has required the State Engineer's Office to
11 garner a minimum amount of local cost-share.

12 MR. POPE: Okay.

13 MR. McDONALD: For example, the Southeast Water
14 Conservancy District I know is contributing to several
15 stations and cost-sharing.

16 MR. POPE: I think, you know, Carl, you and Ron tell
17 me how you feel, from our perspective if the network becomes
18 available, accessible in all ways, the 45 total gauges in the
19 Ark River Basin, I think that's what we're talking about
20 basically. Then, yeah, I don't see that there's any problem
21 with us as an Administration agreeing to cost-share for this
22 amount as proposed. That seems to be a reasonable proposal.

23 THE CHAIRMAN: Okay, the 87-88 budget is presented
24 then, has a new item D: office expenditures of \$2000. D
25 becomes E; E the total becomes F. The total is 35,490 of

1 expenditures. Is there a motion for the adoption of the 87-88
2 budget as presented and corrected at the meeting?

3 MR. POPE: Mr. Chairman, a quick question. On the --
4 We've agreed to basically presume to hear the expenditures
5 then, and I take it from what, Bill, you have down is we drop
6 the assessments and basically pull out of the carryover to
7 finance the balance?

8 MR. McDONALD: Yes.

9 MR. POPE: That's in essence what I -- So we're
10 really -- we're going to derive twenty-three five in income
11 and take ten out of carryover. Does that need to be shown in
12 there someplace or is that something that --

13 THE CHAIRMAN: It's asset, it's -- if your income is
14 12,000 bucks less than your expenditures, you're in the real
15 world just like all the rest of us.

16 MR. POPE: Well, I understand that. But just from
17 the standpoint of a balanced budget --

18 MR. McDONALD: Why don't the motions reflect that we
19 consciously adopt that budget for expenditures and income and
20 that there is a difference coming out of cash flow funds.

21 MR. POPE: I so move.

22 THE CHAIRMAN: Before I take the vote on this, what
23 Bill has said is when this is typed, it will show an item
24 below the total income that a withdrawal from reserves in the
25 amount of approximately \$12,000 will be typed on that budget.

1 All right, Colorado?

2 MR. McDONALD: I'll second it first of all.

3 THE CHAIRMAN: Thank you for your help as
4 parliamentarian.

5 MR. McDONALD: Colorado votes aye. And this would be
6 Exhibit H for the record.

7 MR. BENTRUP: Kansas votes aye.

8 THE CHAIRMAN: Okay, moving right along.

9 MR. McDONALD: Unfortunately David and I've got to
10 look two years ahead on the budget.

11 THE CHAIRMAN: 88-89 budget.

12 MR. McDONALD: Frank, let me just say this, there are
13 no differences between the budget we just adopted and my
14 proposed draft of the 88-89 budget other than a 5 percent
15 increase in the USGS cooperative agreements, which is a
16 planning figure, of course, it's not a promise from the GS.

17 I think other than that all amounts are the same. I
18 again propose assessments to stay at the reduced level we have
19 just adopted. The only other changes are interest earnings I
20 estimate to be a smaller amount because we've got less of a
21 reserve and lower interest rates if recent experience holds.

22 THE CHAIRMAN: Is there a motion that we adopt in
23 tentative form the 88-89 budget with the similar adjustments
24 that have just been -- Well, we don't need a similar
25 adjustment for office equipment.

1 MR. McDONALD: I don't think so.

2 THE CHAIRMAN: You buy one file cabinet and that
3 ought to be enough for a year or two. But with the showing on
4 that budget that we're going to withdraw additional sums from
5 capital reserves.

6 MR. BENTRUP: Mr. Chairman, I so move.

7 THE CHAIRMAN: There's been a motion, is there a
8 second?

9 MR. GENOVA: Second.

10 THE CHAIRMAN: All right, Kansas?

11 MR. BENTRUP: Aye.

12 THE CHAIRMAN: Kansas votes aye.

13 MR. McDONALD: Colorado votes aye.

14 THE CHAIRMAN: Colorado votes aye. Is there anything
15 else to come before the meeting of the Compact Administration?
16 Adjournment. Does anyone have anything to bring up? This is
17 the time to do it. The meeting is adjourned.

18 MR. McDONALD: One thing off the record. I saw
19 Howard passing the bottle this morning.

20
21
22
23
24
25

ARKANSAS RIVER COMPACT ADMINISTRATION
December 9, 1986
Annual Meeting
List of Exhibits

<u>Exhibit</u>	<u>Description</u>
A	Agenda
B	Treasurer's Report
C	Auditor's Report
D	Resolution Honoring Leo Idler
E	1986 Report on Corps of Engineers Activities by Bob Rounph
F	Judgment of Dismissal in Colorado Case Number 2-85CW14 Frontier Ditch
G-1	July 22, 1986 letter from Dennis Montgomery to Richard Simms
G-2	July 18, 1986 letter from David Pope to J. William McDonald
G-3	July 9, 1986 letter to David Pope from J. William McDonald
G-4	June 20, 1986 letter to Frank Cooley from Charles L. Thomson
H	Adopted FY 1987-88 ARCA Budget
I	Adopted FY 1988-89 ARCA Budget
J	Attendees at December 9, 1986 ARCA Annual Meeting

8212E

ARKANSAS RIVER COMPACT ADMINISTRATION

1001 S. Main Street
LAMAR, COLORADO 81052

Notice of Annual Meeting
Arkansas River Compact Administration
9 a.m. (MST), Tuesday, December 9, 1986
Cow Palace Inn
Lamar, Colorado

The annual meeting of the Arkansas River Compact Administration will be held at the time and place above noted. It is anticipated that the meeting will be recessed for the lunch hour and reconvened for the completion of business in the afternoon.

The tentative agenda for the meeting is as follows:

1. Call to order and introductions
2. Approval of agenda
3. Approval of transcript of the December, 1985, annual meeting
4. Reports of officers
 - a. Chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary
5. Auditor's report for FY 85-86
6. Committee reports
 - a. Administrative and legal
 - b. Engineering
 - c. Operations
7. Election of officers for compact year 1987
 - a. Vice-chairman
 - b. Recording Secretary
 - c. Treasurer
 - d. Operations Secretary

8. Appointment of committee members for compact year 1987
 - a. Administrative and Legal
 - b. Engineering
 - c. Operations
 9. Approval of annual report for compact year 1985
 10. Reports of federal agencies
 - a. Geological Survey
 - b. Corps of Engineers
 - c. Bureau of Reclamation
 11. Keesee Ditch change of water rights application (case no. 82CW130)
 12. Frontier Ditch water rights application (case no. 85CW14)
 13. Hammit water rights application (case nos. 84CW207, 208, and 209)
 14. Clay Creek Dam
 15. Budget matters
 - a. Review current fiscal year budget
 - b. Adopt FY 87-88 budget
 - c. Adopt FY 88-89 budget
 16. Adjournment
- g1

ARKANSAS RIVER COMPACT ADMINISTRATION

1001 S. Main Street
LAMAR, COLORADO 81052

KANSAS

GUY E. GIBSON, Topeka
CARLE BENTRUP, Deerfield
Vice Chairman
RON OLOMON, Garden City

FRANK G. COOLEY

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

COLORADO

J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

ARKANSAS RIVER COMPACT ADMINISTRATION

STATEMENT OF CASH RECEIPTS & DISBURSEMENTS & CHANGES IN CASH BALANCE
FROM JULY 1, 1986 TO DEC. 1, 1986

CASH BALANCE, JULY 1, 1986

\$ 51,879

RECEIPTS:

Colorado	16,800
Kansas	11,200
Interest on Savings Account Since July 1	1,848.12
Miscellaneous	47.82

TOTAL RECEIPTS

29,895.94

DISBURSEMENTS:

Treasurer's Bond	100
U. S. Geological Survey	11,185
Professional Fees	450
Office Supplies & Postage	205.56
Printing	105.40
Secretart's Salary	1,392.75
Payroll Taxes	214.50
Telephone	445.30
Annual Report	3,026.64
Operation's Secretary's Account	2,657.23

TOTAL DISBURSEMENTS

19,781.38

EXCESS RECEIPTS OVER DISBURSEMENTS

10,114.56

CASH BALANCE, DEC. 1, 1986

61,993.56

CASH IN BANK	110.97
SAVINGS ACCOUNT	18,097.09
CERTIFICATE OF DEPOSIT	40,000.00
INTEREST ON C. D. TO DEC. 1	3,785.50
	\$61,993.56

ARKANSAS RIVER COMPACT ADMINISTRATION

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FRANK G. COOLEY

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COLORADO

J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

ARKANSAS RIVER COMPACT ADMINISTRATION

STATEMENT OF CASH RECEIPTS & DISBURSEMENTS & CHANGES IN CASH BALANCE FOR YEAR ENDED JUNE 30, 1986

CASH BALANCE, JULY 1, 1985

\$ 57,432

RECEIPTS:

Colorado	16,800
Kansas	11,200
Interest	4,869
Miscellaneous Income	<u>64</u>

TOTAL RECEIPTS

32,933

DISBURSEMENTS:

Treasurer's Bond	100
Geological survey	12,400
Equipment	5,680
Professional Fees	400
Office Supplies	128
Printing	158
Secretary's Salary	3,544
Payroll Taxes	512
Telephone	1,780
Annual Report	4,809
Recording Secretary & Court Reporter	6,860
Travel & Meetings	<u>2,515</u>

TOTAL DISBURSEMENTS

38,486

EXCESS OF DISBURSEMENTS OVER RECEIPTS

(5,553)

CASH BALANCE, JUNE 30, 1986

\$ 51,879

ARKANSAS RIVER COMPACT ADMINISTRATION

1001 S. Main Street
LAMAR, COLORADO 81052

KANSAS

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

FRANK G. COOLEY

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

COLORADO

J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

CHECKS WRITTEN SINCE JUNE 30, 1986

Date	No	Written To	For	Amount
July	4	791	Federal Reserve	Payroll Taxes 42.90
"	4	792	AT&T	Telephone 31.22
"	4	793	Mountain Bell	Telephone 279.24
"	4	"	Operation's Sec.	part of above ck. (170.42)
"	4	794	Leo Idler	Sal. Postage 292.25
Aug	4	795	Guaranty Abstract	Sec. Position Bond 100.00
"	4	796	Radio Shack, Pueblo	Operation's Sec. 225.86
"	4	797	Lewan & Associates	Operation's Sec. 85.00
"	4	798	Colorado Mobile	Operation's Sec. 50.90
"	4	799	Lamar Daily News	Print Annual 3,026.64
"	4	800	Mary Ann Ridenhour	Operation's Sec. 108.00
"	4	801	Colo Mobile, telephone	Operation's Sec. 77.25
"	4	802	Federal Reserve	Payroll Taxes 42.90
"	4	803	AT&T	Telephone 6.75
"	4	804	Mountain Bell	Telephone 94.43
"	4	805	Leo Idler	Sal. Postage 288.03
Sept	5	806	Gobins Inc.	Large Envelopes 12.12
"	5	807	AT&T	Telephone 6.75
"	5	808	Mary Ann Ridenhour	Operation's Sec. 21.00
"	5	809	Harvey E. Smith	Operation's Sec. 44.00
"	5	810	Lamar Communications	Operation's Sec. 29.00
"	5	811	Ranchers Supply Co.	Operation's Sec. 29.70
"	5	812	Colo. Mobile Telephone	Operation's Sec. 71.07
"	5	813	Void	
"	5	814	Colo. Mobile Install Phone	Operation's Sec 1,290.00
"	5	815	Federal Reserve	Payroll Taxes 42.90
"	5	816	Leo Idler	Sal. & Postage 328.02
"	5	817	Mountain Bell	Telephone 44.97
Oct	4	818	Mountain Bell	Telephone 64.22
"	4	819	Mary Ann Ridenhour	Operation's Sec. 30.00
"	4	820	AT&T	Telephone 40.22
"	4	821	Colorado Mobile	Telephone Pager 61.05
"	4	822	Gobins Inc.	Carbon Check Holder 9.25
"	4	823	Colorado Mobile	Telephones 193.15
"	4	824	Leo Idler	Salary & Postage 291.37

ARKANSAS RIVER COMPACT ADMINISTRATION

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Vice Chairman
RON OLOMON, Garden City

FRANK G. COOLEY

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

COLORADO

J. WILLIAM McDONALD, Denver
CARL GENOVA, Pueblo
LEO IDLER, Lamar
Treasurer

CHECKS WRITTEN SINCE NOV. 1, TO DEC. 1, 1986

Date	No	To	For	Amount
Nov 5	825	U. S. G. S. Joint	Funding Agreement	3,960.00
Nov 5	826	U. S. G. S. Joint	Funding Agreement	7,225.00
" 5	827	Federal Reserve	Payroll Taxes	42.90
" 5	828	Colorado Mobile	Operation's Sec.	190.83
" 5	829	Crimond & Farmer	Audit (450) Copying	555.40
" 5	830	Mountain Bell	Telephone	47.92
" 5	831	Leo Idler	Salary % Postage	285.90
" 5	832	Federal Reserve	Payroll Taxes	42.90
Checks ordered for Compact use			Bank Debited Account	<u>90.37</u>
				19,781.38

ARKANSAS RIVER COMPACT ADMINISTRATION

CASH BASIS FINANCIAL STATEMENTS

JUNE 30, 1986

with

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

**crimond, farmer
& company**

certified public accountants

203 east oak, p.o. box 1173, lamar, co. 81052

ARKANSAS RIVER COMPACT ADMINISTRATION

CASH BASIS FINANCIAL STATEMENTS

JUNE 30, 1986

ARKANSAS RIVER COMPACT ADMINISTRATION
INDEX TO CASH BASIS FINANCIAL STATEMENTS
JUNE 30, 1986

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STATEMENT OF CASH RECEIPTS & DISBURSEMENTS AND CHANGES IN CASH BALANCE	3
STATEMENT OF CASH RECEIPTS & DISBURSEMENTS AND BUDGET	4
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crimond, farmer & company

certified public accountants

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

We have examined the Statement of Assets & Liabilities Arising from Cash Transactions of the Arkansas River Compact Administration as of June 30, 1986, and the Statement of Cash Receipts and Disbursements, Changes in Cash Balance and the Statement of Cash Receipts and Disbursements with Budget Comparison for the year ended June 30, 1986. Our examination was conducted 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 of the Notes to Cash Basis Statements, the accompanying statements are prepared on the cash basis of accounting and accordingly they are not intended to be presented in conformity with generally accepted accounting principles.

In our opinion, the financial statement presents fairly the Assets and Liabilities Arising from Cash Transactions of the Arkansas River Compact Administration as of June 30, 1986, and the results of Cash Transactions for the year then ended on a basis consistent with the previous year.

Crimond, Farmer & Co.

Certified Public Accountants

September 4, 1986
Lamar, Colorado

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF ASSETS & LIABILITIES ARISING FROM CASH TRANSACTIONS
June 30, 1986

ASSETS:

Cash & Savings	\$ 51,879
Equipment	21,993
Concrete Control	<u>8,000</u>
TOTAL ASSETS	81,872 =====

LIABILITIES:

Liabilities	<u>0</u>
-------------	----------

CASH BASIS EQUITY:

Expended:

Equipment	21,993
Concrete Control	8,000

Unexpended:

	<u>51,879</u>
TOTAL CASH BASIS EQUITY - NOTE 1a	<u>81,872</u>

TOTAL LIABILITIES & CASH BASIS EQUITY	\$ 81,872 =====
---------------------------------------	--------------------

The accompanying notes are an integral
part of the statements.

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF CASH RECEIPTS & DISBURSEMENTS & CHANGES IN CASH BALANCE
FOR YEAR ENDED JUNE 30, 1986

CASH BALANCE, JULY 1, 1985

\$ 57,432

RECEIPTS:

Revenue from Assessments:

Colorado	16,800
Kansas	11,200
Interest	4,869
Miscellaneous Income	<u>64</u>

TOTAL RECEIPTS

32,933

DISBURSEMENTS:

Treasurers Bond	100
Geological Survey	12,400
Equipment	5,680
Professional Fees	400
Office Supplies	128
Printing	158
Secretary's Salary	3,344
Payroll Taxes	512
Telephone	1,780
Annual Report	4,609
Recording Secretary & Court Reporter	6,860
Travel & Meetings	<u>2,515</u>

TOTAL DISBURSEMENTS

38,486

EXCESS OF DISBURSEMENTS OVER RECEIPTS

(5,553)

CASH BALANCE, JUNE 30, 1986

\$ 51,879

The accompanying notes are an integral
part of the statements.

ARKANSAS RIVER COMPACT ADMINISTRATION
STATEMENT OF CASH RECEIPTS & DISBURSEMENTS WITH BUDGET COMPARISON
FOR THE BUDGET YEAR JULY 1, 1985 TO JUNE 30, 1986

	BUDGET	ACTUAL	OVER(UNDER)
CASH BALANCE, JULY 1, 1985	\$-----0	\$---57,432	\$---57,432
RECEIPTS:			
Revenues from Assessments:			
Colorado - 60%	16,800	16,800	0
Kansas - 40%	11,200	11,200	0
Miscellaneous Income	0	64	64
Interest	-----0	-----4,869	-----4,869
TOTAL RECEIPTS	-----28,000	-----32,933	-----4,933
TOTAL TO ACCOUNT FOR	-----28,000	-----90,365	-----62,365
DISBURSEMENTS:			
U.S. Geological Survey	12,500	12,400	100
Operations Secretary	6,100	3,344	2,756
Treasurers Bond	100	100	0
Telephone	2,000	1,780	220
Payroll Taxes	250	512	(262)
Recording Secretary & Court Reporter	6,600	6,860	(260)
Travel & Meeting	100	2,515	(2,415)
Professional Fees	400	400	0
Office Supplies	350	128	222
Printing	350	158	192
Annual Report	5,000	4,609	391
Equipment	0	5,680	(5,680)
Contingency	-----2,000	-----0	-----2,000
TOTAL DISBURSEMENTS	-----35,750	-----38,486	----- (2,736)
CASH BALANCE, JUNE 30, 1986	\$ (7,750)	\$ 51,879	\$ 59,629
	=====	=====	=====

The accompanying notes are an integral
part of the statements.

ARKANSAS RIVER COMPACT ADMINISTRATION
NOTES TO CASH BASIS STATEMENTS
JUNE 30, 1986

Note 1 - Summary of significant accounting policies:

a. The Administration maintains financial records using the cash basis of accounting. By using the cash basis of accounting, certain key accounts needed to present financial position and results of operations are omitted; examples of these accounts are accounts receivable and accounts payable.

RESOLUTION

WHEREAS, Leo Idler served on the Arkansas River Compact Administration as the representative of Colorado Water District 67 for two terms from 1977 through 1985; and

WHEREAS, he ably and steadfastly represented the interests of District 67 water users with equanimity and fairness; and

WHEREAS, he also served for ten years as the Administration's recording secretary and treasurer; and

WHEREAS, he at all times conducted these offices in a competent and thorough manner; and

WHEREAS, Leo Idler was instrumental in developing and implementing the 1980 operating plan for John Martin Reservoir to the benefit of both Kansas and Colorado; and

WHEREAS, Leo Idler has been a gentleman and a friend to his fellow members of the Administration and to all who had occasion to come before the Administration.

NOW, THEREFORE, BE IT RESOLVED by the Arkansas River Compact Administration that it does hereby express its gratitude and appreciation to Leo Idler for the services he has rendered and for the courtesies which he has extended to all during his tenure as a member and officer of the Administration.

Adopted by the Arkansas River Compact Administration at its December 9, 1986, Annual meeting.

Frank G. Cooley, Chairman

REPORT ON CORPS OF
ENGINEERS ACTIVITIES
for
1986 ARKANSAS RIVER COMPACT
ANNUAL MEETING

EXHIBIT E

----- The Corps of Engineers 1986 Annual Report covers three topics (1) operations, (2) studies, and (3) construction.

OPERATIONS

The first topic is operations. There were no flood control operations in Trinidad, Pueblo, or John Martin Reservoirs in 1986.

Trinidad Reservoir reached a peak storage of 26,492 acre-feet at the end of July. This is well below the 62,943 acre-feet at which flood storage begins.

Pueblo Reservoir was at the top of the conservation pool (or base of the flood pool) for five days in mid-July. The flow at the Avondale gage on which flood operations are based did not reach 6,000 cfs, so inflows were passed through the full conservation pool. It is expected that Pueblo Reservoir will again have a full conservation pool this spring.

John Martin Reservoir reached a peak storage of 337,000 acre-feet in early March. This is about 18,000 acre-feet from the bottom of the flood pool. John Martin reached a low of 196,000 acre-feet in August and is now rising rapidly as a result of higher than average Arkansas River flows and curtailment of winter storage in Pueblo Reservoir. We could well reach the flood pool in John Martin next spring if the snowpack continues to build.

Last year I reported that new sediment surveys were to be conducted for John Martin and Trinidad Reservoirs in 1986. We have completed the hydrographic or underwater portion of these surveys. The aerial mapping of the land portions will be performed as soon as conditions are right and the new area-capacity tables will be available for your next annual meeting.

Last year I also reported on the approximately 8,000 acre feet of excess storage in Trinidad Reservoir resulting from our 1980 sediment survey. We have taken action, as a result of the discussion at your last Annual Meeting, to redesignate new pool elevations to correspond to the originally authorized capacities for the sediment, recreation, and irrigation pools. You have copies of our letter of January 27, 1986 redesignating these new pool elevations. The 8,000 acre-feet excess storage capacity is now clearly designated for flood control operations. This storage will be used to reduce design flood releases from the originally planned 15,000 cfs to 7,500 cfs until such time as the City of Trinidad performs its maintenance responsibilities. We have been working with the City of Trinidad to obtain compliance but so far city officials have not followed through on any of their commitments. We will continue to work with the City until the problem is resolved.

FLOOD CONTROL STUDIES

During 1986, we reevaluated the economic feasibility of the proposed 76-mile Arkansas River channelization project from Pueblo to Las Animas. As

some of you may recall, this project was originally proposed following the 1965 flood to reduce flood damages. Another significant benefit would have been a reduction in water losses of about 41,000 acre-feet each year through phreatophyte removal and ground water lowering. We found that project costs have risen dramatically since the late 1960's while the flood control and water salvage benefits have not increased proportionally. Also, the interest rate increase from 3-1/4 percent to 8-5/8 percent has had a significant effect on the economics. The project benefit-cost ratio went from 1.3 in 1968 to 0.1 today, therefore it is no longer economically feasible and studies have been terminated.

Last year I reported on the results of favorable reconnaissance studies for four areas in the Colorado Springs area. The Water Resources Development Act of 1986 requires 50 percent local cost-sharing to continue studies past the reconnaissance phase. The City of Colorado Springs has agreed to cost-share continued studies for a channel improvement project on Fountain Creek from below Manitou Springs to the Interstate 25 crossing. We will begin this study in 1987.

PROJECTS AWAITING CONSTRUCTION

My third topic is projects awaiting construction. The Water Resources Development Act of 1986 authorized the Fountain Creek at Pueblo flood control project. The Fiscal Year 1987 continuing budget resolution funded the project in the amount of \$700,000. The project will consist of 9,600 feet of levees and 11,500 feet of channel improvement to protect Pueblo against 200-year floods on Fountain Creek. The project has an estimated cost of \$8.6 million of which the City of Pueblo will contribute \$2.3 million. We will complete Plans and Specifications this summer and be under construction this coming fall. Construction will continue for two to three years.

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

Case No. 85CW14

Filed in the office of the
Clerk, District Court Water
Division No. 2, State of
Colorado

JUDGMENT OF DISMISSAL

NOV 25 1986

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

FRONTIER DITCH COMPANY,

IN PROWERS COUNTY.

This matter came on for hearing on Motion For Summary Judgment Or For Judgment of Dismissal filed on behalf of Objectors, Amity Mutual Irrigation Company and Arkansas Valley Ditch Association on September 30, 1986.

Present: Carl M. Shinn on behalf of Movant, Amity Mutual Irrigation Company; Howard Holme of Fairfield and Woods on behalf of Objector, Southeastern Colorado Water Conservancy District; and Robert F. T. Krassa on behalf of the Applicant.

The Court has reviewed the Court file, including the Motion and Briefs filed and has heard oral argument.

The Court finds that were it not for the Arkansas River Compact, C.R.S. 37-69-101, this Court would have jurisdiction under West End Irr. Co. v. Garvey, 117 Colo. 109, 184 P.2d 476, and the 1969 Determination and Administration Act. The Compact was approved by Colorado in 1949, two years after the West End case, which was decided in 1947, which was also subsequent to the 1945 Kansas Act, pursuant to which in 1950 the Chief Engineer of the Division of Water Resources of

the Kansas Board of Agriculture recognized a vested right of Frontier Ditch Company for 4,000 acre-feet. In 1959 this was increased after a review to 5,000 acre-feet. See Frontier Ditch Company v. Chief Engineer, Division of Water Resources, 704 P.2d 12 (Kansas, 1985).

The Compact, in VI B, provides that Colorado concedes and Kansas assumes exclusive administrative control. In the context of the Kansas law in effect at that time, it must have been contemplated that that was both the jurisdiction to determine and the jurisdiction to administer water rights, because both functions resided in the Chief Engineer of the State of Kansas. There are separate and distinct functions between the Court and the State Engineer or Division Engineers in Colorado. That's a distinction that does not pertain in Kansas, but given the background of the Kansas law in effect at the time the Compact was adopted by Colorado and then subsequently approved by Congress, that is persuasive in favor of the interpretation that "administrative control" includes the authority and jurisdiction to "determine" water rights.


It's also persuasive that the Compact provides that the water carried across the state line in Frontier shall be considered to be part of the state line flow, and that the control of the headworks should carry with it also the jurisdiction to determine rights at that headworks. It's also worth considering that Frontier had a forum in Kansas, Kansas has acted, and has determined the vested rights of Frontier, and further, Frontier has a forum before the Compact administration.

For all of those reasons, I find that this Court does not have

jurisdiction over the adjudication of rights in or of the Frontier canal or its point of diversion or headworks, and the Motion to Dismiss is granted.

Done this 25th day of November, 1986.

BY THE COURT:


John R. Tracey, Water Judge

c:Carl M. Shinn
Mitchell and Mitchell
Robert F. T. Krassa
Fairfield and Woods (Holme)
David Ladd and Wendy C. Weiss
Division Engineer
State Engineer
Naylor & Geisel

Filed in the office of the
Clerk, District Court Water
Division No. 2, State of
Colorado

NOV 25 1986


Clerk

HILL & ROBBINS

ATTORNEYS AT LAW
100 BLAKE STREET BUILDING
1441 EIGHTEENTH STREET
DENVER, COLORADO 80202

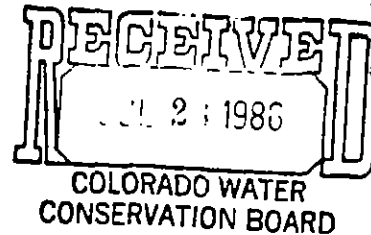
DAVID W. ROBBINS
ROBERT F. HILL
DENNIS M. MONTGOMERY

KAREN A. TOMB
BOBBEE J. MUSGRAVE
RONALD L. WILCOX

J. KEMPER WILL
OF COUNSEL

TELEPHONE
303 296-6100

TELECOPIER
303 296-2368



July 22, 1986

Mr. Richard A. Simms
Hinkle, Cox, Eaton, Coffield
& Hensley
218 Montezuma
P. O. Box 2068
Santa Fe, NM 87504

Dear Richard:

I am in receipt of your letter of July 17, 1986. I am at a loss to understand how you could have thought our discussion of a temporary storage account in John Martin Reservoir for the Southeastern Colorado Water Conservancy District involved confidential "negotiation" or "potential compromise" of Kansas v. Colorado. I understood nothing of the sort. The request to approve a temporary storage account in John Martin Reservoir was first discussed with David Pope and Carl Bentrup by Bill McDonald and Tommy Thomson. I called you because David Pope seemed to be concerned that approving a temporary storage account for the District might be viewed as approving the reregulation of winter water in Pueblo Reservoir, contrary to the Kansas position in Kansas v. Colorado. As I explained, Colorado believes the water which the District wanted to transfer was stored under the junior storage right decreed to Pueblo Reservoir, not under the winter storage program. As I informed you on July 1, the Colorado representatives were willing to include language in the proposed resolution that nothing therein would prejudice the right of Kansas to assert that water delivered to John Martin Reservoir had not been stored under the storage right decreed to Pueblo Reservoir and, in that case, to maintain that the water was

Mr. Simms
July 22, 1986
-2-

stored under the winter storage program in violation of the Administration's 1951 Resolution. I thought that would have satisfied your concern on that score.

I did not intend to "tendentiously" reframe matters we discussed. My purpose was simply to set forth my understanding of the reasons the Kansas representatives refused to approve a temporary storage account for the District in the hope that you would realize that your concerns had been addressed by Colorado's proposal. For example, you state that I omitted to mention that we discussed on June 27th that there was no assurance that Kansas would be benefitted by the temporary storage account if thirty-five percent of the water delivered to John Martin Reservoir were transferred to the Kansas transit loss account under Section III.D of the 1980 Operating Plan. However, as I informed you on July 1, the Colorado representatives were willing to agree that forty percent of the thirty-five percent would be transferred directly to the Kansas account. Perhaps you failed to understand that since you did not mention it in your letter.

Second, you state that I failed to mention your condition that Kansas would not consider the proposal absent Colorado's assurance that the matter would not be raised in evidence or alluded to in any way in Kansas v. Colorado. Quite frankly, I considered this condition to be unrealistic and unenforceable. Any storage of water in John Martin Reservoir will be a matter which could be raised in Kansas v. Colorado. I saw no way to avoid this. The Colorado representatives tried to address your specific concern by agreeing that approval of a temporary account for the District would not prejudice the Kansas position with regard to the reregulation of native water under the Administration's 1951 Resolution.

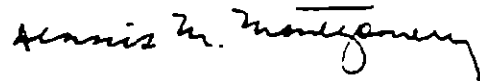
Third, you state that I failed to mention your insistence that the proposed resolution not be made pursuant to Section III of the Resolution of April 24, 1980, but rather a "categorically distinct '1986 Resolution.'" You express the concern "whether it would be prudent in the course of the pending litigation to attempt to rewrite a federal law through the efforts, albeit bilateral, of the states' representatives to the Compact Administration." Since you have taken my comment out of context, I think it is important to clarify this matter. First, the approval of storage accounts for "other" water in John Martin Reservoir does not affect the apportionment of waters under Article V of the Compact. The storage of "other" water in John Martin Reservoir is permitted under the Compact so long as it does

Mr. Simms
July 22, 1986
-3-

not interfere with flood control storage or conservation storage. You, however, raised the concern that the 1980 Operating Plan, insofar as it provides that water in conservation storage shall be released into accounts, was an attempt to "rewrite" federal law. The thrust of my comment was that the issue had been raised before; but, as I told you then and will state again, both states agreed to the 1980 Operating Plan and it has worked successfully in practice to the great benefit of water users in both states. Furthermore, I think that Articles VIII and IX of the Compact do provide a basis for the account system under the 1980 Operating Plan. In any event, I see no reason to interject that issue into the resolution to approve a temporary storage account for the District.

I fully understand your desire to represent Kansas zealously. However, I don't think the pending lawsuit should prevent the two states from working out agreements for storage in John Martin Reservoir that benefit water users in both states.

Very truly yours,



Dennis M. Montgomery

DMM:ncr

cc: Frank G. Cooley
J. William McDonald
Carl G. Genova
James G. Rogers
Jeris A. Danielson
Hal D. Simpson
Robert W. Jesse
Wendy C. Weiss
Raymond H. Willms
Charles M. Thomson
Howard Holme
Carl M. Shinn
Leo Idler

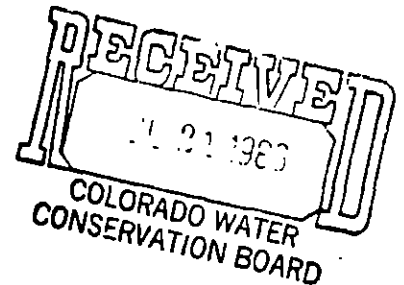


KANSAS STATE BOARD OF AGRICULTURE

DIVISION OF WATER RESOURCES
DAVID L. POPE, Chief Engineer-Director
109 SW Ninth Street, Suite 202
TOPEKA, KANSAS 66612-1283
(913) 296-3717

DONALD L. JACKA, JR.
Acting Secretary

July 18, 1986



J. William McDonald, Director
Colorado Water Conservation Board
1313 Sherman Street
Room 823
Denver, CO 80203

Dear Bill:

Enclosed is a copy of a letter dated July 17, 1986, from Richard Simms to Dennis Montgomery, one of Colorado's attorneys in Kansas v. Colorado. The letter responds to Mr. Montgomery's characterization of a telephone conversation the two of them had regarding your proposal to provide a storage account in John Martin Reservoir for the Southeastern Colorado Water Conservancy District. The letter is self-explanatory and requires no further comment from me.

We do welcome the opportunity, however, to cooperate with you on less problematic administrative matters that might provide certain benefits to Colorado and Kansas water users.

Sincerely yours,

David L. Pope, P.E.
Chief Engineer-Director

DLP:LER:sa

Encl.

cc: Frank G. Cooley
Carl E. Bentrup
Ron Oloman
Carl G. Genova
James G. Rogers
Howard C. Corrigan
Jeris A. Danielson
Robert W. Jesse

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

218 MONTEZUMA

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SANTA FE, NEW MEXICO 87504-2068

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200 CENTURY PLAZA
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MIDLAND, TEXAS 79702
(915) 683-4691

1700 TEXAS AMERICAN BANK BUILDING
POST OFFICE BOX 1218
AMARILLO, TEXAS 79101
(806) 372-5569

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88201
(505) 622-6510

LEWIS C COX
PAUL W EATON
CONRAD E COFFIELD
HAROLD L HENSLEY JR
STUART D SHANOR
C D MARTIN
PAUL J KELLY JR
OWEN W LOPEZ
DOUGLAS L LUMBORD
T CALDER EZZELL JR
WILLIAM S BURFORD
RICHARD E OLSON
RICHARD A SIMMS
DEBORAH HORNWOOD
RICHARD R WALFORD
STEVEN D ARNOLD
JAMES J WECHSLER
NANCY S CLISACK
JEFFREY L FORMACHAN
JEFFREY D HEWITT

JAMES BRUCE
JERRY F SHACKELFORD
ALBERT L RYTT
FRED W SCHREIDENMANN
THOMAS D HANES JR
THOMAS W HANCOCK
MICHAEL F MILLER
FRANKLIN M MCCALLUM
ALLEN G HARVEY
GREGORY J HIBERT
JUDY K MOORE
DAVID T MARSHALL
JAMES R MCADAMS
BRUCE R ROGOFF
JAMES W HUDSON
MACDONELL GORDON
REBECCA J NEWOLS
PAUL S NEWTON
WILLIAM P JOHNSON

OF COUNSEL
ROY C SNODGRASS JR
O M CALHOUN
MACK EASLEY
JOE W WOOD

CLARENCE E MARBLE 1908-1988
W E BONDURANT JR 1914-1973
ROBERT A STONE 1908-1981

*NOT LICENSED IN NEW MEXICO

July 17, 1986

Dennis M. Montgomery
Hill & Robbins
100 Blake Street Building
1441 Eighteenth Street
Denver, Colorado 80202

Dear Dennis:

I was quite surprised to receive your letter of July 9, 1986, regarding Colorado's request that the Kansas representatives to the Arkansas River Compact Administration approve an eleventh hour proposal to provide a temporary storage account in John Martin Reservoir for the Southeastern Colorado Water Conservancy District. It was clear to me -- and I had thought it was equally clear to you -- that our discussion involved negotiation, potential compromise, and matters related to Kansas v. Colorado, all of which were confidential. In any event, you've asked that I advise you if you did not accurately state the reasons in your letter of July 9th for Kansas' refusal to approve the new storage account.

You did not. In your letter you tendentiously reframed two of the matters we discussed and failed to mention three others. It is correct that I mentioned the concern of Kansas' representatives that the water sought to be transferred from Pueblo Reservoir to John Martin might not have been properly stored. I also mentioned our reluctance to approve a reregulation of winter water when it is Kansas' position in the lawsuit that there can be no reregulation of such water until a plan for administration has been approved by the Compact Administration.

What you omitted from your letter is perhaps more significant. First, we discussed the fact that there was no assurance that Kansas water users would be benefited by your proposal. Secondly, I stated to you that Kansas would not consider the proposal absent Colorado's assurance that the matter would not be raised in evidence or alluded to in any way in Kansas v. Colorado. Thirdly, and more importantly, I pointed out that the

Mr. Dennis Montgomery
July 17, 1986
Page Two

proposed resolution would not be one made pursuant to Section III of the Resolution of April 24, 1980, but rather would be a categorically distinct "1986 Resolution." In this regard, you stated that "it is no secret around here that the 1980 Resolution effectively amended the compact," and I responded by saying that "ineffectively amended" might be a more appropriate way of putting it. The concern I expressed then and reiterate now is whether it would be prudent in the course of the pending litigation to attempt to rewrite a federal law through the efforts, albeit bilateral, of the states' representatives to the Compact Administration. Having litigated the issue once, I am perhaps more sensitive to the downside of your proposal than the South-eastern Colorado Water Conservancy District. See, Texas v. New Mexico, 462 U.S. 554 (1983).

Sincerely



Richard A. Simms

RAS/mg

cc: David Pope
Lee Rolfs
Frank G. Cooley
Carl E. Bentrup
Ron Oloman
Howard C. Corrigan

STATE OF COLORADO

COLORADO WATER CONSERVATION BOARD

Department of Natural Resources

721 State Centennial Building
1313 Sherman Street
Denver, Colorado 80203
Phone: (303) 866-3441



Richard D. Lamm
Governor

L. William McDonald
Director

David W. Walker
Deputy Director

July 9, 1986

FEDERAL EXPRESS

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

Dear David:

Enclosed is a letter dated July 9, 1986, from Dennis Montgomery to Richard Simms setting forth his understanding of the reasons the Kansas representatives to the Arkansas River Compact Administration would not agree to approve a temporary storage account in John Martin Reservoir for the Southeastern Colorado Water Conservancy District. Because the refusal of the Kansas representatives to approve the temporary storage account deprives the District of the opportunity to import additional water into the Arkansas River basin and deprives water users in Kansas and Colorado Water District 67 of additional water to the extent of thirty-five percent of any water delivered to John Martin Reservoir by the District, I want to be sure that the record accurately reflects the reasons for the refusal to approve the temporary storage account. Despite the rapid decline in water available for importation from the Colorado River, I invite you and the other Kansas representatives to reconsider the decision not to agree to the temporary storage account.

A copy of a revised proposed resolution to approve a temporary storage account for the District is enclosed. The resolution includes a provision that nothing therein would prejudice the right of Kansas to assert that water delivered to John Martin Reservoir by the District was not properly

Mr. Pope
July 9, 1986
-2-

stored under the storage right for Pueblo Reservoir and, in that case, to maintain that the water was stored under the winter water storage program in violation of the Administration's Resolution of July 24, 1951. By copy of this letter, I am hereby requesting Frank Cooley to call a special telephonic meeting of the Administration to vote on the proposed resolution.

In the past, we have not always agreed on matters brought before the Administration, but that has not prevented us from agreeing to the operation of John Martin Reservoir for the mutual benefit of water users in both states. Again, I invite you and the other Kansas representatives to reconsider the resolution.

Sincerely,



J. William McDonald

JWMCD:ncr

Enclosures: 1. Letter dated July 8, 1986, from Dennis M. Montgomery to Richard A. Simms; and
2. Proposed Resolution.

cc: Frank G. Cooley
Carl G. Genova
James G. Rogers
Carl E. Bentrup
Ron Olomon
Jeris A. Danielson
Hal D. Simpson
Robert W. Jesse
Howard C. Corrigan
David W. Robbins
Wendy C. Weiss
Richard A. Simms
Leland E. Rolfs
Raymond H. Willms
Charles M. Thomson
Howard Holme
Carl M. Shinn
Leo Idler

HILL & ROBBINS

ATTORNEYS AT LAW

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1441 EIGHTEENTH STREET
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ROBERT F. HILL
DENNIS M. MONTGOMERY

KAREN A. TOMB
BOBBEE J. HUBORAVE
RONALD L. WILCOX

J. KEMPER WILL
OF COUNSEL

TELEPHONE
303 890-8100

TELECOPIER
303 890-8286

July 9, 1986

FEDERAL EXPRESS

Mr. Richard A. Simms
Hinkle, Cox, Eaton, Coffield
& Hensley
218 Montezuma
P. O. Box 2068
Santa Fe, NM 87504

Dear Richard:

This letter is to confirm our telephone conversation of July 1, 1986, in which you informed me that the Kansas representatives to the Arkansas River Compact Administration would not agree to the request by the Colorado representatives to approve a temporary storage account in John Martin Reservoir for the Southeastern Colorado Water Conservancy District. The purpose of the temporary storage account would be to permit the District to transfer water stored in Pueblo Reservoir to John Martin Reservoir, thereby permitting additional water to be imported into the Arkansas River basin from the Colorado River basin. Because the refusal of the Kansas representatives to approve the temporary storage account deprives the District of the opportunity to import additional water and deprives water users in Kansas and Colorado Water District 67 of additional water to the extent of thirty-five percent of any water delivered to John Martin Reservoir by the District, I want to be certain that I correctly understand the reasons for the refusal to approve the temporary storage account.

In our previous telephone conversation of June 27, 1986, you said that the main factual concern of the Kansas representatives was whether the water which would be delivered to John Martin Reservoir by the District was properly stored in Pueblo Reservoir in the first place. As

Mr. Simms
July 9, 1986

-2-

we discussed, the water in question was stored under the storage right decreed to Pueblo Reservoir in 1962. See Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District, 689 P.2d 594, 597 (Colo. 1984). This is a very junior storage right, which only comes into priority when the conservation pool in John Martin Reservoir is filled and spilling, as occurred in 1985. When water was stored under this right in 1985, conservation storage in Pueblo Reservoir was full. Pursuant to agreement, water stored under the winter water storage program was released to permit storage under the storage right decreed to Pueblo Reservoir.

Colorado believes that the water which the District would like to transfer to John Martin Reservoir was stored in accordance with the decree and the provisions of the Arkansas River Compact. However, from our discussion, I understand that the Kansas representatives question whether the conservation pool in John Martin Reservoir was full and spilling at the time water was stored under the junior storage right decreed to Pueblo Reservoir. If John Martin Reservoir was not full and spilling at that time, water should not have been stored under this right, in which case an equal amount of water previously stored under the winter water storage program would have been retained in storage in Pueblo Reservoir. And, as I understand from our discussion, the Kansas representatives maintain that the winter water storage program violates the Administration's Resolution of July 24, 1951, and did not want to approve a temporary storage account for fear that that action might be taken in some manner as waiving their objection to the winter water storage program based upon the 1951 Resolution. You stated that this concern arose because Colorado had raised as an affirmative defense in Kansas v. Colorado that Kansas was barred from asserting, based upon the 1951 Resolution, that there shall be no reregulation of the native waters of the Arkansas River until an operating plan has been approved by the Administration by accepting the benefits of the 1980 operating plan for John Martin Reservoir knowing that the Colorado representatives' continuing approval of that plan was based on an agreement among Colorado water users to permit the winter water storage program.

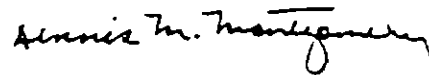
As I related to you, the Colorado representatives offered to include language in the proposed resolution that nothing therein would prejudice the right of Kansas to assert that water delivered to John Martin Reservoir by the District had not been properly stored under the storage right decreed to Pueblo Reservoir and, in that case, to maintain that the water was stored under the winter water

Mr. Simms
July 9, 1986
-3-

storage program in violation of the Administration's 1951 Resolution. Despite this offer, you stated that the Kansas representatives would not approve the temporary storage account for the reasons stated during our telephone conversation on June 27, 1986.

If I have not accurately stated the reasons of the Kansas representatives for refusing to approve the temporary storage account for the District, please advise me.

Very truly yours,



Dennis M. Montgomery

DMM:ncr

cc: Frank G. Cooley
J. William McDonald
Carl G. Genova
James G. Rogers
Jeris A. Danielson
Hal D. Simpson
Robert W. Jesse
Wendy C. Weiss
Raymond H. Willms
Charles M. Thomson
Howard Holme
Carl M. Shinn
Leo Idler

RESOLUTION

Concerning a Temporary Storage Account for the Southeastern Colorado Water Conservancy District

WHEREAS, the Arkansas River Compact Administration (Administration) has adopted a "Resolution Concerning an Operating Plan for John Martin Reservoir" (Operating Plan), which resolution was entered April 24, 1980, and amended on May 10 and December 11, 1984; and

WHEREAS, section III of the Operating Plan permits the storage of water in John Martin Reservoir by certain Colorado water users by granting accounts to them for this purpose subject to the terms and conditions set forth in the Operating Plan; and

WHEREAS, the Southeastern Colorado Water Conservancy District (District) desires a temporary account in John Martin Reservoir so that it can transfer water stored in Pueblo Reservoir in 1985 under the water storage right decreed to Pueblo Reservoir by the District Court for Pueblo County, State of Colorado, on June 25, 1962, in Case No. 8757 (eastern slope water) from Pueblo Reservoir to John Martin Reservoir.

NOW, THEREFORE, BE IT RESOLVED that the Administration hereby grants the District a temporary account in John Martin Reservoir for the purpose, and only for the purpose, of storing eastern slope water originally stored in Pueblo Reservoir in 1985, subject to the following terms and conditions:

1) This temporary account shall become effective on the date this resolution is entered and shall terminate on March 31, 1988. Any water remaining in the account at that time shall become conservation storage controlled by subsection II.A of the Operating Plan.

2) No more than 30,000 acre-feet shall be stored in this temporary account, exclusive of water transferred to other accounts in accordance with paragraph 4) below.

3) Eastern slope water released from Pueblo Reservoir for delivery to John Martin Reservoir shall be subject to the transit loss established by the Colorado Division Engineer.

4) Thirty-five percent of all water delivered to John Martin Reservoir by the District shall be transferred to the following accounts established by the Operating Plan: forty percent of said thirty-five percent shall be transferred to the Kansas account and sixty percent of said thirty-five percent shall be transferred to the account of the Colorado Water District 67 ditches.

5) The District may sell water in this temporary account to persons or entities eligible to purchase eastern slope water and such persons or entities may then demand the release of water in this account for use either directly or by exchange. However, water stored in this account shall not be used in any manner to increase the John Martin Reservoir permanent recreation pool, either by exchange, transfer, change of use, or otherwise.

6) The water in this temporary account shall be subject to evaporation charges in accordance with the procedures established in subsection II.F of the Operating Plan.

7) In the event that runoff conditions occur in the Arkansas River basin upstream from John Martin Reservoir that cause water to spill physically over the project's spillway, then water stored in this temporary account shall be the first water to spill before any other water is spilled in accordance with the provisions of subsection II.G of the Operating Plan.

8) No charge shall be imposed by the U.S. Bureau of Reclamation or the District for water transferred to the Kansas account or the account of Colorado Water District 67 ditches as provided in paragraph 4) above, nor shall any charge be imposed by the U.S. Bureau of Reclamation or the District for any water which becomes conservation storage as provided in paragraph 1) above or paragraph 9) below.

9) In the event that the Operating Plan is terminated in accordance with the provisions of subsection VII.A thereof, then the District may utilize any water stored in this account during the next irrigation season under the provisions of this resolution. Water not utilized by the following November 1 shall revert to conservation storage.

10) Nothing herein is intended to prejudice the right of Kansas to assert that any water delivered to John Martin Reservoir by the District was not properly stored under the storage right decreed to Pueblo Reservoir and, in that case, to assert that the water was stored under the winter water storage program in Pueblo Reservoir in violation of the Administration's Resolution of July 24, 1951.

ENTERED this _____ day of _____, 1986, pursuant to a special meeting of the Administration held by telephonic conference call.

Frank G. Cooley
Chairman

Leo Idler
Recording Secretary

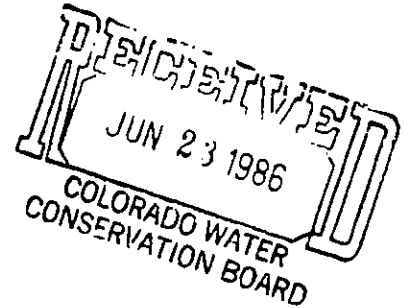
SOUTHEASTERN COLORADO
Water Conservancy District



PHONE 544-2040 • P.O. BOX 440 • 905 HIWAY 50 WEST • PUEBLO, COLORADO 81002

June 20, 1986

Honorable Frank G. Cooley
Chairman
Arkansas River Compact
Administration
Meeker, Colorado 81641



Dear Frank:

I appreciate your time from your extremely busy schedule to visit with me on the telephone this morning regarding the Proposed Program which the members of the Board of Directors of the Southeastern Colorado Water Conservancy District, and Project Manager Raymond H. Willms, worked out during the regular monthly meeting of the Board in Pueblo Thursday, June 19, 1986.

I am enclosing a draft of the Program, which would permit the Bureau and the District to transfer some of the Project water, which was stored under the District's decree in Pueblo Reservoir in June of 1985, to John Martin Reservoir for subsequent sale to eligible entities in our District.

I truly appreciate your very positive response to this Proposed Program, and we stand ready to furnish such additional information as you request, and participate in such meetings as you may call. This matter is of some urgency if the District is to benefit from waters under decree in Division 5, and we do feel the Program will benefit all parties concerned.

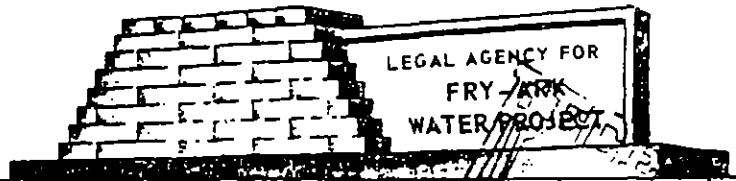
Respectfully,

Tommy
Charles L. Thomson
General Manager

CLT/mb

sc: Board of Directors, Southeastern Colorado Water Conservancy District
Mr. Raymond H. Willms, Project Manager, Eastern Colorado Projects
Mr. Robert Jesse, Division Engineer, Division 2
Members of the Arkansas River Compact Administration, Colorado and Kansas

SOUTHEASTERN COLORADO
Water Conservancy District



PHONE 544-2040 • P.O. BOX 440 • 905 HIWAY 50 WEST • PUEBLO, COLORADO 81002

DRAFT

1986 FRYINGPAN-ARKANSAS PROJECT WATER PLAN

APR 23 1986
COLORADO WATER
CONSERVATION BOARD

1. Due to the unprecedented water conditions in the Fryingpan-Arkansas Project in 1986, caused by above average snow packs in the collection area in 1983, 1984 and 1985, and above normal precipitation in the area served by the Southeastern Colorado Water Conservancy District, a Special Program has been agreed upon by officials from the U.S. Bureau of Reclamation, Southeastern Colorado Water Conservancy District, Office of the State Engineer, ~~and the Arkansas River Compact Administration,~~ and the
2. Immediately upon approval by the Compact Administration, the Bureau will authorize the Division Engineer, Division 2, to request the release of East Slope Project water from Pueblo Reservoir, at a rate commensurate with the inflow of Project water into Pueblo Reservoir.
3. Said East Slope Project water will then be transferred directly to John Martin Reservoir, and the Bureau agrees to accept the required transit loss established by the Division Engineer.
4. All parties to this agreement understand that said water, while stored in John Martin Reservoir, shall be subject to the provisions of the 1980 John Martin Operating Plan as amended, and water allocated to District 67 and the State of Kansas will be credited to those accounts at no charge by the Bureau. Evaporation shall also be deducted as required.
5. The District will then offer the remaining water for sale to entities eligible to purchase Project water at \$8.00 per acre-foot. Said water must be used by May 1, 1987 or shall revert to the District's account in John Martin Reservoir.
6. Purchasers understand that said water will be administered by the Division Engineer, and exchange programs will be established by him as to dates, amounts and specific conditions, for each entity.
7. This program does not set a precedent for the operation of the Fryingpan-Arkansas Project, or the annual Allocation Principles or Policies of the District, and is intended to maximize the beneficial use of waters available as a result of the Project.

ADOPTED FY 1987-88 BUDGET
(July 1, 1987 - June 30, 1988)

EXHIBIT H

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,000
3. Recording Secretary	1,000
2. Operations Secretary	6,100
4. Audit	450
5. Court Reporter	1,500
6. Payroll Taxes	<u>350</u>

\$10,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1987	\$10,290
2. St. of Colorado Satellite System	<u>7,000</u>

\$17,290

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100
2. 1986 Annual Report (Printing)	3,000
3. Telephone	2,000
4. Office Supplies/Supplies	300
5. Printing	300
6. Meetings	100
7. Travel	<u>0</u>

\$ 5,800

D. OFFICE EQUIPMENT:

2,000

E. CONTINGENCY:

0

F. TOTAL

\$35,490

INCOME

A. ASSESSMENTS

1. Colorado (60%)	\$12,000
2. Kansas (40%)	<u>8,000</u>

\$20,000

B. INTEREST EARNINGS

3,500

C. MISCELLANEOUS

0

D. TOTAL

\$23,500

EXPENDITURES FROM SURPLUS

\$11,990

Adopted by the Arkansas River Compact Administration at the
December 9, 1986, Annual Meeting.

Treasurer

1878E

ADOPTED FY 1988-89 BUDGET
(July 1, 1988 - June 30, 1989)

EXHIBIT I

EXPENDITURES

A. SALARIES AND CONTRACTUAL SERVICES:

1. Treasurer	\$ 1,000	
3. Recording Secretary	1,000	
2. Operations Secretary	6,100	
4. Audit	450	
5. Court Reporter	1,500	
6. Payroll Taxes	<u>350</u>	
		\$10,400

B. GAGING STATIONS:

1. U.S. Geological Survey Cooperative Agreements for federal FY 1988	\$10,695	
2. St. of Colorado Satellite System	<u>7,000</u>	
		\$17,695

C. OPERATING EXPENSES:

1. Treasurer's Bond	\$ 100	
2. 1987 Annual Report (Printing)	3,000	
3. Telephone	2,000	
4. Office Supplies	300	
5. Printing	300	
6. Meetings	100	
7. Travel	<u>0</u>	
		\$ 5,800

D. CONTINGENCY: 0

E. TOTAL \$33,895

INCOME

A. ASSESSMENTS

1. Colorado (60%)	\$12,000	
2. Kansas (40%)	<u>8,000</u>	
		\$20,000

B. INTEREST EARNINGS 2,000

C. MISCELLANEOUS 0

D. TOTAL \$22,000

EXPENDITURES FROM SURPLUS \$11,895

Adopted by the Arkansas River Compact Administration at the
December 9, 1986, Annual Meeting.

Treasurer

1881E

Annual Meeting

Arkansas River Compact Administration
December 9, 1986
Lamar Colorado

FRANK G. Cooley	Ark River Compact	Medora, Co.
Carl Benstrup	"	Deerfield, IL
Don Chapman	"	Shawnee City, Mo.
David R. Kane	"	Topeka, KS
RICHARD A. SIMMS	State of Kansas	Santa Fe, N.M.
Howard C. Corrigan	Kansas Water Res.	Garden City, KS
Dale E. Book	Sprink Water Engineers, INC	"
Brent E. Sprink	"	"
Leland E. Rolfs	KSBA-DWR	Topeka, KS
James Bagley	KSBA-DWR	Topeka, KS
John DeForest	Amity	Bristol, Colo.
Ken Smith	"	Lamar, Co.
Jim Sherwood	Amity Mutual	Wiley, Colo
Robert Reyer	Fort Lyon Canal Co.	Las Animas, CO.
Jacqueline Weber	"	Lamar, Co.
Marvin Stevens	U.S. Geological Survey	Garden City, KS
Oliver Hines	Frontier Ditch Co.	Coalinga, KS
Jack Garner	U.S. Bureau of Reclamation	Pueblo, CO
Russ Livingston	U.S. Geological Survey	Pueblo, CO
Gary Bostrom	City of Colo Sprgs	Colo. Sprgs, CO
P.O. Abbott	Colo Div Water Resources	Pueblo, Colo
David A. Brann	West Eastern Ditch Co.	Garden City, KS
EDWARD DEKEISER	ASSOC. DITCHER R.A.P.	DEERFIELD KS
Charles L. Thomson	SE Colo Water Cons Dist	Pueblo, Colo
Ray Williams	U.S. Bureau of Reclamation	Loveband, CO,

Lee Hancock	High Line Canal Co
Frank Melnick	Catlin
Ray I Mitchell	AUDA-CAPIN - Highline
Harvey Bates	Buffalo Mutual
C.V. Mills	Tamara Daily News
Howard Holme	Southern Colorado Water C. D.
Jack O Boyles	KERSSE - Langer
David Vickers	Pueblo Chieftain
Eddie Taylor	Halbrook
Ray Wallace	Halbrook
Richard Grant	Unity
Gene Lemm	Buffalo
J.W. McDonald	Colorado
Carl Genova	Colorado
Jim Rogers	Colorado
Dennis Montgomery	Colorado
Gene Jencsok	Colorado