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ARKANSAS RIVER COMPACT ADMINISTRATION  
2004 ANNUAL MEETING

ORIGINAL

DECEMBER 14, 2004

8:30 a.m. (MST)

*Approved 12/12/06  
Bob Johnson*

Lamar Community Building  
610 South Sixth Street  
Lamar, Colorado

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3 CHAIRPERSON: Federal Representative, Mr. Robin Jennison

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FOR KANSAS:

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Mr. David Pope

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Mr. Randy Hayzlett

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Mr. David Brenn

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Mr. Lee Rolfs

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Mr. John Draper

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FOR COLORADO:

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Mr. Rod Kuharich

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Mr. James Rogers

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Mr. Tom Pointon

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Ms. Carol Angel

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1                   CHAIRMAN JENISON: I'll call the annual  
2 meeting of the Arkansas River Compact  
3 Administration meeting to order. And the first  
4 order of business is kind of to let everybody know  
5 who is here. I'm Robin Jennison, the Federal  
6 Chairman. I think what we are going to do, the  
7 group is not that big. I think it would be  
8 interesting for everyone to see who is here and who  
9 you are affiliated with, so I think we'll start up  
10 here with Randy, and if you all would introduce  
11 yourself, when we get down to the end of the table,  
12 just start over here. I will introduce Bev. Bev  
13 is our court reporter, Bev Lohrey-Jantz. Then we  
14 will go back, Kevin We will just work our way to  
15 the end of the room and everybody can kind of get  
16 an idea who is here and who is represented. Randy.

17                   (Audience introduces themselves and  
18 others, as follows:)

19                   Randy Hayzlett from Lakin, Kansas, ARCA  
20 representative; David Pope, from Topeka, Kansas,  
21 ARCA representative, Kansas Department of  
22 Agriculture, Division of Water Resources; David  
23 Brenn, ARCA representative from Garden City,  
24 Kansas; Jim Rogers, representative from Lamar,  
25 Colorado, on the ARCA. Rod Kuharich, Director of

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1 Colorado Water Conservation Board, Denver. Tom Pointon, ARCA  
2 representative upstream from the John Martin.  
3 Kevin Salter, Kansas Department of Agriculture, Division of  
4 Water Resources; Mark Rude, Kansas Department of Agriculture, Division  
5 of Water Resources in Garden City. Lee Rolfs, Kansas  
6 Department of Agriculture, Topeka, Kansas. Dale  
7 Book, consultant for the State of Kansas. John  
8 Draper, Santa Fe, counsel for Kansas. I'm Steve  
9 Witte, I'm Colorado Division of Water Resources Div. 2 Engineer and  
10 Operations Secretary to the Administration. Hal Simpson,  
11 Colorado State Engineer from Denver. Ken Knox,  
12 State Engineer's Office in Denver. Dennis  
13 Montgomery, counsel for the state of Colorado.  
14 David Barfield for the Kansas Department of Agriculture, Division of  
15 Water Resources, Topeka. Bart Mendenhall for Lower  
16 Arkansas Valley Water Conservancy District. Sandy  
17 Rayl, US Army Corps of Engineers; Deborah Foley,  
18 US Army Corps of Engineers; LTC Todd Wang, US Army  
19 Corps of Engineers, Albuquerque District; Dan  
20 Maxfield, Kearny County Farmers, Amazon Canal; Hal  
21 Scheuerman, president of the Kearny County Farmers  
22 Irrigation Association at Lakin. Steven Hines,  
23 Frontier Ditch, Coolidge, Kansas. Carol Angel,  
24 Colorado Dept. Of Law, Denver, Colorado. Chris  
25 Woodka, Pueblo Chieftain, Pueblo, Colorado. Kent

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1 Askren, Kansas Farm Bureau, Topeka, Kansas; Don  
2 Steerman, counsel for District 67, Amity, Buffalo,  
3 and several others. Russ Livingston, hydrologic  
4 consultant. Dennis Garcia, Corps of Engineers.  
5 Susan Champine, Corps of Engineers. Leroy Mauch,  
6 Lower Arkansas Valley Water Conservancy District;  
7 Van Truan, Corps of Engineers, Pueblo; Mike Meyer,  
8 Kansas Department of Agriculture, Division of Water Resources, Garden  
9 City. David Anderson, Kansas. Bill Grasmick, Lower  
10 Arkansas Water Management Association. Terry Howland, Amity. Niles  
11 Stansfield, New Amity, Inc., Fort Collins, Colorado. Mary  
12 Talarico, New Amity, Inc., Fort Collins, Colorado;  
13 Malcolm Wilson, Bureau of Reclamation, Loveland,  
14 Colorado. Brian Person, Bureau of Reclamation,  
15 Loveland. Lisa Vehmas, also with the Bureau of  
16 Reclamation. Jaci Gould, Bureau of Reclamation.  
17 Pat Edelman, US Geological Survey, Pueblo. Richard  
18 Mehren, counsel for the Lower Arkansas Water  
19 Management Association. David Harrison, counsel  
20 for Lower Arkansas Water Management Association , Colorado. Monique  
22 Morey, Colorado Division of Water Resources, Pueblo. Don Taylor,  
23 Colorado Division of Water Resources, Pueblo. Joe  
24 Flores, Colorado Division of Water Resources,  
25 Pueblo. Thomas Ley, Colorado Division of Water

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1 Resources, Pueblo. Tom Williamson, Helton &  
2 Williamson, PC, Englewood, Colorado. Eve Woods,  
3 Colorado Department of Law, Denver. Nathan  
4 Sullivan, U.S. Geological Survey, Hays, Kansas. Bill  
5 Howland, Retired, Colorado Division of Water  
6 Resources. Elsie Howland. Don Higbee, LAWMA,  
7 Lamar. Bob Arambel, NRCS/SCD, Holly, Colorado.  
8 Dan Neuhold, Colorado Division of Water Resources,  
9 Lamar. Bill Tyner, Colorado Division of Water  
10 Resources, Pueblo, Colorado.

11 CHAIRMAN JENISON: We're getting ready to  
12 give Kevin a sign-up sheet that we would like to  
13 have you sign up and also we have some agendas.  
14 Does anyone up here need an agenda before, Steve --  
15 if anybody cares for an agenda, Steve has one.

16 Ask the Commissioners to take a look at  
17 the agenda. Do we need to revise the agenda that  
18 we have; is that going to be okay to work from?  
19 Okay. Then we will work from the agenda that we  
20 have printed up.

21 We do have reports from some of the  
22 officers and as a way of report, I would say that  
23 this past summer we had just an outstanding tour of  
24 the valley and it was, as a new commissioner, was  
25 very helpful for me. I really appreciate

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1           everybody, the number of people involved. I, not  
2           only people from Kansas and Colorado that put on  
3           and really decided where we were going to go, but  
4           we had a number of people in the valley that were  
5           very helpful as far as showing us around and as for  
6           myself, I think for some of the people that have  
7           been on the Administration for a period of time, it  
8           was helpful as well. But it kind of helped me to  
9           begin to see where some of these places are that  
10          we talk about, not just looking at it on the map,  
11          and so it was very helpful. I would also say that I  
12          really do appreciate, I think, the chemistry that  
13          exists in the Administration. We have some issues  
14          that need to be dealt with, but in the past, almost  
15          to be three years, I've observed a real willingness  
16          on the part of these guys to try to find some  
17          solutions. They are not easy, but I think there  
18          has been an effort to do that. I think we have  
19          made some pretty good progress this year and I hope  
20          that that continues. I think we will probably end  
21          up getting something done with the reports, which  
22          is something I brought up last year, I think we  
23          will probably be able to take care of this year.

24                 With that, I'll turn it over to David Pope.  
25          Dave, do you have any reports in the way as Vice

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1 Chairman. You might stand up so it will be easier  
2 to hear.

3 MR. DAVID POPE: It's going to be hard  
4 for people to hear, so we probably all need to  
5 speak up. I really don't have anything to add in  
6 my capacity as Vice Chairman, other than well,  
7 perhaps later it would be more appropriate when we  
8 talk about some of the administrative things and the  
9 fiscal.

10 CHAIRMAN JENISON: Then we will defer,  
11 Jim, until item nine.

12 So then we have reports. What we would  
13 like for the people that are going to do reports,  
14 if you would come up here and we are operating  
15 without a PA system this year. Last year it proved  
16 a little cumbersome to pass around. We will find  
17 out if this is better or worse. But, if you would  
18 come up to the podium and try to project your voice  
19 the best that you can. And, I think, first we are  
20 going to start with Southeastern Colorado Water  
21 Conservancy District. Jim Broderick. Is Jim here?

22 UNIDENTIFIED SPEAKER: Not yet.

23 CHAIRMAN JENISON: Then I guess we go  
24 down to Leroy with the Lower Arkansas Valley Water  
25 Conservancy District.

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1                   MR. LEROY MAUCH: Good morning.

2                   I appreciate the invitation to come. As you know,  
3                   the Lower Ark District is not quite two years old  
4                   yet. It's small, but we have come a long way in  
5                   two years, I believe.

6                   We've purchased some water, we've  
7                   purchased some land, we've purchased some water  
8                   shares and we also leased some, and it, as our  
9                   mission states, you know, we are trying to preserve  
10                  and keep the water, what we can here in the valley  
11                  for the municipalities and agriculture. And we have  
12                  been working on some conservation easements and  
13                  this next year that is one of our big goals is to  
14                  try to get the conservation easements worked out  
15                  where we had some trouble with the Co-Go grants and  
16                  the appraisals and so forth, but we hope this next  
17                  year to really zero in on the conservation  
18                  easements which we think can help not only the landowner  
19                  but also the valley as far as keeping the water in  
20                  the valley and help keeping agriculture stabilized  
21                  and growing here in the valley.

22                  If there are any questions, I would  
23                  entertain them.

24                  CHAIRMAN JENISON: Questions for Leroy?  
25                  Leroy, thank you. U.S. Geological Survey. Pat

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1 E-D-E-L-M-A-N.

2 MR. PAT EDELMAN: Good morning. In 2004  
3 the streamflow gages, there was 10 stream flow  
4 gages that were operated under the USGS and ARCA  
5 Cooperative Agreement. Eight of those gages were in  
6 Colorado and two in Kansas. During 2004 the 8  
7 gages in Colorado were prioritized with respect to  
8 US Geological Survey federal interests, and seven  
9 of the 8 gages being operated under the Joint  
10 Cooperative Agreement were designated high  
11 priority. One gage, Wildhorse Creek above Holly,  
12 received a medium priority ranking. The reason why  
13 that is important, that there's a variable federal  
14 match ratio that's put in depending on the priority  
15 of the station that we've given. The near final annual  
16 flows are shown on the second page and for you, as  
17 well as the folks in the audience, in 2004 the  
18 flows at Arkansas River below John Martin Reservoir  
19 were 152,800 acre-feet. That is about two times  
20 what they were in 2003. Arkansas River at Lamar  
21 reported 34,630 acre-feet. That was 2.7 times what  
22 occurred in 2003. At Big Sandy there was 3,720  
23 acre-feet, which was about 1.8 times what occurred  
24 in 2003. Arkansas River near Granada, 39,900  
25 acre-feet or 2.7 times what occurred in 2003. Wild

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1 Horse Creek flows were 3,340 acre-feet or 1.8 times  
2 what occurred in 2003. Arkansas River near  
3 Coolidge, 57,100 acre-feet, again about 1.8 times  
4 what occurred in 2003 and Frontier Ditch had a  
5 little over 9,000 acre-feet, or again, about 1.8  
6 times what occurred in 2003.

7 In 2005 USGS is proposing to continue to  
8 operate the 10 streamflow gages. However, I think  
9 there's been some discussions about what's  
10 happening and the value of Wild Horse and Big  
11 Sandy. I gave you, basically went through the  
12 annual flows. Big Sandy again in 2004 contributed  
13 about 3,700 acre-feet and Wildhorse about  
14 thirty-three. In September Wildhorse had one day,  
15 this was well over 300 cubic feet per second as a  
16 result of a rain storm event. There were several  
17 other days, I think there's about 20 different  
18 events that were reported at Wildhorse Creek but  
19 generally, Wildhorse contributes about one  
20 (unintelligible). A fairly small amount of flows  
21 that are measured there.

22 Big Sandy, generally in August,  
23 September, was averaged between five to 50 cfs. So  
24 that gives you some information depending on what  
25 the Commissioner would like to do. Those two gages

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1 do represent about a third of the total program  
2 with the USGS Colorado District, so it's a fairly  
3 large component for those two gages.

4 In 2005, all 10 gages are operated at a  
5 cost to the Compact Administration will be \$46,370  
6 of which \$37,070 would be for operation of the 8  
7 gages in Colorado; and \$9,300 for operation of the  
8 two gages in Kansas.

9 A couple other things that may be of  
10 interest, there's a draft report that is describing  
11 variability in ground-water pumpage and differences  
12 in ground-water pumpage between the method of using  
13 power conversion records to estimate pumpage for  
14 the year compared to in-line flow meters and  
15 looking at the temporal variability when those  
16 power conversion coefficients are applied for in  
17 time to estimate pumpage. So that report is, is at  
18 draft, colleague review stage, is being reviewed by  
19 two USGS colleagues, state of Kansas  
20 representatives and the state of Colorado. We  
21 expect to be getting those reviews back by the  
22 first of the year, then we will revise the report  
23 and make subsequent revisions after it is approved  
24 and submit it for publication.

25 Also in 2004 we made a final set of

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1 seepage loss investigations on the 8 canals under  
2 the Purgatoire ditch systems and we are in the  
3 process of documenting those findings. That report  
4 will be published in 2005.

5 That concludes my report. If there's any  
6 questions I'll be happy to try to answer them.

7 CHAIRMAN JENISON: Questions for Pat?

8 MR. DAVID POPE: Pat, just a quick  
9 question on the summaries of the flows for water  
10 years 2003 and 2004, have you run any numbers in  
11 terms of how those compare to in longer term  
12 periods?

13 MR. PAT EDELMAN: I didn't do that this  
14 year, that is an easy thing to look at, but I did  
15 not do that analysis before coming.

16 MR. DAVID POPE: It occurs to me, and I  
17 appreciate the information, but 2003 was very, very  
18 low so...

19 MR. PAT EDELMAN: We are still below  
20 average.

21 MR. DAVID POPE: Doesn't mean there's  
22 lots of water in 2004...?

23 MR. PAT EDELMAN: No, no, no, that's  
24 right. If I gave that impression that is...  
25 thanks for that correction.

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1 MR. DAVID POPE: Sure.

2 CHAIRMAN JENISON: Any other questions  
3 for Pat? David Brenn.

4 MR. DAVID BRENN: Pat, in regards to the  
5 46,370 figure that you talked about, can you kind  
6 of share with us the trend of that and cost and  
7 what you expect it to do?

8 MR. PAT EDELMAN: The trend over the last  
9 several years prior to this one were  
10 basically, federal funds are flat or diminishing,  
11 and so therefore, the cost of the operation has  
12 been passed onto, to our customers, and so prior to  
13 the prioritization process within the state of  
14 Colorado, we had the two year, the two previous  
15 years, they were increasing about 8 to 12 percent  
16 for the customers side. This year, the cost for  
17 the high priority gages was around four percent  
18 increase.

19 CHAIRMAN JENISON: Any questions for Pat?  
20 I don't see any, Pat, thank you.

21 MR. PAT EDELMAN: Thank you.

22 CHAIRMAN JENISON: US Army Corp of  
23 Engineers, Colonel Todd Wang. If you don't have a  
24 report, Dennis and Susan are handing those out for  
25 you. I believe the panel has their reports.

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1 LTC. TODD WANG: Good morning. What a great morning  
2 to be on the high plains. Too bad we are not having this  
3 on the tailgate finishing up some coffee, about to  
4 walk some fields for some pheasants. But, I can  
5 relate because this coming weekend I will do that.  
6 I've finished my Christmas shopping. My wife has  
7 allowed me to go hunting now.

8 Very pleased to be here this morning  
9 participating in this very important annual event.

10 My perspective is as a young boy growing  
11 up in southwest Kansas, so, surf on the Arkansas  
12 River and the Cimarron River, sailboating  
13 on John Martin Reservoir and then, of course,  
14 traveling to southeast Colorado at this time of  
15 year participating in those famous wrestling  
16 matches that Ark Valley would have every fall and  
17 winter, brings back some great memories. So it is  
18 a pleasure to be here today.

19 As I already introduced myself, Commander  
20 of the Albuquerque District, but I am a home-town  
21 boy of southwest Kansas, so I will probably use the  
22 word "R-kansas" versus "Arkansas" interchangeably. It  
23 wasn't until I went to college at Golden, Colorado  
24 at Mines that I actually realized that the Arkansas  
25 is pronounced differently, and it is, so after that

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1 team the Arkansas Razorbacks but I'll try to use  
2 the term intermittently so I do represent-the  
3 whole watershed's my responsibility, but I am  
4 from southwest Kansas.

5 We have already done introductions of my  
6 staff that are here and they are the experts, they  
7 keep me in line. Please engage them if you have  
8 any questions or concerns. We are here at your  
9 pleasure. We are here to serve you. So please work  
10 with them and we are here to work with you on your  
11 concerns.

12 Flood control operations. The Arkansas  
13 River snowmelt runoff was slightly below normal  
14 throughout the entire Basin ranging from 79 percent  
15 of average. There are no significant flood  
16 control operations at John Martin or Pueblo  
17 Reservoirs. However, Trinidad, heavy rains fell  
18 in the area of Trinidad Lake in early August 2004  
19 producing flows in excess of 4,500 cfs along the  
20 Purgatoire River above the reservoir. It was  
21 discovered during the flood operations at this time  
22 that the outlet works gaging station becomes  
23 unreliable for flow measurements greater than 1,000  
24 cfs. Historically, at Trinidad releases had been  
25 below 1,000 cfs and it wasn't until May 5 of this

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1 year that it actually exceeded that and a release  
2 of 1,051 cfs was recorded.

3 On Wednesday, August 11, heavy rainfall  
4 produced runoff which increased lake elevations 2.5  
5 feet accumulating over 1,800 acre-feet of storage.  
6 The reservoir release at this time was 163 cfs.  
7 During the daily coordination meeting on the  
8 morning of Thursday, August 12, the Colorado Water Commissioner  
9 requested release of 1,300 cfs. The USGS was  
10 notified of a release and they provided a down  
11 stream stage for the outlet works gaging station of  
12 8.22 feet to correspond to the requested 1,300 cfs  
13 flow. Release was increased to 1,300 cfs.  
14 However, after checking the flow measurement at the  
15 outlet works gaging station, it appeared the  
16 release was actually decreasing although the gates  
17 had been opened to release 1,300 cfs. Fortunately,  
18 USGS was on site during the day and measured the  
19 flow at 1,260 cfs. It is during this release that  
20 the USGS determined that the turbulence at the  
21 outlet works flip bucket, where the gaging station  
22 is located, was causing a back water effect which  
23 was drawing down the water level in the outlet  
24 works gaging station. This gives the effect of  
25 decreasing flows. Based on this information, USGS

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1 deemed the outlet works gaging station unreliable  
2 for flows in excess of 1,000 cfs.

3 According to the USGS it is currently taking  
4 measures to ensure that reliable readings for flows  
5 exceeding the 1,000 cfs be verifiable, including  
6 placing into service the secondary gaging station  
7 located approximately 100 yards downstream from the  
8 outlet works. The Corps plans to have the secondary  
9 gaging station fully functional in the near future.  
10 There are no new or ongoing studies in the Arkansas  
11 Basin under the Planning Assistance to States  
12 Program.

13 Tamarisk and invasive species can be removed  
14 and native species restored under Section 206 and  
15 Section 1135 of our Continuing Authorities Program.  
16 Section 1135 is cost-shared at 75/25. 75 being  
17 federal. Applies if the spread of invasive species  
18 can be partially attributed to Corps projects.  
19 Section 206, however, does not have that Corps  
20 project requirement and it has cost-shared of  
21 65/35, 65 being federal government. Both programs  
22 are funded \$25 million nationally and overall our  
23 CAP program, Continuing Authorities Program, is  
24 stretched right now because of the huge  
25 requirements across the nation so we are actually

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1           trying to do backlog with this and with the, not  
2           with (unintelligible) that CAP program will remain  
3           at that level.

4                     Currently there are no active Section 1135  
5           projects.

6                     In 2001, the Arkansas River Fishery Habitat  
7           Restoration Project was approved and a Project  
8           Cooperation Agreement was signed with the City of  
9           Pueblo in 2002. The project will improve fish and  
10          riparian habitat along 10 miles of the Arkansas  
11          River downstream of Pueblo Dam. Improvements will  
12          include instream habitat and channel enhancement  
13          structures, channel restructuring, and  
14          riparian/bank plantings. Construction is ongoing.  
15          I was just there yesterday visiting that project  
16          and it is scheduled for completion in 2005.  
17          Planning a Memorial Day opening ceremony.

18                    There are two Section 14 projects in Colorado  
19          Springs; Powers Boulevard and Chelton Road. The  
20          projects are to protect the roadway bridges and  
21          involve grade control and slope protection. These  
22          projects are on hold pending funding.

23                    Section 205 project in Colorado Springs along  
24          Cheyenne Creek. The District has recommended that  
25          this become a General Investigation Study, since

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1 the costs exceed Federal funding limitations for a  
2 Section 205 project. There's a \$7,000,000 limit.

3 Section 205 project at Florence along the Oak  
4 Creek tributary to the Arkansas River is in the  
5 feasibility stage. The project is being designed  
6 to fulfill both flood control and water supply  
7 objectives.

8 The Fountain Creek watershed study began in  
9 2002. It will be ongoing through 2007. The  
10 project will look at the entire watershed,  
11 identifying potential detailed studies involving  
12 environmental restoration, flood reduction,  
13 socio-economic effects and other factors by  
14 studying and generating an Environmental Impact  
15 Study and Feasibility document.

16 At the request of the Colorado Water  
17 Conservation Board, and partially funded by the  
18 Federal Emergency Management Agency, Region VIII,  
19 the Corps initiated a floodplain delineation study  
20 and Flood Insurance Study for Oak Creek through the  
21 towns of Williamsburg and Rockvale and for Coal  
22 Creek through the town of Coal Creek in Fremont  
23 County. The study uses digital topographic mapping  
24 developed by the Fremont County regional GIS  
25 Authority.

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1 Under authority of an Interagency Agreement with  
2 the Federal Emergency Management Agency, Region  
3 VIII, the Corps initiated a Flood Insurance Study  
4 for a portion of Black Squirrel Creek and five  
5 tributaries in El Paso County. The study uses  
6 digital topographic mapping developed by the El  
7 Paso County Department of Transportation.

8 In addition to these studies, the Corps  
9 received approximately 20 requests for technical  
10 services at specific sites within the Arkansas  
11 River Basin.

12 In 2004, 14 individual permits were issued in  
13 the Arkansas River Basin. An additional 268  
14 activities in the Basin were reviewed during the  
15 period and most were covered under nationwide  
16 permits.

17 That concludes my report pending any  
18 questions.

19 CHAIRMAN JENISON: Questions of Colonel  
20 Wang. Don't see any. Thank you.

21 Jim Broderick is here now. He has other  
22 commitments so we will go back to him.  
23 Southeastern Colorado Water Conservancy District,  
24 Jim Broderick.

25 MR. JIM BRODERICK: Good morning. Thank

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1           you very much for accommodating me. I apologize.

2           I just have too many things scheduled in one day.

3                       I would like to brief you on three items  
4           very quickly. As you have requested to come back  
5           every year and talk about the Preferred Storage  
6           Option Plan, we are working on a, about a seven  
7           year project so far, moving to the eighth year on  
8           what we believe is needed water for storage needs,  
9           excess storage and resource management of our  
10          facilities. We also hope that we provide continued  
11          recreational needs, provide the assurance of  
12          existing users entitlements of the Fry-Ark Project  
13          to be protected.

14                       I won't go back into the history of how  
15          we started and all of the storage study committee.  
16          I will however, brief a little bit on that was an  
17          extensive process that brought in the whole Basin,  
18          included every community within the Basin could  
19          have input on this and basically it got us down to  
20          a point where the Preferred Storage Option Plan is  
21          at. The Legislation is an attempt to do a  
22          feasibility study to see if you could enlarge  
23          Pueblo Reservoir and Turquoise Reservoir in the  
24          near future. We seemed to be moving fairly well  
25          until about a week ago, two weeks ago, I guess now,

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1 when the Lower Arkansas Conservancy District has  
2 requested or has written a letter to our delegation  
3 stating that they are opposed to PSOP. We are  
4 waiting to hear information on what they are  
5 opposed to and I believe that information will be  
6 forthcoming in a few weeks.

7 As you are aware, the Lower Arkansas  
8 Conservancy District is a new district that was  
9 formed two years ago. Parts of their membership  
10 were a part of this process so we are waiting to  
11 see where we are with them. Probably more  
12 importantly for your update, the last time we  
13 talked we were still dealing with Pueblo and their  
14 flow program. We have resolved the flow program  
15 through Pueblo and Pueblo is supportive of the  
16 project. We also have resolved all issues with the  
17 Colorado River District and their issues associated  
18 with the Preferred Storage Option Plan.

19 So I think that's just about where we are  
20 sitting right now on that project. I will also say  
21 it was, we had a very good meeting with Kansas  
22 earlier this year to talk about this project with  
23 Mr. Pope and his group and had a pretty good  
24 dialogue and understood some of the issues that  
25 Kansas had with regard to this Legislation.

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1                   I'll move onto the next two items and  
2 then be glad to take any questions, if I can, if  
3 that would be all right with you all.

4                   Second item I would like to talk a little  
5 bit about has to do with the conduit. As you all  
6 will remember in the Fryingpan-Arkansas Project  
7 there is authorization of a conduit that comes from  
8 Pueblo all of the way to Lamar here, and it had  
9 been authorized but never built. Right now there  
10 is Legislation being moved forward to authorize  
11 again, the Fry-Ark Conduit Project with regards to  
12 authorizing the Corp. What we are doing right now  
13 is looking at studies, financial analysis, to  
14 determine if the project is feasible, if it can be  
15 accomplished. Legislation has been, as I said,  
16 entered by Senator Allard, and it is in the WRDA  
17 Bill. As you are all aware of, by now, I'm sure,  
18 now the bill has been held for this year and will  
19 be brought over next year and that is in that bill  
20 for authorization not funding. Let me state that  
21 again. For authorization not funding. For about  
22 85 million dollars. And so we look forward to  
23 seeing where that goes in the next year.

24                   The third item, I think, of major importance  
25 for you all is we are involved in the tamarisk bill

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1           that's been entered by Senator Domenici of New  
2           Mexico. Part of that bill has to do with  
3           eradication of tamarisk. And in that bill there  
4           are planned to be three pilot areas. We are in  
5           hopes that the Arkansas Valley will be one of those  
6           planned areas, however we are waiting to hear where  
7           that, when the bill gets approved and where those  
8           sites will be. We have been very proactive in  
9           setting up a basin-wide eradication of tamarisk as  
10          opposed to site specific. That's made our project  
11          a very focal project because one of the first  
12          basin-wide eradication projects to be discussed.  
13          So we are hoping to be one of those three pilots.

14                 We also put in an application last year to the  
15          Bureau's 2025 Program for the same project for a  
16          matching \$300,000 grant. We were not one of those  
17          that were selected, however we will be resubmitting  
18          that application this year.

19                 With that, I think that's the essence of  
20          what's be going on in Southeastern. Be glad to  
21          take any questions.

22                         CHAIRMAN JENISON: Questions for  
23          Mr. Broderick?

24                         MR. DAVID POPE: Good morning. Again, do  
25          appreciate your coming to visit with us on the

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1 PSOP program, I guess I would just note that the  
2 number of issues there are unresolved from the  
3 standpoint of our perspective. What is your  
4 expectation in terms of next year on that, do you  
5 anticipate reintroduction is --

6 MR. JIM BRODERICK: We anticipate the  
7 reintroduction of the bill that was introduced  
8 earlier in the part of the year. We are going to  
9 attempt to try to resolve the differences that we  
10 still have with the bill. I'm unable to tell you  
11 what the Lower Ark's concerns are because we  
12 haven't yet received a letter to explain to us what  
13 they are. However, with regard to Kansas'  
14 concerns, everything that we are dealing with is  
15 the feasibility study, as you are aware of, it's  
16 not the moving of dirt or building a thing. It's  
17 strictly a feasibility to set up a study program to  
18 determine if it is feasible. I'm hoping a lot of  
19 the issues that are still unanswered can be couched  
20 into the feasibility study in some way, and that's  
21 what our hopes are to be able to address those.

22 MR. DAVID POPE: You mentioned the  
23 feasibility study, but have you narrowed down or  
24 eliminated some of the authorization for  
25 contracting on excess storage? That was also in

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1 the bill that was introduced.

2 MR. JIM BRODERICK: We have not. That is  
3 exactly where it was with the excess capacity  
4 issue. That is still -- all three parts of the  
5 original bill are still there. We plan on moving  
6 all three parts again. Given the last few years,  
7 we are even more concerned about insuring that we  
8 utilize our facilities the best way we can and look  
9 at storage, which as you are well aware is an  
10 important issue for most states.

11 MR. DAVID POPE: We certainly recognize  
12 that, we just have some serious concerns about  
13 impacts and poor quality and a variety of things  
14 of that nature (unintelligible) out here today, but  
15 we look forward to some form of process or dialogue  
16 to deal with that.

17 MR. JIM BRODERICK: And I'm sure we will.  
18 As we stated before in our meetings, that the State,  
19 you all, most states are working on water quality  
20 and will allow you guys to do that and understand  
21 the needs associated with that. Our concern is to  
22 be able to get out and get the data to determine if  
23 this is feasible and that is a critical piece for,  
24 for the district because there are questions that  
25 need to be answered that we can't answer without

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1           doing the research and getting the data, so, as you  
2           are well aware of. And part of those flowed into  
3           the area that you are interested in.

4                       MR. DAVID POPE: Yeah, I think in this  
5           case, the high flows and how they are dealt with  
6           and the quality are big issues but there's lots of  
7           things there. On the tamarisk issue, Jim, that you  
8           mentioned, obviously been an issue that both of our  
9           states, I think, have been very concerned about and  
10          in Kansas, there's a group working on that as well, to  
11          look at the various kinds of controls and what  
12          might be possible. I guess my question is, do you  
13          know if the Arkansas or Arkansas River was picked  
14          as one of the three pilot studies, would that  
15          extend in both states or is it being looked at;  
16          what is the scope of that?

17                      MR. JIM BRODERICK: Scoping of that  
18          project right now is it does not go into both states,  
19          but very easily could go into both states. The  
20          project that we put in and for and had discussion  
21          with Senator Campbell, when Senator Campbell joined  
22          with Senator Domenici, we felt it was important to  
23          have a basin-wide approach. Most approaches  
24          traditionally are project specific as opposed to  
25          basin-wide. As you are aware, the Arkansas or

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1 Arkansas, depending, is a large river at some parts  
2 of the year and small river at other parts of the  
3 year, and falls in between. One of the few rivers  
4 that we'll be able to show what you could do to  
5 larger rivers and smaller rivers, and so that's why  
6 we wrote up the proposal. We have not made it  
7 multi-state from a perspective of what we presented  
8 so far, but think that's an idea that should be  
9 forwarded. And I think if we can move in that  
10 direction it most certainly would be.

11 MR. DAVID POPE: I appreciate that. We  
12 have been, in general terms, aware of the  
13 legislation, but not quite as engaged as you folks  
14 have been at that level. I think that's an area  
15 that we might consider, might be something that we  
16 could actually work on together, so that's...

17 MR. JIM BRODERICK: As you are well aware  
18 of, in Washington, when you say three pilot  
19 projects, when you look at the whole western United  
20 States, we are hoping that we are one. We also  
21 know the political reality of who will be and who  
22 won't and who has the most votes and those kind of  
23 things, but we think that the project is a little  
24 unique in its approach. So we are hoping that  
25 we'll be able to be a part of that. We had higher

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1 hopes when Senator Campbell was there but now that  
2 he's gone, we are not sure what will happen.

3 MR. DAVID POPE: I think that's all I  
4 have.

5 CHAIRMAN JENISON: Other questions?  
6 Don't see any. Thank you very much, Jim.

7 MR. JIM BRODERICK: Thank you very much  
8 for your time.

9 CHAIRMAN JENISON: U.S. Bureau of  
10 Reclamation. And that is P-E-R-S-O-N. Good  
11 morning, Brian.

12 MR. BRIAN PERSON: Morning. My name is  
13 Brian Person. I'm area manager for the Eastern  
14 Colorado Area Office of the Bureau of Reclamation.  
15 It is B-R-I-A-N P-E-R-S-O-N. My perspective on  
16 coming to this part of the country is just a little  
17 different than the Colonel's. I'm a North Dakota  
18 native, so this is very much like coming home,  
19 coming here to the plains, and if you could  
20 envision a hot July day in North Dakota, that is  
21 what this is out here today. Made me kind of  
22 homesick, actually. Had to take my jacket off.

23 The Eastern Colorado Area Office operates (and  
24 maintains primarily, at least, in the case with  
25 Colorado Big Thompson,) two major transmountain

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1 diversion projects. They are the Colorado Big  
2 Thompson Project and the Fryingpan-Arkansas  
3 Project. We also administer the Irrigation  
4 Repayment Contract with the Purgatoire Water  
5 Conservancy District and the Trinidad Dam and  
6 Reservoir Project.

7 I would like to first today discuss the status  
8 of the Operating Principles for the Trinidad  
9 Project, then I'll talk about the current water  
10 year and prior water year for the Fry-Ark Project  
11 and briefly touch on a few of the Fry-Ark Project  
12 issues, sort of expand on the report Mr. Broderick just  
13 provided you.

14 First, on the Operating Principles, last  
15 December all of the hard work that the parties had  
16 previously put into amending the Operating  
17 Principles over the years resulted in an agreement.  
18 I think it was a very productive session we had  
19 last December. ARCA built on the progress made in  
20 the May 2003 meeting when we achieved agreement on  
21 amendments on the Model Transfer to State Parks, and  
22 the so-called Clean-up Amendment that is correcting  
23 some of the information on tabulated water rights  
24 and irrigated parcels.

25 Last December the remaining differences in the

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1 stock water and acreage verification amendments  
2 were resolved, and ARCA voted in support of the  
3 resolution approving the amendment.

4 Since December of last year, as promised,  
5 Reclamation's completed the hydrologic analysis for  
6 the Stockwater Amendment. As we had anticipated,  
7 the analysis showed that the effects of changing  
8 the stockwatering practice from releasing a  
9 consistent smaller amount to storing and releasing  
10 a larger amount, which would be more hydraulically  
11 efficient, that that did, in fact, was more  
12 effective and the effects on streamflows and  
13 depletions were minimal, if not negligible.  
14 Reclamation also completed compliance with the  
15 National Environmental Quality Act, NEPA, for  
16 Reclamation's adoption of the Operating Principles.  
17 An environmental assessment was completed in  
18 November and the Finding Of No Significant Impact  
19 or a FONSI was signed. We had hopes that we  
20 could complete the Environmental Assessment sooner  
21 than we were able to, and I want to sincerely  
22 apologize to the Administration for the time that  
23 it took. It was not so much that we underestimated  
24 the amount of time that the EA would take to  
25 complete, but rather we underestimated the amount

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1 of other work that a very limited natural resources  
2 staff that does this kind of work, had on their  
3 plate. So I apologize for the inconvenience and  
4 delay. I'm pleased that although, that it was completed  
5 and all of the parties have now signed the  
6 Operating Principles, I would like to sincerely  
7 thank the many people who worked diligently to get  
8 these amendments adopted. Many have worked on these  
9 longer than I have but the last four years'  
10 involvement make me truly appreciative of the work  
11 involved to reach resolution on these issues.

12 We now have Operating Principles that allow  
13 for a more effective approach to providing  
14 stockwater. Assurance for Kansas that the  
15 appropriate amount of acreage within the District  
16 is irrigated, and we have corrected a number of  
17 provisions to more accurately reflect water rights  
18 of contracted acres within the District.

19 After we have received all of the signature  
20 pages of the Amended Operating Principles, we will  
21 compile them and send signed originals to the  
22 signatories. For those who desire them, copies of  
23 the Amended Operating Principles will be available.  
24 We will also send copies of the Environmental  
25 Assessments to those who are interested. I would

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1           like to personally and publicly thank Lisa Vehmas  
2           and Malcolm Wilson of our staff who introduced  
3           themselves a little earlier. Without their  
4           diligence and concerted efforts on these, we,  
5           Reclamation, would not be able to complete our part  
6           of these. Thank you.

7                     On a related topic, the Environmental  
8           Assessment also analyzed proposed amendments to the  
9           Trinidad Project Operating Criteria, to bring the  
10          Operating Criteria into conformance with the  
11          amendments of the Operating Principles. The  
12          Operating Criteria are signed by the Purgatoire  
13          Conservancy District and Reclamation. The parties  
14          are taking a last look at proposed changes. I'm  
15          hopeful the Amended Operating Criteria will be  
16          signed in the near future.

17                    Next on the agenda for the Operating  
18          Principles is the 10 year review. As many of you  
19          know, the Operating Principles require a review of  
20          the principles every 10 years. The objectives are  
21          primarily two-fold. One is to help obtain optimum  
22          beneficial use of the water supply as conditions  
23          change, experience is gained and more technical data  
24          become available pursuant to the Operating  
25          Principles, that is in accordance with Article 6,

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1 and to determine the effect, if any, operation of  
2 the project has had on other Colorado and Kansas  
3 water users pursuant to Kansas Condition 4.

4 The report from the last 10 year review was  
5 issued in 1996. The review process will be  
6 initiated by contacting the various parties to  
7 scope the issues that should be examined during  
8 review. We will also begin developing the process  
9 for conducting the review itself. Those two  
10 processes are interdependent. The review process  
11 will be determined, in part, by the issues raised  
12 during the scoping.

13 I would like to provide a brief update on the  
14 Water Conservation Field Services Program. Due to  
15 the drought, the Transit Loss Study of the Trinidad  
16 Project Canals conducted by the Geological Survey  
17 has been placed on hold for a couple of years. The  
18 Transit Loss Study was to determine water loss from  
19 the delivery canals. USGS has collected two  
20 years of data and finished the third set of data  
21 this last irrigation season. They will now compile  
22 the data. You can anticipate a report by mid-2005  
23 on the results of the study.

24 Also like to offer a few words on tamarisk  
25 control.

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1 The fear is back. Reclamation began an  
2 experimental tamarisk control measure, a biological  
3 measure, by releasing leaf eating beetles within  
4 the salt cedar stands immediately below Pueblo  
5 Reservoir. The beetles were initially released in  
6 netting that was attached to the trees so that they  
7 were captive. As additional data was gained from  
8 the net-captured release, the beetles were  
9 released so they could migrate more naturally  
10 amongst the trees. We continued to gather data and  
11 the beetles have been somewhat successful in  
12 eradicating portions of the tamarisk. As they  
13 consume the leaves, the plants are no longer able  
14 to complete photosynthesis so they die or at least  
15 go dormant. Reclamation is now in the process of  
16 conducting new compliance for another beetle  
17 release at Bonnie Reservoir where there is a very  
18 significant infestation of salt cedar. This spring  
19 there was a release of approximately 100 beetles in  
20 a salt cedar stand near John Martin. We are  
21 gathering data on that as well. There seems to be,  
22 as we gather data there seems to be, a critical  
23 period for the beetles, they are very photo-  
24 sensitive so the length of the day is critical to  
25 them, so they have gone to a different province of

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1 China to collect this last round of beetles where  
2 their photosensitivity that they have gained in  
3 their native environment is different. They have  
4 also discovered that ants are a natural predator to  
5 the beetles, so they have taken some measures like  
6 putting a sticky substance on the trunks of the  
7 trees to help prevent the predation of ants. It  
8 remains a question as to whether there will be a  
9 viable tamarisk eradication measure over the long  
10 term or broader in scope as we continue to gather  
11 valuable data.

12 The Fryingpan-Arkansas Project Water Year, the  
13 water year 2004 was not as good as 2003. In the  
14 spring of 2004, snowpack readings on the west  
15 slope were significantly more or less at  
16 80 percent. In May we estimated there would be  
17 approximately 30,000 acre-feet of water available  
18 to import from the west slope, but by the end of  
19 July the total quantity available to Boystead  
20 Tunnel was just 27,398 acre-feet. That is just 50  
21 percent of the average yield for the Fry-Ark  
22 Project. It is still very much too early to  
23 predict next year's runoff, but we are, of course,  
24 hopeful it will be better. The snowpack for both  
25 the Fry-Ark Project collection area and Arkansas

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1 Basin is currently over 100 percent of average. If  
2 we can stay there in March, then we will have  
3 accomplished something. But it's early, there is  
4 plenty of space available. There is currently over  
5 202,000 acre-feet of storage space available in  
6 East Slope reservoirs.

7 To wrap up, I'll give a brief issue update on  
8 several of the issues also involving the Fry-Ark  
9 Project.

10 Activity in the contracting year continues,  
11 Colorado Springs and smaller communities have  
12 requested excess capacity contracts for storage and  
13 conveyance of non-project water, that is water that  
14 is not affiliated or apportioned to the project itself.

15 Within the Fry-Ark Project in connection with  
16 their proposed Southern Delivery System, when built  
17 the SDS would deliver water from the Pueblo  
18 Reservoir area northward to the Colorado Springs  
19 area. Reclamation is the lead agency for  
20 preparation of Environmental Impact Statements on  
21 the SDS. We continue to work with the city of  
22 Aurora for their request for a long term, that is a  
23 40 year excess capacity contract for storage to  
24 exchange their non-project water.

25 Reclamation has determined it has the

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1 authority to enter into such a contract and we  
2 continue to move forward with National  
3 Environmental Policy Act compliance.

4 Southeastern Colorado Water Conservancy  
5 District has requested Reclamation enter into  
6 contract with District municipal entities for use  
7 of excess capacity for storage of non-project water  
8 through a master contract with the District.

9 Reclamation, after determining we do have the  
10 authority for such contracts, is in discussions  
11 with the District on this contract request.

12 The General Manager of Southeastern District, Jim  
13 Broderick, talked about the Preferred Storage Options  
14 Plan.

15 I'll offer a few more words there from  
16 Reclamation's perspective. As Jim indicated, it  
17 was once again before the Congress this year, but  
18 it was not enacted into law. Reclamation would  
19 play a pivotal role if PSOP legislation is passed  
20 in that we would have primary responsibility for  
21 completing the feasibility study for enlarging  
22 Pueblo and Turquoise Reservoirs.

23 The legislation would also authorize the  
24 Secretary, through Reclamation, to enter into excess  
25 capacity contracts and it would affirm the

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1 authority that we have already found does, in fact,  
2 exist with the contract with the City of Aurora.

3 Other federal legislation before Congress  
4 proposed various ways to move forward with the  
5 design and construction of the Arkansas Valley  
6 Conduit as Jim indicated. Senator Allard has  
7 proposed the conduit be authorized as a WRDA  
8 Bill which would in effect be a hand-off of the  
9 project authority from Reclamation to the Corp of  
10 Engineers if that were to occur. We would then  
11 work with the Corps of Engineers for licensure of the  
12 connection to Pueblo Reservoir.

13 Reclamation, since it remains an authorized  
14 feature, but it's now been 41 years since the  
15 project was authorized, our debt to the Congress  
16 was a re-evaluation statement. What in affect that  
17 does, is contemporize the information that was  
18 taken into account when Congress authorized the  
19 Arkansas River Conduit 40 years ago.

20 We have completed that evaluation statement  
21 in draft and it is near ready for submission to the  
22 Congress. As Jim indicated, the conduit would  
23 convey water from Pueblo Reservoir, or near there,  
24 to points along the Arkansas River corridor up to  
25 and including Lamar. The recent interest is

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1 generated by the fact it is increasingly difficult  
2 for these municipalities to meet Safe Drinking  
3 Water Act standards. The quality of the water in  
4 Pueblo Reservoir is much better.

5 That concludes my brief overview of issues  
6 from Reclamation, I would be happy to try to answer  
7 any questions.

8 MR. ROD KUCHARICH: Is there a cost  
9 comparison between the pipeline and advanced  
10 treatment?

11 MR. BRIAN PERSON: There is. There is.  
12 Our re-evaluation statement will include a cost  
13 estimate. The Southeastern District has contracted with  
14 Black and Veech to have that cost estimate and  
15 also some independent work done, but generally  
16 speaking, over the long term the cost estimates  
17 suggest that the pipeline would be less costly in  
18 the long term. Capital costs, of course, are  
19 initially much greater but the payout comes over  
20 the years. Two versions of the conduit are under  
21 consideration: One, it would convey treated water,  
22 and one would convey raw water for treatment at the  
23 end point along the river.

24 MR. DAVID POPE: Brian can you shed a  
25 little bit more light in terms of what the

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1 differences would be if the project is handed off  
2 from the Bureau to the Corps; are there differences  
3 in federal criteria, for example, or what would be  
4 the reason, I guess, for doing that?

5 MR. BRIAN PERSON: Well, the primary  
6 reason is one of the advocates within the Senate  
7 for the project is Senator Allard and he sits on  
8 the Environment and Public Works, I believe it is,  
9 Committee, and would have some greater advantages  
10 in moving the legislation as a Corps project than he  
11 would as a Reclamation project. I believe that's  
12 the driver. Due to the fact that we are talking  
13 about a, generally speaking, a pipeline, and some  
14 decisions would need to be made as to pipeline  
15 materials, the exact alignment, whether it is  
16 treated water or untreated water, once you get  
17 beyond those, it is relatively straight forward and  
18 it's going to serve the same cities, it is going to  
19 serve those cities with roughly the same quantities  
20 of water, so whether it remains a Reclamation  
21 project and is constructed, or whether it becomes a  
22 WRDA Bill project and is constructed by the  
23 Corps, I don't see a great deal of difference. Of  
24 course, there's an difference to Reclamation, but  
25 in the end outcome, I don't think the difference

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1 would be great.

2 MR. DAVID POPE: I guess I didn't quite  
3 understand what was being considered in the way of  
4 an additional contract with Southeastern, called it  
5 a master contract or something.

6 MR. BRIAN PERSON: Yes.

7 MR. DAVID POPE: How would that compare  
8 to the, say the Aurora contract that we are looking  
9 at or proposing with the existing contracts with  
10 Southeastern that are --

11 MR. BRIAN PERSON: The master contract,  
12 the way that would work, there are a number of  
13 small entities that may not have the financial  
14 resources to pursue a contract with Reclamation  
15 directly, but if they were to join forces with  
16 other smaller entities, they could, they could pool  
17 their resources and they would have Southeastern  
18 District basically serve as their agent in  
19 contracting with Reclamation, so our contract would  
20 be with Southeastern's master contract and then the  
21 smaller entities would be able to store, convey or  
22 exchange non-project water within that master  
23 contract.

24 MR. DAVID POPE: It would still be sort of  
25 an excess capacity type contract?

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1 MR. BRIAN PERSON: Yes.

2 Mr. DAVID POPE: So you would have  
3 potentially that one plus Aurora. Are there others  
4 that would be potential --

5 MR. BRIAN PERSON: As a contract request  
6 is included with this Southern Delivery System  
7 with Colorado Springs, there is. These are all  
8 non-project water subject to the availability of  
9 space within the project facilities and by virtue  
10 of the repayment contract by virtue of the  
11 authorizing legislation for the project and various  
12 other provisions, they cannot compromise the  
13 project interests, either water deliveries or power  
14 generation if non-project water is allowed to  
15 piggyback on the system. Our Commissioner has  
16 indicated a number of times that this is general  
17 philosophy that fits within Reclamation's general  
18 authorities and that is that these facilities were  
19 constructed, yes there is a repayment component by  
20 the direct beneficiaries, but the general public has  
21 largely paid for the cost of these projects and  
22 that the general public should be able to derive as  
23 much benefit as they can from these existing  
24 projects as long as it doesn't come as a compromise  
25 to the initial beneficiaries. That greater use of

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1 existing facilities, in some cases, could alleviate  
2 the need for construction of private facilities and  
3 the attendant environmental consequences there. So  
4 the infrastructure is in place, let's make the  
5 greatest use of it that we can. These services do  
6 not come at no cost, there is a cost for the use of  
7 these services that helps in terms of repayment  
8 back to the Federal Treasury. It fits within the  
9 provisions of the law, if it fits within the  
10 provisions of the law including NEPA and doesn't  
11 harm project beneficiaries, it's been our approach  
12 to at least look at them.

13 MR. DAVID POPE: Where do those three  
14 contracts stand in the NEPA process?

15 MR. BRIAN PERSON: In terms of the SDS  
16 the Environmental Impact Statement is under way as  
17 a 2005 draft EIS for public review, I can't remember  
18 the month, July or so, of 2005, I believe. The  
19 Environmental Assessment for the Aurora contract is  
20 well under way. The NEPA compliance for the master  
21 contract with Southeastern has not yet been  
22 initiated because we are still in discussions with  
23 Southeastern as to just how that might work. I  
24 should emphasize once again, I talked briefly about  
25 Reclamation's role if the PSOP legislation is

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1 passed, but if it's passed in its present form it  
2 authorizes a feasibility study only, and I should  
3 again emphasize that if feasibility is found to  
4 exist and if the Congress should authorize, if the  
5 Congress should consider authorizing a construction  
6 crew, it would take a separate and distinct act of  
7 Congress. Authorizing a feasibility study does not  
8 authorize construction to occur.

9 MR. DAVID POPE: Okay. Thank you.

10 CHAIRMAN JENISON: Other questions?

11 MR. STEVE MILLER: Can these NEPA  
12 processes be tracked on your website? I know  
13 Southern Delivery has its own.

14 MR. BRIAN PERSON: SDS can be. The Aurora  
15 EA, I don't believe is available, available through  
16 the web but once the draft EA is, the EA is available  
17 and out, you're, of course, welcome to it and to  
18 submit any comments you wish.

19 MR. STEVE MILLER: We should contact you  
20 directly rather than search on the website?

21 MR. BRIAN PERSON: Yes. The SDS, you can  
22 track their progress on the web. The EA of Aurora  
23 contact us, and whatever NEPA compliance there is  
24 with the master contract, please contact us on that  
25 as well.

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1                   MR. MARK RUDE: Brian, Mark Rude. You  
2 mentioned that you do these assessments for these  
3 contracts for consistency with law, existing law.  
4 Does that include the Compact, the law establishing the  
5 Compact Administration?

6                   MR. BRIAN PERSON: NEPA compliance is  
7 requirement for any major federal action that is  
8 discretionary, that is, where the federal  
9 government is going to make a decision. NEPA  
10 compliance, if it's an appropriate case that could  
11 have Compact implications, yes, Compact  
12 implications would be considered. I'm not going to  
13 say -- it varies, Mark, I'm not going to say in all  
14 cases that that is directly part of NEPA but  
15 Compact considerations would be taken into account  
16 in the Compact Administration.

17                   MR. MARK RUDE: Do you have any sense  
18 whether that's the case with these contracts that  
19 have been --

20                   MR. BRIAN PERSON: I do not. For the  
21 most part these are non-project water rights. If  
22 the water is not conveyed through Reclamation  
23 facilities, they'll be conveyed through other means  
24 eventually, so it's an "if" or "or".

25                   MR. MARK RUDE: Thanks.

0048

1 CHAIRMAN JENISON: Thank you, Brian.

2 MR. BRIAN PERSON: Thank you.

3 CHAIRMAN JENISON: We are ready for the  
4 report of the Operations Committee and I think to  
5 do that I'll just turn that over to Dave Brenn, he  
6 can take us through that, Dave, however you want  
7 to. You're the Operations Committee Chairman.

8 MR. DAVID BRENN: Steve Witte will give  
9 the Operations Secretary Report followed by Mark  
10 Rude for the AOS Report. Steve Witte.

11 MR. STEVE WITTE: Good morning,  
12 Mr. Chairman. Members of the Administration and  
13 members of the audience. If I may, I would like to  
14 take just a moment and introduce a late arrival.  
15 With us today is Mr. Bill Howland and his wife  
16 Elsie. Bill was an employee of the Colorado  
17 Division of Water Resources for many years. He was  
18 the de facto Operations Secretary from 1980 until  
19 1990-- when did you retire Bill?

20 MR. BILL HOWLAND: 2000.

21 MR. STEVE WITTE: So not that long ago.  
22 First meeting Bill has been in attendance for a  
23 number of years and we are very pleased to have him  
24 with us today.

25 Yesterday at the Operations Committee meeting

0049

1           there were two reports presented.  There was a  
2           report concerning the operations of John Martin  
3           Reservoir for Compact Year 2004, as well as a  
4           report of the Colorado State Engineer concerning  
5           the accounting of the operations of an offset  
6           account in John Martin Reservoir for Colorado  
7           pumping 2004.  And I would be glad to make copies  
8           available to the reporter, if needed, for a part of  
9           the record and I do think we do have a couple extra  
10          copies that are available should members of the  
11          audience covet a copy of their very own.

12                       MR. STEVE MILLER:  Can I address that for  
13          just one quick second?  In reviewing the minutes  
14          that we discussed last night, a couple of times  
15          statements like that were made and then it leaves  
16          the uncertainty whether those two volumes need to  
17          be attached to the minutes and I would hope that  
18          somewhere along the process here you decide they do  
19          not need to be attached.  They need to be on file  
20          at the ARCA office and with the states and maybe  
21          you would put the cover of the report as part of  
22          the minutes just to show what we were talking about.  
23          But in case we get a request for minutes we don't  
24          want to have to furnish an additional five hundred  
25          pages every time we furnish minutes.  So hopefully,

0050

1           you will tender them in the record but not make  
2           them a part of the record. That would be a  
3           suggestion.

4                       MR. LEE ROLFS: I'm Lee Rolfs. Yes, I  
5           agree. That's been our standard procedure in the  
6           past that we do not attach those reports to  
7           the transcript as part of it.

8                       MR. STEVE WITTE: Thank you both. For  
9           the benefit of those who were not able to attend  
10          the Operations Committee yesterday, I'll briefly  
11          review the operations of John Martin Reservoir that  
12          were conducted during Compact Year 2004. We began  
13          the compact year with the total storage in all  
14          accounts of 19,250 acre-feet approximately. During  
15          the period of winter storage from November 1 to  
16          April 5, a total of 9,277 acre-feet were stored and  
17          subsequently distributed in accordance with Section  
18          2 of the 1980 Operating Plan.

19                      Beginning on November 16 of 2003, pursuant to  
20          Section 3 of the 1980 Operating Plan, there was  
21          storage of certain other waters that were  
22          accredited to a winter water account. Storage into  
23          the winter water account continued through March 14  
24          of 2004 when the distribution of 13,441 acre-feet  
25          was made pursuant to Section 3D of the plan. That

0051

1 included a transfer of 721 acre-feet of water into  
2 the transit loss account to complete the fill of  
3 that transit loss account up to the prescribed  
4 level of 1,700 acre-feet and 3,983 acre-feet were  
5 transferred into Section 2 accounts. Again, for the period November  
6 1, 2003 to April 1, 2003 conservation storage accumulated  
7 about 8,882 acre-feet.

8 As an aside, I would want to let folks know  
9.....that conservation storage in John Martin  
10 Reservoir this year, the prospects look  
11 quite a bit brighter than they did at this time  
12 last year. Up through November 30 the total of  
13 4,650 acre-feet has been stored in conservation  
14 storage, which is slightly greater than the 1950 to  
15 1975 average. So things are looking a little  
16 better on that score.

17 Kansas placed a call for release of offset  
18 account water and Section 2 water beginning on  
19 March 26, 2004. Those releases continued through  
20 April 11 of 2004 with a total of 10,407 acre-feet  
21 initially released from the offset account followed  
22 by release of 8,561 acre-feet of Kansas Section 2  
23 water. The Kansas Water Commissioner and I have  
24 been unable to reach agreement concerning a  
25 methodology for determining what the transit losses,

0052

1 or deliveries 2002 of Section 2 releases have been  
2 and so that number has yet to be quantified,  
3 although there are a couple of proposals that are  
4 being considered and continue to be considered at  
5 the present time.

6 In 2004 there were three summer storage  
7 events. The first being the month of July between  
8 the 24th and the 26th. That was actually almost to  
9 the day, three years since the last summer storage  
10 opportunity in John Martin Reservoir. The two  
11 other events occurred in the second half of August  
12 totaling 15,426 acre-feet, and during the last  
13 conservation storage event there was also a  
14 determination that the Amity Canal Company was  
15 entitled to store 1,125 acre-feet in its Section 3  
16 account. Also, concurrent with that, there was a  
17 delivery of water that had been determined to have  
18 originated in the Colorado River Basin to the  
19 permanent pool in John Martin Reservoir. A release  
20 of some 2,000 acre-feet was initially made from  
21 Twin Lakes and subsequently 1,040 acre-feet were  
22 delivered into the Permanent Recreation Pool  
23 suffering transit losses of approximately 50  
24 percent.

25 At the end of the Compact Year, October 31,

0053

1           2004, the sum total balance in all accounts was  
2           16,632 acre-feet.

3           A detailed report was given yesterday  
4           concerning the operations of the offset account and  
5           I won't repeat those remarks here today unless  
6           there are some questions in that regard.

7           Also yesterday at the Operations Committee, I  
8           complimented the Committee for their efforts to  
9           begin to come to understand some of the issues in  
10          working towards resolving some of the issues that  
11          have been raised to the Administration by the  
12          Assistant Operations Secretary since about 1998.  
13          The committee met twice during Compact Year 2004.  
14          Once in Lamar and once following the tour that  
15          Mr. Jennison commented on earlier. That meeting  
16          being held in Garden City. And the Committee  
17          adopted a set of a joint process that had been  
18          developed for the purpose of addressing interstate  
19          administrative issues. Protocol, really, to be  
20          followed in identifying issues and bringing them to  
21          the Committee and then ultimately to the  
22          Administration. Additionally, there were several  
23          staff level meetings that occurred in the interim.  
24          And most recent being one held just December 3 of  
25          this month here in Lamar.

0054

1           Finally, in closing my report, I wanted to  
2           comment on the presentation provided by  
3           Mr. Livingston before the Operations Committee  
4           yesterday. Mr. Livingston outlined some  
5           hydrological reasons why we believe that there's a,  
6           it is necessary to investigate an improved method  
7           of determining transit losses on releases from John  
8           Martin to the Kansas State-line. I think it's my  
9           opinion that the, there is a definite need to try  
10          to improve the methodology that, over that which is  
11          prescribed in the stipulation that was entered into  
12          between Colorado and Kansas regarding  
13          determinations of transit losses on releases from  
14          the offset account, and I would like to distribute  
15          copies of the stipulation to members of the  
16          Administration. Directing their attention to those  
17          provisions found on page five, paragraph three,  
18          where the states pledge their cooperation in  
19          working with one another and with appropriate  
20          agencies to develop improved methods of determining  
21          transit losses. I just can't express strongly  
22          enough that I feel like this is an important step  
23          to resolve controversy and suspicion regarding this  
24          methodology that we are currently using for  
25          purposes of assessing transit loss and I would

0055

1 encourage it Administration to move as hastily as  
2 is warranted in finding a way to authorize the  
3 conduct of a study such as that proposed by  
4 Mr. Livingston.

5 I think that concludes my report. I would be  
6 glad to try to answer any questions.

7 MR. DAVID BRENN: Are there any questions?  
8 Thank you, Steve.

9 MR. STEVE WITTE: Thank you.

10 MR. DAVID BRENN: Mark Rude.

11 MR. MARK RUDE: Good morning, again,  
12 Mr. Chairman; members of the Administration and  
13 others here today. My name is Mark Rude. I'm  
14 Assistant Operations Secretary for the  
15 Administration. Assisting Steve in the operations  
16 responsibilities and in our review of operations  
17 and consistency with the Resolutions and the  
18 guiding provisions of the Administration in daily  
19 operations.

20 The report I've put together we reviewed last  
21 evening. I do have some extra copies. I handed  
22 out a number to those in attendance yesterday but  
23 there are a few more copies available if someone  
24 would like a copy.

25 I believe what I'll do today is I'll just

0056

1 touch on a couple of points of this report. This  
2 report, general terms, is meant to review a few  
3 operational issues that are longstanding. Also, to  
4 provide kudos where appropriate for the  
5 Administration, particularly the Operations  
6 Committee and their efforts to continue to work  
7 with Steve and myself and our staffs and towards  
8 resolution on the issues that have been identified.  
9 A more exhaustive list of the issues can be found  
10 in that working document that we have between the  
11 two states. I think we refer to it as the matrix  
12 of issues. That document is, as I said, a working  
13 draft to help us in this process of finding  
14 resolution to each of those issues. This report  
15 touches on a few of those and highlights the Kansas  
16 run. Kansas called for water early in the season,  
17 this last summer. In hindsight or at the time  
18 looking at the problems we faced in 2003 of dry  
19 river conditions, in fact, Kansas didn't call for  
20 any water at all in 2003 for fear of not having  
21 much success in getting that delivery made to  
22 Kansas. Certainly, the Division 2 engineer had  
23 noted very unfavorable river conditions and, in  
24 fact, communicated that to Kansas just before  
25 Kansas called for water at this one run early in

0057

1           2004. The one run was comprised of two different  
2           types of water. There are two different  
3           characteristics. The water first was released from  
4           the offset account and that is measured differently  
5           at the stateline. Then the other release of water  
6           which was Kansas Section 2, that's reviewed in this  
7           report and a hydrograph for illustrative purposes  
8           are provided on page 4. We continue to work  
9           together, I think, to try to find a mutually  
10          agreeable method for the measurement of Section 2  
11          water at the stateline, and I certainly echo the  
12          comments made by the Operations Secretary that we  
13          need to continue to look at better methods to  
14          predict the transit losses and to improve the tools  
15          we have available to make these wet water  
16          operations to the water users that depend on the  
17          Administration and the water supply. As long as we  
18          can do it in a manner that doesn't generate new  
19          controversy. And I think that's an important thing  
20          to keep in mind as we look to new tools, developing  
21          new tools.

22                 One thing I specifically want to mention is at  
23          the bottom of page 5 where I provide a little  
24          discussion on some concern that persists from the  
25          operations in Compact Year 2002. At the bottom of

0058

1 the page I make reference to the lack of  
2 information provided by the Operations Secretary on  
3 how he calculated the transit losses that year, and  
4 certainly yesterday evening Steve assisted me and  
5 the Administration by providing another copy of a  
6 letter that he had provided back in March of that  
7 year which he provided some numbers to that effect.  
8 Certainly, I think the concern still persists that  
9 whether the number he arrived at was correct.  
10 Obviously, where the '80 Operating Plan requires  
11 agreement between the two states on any transit  
12 loss. That determination of transit loss to be  
13 consistent with the Administration's agreement or  
14 resolution. There needs to be that agreement  
15 before we can continue the operation or make the  
16 determination of what the transit losses were. So  
17 that certainly puts some urgency to the two states  
18 finding agreement on how to determine transit  
19 losses to the stateline for Section 2 deliveries.

20 I think that concludes my comments at this  
21 time.

22 MR. DAVID BRENN: Any questions for  
23 Mr. Rude?

24 MR. DAVID POPE: Mr. Chairman, I don't  
25 know that I have a question but I, just briefly a

0059

1 comment directed at reports from both the  
2 Operations Secretary and the Assistant Operations  
3 Secretary. I think we need to recognize that these  
4 gentlemen have both worked hard this year, as has  
5 the Committee. I appreciate those efforts and hope  
6 this progress is being made and that can lead to  
7 more progress as far as how to resolve these very  
8 difficult issues. We know there still are those  
9 that have not been resolved.

10 MR. DAVID BRENN: Mr. Chairman, the  
11 Operations Committee met yesterday,  
12 yesterday afternoon. It got to be quite a  
13 meeting, but sometimes it takes considerable effort  
14 to go through these issues.

15 Couple of things that I would like to touch on  
16 again, and Mr. Pope indicated the work of both  
17 states and I'll echo that again, although there's a  
18 lot yet to be done on a lot of these issues. I  
19 think both states will agree that the process  
20 alone, the protocol has made some resolve on some  
21 issues. We have to remember that this whole  
22 process was really, began after the Compact meeting  
23 last year. And the development of the matrix as a  
24 mutual tool for both states to track issues, to  
25 keep the Operations Committee informed, has been a

0060

1 significant part of that. But probably more  
2 significant than that, is the document the joint  
3 recommendation of the Operations and Assistant  
4 Operations Secretary that's included in Mr. Witte's  
5 report, annual report for 2004 towards the back of  
6 the red tab area, that document in a very short,  
7 but specific four or five pages, sets forth a  
8 process for both states to discipline themselves  
9 to, to avoid some of the conflicts that would occur  
10 during a Compact Year or otherwise. And that  
11 document was signed by both representatives of both  
12 states in February of last year. One question I  
13 have of the Administration is that although this  
14 document is included in the Operation Secretary's  
15 Report, we have not been approving those reports to  
16 the record. We have been receiving those reports  
17 as an Operations Committee, but delaying on final  
18 approval. And I just raised this question at this  
19 point. If it should be a consideration for ARCA to  
20 recognize this document as a matter of record of  
21 joint recommendations.

22 CHAIRMAN JENISON: I think what we did  
23 last year, somebody correct me, is when we adopted  
24 your report, your report was that you received the  
25 documents so when we adopted your report we, in

0061

1 essence --

2 MR. DAVID BRENN: (Interrupting) adopted  
3 that.

4 CHAIRMAN JENISON: -- adopted your  
5 recommendations, that ARCA just receive your  
6 report. That was my recollection of last year.

7 MR. DAVID BRENN: But in regards to this  
8 specific document that is included in the  
9 Operations Secretary Report, I would like the  
10 Commission to entertain applying that to the record  
11 to institutionalize it separate and distinct.

12 CHAIRMAN JENISON: I think a motion to  
13 that effect would be in order. We can do it, we  
14 can do it right now if you would like to do that.

15 MR. DAVID BRENN: I would like to. I  
16 would make a motion that we include that document  
17 to the record.

18 MR. ROD KUCHARICH: We are okay with it.

19 MR. DAVID POPE: Let me make sure I  
20 understand this and I think this is a good idea but  
21 in essence, we take the printed document that is  
22 the August 19 letter that is signed by two members  
23 of the Operations Committee and it has these joint  
24 recommendations of the Operations and Assistant  
25 Operations Secretaries, that is the document you're

0062

1 referring to, I would think what you would be doing  
2 is basically tendering that, just that document as  
3 a part of the Operations Committee Report and then  
4 that can be made part of this record attached to  
5 the minutes; is that what we are saying?

6 CHAIRMAN JENISON: Is that what you're  
7 suggesting?

8 MR. DAVID BRENN: Either way.

9 MR. MARK RUDE: The documents in both  
10 reports --

11 MR. DAVID POPE: Documents are in both  
12 reports or maybe just referring to it by the name.  
13 I think it's part of your report and I think you're  
14 just asking for some --

15 CHAIRMAN JENISON: Dave, is your  
16 attention to focus more to, I guess, approve that  
17 document rather than just accept that document, is  
18 that your intention to have the Administration  
19 approve that specific document?

20 MR. DAVID BRENN: Yes, and in the view  
21 that both states have agreed upon it fundamentally.  
22 I think it's well within the parameters of the  
23 states to institutionalize it. The Operations  
24 Committee have been changed over time but feel this  
25 basic foundation be institutionalized within the

0063

1 ARCA or recognized within that.

2 CHAIRMAN JENISON: Do you have a problem  
3 approving that as a document accepted by ARCA.

4 MR. DAVID POPE: I don't think so.

5 MR. ROD KUCHARICH: No, I don't have a  
6 problem, no.

7 CHAIRMAN JENISON: That is kind of the  
8 way I understood your motion, Jim, is that the way  
9 you understood it when you seconded it?

10 MR. JIM ROGERS: Yes.

11 CHAIRMAN JENISON: Just a second. Steve,  
12 do you have a question?

13 MR. STEVE MILLER: Before you vote, it  
14 might be helpful to publish it in the Annual Report  
15 this year also so it gets a little wider  
16 distribution then in the minutes.

17 CHAIRMAN JENISON: I have an interest in  
18 the Annual Report, we'll make a note of that,  
19 instruct them to do that. Colorado?

20 COLORADO DELEGATION: Aye.

21 CHAIRMAN JENISON: Motion carries. Go  
22 ahead, David.

23 MR. DAVID BRENN: Thank you very much.  
24 I'll move right on to kind of summarize all of the  
25 items under B except for perhaps item five with the

0064

1 action items of the Operations Committee. There  
2 are nine of these action items.

3 Number one, Steve Miller and Kevin Salter were  
4 designated to develop a written summary for the  
5 December 13 Committee meeting. A draft summary  
6 should be submitted to the Operations Committee by  
7 January 14, 05.

8 Item two, an updated water issues matrix will  
9 be available at the April Operations Committee  
10 Meeting.

11 Item three. Both states need to work together  
12 on a method to measure Offset Account deliveries by  
13 either the method proposed by Steve Witte and Bill  
14 Tyner yesterday or another method. The states  
15 should be prepared to make a report at the April  
16 Operations Committee meeting as to the progress on  
17 that.

18 Item four, the Operations Committee recommends  
19 that the Engineering Committee should be assigned  
20 the Transit Loss Study issue. It further  
21 recommends both states should work together to  
22 define the methodology approach, dynamics and  
23 process. Both states need to provide input so that  
24 the results of any studies are not disputed.

25 Item five, commencement of a spill event,

0065

1           which is issue 50, and spilling of accounts, issue  
2           51, and adjustment of John Martin Reservoir  
3           inflows, issue 53, these issues are referred to  
4           ARCA for further direction to resolve them.

5           Item six, in regards to Winter Water Account  
6           of Convenience, issue 20, in timely distribution of  
7           Section 3 Storage Charge, issue 21, Operations  
8           Committee recognizes that the Operations Secretary  
9           needs flexibility and suggests the following: The  
10          water delivered under the Pueblo Winter Water  
11          Storage Program be immediately charged 35 percent.  
12          However, water distributed to Colorado Section 2  
13          may be held in its subaccount to be distributed  
14          between individual Colorado Section 2 Accounts on  
15          March 15, the end of the Pueblo Winter Water  
16          Storage Program. Operations Committee would like  
17          to states to develop language to develop and to  
18          implement these suggestions.

19          Item seven, interruption of releases from  
20          Conservation Storage to accounts during summer  
21          period that is issue 42, and on November 1, issue  
22          43. For these issues, both states need to look at  
23          these potential interruptions and develop language  
24          for compromise to be reviewed at the April meeting  
25          of the Operations Committee.

0066

1           Item 8, the Operations Committee confirm that  
2 they did move two issues to the Administrative and  
3 Legal Committees, those being Upstream Storage at  
4 flood flows. Issue 52, and Agreement B which is  
5 issue 60, no further action of the Operations  
6 Committee is required.

7           And finally, item nine, the Operation  
8 Committee will meet in April to follow up on any of  
9 these action items.

10           That concludes the Committee Report.

11           CHAIRMAN JENISON: Do you want to move  
12 adoption of that Operations Committee Report?

13           MR. DAVID BRENN: Yes, I'll so move.

14           CHAIRMAN JENISON: Second?

15           MR. JIM ROGERS: Second.

16           CHAIRMAN JENISON: Discussion? Now my  
17 view is by adopting that Committee Report the  
18 Administration is adopting those action items that  
19 are in there. Is that --

20           MR. ROD KUCHARICH: I don't know.

21           CHAIRMAN JENISON: Then we need to talk  
22 about that.

23           MR. DAVID POPE: I guess I would  
24 probably --

25           CHAIRMAN JENISON: Pull those out.

0067

1                   MR. DAVID POPE: I guess I was assuming  
2                   some of those are actions the Committee itself  
3                   would take, for example, recommendations to write  
4                   up details of some of the, how to deal with those  
5                   items.

6                   CHAIRMAN JENISON: That way we can adopt  
7                   the Committee Report, then we can go back through  
8                   each one of those items individually then.

9                   MR. ROD KUCHARICH: The list that David  
10                  was reading from I haven't seen so --

11                  CHAIRMAN JENISON: I haven't either.

12                  MR. ROD KUCHARICH: It would be nice to  
13                  review that. There were a couple of things that  
14                  were identified there. One was the Transit Loss  
15                  Study and then the other was the spill event that I  
16                  think I would like to make some comments on at this  
17                  time. The Transit Loss Study, we heard a  
18                  recommendation from Russ Livingston to do a, to do  
19                  such a study. We have, as part of Administrative  
20                  Legal Committee Report budget options to do that.  
21                  I guess my feeling is that a decision to get under  
22                  way in a proper manner should be made probably by  
23                  mid-July on something like this. The issue of the  
24                  Transit Loss Study was brought up in August. The  
25                  proposal was vetted the first of November. This

0068

1 would give both states a good six months total to  
2 review and decide on whether or not they want to  
3 proceed with the Transit Loss Study. The spill  
4 event issues, I think these were 50, 51 and 53.  
5 You know, if the states can't reach agreement on  
6 accounting for these spill events, maybe what we  
7 need to do is to have an impartial third party make  
8 some recommendations for us to follow. And in that  
9 regard, I think that we've got a retiring Corps of  
10 Engineers employee, Dick Kreiner, in briefly  
11 discussing this, I don't want to say it's  
12 pre-determined, but the Corps is considering making  
13 some of his time available to make recommendations  
14 to the Compact Administration on this and that  
15 might be something that we could take under  
16 consideration. I mean, these are both attempts to  
17 get, to move the ball forward a little bit.

18 CHAIRMAN JENISON: David, could we get a  
19 copy of the nine action items? Does anybody have  
20 that? Why don't we take a short break and we'll  
21 distribute that to the Commissioners. My thought,  
22 but it makes me no difference. We can adopt the  
23 report then we can go through each one of those  
24 action items, but my thought was to adopt their  
25 report. We've got that, we actually have that

0069

1 motion. Now before we would be open to a  
2 substitute report like Rod to do something  
3 different with 51, 52, the items that you wanted,  
4 but we can, if it's easier for you all, we can just  
5 adopt the report then we will just consider that  
6 we've just kind of received your report then we can  
7 go through each one of those action items  
8 individually and dispose of them. That is fine  
9 with me as well.

10 MR. DAVID BRENN: Suggestions to  
11 recommendations to staff, a referral to on these  
12 issues that you're mentioning to full ARCA you  
13 know, that's basically our action is to defer it on  
14 the spill issues or Agreement "B" those kinds of  
15 things are not Agreement "B" but, yeah, the Agreement  
16 "B" and some of those. This document is mainly a  
17 dynamics for us to give guidance to the staff on  
18 their activities between now and our April, our  
19 April meeting.

20 MR. ROD KUCHARICH: If we could review  
21 those.

22 CHAIRMAN JENISON: Yeah, why don't we  
23 take a -- Kevin, do you think you can get those in  
24 a few minutes?

25 MR. KEVIN SALTER: Do you know how many

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1 copies we need?

2 CHAIRMAN JENISON: Why don't we take a 10  
3 minute break and we'll decide how we want to  
4 dispose of that Committee Report.

5 (Whereupon, a short recess was taken,  
6 after which the following proceedings  
7 were had:)

8 CHAIRMAN JENISON: We'll call the meeting  
9 back to order.

10 When we recessed, we had a motion to adopt the  
11 Operations Committee Report and a second. There  
12 was some concern about what some of those  
13 provisions were, and we have written copies now.  
14 Commissioners have had an opportunity to look over  
15 those. Is there any discussion on the motion?

16 MR. ROD KUCHARICH: Yeah, Mr. Chairman.  
17 On the, on item five, the spill accounts, I guess I  
18 would like to kind of resurface what I had  
19 mentioned earlier. There may be a way to get an  
20 impartial recommendation from a Corps employee for  
21 ARCA to consider. The employee is Dick Kreiner,  
22 and he is retiring at the end of December. The  
23 Corps is graciously offered to consider making his  
24 expertise available for a recommendation that ARCA  
25 could receive at some point in the future, and I

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1 would just hope that the, that ARCA and the  
2 respective committees would be interested in taking  
3 that as a recommendation to try to get both sides  
4 to move from their positions.

5 CHAIRMAN JENISON: Would you like to  
6 amend item five to include that as a suggestion or  
7 do you want to admonish --

8 MR. ROD KUCHARICH: Sure, I would. It  
9 would be to refer to ARCA for appropriate steps to  
10 refer to -- refer to ARCA -- how would we say that?

11 MR. DAVID POPE: I wonder, Rod, obviously  
12 you are free to make the proposal, I just wonder  
13 for purposes of this report, it says it is  
14 referring it to ARCA for appropriate next step. I  
15 think what you're talking about is the next step.

16 MR. ROD KUCHARICH: You are right. I  
17 think we can leave it as it is.

18 MR. DAVID POPE: I think it would be fine  
19 to talk about that. I mean, it is kind of catching  
20 us a little bit cold so I think there is a merit  
21 that --

22 MR. ROD KUCHARICH: That surfaced at  
23 breakfast this morning to try to deal with this. I  
24 know we were kind of admonishing both sides in  
25 trying to get some progress on it.

0072

1 LTC TODD WANG: Dick is retiring  
2 3, January. He does have time that we could supply  
3 about 40 hours of his time prior to his retirement  
4 for this matter. We have just have been in  
5 conversation with many by phone. But after the 3rd  
6 of January he's then a citizen and you know, and  
7 I'm not for sure.

8 MR. ROD KUCHARICH: He's not subject to  
9 being recalled, is he?

10 LTC TODD WANG: I fall under those  
11 rules but after he's --

12 CHAIRMAN JENISON: Colonel, what you're  
13 saying is the timeliness of that is affected.

14 LTC TODD WANG: It could be. I  
15 mean, after the 3rd, it would probably be a  
16 contractual relationship between ARCA and Dick.

17 MR. ROD KUCHARICH: If he could give us  
18 some recommendations in letter form on these three  
19 issues using that time that you're willing to make  
20 available, I think it would be desirable for us to  
21 take that under consideration so I think that's the  
22 appropriate next step and to receive those  
23 recommendations, have both sides look at what they  
24 would be. Might be able to give us an leg up in  
25 resolving this kind of issue.

0073

1                   MR. DAVID POPE: Are you basically, Rod,  
2 suggesting that we take the materials that have  
3 thus far been developed related to this issue and  
4 sort of scope out what it is we want him to look  
5 at? I mean, the issues have been somewhat defined  
6 I think as they are.

7                   MR. ROD KUCHARICH: They are 50, 51 and  
8 53.

9                   MR. DAVID POPE: I guess what I would  
10 like to do is move forward with this and then if we  
11 could scope that out, and it sounds to me like what  
12 the Corps is offering is a week's worth of Dick's  
13 time between now and 3 January, essentially would  
14 be at no cost to ARCA that way. After 3, January,  
15 we are on our own with Dick, I guess, but it might  
16 be worth having him at least look at this issue  
17 tentatively and then bring us back his assessment  
18 and recommendations. I guess then we still take it  
19 up and look at it at this point in time and see  
20 where we go from there.

21                   MR. ROD KUCHARICH: Sure. That is --  
22 nothing more. Exactly. But I do think five can  
23 stay as is. Taking into consideration the  
24 discussion we had. And then --

25                   MR. DAVID POPE: Yeah. I think what we

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1           ought to do is leave five as it is and leave it as  
2           a separate action right after we get done and at  
3           the appropriate time we haven't really had a chance  
4           to confer on that on the Kansas side of the line  
5           but I think yet today we could do something with  
6           that I think.

7                         MR. ROD KUCHARICH:  Sure.

8                         CHAIRMAN JENISON:  Did you have another  
9           issue, Rod?

10                        MR. ROD KUCHARICH:  There was the Transit  
11           Loss Study.

12                        MR. LEE ROLFS:  That is number four.

13                        MR. ROD KUCHARICH:  And I'm wondering how  
14           we make the decision.  I think in process, if we  
15           were to go with the Livingston Proposal, there was  
16           a request to get under way before, as I understood  
17           it, before diversions started in the spring and  
18           that may be late March, some data gathering on the  
19           ground, in probably February, and I believe that  
20           the programmed funds in the proposed budgets were  
21           sixty-five hundred dollars between now and the  
22           first of July and then the balance, 50,000 from  
23           July through the remaining study period.  I'm  
24           wondering how we would do this in light of David's  
25           suggestion that the Operations Committee would meet

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1 in April.

2 MR. DAVID POPE: I guess if I could  
3 comment on this again. It's another one of these  
4 where we, was kind of a follow-up action needed  
5 here after we've accepted this report, but here's, I can  
6 let you know my thinking on that right now if that  
7 would be helpful, and in essence, since yesterday,  
8 and hearing the Operations Committee discussion on  
9 this, we have talked about it some on our side and  
10 we think there is a way potentially to proceed. I  
11 visited briefly with Tom this morning before the  
12 meeting and a little bit with Russ, we didn't have very  
13 much time, but I think we could take some action  
14 this meeting. It would be a subsequent action  
15 here, but the idea would be to, I know this refers  
16 to the Engineering Committee, again that's why I  
17 talked to Tom and Russ a little bit. I think we  
18 believe if ARCA was willing to do one or two  
19 things, either allow the Engineering Committee to  
20 move forward with this under certain circumstances,  
21 that would be one way to approach that, the other  
22 way would be to have the Engineering Committee go  
23 out and assess it and figure out some things I want  
24 to mention here in a minute, and then you know we  
25 would have conference call or how ever you want to

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1 do it through ARCA, there's a couple of different  
2 ways to do it, how ever you want to do it given the  
3 interrelationship with the budget that we need to  
4 act on later today. One thought would be to ask  
5 ARCA to authorize the Engineering Committee to look  
6 at these items that is covered here in item number  
7 four, and I was going to basically say sort of  
8 refine the scope, or better refine the scope of how  
9 this would be done and sort out involvement of the  
10 states, there was some discussion about that. We  
11 need to pin that down a little bit more in terms of  
12 our input and involvement. And essentially, make  
13 sure we are clear on how this study would be used.  
14 How does it relate to our ability to operate so  
15 that we are really moving forward to resolve the  
16 issues and certainly one piece of that is better  
17 data, better understanding of transit losses, but  
18 we also need to know how that would be used. I  
19 think that's possible to do, Rod, and I'm willing  
20 to work with Tom and with our staff for both states  
21 to figure out a methodology to get this thing  
22 started. But I think we need to clarify some of  
23 these items so we don't just say yes to the  
24 proposal without knowing.

25 MR. ROD KUCHARICH: No, I understand. I'm

0077

1 not pushing that.

2 MR. DAVID POPE: And in anticipation of  
3 that, assuming we can get that resolved we can go  
4 ahead and budget the money, and within this next,  
5 I'm going to say, I don't know, you mentioned July  
6 a minute ago, I think maybe even sooner than that,  
7 by spring or something, we could have guidance to  
8 Russ at that point, give him the go ahead and, like  
9 I say, sort of a revised proposal, or maybe it's  
10 just scope of how this could be done so, I guess  
11 I'm, you know, we were wondering if we could move  
12 that fast but I think maybe we can, if that would  
13 fit with what I think I hear you suggesting why we,  
14 we just want to make sure we know how in all fits  
15 together so it's not a wasted effort. I'm sure the  
16 study in itself would be good one way or the other.  
17 I want to make sure how this is going to be --

18 CHAIRMAN JENISON: David, your suggestion  
19 is that maybe we deal with that when we deal with  
20 the budget, what you're suggesting is a release  
21 mechanism for that month?

22 MR. DAVID POPE: I think that's right.

23 MR. ROD KUCHARICH: And that would be a  
24 special telephonic meeting of the Board to modify  
25 the budget or something.

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1                   CHAIRMAN JENISON: Or the Administration  
2 could, if I hear David right, give the Engineering  
3 Committee the authority to do that --  
4 (unintelligible).

5                   MR. ROD KUCHARICH: If we would adopt a  
6 budget today sufficient to do that.

7                   MR. DAVID POPE: We would -- my proposal  
8 would be to adopt the budget sufficient to do that  
9 and authorize the release mechanism. What I was, I  
10 guess assuming, was that we would take that up, get  
11 the Engineering Committee to work that remaining  
12 items out and then it would be authorized to give  
13 clearance for the start. That gives us -- because  
14 this is kind of a technical matter that let's that  
15 be dealt with.

16                   MR. ROD KUCHARICH: I agree.

17                   CHAIRMAN JENISON: And we have that  
18 flexibility with four as it is.

19                   MR. DAVID POPE: I would suggest we go  
20 ahead with four as it is and we would anticipate in  
21 a subsequent action here later today this  
22 additional direction, and we just have to make sure  
23 we can define that properly.

24                   CHAIRMAN JENISON: Any other discussion  
25 on the Operations Committee Report. If not, all in

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1 favor. Kansas.

2 MR. DAVID POPE: Aye.

3 CHAIRMAN JENISON: Colorado.

4 MR. ROD KUCHARICH: Aye.

5 CHAIRMAN JENISON: Motion carries. I  
6 believe that takes care of -- Engineering. Tom.  
7 You might need to get up to the podium so the  
8 audience can hear you.

9 MR. TOM POINTON: Mr. Chairman,  
10 Committee. My name is Tom Pointon. We almost  
11 covered it right here. The items we discussed at  
12 the committee yesterday were Permanent Pool  
13 evaporation calculation. We haven't reached a  
14 decision on that. We didn't have a request for a  
15 water source from the reservoir so the Division  
16 of Wildlife and Parks, we didn't discuss much of  
17 that. The Purgatoire Water Conservancy District,  
18 looks like their acreage verification system is  
19 improving, so to speak. The technology is coming  
20 by, it is kind of helping it along, it is okay.  
21 And then we discussed the two gages off stream, off  
22 channel gages on the Wildhorse and Big Sandy, and  
23 we think that ought to be funded for another year.  
24 And then we got this transit loss thing Operations  
25 Committee handed to us and, and it is very

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1           difficult to, when you only meet once a year for  
2           everybody be on the same page especially when you  
3           are as old as I am, to try to remember a year ago.  
4           We are working, well towards that and one of the  
5           things we are considering is an Oversight Committee to  
6           look at the methodology and to put this proposal  
7           together and the Engineering Committee is going to  
8           recommend that they put the funding in the budget  
9           to support the Livingston Study as proposed with  
10          some oversight. I don't know how soon we have to  
11          get this done, but we sure want it to be a benefit  
12          to both states and if we are going to do modeling  
13          we have to have a lot of information and maybe the  
14          study is justified, so I think we will work for  
15          another year. Short time keeping communication,  
16          you know, we are working from Topeka to Albuquerque  
17          to Denver and back to Garden City up to John Martin  
18          Reservoir. It is pretty hard to keep the  
19          communication lines open when everybody has got so  
20          many other things going on, so I guess that  
21          concludes my report and we'll try our best to make  
22          this study happen.

23                   CHAIRMAN JENISON: Tom, in your report  
24                   the things that were action items that were the  
25                   continuation of gaging stations and then the

0081

1 supporting the Livingston Study with some  
2 oversight?

3 MR. TOM POINTON: Those are the  
4 recommendations from the Engineering Committee.

5 CHAIRMAN JENISON: So then I guess a  
6 motion is in order to approve the Engineer  
7 Committee Report.

8 MR. TOM POINTON: So moved.

9 MR. DAVID POPE: I think I would second  
10 that. I guess I would like for us to take a  
11 subsequent action on the study as we discussed  
12 earlier. By the time we get to the budget  
13 discussion, I think that's the point at which we  
14 can really commit to that rather than at this point  
15 in time with the whole budget cut.

16 CHAIRMAN JENISON: But what your  
17 recommendation is consistent with what the  
18 Operations Committee is recommending.

19 MR. DAVID POPE: Yes, that's right. I  
20 guess my only other comment, Robin, Mr. Chairman,  
21 would be, without going into great detail, on the,  
22 we did talk a little bit about the Trinidad project  
23 on the acreage verification system, it was  
24 mentioned yesterday that there would be the  
25 availability of some work done by the state of

0082

1 Colorado that would be, could include the Trinidad  
2 project, but we also had some discussion at, that  
3 does not replace the annual verification that is  
4 included in the reporting and verification that is  
5 included in the current newly adopted now Operating  
6 Principles so just so there is not a  
7 misunderstanding of that why, certainly taking  
8 advantage of other State of Colorado for motion that is  
9 available makes sense. Other than that, I don't  
10 have anything other than that.

11 CHAIRMAN JENISON: Other discussion? If  
12 not, on the motion to approve the Engineering  
13 Committee Report, Kansas.

14 MR. DAVID POPE: Aye.

15 CHAIRMAN JENISON: Colorado.

16 MR. ROD KUCHARICH: Aye.

17 CHAIRMAN JENISON: Carried. Report of  
18 Administrative and Legal. Randy Hayzlett.

19 MR. RANDY HAYZLETT: The Administrative  
20 and Legal Committee did meet yesterday and we  
21 received the Auditor's Report, discussed Recording  
22 Secretary's position and replacing the current  
23 Recording Secretary. We did acknowledge issues  
24 that were given to Administrative and Legal  
25 referred to us by the Operations Committee and

0083

1 determined a meeting maybe later in the year would  
2 be pertinent and haven't set that date yet. Steve  
3 Miller and Kevin Salter were designated to develop  
4 a written summary for the 13th meeting yesterday,  
5 and a draft written summary should be submitted to  
6 the Operations Committee on the 14<sup>th</sup>. We proposed  
7 the following slate of officers for the coming  
8 year: Vice Chairman, David Pope; Recording  
9 Secretary, Stephanie Gonzales; Treasurer, Jim  
10 Rogers; Operations Secretary, Steve Witte;  
11 Assistant Operations Secretary, Mark Rude. We  
12 propose the following committee assignments for the  
13 coming year: Engineering would be, David Pope,  
14 Chair, and Tom Pointon, member. Operations  
15 Committee will be Jim Rogers, Chair and Dave Brenn  
16 member; Administrative and Legal, Rod Kuharich,  
17 Chair and Randy Hayzlett, member.

18 We recommend to ARCA that the USGS Co-op  
19 Agreement be approved. We recommend that the audit  
20 be accepted as presented. We also recommend that  
21 the proposed budgets be adopted by ARCA. The  
22 Administrative and Legal Committee seeks the  
23 authority to approve the meeting minutes and  
24 forward with recommendations to sign any minutes to  
25 the chairman. That completes my report.

0084

1                   CHAIRMAN JENISON: Before Randy makes a  
2 motion to approve that Committee Report, do all of  
3 the members have a copy of the budget? And I guess  
4 are there questions on that before we proceed?

5                   MR. ROD KUCHARICH: Mr. Chairman, there is  
6 the, on the first sheet there is the current budget  
7 for '04-'05, two proposed alternatives.  
8 Alternative one, reduce the Annual Report printing  
9 costs from 8,000 to 2,000. Alternative two does  
10 the same thing with the printing costs but it also  
11 begins to program in the cost associated with the  
12 Transit Loss Study which is item D(4) of \$6,500.  
13 The second page is the '05-'06 Proposed First  
14 Revision and alternative two -- both alternative  
15 one and alternative two have the Annual Report  
16 printing reduction. Alternative two has the  
17 special projects and studies money in it in line  
18 D(4) of \$50,000. Now that results in a reduction  
19 of \$50,000 in reserve funds for the Compact  
20 Administration and reduces that down to 53,000.  
21 And then the next page is the first draft of the  
22 '06-'07 budget. That again continues the reporting  
23 requirements at, the printing requirements at  
24 \$2,000 and it also carries over, or also has in it  
25 another 10,000 for the Transit Loss Study under

0085

1 D(4), and in order to address these costs, there is  
2 a proposal to increase the assessments to Colorado  
3 by \$7,200 and to Kansas by \$4,800 and that is on,  
4 under income, Roman Numeral II, "A one" and "two."  
5 And so the direction we would go, if we were to  
6 pursue the Transit Loss Study, would be to adopt  
7 the alternative number two budget for both '04-'05  
8 and '05-'06, is that correct, Randy?

9 MR. RANDY HAYZLETT: Yes.

10 CHAIRMAN JENISON: And that is what I was  
11 curious when we adopt this Committee Report as a  
12 base line, your recommendation then is Alternative  
13 two?

14 MR. ROD KUCHARICH: Correct. If we were  
15 to move forward with the Transit Loss Study.

16 CHAIRMAN JENISON: Okay.

17 MR. DAVID POPE: Mr. Chairman are we --  
18 maybe a little different process here that than  
19 what I'm used to.

20 CHAIRMAN JENISON: That is what I'm  
21 trying to decipher out, because when we have a  
22 motion to adopt this Committee Report, that's going  
23 to set our base line for anything you choose to do  
24 or that the Committee chooses, the Commission  
25 chooses to do, and I was just trying to get --

0086

1                   MR. DAVID POPE: Are we saying that we  
2 would be essentially adopting the budget as well as  
3 all of these other items all in one whack if we  
4 approved this Committee Report or doing it as  
5 separate actions.

6                   CHAIRMAN JENISON: No, we could go  
7 through and take those out just like what I  
8 suggested previously.

9                   MR. ROD KUCHARICH: Deal with the budget  
10 as a separate --

11                   MR. DAVID POPE: That is what we have  
12 always done. I'm not saying we can't do it.

13                   CHAIRMAN JENISON: I think that would be  
14 the way to do it. Do you want to move approval of  
15 your report?

16                   MR. RANDY HAYZLETT: So move.

17                   MR. ROD KUCHARICH: Second.

18                   CHAIRMAN JENISON: It's been moved and  
19 seconded. Now we are on discussion.  
20 (Unintelligible.)

21                   MR. DAVID POPE: Mr. Chairman, I move we  
22 amend the motions to deal with the budget as a  
23 separate action item except we have the  
24 recommendation from the Committee but we actually  
25 act on it as a separate item.

0087

1 CHAIRMAN JENISON: Yeah.

2 MR. STEVE MILLER: That was after the  
3 agenda that you now have some information from the  
4 committee but you still have all of the, just like  
5 the election, you haven't done the election you  
6 just know what the committee is recommending.

7 CHAIRMAN JENISON: Well, we will when we  
8 approve this budget. When we approve this  
9 committee report, we will have done --

10 MR. STEVE MILLER: That wasn't my  
11 intention, and maybe we need to interact more on  
12 preparing it. I think you still have some agenda  
13 items coming down the agenda to deal with those  
14 issues.

15 CHAIRMAN JENISON: Which issues?

16 MR. STEVE MILLER: If you get to "9.3".  
17 Now there is a whole set of things for the whole  
18 ARCA to do on the election and approving budgets.

19 CHAIRMAN JENISON: Well, when we adopt  
20 this Committee Report, with the exception of the  
21 budget, ARCA will have approved the officers.

22 MR. STEVE MILLER: I didn't anticipate  
23 that, but that's fine.

24 MR. ROD KUCHARICH: That's fine with me.

25 CHAIRMAN JENISON: We can do it any way.

0088

1 That's just what I'm accustomed to but I'm  
2 flexible. But this is the easiest way to do it, I  
3 think, when people understand what you're doing.

4 MR. TOM POINTON: Go for it.

5 MR. ROD KUCHARICH: That is good.

6 CHAIRMAN JENISON: Okay. We have an  
7 amendment before us to deal with the budget  
8 separately.

9 MR. ROD KUCHARICH: Yes.

10 CHAIRMAN JENISON: Seconded.

11 MR. ROD KUCHARICH: Yes.

12 CHAIRMAN JENISON: Moved, seconded,  
13 (unintelligible) on the budget. Kansas.

14 MR. DAVID POPE: Aye.

15 CHAIRMAN JENISON: Colorado.

16 MR. ROD KUCHARICH: Aye.

17 CHAIRMAN JENISON: Motion carries.

18 Anything else on Administrative and Legal --

19 MR. RANDY HAYZLETT: Not unless Steve  
20 wants to take us through the budget now or work  
21 through it any more.

22 CHAIRMAN JENISON: We'll do that when we  
23 get through with the approval.

24 MR. STEVE MILLER: There was one issue  
25 of, and maybe again I'm just missing the theory

0089

1 here, but the recommendation that the Committee  
2 would review minutes, do you consider that accepted  
3 now as ARCA procedures?

4 CHAIRMAN JENISON: Yeah. Then the  
5 report, we've adopted their report.

6 MR. STEVE MILLER: Okay, great.

7 CHAIRMAN JENISON: Now you've made me  
8 forget where I'm at. We're on discussion, we  
9 haven't adopted a report yet, have we? We just  
10 took out the amendment.

11 MR. ROD KUCHARICH: Right.

12 CHAIRMAN JENISON: So on the report.  
13 Kansas.

14 MR. DAVID POPE: Aye.

15 CHAIRMAN JENISON: Colorado.

16 MR. ROD KUCHARICH: Aye.

17 CHAIRMAN JENISON: We have adopted the  
18 report with the exception of the budget. We'll  
19 take up the budget now, so I guess technically,  
20 we've got the current alternative one, alternative  
21 two, so whoever talks first can pick what the base  
22 line is.

23 MR. DAVID POPE: Mr. Chairman, if it's  
24 appropriate, I would first, by way of discussion,  
25 before I make a motion, it would be my idea here

0090

1 subject to --

2 CHAIRMAN JENISON: Bev is having trouble  
3 hearing you, David.

4 MR. DAVID POPE: Let me start over.

5 Because there is an extra complexity in the  
6 particular budget situation, I would offer an  
7 explanation briefly and then a motion, okay. The  
8 idea that I would have, and I think it's consistent  
9 with the each of some previous discussion we've  
10 had, would be to move forward with alternative two,  
11 the budget which, would be for all three of the  
12 items here, the proposed revision for, well, I'm  
13 going to say all three. I'll put my motion in  
14 terms of the details but all three of these  
15 budgets, and that would include the funding for the  
16 study that we referred to earlier, and I want to,  
17 I'll articulate the mechanism by which the study  
18 would be allowed to start in my motion. We've  
19 talked about some of those conditions both in terms  
20 of Tom's report and previously in terms of  
21 discussion about that, and Rod and I were  
22 exchanging thoughts there, and that also includes  
23 within it, specifically, the proposed assessment  
24 increase that would take effect for fiscal  
25 2006-2007. So those are the three items that are

0091

1 all interrelated to this process, but I think we  
2 need to do those pretty carefully. So unless there  
3 is some questions before I start, I would, my  
4 intention here be would be to try to wrap these  
5 into the motion.

6 CHAIRMAN JENISON: And so the three  
7 things are the funding for the Livingston Study,  
8 the trigger mechanism and then the increase in the  
9 assessment?

10 MR. DAVID POPE: Including all three of  
11 these budgets. So let me take a stab at this.  
12 Okay. I move that we adopt, I guess is the right  
13 word, adopt the proposed second revision to the  
14 fiscal 2004-2005 budget with alternative two.  
15 Secondly, that we adopt the fiscal '05-'06 proposed  
16 first revision to the budget, again with  
17 alternative two, and that we adopt the draft fiscal  
18 2006-2007 budget that includes an assessment  
19 increase to an amount of \$48,000 for Colorado and  
20 \$32,000 for Kansas. That's not an increase, that  
21 is the amount of the assessment for that budget  
22 year. And all of this also being shown as  
23 alternative two for the fiscal '06-'07 budget, and  
24 further included in the motion, would be that while  
25 the money is set aside for the proposed Transit

0092

1 Loss Study that the Administration authorize the  
2 Engineering Committee to evaluate the proposed  
3 study including the recommendations of the  
4 Operations Committee with the goal of better  
5 defining the scope in the involvement of the states  
6 such that it is clearly determined how the study  
7 will be used and conducted so that we can make it  
8 the most useful as possible for our Compact  
9 purposes. Listed in that is once the Engineering  
10 Committee is satisfied that we know how this will  
11 proceed, they'll be authorized to give clearance to  
12 Mr. Livingston to proceed with the study, hopefully  
13 this spring, no later than this spring, and we  
14 would move forward at that point. Apologize for  
15 the length of the motion but it is somewhat  
16 complex.

17 CHAIRMAN JENISON: Is there a second?

18 UNIDENTIFIED SPEAKER: Mr. Chairman, let  
19 the record reflect I agree with Kansas.

20 CHAIRMAN JENISON: We have a motion and a  
21 second. Is there any discussion?

22 MR. STEVE MILLER: I'm glad to see David  
23 present these numbers, it's a different  
24 perspective sitting back here. Two things, the  
25 item I put in there was called "special projects

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1 and studies", that is a new line item in the  
2 budget. So if this study didn't go forward from a  
3 budget perspective you would still have the money  
4 there to do some other kind of study or project  
5 down the road. So by adopting the budget you are  
6 not authorizing the Transit Loss Study. And -- I  
7 already forgot -- oh, contracts. If the  
8 Engineering Committee was to move forward and  
9 decided they wanted to do a study with  
10 Mr. Livingston, the only contract I'm aware of so  
11 far is the one that we had with Jan Anderson and it  
12 was kind of awkward to negotiate that and I think  
13 basically Lee, you and Wendy worked out what should  
14 be in the contract between ARCA and a third party?

15 MR. LEE ROLFS: I think so. Something  
16 like that.

17 MR. STEVE MILLER: We've got that former  
18 contract. I don't know that it would meet all of  
19 the expectations for as complex study as what we  
20 are contemplating. I'm asking more of a question.  
21 Who should figure out who would sign, I guess you  
22 would sign a contract with Livingston, but what all  
23 goes in there, that is, you don't have a standard  
24 form contract to pull off the shelf.

25 MR. DAVID POPE: These are good points

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1 and why we need to rely on our staff here, on Steve  
2 as well as both states. I would offer, I guess,  
3 that at the time that the Engineering Committee  
4 would be prepared to give that clearance that we  
5 would have also consulted sufficiently with our  
6 staffs of both states to prepare a suitable  
7 contract.

8 MR. ROD KUCHARICH: Sure. I think so.

9 MR. DAVID POPE: That would then be  
10 forwarded to the chairman for signature and so I  
11 think that's an excellent point to bring up but I  
12 don't think we want to skip that step. I think if  
13 we get to, if we get to the agreement on the  
14 substance of this item, we need to also make sure  
15 that we ask our staffs to prepare a proper contract.

16 CHAIRMAN JENISON: Are you including that  
17 in your motion as well --

18 MR. DAVID POPE: I would be happy to do  
19 that. I think that's an important --

20 CHAIRMAN JENISON: -- to clear that up.

21 MR. STEVE MILLER: So we don't have to  
22 wait until next December to draft it.

23 CHAIRMAN JENISON: Do you agree.

24 MR. ROD KUCHARICH: I think that's fine.

25 MR. DAVID POPE: When do you have to -- I

0095

1 mean --

2 MS. CAROL ANGEL: Carol.

3 MR. DAVID POPE: Carol.

4 MS. CAROL ANGEL: I'm flattered. Carol  
5 Angel of the Colorado Attorney General's Office.  
6 So just including in your motion include if the  
7 Engineering Committee decides that the Transit  
8 Study Loss Study is warranted, then their approval  
9 is effectively ARCA's as approval for the Chairman  
10 to sign a contract, is that what you're saying?  
11 Because we need the proper person to sign the  
12 contract and he needs his approval?

13 MR. DAVID POPE: Yes, that was my intent  
14 was to set up a process so that once that clearance  
15 is, once that agreement is reached and that  
16 clearance is provided, then the Chairman would  
17 execute the contract. The only reason for doing it  
18 this way is to try to move forward more quickly on  
19 a timely basis rather than waiting until we meet  
20 again.

21 MS. CAROL ANGEL: I agree completely. I  
22 just want to clarify on the record that ARCA was  
23 agreeing that they could let the Engineering  
24 Committee have that authority, and once the  
25 Engineering Committee exercised that authority,

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1           that was an authority for the Chairman to enter  
2           into a contract, appropriate contract.

3                   CHAIRMAN JENISON:  Yes.

4                   MR. DAVID POPE:  I think that's right.  
5           It's in essence a delegation, I guess, if you will  
6           to some extent.  The alternative, I suppose, would  
7           be a conference call to ARCA.

8                   MR. ROD KUCHARICH:  Special meeting to --  
9           but I think we're fine this way.

10                  MS. CAROL ANGEL:  Lee and I could consult  
11           and see if you think there's any problem with what  
12           I've described and then if there was, we could ask  
13           for some kind of telephonic consultation.

14                  MR. ROD KUCHARICH:  We'll make the  
15           appropriate accommodations if there are legal  
16           problems.

17                  MR. DAVID POPE:  Yeah, I think we were  
18           assuming that Lee and you, Carol, or Steve or  
19           whoever for Colorado would be involved in that  
20           contracting part of this.

21                  CHAIRMAN JENISON:  Further discussion on  
22           Mr. Pope's motion.

23                  MR. ROD KUCHARICH:  Colorado votes aye.

24                  CHAIRMAN JENISON:  Kansas.

25                  MR. DAVID POPE:  Kansas votes aye.

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1                   CHAIRMAN JENISON: Motion carries. Rod,  
2                   were you wanting to -- I had found that we were  
3                   going to do something with 50, 51 and 53?

4                   MR. ROD KUHARICH: We have already done  
5                   it.

6                   CHAIRMAN JENISON: So we are A-okay?

7                   MR. ROD KUHARICH: Yeah, we are.

8                   CHAIRMAN JENISON: I'm at the bottom of  
9                   my agenda unless either state has anything else  
10                  that we need to bring up.

11                  MR. DAVID POPE: Mr. Chairman, I guess  
12                  only thing that, maybe it's essentially been  
13                  covered but, covered before -- I guess we covered  
14                  it.

15                  MR. ROD KUHARICH: I was just wondering  
16                  if that includes the effort to work towards  
17                  resolution on those Annual Reports?

18                  CHAIRMAN JENISON: Yes.

19                  MR. ROD KUHARICH: It does.

20                  CHAIRMAN JENISON: If no one has anything  
21                  else, we are adjourned. Thank you everybody for  
22                  coming.

23                  (Proceedings conclude.)

24                  -----

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C E R T I F I C A T E

4

5 STATE OF KANSAS )

6 ) ss:

7 GRAY COUNTY )

8

9 I, Beverly D. Lohrey, a Certified Shorthand  
10 Reporter and Registered Professional Shorthand Reporter,  
11 hereby certify that the foregoing is a transcript of the  
12 proceedings had in this matter at the aforementioned time  
13 and place.

14 WITNESS my hand and official seal at my office,

15 this 30th day of December, 2005.

16

17

18

Beverly D. Lohrey, C.S.R., R.P.R.

19

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<p><b>\$</b></p> <p>\$2,000 - 84:24                  \$25 - 18:22                  \$300,000 - 25:16                  \$32,000 - 91:20                  \$37,070 - 12:6                  \$4,800 - 85:3                  \$46,370 - 12:5                  \$48,000 - 91:19                  \$50,000 - 84:18,                  84:19                  \$6,500 - 84:12                  \$7,000,000 - 20:2                  \$7,200 - 85:3                  \$9,300 - 12:7</p>	<p>2 - 50:18, 51:5,                  51:18, 51:22, 52:1,                  56:22, 57:6, 57:10,                  58:19, 65:12, 65:14                  2,000 - 52:20, 84:9                  2.5 - 17:4                  2.7 - 10:21, 10:25                  20 - 11:17, 21:9,                  65:6                  20/25 - 25:15                  2000 - 48:20                  2001 - 19:6                  2002 - 19:9, 20:9,                  52:1, 57:25                  2003 - 10:20, 10:22,                  10:24, 10:25, 11:2,                  11:4, 11:6, 13:10,                  13:17, 31:20, 37:13,                  50:19, 51:6, 51:7,                  56:18, 56:20                  2004 - 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# **Exhibit A**

## ATTENDANCE LIST

2004 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING

Tuesday, December 14, 2004, 8:30 a.m. (MST) Lamar Community Building, Lamar, Colorado

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"	CO DWR	310 E Abriendo Ave. Suite B Pueblo, CO 81006	(719) 542-3368	monique.morley@ state.co.us
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Joe Foss	"	310 E ABRIENDO PUEBLO, CO 81006	719 542-3368	joefoss@ state.co.us
Thomas V. Ley	"	310 E Abriendo State Pueblo, CO 81006	(719) 542 3368 x2114	thomas.ley @state.co.us

**ATTENDANCE LIST 2004 ARKANSAS RIVER COMPACT ADMINISTRATION ANNUAL MEETING**  
**Tuesday, December 14, 2004 8:30 a.m. (MST) Lamar Community Building, Lamar, Colorado**

<u>NAME</u>	<u>REPRESENTING</u>	<u>ADDRESS</u>	<u>PHONE &amp; FAX</u>	<u>EMAIL</u>
Tom Williamsen	Helton & Williams PC	384 Inverness Pkwy Englewood CO 80112	303 792 2161 303 792 2165 fax	
Eve Woods	Colo Dept. Law	1525 Sherman St, Ste Denver 80203	303 866 5072 3558	eve.woods@ State.CO.US
Nathan Sullivan	U.S. Geological Survey	1390 E. 8th St, B Hays, KS 67601	785-628-8918	nsullivan@usgs.gov
Bill Howland	Retired Colo. Div. Wtr Resour	1640 W. 6th Cas Animas Co 81059	719-456-0097	bisphowland@comnet.net
Elsie Howland		11	11	11
DON HIGBEE	LAWMA	R.O. Box 116 Lamar	719 336 9696	lawma@comnet.net
Bob Rarambel	NRES/SCD	38991 CRLL HOLLY CO. 81047	719-537-9505	RARAMBEL@RURAL.com
DAN NECHOLD	COLO DWR	30240 RD 12 LAMAR CO 21052	719-336-5364	
BILL TYLER	COLO DWR	317 F. AGRICULTURE AVE 317 F. AGRICULTURE AVE	719-542-3367	tyler@state.co.us

# **Exhibit B**

ARKANSAS RIVER COMPACT ADMINISTRATION

112 WEST ELM STREET, LAMAR, COLORADO 81052

719-336-2732

FOR COLORADO

ROD KUCHARICH, DENVER

JAMES G. ROGERS, LAMAR

THOMAS R. POINTON, LAS ANIMAS

CHAIRMAN AND FEDERAL REPRESENTATIVE

ROBIN JENNISON

HEALY, KANSAS

FOR KANSAS

DAVID L. POPE, TOPEKA

RANDY HAYZLETT, LAKIN

DAVID A. BRENN, GARDEN CITY

**NOTICE & AGENDA  
2004 ANNUAL MEETING  
ARKANSAS RIVER COMPACT ADMINISTRATION**

**LAMAR, COLORADO  
TUESDAY, DECEMBER 14, 2004,  
8:30 A.M. (MST)**

**LAMAR COMMUNITY BUILDING  
610 SOUTH SIXTH STREET  
LAMAR, COLORADO**

The 2004 Annual Meeting of the Arkansas River Compact Administration will be held in Lamar, Colorado, at the time and place noted above. The Lamar Community Building is located at 610 South Sixth Street, in Lamar, approximately six blocks South of the railroad, and two blocks West of Highway 50 via Parmenter Street. The meeting will be recessed for lunch at about 12:00 P.M. and reconvened for the completion of business in the afternoon as necessary. Meetings of the Administration are operated in compliance with the federal Americans with Disabilities Act. If you may need a special accommodation as a result of a disability please contact Jan Anderson at 719-336-2732 at least three days before the meeting.

The Engineering, Operations, and Administrative/Legal Committees of the Administration will meet on Monday, December 13, 2004, also at the Lamar Community Building, beginning at 1:00 P.M. MST and continuing to completion at approximately 6:00 P.M. Tentative agendas for the Committee meetings follow. The public is welcome to attend the Committee meetings, but time for comments may be limited.

The tentative agenda for the Annual Meeting, which is subject to change, is also set out below.

**MONDAY, DEC. 13, 2004, 1:00 P.M. (MST)**  
**ARCA ENGINEERING COMMITTEE MEETING**  
TENTATIVE AGENDA (subject to change)  
Chairman Tom Pointon

1. Review committee agenda and procedure for minutes and/or committee report preparation
2. Items currently before Committee [a listing of items for review purposes only, no presentations or actions proposed at this committee meeting on these issues, unless listed elsewhere on this agenda]
  - a. Colorado request for new water source to JMR permanent pool
  - b. Permanent pool evaporation calculation and apportionment
  - c. Purgatoire River Water Conservancy District / Trinidad Project:
    - (1) Trinidad Project and District operations
    - (2) Acreage Verification System development
    - (3) Proposed amendments to Trinidad Project Operating Principles
  - d. Other
3. Other matters
4. Summary of action items
5. Committee assignments to staff
6. Future Meetings
7. Adjourn

**MONDAY, DEC. 13, 2004, 1:30 P.M. (MST)**  
**ARCA OPERATIONS COMMITTEE MEETING**  
TENTATIVE AGENDA (subject to change)  
Chairman David Brenn

1. Review committee agenda
  - a. Review and revise agenda as necessary
  - b. Designate two non-participants to prepare a written summary of meeting. (Written summary will include listing of issues addressed, any resolution or additional information requested, a list of "Action Items," Operations Committee Assignments, the person responsible for each assignment and any deadline(s) imposed).
2. Items currently before Committee [a listing of items for review purposes only, no presentations or actions proposed at this committee meeting on these issues, unless listed elsewhere on this agenda]
  - a. Accounting and operations issues from prior years per "Matrix"
  - b. State issues paragraphs regarding Category "C" issues submitted Nov. 1, 2004
  - c. Other
3. Reports of Operations Secretary and Assistant Operations Secretary
  - a. Operations Secretary, Steve Witte
  - b. Assistant Operations Secretary, Mark Rude
  - c. Committee recommendations re reports
4. Status Report Colorado Offset Account operations, by Colorado Division Engineer, Steve Witte
5. Accounting and Operations Issues from Prior Years
  - a. Accounting and operations issues from prior years per "Matrix"
  - b. State issues paragraphs regarding Category "C" issues submitted Nov. 1, 2004
6. Other matters
  - a. Livingston Transit Loss Study Proposal - Arkansas River, JMR to Stateline
  - b. Review and ratify Oct. 5, 2004, memos referring issues to Admin & Legal Comm.
  - c. US Army Corps' explanation of Trinidad Reservoir flood release rates August 2004
7. Summary of action items
8. Committee assignments to staff
9. Future Meetings
10. Adjourn

**MONDAY, DEC. 13, 2004, 4:00 P.M. (MST)**  
**ARCA ADMINISTRATIVE & LEGAL COMMITTEE MEETING**  
TENTATIVE AGENDA (subject to change)  
Chairman Randy Hayzlett

1. Review committee agenda and procedure for minutes and/or committee report preparation
2. Items currently before Committee [a listing of items for review purposes only, no presentations or actions proposed at this committee meeting on these issues, unless listed elsewhere on this agenda]
  - a. Financial matters
  - b. Minutes and Annual Reports preparation and approval
  - c. Referred items
  - d. Other
3. Items Referred from Operations Committee
  - a. Records retention
  - b. Issue 52 Upstream storage of flood flows
  - c. Issue 60 Agreement "B"
4. Recording Secretary Items
  - a. Review personnel services contract
  - b. Replacement of current Recording Secretary
5. Financial Matters:
  - a. Audit Report, review and approval of FY 03-04 Report (7/1/03-6/30/04)
  - b. Treasurer Report
  - c. Budget review and adoption
    - (1) Review of current fiscal year (2004-05) budget
    - (2) Funding special studies/projects
    - (3) Approval of USGS Cooperative Agreements for gaging network
    - (4) Review of previously adopted FY 2005-06 budget and assessments
    - (5) Adoption of FY 2006-2007 budget and assessments
6. Status of Transcripts and/or Summaries from Prior Meetings:
  - a. Annual Meetings: 1993, 1998, 1999, 2000, 2001, 2002, May 2003, Dec. 2003
  - b. Special Meeting Minutes
  - c. Clarification of Administrative & Legal Committee's role in approving minutes
7. Annual Report Preparation
  - a. Status of uncompleted reports from 1994-2002
  - b. Process to complete backlog and for future years
  - c. Clarification of Administrative & Legal Committee's role in approving reports

ARCA ADMINISTRATIVE & LEGAL COMMITTEE MEETING Continued

8. Other Matters
  - a. Information report on future or potential water quality studies
9. Review Annual Meeting Agenda
10. Summary of action items
  - a. Proposed slate of Officers (Vice-Chairman, Recording Secretary, Treasurer, Operations Secretary and Assistant Operations Secretary)
  - b. Proposed appointment of Committee members
  - c. Budget and audit recommendations
11. Committee assignments to staff
12. Future Meetings
13. Adjourn

**TUESDAY, DEC. 14, 2004, 8:30 A.M. (MST)**  
**2004 ANNUAL MEETING**  
**LAMAR COMMUNITY BUILDING**  
TENTATIVE AGENDA (subject to change)

1. **Call to Order:** Federal Representative, Robin Jennison
  
2. **Introductions of Representatives and Visitors**
  
3. **Review and Revision of Agenda**
  
4. **Reports of Officers for Compact Year 2004:**
  - a. Chairman: Robin Jennison
  - b. Vice-chairman: David Pope
  - c. Recording Secretary: Jan Anderson [defer to agenda item 9]
  - d. Treasurer: Jim Rogers [defer to agenda item 9]
  
5. **Reports from Colorado Water Conservancy Districts**
  - a. Southeastern Colorado Water Conservancy District
  - b. Lower Arkansas Valley Water Conservancy District
  
6. **Reports of Federal Agencies:**
  - a. U.S. Geological Survey
    - (1) Review of ongoing technical studies
    - (2) Gaging effort and costs
  - b. U.S. Army Corps of Engineers
  - c. U.S. Bureau of Reclamation
  
7. **Report of Operations Committee**
  - a. Reports of Operations Secretary and Assistant Operations Secretary for CY2004
  - b. Report from Dec. 13, 2004 Committee Meeting
    - (1) Summary of discussions
    - (2) Written report
    - (3) Committee recommendations re 2004 Operations Secretary and Assistant Operations Secretary Reports
    - (4) Action items for consideration by Administration
    - (5) Administration instructions to the Committee

- 8. Report of Engineering Committee**
    - a. Report from Dec. 13, 2004 Committee Meeting
      - (1) Summary of discussions
      - (2) Written report
      - (3) Action items for consideration by Administration
      - (4) Administration instructions to the Committee
  
  - 9. Report of Administrative and Legal Committee**
    - a. Report from Dec. 13, 2004 Committee Meeting
      - (1) Summary of discussions
      - (2) Written report
      - (3) Action items for consideration by Administration
        - a. Election of Officers for Compact Year 2005
        - b. Appointment of Committee members and chairs for Compact Year 2005
        - c. Financial matters
          1. Audit Report
          2. Budget review and adoption
        - d. Approval of minutes from previous meetings
        - e. Annual report procedures
        - f. Other
    - b. Administration instructions to the Committee
      - (1) approval of transcripts and/or summaries from prior meetings
      - (2) approval of annual reports
- 
- 10. Adjournment**

# **Exhibit C**

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

**December 13, 2004**

In 2004, 10 streamflow gages were operated under the USGS/ARCA cooperative program; eight in Colorado and two in Kansas. During 2004, the eight gages in Colorado were prioritized with respect to USGS federal interests. Seven of the eight gages received a designation of 'high' priority. One gage, Wildhorse Creek above Holly, received a medium priority ranking.

Near final annual flows for WY2004 are shown in the attached table. No significant problems were encountered with streamflow records. However, intermittent problems at Big Sandy Creek at Lamar due to construction of beaver dams near the gage continues to occur.

In 2005, the USGS proposes to continue operation of the 10 streamflow gages at a cost to ARCA of \$46,370 of which \$37,070 is for operation of the eight gages in Colorado; and \$9,300 is for operation of two gages in Kansas.

A draft report describing the variability in ground-water discharge pumpage including the effects of time trends and pumping water levels in the lower Arkansas River Valley has been submitted for technical review. Once all review comments are received, the draft will be revised, submitted for approval, and then for publication.

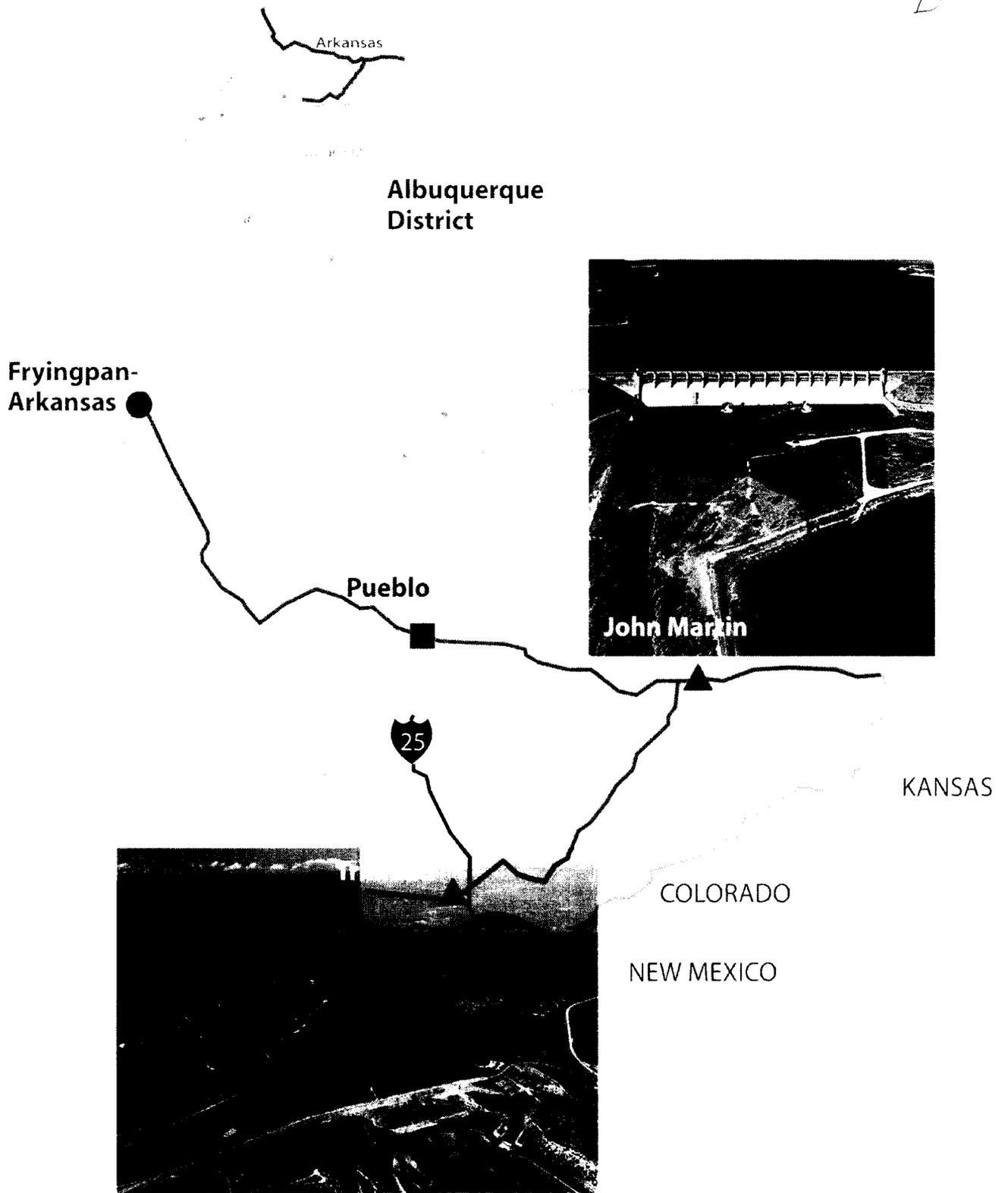
During the summer of 2004, a final set of seepage loss investigations on eight irrigation canals along the Purgatoire River downstream of Trinidad Dam were made. A draft report documenting the results of the seepage losses will be completed and published in 2005.

Summary of Mainstem and Tributary Flows Below John Martin Reservoir,  
Water Years 2003 and 2004 (2004 values are near final)

Station Name	WY2003 Annual Flow in Acre Feet	WY2004 Annual Flow in Acre Feet	2004 as % of 2003
Arkansas River below John Martin Reservoir	73,270	152,800	208
Arkansas River at Lamar	12,820	34,630	270
Big Sandy Creek near Lamar	2,030	3,720	183
Arkansas River near Granada	14,680	39,900	272
Wildhorse Cr. above Holly (April 1-October 31) <sup>1</sup>	1,800	3,340	185
Arkansas River near Coolidge	31,850	57,100	179
Frontier Ditch near Coolidge	5,090	9,080	178

# **Exhibit D**

# Arkansas River Basin



US Army Corps  
of Engineers.  
Albuquerque District

Report of Civil Works Activities

# 2004

1. **General.** During 2004, activities of the U.S. Army Corps of Engineers, Albuquerque District (Corps), in the Arkansas River Basin consisted of reservoir regulation, flood-control related studies, flood plain management services, regulation under Section 404 of the Clean Water Act, and emergency assistance.

2. **Flood Control Operations.** The Arkansas River snowmelt runoff was slightly below normal throughout the entire basin, ranging from 70% to 90% of average. There were no significant flood-control operations at John Martin or Pueblo Reservoirs.

Trinidad Lake –

Heavy rains fell in the area above Trinidad Lake in early August, 2004, producing flows in excess of 4,500 cfs on the Purgatoire River above the reservoir. It was discovered during flood operations at this time that the outlet works gaging station becomes unreliable for flow measurement when releases from the lake exceed 1,000 cfs.



Trinidad Dam, 2003. USACE photograph.

Historically, Trinidad releases are usually well below 1,000 cfs and have only exceeded this value once, when on May 5, 2004, a release of 1,051 cfs was recorded. The following describes the release operations for this time period:

On Wednesday, August 11, heavy rainfall produced runoff which increased lake elevations 2.5 feet, accumulating over 1,800 acre-feet of storage. The reservoir release at this time was 163 cfs. During the daily coordination meeting on the morning of Thursday, August 12, the Water Commissioner requested a release of 1,300 cfs. The USGS was notified of the release, and they provided a downstream stage for the outlet works gaging station of 8.22 feet to correspond to the requested 1,300 cfs flow.

The release was increased to 1,300 cfs. However, after checking the flow measurement at the outlet works gaging station, it appeared that the release was actually decreasing although the gates had been open to release 1,300 cfs. Fortunately, the USGS was on-site during the day and measured a flow of 1,260 cfs. It was during this release that the USGS determined that the turbulence at the outlet works flip bucket, where the gaging station is located, was having a drawdown effect on the water level in the outlet works gaging station well, thus giving the effect of decreasing flows. Based on this information the USGS deemed the outlet works gaging station unreliable for flows in excess of 1,000 cfs.

The Corps and USGS are currently taking measures to ensure that reliable readings for flows exceeding 1,000 cfs be verifiable, including placing into production an existing secondary gaging station located approximately 100 yards downstream from the outlet works gaging station. The Corps hopes to have this secondary gaging station fully functional in the near future.

**3. Planning Assistance to States (Section 22) Program.** Under authority of Section 22 of the Water Resources Development Act of 1974 (WRDA), the Corps is authorized to assist non-Federal entities in the preparation of comprehensive plans for the development, use, and conservation of water and related land resources.

There are no new or ongoing studies in the Arkansas Basin under the Planning Assistance to States Program.

**4. Continuing Authorities Program.** The non-federal sponsor, under both of the following authorities, must contribute 35% of the cost for these projects. This program is available to communities, flood control organizations, and other governing entities. Those having a need for this program should contact the U.S. Army Corps of Engineers, 4101 Jefferson Plaza NE., Albuquerque, New Mexico 87109, telephone (505) 342-3201.

Tamarisk and invasive species can be removed and native species restored under Section 206 and Section 1135 of the CAP authorities. Section 1135 (cost shared 75-25) applies if the spread of the invasive species can be partially attributed to a Corps project. Section 206 (cost shared 65-35) does not have that Corps project requirement. Both programs are funded \$25 million nationally.

**a. Section 1135.** The 1986 Water Resources Development Act authorized the review of completed water resources projects to implement modifications that improve the quality of the environment, when environmental degradation resulted from the Corps project.

Currently, there are no active Section 1135 projects.



Arkansas River, 2001. Photograph by Van Truan, USACE.

**b. Section 206.** The 1996 Water Resource Development Act provided authority for aquatic ecosystem restoration projects in areas unrelated to existing Corps water projects.

In October 2001, the Arkansas River Fisheries Habitat Restoration project was approved and a Project Cooperation Agreement was signed with the City of Pueblo in April 2002. The project will improve fish and riparian habitat along ten miles of the Arkansas River downstream of Pueblo Dam. Improvements will include in stream habitat and channel enhancement structures, channel restructuring, and riparian/bank plantings. Construction is ongoing and is scheduled for completion in 2005.

**c. Section 14.** Under Section 14 of the 1946 Flood Control Act, as amended, the Corps provides emergency streambank protection works to prevent damage to public facilities.

There are two Section 14 projects at Colorado Springs; one at Powers Blvd and one at Chelton Road. The projects are to protect the roadway bridges and involve grade control and slope protection. These projects are on hold pending funding.

**d. Section 205.** Under Section 205 of the 1948 Flood Control Act, as amended, the Corps is authorized to plan and construct small flood damage reduction projects that were not authorized by Congress.

A Section 205 project at Colorado Springs along Cheyenne Creek. The District has recommended that this become a General Investigation Study, since the costs exceed the Federal funding limitations for a Section 205 project (\$7,000,000 per project).

A Section 205 project at Florence along the Oak Creek, a tributary to the Arkansas River, is in the feasibility stage. The project is being designed to fulfill both flood control and water supply objectives.



Fountain Creek before jetty placement, 2000. Photograph courtesy City of Pueblo, CO.

**5. General Investigations.** The Corps General Investigations program provides for large comprehensive solutions to complex problems that can explore solutions on a watershed scale. The Fountain Creek watershed study began in 2002 and will be on-going thru 2007.

The project will look at the entire watershed, identifying potential detailed studies involving environmental restoration, flood reduction, socio-economic effects and other factors by studying and generating an Environmental Impact Study and Feasibility document.

**6. Flood Plain Management Services.** The Corps Flood Plain Management Services (FPMS) Program authority stems from Section 206 of the Flood Control Act of 1960 (PL 86-645), as amended. The objective of the Flood Plain Management Services Program is to support comprehensive floodplain management with technical services and planning guidance at all appropriate governmental and community levels. These services are provided to State, regional, and local governments and Indian tribes at no cost. Section 321 of the Water Resources Development Act of 1990 requires recovering the cost of services provided to Federal Agencies and to private entities. A fee schedule has been established.

Section 202 of the Water Resources Development Act of 1999 (PL 106-53) authorizes the Secretary of the Army to collect funds contributed voluntarily from State, regional, and local governments, Indian tribes, and other non-Federal public agencies for the purpose of recovering the cost of providing services pursuant to Section 206.



Chinook jetty construction, Fountain Creek.  
Photograph courtesy City of Pueblo, CO.

Services available include assistance relating to the interpretation and evaluation of basic flood-hazard data, guidance in preparation of floodplain regulations, advice on the use of data regarding possible alternative developments in flood-prone areas, guidance on structural and nonstructural measures that might be employed to reduce flood hazard, and, in some cases, development of basic flood-hazard data.

Governmental agencies or persons having a need for these services should contact the U.S. Army Corps of Engineers, Hydrology and Hydraulics Section, 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109-3435, telephone 505-342-3323, or consult the FPMS web page at: <http://www.spa.usace.army.mil/fpms>.

At the request of the Colorado Water Conservation Board, and partially funded by the Federal Emergency Management Agency, Region VIII, the Corps initiated a floodplain delineation study and Flood Insurance Study for Oak Creek through the towns of Williamsburg and Rockvale and for Coal Creek through the town of Coal Creek in Fremont County. The study uses digital topographic mapping developed by the Fremont County Regional GIS Authority.

Under authority of an Interagency Agreement with the Federal Emergency Management Agency, Region VIII, the Corps initiated a Flood Insurance Study for a portion of Black Squirrel Creek and five tributaries in El Paso County. The study uses digital topographic mapping developed by the El Paso County Department of Transportation.

In addition to these studies, the Corps received approximately twenty requests for technical services at specific sites within the Arkansas River Basin.

**7. 404 Permits.** Section 404 of the Clean Water Act prohibits discharges of dredged or fill materials into waters of the United States, including wetlands, without a permit from the Corps.

In 2004, 14 individual permits were issued in the Arkansas River Basin. An additional 268 activities in the Basin were reviewed during the period and most were covered under nationwide permits. Persons or agencies who are planning to conduct fill or excavation activities in any waterway are advised to contact the Southern Colorado Project Office, 720 North Main, Suite 205, Pueblo, Colorado 81003, (719) 543-9459. Information, including all public notices, is also available on our web home page at: <http://www.spa.usace.army.mil/reg/>.



USACE Emergency Management employee. USACE photograph.

**8. Emergency Management Coordination.**

Public Law 84-99 gives the Corps of Engineers the authority to assist state and local governments before, during and after flood events.

The Corps' Emergency Management Branch works with Local governments to inspect numerous flood control projects throughout the Arkansas Basin to ensure that these facilities are in proper operational condition for the next flood season. During years with high snow pack, the Corps works with the Colorado Water Conservation Board to prepare for flood fight activities that may be required.

During the past year, the Emergency Management Branch received 3 contacts from local governments and private citizens in the Arkansas River Basin requesting information or assistance regarding flood related activities.

# **Exhibit E**

# **Exhibit F**

# ARKANSAS RIVER COMPACT ADMINISTRATION

307 South Fifth Street, Lamar, Colorado 81052  
719-336-9696

For Colorado

Rodney Kuharich, Denver  
James G. Rogers, Lamar

Thomas R. Pointon, Las Animas

Chairman and Federal Representative

Robin Jennison  
Healy Kansas

For Kansas

David L. Pope, Topeka  
David A. Brenn, Garden City

Randy Hayzlett, Lakin

December 1, 2004

Mr. James Rogers, Chairman  
Mr. David Brenn, Member  
Mr. Robin Jennison, Ex-officio Member  
Operations Committee  
Arkansas River Compact Administration

Re: CY 2004 Summary  
Assistant Operations Secretary Report

Gentlemen,

This report is to provide the Operations Committee with a review of the status of operations for CY 2004 from the perspective of the Assistant Operations Secretary. There continued to be significant efforts between the offices of the Operations Secretary (OS) and Assistant Operations Secretary (AOS) to resolve operational issues. This report will review those accomplishments and highlight some items that require additional effort.

## **Method to Measure Kansas Section II Deliveries**

The staffs of the Garden City Field Office and Colorado Water Division 2, the respective State local water officials, began the year with the goal of implementing a trial one year agreement that would provide a definite method to measure Kansas Section II releases. The staffs involved put forth significant efforts towards developing a method: exchanging data and proposals, and meeting on three separate occasions.

On March 24, 2004, the staffs met in Lamar, CO to discuss this measurement method. Discussions centered on a Kansas proposal distributed before the meeting. Various aspects of the proposal were discussed and it appeared concerns expressed by Colorado had been satisfactorily addressed. A draft agreement based on this apparent consensus was then emailed by the Assistant Operations Secretary to the Operations Secretary on March 30<sup>th</sup>. (*Agreement for Measurement of Kansas Section II Account Release for Determination of Transit Loss*, March 24, 2004). See Attachment A. Colorado negatively responded to this March 24<sup>th</sup> proposal on July 22<sup>nd</sup>. See Attachment B. Kevin Salter responded by providing comments in an email to Steve Witte dated July 29<sup>th</sup> to the concerns in Colorado's July 22<sup>nd</sup> letter. See Attachment C. No further

discussion have occurred on this issue and the Assistant Operations Secretary remains open to further discussions which would result in an agreement in this matter.

A principal element of the disagreement relates to how Stateline flows, both prior to and after the release, are counted in the measurement of Kansas Section II deliveries.

### **Dispute and Communication Process**

Process: Recommendations were jointly submitted to the Operations Committee concerning *Process to Address and Resolve Interstate Administrative Issues Related to the Arkansas River* by the Operations Secretary and the Assistant Operations Secretary (dated February 26, 2004). These recommendations were discussed with the Operations Committee at the April 13, 2004 meeting in Lamar, CO. The Operations Committee adopted these joint recommendations by letter dated August 19, 2004. See Attachment D.

Issues: Regarding outstanding operational issues, the Operations Committee asked both offices to sort the issues into three categories: "A" issues that can be resolved by staff; "B" issues that need to be addressed by another committee and "C" issues that staffs believe that they have taken as far as they can. This was jointly done and was submitted to the Operations Committee by letter dated February 5, 2004. See Attachment E.

The Operations Committee then asked that those issues be prioritized within two groupings: "A" issues and "B" & "C" issues. Those priorities were submitted to the Committee at the August 19, 2004 meeting by a joint letter of that same date. See Attachment F. The Committee then requested a paragraph for each of the "B" & "C" issues be provided by the staffs detailing the respective State's position on these issues. This was done separately by each State and submitted by the November 1<sup>st</sup> deadline. See Attachment G.

### **Kansas Call for JMR Stored Water**

Kansas Run: A call for stored water in John Martin Reservoir (JMR) was initiated on March 26, 2004 by Kansas. Water was called from the Offset Account first, followed by the Kansas Section II account and ended with a short run of Offset Account water that had accumulated during the Section II release. An early release to Kansas was deemed the best opportunity to deliver stored water to the Stateline. This plan for releasing JMR account water was discussed at the March 24<sup>th</sup> meeting between staffs. A total of 19,345.38 AF was released to Kansas from accounts in JMR during a period of 17 days according to Colorado Division 2's John Martin Accounting System (JMAS). Table A1 at the end of this document provides flow information for the period between March 19<sup>th</sup> and April 22<sup>nd</sup>.

Offset Account water and Kansas Section II water are accounted at the Stateline differently as provided for in the separate resolutions controlling the two different types of releases. The measurement of Offset Account deliveries does not include Stateline antecedent flows. In contrast, Section II deliveries are measured as equivalent Stateline

flow. How these differing types of deliveries are to be accounted for at the Stateline is a continuing source of disagreement between the States.

Kansas requested a 600 cfs release from the Offset Account, starting at 12:00 hour (Mountain) on March 26<sup>th</sup> and continued until 07:34 hour (Mountain) on April 4<sup>th</sup>. Antecedent flow conditions at the Stateline were approximately 26 cfs (average of the five (5) days prior to the Kansas call from the Offset Account). A total of 10,406.97 AF were released from the Offset Account during this period according to JMAS. The mean daily flow rate released from the Offset Account at John Martin Reservoir was between 584 cfs and 618 cfs during this period.

Once the Offset Account was exhausted, Kansas Section II water was released with a requested delivery rate of 600 cfs at the Stateline. That release occurred between 07:34 hour (Mountain) on April 4<sup>th</sup> and 12:12 hour (Mountain) on April 11<sup>th</sup>. Antecedent flow conditions at the Stateline were approximately 329.60 cfs (average of the five (5) days prior to the call from Kansas Section II). A total of 8,560.86 AF was released from the Kansas Section II Account during this period. The mean daily flow rate released from the Kansas Section II Account at John Martin Reservoir was held at 600 cfs during this period.

Once the Kansas Section II was exhausted, water that had accumulated in the Offset Account (436.06 AF) between the first exhaustion of the Offset Account and the exhaustion of the Kansas Section II Account was then released at a rate of 600 cfs. The second Offset Account release occurred over a nine (9) hour period on April 11<sup>th</sup>.

Transit Loss Account Release: The use of transit loss account water for this particular run was discussed extensively during the meeting between staffs in Lamar on March 24<sup>th</sup>. Kansas asked that the Transit Loss Account be used as currently required by the 1980 Operating Plan. The 1980 Operating Plan states that the Transit Loss Account is to replenish any Kansas Section II delivery deficits as the result of transit losses suffered, clearly an operation that occurs after a delivery of Kansas Section II water has been made. Kansas had informed the Colorado Division 2 office that our expectation was that there would not be a concurrent release of Transit Loss Account water.

Emails were exchanged regarding the use of the Transit Loss Account during CY 2004 on April 2<sup>nd</sup> and April 3<sup>rd</sup>. See Attachment H. Mr. Witte advised in an email on April 2, 2004, that he would make a concurrent release of Transit Loss Account water with the release of Kansas Section II. The email response to Mr. Witte referenced the significant discussion the two offices had on this point at the March meeting in Lamar. It was also noted that use of the Transit Loss Account should be decided by joint agreement and should be a post-delivery evaluation as prescribed by the 1980 Operating Plan. In his response, Mr. Witte notes (email of April 3<sup>rd</sup>, Saturday) that "we will simply have to agree to disagree" on this issue and proceeded to release 250 cfs concurrently with the 600 cfs Kansas Section II release over Kansas' objection and without agreement as to the amount of transit loss.

Measurement of Kansas Section II: For measurement of the Kansas Section II release, the Garden City Field Office used the latest proposal discussed between the

offices for CY 2004 (*Agreement for Measurement of Kansas Section II Account Release for Determination of Transit Loss*, March 24, 2004). Basically, the method employs the use of near real time USGS gage data and a three-day lagged measurement period which has the same number of days as the Kansas Section II account release from JMR. This method measures the Stateline delivery of the Kansas Section II release and allows for the determination of any transit losses.

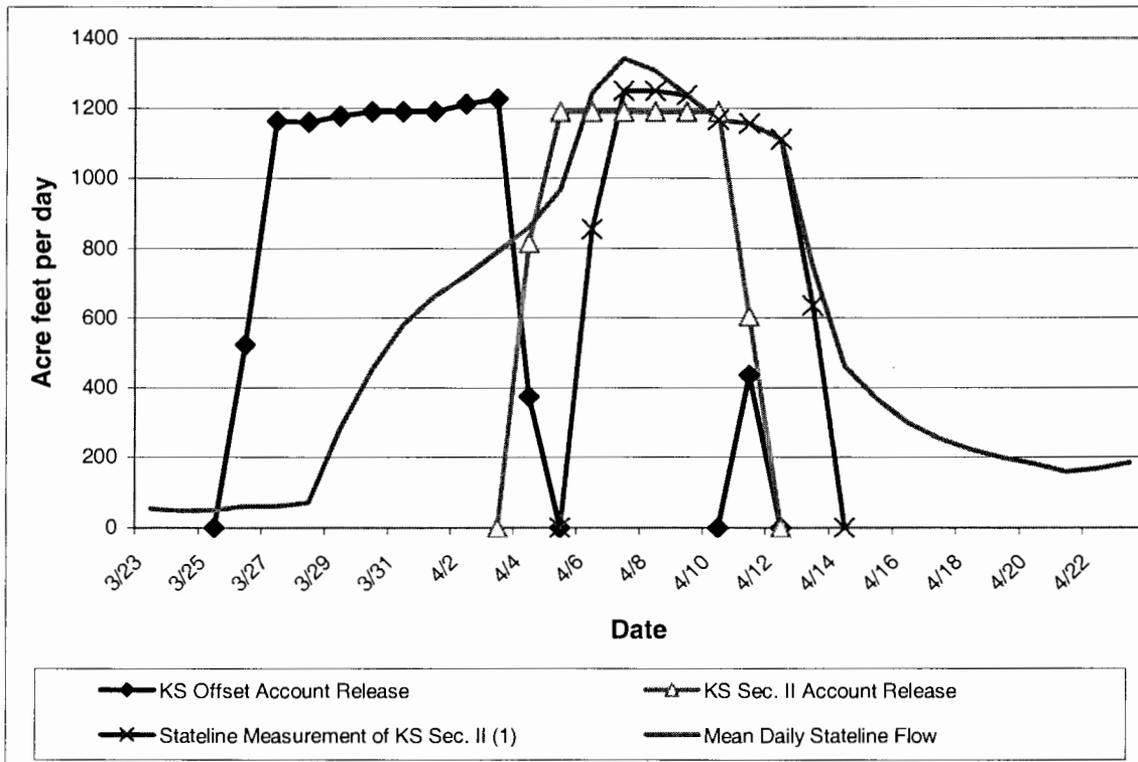


Figure 1: Releases from John Martin Reservoir (JMR), Stateline flow and measured delivery of Kansas Section II account. (1) The measurement of Kansas Section II shown was done consistent with the March 24<sup>th</sup> proposal.

Using this method, 8,012.23 AF of equivalent Stateline flow was measured at the Stateline. This compares to the 8,560.86 AF released from the Kansas Section II account, or a delivery deficit (transit loss) of 548.63 AF. Notice of this calculated delivery deficit was conveyed to the Operations Secretary on August 23<sup>rd</sup> for the purpose of having this delivery deficit replenished to the Kansas Section II account from the first water available from the Transit Loss account as prescribed by the 1980 Operating Plan upon the first available delivery of Section III.

## **Additional Operational & Accounting Concerns**

There have been approximately twenty-five (25) operational issues identified by the Operations and Assistant Operations Secretaries. There continue to be numerous concerns with operations and accounting in CY 2003 and earlier years. If a particular issue raised by the Assistant Operations Secretary is not specifically mentioned in this report, it doesn't mean that there are no longer any concerns related to that issue. Until specifically resolved in the record, the issues remain unresolved.

Permanent Pool Delivery: A delivery was made into the permanent pool in August. The water was initially released from Twin Lakes and delivered to JMR. Kansas raised a concern about how this delivery was measured into JMR. The response did not provide any detail on the differences between the presumed delivery and the actual delivery. Additional review of this operation is needed.

Pass-through Accounting (Issue 41): Section II C of the 1980 Operation Plan provides, among other things, "... inflows shall, to the extent practical, be measured and released from the reservoir without temporary storage or averaging flows..." Kansas commends the Operations Secretary for including the pass-through tables in his CY 2003 report. The Assistant Operations Secretary again provided pass-through accounting for CY 2004 with the understanding that it will be included in this year's Operations Secretary report. The pass-through tables provided to the Operations Secretary were based on JMAS and information provided from the USGS and Corps of Engineers. A determination of compliance with Section II C of the 1980 Operating Plan is not possible from the Operations Secretary's report absent this information.

PWWSP Concerns (Issues 21 and 22): Kansas continues to have concerns about how the winter inflows are split between Compact conservation storage and the Pueblo Winter Water Storage Program (PWWSP). Kansas appreciates the Operations Secretary providing the split ratios in prior Operations Secretary reports and requests that this reporting continue. However, the split criteria should be determined in consultation with Kansas and must meet the standards in Section III of the 1980 Operating Plan which prohibits any reduction in waters that otherwise would be inflows to Compact storage.

The current PWWSP began on November 15, 2004. There have been a series of preliminary splits established and reported to Kansas, with the latest split established on November 28<sup>th</sup>. Kansas needs time to review the operation of this program and will provide concerns to the Colorado Division 2 office later.

CY 2002 Delivery (Issues 30 and 31): The Colorado Division Engineer and the Kansas Water Commissioner agreed that there was a delivery deficit in the Kansas Section II in CY 2002 but could not agree on the amount. The Kansas Water Commissioner calculated a delivery deficit of 4,603 AF and provided notice of this delivery deficit to the Division Engineer by letter dated March 4, 2003. See Attachment I. In that letter, Kansas stated its position that any delivery deficit for Kansas Section II should be replenished to the Kansas Section II account. The Division Engineer unilaterally determined a delivery deficit of 676 AF for Kansas Section II deliveries made in CY 2002. The Division Engineer has not provided an explanation of how the delivery deficit

was determined. (Under the March 24, 2004 proposed method, this transit loss would have been 3,247 AF.)

The delivery deficit, as determined by the Division Engineer (676 AF), was initially placed in the Transit Loss Account on March 15, 2003. This water should have been replenished to the Kansas Section II Account, not the Transit Loss Account. The Kansas position is that any delivery deficits should be replenished to the Kansas Section II account was reiterated in a letter dated August 26, 2003 from Kevin Salter to Steve Witte. See Attachment J. In response, JMAS accounting shows that 400.57 AF was transferred On January 20, 2004, from the Transit Loss Account to the Kansas Section II. The 400.57 AF represents the 676.02 AF less evaporation.

### **Summary**

As is apparent from the foregoing discussion, essentially all of the significant issues dividing the States a year ago remain unresolved. Efforts by the staffs of both States should continue to resolve these issues and others not discussed in this report. I appreciate the Operations Committee's time and interest in working to resolve the issues of dispute and to facilitate communication.

Sincerely,

Mark E. Rude,  
Assistant Operations Secretary

Table A1: Data used to determine the satisfaction of Kansas Section II account deliveries.

Date	Offset Account Release (AF)	KS Sec. II Release (AF)	Transit Loss Release (AF)	Other Account Releases (AF)	Total Account Release from John Martin Reservoir (AF)	Ark River below John Martin Reservoir (AF)	Pass Thru (AF)	Mean Daily Stateline Flow (AF)
19-Mar	0.00	0.00	0.00	1.00	1.00	2.00	1.00	53.55
20-Mar	0.00	0.00	0.00	1.00	1.00	2.00	1.00	53.55
21-Mar	0.00	0.00	0.00	0.99	0.99	2.00	1.01	51.57
22-Mar	0.00	0.00	0.00	0.00	0.00	2.00	2.00	53.55
23-Mar	0.00	0.00	0.00	0.00	0.00	2.00	2.00	53.55
24-Mar	0.00	0.00	0.00	0.00	0.00	2.00	2.00	47.60
25-Mar	0.00	0.00	0.00	0.00	0.00	2.00	2.00	49.59
26-Mar	523.00	0.00	0.00	0.00	523.00	524.00	1.00	61.49
27-Mar	1164.00	0.00	0.00	0.00	1164.00	1164.00	0.00	61.49
28-Mar	1159.00	0.00	0.00	0.00	1159.00	1159.00	0.00	71.41
29-Mar	1176.87	0.00	0.00	40.50	1217.37	1217.00	(0.37)	283.64
30-Mar	1190.10	0.00	0.00	69.42	1259.52	1262.00	2.48	452.24
31-Mar	1190.10	0.00	0.00	74.80	1264.90	1264.00	(0.90)	581.17
1-Apr	1190.10	0.00	0.00	85.29	1275.39	1277.00	1.61	662.49
2-Apr	1211.92	0.00	0.00	120.90	1311.00	1311.00	0.00	721.99
3-Apr	1226.79	0.00	0.00	141.82	1331.92	1332.00	0.08	791.42
4-Apr	375.09	815.01	314.38	99.18	1603.66	1604.00	0.34	862.82
5-Apr	0.00	1190.10	495.88	238.68	1924.66	1929.00	4.34	967.95
6-Apr	0.00	1190.10	442.16	312.73	1944.99	1945.00	0.01	1243.65
7-Apr	0.00	1190.10	323.97	282.59	1796.66	1797.00	0.34	1342.83
8-Apr	0.00	1190.10	73.54	283.70	1547.34	1577.00	29.66	1307.13
9-Apr	0.00	1190.10	0.00	277.15	1467.25	1473.00	5.75	1237.70
10-Apr	0.00	1190.10	0.00	262.86	1452.96	1465.00	12.04	1166.30
11-Apr	436.06	605.25	0.00	232.13	1273.44	1320.00	46.56	1156.38
12-Apr	0.00	0.00	0.00	450.66	450.66	369.00	(81.66)	1110.76
13-Apr	0.00	0.00	0.00	357.17	357.17	619.00	261.83	747.78
14-Apr	0.00	0.00	0.00	415.81	415.81	578.00	162.19	460.17
15-Apr	0.00	0.00	0.00	349.25	349.25	516.00	166.75	368.93
16-Apr	0.00	0.00	0.00	347.15	347.15	370.00	22.85	299.51
17-Apr	0.00	0.00	0.00	205.93	205.93	224.00	18.07	253.89
18-Apr	0.00	0.00	0.00	204.44	204.44	222.00	17.56	222.15
19-Apr	0.00	0.00	0.00	173.50	173.50	222.00	48.50	198.35
20-Apr	0.00	0.00	0.00	178.05	178.05	222.00	43.95	180.50
21-Apr	0.00	0.00	0.00	183.88	183.88	224.00	40.12	158.68
22-Apr	0.00	0.00	0.00	13.09	13.09	178.00	164.91	168.60