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50TH ANNUAL MEETING OF THE  
REPUBLICAN RIVER COMPACT ADMINISTRATION

AUGUST 12, 2010

9:15 A.M.

Burlington Community and Education Center  
Burlington, Colorado

PANELS:

FOR COLORADO:

Commissioner Dick Wolfe

Mr. Peter Ampe

Ms. Megan Sullivan

FOR KANSAS:

Commissioner David Barfield

Mr. Burke Griggs

Mr. Chris Grunewald

Mr. Scott Ross

Mr. Chris Beightel

FOR NEBRASKA:

Commissioner Brian Dunnigan

Mr. Justin Lavene

Mr. Jim Schneider

Mr. Tom O'Connor

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

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3 COMMISSIONER WOLFE: Good morning,  
4 everyone. I'm Dick Wolfe, State Engineer for Colorado  
5 and Compact Commissioner for Colorado for the Republican  
6 River Compact Administration. Welcome to Burlington.

7 At this time, I'd like to introduce some of  
8 the staff members here at the table that are from  
9 Colorado with me. To my immediate right is Mr. Peter  
10 Ampe. He's First Assistant Attorney General at the  
11 Colorado State Attorney General's Office. And to my  
12 left is Megan Sullivan, who is the engineer advisor for  
13 Colorado.

14 David, do you want to go ahead and  
15 introduce your staff here at the table for Kansas?

16 COMMISSIONER BARFIELD: Yes. Thank you,  
17 Dick.

18 Again, thank you for hosting the meeting.  
19 With me -- my name, for the record, is Dave Barfield.  
20 I'm chief engineer for the Kansas Division of Water  
21 Resources and Commissioner for the State of Kansas to  
22 the Administration.

23 At the table here to my right is Chris  
24 Grunewald, attorney with the -- for the Kansas Attorney  
25 General's Office. Burke Griggs, an attorney with the

1 Department of Agriculture. And to my left is Scott  
2 Ross. He's water commissioner for our Stockton Field  
3 Office that covers all of northwest Kansas, and he's our  
4 engineering committee lead. And then Chris Beightel is  
5 our program manager for Water Management Services.

6 COMMISSIONER WOLFE: Commissioner?

7 COMMISSIONER DUNNIGAN: Thank you,  
8 Commissioner Wolfe.

9 My name is Brian Dunnigan, and I'm the  
10 director of the Nebraska Department of Natural  
11 Resources.

12 And with me at the table today from  
13 Nebraska, to my immediate left, Justin Lavene from the  
14 attorney general's office; Jim Schneider, deputy  
15 director; and Tom O'Connor.

16 Thank you.

17 COMMISSIONER WOLFE: Thank you.

18 Just a couple other procedural things.  
19 There's copies of the agenda on the table when you came  
20 in. If you didn't get one, they should be back there.  
21 And there's refreshments in the back, some doughnuts and  
22 coffee you're welcome to, so please help yourself to  
23 those. And if you haven't found the restrooms already,  
24 you go out these doors here, go down to your left and  
25 again to the left, down to the next hallway and those

1 will be there.

2 We also have a court reporter here today  
3 recording this for transcription. And as we go through  
4 and make introductions, I'm going to, at this next step,  
5 allow folks in the audience to introduce themselves.  
6 And we'll pass around the mike, and so we'll make sure  
7 that the court reporter hears those as well.

8 So my deputy, Mike Sullivan, over here to  
9 the left, is here with me as well. And we're going to  
10 start there, and we'll just pass this mike around so we  
11 can hear everyone.

12 So, Mike, take it away.

13 MR. SULLIVAN: I'm Mike Sullivan with the  
14 Colorado Division of Water Resources.

15 MR. MILLER: John Miller with the U.S.  
16 Geological Survey out of North Platte, Nebraska.

17 MR. BOOK: Dale Book, consultant for the  
18 State of Kansas.

19 MR. PERKINS: Sam Perkins, Division of Water  
20 Resources, Kansas.

21 MR. KESTER: Paul Kester, Department of  
22 Natural Resources, Nebraska.

23 MR. STANTON: Shane Stanton, and I'm a  
24 field office manager for the State of Nebraska in  
25 Cambridge.

1 MR. BRADLEY: Jesse Bradley with the  
2 Nebraska Department of Natural Resources.

3 MR. KEPLER: Jason Kepler with the Nebraska  
4 Department of Natural Resources.

5 MR. EDGERTON: Brad Edgerton. I'm manager  
6 of Frenchman-Cambridge Irrigation District.

7 MR. CLEMENTS: Mike Clements, manager, Lower  
8 Republican NRD in Alma, Nebraska.

9 MR. CRAMER: Dale Cramer, former president  
10 of Frenchman-Cambridge Irrigation District.

11 MR. DELKA: Mike Delka, manager of the  
12 Bostwick Irrigation District in Nebraska.

13 MS. JURICEK: Chelsea Juricek, the Stockton  
14 Field Office, for Kansas Division of Water Resources.

15 MR. VAN NOSTRAND: John Van Nostrand,  
16 manager of the Burlington Record.

17 MR. MURPHY: Stan Murphy, the general  
18 manager for the Republican River Water Conservation  
19 District in Colorado.

20 MR. GUENTHNER: Scott Guenthner with the  
21 Bureau of Reclamation out of our regional office in  
22 Billings.

23 MR. ERGER: Patrick Erger from the Bureau  
24 of Reclamation out of the Billings office in the  
25 regional office.

1 MR. SWANDA: Marv Swanda with the Bureau of  
2 Reclamation out of the McCook Field Office, McCook,  
3 Nebraska.

4 MR. THOMPSON: Aaron Thompson, the area  
5 manager for the Bureau of Reclamation Nebraska-Kansas  
6 Office.

7 MR. SMITH: Dan Smith, manager of Middle  
8 Republican Natural Resources District, in Curtis,  
9 Nebraska.

10 MR. FANNING: Jasper Fanning, manager of the  
11 Upper Republican Natural Resources District.

12 MR. PARKER: Edward Parker, with the Corps  
13 of Engineers at Kansas City.

14 MR. EISENACH: Bob Eisenach, board member  
15 of Hitchcock and Red Willow County Irrigation District.

16 MR. KOTSCHWAR: Jerry Kotschwar, Frenchman  
17 Valley Irrigation District.

18 MR. ALBERT: Kenneth Albert, the director  
19 of Frenchman Valley Irrigation District in Culbertson,  
20 Nebraska.

21 MR. FELKER: Don Felker, manager of  
22 Frenchman Valley/H&RW, Nebraska.

23 MR. KEELER: Dave Keeler, Republican River  
24 in Colorado.

25 MR. RIDNOUR: Devin Ridnour, Republican

1 River in Colorado.

2 MS. DANIEL: Deb Daniel, Plains and East  
3 Cheyenne Ground Water Districts in Colorado.

4 MR. DINNEL: Dirk Dinnel, assistant  
5 manager, Upper Republican NRD.

6 MR. RILEY: Tom Riley with the Flatwater  
7 Group.

8 MR. KOELLIKER: Jim Koelliker, Kansas State  
9 University, Manhattan.

10 MR. MARTIN: I'm Derrel Martin, University  
11 of Nebraska at Lincoln.

12 MS. HOMM: Diane Homm, the Homm Ranch.

13 MR. BLANCA: I'm Don Blanca. I'm outside  
14 legal counsel for Nebraska.

15 MR. POWERS: Marcus Powers, Nebraska  
16 Attorney General's Office.

17 MS. BERNHARDT: Autumn Bernhardt, Colorado  
18 Attorney General's Office.

19 MR. SULLIVAN: In the back, which helped us  
20 put this meeting together, is Katie Radke with the  
21 Colorado Division of Water Resources.

22 COMMISSIONER WOLFE: Thank you all.

23 Also, too, to help us out and also help the  
24 reporter, make sure you've signed in the sign-in sheet.  
25 If you haven't done that, if you'll make sure you get

1 that signed in before you leave today, we would  
2 appreciate it.

3 At this time, we're going to move on to  
4 Agenda Item 3 -- excuse me, 2. We do have a couple of  
5 modifications to the agenda. The first one is, on  
6 Agenda Item 3, instead of approval of the previous  
7 annual and special meeting reports, that will just be a  
8 status.

9 The other addition to the agenda will be  
10 under Item 8, Subitem (c). This is an addition, and  
11 this will be a motion to dissolve the ad hoc legal  
12 committee.

13 Commissioners, are there any other  
14 amendments to the agenda at this time?

15 COMMISSIONER BARFIELD: Well, I guess I  
16 would move that we adopt the agenda as you've  
17 recommended we amend.

18 COMMISSIONER DUNNIGAN: Second.

19 COMMISSIONER WOLFE: All right. All those  
20 in favor signify by saying aye.

21 COMMISSIONER DUNNIGAN: Aye.

22 COMMISSIONER BARFIELD: Aye.

23 COMMISSIONER WOLFE: Motion approved.

24 All right. We're on to Agenda Item No. 3.  
25 This in regards to the status of the previous annual and

1 special meeting reports and transcripts from 2008 and  
2 '9.

3           Those have been now provided to the states  
4 for review, but due to the time constraints, we have not  
5 collectively had an opportunity to review all of those  
6 and making appropriate modifications to those two years.  
7 So it's anticipated that this will be taken up for  
8 future action at the -- what we anticipate, the next  
9 special meeting we'll talk about under Agenda Item 10.  
10 And that will allow each of the states an opportunity to  
11 review those and seek approval of those, hopefully, at  
12 that next meeting.

13           So if there's any other special remarks,  
14 Commissioners, that you would like to make in regards to  
15 those two years for the record, I would be happy to do  
16 that at this time.

17           COMMISSIONER BARFIELD: No.

18           COMMISSIONER DUNNIGAN: No.

19           COMMISSIONER WOLFE: No? All right. Thank  
20 you.

21           All right. At this time, we're on Agenda  
22 Item No. 4. Commissioner Dunnigan?

23           COMMISSIONER DUNNIGAN: Thank you,  
24 Chairman Wolfe.

25           I'm pleased again this year to inform all

1 of you that the State of Nebraska is in compliance with  
2 the Republican River Compact. Using current accounting  
3 procedures, Nebraska has a positive five-year average  
4 for the period ending in 2009.

5           Based on preliminary estimates, it appears  
6 that Nebraska will again be in compliance for the  
7 five-year compliance period ending in 2010. This is a  
8 testament to the work conducted to date in partnership  
9 with Nebraska's Natural Resources Districts, its surface  
10 water users and the people of the Republican River  
11 Basin.

12           In the future, Nebraska will continue to  
13 remain in compliance with the Republican River Compact.  
14 The primary NRDs, in partnership with the Department of  
15 Natural Resources, have revised the Integrated  
16 Management Plans that have been in place for 2 1/2  
17 years.

18           These IMPs are working. Among other  
19 things, the IMPs clearly state that each of the NRDs  
20 cannot deplete more than their share of the water in the  
21 basin. This is not merely a goal, but rather a  
22 requirement of each plan.

23           I've previously stated the Department and  
24 the Natural Resources Districts feel that it is  
25 important to investigate other options and further

1 regulations that can be incorporated in the future plans  
2 addressing water-short years.

3 In the first week of August, the State of  
4 Nebraska, along with the Upper and Middle Republican  
5 Natural Resources Districts, successfully adopted  
6 revisions to the existing Integrated Management Plans.  
7 These revisions address the concerns of long-term  
8 compliance brought up during the 2008 arbitration.

9 The revised plans now contain an in-depth  
10 monitoring plan, including a comprehensive forecasting  
11 mechanism that allows Nebraska to look ahead and  
12 anticipate compliance issues, rather than waiting until  
13 six months after a year is over to see the results of  
14 Compact accounting.

15 This forecast is designed to predict the  
16 compliance outcome for Nebraska if dry conditions are  
17 experienced in the upcoming year and accurately predicts  
18 when those potential dry conditions would require  
19 additional actions by Nebraska to remain in compliance.

20 The revised plans contain a detailed  
21 description of the triggers that will indicate when  
22 additional management actions are needed. The  
23 responsibility for the needed management actions depend  
24 on the current situation in each NRD and those NRDs,  
25 with a share of any projected shortfall, will be

1 required to implement the necessary controls that will  
2 ensure Nebraska's compliance in dry periods.

3 Finally, the plans also provide for an  
4 occupation tax in these NRDs and the additional  
5 framework for Nebraska to continue to manage consumptive  
6 use over the long-term to meet Compact compliance.

7 During the first half of this year, the  
8 States of Colorado, Kansas and Nebraska spent  
9 considerable time and effort to address concerns related  
10 to the Colorado Compliance Pipeline and Nebraska's  
11 crediting issued through the arbitration process.

12 We consider both of these issues to be of  
13 importance and look forward to their resolution.

14 The Department has also held meetings with  
15 the Bureau of Reclamation to address their  
16 misunderstandings of the revised IMPs, and we have made  
17 considerable progress in the last two weeks.

18 In order for Nebraska to utilize its  
19 Compact allocation to the benefit of the entire basin,  
20 we will need to work closely with both surface and  
21 groundwater users to develop conjunctive management  
22 strategies that benefit all users.

23 We will continue to see improvements over  
24 time as the IMPs continue to take hold. It is our  
25 belief that a healthy surface water system will

1 contribute to Nebraska's ability to comply with the  
2 Compact. Conjunctive management studies that identify  
3 the best uses of those streamflow supplies during wet  
4 and dry conditions will further enhance Nebraska's  
5 ability to fully utilize its Compact allocation while  
6 also continuing to ensure Compact compliance.

7           The Natural Resources Districts, the  
8 Irrigation Districts, and their respective boards, and  
9 the Bureau of Reclamation will play an important role in  
10 implementing these strategies in a basin.

11           The future also holds continuing  
12 participation in Conservation Reserve Enhancement  
13 Program and the Environmental Quality Incentive Program  
14 and other incentive-based management strategies.

15           Nebraska continues to explore stream  
16 augmentation options. Vegetation management has  
17 increased streamflow and the capacity of the stream  
18 channel.

19           Nebraska will continue to take an active  
20 role in the Engineering Committee and will always work  
21 with the other states to improve existing accounting  
22 methods and ensure they accurately reflect water use in  
23 the basin.

24           In closing, I wish to assure all of you, as  
25 well as my counterparts from our neighboring states,

1 that Nebraska will continue to comply with the  
2 Republican River Compact. The State will continue to  
3 evaluate needs of the basin and make changes as  
4 necessary to stay in compliance in the spirit of  
5 openness, transparency and partnership.

6 We expect to continue to work with all  
7 stakeholders in the basin, including the other states,  
8 the NRDs, the surface water districts, and individual  
9 users and the Bureau of Reclamation. Noncompliance is  
10 not an option for the State of Nebraska.

11 I will now have Tom O'Connor give the  
12 report of water administration activities in Nebraska  
13 for calendar year 2009.

14 Tom?

15 MR. O'CONNOR: Thank you.

16 In January 2009, 53 letters were sent to  
17 irrigators reminding them -- in the Republican River  
18 Basin, reminding them the 2008 water use reports must be  
19 filed with the Cambridge field office.

20 In February, 15 closing notices were issued  
21 to those water users that failed to submit the required  
22 annual water use reports. These water users were not  
23 allowed to divert water during the 2009 calendar year.

24 June 24, one pumping schedule was sent to a  
25 water user. June 26, a regulating notice was sent to a

1 water user. June 29, 17 closing notices were issued to  
2 water users above Meeker-Driftwood Canal. June 29, one  
3 regulating notice was sent.

4 July 6, the regulating notice was sent and  
5 also eight closing notices were issued to water users  
6 above the Red Willow Canal. On July 8, 26 regulating  
7 notices were sent to water users above Cambridge Canal,  
8 and 30 closing notices were issued to water users above  
9 Cambridge and Meeker-Driftwood Canal. July 9, 16  
10 closing notices were issued to storage permit holders  
11 above Harry Strunk Lake. And July 16, 31 written  
12 negative notices were sent to water users above  
13 Cambridge Canal.

14 August 6, four regulating notices were sent  
15 to Frenchman-Cambridge, Frenchman Valley and H&RW  
16 Irrigation Districts. And also 18 closing notices were  
17 issued to water users above Bartley and Red Willow  
18 Canal. On August 26 to the 31st, 36 regulating notices  
19 were sent to water users above Bartley, Red Willow and  
20 Meeker-Driftwood Canals.

21 September 10, one opening notice was sent  
22 to a storage permit holder.

23 November 2, two opening notices were sent  
24 to storage permit holders. November 18, letters were  
25 sent to junior permit holders downstream in Harlan

1 County Reservoir, stating that the U.S. Bureau of  
2 Reclamation's prediction that 2010 will not be a  
3 water-short year.

4 And November 18, water use report forms  
5 were sent out to all private water use permit holders in  
6 the Republican River Basin.

7 Thank you.

8 COMMISSIONER DUNNIGAN: That concludes  
9 Nebraska's report. Thank you.

10 COMMISSIONER WOLFE: All right. Thank you  
11 so much. Those are great reports.

12 At this time, I'll report on behalf of  
13 Colorado.

14 And although I can't report today that  
15 Colorado is in compliance with the Compact, we have  
16 certainly made what we believe are great strides in  
17 trying to reach compliance.

18 And we certainly couldn't have done it  
19 without all of the great people that helped me in  
20 accomplishing that. My staff included is here today,  
21 our staff members here in the basin that introduced  
22 themselves, the water users in the basins, the  
23 Republican River Water Conservation District, and the  
24 respective groundwater management districts have all  
25 been working in a collaborative effort to assist

1 Colorado to reach compliance.

2 And even though we have not reached  
3 compliance to date, there have been a tremendous amount  
4 of effort and costs for projects and so forth to soon  
5 get us there.

6 And I also appreciate the efforts by both  
7 the States of Kansas and Nebraska in those discussions  
8 and collaborative efforts that we've undertaken over the  
9 past year, and even as of last night, in trying to reach  
10 resolution on Colorado's Compact Compliance Pipeline,  
11 which is obviously our major component for Colorado to  
12 achieve Compact compliance. So we do greatly appreciate  
13 all of those efforts and support that folks have given  
14 us to reach that end.

15 We did have a couple other folks who --  
16 from Colorado I saw that kind of snuck in here at the  
17 end. Mr. David Robbins, who's legal counsel for the  
18 Republican River Water Conservation District, and also  
19 Dennis Coryell, who is the president of the Republican  
20 River Water Conservation District. So thank you for  
21 being here today.

22 I'd like to just provide a quick snapshot  
23 of the -- some of the major hydrologic conditions of  
24 2009 as far as Colorado's portion goes, and then touch  
25 on some of the efforts that we have done in terms of

1 achieving Compact compliance, and then I'll turn it over  
2 to Kansas for their report.

3 As far as the North Fork on the Republican  
4 River, in 2009 we had 24,410 acre-feet pass the  
5 state-line gage. This is approximately 6200 acre-feet  
6 less than the 1935 to 2009 average annual flow of 30,630  
7 acre-feet.

8 On the Arikaree, streamflows at the  
9 Arikaree River gage at Haigler totaled 780 acre-feet for  
10 2009, about half the amount recorded for 2008, which  
11 totaled 1570 acre-feet. Flows on the Arikaree have  
12 declined significantly from the average of 12,450  
13 acre-feet for the period of 1933 to 2009.

14 On the South Fork of the Republican River,  
15 a total of 8,487 acre-feet passed the Benkelman gage in  
16 2009. This is six times the total of 1420 acre-feet  
17 that passed the gage in 2008 and 12 times the total of  
18 2007. As you can see by that, streamflows on the South  
19 Fork continue to improve from the drought years of zero  
20 flow, but are still significantly lower than the 71-year  
21 average of 26,020 acre-feet.

22 Bonny Reservoir is located on the South  
23 Fork of the Republican River, just north of Burlington  
24 here. It is the only Federal reservoir in Colorado's  
25 Republican River Basin. Bonny Reservoir is

1 approximately 35 percent full with an active storage, as  
2 of last week, of 14,328 acre-feet.

3 In 2009, we made a number of releases from  
4 Bonny Reservoir: In May of 2009, 884 acre-feet; in  
5 June 1,048; and in December, 1632 acre-feet. And in  
6 regards to the December releases, I appreciate the  
7 Bureau's efforts. We had waited until that timeframe to  
8 make those releases and your cooperation -- certainly  
9 with the holidays approaching at that time, we  
10 appreciate the cooperation from the Bureau in their  
11 efforts to assist in those releases. Those total  
12 releases for those three periods were 3,554 acre-feet.

13 We're currently releasing from Bonny based  
14 on an order that I issued on July 9, due to -- this  
15 release was precipitated by heavy rainstorm events at  
16 the beginning of July that stalled over the area,  
17 ultimately raising the level of the reservoir to 17,771  
18 acre-feet.

19 The releases, as of last month, have  
20 lowered the storage in Bonny Reservoir to  
21 approximately -- the releases have amounted to about  
22 3400 acre-feet to date.

23 Next I'd like to just touch on some of the  
24 efforts that Colorado, in cooperation with the  
25 Republican River Water Conservation District and the

1 other water users in the basin, have taken to continue  
2 to achieve Compact compliance.

3 As I just reported, as far as the South  
4 Fork, we're continuing to make releases from Bonny  
5 Reservoir to reduce our evaporation and seepage charges  
6 on the South Fork. And we'll continue to do so in our  
7 efforts to achieve, not only our statewide compliance,  
8 but also our requirement under the Sub-Basin  
9 Non-Impairment Test.

10 The Republican River Water Conservation  
11 District has been very active since 2006 in regards to  
12 the CREP and the EQIP programs. My understanding,  
13 through 2009, that there's been a little over  
14 19,600 acres that have been currently retired under the  
15 CREP program, a little over 10,700 acres under EQIP, and  
16 approximately 830 acres under AWEPP, which is the  
17 continued version of EQIP, and there's approximately  
18 still 10,000 acres still available under the 2006 CREP  
19 program.

20 There's also a CREP amendment that's being  
21 considered in Colorado. We're now in the EA process,  
22 and it's my understanding that will add up to -- I think  
23 up to 25,000 acres. It's either 20- or 25,000 acres,  
24 but I think it's potentially up to 25,000 acres. If  
25 I've got that wrong, I'll correct that. But a total

1 between those two programs of 55,000 acres over that  
2 period, and -- in the upcoming year.

3           The District still continues to make  
4 surface water purchases, both on the North Fork and the  
5 South Fork of the Republican River. Those efforts have  
6 led to a result that there's very little surface water  
7 irrigation left in the basin, and I know the District is  
8 still continuing efforts to acquire water rights and  
9 retire those surface water rights and reduce our  
10 consumptive use associated with irrigation on those  
11 lands.

12           The other effort that has been undertaken  
13 by the State is in regards to the measurement rules that  
14 I adopted, promulgated in 2008. First year effectively  
15 in operation was 2009, was the first year of  
16 administration underneath those new rules.

17           And by March 1 of 2009, all the high  
18 capacity wells, which is approximately 4,000 wells in  
19 the Basin, had to have a measurement device installed  
20 and verified by a certified tester or be declared  
21 inactive.

22           And by December 1 of this -- of 2009,  
23 pumping totals for the irrigation year for all active  
24 wells had to have been submitted to the State Engineer,  
25 and we have received those reports and that information

1 is currently being analyzed.

2 Last year, I reported that four new  
3 positions were created for the well measurement program  
4 in Compact compliance efforts, but two positions had  
5 remained unfilled. This year, we now have -- the  
6 measurement team is fully staffed and actively enforcing  
7 the measurement rules in well permits in the Basin.

8 Lastly, I'd like to just mention some new  
9 legislation that was adopted in Colorado. Again, it  
10 applies statewide and is applicable in terms of our  
11 enforcement efforts, not only in the Republican River  
12 Basin, but throughout the state. They enacted a  
13 provision that allows us to assess violations for -- or  
14 fines, excuse me, for violations of orders of the State  
15 Engineer for surface water violations.

16 We had a provision that was already in  
17 place to assess that \$500-a-day fine for groundwater  
18 violations, but that now applies also to surface water  
19 violations. And it has helped Colorado in its efforts  
20 to receive timely enforcement on those violations.

21 And that's all I have to report, so I'll  
22 turn it over to Commissioner Barfield.

23 COMMISSIONER BARFIELD: Thank you,  
24 Chairman Wolfe, and I'll provide a report for the State  
25 of Kansas.

1 I would -- actually, before I go on to my  
2 report, I just want to note for the record, I guess, two  
3 different things related to the -- sort of anniversaries  
4 that maybe the Compact should recognize.

5 First of all, May 30 of this year marked  
6 the 75th anniversary of the devastating 1935 Republican  
7 River flood. That flood had a profound impact on all  
8 three states, including the subsequent development of  
9 the Federal flood control reservoirs, you know, that  
10 were implemented via the Republican River Compact of  
11 1943.

12 So, actually, also, I think this meeting  
13 marks the 50th anniversary -- or the 50th annual meeting  
14 of this Administration, so maybe we should have done a  
15 little more to celebrate. But we've been around a while  
16 working.

17 I would note, getting into Kansas' report,  
18 that Kansas is fully in compliance with all tests of  
19 compliance under the Final Settlement Stipulation, as  
20 we've been since the adoption of the FSS. We are also  
21 now fully metered within the Republican River Basin, and  
22 all of the meters have been inspected.

23 So climate conditions, I guess, and things  
24 have improved quite a bit over recent years, I think, in  
25 all the states. Precipitation in Kansas this year is

1 generally good. There are some areas of shortage, but  
2 in the Republican in northwest Kansas, they're having  
3 another good year. Our streamflows and reservoir levels  
4 statewide are currently normal or above normal through  
5 most of the state.

6 I'd just like to say a few words for the  
7 record about our budget. Kansas State Government -- I  
8 think all state governments share this predicament --  
9 has experienced some significant shortfalls of --  
10 totaling about a billion short of what has been  
11 experienced, requiring some pretty significant  
12 reductions in our activities.

13 My staff is about a quarter -- has about a  
14 quarter fewer positions -- well, it has about a quarter  
15 of its positions vacant at this time and about 1.1  
16 million less funding than just a couple years ago,  
17 requiring reductions in some of our services that people  
18 find important.

19 Legislation, I guess, I typically give a  
20 brief report in terms of some of the most significant  
21 water legislation. Fortunately, it was a relatively  
22 quiet year for the water legislation. That's usually  
23 not a bad thing.

24 In reduction of service, I had to  
25 discontinue a pretty popular program called the Water

1 Right Conservation Program that allowed people to have a  
2 contract between themselves and the chief engineer to  
3 temporarily, up to ten years, not use their water right,  
4 but prevent being subject to abandonment under the Water  
5 Appropriation Act. That was a discretionary sort of  
6 program that we eliminated, so there is a fair amount of  
7 legislation to try and find ways to remedy that problem.

8           And Senate Bill 316 was enacted, that if --  
9 that allowed if you're in closed area that -- and  
10 maintain your diversion work, that that would be  
11 considered doing sufficient cause for nonuse.

12           There's also significant activity under  
13 Senate Bill 510 that essentially would create a new  
14 beneficial use called conservation use, where a water  
15 right holder would want to put it in conservation use  
16 and essentially maintain it for the future and not be  
17 subject to abandonment. That was not enacted, but I  
18 think we'll be hearing more about that in the next  
19 session.

20           There was also some activity related to dam  
21 safety. We had to eliminate a couple positions that  
22 were granted to us to do safety inspections of dams.  
23 It's a requirement of the dam owner.

24           We were funded to do those inspections on  
25 their behalf. The funding for those positions was not

1 there. We eliminated our service to them, meaning they  
2 had to do the inspections, and so there was some  
3 legislation to try and take away the requirements for  
4 them to inspect their dams.

5 That did not pass. We have a committee  
6 working to sort of work through that issue.

7 In regard to regulations, I have enacted or  
8 in process of enacting a number of significant changes  
9 to our rules and regulations related to water  
10 administration. Again, I mentioned the Water Right  
11 Conservation Program was suspended.

12 There's a special process under a Kansas  
13 statute called Intensive Groundwater Use Control Areas,  
14 or IGUCAs, as we called them. We really never had any  
15 regulations related to how IGUCAs would be -- the  
16 hearings would be conducted, and I established a fairly  
17 extensive set of regulations that outline those  
18 procedures for these special hearing processes and to  
19 require the periodic review of all existing IGUCAs over  
20 the coming years.

21 I'm also in the process of developing a  
22 significant set of regulations on impairment  
23 investigations, where a water right holder claims that  
24 another water right holder is impairing them.

25 We've had regulations dealing with this and

1 doing impairment investigations and surface water  
2 systems quite regularly in the past and actions. We've  
3 had increasing calls of impairment in groundwater  
4 systems, and this set of regulations essentially lays  
5 out how we conduct an impairment investigation and  
6 actions in groundwater systems, which is much more  
7 complex, and how the groundwater management districts  
8 are a part of that process. Those regulations are close  
9 to adoption.

10 I might say a few words about the other  
11 interstate river compacts, and particularly the  
12 Republican River Compact; we frequently report on that.  
13 And I reported last year that that litigation on the  
14 Arkansas River that was initiated in 1985 was concluded  
15 last year when the States of Kansas and Colorado agreed  
16 on some updates to the Colorado Use Rules. And the two  
17 states jointly filed a motion with the Supreme Court to  
18 conclude that litigation, so we're -- I think we're all  
19 pleased about that.

20 In February of this year, the two states,  
21 the Compact Administration updated its 1980 Operating  
22 Plan to reflect the numerous agreements the two states  
23 had negotiated over recent years.

24 State Engineer Dick Wolfe here has  
25 initiated a response to some of Kansas's concerns about

1 surface water improvements in the Basin and their  
2 potential effect on Compact compliance, and he's in the  
3 process of developing some regulations on that issue  
4 responsive to those concerns, and we appreciate those  
5 activities.

6           And recently -- in recent months, we've  
7 asked the Compact Administration, pursuant to the  
8 decree, to consider an update to the  
9 Hydrologic-Institutional Model related to groundwater  
10 irrigation return flow changes.

11           With respect to specific activities within  
12 the Republican Basin in Kansas, our groundwater --  
13 Northwest Kansas Groundwater Management District No. 4  
14 covers much of the northwest Kansas part of the  
15 Republican Basin. Last month, it was announced that  
16 that GMD receive an award for an Agricultural Water  
17 Enhancement Program, or AWEP, a grant from the USDA  
18 NRCS.

19           So the \$2.6 million grant will allow them  
20 to convert irrigated acreage to non-irrigated land in  
21 their six designated high priority areas.

22           I'm also working closely with GMD 4 in  
23 those high priority areas. They are looking for ways to  
24 reduce their groundwater use in some of the areas that  
25 are overappropriated, and specifically we are looking at

1 finding ways to allow those reductions to occur through  
2 the modification of their management programs and rules  
3 jointly developed between the GMD and ourselves.

4 So we're actually going to have a rule  
5 moving forward to test whether that process will -- you  
6 know, will be able to be legally defended.

7 There are ways to do those kind of  
8 allocations through the IGUCA provisions that I  
9 mentioned a few minutes ago. The GMD would like to find  
10 a way to do it through another process, so we're working  
11 with them on that.

12 I would note for the record again that in  
13 regard to some of the Republican River matters, that  
14 Kansas submitted a motion for leave to file a petition  
15 and brief in support with the U.S. Supreme Court  
16 regarding Nebraska's noncompliance during water-short  
17 year 2006.

18 This was among the disputes that the --  
19 that were submitted to the RRCA in early 2008, submitted  
20 to nonbinding arbitration in late 2008, and that were  
21 concluded -- and that arbitration was concluded in  
22 August of 2009. Kansas submitted its motion on May 3,  
23 2010. Nebraska and Colorado replied in early July 2010.

24 As of this meeting, it's my understanding  
25 that there has been no word from the Court as to whether

1 it intends to take the case. Presumably, the Court will  
2 make that determination later this year or possibly next  
3 year.

4 The Supreme Court motion was submitted  
5 under Kansas v. Nebraska, Colorado, No. 106 Original --  
6 126, excuse me. The Supreme Court motion was submitted  
7 under Kansas v. Nebraska, Colorado, No. 126 Original.

8 Later this year, the States will conclude  
9 two more arbitrations. There's some reference to that  
10 in Mr. Dunnigan's report. The first arbitration  
11 concerned Nebraska's augmentation proposal, and the  
12 second, Nebraska's crediting proposal.

13 As you will recall, both proposals were  
14 voted upon by the RRCA in Lincoln. The RRCA did not  
15 adopt either proposal. Consequently, both Colorado and  
16 Nebraska initiated nonbinding arbitration proceedings  
17 pursuant to the FSS.

18 The States retained Ms. Martha Pagel as  
19 partner -- a partner in Schwabe, Williamson & Wyatt of  
20 Portland, Oregon to arbitrate both disputes.

21 On May 5, 2010, Arbitrator Pagel heard oral  
22 arguments in Portland regarding legal motions filed by  
23 the states. She ruled on those motions on May 17, 2010.

24 The States concluded -- conducted limited  
25 discovery in June and July. The arbitration trials for

1 both disputes were held in the federal courthouse in  
2 Kansas City, Kansas. The Arbitrator Pagel heard the  
3 evidence in the Colorado Pipeline Compliance dispute in  
4 July -- on July 12 and 13 and in the Nebraska crediting  
5 proposal on July 14.

6 The States filed post trial briefs for the  
7 Arbitrator Pagel on July 30, 2010. She will issue a  
8 final decision on both disputes not later than  
9 September 30, 2010.

10 The States will have until November 1, 2010  
11 to give notice if the arbitrator's decision is  
12 acceptable or rejected.

13 I guess I'd like to give a bit of a  
14 response to you-all's reports. First, in regard to  
15 Mr. Dunnigan's report, I guess Kansas agrees that  
16 compliance is not an option and is a requirement. I  
17 guess we have serious concerns whether the current plan  
18 of the Integrated Management Plans will accomplish what  
19 you assert in the future and fully address the concerns  
20 that we have had.

21 We just received the two IMPs and are just  
22 in the middle of conducting our review. As I understand  
23 it, they build on the past IMPs and add new surface  
24 water administration during Compact call years and the  
25 potential for additional groundwater regulation during

1 those periods.

2           As you know, Brian, I and the Kansas  
3 experts have reviewed and provided testimonies in the  
4 2009 arbitration on the IMPs -- regarding the second  
5 generation of IMPs and found that they have been  
6 sufficient during critical periods when this Compact  
7 must work and the arbitrator agreed with that.

8           Again, while we haven't completed any  
9 comprehensive review yet, from what we know, we --  
10 serious concerns remain. They don't appear to bring the  
11 kind of certainty that Kansas expects with regard to  
12 future compliance during, again, the critical periods  
13 that this Compact must work.

14           You know, the IMP pumping reductions start  
15 from one of the highest, if not the highest, five-year  
16 groundwater pumping periods of record, which is  
17 substantially higher than normal. So the IMP's pumping  
18 reductions must be viewed in that historic comment --  
19 context.

20           Irrigation requirements via CREP, while  
21 welcome, are not permanent in Nebraska as they are in  
22 Colorado and Kansas, and thus will lead to potential  
23 problems in the future as some of that may come back to  
24 irrigation.

25           From everything we know about the future,

1 Nebraska's groundwater depletions will continue to go up  
2 even under these IMPs, at least I haven't seen anything  
3 that says that that increasing trend is going to be  
4 reversed.

5           There are a number of procedural and legal  
6 concerns I think that we have in our review to date. I  
7 guess I'll leave it at that.

8           Kansas sees Nebraska's current compliance  
9 to be significantly influenced by the wet hydrology of  
10 the recent years. And we know, I think all, that one  
11 day it will turn dry again, and with higher depletions,  
12 more problems will result.

13           With all that being said, we do recognize  
14 that Nebraska is seeking to find a solution to the  
15 problem. And, you know, also, Dick, in your report, we  
16 recognize that Colorado as well is taking -- you know,  
17 working to find a solution to its compliance problems,  
18 and Kansas will continue to work with both of you States  
19 to address these issues and concerns.

20           So, with that, I'll conclude my statement.

21           COMMISSIONER WOLFE: All right. Thank you,  
22 Commissioner Barfield, for your report.

23           At this time, we're to Agenda Item 5 on the  
24 Federal Reports. With the Bureau of Reclamation, it's  
25 my understanding, Marv Swanda, are you going to do the

1 Bureau report?

2 MR. SWANDA: Yes.

3 COMMISSIONER WOLFE: All right. Please  
4 come forward and we'll get you a microphone so we can  
5 all hear. Ms. Sullivan has got it here.

6 MR. SWANDA: Thank you.

7 My name is Marv Swanda, S-W-A-N-D-A. I am  
8 the McCook office manager of Bureau of Reclamation in  
9 McCook, Nebraska.

10 As usual, we've prepared a report on all of  
11 the federal reservoirs, and I think I set a few of the  
12 copies up there for your use.

13 I'd like to just quickly go through kind of  
14 our 2009 operations and where we are currently in 2010.  
15 In 2009, precipitation at the Republican River and our  
16 reservoirs varied from 78 percent of normal in Lovewell  
17 to 136 percent of normal in Swanson Lake.

18 Inflows varied from 51 percent of the most  
19 probable at Enders to 118 percent of the most probable  
20 at Harry Strunk.

21 Our irrigation districts that we supplied  
22 water to ranged from zero inches at H&RW to 6 1/2 inches  
23 at Kansas Bostwick.

24 At each particular reservoir, Bonny in  
25 2009, the annual presip total of 26 inches was about

1 155 percent of normal and the greatest ever recorded at  
2 the dam.

3 The annual computed inflow of 11,700  
4 acre-feet for Bonny was very close to the normal-year  
5 forecast.

6 River releases were made during the months  
7 of May, June and December in accordance with the orders  
8 of the State of Colorado for Republican River Compact  
9 compliance. A total of 3361 acre-feet of river outflow  
10 was recorded for that purpose.

11 At Enders, the annual presip flow of just  
12 over 29 inches at Enders is well above normal, about  
13 156 percent, and the greatest ever recorded for that  
14 site.

15 The reservoir level began the year at about  
16 21 feet below the top of conservation. Due to the  
17 extremely low water supply, no water was released from  
18 Enders in 2009.

19 At Swanson Lake, the annual presip total  
20 was just over 27 inches at Trenton Dam, which is  
21 136 percent of normal. The inflow of just over 37,000  
22 to Swanson was slightly above the normal-year forecast.

23 Irrigation diversions were made into the  
24 Meeker-Driftwood Canal for the Frenchman-Cambridge  
25 Irrigation District, and that was the first time since

1 2002.

2                   Hugh Butler Lake, the annual presip total  
3 of about 24 inches at Red Willow Dam was 122 percent of  
4 normal. The reservoir level peaked just 4 1/2 feet  
5 below full on June 26, and we did irrigate out of there  
6 to the Red Willow Canal.

7                   And due to a discovery of cracking in the  
8 embankment in late October, resulted in Reclamation  
9 evacuated 21,000 acre-feet of storage from Hugh Butler  
10 Lake.

11                   Now I'll kind of finish up my report with  
12 the current status of our safety of dams activities out  
13 there.

14                   At Harry Strunk, the annual presip total  
15 was about 29 inches at Medicine Creek, which is  
16 140 percent of normal, the second highest ever recorded  
17 at the dam.

18                   The reservoir level at the beginning of  
19 2009 was just less than a foot below the top of  
20 conservation, and we held that to half a foot down, as  
21 we normally do through the winter months. And the  
22 reservoir was allowed to fill on up in late April and  
23 gradually increased over one foot into the flood pool  
24 prior to irrigation.

25                   Late fall and early winter inflows

1 increased the level of Harry Strunk back to that half  
2 foot below the top of conservation at the end of the  
3 year.

4           Keith Sebelius Lake, the annual presip at  
5 Norton Dam totaled 32 inches, which is 131 percent of  
6 normal. Irrigation releases were made during July for  
7 the Almena Irrigation District.

8           At Harlan County, the 2009 inflow, just  
9 over 136,000 acre-feet, was between the normal- and  
10 wet-year forecasts. Harlan County began in 2009, less  
11 than a half a foot below the top of conservation. Flood  
12 releases were made during the first three months of the  
13 year, and the reservoir elevation finished about half a  
14 foot in the flood pool at the end of 2009.

15           For Lovewell, the 2009 presip at the dam  
16 totaled 21 inches, which was 78 percent of the normal.  
17 The reservoir elevation at the beginning of 2009 was  
18 just a half a foot -- 1 1/2 foot below the top of  
19 conservation, and the pool level increased, filling  
20 conservation space in March.

21           Current operations at our reservoirs: At  
22 Bonny Reservoir, the reservoir level is 18 feet below  
23 the top of conservation. Bonny recorded -- it was  
24 recorded about 11 inches of presip there in the first  
25 six months of the year, which is 124 percent of average.

1           The reservoir inflow for the period is the  
2 greatest since 2001, but only half of the historic  
3 average. Releases have been made into Hale Ditch and  
4 also for Compact compliance. This year, the reservoir  
5 level is 2 1/2 feet higher than it was at this time last  
6 year.

7           Swanson Lake is currently 9 feet from full  
8 and is approximately 4 feet higher than last year at  
9 this time. Frenchman-Cambridge Irrigation District is  
10 again irrigating from Swanson Lake for the second year  
11 since 2002.

12           Enders Reservoir is currently 20 feet below  
13 full. Due to the water supply shortage, H&RW Irrigation  
14 District is not irrigating for the ninth year in a row.  
15 This is the seventh consecutive year that  
16 Frenchman-Valley Irrigation District will not receive  
17 storage from the reservoir.

18           Hugh Butler Lake, as indicated, we're  
19 28 feet below full. We have received 15 inches, or a  
20 little more than that, about 156 percent of normal  
21 presip out there.

22           Harry Strunk, currently, near top of  
23 conservation, intending to make releases for Cambridge  
24 Canal for Frenchman-Cambridge Irrigation District. The  
25 precip at the dam in the first six months is about

1 133 percent of normal.

2           Keith Sebelius, currently we're 6 foot  
3 below full. There were some limited irrigation releases  
4 made this summer. Presip at the dam during the first  
5 six months was 19 inches, which is 153 percent of  
6 normal.

7           Harlan County, current water surface level  
8 is just about conservation pool, still a little bit into  
9 the flood pool. We did indicate that this is not a  
10 water shortage year, again, to the RRCA.

11           And Lovewell recorded about 18 inches of  
12 presip during the first six months of the year,  
13 133 percent of average. Irrigation releases continue  
14 out of there.

15           And I'd just like to touch on just a couple  
16 of safety-of-dams issues. Norton Dam, we have finished  
17 up the safety-of-dams work there that began in 2007.  
18 That was completed in 2009.

19           Enders Dam, we -- a small depression was  
20 discovered in 2004, and we are continuing to work on  
21 that. And we hope to install a permanent groundwater  
22 control system in there this fall to take care of the  
23 issues out there.

24           And in regards to Red Willow, as I  
25 indicated, in late October, a sinkhole was discovered.

1 And then subsequently we found transverse cracking in  
2 the embankment, and that resulted in a reservoir  
3 restriction that was in our target range of 22 -- 2552  
4 to 2554, which is just above the dead pool, and we  
5 continue to maintain that at this time.

6 In February, our reclamation began, a  
7 Corrective Action Study to determine what alternatives  
8 we need to address to fix the dam. We have since then  
9 narrowed those alternatives down to -- I think it's a  
10 number three or so -- and by the fall, we hope to have a  
11 preferred alternative, 2010, for what the fix would be  
12 at the dam.

13 We did hold a public meeting in the spring  
14 of this year to keep the public informed, and we'll  
15 probably have one this fall to update them at that time.

16 We will be preparing a Modification Report  
17 that will be transmitted to Congress and OMB by the  
18 spring of 2011 with a potential contract award for mid  
19 to late summer of 2011.

20 So the activities continue out there, and  
21 we are on a very tight timeframe to get the preferred  
22 alternative determined and continue to move on so that  
23 we can again begin storing water at some point.

24 And I'll just mention there are some other  
25 items in the report concerning our resource management

1 activities, that kind of thing.

2 And as always, historic graphs are at the  
3 end of this report, and that will conclude my report.

4 COMMISSIONER WOLFE: Thank you, Marv.

5 Commissioners, do you have any questions  
6 for Marv?

7 Fair enough. Thank you, Marv. I  
8 appreciate the report.

9 Next we have Ed Parker with the U.S. Army  
10 Corps of Engineers.

11 Welcome, Ed.

12 MR. PARKER: Thank you.

13 Good morning. My name is Edward Parker,  
14 P-A-R-K-E-R. I'm the lead hydrologist for the water  
15 management sector in the Kansas District of the Corps of  
16 Engineers.

17 I want to thank the Commission for the  
18 opportunity to attend your 50th meeting and present my  
19 couple of items of interest that I hope you'll find  
20 enlightening.

21 There -- we have, well, two particular  
22 projects of interest that we've had dealings with during  
23 the past year:

24 Harlan County Lake, we did some studies of  
25 last spring. We've had some issues with the downstream

1 channel capacity that I'm sure you're quite aware of.  
2 Since the late 1950s, in the past, it was estimated  
3 about 4,000 cfs that we could let out of the project  
4 without causing any kind of significant downstream  
5 damage. By 1967, it dropped to about 3,000. And by  
6 1996, it dropped to about 2,000.

7 Then from May of '98 through 2007, because  
8 of the extended drought and other circumstances, we did  
9 not make any significant flow releases out of the  
10 project.

11 And since the condition of the project has  
12 lately been more storage than past years, we believe it  
13 was a good opportunity to try to determine how much the  
14 capacity was now, particularly in lieu of, as  
15 Commissioner Barfield mentioned earlier, the anniversary  
16 of the 35th -- the '35 flood.

17 During March, for a period of about two  
18 weeks, we let 1,000 cfs out of the project and didn't  
19 ascertain any significant damage downstream. And  
20 hopefully we can still do it, at least a little bit of  
21 additional water out of there, if the need be.

22 The other issue I'd like to bring up is the  
23 Lovewell project on White Rock Creek in Kansas. We have  
24 historically allowed some excess storage in the project  
25 for irrigation benefit in the bottom couple of feet of

1 the flood pool.

2           During the past year, we modified our water  
3 control manual, with the approval of our Division  
4 Office, to permit during water-short years the formal  
5 agreement with the Bureau to store up to 2 feet. And  
6 the decision on how much water is allowed is based on  
7 the same calculation and consensus operating plan for  
8 the shut-off elevation in Harlan County.

9           Essentially, if it's a water-short year, if  
10 the irrigation supply is under 19,000, then we don't  
11 allow any excess storage at Lovewell. And between  
12 109,000 and 119,000, we gradually allow up to 2 feet.  
13 Anything less than 109,000, we allow the full 2 feet  
14 storage, the ideology being during those periods, the  
15 need for a flood control pool at Lovewell is less and  
16 the need for irrigation is much more, and it helps  
17 balance the beneficial purposes.

18           And that concludes my report.

19           COMMISSIONER WOLFE: All right. Thank you,  
20 Ed.

21           Commissioners, any questions?

22           All right. Thank you.

23           At this time, we'll have the report from  
24 John Miller with the U.S. Geological Survey. And I know  
25 you're getting the PowerPoint set up, so if you want to

1 go ahead, John.

2 MR. MILLER: Okay. Thank you.

3 COMMISSIONER WOLFE: If you can get the  
4 lights up in front, whoever remembers how we did it  
5 yesterday, to turn those off. Thank you.

6 MR. MILLER: There is a packet that I have  
7 provided for each of the Commissioners containing the  
8 annual data report published by the U.S. Geological  
9 Survey, and also all of the graphs that will be  
10 presented in the presentation today.

11 Well, we had this going here just a little  
12 while ago.

13 Okay. So today I'm going to present the  
14 annual mean discharge data for 15 sites in the  
15 Republican River Basin. 10 of the 15 are Compact sites  
16 that are funded through the USGS NSIP program.

17 This first slide is a handout that is  
18 available to everybody. I think there's a stack up  
19 here, possibly a stack in the back, representing the '09  
20 annual mean discharge as it compares to the period of  
21 record.

22 As I just stated, the first ten sites we'll  
23 go through are the Compact sites that are operated by  
24 the USGS through the NSIP program. We'll be starting  
25 with the upper end of the basin, Nebraska.

1           The first site is the Arikaree River at  
2 Haigler. It receives returns from the Haigler Canal  
3 that diverts upstream to the North Fork. The North Fork  
4 Republican River has influences through the spring and  
5 summer months on the flows there.

6           The graphs kind of speak for themselves. I  
7 won't have a whole lot to say, but the annual discharge  
8 for this year is down just a little bit as compared to  
9 last year.

10           And then also you can see the trend with  
11 the data from the period of record for this site, which  
12 goes all the way back to early '30s.

13           Next site is the North Fork of the  
14 Republican River at the Colorado state line. This  
15 site -- this was probably reported -- oh, last year, I  
16 suppose, but the wilderness site has just recently been  
17 redone.

18           Also, the -- with the help of Dave Keeler,  
19 this site with discharge measurements has helped us with  
20 the record.

21           Go ahead, next slide.

22           The flows for the water year '09 are up  
23 just a little bit at 33.2 -- sorry, still there? It's  
24 still working. Go ahead.

25           Next slide is the Buffalo Creek near

1 Haigler, Nebraska. Go ahead and toggle to the graph  
2 there. The annual flow was up just a little bit from  
3 last year at 3.37.

4 Also, you'll notice that they are ranked,  
5 and that is on the handout as far as how it compares  
6 with each of the previous years. And all of the sites  
7 that I'll be reporting on today are within the top 10  
8 lowest for the period of record for the annual mean  
9 discharge.

10 Okay. Go ahead.

11 The Rock Creek at Parks gage. Go ahead.  
12 Flows are down. They are fairly static from last year.

13 South Fork of the Republican River near  
14 Benkelman gage. That was a picture of a dry channel  
15 that's now been wet, I think, for just about a solid --  
16 a solid year now. The -- it's been -- it was reported  
17 earlier, the flows are up at the South Fork. The  
18 mean -- annual mean discharge there, which is 10.1,  
19 ranking 11th there.

20 Frenchman Creek at Culbertson, Nebraska,  
21 down slightly from last year. It had some fairly  
22 significant peaks go through there the previous two  
23 years.

24 Next slide. Driftwood Creek near McCook,  
25 Nebraska. Annual mean down just a little bit from last

1 year.

2                   And then next slide is the Red Willow Creek  
3 near Red Willow.

4                   And then Sapa Creek near Stamford.  
5 Continued slight trend upward there.

6                   And then the last slide that -- within the  
7 Compact, the Courtland Canal, Nebraska-Kansas State  
8 Line. And the discharge there was 48.4, up slightly  
9 from last year.

10                   Okay. Continuing on, three sites that are  
11 possibly of interest that are operated by the USGS in  
12 Nebraska, with matching funds from state and local  
13 agencies: First site there is Republican River at  
14 McCook. Flows there are down just a little bit from  
15 last year, annual mean flow of 42.7.

16                   The next site would be Republican River  
17 near Orleans. And the annual flow down just a little  
18 bit again. The previous two years is fairly significant  
19 peaks and the early spring rate, winter period.

20                   And the last site, Republican River at  
21 Stratton, up slightly from last year.

22                   Then there's two other sites that have  
23 possible interest. They are -- the field operations are  
24 conducted by the Nebraska Department of Resources,  
25 Natural Resources.

1           The first site would be Frenchman Creek at  
2 Palisade. The flow is fairly static from the previous  
3 year, 25.3.

4           And then the last site, Republican River at  
5 Cambridge. It's down slightly from previous water year.

6           And the final slide that I have is contacts  
7 of the managers in the Nebraska District Office in  
8 Lincoln.

9           Thank you.

10          COMMISSIONER WOLFE: Thank you, John.

11          Commissioners, any questions of John?

12          All right. Thank you for the lights.

13          We're moving through our agenda fairly  
14 well. I think at this time it would be appropriate to  
15 take a break. If we could all reconvene in about 15  
16 minutes. There's refreshments in the back and -- does  
17 that work for the Commissioners, about a 15-minute  
18 break?

19          All right. Let's do that then.

20          (Recess taken from 10:20 a.m. until  
21 10:39 a.m.)

22          COMMISSIONER WOLFE: At this time, we're on  
23 to Agenda Item 6, Committee Reports. The first one is  
24 the Engineering Committee Report by Megan Sullivan.

25          MS. SULLIVAN: Thank you, Commissioner.

1           At the August 12, 2009 annual meeting of  
2 the Republican River Compact Administration, the  
3 Commissioners assigned the Engineering Committee nine  
4 tasks. The Engineering Committee and technical  
5 representatives from the States of Colorado, Kansas and  
6 Nebraska participated in several collaborative work  
7 activities and phone conferences in relation to this --  
8 in relation to these assignments and other issues.

9           The following assignments and work  
10 activities were completed:

11           First assignment was to complete the user's  
12 manual for accounting procedures and provide a  
13 resolution for its adoption. The States reviewed the  
14 2006 draft initiated by Kansas and provided comments.  
15 However, a final draft of the manual was not completed.  
16 The assignment should be continued for next year.

17           Second assignment was to complete the  
18 exchange of data requested by Kansas in its August 1,  
19 2008 and July 17, 2009 letters by October 1, 2009.  
20 Nebraska provided the data they had available. The  
21 remaining portion of the data request is retained in the  
22 NRD records. Nebraska believes this remaining data is  
23 not required under the Final Settlement Stipulation.

24           Colorado meter data was not completed. The  
25 best available data will be provided to Kansas and

1 Nebraska by October 15, 2010.

2 But their assignment was to exchange by  
3 April 15, 2010 the information listed in Section V, or  
4 Roman Numeral V, of the RRCA Accounting Procedures and  
5 Reporting Requirements and any other data required by  
6 that document. By July 15, 2010, the States will  
7 exchange any updates to this data.

8 Each state exchanged its model data sets by  
9 April 15, 2010 or shortly thereafter. A preliminary run  
10 of the RRCA groundwater model was developed by Willem  
11 Schreuder of Principia Mathematica and posted on the  
12 RRCA website he maintains for the Administration.

13 The States exchanged their available final  
14 data by August 6, 2010. Willem Schreuder of Principia  
15 Mathematica will complete a run based on this data at a  
16 later date.

17 Final accounting for 2009 was not  
18 completed. However, data sets were collected by the  
19 Committee for stream flow, climate information,  
20 diversion records, and reservoir evaporation records of  
21 the three states in cooperation with the U.S. Geological  
22 Survey, U.S. Bureau of Reclamation, and U.S. Army Corps  
23 of Engineers for 2009.

24 The fourth assignment was to continue to  
25 review Colorado's augmentation proposal, as appropriate.

1 This proposal is the subject of an arbitration process.  
2 No additional information was discussed by the  
3 Committee.

4 The fifth assignment was to continue  
5 efforts to resolve concerns relating -- sorry -- related  
6 to varying methods of estimating groundwater and surface  
7 water irrigation recharge and return flows within the  
8 Republican River Basin and related issues. Within 90  
9 days, the States will exchange information and the  
10 Engineering Committee will meet to recommend the next  
11 steps.

12 Each state performed a cursory review of  
13 their respective engineering repositories for published  
14 studies or information pertaining to groundwater  
15 irrigation recharge. Neither Nebraska nor Colorado  
16 found any pertinent information. Kansas assembled a  
17 bibliography of the possible studies and information.  
18 However, no additional progress was made on this  
19 assignment.

20 Sixth assignment was to develop a revision  
21 to the RRCA's Accounting Procedures to reflect  
22 agreements by the RRCA at its 2008 and 2009 annual  
23 meetings and provide the Administration with a  
24 recommendation of any appropriate formatting changes.

25 A revised accounting procedure was drafted

1 to reflect changes to both the Frenchman sub-basin and  
2 the Mainstem formulas pertaining to the return flows  
3 from the Riverside Canal.

4 Seventh task was to retain Principia  
5 Mathematica to perform ongoing maintenance of the  
6 groundwater model and periodic updates requested by the  
7 Engineering Committee. Each State has separately  
8 contracted with Principia Mathematica for this task.

9 Number 8 is to continue the development of  
10 a five-year accounting spreadsheet/database for adoption  
11 at the 2010 annual meeting earlier. And this is --  
12 excuse me -- this assignment was not completed, and the  
13 assignment should be continued for next year.

14 And the ninth assignment was to review  
15 accounting procedures to determine if Kansas groundwater  
16 calculated beneficial consumptive use, or CBCU, in the  
17 Mainstem is properly included in the Mainstem Virgin  
18 Water Supply calculation and if necessary, provide a  
19 recommendation to the Administration at the next annual  
20 meeting.

21 Based on a review of the accounting  
22 procedures, the Engineering Committee confirmed that  
23 Kansas groundwater CBCU was missing from the Mainstem  
24 Virgin Water Supply calculations. The accounting  
25 procedures were revised to reflect the inclusion of this

1 CBCU element in the Mainstem formula, and the  
2 Engineering Committee recommends adoption of this  
3 change.

4           The Committee recommendations to the  
5 Administration is: The Committee recommends the  
6 adoption of the revisions to the Accounting Procedures  
7 that reflect the changes to the Frenchman and Mainstem  
8 sub-basin formulas for the return flows of the Riverside  
9 Canal and the change to the Mainstem sub-basin formula  
10 to include Kansas groundwater CBCU, as described in  
11 Attachment A.

12           The Committee also recommends the adoption  
13 of the proposal to relocate the accounting point used in  
14 the RRCA groundwater model for the North Fork Republican  
15 River sub-basin to the Kansas-Nebraska state line in  
16 accordance with Article III of the Compact, as discussed  
17 in Attachment B.

18           In addition, the Engineering Committee  
19 discussed the use of provisional USGS, or U.S.  
20 Geological Survey, data for the Courtland Canal,  
21 Station 06852500, as opposed to U.S. Bureau of  
22 Reclamation data for the same gage. It is the  
23 Committee's recommendation to use the USGS data.

24           At this time, I believe -- excuse me, I  
25 need to look at the agenda -- we have some other

1 matters.

2 Jim, you have something you would like to  
3 discuss?

4 COMMISSIONER WOLFE: Could I just make a  
5 quick clarification? This may have been just been a  
6 misstatement.

7 In your second recommendation, I thought  
8 you said that the -- this accounting point would be  
9 moved to the Kansas-Nebraska state line. Is that the  
10 Colorado?

11 MS. SULLIVAN: It should be the  
12 Colorado-Nebraska state line. I apologize.

13 COMMISSIONER WOLFE: All right. Thank you.  
14 Mr. Schneider?

15 MR. SCHNEIDER: Thank you, Mr. Chairman.

16 I would -- at this point, I would like to  
17 address the comments made by the State of Kansas earlier  
18 regarding Nebraska's revised IMPs from an engineering  
19 and scientific standpoint.

20 I would like to point out that the  
21 Department of Natural Resources has worked  
22 collaboratively with the IMPs over the last year and  
23 spent literally thousands of hours and conducted very  
24 extensive analyses, including tens of thousands of model  
25 runs and other numerous analyses in order to conclude

1 that the process that we have laid out within these IMPs  
2 will indeed ensure Compact compliance for the State of  
3 Nebraska during all climatic conditions, including dry  
4 conditions.

5 And I would stress that we've been  
6 struggling with a lot of technically careless and  
7 uninformed opinions that are being put out in the open  
8 about these IMPs, and I would urge the State of Kansas  
9 not to make the same mistake and that we would welcome  
10 any discussion that the State of Kansas would like to  
11 have on that issue.

12 And certainly the Engineering Committee  
13 might be the appropriate forum for us to include that  
14 within the -- within discussions as we go forward over  
15 the next year.

16 Thank you.

17 COMMISSIONER WOLFE: Go ahead, Megan.

18 MS. SULLIVAN: Okay. Recommended  
19 assignments for the coming year for the Engineering  
20 Committee:

21 First, finalize the work on the user's  
22 manual for the RRCA Accounting Procedures and provide a  
23 recommendation to the Administration for adoption at  
24 next year's annual meeting or earlier.

25 Exchange by April 15, 2011 the information

1 listed in Section V of the RRCA Accounting Procedures  
2 and Reporting Requirements and other data required by  
3 that document. By July 15, 2011 the States will  
4 exchange any updates to these data.

5 Continue efforts to resolve concerns  
6 related to the varying methods of estimating groundwater  
7 and surface water irrigation recharge and return flows  
8 within the Republican River Basin and related issues.

9 Fourth assignment: Retain Principia  
10 Mathematica to perform ongoing maintenance of the  
11 groundwater model and periodic updates as requested by  
12 the Engineering Committee for the calendar year 2011.  
13 The billable costs shall be limited to actual costs  
14 incurred, not to exceed \$15,000 in total, and will be  
15 apportioned in equal one-third amounts to the States of  
16 Colorado, Kansas and Nebraska respectively.

17 Fifth assignment: Continue development of  
18 a five-year accounting spreadsheet/database for adoption  
19 at the 2011 annual meeting or earlier.

20 No. 6: Continue to review Colorado's  
21 augmentation proposal, as appropriate.

22 No. 7: Continue efforts to finalize  
23 accounting for 2008 and 2009. By October 15, 2010, the  
24 Engineering Committee will meet to discuss issues  
25 surrounding model inputs and accounting data. Also, by

1 October 15, 2010, Colorado will provide meter data as  
2 required under the Final Settlement Stipulation.

3 No. 8: By October 15, 2010, the  
4 Engineering Committee will meet to discuss issues  
5 preventing agreement on final accounting for the years  
6 2006 through 2009.

7 No. 9: Discuss water short year accounting  
8 for Beaver Creek.

9 And No. 10: Discuss and resolve the issue  
10 of missing precipitation data.

11 And that concludes the report of the  
12 Engineering Committee.

13 COMMISSIONER WOLFE: Are there any  
14 questions for Ms. Sullivan at this time in regards to  
15 the report of the Engineering Committee?

16 All right. So is that all there is to  
17 report for now for the Engineering Committee?

18 Are we ready to move on to the Conservation  
19 Committee? All right. At this time, we'll have Scott  
20 Guenthner come up and give us a report on the  
21 Conservation Committee. We have a microphone you can  
22 use there.

23 MR. GUENTHNER: For the record, I'm Scott  
24 Guenthner. I'm with the Bureau of Reclamation out of  
25 our regional office in Billings.

1 I'm here today, however, to report on the  
2 status on behalf of the Conservation Committee. The  
3 study of non-federal reservoirs and terraces on -- the  
4 effect of those on water supply, that's being conducted  
5 according to a study plan approved by the Compact  
6 Administration at their annual meeting in 2004.

7 The study has been conducted substantially  
8 in accordance with that study plan. We have, however,  
9 added two significant work elements to that that we  
10 didn't expect. That was the terrace condition survey  
11 and the mapping of terrace lands in Kansas. We didn't  
12 envision doing that, those two elements.

13 We have previously reported to you in  
14 previous meetings the status reports, that that was  
15 being done, so we won't go into details today on that.

16 The study essentially utilizes a water  
17 balance model to estimate impacts of reservoirs and  
18 terraces. We've also reported on that previously.

19 There are basically three elements to that  
20 water balance model. There's input data that we've  
21 collected in the past six years. That element is  
22 essentially complete.

23 There is the water balance modeling aspect.  
24 I'd have to report today that there is a lot of that  
25 work done, although I don't think we can say it is

1 complete. We've done a lot of work that identifies the  
2 impact of reservoirs and terraces in the field.

3           The element that is missing is that impact  
4 has not been transferred to each -- to the mouth of each  
5 designated sub-basin. That is yet to be completed, and  
6 part of that has to do with identifying and summarizing  
7 all the land use information and practices in a  
8 particular basin. That work is presently underway.  
9 That's part of the post processing of the model results  
10 that we have been talking about.

11           We did transmit to the Compact  
12 Administration a brief report last week. It's an  
13 eight-page document. It really is -- gives examples of  
14 some of the results to date. We'd be willing to work  
15 with the state representatives on the Conservation  
16 Committee and get that report posted to a website so  
17 that it is available for others to look at.

18           Right now, the report has only been  
19 transferred to the Compact Administration and to the  
20 members of the Conservation Committee. So we can make  
21 that report available.

22           I noticed from our discussion yesterday  
23 that there were a few minor errors in the report. I  
24 think we would choose to correct those before we get it  
25 posted to a website.

1           In more administrative type of things  
2 related to the study, the Final Settlement Stipulation  
3 indicated that the study costs should not exceed a  
4 million dollars. The States were to be responsible for  
5 250,000 of that, and the other were to be federal funds  
6 that come through the Bureau of Reclamation.

7           From our summary of those costs,  
8 collectively, the three States have exceed the 250,000  
9 that was identified in the Settlement Stipulation and  
10 study costs have exceeded the \$1 million, mostly due to  
11 the two elements of work that we added that I mentioned  
12 earlier.

13           I would expect that there would be some  
14 additional costs due to in-kind services from the State  
15 by participating in some conference calls and other  
16 meetings this fall. I think it's the hope of the  
17 Conservation Committee that we would have our results  
18 finalized this fall. I am not sure if that's a doable  
19 thing or not, but that's what our goal is.

20           One last element: The Conservation  
21 Committee does intend to document the findings of the  
22 report. We've been issuing these status reports, and I  
23 think we'll continue to do that.

24           I know that Dr. Derrel Martin and Jim  
25 Koelliker, here today, they're the principal

1 investigators. I know they have plans for professional  
2 papers that will document the study.

3 In addition to that, we will probably have  
4 some sort of concluding report from the Conservation  
5 Committee.

6 That concludes my report for today.

7 COMMISSIONER WOLFE: All right. Thank you,  
8 Scott. Appreciate that and your efforts of the  
9 Committee as well.

10 Commissioners, any questions at this time?

11 COMMISSIONER DUNNIGAN: No.

12 COMMISSIONER BARFIELD: Just one -- just  
13 one comment. These microphones are giving us trouble,  
14 aren't they?

15 I appreciate your report. I appreciate the  
16 hard work. Obviously, I do think there does need to be  
17 a final report, and I appreciate the Bureau and study  
18 lead wanting time to finish it up properly and -- but  
19 obviously the FSS requires the completion. And I think  
20 a final report is consistent with that, and I'd urge you  
21 to get it done as quick as you can. I know  
22 Dr. Koelliker wants to retire, so -- but that's all I  
23 have.

24 COMMISSIONER WOLFE: I understood, talking  
25 to him yesterday, that he was going to make this his

1 retirement project, so -- anyway, we do appreciate your  
2 efforts on that and look forward to a final report.

3 Thank you.

4 At this time, we'll move on in the agenda  
5 to Item 7, Old Business. We've already discussed the  
6 dispute resolution. I have nothing more to add. I  
7 think Commissioner Barfield did an excellent job  
8 describing the status of the current dispute resolution  
9 process.

10 In regards to Agenda Item 7(b), Status of  
11 the 2006, '7, and '8 Final Accounting, I think that has  
12 been reported on, discussed as part of the Engineering  
13 Committee Report as well.

14 There are some outstanding issues that are  
15 under consideration by the Committee and the  
16 Commissioners to reach final resolution on that and  
17 ultimately seek approval of the final accounting. So  
18 it's just a mere reflection in the record that we want  
19 to keep tabs on the status of those particular years  
20 that had not had their final accounting approved.

21 I don't know if you Commissioners, you had  
22 anything you wanted to add to that specifically at this  
23 time?

24 COMMISSIONER BARFIELD: No. We -- just to  
25 report, we had significant discussions on this in the

1 work session last night, and I think we all want to get  
2 to agreement on the inputs especially as quick as  
3 possible and identify what remains to get to the  
4 agreement on the accounting.

5 So we'll work -- work hard to get that  
6 done, best as we can, this fall. So we don't keep  
7 piling them up one after the other.

8 COMMISSIONER WOLFE: Yeah. I think there  
9 was some confusion there about the process. There may  
10 have been some approval of the input data and approval  
11 aspects of changes in models and things that we have  
12 coming under consideration resolutions.

13 But here we're ultimately talking about  
14 after those processes, to have final accounting done  
15 with all of those changes approved and input data  
16 approved as part of that process.

17 Agenda Item 7(c), Mr. Burke Griggs, did you  
18 want to give us an update on that, please.

19 MR. GRIGGS: Thank you.

20 This is a brief report from the Ad Hoc  
21 Legal Committee. The Administration formed the Ad Hoc  
22 Legal Committee to resolve the issue of the approval of  
23 the diversion of water from one state that is used in  
24 another state.

25 Having considered the issue and concluded

1 that there is no clear legal resolution of it, the Ad  
2 Hoc Legal Committee has decided not to pursue it any  
3 further.

4 COMMISSIONER WOLFE: Thank you for that  
5 reporting.

6 Any questions for Mr. Griggs?

7 All right. At this time, we're on Agenda  
8 Item 7(d), the Status of the Lower Republican River  
9 Feasibility Study.

10 Commissioner Barfield?

11 COMMISSIONER BARFIELD: Yes.

12 The Bureau did have a bit of a statement on  
13 this in their report. The Lower Republican Feasibility  
14 Study is a follow-up to the prior study that was  
15 conducted after the FSS was concluded by the States of  
16 Nebraska, Kansas and Bureau of Reclamation that looks at  
17 alternatives for improved management in the Lower Basin,  
18 including alternatives like raising Lovewell, improving  
19 efficiencies in the canal systems, looked at other  
20 storage sites in Kansas and Nebraska in the lower part  
21 of the Basin.

22 As reported last year, that study, the  
23 follow-up study on the feasibility study that looks at  
24 the most promising alternatives in greater detail has  
25 now been authorized by Congress. That's the first step.

1           We are awaiting the Federal Government to  
2 fund their share. It's a 50/50 cost share between the  
3 Federal Government and the two States, and we will  
4 continue to work with our Federal Congressional  
5 representatives to seek to secure that funding, is  
6 the -- really, the current status.

7           COMMISSIONER WOLFE: Commissioner Dunnigan,  
8 questions?

9           COMMISSIONER DUNNIGAN: Thank you.

10           We had discussed this issue earlier this  
11 year also, and at that particular point in time, I  
12 stated that Nebraska stands ready to support the  
13 appraisal -- or the feasibility study with funding when  
14 the Federal funding comes.

15           COMMISSIONER WOLFE: All right. Thank you  
16 for that update.

17           At this point, we're on to Agenda Item 8,  
18 New Business and Assignments to the Compact Committees.

19           First is the action on the Engineering  
20 Committee Report and assignments that Ms. Sullivan had  
21 reported to us.

22           So at this time, I would entertain a motion  
23 for approval of the Engineering Committee Report and the  
24 respective assignments.

25           COMMISSIONER DUNNIGAN: So moved.

1 COMMISSIONER BARFIELD: Second.

2 COMMISSIONER WOLFE: All right. Any  
3 discussion?

4 COMMISSIONER BARFIELD: So just for  
5 clarity, we're receiving or accepting -- or whatever --  
6 the report and essentially assigning to them what they  
7 recommended that we assign them; is that right?

8 COMMISSIONER WOLFE: That's my  
9 understanding.

10 COMMISSIONER DUNNIGAN: Right.

11 COMMISSIONER BARFIELD: Okay.

12 COMMISSIONER WOLFE: All right.  
13 Discussion?

14 All those in favor, signify by saying aye.

15 COMMISSIONER BARFIELD: Aye.

16 COMMISSIONER DUNNIGAN: Aye.

17 COMMISSIONER WOLFE: Aye. Any opposed?  
18 Motion approved.

19 COMMISSIONER BARFIELD: I'm sorry. I guess  
20 I would just add one comment on the data issue.

21 There was a statement in the report that  
22 Nebraska doesn't agree that the backup data in the NRDs  
23 is required in the FSS. And I guess -- it's stated, I  
24 believe, because that's their position.

25 I guess I'd just like to state that we

1 believe that the Compact and the FSS require disclosure  
2 of underlying data where there's a legitimate need for  
3 such. The NRDs have the data.

4 And we'll be sending a formal request for  
5 that data in the near future and maybe a bit of backup  
6 as to why we think that is -- is required under the FSS,  
7 so I would just note that -- that will happen, so . . .

8 COMMISSIONER WOLFE: Okay. Any response?  
9 Mr. Schneider?

10 MR. SCHNEIDER: Yeah. Just to clarify,  
11 too, that position simply refers to the fact that it  
12 seems clear to us that it's not required as part of our  
13 regular annual reporting, and that's why we haven't done  
14 so. But we would certainly work with Kansas to see if  
15 we can accommodate that on a one-time basis as needed.

16 COMMISSIONER BARFIELD: Okay. We'll work  
17 on that.

18 COMMISSIONER WOLFE: All right. Thank you.

19 All right. As part of Agenda Item 8(a), as  
20 a result of some of the recommendations out of there,  
21 there were -- there's a series of steps we need to go  
22 through to adopt, ultimately, a couple of resolutions by  
23 the Compact Administration regarding the RRCA  
24 groundwater model changes and also the RRCA's Accounting  
25 Procedures and Reporting Requirements.

1           And I'll attempt to step us through this  
2 with a series of motions and seeking approval by the  
3 Commissioners. Ultimately, we'll have to, if this all  
4 goes as planned, adopt and approve four motions to get  
5 through this process.

6           The first of these that we need to actually  
7 take action on is in regards to a motion to waive the  
8 15-day notice requirement under Rule 13. So that's the  
9 first motion that I'd like to entertain for approval by  
10 the Compact Administrators.

11           COMMISSIONER BARFIELD: Are you looking for  
12 a so moved?

13           COMMISSIONER WOLFE: Yes.

14           COMMISSIONER BARFIELD: Yes. I would move  
15 that we waive the 15-day notice requirement of Rule 13  
16 for adoption of the minutes of the rules.

17           COMMISSIONER WOLFE: All right.

18           COMMISSIONER DUNNIGAN: Second.

19           COMMISSIONER WOLFE: Second? All right.  
20 All those in favor, signify by saying aye.

21           COMMISSIONER DUNNIGAN: Aye.

22           COMMISSIONER BARFIELD: Aye.

23           COMMISSIONER WOLFE: Aye. Motion approved.

24           Second motion for consideration is I would  
25 entertain a motion to amend Rule 19 -- 14 -- did I say

1 13 -- I'm sorry, Amend Rule 14 to reflect today's date  
2 for the revisions to the groundwater -- excuse me,  
3 revisions to the RRCA groundwater model and accounting  
4 procedures if the RRCA accepts the following two  
5 resolutions.

6 COMMISSIONER DUNNIGAN: The model version,  
7 is that in that?

8 COMMISSIONER WOLFE: Yes. The motion would  
9 reflect revisions to the RRCA groundwater model, as well  
10 as the Accounting Procedures and Reporting Requirements.

11 COMMISSIONER BARFIELD: So moved. I  
12 believe the -- well, let's hear a second.

13 COMMISSIONER DUNNIGAN: Second.

14 COMMISSIONER WOLFE: Thank you.  
15 Discussion?

16 COMMISSIONER BARFIELD: I think the dates  
17 will be reflected in the following two resolutions that  
18 you refer to in the motion.

19 COMMISSIONER WOLFE: That is correct.

20 COMMISSIONER BARFIELD: So we'll get  
21 specific in the following two resolutions.

22 COMMISSIONER WOLFE: Yes. That will be  
23 reflected in there. And I will -- when we get to those  
24 two motions to act on, I will read those respective  
25 motions into the record.

1           COMMISSIONER BARFIELD: All right. For the  
2 purposes of the -- those here that aren't familiar with  
3 our Rules, Rule 14 essentially adopts the accounting  
4 procedures and the groundwater model as our procedures  
5 for doing the Compact accounting.

6           So as we amend those procedures to reflect  
7 our agreements, that is, we amend the model to reflect  
8 our agreement, we're just adopting the official versions  
9 of those two documents. So that's what we're up to  
10 here.

11           COMMISSIONER WOLFE: That is correct.  
12 Thank you, Commissioner.

13           Any other discussion?

14           All those in favor signify by saying aye.

15           COMMISSIONER DUNNIGAN: Aye.

16           COMMISSIONER BARFIELD: Aye.

17           COMMISSIONER WOLFE: Aye. Motion approved.

18           Okay. We're going to take each of these  
19 next two resolutions separately.

20           I'll start with the resolution of the  
21 report from River Compact Administration changes to the  
22 RRCA groundwater model. I'll go ahead and read the  
23 resolution as it's drafted, and then I'll make a  
24 statement in regard to a motion to approve that  
25 resolution.

1           Whereas, on August 13, 2008, the Republican  
2 River Compact Administration accepted the proposal set  
3 forth in the Engineering Committee's August 12, 2008  
4 report to move the groundwater model accounting cell at  
5 Guide Rock; and whereas the Engineering Committee  
6 recommended in its August 12, 2009 and August 12, 2010  
7 reports to move the groundwater accounting point for the  
8 North Fork sub-basin to the Colorado-Nebraska state  
9 line.

10           Now, therefore, it is in the resolution of  
11 the Republican River Compact Administration to approve  
12 and adopt the proposal set forth in Attachment B of the  
13 Engineering Committee's August 12, 2010 report, a copy  
14 of which is attached as Exhibit A, and to adopt  
15 Version 12, S as in Sam, 2, the number 2, of the  
16 groundwater model, which reflects these changes.

17           Approved by the Republican River Compact  
18 Administration this 12th day of August, 2010, by the  
19 Undersigned Commissioners.

20           At this time, I would entertain a motion to  
21 approve Version 12-S2 of the RRCA groundwater model, and  
22 these changes are intended to apply to the accounting  
23 years 2009 and on. And it is not currently applicable  
24 to unapproved accounting for prior years, and each State  
25 reserves its rights as to whether it applies to prior

1 unapproved accounting.

2 COMMISSIONER DUNNIGAN: So moved.

3 COMMISSIONER BARFIELD: Second.

4 COMMISSIONER WOLFE: All right. Any  
5 discussion in regards to the motion?

6 COMMISSIONER DUNNIGAN: I would just like  
7 to state for the record that Nebraska's position going  
8 forward will be that as this body identifies an error in  
9 accounting procedures or in the groundwater model, that  
10 once those errors are identified and agreed to as  
11 errors, that they should be incorporated in any  
12 accounting that has not been finalized in the past. And  
13 that's what we'll continue to discuss with Colorado and  
14 Kansas in the future.

15 COMMISSIONER WOLFE: Okay. Thank you.

16 Mr. Barfield, any comments?

17 COMMISSIONER BARFIELD: Not at this time.

18 COMMISSIONER WOLFE: Okay. Thank you.

19 All right. All those in favor, signify by  
20 saying aye.

21 COMMISSIONER DUNNIGAN: Aye.

22 COMMISSIONER BARFIELD: Aye.

23 COMMISSIONER WOLFE: Aye. Motion approved.

24 The second and last resolution for  
25 consideration today in regards to these motions is in

1 regards to a resolution to the changes to the RRCA's  
2 Accounting Procedures and Reporting Requirements.

3           Whereas, the Engineering Committee  
4 recommended in its August 12, 2010 report to amend the  
5 Republican River Compact Administration Accounting  
6 Procedures and Reporting Requirements to correct the  
7 formulas used to compute the virgin water supply for  
8 both Frenchman Creek and the Mainstem so as to properly  
9 account for the return flows from the Riverside Canal;  
10 and whereas, the Engineering Committee also recommended  
11 in its August 12, 2010 report to amend the Republican  
12 River Compact Administration Accounting Procedures and  
13 Reporting Requirements to include in the formula used to  
14 compute the Mainstem Virgin Water Supply the groundwater  
15 impacts attributed to Kansas well pumping (GWk) as  
16 calculated by the groundwater model.

17           Now, therefore, it is the resolution of the  
18 Republican River Compact Administration to approve and  
19 adopt the proposal set forth in the Attachment A of the  
20 Engineering Committee's August 12, 2010 report, a copy  
21 of which is attached as Exhibit A, and to adopt the  
22 Revised Accounting Procedure and Reporting Requirements,  
23 dated August 12, 2010, that reflects these corrections.

24           Approved by the Republican River Compact  
25 Administration this 12th day of August, 2010, by the

1 undersigned Compact Commissioners.

2 Just as I'm reading that, is that correct  
3 that both of these refer to Attachment A? Okay. But it  
4 referred to Exhibit A in there. Is that -- both of  
5 those refer to Exhibit A? Oh, there's -- okay. I do  
6 see that they do reflect separately. Okay. Thank you.

7 Okay. At this time, I would entertain a  
8 motion to approve changes to the RRCA Accounting  
9 Procedures and Reporting Requirements, and these changes  
10 are intended to apply to accounting years 2009 and on  
11 and is not currently applicable to unapproved accounting  
12 for prior years, and each State reserves its arguments  
13 as to whether it applies to prior unapproved accounting.

14 COMMISSIONER BARFIELD: So moved.

15 COMMISSIONER DUNNIGAN: Second.

16 COMMISSIONER WOLFE: All right. Any  
17 discussion in regards to the proposed motion?

18 Hearing none, all those in favor signify by  
19 saying aye.

20 COMMISSIONER DUNNIGAN: Aye.

21 COMMISSIONER BARFIELD: Aye.

22 COMMISSIONER WOLFE: Aye. Motion approved.

23 Okay. At this time, we're on Agenda Item

24 8 (b) --

25 COMMISSIONER BARFIELD: Can I just say

1 something follow-up?

2 COMMISSIONER WOLFE: Sure.

3 COMMISSIONER BARFIELD: So who's going to  
4 amend the Rules? I mean, we actually -- we've  
5 essentially put everything in place, but somebody needs  
6 to actually amend it, and then the Compact  
7 Administration needs to sign it.

8 When and how that's going to be -- are we  
9 sort of authorizing you-all to put those new things in  
10 there, and then you'll pass a resolution around and it  
11 will be dated today? Is that the intention?

12 COMMISSIONER WOLFE: Yeah. We'll take that  
13 on and make those changes and circulate those --

14 COMMISSIONER BARFIELD: Okay.

15 COMMISSIONER WOLFE: -- to the other two  
16 States and the Accounting Procedures as well.

17 COMMISSIONER BARFIELD: All right.

18 COMMISSIONER WOLFE: Since we are the  
19 hosting State this year and I'll ask Ms. Sullivan, as  
20 part of the Engineering Committee, to facilitate that  
21 and then she'll work with the Engineering Committee to  
22 make sure we've got those there and then circulate them  
23 then to the Commissioners.

24 COMMISSIONER BARFIELD: Okay. Thank you.

25 COMMISSIONER WOLFE: Thank you for pointing

1 that out.

2 Okay. Any other discussion in regards to  
3 the report or assignments?

4 All right. At this time, I'd like to turn  
5 it over to Commissioner Barfield in regards to proposed  
6 resolution for Mr. Lee Rolfs.

7 COMMISSIONER BARFIELD: Well, the  
8 Administration from time to time recognizes certain  
9 individuals that have contributed significantly to the  
10 success of the Compact Administration. We always wait  
11 until they're gone to do so, for some reason, and Lee  
12 Rolfs was an attorney with the Department for 31 years  
13 and was a part of the annual meetings of the Compact for  
14 most of that career. And anyway, I'd like to read the  
15 resolution and then request that we pass it.

16 It's entitled Resolution of Republican  
17 River Compact Administration Honoring Mr. Lee E. Rolfs.

18 Whereas, Lee E. Rolfs of Topeka, Kansas  
19 retired from his position in 2008 as legal counsel to  
20 the Division of Water Resources Kansas Department of  
21 Agriculture after having served faithfully in the  
22 position for over 31 years.

23 And whereas, in his capacity as legal  
24 counsel, Lee has diligently represented the interests of  
25 the State of Kansas and its residents of the Republic

1 River Basin, as well as those of Kansas's other  
2 interstate basins.

3           And whereas, Lee has worked in an exemplary  
4 manner throughout his career to cooperate with the  
5 States of Colorado and Nebraska in the effective  
6 administration of the Republican River Compact and to  
7 improve the workings of the Republican River Compact  
8 Administration.

9           And whereas, Lee has played a central role  
10 in litigation of Kansas v. Colorado and Nebraska,  
11 No. 126 Original, which sought to resolve fundamental  
12 disputes concerning the quantification and location of  
13 water of the Republican River, as well as other disputes  
14 associated with Republican River Compact.

15           And whereas, Lee played a commensurate  
16 leadership role in the settlement of that litigation,  
17 working with legal counsel and the technical experts  
18 from the other States to achieve the final settlement  
19 stipulation of 2003, which produced a more satisfactory  
20 resolution of Compact disputes than protracted  
21 litigation could have accomplished.

22           And whereas, Lee's vast knowledge of water  
23 law, his positive attitude, his friendly personality,  
24 and his congenial temperament have been great assets to  
25 the Compact Administration and the State of Kansas, now

1 therefore, be it hereby resolved that the Republican  
2 River Compact Administration does hereby express its  
3 sincerest gratitude and appreciation to Lee E. Rolfs for  
4 his excellent and dedicated service.

5 Be it further resolved that the Republican  
6 River Compact Administration honor Mr. Rolfs' service by  
7 including this resolution and the appropriate dedicatory  
8 remarks in the Annual Report for the Compact year of  
9 2009 and hereby instructs the Administration to send  
10 copies of this resolution to the Rolfs family and to the  
11 Governor of the State of Kansas.

12 And then it says, Adopted by the Republican  
13 River Compact Administration on this 12th day of 2010 at  
14 the 50th Annual Meeting of RRCA held in Burlington,  
15 Colorado.

16 So I would move that we sign this  
17 resolution.

18 COMMISSIONER DUNNIGAN: Second.

19 COMMISSIONER WOLFE: All right. Motion,  
20 second. Any discussion?

21 I'd like to also just express our gratitude  
22 as well. I know I did not work for a long period with  
23 Mr. Rolfs, but I do concur with the remarks you stated  
24 in here and his efforts and his personality and so forth  
25 was very beneficial, I think, in seeking cooperative

1 relationships between the States. So please express our  
2 sincerest gratitude, as well, to Mr. Rolfs.

3 COMMISSIONER BARFIELD: All right. Thank  
4 you.

5 COMMISSIONER WOLFE: All those in favor,  
6 signify by saying aye.

7 COMMISSIONER DUNNIGAN: Aye.

8 COMMISSIONER BARFIELD: Aye.

9 COMMISSIONER WOLFE: Aye. Motion approved.  
10 Thank you, Commissioner Barfield, for  
11 bringing that forward to the Commissioners.

12 At this time, we're on to Agenda Item 8(c).  
13 This is in regards to a request to dissolve the Ad Hoc  
14 Legal Committee.

15 So at this time, I'd entertain a motion to  
16 absolve -- dissolve, excuse me -- attorneys probably  
17 understand the nuance there -- dissolve the Ad Hoc Legal  
18 Committee as there are no current assignments to that Ad  
19 Hoc Committee. So I would at this time entertain that  
20 motion.

21 COMMISSIONER DUNNIGAN: So moved.

22 COMMISSIONER BARFIELD: Second.

23 COMMISSIONER WOLFE: All right. Any  
24 discussion?

25 All those in favor, signify by saying aye.

1 COMMISSIONER DUNNIGAN: Aye.

2 COMMISSIONER BARFIELD: Aye.

3 COMMISSIONER WOLFE: Aye. Motion approved.

4 Thank you to those who are on that Ad Hoc  
5 Committee for your advice and recommendations.

6 At this time, we're on to Agenda Item 9,  
7 Remarks from the Public. Do we have anyone here in the  
8 audience who would like to address the Commissioners at  
9 this time?

10 Mr. Edgerton. We have a microphone that  
11 you can utilize there. Welcome.

12 MR. EDGERTON: Commissioners, my name is  
13 Brad Edgerton. I'm the manager for Frenchman-Cambridge  
14 Irrigation District, which serves 45,600 acres with  
15 natural flow from the Republican River and Red Willow  
16 Creek.

17 In addition to the natural flow, we have  
18 three federal reservoirs that we can call on for storage  
19 water when the flow of the river is insufficient to meet  
20 our permitted diversion rate.

21 On July 11, 1951, the State of Nebraska  
22 granted the Bureau of Reclamation a storage permit for  
23 Trenton Dam totaling 122,800 acre-feet. Eight days  
24 later, on July 19, 1951, Frenchman-Cambridge Irrigation  
25 District Board of Directors signed a contract with the

1 Bureau of Reclamation for 91,359 acre-feet of that  
2 storage supply.

3 91,000 acre-feet is equivalent to three  
4 irrigation seasons for the 17,000 acres in the  
5 Meeker-Driftwood Canal. Colorado is fast approaching  
6 that volume of water, which has been illegally diverted  
7 from the stream by the terms of the Republican River  
8 Compact and the Final Settlement Stipulation.

9 During this same period, water users in  
10 Nebraska responsible for the construction costs of the  
11 project under the Meeker-Driftwood Canal had zero water  
12 for six consecutive years.

13 We do appreciate the work Colorado has done  
14 towards compliance with the Compact and understand the  
15 sacrifice Colorado water users are making to help  
16 achieve compliance.

17 However, Commissioner Wolfe, it's not  
18 enough. You need to do more and now. You agreed to a  
19 five-year rolling average, not a 15-year average.

20 In March of 2008, Frenchman-Cambridge  
21 Irrigation District petitioned DNR to reevaluate the  
22 Republican River Basin as allowed in State Statutes  
23 46-713.2. That petition was denied by DNR.

24 Frenchman-Cambridge recently appealed  
25 Director Dunnigan's decision not to scientifically

1 evaluate the Republican River Basin. We believe  
2 reevaluation will illustrate just how far we have  
3 overdeveloped. A sound understanding of the real  
4 problem will allow Nebraska to develop reasonable  
5 management solutions.

6 We have always believed that a sustainable  
7 supply should be the goal. Minute groundwater is not  
8 sustainable. We have said that the upper -- it was said  
9 that the Upper Republican NRD lag effect has peaked. I  
10 don't believe this. As long as there is base flow in  
11 the streams to deplete, those depletions in the upper  
12 basin will continue to increase until the streams are  
13 dry.

14 This should be a major concern for this  
15 Commission, and I would hope that the work Nebraska has  
16 started with the newly formed Republican River  
17 Sustainable Task Force would spread into Colorado. We  
18 simply cannot use more water than what Mother Nature  
19 gives us and expect it to be there for the next  
20 generation.

21 If you think water is not going to be  
22 valuable in the future, then we should use it up now.  
23 If you think different, then it is your duty as  
24 representatives of State Government to protect that  
25 resource for all, now and forever.

1 Thank you.

2 COMMISSIONER WOLFE: Thank you. Any  
3 questions?

4 Thank you. Any other comments from the  
5 audience?

6 Seeing none, we will continue to move on.

7 We're on to Agenda Item No. 10, Future  
8 Meetings. We had discussed yesterday, in light of some  
9 of the items like the status of previous annual reports  
10 and meeting reports, having not been completed yet, that  
11 having those before us, that we would take those up at a  
12 special meeting with other matters that would come  
13 before this Administration around the first part of  
14 November. We will work amongst ourselves to set a date  
15 that's acceptable to everyone to do that and identify  
16 which agenda items should be included in that agenda.

17 Also, we'll have a year from now, again, in  
18 August of 2011, the next annual meeting in Colorado. We  
19 think we've -- we like the arrangements that we've had  
20 here in Burlington. And although we haven't finalized  
21 it, I would anticipate that we might have next year's  
22 annual meeting, as well, here in Burlington, if that  
23 works to everyone's satisfaction. But we'll obviously  
24 have to get those dates set and make sure we have a  
25 facility like this to conduct that meeting.

1           So before we adjourn, are there any last  
2    comments or remarks from the Commissioners?

3           COMMISSIONER BARFIELD: Do we want to set a  
4    date yet? And I guess I have a question with respect to  
5    the date of the annual meeting. It seems like every  
6    year we have to write each other.

7           Okay. Rule No. 9 says: The Republican  
8    River Compact shall hold a regular meeting prior to  
9    August 1 of each year. And then it says we can waive  
10   that if we all agree, and I think every year we've done  
11   that.

12           Are we getting closer to the point where  
13    maybe we could not have to move into August to conduct  
14    the meeting? I mean, could we do a July meeting, as  
15    sort of our Rules envision, or are we still to the point  
16    where we can't get the work done in time?

17           COMMISSIONER WOLFE: And some of you may  
18    know the history on this, but I understand part of the  
19    reason for going into August is because some of the  
20    estimates for some of the accounting stuff isn't done  
21    until the end of July. And I don't know if that's what  
22    caused this to move into August or not, but that's my  
23    understanding of it, so --

24           COMMISSIONER BARFIELD: Well, I think  
25    that's correct, although I think Colorado -- we could do

1 it earlier, let me just state it that way. And I guess  
2 I'm asking -- I know there's some -- you know, it took  
3 time to really sort of figure out all the procedures,  
4 and I think the extra time was needed.

5 I guess I'm asking the Administration  
6 whether it's still necessary to meet in August? And  
7 maybe we don't have to fix a date today. Maybe -- I  
8 don't know if you need time to make that determination  
9 or not.

10 You all had certain input, I think, that  
11 was -- that the last input was not available until  
12 July 1, if I remember right. We're moving to eagle  
13 data, but I'm not sure -- and that's county ag statistic  
14 data, correct?

15 COMMISSIONER WOLFE: That's correct.

16 COMMISSIONER BARFIELD: Well, I guess I  
17 would just ask the administration, maybe the Engineering  
18 Committee can consider this, if we could move it into  
19 July, I think it will be good.

20 COMMISSIONER WOLFE: From my perspective,  
21 I'm not opposed to that. I think if there was some  
22 reason that we were holding off because of the  
23 availability of data, and if that's not a continuing  
24 concern, I have no problem moving it up into July if  
25 that works for everyone.

1                   COMMISSIONER DUNNIGAN:  Whatever works is  
2 fine with Nebraska.

3                   COMMISSIONER WOLFE:  Well, I think given  
4 the way the Rule reads now, unless we take this action  
5 with you, writing these letters to waive that into  
6 August, so why don't we try to anticipate that we would  
7 conduct this by the end of July next year, and we'll  
8 talk amongst ourselves and the Engineering Committee to  
9 make sure we're on task to get all of the assignments  
10 and data in place and try to set that date as soon as we  
11 can and get it on everyone's calendar by the end of  
12 July.

13                   COMMISSIONER BARFIELD:  All right.  Thank  
14 you.

15                   COMMISSIONER WOLFE:  We'll work on,  
16 obviously, the availability of this facility if we  
17 indeed go to Burlington again, but I think it's a good  
18 suggestion.

19                   COMMISSIONER BARFIELD:  I appreciate your  
20 hosting and I think it's been a good meeting and very  
21 good accommodations and good hosting.  Thank you much.

22                   COMMISSIONER WOLFE:  Well, maybe we'll fill  
23 this entire place next year after the three States  
24 approve the Compact Compliance Pipeline, so we'll work  
25 on that.

1 Any other comments? Commissioner Dunnigan?

2 COMMISSIONER DUNNIGAN: No other comments.

3 COMMISSIONER WOLFE: All right. At this  
4 time, I'd entertain a motion for adjournment.

5 COMMISSIONER DUNNIGAN: So move.

6 COMMISSIONER BARFIELD: Second.

7 COMMISSIONER WOLFE: All those in favor,  
8 signify by saying aye.

9 COMMISSIONER DUNNIGAN: Aye.

10 COMMISSIONER BARFIELD: Aye.

11 COMMISSIONER WOLFE: Aye.

12 We are adjourned. Thank you all much and  
13 be safe in your travels back home.

14 (The meeting adjourned at 11:28 a.m.)

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