1 SPECIAL MEETING OF THE

2 REPUBLICAN RIVER COMPACT ADMINISTRATION

3

4 March 8, 2013

5 9:00 a.m. Central Standard Time

6 Via Telephone

7 For Kansas:

8 Topeka location:
David Barfield, P.E., Commissioner & RRCA Chairman
9 Chris Beightel, Kansas DWR
Christopher M. Grunewald, KS Attorney Gen.'s office

10 KBID listening location:
11 Kenneth Nelson
Monty Dahl
12 Brad Peterson

13 Stockton listening location:
Scott Ross, KS DWR water commissioner
14 Chelsea Erickson, KS DWR

15 Colby listening location:
Wayne Bossert, GMD4

16 Kansas City listening location:
17 Chris Purzer, P.E., USACE
Edward Parker, P.E., USACE
18 Matthew Jeppson, Esquire, USACE
Eric Shumate, P.E., USACE

19 Other Kansas call-in:
20 Burke Griggs, Esquire, KS Attorney General's office

21 For Colorado:

22 Denver location:
Dick Wolfe, P.E., Commissioner
23 Scott Steinbrecher, Esquire
Michael Sullivan, P.E., Deputy State Engineer
24 Ivan Franco
Willem Schreüder
25 Keith Vander Horst

1 Other Colorado call-ins:
Peter J. Ampe, Esquire, RRWCD
2 Dawn Webster, RRWCD
David Robbins, Esquire, Hill & Robbins
3 Dave L. Keeler, Colorado water commissioner

4 For Nebraska:

5 Lincoln Listening location
Brian P. Dunnigan, P.E., Commissioner
6 Justin Lavene, Nebraska Attorney General's office
Jim Schneider, P.E., NDNR
7 Jesse Bradley, NDNR
Don Blankenau, Esquire, Bankenau & Wilmoth LLP
8 Tom Wilmoth, Esquire, Blankenau & Wilmoth LLP
Mark Groff, TFG
9 David Kracman, TFG
Tom Riley, TFG
10 Jason Lambrecht, USGS
Phil Erdman, Senator Mike Johanns' office
11
McCook listening location:
12 Rick Ruggles, Red Willow Irrigation District
Steve Cappel, MRNRD
13 John Palic, MRNRD
James Uerling, MRNRD
14 Brad Edgerton, FCID
Clarence Jankovits, Jr., FVID
15 Don Felker, FV ID and H&RW
Bill Peck, USBR
16
Red Cloud listening location:
17 Mike Delka, NBID
Tracy Smith, NBID
18 Walter Knehans, NBID

19 Curtis listening location:
Daniel L. Smith, MRNRD
20 Ken Rahjes, Congressman Adrian Smith's office

21 Holdredge listening location:
John Thorburn, Tri-Basin NRD
22
Imperial listening location:
23 Nate Jenkins, URNRD

24 Other Nebraska call-ins:
Gary Campbell, USBR Billings, Montana
25 John Miller, North Platte USGS

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1 PROCEEDINGS

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3 CHAIRMAN BARFIELD: Good morning. My name is
4 David Barfield. I am Kansas Chief Engineer and
5 Chairman of the Republican River Compact
6 Administration. I welcome you to this special
7 meeting of the Republican River Compact
8 Administration on this date of March 8, 2013. We
9 have an agenda that we'll look at here in a minute.
10 But before we do we'll have introductions.
11 This is a telephonic meeting, and therefore
12 we have a number of listening stations at various
13 locations in the states. And so we're going to go
14 through each of those listening stations and ask
15 those attending to introduce themselves. So I guess
16 I would turn first to Colorado and turn it over to
17 Commissioner Wolfe and ask you to make introductions
18 of those there with you and at the other listening
19 station in Colorado.
20 CHAIRMAN WOLFE: All right. Thank you,
21 Chairman Barfield. This is Dick Wolfe, Colorado
22 State Engineer and the Commissioner for Colorado on
23 the Republican River Compact Administration. Also
24 here in the Denver office with me is Deputy State
25 Engineer Mike Sullivan. And also with the Division

of Water Resources we have Keith Vander Horst and Ivan Franco. And we've got Willem Schreüder, who is with Principia Mathmatica, and Scott Steinbrecher with the Colorado Attorney General's Office.

And it is my understanding that we've got a listening station at the Republican River Water Conservation District, and I'll let them introduce whoever is there in just a moment. And I also -- my understanding, we may have a couple people who are just calling in. Pete Ampe, I think, has already indicated that he has joined in. He is with Hill & Robbins. And I think our water commissioner, Dave Keeler, was anticipated to join in. And I'll just ask if Mr. Keeler is on the line.

MR. KEELER: I am.

CHAIRMAN WOLFE: All right. Thank you. I will at this point turn it over to the Republican River Water Conservation District, assuming they've joined in, and indicate who is all at that listening location.

(Pause.)

CHAIRMAN WOLFE: Maybe they have not joined in yet. Is there anybody else on the line who's called in who is in Colorado?

MR. ROBBINS: Dick, this is David Robbins.

I'm on the call.

CHAIRMAN WOLFE: Good morning, David. David is also with Hill & Robbins. Anybody else with Colorado?

(Pause.)

CHAIRMAN WOLFE: Well, we'll -- I'll turn it over to Nebraska at this point. Again, just to indicate for the record, we did anticipate that someone or more than one could possibly join from the Republican River Water Conservation District in Wray. And if we hear somebody join later, we'll try to get them introduced. So at this point I'll turn it over to Commissioner Dunnigan for introductions from Nebraska.

CHAIRMAN DUNNIGAN: Thank you, Commissioner Wolfe. This is Brian Dunnigan. I'm the Director of the Nebraska Department of Natural Resources and Commissioner for the Republican River Compact Administration. With me in Lincoln at our Lincoln listening station is Jim Schneider, Deputy Director for DNR; Jesse Bradley from DNR; Justin Lavene from the attorney general's office; David Kracman from the Flatwater Group; Mark Groff from the Flatwater Group; Tom Riley from the Flatwater Group; Don Blankenau, outside counsel for Nebraska; Tom

1 Wilmoth, outside counsel for Nebraska; and Jason
2 Lambrecht from the USGS. And that's it from the
3 Lincoln listening station.
4 I will go down the list and see if we have
5 our other listening stations on the line; and if you
6 would, please, say who is with you. Going to the
7 Lower Republican Natural Resources District in Alma.
8 (Pause.)
9 CHAIRMAN DUNNIGAN: The Tri-Basin Natural
10 Resources District in Holdrege?
11 MR. THORBURN: Yes, Brian. John Thorburn at
12 Tri-Basin NRD in Holdrege.
13 CHAIRMAN DUNNIGAN: Thank you, John. The
14 Bostwick Irrigation District in Red Cloud?
15 MR. DELKA: Yeah. Mike Delka, Tracy Smith,
16 and Walter Knehans with the Bostwick Irrigation
17 District.
18 CHAIRMAN DUNNIGAN: Thank you. With the
19 Middle Republican Natural Resources District in
20 Curtis?
21 MR. SMITH: Yes. Dan Smith, Manager, Middle
22 Republican NRD, and Ken Rahjes with Congressman
23 Adrian Smith's office.
24 CHAIRMAN DUNNIGAN: Thank you. With the
25 Upper Republican Natural Resources District in

1 Imperial?
2 MR. JENKINS: Nate Jenkins, Assistant Manager
3 with the Upper.
4 CHAIRMAN DUNNIGAN: Thank you. With the
5 US Bureau of Reclamation in McCook?
6 (Pause.)
7 MR. PECK: Yes. This is Bill Peck with the
8 Bureau of Reclamation here in the McCook office,
9 Water Operations Group.
10 CHAIRMAN DUNNIGAN: Thank you, Bill.
11 MR. PECK: I think we'll go around the table
12 here.
13 MR. EDGERTON: Okay. Brad Edgerton with
14 Frenchman Cambridge Irrigation District.
15 MR. UERLING: James Uerling from the Middle
16 Republican NRD.
17 MR. PALIC: John Palic, Middle Republican
18 NRD.
19 MR. RUGGLES: Brent Ruggles, H & RW
20 Irrigation.
21 MR. CAPPEL: Steve Cappel, Middle Republican
22 NRD.
23 MR. JANKOVITS: Clarence Jankovits, Frenchman
24 Valley.
25 MR. FELKER: Don Felker, Frenchman Valley

1 H & RW.
2 MR. PECK: That's it for McCook.
3 CHAIRMAN DUNNIGAN: Thank you. That should
4 be the Nebraska listening stations.
5 CHAIRMAN BARFIELD: Okay. Thank you very
6 much. This is Dave Barfield. I'll work through the
7 Kansas listening stations. Before I do so, Dick, I
8 don't know if -- Commissioner Wolfe, if you would
9 like to have somebody call Wray and make sure
10 they're not having trouble calling in.
11 CHAIRMAN WOLFE: We did contact them, and I
12 think they got confused on the time being nine
13 o'clock central time. So we have made contact with
14 them and -- in hopes that they will be joining us
15 here shortly. So thank you, Chairman.
16 CHAIRMAN BARIFELD: Okay. Well, again this
17 is Chairman Barfield. And here with me is Chris
18 Grunewald of the attorney general's office, and
19 Chris Beightel, Program Manager for the Water
20 Management Services Program for the division. We
21 have a listening station for our field office in
22 Stockton, Kansas. Are you there?
23 MR. ROSS: Yes. Scott Ross and Chelsea
24 Erickson are here.
25 CHAIRMAN BARFIELD: Very good then. We have

1 a listening station in Colby. Are you there?
2 (Pause.)
3 CHAIRMAN BARFIELD: Maybe they are confused
4 on the time as well. So we -- I think we can go
5 ahead and proceed. Appreciate --
6 MR. NELSON: Chairman Barfield?
7 CHAIRMAN BARFIELD: Yes.
8 MR. NELSON: This is Kenny Nelson, and we are
9 here with Monty Dahl and Brad Peterson
10 CHAIRMAN BARFIELD: Okay. Welcome, Kenny.
11 Is there -- are there any other individuals on the
12 call that are not part of a listening station
13 already introduced?
14 MR. GRIGGS: Yeah. This is Burke Griggs.
15 I'm calling in from Dodge City
16 CHAIRMAN BARFIELD: Right. Okay. Thank you.
17 And then I failed to turn to the Corps of Engineers.
18 I understand you have -- is there anyone else
19 besides Burke?
20 (Pause.)
21 CHAIRMAN BARFIELD: Okay. No other
22 individuals. I guess I would -- I understand the
23 Kansas City District of the Corps of Engineers is on
24 as well. If you all could make your introductions,
25 I would appreciate it.

1 MR. PURZER: Yes, chairman. Can you hear us?
2 CHAIRMAN BARFIELD: Yes.
3 MR. PURZER: Okay. Very well. I am -- my
4 name is Christopher Purzer. I'm the Water
5 Management Section Chief here in Kansas City
6 District. My boss, Eric Shumate, the chief of
7 hydrologic engineering branch is here as well. We
8 have Edward Parker, an engineer with the water
9 management section, is also present. And Matthew
10 Jeppson from the Office of counsel is here with us
11 also.
12 CHAIRMAN BARFIELD: Thank you very much. And
13 I think that concludes introductions. Just a couple
14 of other preliminary matters. Again, we have a
15 court reporter on. So please, as you make remarks,
16 we'd -- she'd appreciate it if you would introduce
17 yourself at the beginning of those remarks. If the
18 court reporter needs us to slow down or repeat
19 anything, you know, obviously she'll interrupt us.
20 But do your best to have one person speaking at a
21 time and making those introductions. Okay?
22 This meeting was requested by Nebraska on
23 February 8th to consider it's Rock Creek
24 Augmentation Project. And that's the primary
25 purpose of the meeting, for that consideration. So

1 the states have set essentially the date and time of
2 this meeting approximately two weeks ago via e-mail
3 and I -- a formal notice of the meeting was put out
4 on Monday, March 4. The states agreed to waive the
5 30-day meeting notice requirement.
6 With that I would -- the second item is
7 consideration of the agenda. Are there any -- any
8 changes to the agenda as noticed?
9 CHAIRMAN WOLFE: Colorado has no changes.
10 This is Dick Wolfe.
11 CHAIRMAN DUNNIGAN: Nebraska has no changes.
12 Brian Dunnigan
13 CHAIRMAN BARFIELD: Okay. Would someone move
14 the adoption of the agenda then as proposed?
15 CHAIRMAN DUNNIGAN: So moved.
16 CHAIRMAN WOLFE: Second
17 CHAIRMAN BARFIELD: All right. Been moved
18 and seconded. All in favor say aye.
19 CHAIRMAN DUNNIGAN: Aye.
20 CHAIRMAN WOLFE: Aye
21 CHAIRMAN BARFIELD: All right. Thank you
22 very much. The next item on the agenda is the
23 discussion and potential action on the Rock Creek
24 Augmentation Proposal that I noted earlier. So
25 Commissioner Dunnigan, I would turn it over to you

for any remarks you would like to make to get this item started.

CHAIRMAN DUNNIGAN: Thank you, Chairman Barfield. On February 8th of this year I submitted by letter to Commissioner Barfield and Commissioner Wolfe the Rock Creek Augmentation Proposal pursuant to Subsection VII.A of the FSS. I also notified the commissioners that pursuant to Subsection VII.A.3 Nebraska was designating this as a fast-track issue and was seeking resolution within 30 days. On March 5th of this year I sent Commissioner Barfield and Commissioner Wolfe a resolution regarding Nebraska's Rock Creek Augmentation Proposal. I would now like to read that resolution into the record.

"Resolution of the Republican River Compact Administration regarding Nebraska's Rock Creek Augmentation Proposal. Whereas the states of Kansas, Nebraska, and Colorado entered into a Final Settlement Stipulation (FSS) as of December 15th, 2002, to resolve pending litigation in the United States Supreme Court regarding the Republican River Compact (Compact) in *Kansas V. Nebraska and Colorado*, No. 126;

"Whereas, the FSS was approved by the United

States Supreme Court on May 19th, 2003;

"Whereas, by letter dated February 8th, 2013, the State of Nebraska submitted to the State of Kansas and the State of Colorado a copy of the Rock Creek Augmentation Project Plan (Rock Creek Plan), a copy of which is attached hereto and incorporated by reference as Exhibit A;

"Whereas, the states held a working session of the RRCA on March 1st, 2013, concerning the Rock Creek Plan, during which Nebraska clarified that: One, the Augmentation Water Supply Credit referenced on Page 36 of 98 of the Rock Creek Plan describes the Augmentation Water Supply Credit Calculation and; Two, the annual reporting for the augmentation plan described on Page 66 of 98 is intended to serve as a narrative summarizing the annual operations for each augmentation;

"Whereas, Nebraska's Rock Creek Plan has been properly presented and submitted to the Republican River Compact Administration pursuant to the FSS;

"Whereas on February 8th, 2013, the State of Nebraska provided the State of Kansas and State of Colorado notice that it wished to pursue fast-track resolution of this issue -- of the issue;

"Whereas, Nebraska has developed a

1 methodology to provide the appropriate augmentation
2 credit referenced in Subsection IV.A of the FSS and
3 that methodology has been submitted to the RRCA as
4 part of the Rock Creek Plan;
5 "Whereas, the states agree that Nebraska's
6 proposed Rock Creek Plan and the augmentation credit
7 conform to the requirements set forth in the FSS and
8 that the RRCA should adopt Nebraska's proposed Rock
9 Creek Plan;
10 "And now therefore it is hereby resolved that
11 the RRCA approves and adopts the State of Nebraska's
12 Rock Creek Plan attached as Exhibit A.
13 "Approved by the Republican River Compact
14 Administration this 8th day of March, 2013, with
15 signature lines for David Barfield, P.E., Kansas
16 Commissioner and chairman; Brian Dunnigan, P.E.,
17 Nebraska Commissioner; Dick Wolfe, P.E., Colorado
18 Commissioner."
19 At this time I'll make a motion to approve
20 the resolution.
21 CHAIRMAN WOLFE: This is Colorado. I'll
22 second that motion
23 CHAIRMAN BARFIELD: All right. Thank you
24 very much. Before we proceed, I heard a couple
25 beeps that I think indicates others have joined us.

1 Can I just find out who else has joined us?
2 MR. BOSSERT: This is Wayne Bossert,
3 Groundwater District 4 in Colby joining.
4 CHAIRMAN BARFIELD: All right. Do you have
5 anyone with you, Wayne?
6 MR. BOSSERT: No, sir.
7 MR. BARFIELD: All right. Thank you very
8 much.
9 MS. WEBSTER: And this is Dawn Webster with
10 Republican River Water Conservation District.
11 CHAIRMAN BARFIELD: All right. In Wray,
12 Colorado, correct?
13 MS. WEBSTER: Yes. Correct.
14 CHAIRMAN BARFIELD: Do you have anyone with
15 you?
16 MS. WEBSTER: No, I do not.
17 CHAIRMAN BARFIELD: Thank you very much.
18 MS. WEBSTER: Uh-huh.
19 CHAIRMAN BARFIELD: Okay. And no one else,
20 right?
21 (Pause.)
22 CHAIRMAN BARFIELD: Okay. Well, very good.
23 It's been moved and seconded to consider this
24 resolution. I sent a letter this morning to --
25 responding to Commissioner Dunnigan's March 5 letter

1 that sort of memorializes our concerns with the Rock
2 Creek Augmentation Proposal and really the process
3 of its consideration. So I would ask that both
4 Brian's -- I'm sorry -- Commissioner Dunnigan's
5 letter of March 5, including the resolution, the
6 proposal, as well as that letter, be made a part of
7 this record. Is there any further discussion that's
8 needed?
9 CHAIRMAN WOLFE: This is Commissioner Wolfe.
10 I would just like to make a few statements for the
11 record, if I could, please. I want to thank
12 Commissioner Dunnigan and the State of Nebraska for
13 their preparation of this proposal and the detailed
14 report and also want to thank them and the State of
15 Kansas for hosting a meeting on March 1st, a work
16 session whereby we were able to inquire into -- into
17 more details in regards to the plan and try to
18 address any questions that we had -- and I'm
19 speaking on behalf of Colorado, the questions and
20 concerns that we had had.
21 I felt from that workshop and from the
22 correspondence we've had in regard to those
23 questions and the responses from Commissioner
24 Dunnigan and the work that we've done internally to
25 evaluate this proposal, Colorado has confidence that

1 the proposal that's -- that's been presented and is
2 outlined will be satisfactory and meet the
3 requirements under the FSS.
4 And we have confidence that if we do have any
5 ongoing questions after approval of this project,
6 that Nebraska's shown a willingness to respond to
7 Colorado's questions and concerns and address them.
8 We feel that if any particular issues come up as a
9 result of the operation of that, that we can resolve
10 those in an amicable way with the states. Thank
11 you.
12 CHAIRMAN BARFIELD: Thank you, Commissioner
13 Wolfe. Any other remarks before we proceed to a
14 vote? Commissioner Dunnigan?
15 CHAIRMAN DUNNIGAN: No further remarks.
16 CHAIRMAN BARFIELD: All right. Thank you
17 very much. Okay. It's been moved and seconded that
18 we adopt the resolution that Commissioner Dunnigan
19 read into the record and provided on March 5. I'll
20 call for a vote. Commissioner Dunnigan?
21 CHAIRMAN DUNNIGAN: Yes.
22 CHAIRMAN BARFIELD: Commissioner Wolfe?
23 CHAIRMAN WOLFE: Yes.
24 CHAIRMAN BARFIELD: And Kansas would vote no,
25 again for purposes that are outlined in the letter I

1 referenced earlier. Okay. Well, thank you very
2 much. The next item on the agenda is an update on
3 federal discussions of the 2013 operation of Harlan
4 County Lake. Commissioner Dunnigan asked that this
5 matter be added to the agenda. I guess before I
6 turn to the federal agencies, Commissioner Dunnigan,
7 would you like to make any introductory remarks to
8 this topic?
9 CHAIRMAN DUNNIGAN: Only that we had
10 discussions with the Bureau of Reclamation in
11 December and went up to Billings and spoke with the
12 Bureau. And I know that they've been diligently
13 working on this since then. And we were interested
14 in what progress has been made and what the status
15 is to date. Thank you.
16 CHAIRMAN BARFIELD: Okay. Very good. Aaron
17 Thompson, area manager, I believe could not be on
18 the call. So I understand Gary Campbell, Deputy
19 Regional Director, will sort of provide us an update
20 from the Bureau's perspective. Is that correct?
21 MR. CAMPBELL: Yes. Thank you, Mr. Chairman.
22 So I'll start off, at Reclamation we're trying to do
23 everything within our authorities to get our
24 surface-water irrigators as near a full water supply
25 this year as possible. So we've went down this road

1 of looking at a deviation request at Harlan County
2 Lake, working with the Corps of Engineers.
3 What we've requested is 13,600 acre-feet of
4 water from the sediment pool to be utilized. And
5 that number comes from Nebraska's final forecast.
6 So that's where the 13,600 acre-feet comes from.
7 This is storage water that would otherwise not be
8 available for irrigation releases in 2013. And
9 that's pursuant to the consensus plan.
10 This water would be made available to Kansas
11 Bostwick Irrigation District for irrigation
12 purposes. Okay. If the deviation request is
13 approved Reclamation would request that Nebraska be
14 in our list of closing notices on the federal
15 projects within the basin. Okay?
16 We've met with the Corps of Engineers on the
17 phone multiple times, as well as we had a meeting in
18 Kansas City on February 20th. The Corps -- and I'll
19 let them go into more detail -- are currently
20 completing an analysis of the impacts, looking at
21 both positive benefits and negative outcomes to the
22 authorized purposes of the project. The Corps asked
23 for more information from us. We provided
24 additional information to them on February 28th,
25 from some of the benefits to agriculture in

1 Nebraska, as well as Kansas.
2 If the deviation request is not approved
3 water storage -- water stored after December 31st in
4 upstream reservoirs may not -- may need to be
5 released by DNR's order if this deviation request is
6 not approved. To date the accumulated storage of
7 all the reservoirs on the Republican under federal
8 control right now -- and that's January 1st through
9 March 7th -- is approximately 8,000 acre-feet.
10 Okay. The current Harlan County Lake
11 elevation is at 1935.6. Pursuant to the consensus
12 plan that would equate to a 2013 irrigation supply
13 of 84,500 acre-feet. The estimated shut-off
14 elevation at this point time is 1930.55. So if the
15 deviation request is granted, the water supply split
16 would -- Nebraska Bostwick -- or I should say the
17 State of Nebraska would get 39,880 acre-feet.
18 Kansas would get 44,700 acre-feet.
19 That equates to an estimated delivery to
20 Nebraska Bostwick Irrigation District of 10 inches.
21 Kansas Bostwick Irrigation District will get 12
22 inches. And that's based on a historic delivery
23 efficiencies. If the deviation request is denied,
24 Nebraska Bostwick supplies estimated are around 5 to
25 6 inches this year.

1 Now there is a hard shut-off at Harlan County
2 Lake at 1927.0. And if the inflows are insufficient
3 to provide this 84,500 acre-feet of irrigation
4 supply, the estimated shut-off will be adjusted to
5 provide the assured irrigation supply to the
6 entities out there.
7 So some of the challenges we've got as we
8 move forward on this is we need agreement from
9 Nebraska Bostwick Irrigation District to utilize
10 this additional storage water in the sediment pool.
11 Right now we have a letter from Nebraska Bostwick
12 Irrigation District that's opposed to the deviation
13 request. My understanding is I believe they are
14 rethinking their position, but they are also seeking
15 input from their board, as well as seeking input
16 from their legal counsel -- or advice from their
17 legal counsel.
18 If Kansas Bostwick -- if the deviation
19 request were to go forward, if Kansas Bostwick did
20 not utilize the deviation storage this year, that
21 would mean then that we would need to have an
22 agreement in place with Nebraska Irrigation District
23 to cover any carry-over supplies exclusively for
24 Kansas Bostwick Irrigation District pursuant to the
25 existing contracts that we have in place with these

1 folks.
2 Right now the current storage level is not
3 adequate to provide the assured irrigation supply
4 and additional water for this deviation request. To
5 date we need to gain an additional 22,000 acre-feet
6 of storage in Harlan County Lake to have assurance
7 that the 13,600 acre-feet would be available for the
8 deviation request. To date Harlan County, this
9 year, from January 1 until March 7th has only gained
10 2,800 acre-feet at this point in time.
11 So that is where we're at in this process as
12 -- where we've been and how we're moving forward.
13 We're still hopeful that the flows will increase and
14 that we can work with folks to get our surface
15 irrigators as near a full supply of irrigation water
16 as possible. That's all I have, Mr. Chairman.
17 CHAIRMAN BARFIELD: Any questions for
18 Mr. Campbell?
19 (Pause.)
20 CHAIRMAN BARFIELD: I appreciate that update.
21 And I think I follow the facts and figures there.
22 I'm not quite sure I fully understand the
23 implications of the last portion of your statement,
24 that the current status of the reservoir in Harlan
25 is not adequate to support the deviation. So that

means -- does that mean even if the Corps agrees to the deviation, there would have to be more inflow -- or 22,000 additional inflow between now and the beginning of the irrigation season in order for that water to be available above the hard shut-off? Is that what you're saying?

MR. CAMPBELL: Yes

CHAIRMAN BARFIELD: Okay. Well, I guess if there's no additional questions of Mr. Campbell -- I'm not sure who from the Corps of Engineers wishes to update us. But I would turn to the Corps of Engineers.

MR. JEPPSON: Mr. Barfield, this is Matt Jeppson with the Corps of Engineers. And what Mr. Campbell conveyed is an accurate status from our perspective, with one exception. It's our understanding -- it's a minor point -- that the preliminary shut-off elevation is 31.55. Aside from that, we received an updated request from the Bureau on 28 February, 2013, and expect to have our assessment complete by the end of the month. And that's a preliminary assessment by the district that would then go to our division for ultimate decision.

CHAIRMAN BARFIELD: Okay. Any questions for -- for the Corps?

1 CHAIRMAN DUNNIGAN: This is Commissioner
2 Dunnigan. I would like to turn it over to Deputy
3 Director Jim Schneider, please.
4 MR. SCHNEIDER: Thank you. This is Jim
5 Schneider. I was just -- the question for the Corps
6 would be in that evaluation that you're conducting,
7 what are the factors that you're evaluating?
8 MR. JEPPSON: The Corps has authorized
9 project purposes -- congressionally-authorized
10 project purposes of irrigation, flood control, water
11 quality, and fish and wildlife in Harlan County
12 Lake. And we are required to follow our water
13 control manuals for those authorized purposes. In
14 the event that a deviation is requested, the Corps
15 assesses the impact to those authorized purposes
16 associated with the deviation request.
17 And the district makes the recommendation to
18 the division, the ultimate deciding authority for
19 the Corps, as to whether that authorization is
20 appropriate. There are several factors that go into
21 that; obviously the severity of the impact, the
22 forseeability and other alternatives that were
23 available -- are available to meet the dev -- or to
24 meet the need, without deviating from the water
25 control manual, and some other factors.

1 MR. SCHNEIDER: Thanks. So to follow-up on
2 that I would ask, have you identified any conflicts
3 to date?
4 MR. JEPPSON: We are still in the process of
5 evaluation. But obviously there are potential
6 impacts to recreation and to fish and wildlife
7 resources at the lake due to the elevation of this
8 would cause the lake to drop to. And then we are
9 assessing the beneficial or detrimental impact
10 associated with irrigation. So we're in that
11 process right now.
12 MR. SCHNEIDER: Okay. I was also wondering
13 -- and that's very helpful. Thank you. Within
14 those purposes, what's the relative priority of
15 them?
16 MR. JEPPSON: There is not specifically
17 identified priorities within the water control
18 manual. Flood control and irrigation are obviously
19 very important authorized purposes, and the Corps
20 does look heavily to those impacts associated with
21 those when it's considering a deviation at Harlan
22 County Lake.
23 MR. SCHNEIDER: Okay. Kind of following up
24 on that then, where does the Compact fit in with
25 regards to those purposes?

1 MR. JEPPSON: Excuse me? Where does the
2 context fit in?
3 MR. SCHNEIDER: The Republican River Compact.
4 MR. JEPPSON: Sorry. The Compact is not a --
5 a direct purpose to the operation of the Harlan
6 County Lake, absent action by Congress to modify the
7 authorized purposes. The closest that the lake has
8 in terms of purposes is irrigation.
9 MR. SCHNEIDER: So does that mean that those
10 purposes are, I guess, a higher priority than the
11 Compact?
12 MR. JEPPSON: Well, it's not so much a matter
13 of -- I mean, the Corps is obviously interested in
14 helping the Compact parties to the extent we can
15 within our authority. It's rather that the Corps'
16 authorities don't contemplate the Compact, and so we
17 have to look at the context of the Compact
18 compliance within our authorities and how it relates
19 to those authorized purposes.
20 MR. SCHNEIDER: So it sounds like those are
21 -- in your view those authorities would trump the
22 Compact?
23 MR. JEPPSON: I'm not going to answer that
24 directly, because it's a little bit loaded and it
25 could be interpreted different ways. But as I said,

1 the Corps is required to look at the impact to the
2 authorized purposes, and those are irrigation, flood
3 control, water quality, recreation, and fish and
4 wildlife.
5 MR. SCHNEIDER: Okay. Thank you. That's
6 very helpful. I appreciate your answers. That's
7 all that I had.
8 CHAIRMAN DUNNIGAN: This is Commissioner
9 Dunnigan. I was wondering again if the Bureau and
10 the Corps could give us any time frames related to
11 the deviation request.
12 MR. PURZER: Commissioners, if I can, we are
13 working towards providing a -- a response from the
14 district by the end of month, by 29 March. That --
15 that said, Commissioner, there will have to be a
16 review period and consideration from the division
17 engineer and his staff. And that will extended
18 probably -- at least 30 days is the statutory
19 request that they place upon a district when
20 submitting those.
21 COURT REPORTER: And who was that, please,
22 speaking?
23 MR. PURZER: Christopher Purzer, Water
24 Management Section Chief, Kansas City District.
25 COURT REPORTER: Thank you very much.

1 CHAIRMAN DUNNIGAN: This is Commissioner
2 Dunnigan again. And we -- originally when we spoke
3 to the Bureau, and the Bureau had subsequent
4 correspondence with us on going through this
5 deviation request, certainly what we're most
6 interested in is compliance with the Compact, and
7 within that context providing flexibility to make
8 sure that water is available to the -- to Kansas
9 water users. We're anticipating that we're going to
10 have to make a decision by sometime around the first
11 of April on what we need to do and what further
12 orders that we are going to place on release of
13 storage water.
14 CHAIRMAN BARFIELD: Okay. Other comments or
15 questions?
16 (Pause.)
17 CHAIRMAN BARFIELD: Well, we appreciate the
18 federal agency's work here. And again, I would also
19 encourage the agencies to act as diligently and
20 expeditiously as they can. Again, there's lots of
21 questions about operations and many other factors
22 that need to -- need to be resolved, even beyond the
23 deviation request itself. And again, the sooner we
24 understand the alternatives, the better that those
25 decisions can be. So -- okay.

1 If there's nothing else I'll move this on to
2 the next agenda item. The next agenda item is
3 really just a carryover from our last special
4 meeting, and really from our annual meeting of last
5 year. We have a number of outstanding annual
6 reports that -- going back to 2007, I believe, that
7 have been drafted and the states desire additional
8 time to review those drafts.
9 So I'm just checking to see if -- I know
10 Kansas has indicated in the past that we are ready
11 to approve the -- that set of annual reports, but --
12 so I'm just checking in to see if we're ready to act
13 on that today or not.
14 CHAIRMAN DUNNIGAN: This is Commissioner
15 Dunnigan. I'll turn to Deputy Director Jim
16 Schneider.
17 MR. SCHNEIDER: Thanks. I guess I would -- I
18 would remind the commissioners that during the
19 special meeting -- the previous special meeting, I
20 believe, in December when we discussed this, it was
21 noted that we didn't anticipate having any issues
22 either. But we needed to have a package of what
23 those reports were; you know, something to reference
24 so that we knew what we would be taking action on.
25 And I believe the engineering committee was tasked

with that. And to my knowledge nothing has happened.

I would, I guess, defer to the chairman, Scott Ross, if he has anything additional to add on that from the engineering committee. But from our standpoint we're ready to take action. But we need some -- we need to come together in some kind of -- so we have a package of materials that we know that that's what we're acting on. Thank you.

CHAIRMAN WOLFE: And this is Commissioner Wolfe. In talking to my engineer advisor, Ivan Franco, those reports are all simulated -- assimilated and are online. And Colorado is satisfied that those annual reports from 2007 through 11 are complete and ready to take action today, if necessary.

MR. SCHNEIDER: This is Jim Schneider. Yeah. I think it is just a matter of -- you know, I don't know how we -- how to take action -- how to reference -- how to give my commissioner, you know, a sense of what we're taking action on in terms of a specific reference at this time. So I think we just need to attend to that detail, and we should be ready in the future.

CHAIRMAN BARFIELD: Okay. Well, thank you

1 for those remarks. My understanding is that those
2 reports, you know, are available online and have
3 been for some time. But I certainly want to give
4 Nebraska it's opportunity to make sure it's fully
5 comfortable with those. So we'll defer this agenda
6 item again. Scott, I would ask you to -- or
7 Chelsea, send a link to where those are to Nebraska
8 to ensure they have that. And we'll --
9 MR. ROSS: We can do that.
10 CHAIRMAN BARFIELD: And we'll defer this to
11 our next opportunity to meet. Okay? Is that
12 satisfactory?
13 CHAIRMAN DUNNIGAN: That's satisfactory. We
14 have one more comment.
15 MR. SCHNEIDER: Yeah. This is Jim Schneider
16 again. I think probably whether it's a location
17 online or we put them onto a CD or print them out,
18 you know, we need something with some cover letter
19 that references the location of the materials so
20 that we have something specific to take action on.
21 So that's really what we're looking for is,
22 you know, if we print them all out and put them in
23 an envelope with a cover letter, then we would know
24 what we were taking action on. That could be a
25 location online. But, you know, still we need some

1 -- some ability to know specifically what we're
2 taking action on.
3 MR. ROSS: This is Scott Ross. We can make
4 that happen.
5 MR. SCHNEIDER: Great.
6 CHAIRMAN BARFIELD: Very good. Yes. We will
7 ensure that there's that specificity that I hear you
8 asking for. Appreciate that. With that, unless --
9 is there anything else to come before us this
10 morning?
11 CHAIRMAN DUNNIGAN: Nothing from Nebraska's
12 standpoint
13 CHAIRMAN BARFIELD: Thank you. Colorado?
14 CHAIRMAN WOLFE: Nothing further from
15 Colorado.
16 CHAIRMAN BARFIELD: All right. With that I
17 would move adjournment.
18 CHAIRMAN WOLFE: So moved. Colorado.
19 CHAIRMAN DUNNIGAN: Yes. And I'm going to
20 move, too. But I just wanted to make one comment
21 with that. We did have Phil Erdman from U.S.
22 Senator's Mike Johann's office join us for the
23 record. And with that, move for adjournment.
24 CHAIRMAN BARFIELD: All right. I'll take
25 that as a second. All in favor say aye.

1 CHAIRMAN DUNNIGAN: Aye.
2 CHAIRMAN WOLFE: Aye
3 CHAIRMAN BARFIELD: Aye. Thank you very
4 much. Goodbye. Thank you.
5 * * * CONCLUSION OF TELECONFERENCE AT 9:46 A.M. * * *
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1 **C E R T I F I C A T E**

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4 I, Coleen F. Boxberger, Registered Professional Reporter, do hereby
5 certify the above and foregoing teleconference was taken at the time and
6 place as specified; that the same was taken before myself in shorthand and
7 later transcribed and extended into typewritten form to the best of my
8 ability, and is a true and correct extension hereof;

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13 _____
Coleen F. Boxberger, R.P.R.
P.O. Box 184
14 Russell, KS 67665-0184

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