

1 SPECIAL MEETING OF THE
2 REPUBLICAN RIVER COMPACT ADMINISTRATION

3
4 May 2, 2013

5 3:06 p.m. Central Standard Time

6 Via Telephone

7 For Kansas:

8 Topeka location:

9 David Barfield, P.E., Commissioner & RRCA Chairman
10 Chris Beightel, Kansas DWR
11 Christopher M. Grunewald, KS Attorney Gen.'s office
12 Burke Griggs, Esquire, KS Attorney General's office

13 KBID listening location:

14 Kenneth Nelson

15 Stockton listening location:

16 Chelsea Erickson, KS DWR

17 Colby listening location:

18 Wayne Bossert, GMD4
19 Scott Ross, KS DWR water commissioner

20 For Colorado:

21 Denver location:

22 Dick Wolfe, P.E., Commissioner
23 Scott Steinbrecher, Esquire
24 Michael Sullivan, P.E., Deputy State Engineer
25 Ivan Franco

Wray RRWCD listening location:

26 Deb Daniel, RRWCD
27 Dennis Coryell, RRWCD
28 Dawn Webster, RRWCD
29 Jack Dowell, RRWCD
30 Bill Cure, landowner
31 Roy Smith, Y-W GMD
32 Denny Salvador, Y-W GMD
33 Nate Midcap, Frenchman, Marks Butte, Central Yuma,
34 Sanhills GMD
35 Brent Deterding, Central Yuma GMD

1 Other Colorado call-ins:

Peter J. Ampe, Esquire, RRWCD
2 Dennis Montgomery, Esquire, RRWCD
Dave L. Keeler, Colorado water commissioner
3 Devin Ridnour, water commissioner
Jim Martin, well commissioner
4 Janelle Myotte, well commissioner
Willem Schreüder, consultant
5 BreAnn Ferguson, Plains and East Cheyenne GMD

6 For Nebraska:

7 Lincoln Listening location

Brian P. Dunnigan, P.E., Commissioner
8 Justin Lavene, Nebraska Attorney General's office
Jim Schneider, P.E., NDNR
9 Jesse Bradley, NDNR
Don Blankenau, Esquire, Blankenau & Wilmoth LLP
10 Tom Wilmoth, Esquire, Blankenau & Wilmoth LLP
Mark Groff, TFG
11 David Kracman, TFG
Tom Riley, TFG
12 Dean Edson

13 McCook listening location:

Aaron Thompson, USBR
14 Steve Cappel, MRNRD
John Palic, MRNRD
15 James Uerling, MRNRD
Don Felker, FV ID and H&RW
16 Bill Peck, USBR
Bill Hoyt, MRNRD

17 Red Cloud listening location:

18 Tracy Smith, NBID

19 Curtis listening location:

Daniel L. Smith, MRNRD

20 Imperial listening location:

21 Nate Jenkins, URNRD

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23
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1 transmitted to the states two proposals that we will
2 consider at this meeting. In that transmission they
3 asked for the states to have a special meeting by
4 the 5th of May to consider these matters, and that's
5 the -- the principal purpose of our meeting today.

6 Okay. With that, I guess I would like to go
7 around and do introductions before we handle the
8 agenda. So first of all, here in Topeka it is
9 myself, Chris Beightel, Chris Grunewald, and Burke
10 Griggs. Let me go ahead and go around to Kansas.
11 First of all, GMD4 in Colby?

12 MR. ROSS: Scott Ross and Wayne Bossert.

13 CHAIRMAN BARFIELD: Okay. The Stockton field
14 office?

15 MS. ERICKSON: Chelsea Erickson.

16 CHAIRMAN BARFIELD: Okay. And then at the
17 Bostwick Irrigation District in Courtland?

18 MR. NELSON: Nelson.

19 CHAIRMAN BARFIELD: That was Kenny Nelson?

20 MR. NELSON: Kenny Nelson, yeah.

21 CHAIRMAN BARFIELD: Okay. That completes the
22 Kansas listening stations. Commissioner Wolfe, I
23 would like to turn it over to you to introduce those
24 that are on with Colorado.

25 CHAIRMAN WOLFE: All right. Thank you,

1 Chairman Barfield. This is Dick Wolfe, the
2 Commissioner for Colorado, and I am in the Denver
3 location. And here with me is Mike Sullivan, Ivan
4 Franco, and Scott Steinbrecher. And at the other
5 listening locations, I will turn to them to let them
6 introduce.

7 And I will start first with Wray and then
8 move to our field staff. And then I think we've got
9 counsel for the district on a separate line. And so
10 if we could go in that order of introductions. And
11 then if I've missed anybody, I'll let them add at
12 the end of that. So Wray, if you want to identify
13 who is there in your location.

14 MS. DANIEL: Okay. This is Deb Daniel. I'm
15 the general manager of the Republican River Water
16 Conservation District. In the district office we
17 have today with us Dennis Coryell, who is the
18 chairman of the Republican River Water Conservation
19 District; Dawn Webster, who is the assistant manager
20 of the RRWCD, Jack Dowell, board member of the
21 RRWCD; Bill Cure, landowner; Roy Smith, representing
22 the Y-W (verbatim) Groundwater District; Denny
23 Salvador, representing the Y-W Groundwater
24 Management District; Nate Midcap, who is the general
25 manager of the Frenchman, Marks Butte, Central Yuma,

1 and Sandhills Groundwater Management Districts; and
2 Brent Deterding, representing the Central Yuma
3 Groundwater Management District. All of these
4 individuals are present in the Republican River
5 district office.

6 CHAIRMAN WOLFE: Thank you. This is Dick
7 Wolfe again. And Dave Keeler, could you introduce
8 yourself and those that are at your location?

9 MR. KEELER: Yes. Dave Keeler, Water
10 Commissioner for Colorado for the Republican River
11 Basin; Devin Ridnour, our hydro and water
12 Commissioner; Jim Martin, well commissioner; Janelle
13 Myotte, well commissioner.

14 CHAIRMAN WOLFE: Thank you. And then I think
15 at another location is folks with the counsel of the
16 district, and could you introduce yourselves.

17 MR. AMPE: Yes. This is Peter Ampe and
18 Dennis Montgomery of Hill & Robbins, counsel to the
19 Republican River Water Conservation District.

20 CHAIRMAN WOLFE: And are there any other
21 folks who have joined in on behalf of Colorado that
22 we have not introduced yet?

23 MR. SCHREÜDER: This is Willem Schreüder,
24 consultant to Colorado.

25 MS. FERGUSON: BreAnn Ferguson, Plains and

1 East Cheyenne Groundwater Management District.

2 CHAIRMAN WOLFE: Okay. I think that is all
3 that we were aware of that would be joining us, so
4 I'll turn it over back to you, Chairman Barfield.

5 CHAIRMAN BARFIELD: Thank you, Commissioner
6 Wolfe. Commissioner Dunnigan, do you want to walk
7 us through the Nebraska participants?

8 CHAIRMAN DUNNIGAN: Thank you, Chairman
9 Barfield. This is Brian Dunnigan in Lincoln,
10 Nebraska. And with me in Lincoln are Tom Riley, Tom
11 Wilmoth, Don Blankenau, Mark Groff, David Kracman,
12 Jim Schneider, Justin Lavene, Jesse Bradley, and
13 Dean Edson. And I will go down through the Nebraska
14 listening stations and ask for introductions,
15 starting with the Bostwick Irrigation District in
16 Red Cloud.

17 MS. SMITH: Yes. This is Tracy Smith. I'm
18 the assistant manager at Bostwick Irrigation
19 District. Mike Delka, our general manager sends his
20 regrets. He has a family illness and is unable to
21 be here today.

22 CHAIRMAN DUNNIGAN: Thank you, Tracy. I'll
23 go to the Upper Republican Natural Resources
24 District in Imperial.

25 MR. JENKINS: This is Nate Jenkins, assistant

1 manager with the Upper.

2 CHAIRMAN DUNNIGAN: The U.S. Bureau of
3 Reclamation in McCook?

4 MR. THOMPSON: Yes. Good afternoon. This is
5 Aaron Thompson, the area manager for Reclamation,
6 Nebraska/Kansas. And also at the listening station
7 we have James Uerling, representing the Middle
8 Republican; John Palic, representing the Middle
9 Republican and H & RW Irrigation District; Don
10 Felker, general manager of the Frenchman Valley and
11 H & RW Irrigation District; Bill Hoyt and Steve
12 Cappel representing Middle Republican NRD; and Bill
13 Peck with USBR. That's all.

14 CHAIRMAN DUNNIGAN: Thank you, Aaron. And I
15 would ask if there's anybody else from Nebraska on
16 the call?

17 MR. SMITH: Dan Smith, Middle Republican NRD
18 in Curtis.

19 CHAIRMAN DUNNIGAN: Thank you, Dan. Is that
20 it?

21 (Pause.)

22 CHAIRMAN DUNNIGAN: With that, Chairman
23 Barfield, I'll turn it back to you.

24 CHAIRMAN BARFIELD: Very good. Just is there
25 anybody else that's on the call that hasn't been

1 introduced?

2 (Pause.)

3 CHAIRMAN BARFIELD: All right. Hearing no
4 one, we'll move on. The date and time of this
5 meeting was agreed to by the states via calls and
6 confirmed via e-mail. The states each agree to wave
7 the 30-day meeting notice. Formal notice of meeting
8 was sent on April 25. With the notice of the
9 meeting was a draft agenda for the meeting, our
10 proposed agenda for the meeting. I guess I would
11 ask if there's any wish to modify the agenda as
12 proposed?

13 CHAIRMAN WOLFE: Chairman Barfield, I think
14 pursuant to our earlier discussion -- this is Dick
15 Wolfe -- the Agenda Item 5, I think you were going
16 to state for the record what the disposition of that
17 particular agenda item is. Did you want to discuss
18 that and offer up the amendment in accordance with
19 that?

20 CHAIRMAN BARFIELD: Yes. Thank you,
21 Commissioner Wolfe. The proposed agenda item was
22 discussion and potential action regarding an update
23 to the regulations of the RRCA. It was pointed out
24 -- I believe Jim Schneider pointed out that we
25 actually -- the actual -- we took the action at the

1 last meeting to approve that. And so it will not be
2 necessary to act on that.

3 What has not been done is to circulate the
4 resolution for signature. So why don't -- why don't
5 we modify the agenda item to say discussion of the
6 status of updating the regulations. And then at
7 that point I'll just tell you that we're going to
8 send it around for signature. Okay?

9 CHAIRMAN WOLFE: That is acceptable to
10 Colorado.

11 CHAIRMAN DUNNIGAN: That's acceptable to
12 Nebraska.

13 CHAIRMAN BARFIELD: Okay. So is there any
14 other potential changes to the agenda?

15 CHAIRMAN WOLFE: None from Colorado.

16 CHAIRMAN DUNNIGAN: None from Nebraska.

17 CHAIRMAN BARFIELD: If not, I'd entertain a
18 motion to adopt the agenda as amended.

19 CHAIRMAN WOLFE: So moved. This is
20 Commissioner Wolfe.

21 CHAIRMAN DUNNIGAN: Second. Commissioner
22 Dunnigan.

23 CHAIRMAN BARFIELD: All right. Let's take a
24 vote. All in favor say aye.

25 CHAIRMAN WOLFE: Aye.

1 CHAIRMAN DUNNIGAN: Aye.

2 CHAIRMAN BARFIELD: Nebraska says aye and
3 Kansas says aye. Thank you. So we'll proceed along
4 this agenda. The first agenda item then is
5 discussion and potential action regarding Colorado's
6 Compact Compliance Pipeline Proposal that they
7 submitted on April 5. I guess I'll just turn it
8 over to Commissioner Wolfe to maybe walk us through
9 this item.

10 CHAIRMAN WOLFE: Thank you, Chairman
11 Barfield. This is Commissioner Wolfe. And I would
12 first like to thank both of the states for their
13 consideration of holding this special meeting today
14 for consideration of both of Colorado's proposals.
15 So what I would like to do is just provide a brief
16 background of how we got to this point in regards to
17 our proposals and then certainly entertain any
18 additional comments or questions that either states
19 would have based on that presentation. And I
20 anticipate to try to keep this brief and -- so we
21 can move this -- through this in a -- in a expedited
22 fashion.

23 As the record indicated, we did submit two
24 proposals to the Republican River Compact
25 Administration on April 5th, 2013. The first one

1 that we're discussing now on the agenda is in
2 regards to Colorado's Compact Compliance Pipeline.
3 And then secondly on the agenda we will be
4 discussing and asking for consideration of a
5 favorable vote on the Bonny Reservoir proposal.

6 As indicated in my letters -- cover letters,
7 both of these proposals on April 5th, 2013, we
8 designated both of them as fast-track issues, and
9 thus requested this meeting to vote on those
10 proposals. So pursuant to the offer that was in the
11 cover letter for the Compact Compliance Pipeline
12 proposal -- and I may refer to this also as the CCP
13 proposal for the record.

14 The Republican River Compact Administration
15 had held an informal work session on April 22nd, and
16 we appreciated both Nebraska and Kansas' willingness
17 to have that informal discussion with hopes that we
18 could work through and discuss what -- any potential
19 questions or concerns there were to see if we could
20 address those, as I indicated in the informal
21 meeting, in hopes that we could seek a favorable
22 decision by all three states today. I hope I'll
23 characterize the discussions accurately in kind of a
24 summary way.

25 Nebraska had had one question in that

1 discussion regarding the time frame, when the
2 modeling was first prepared for the future
3 operations of Bonny Reservoir. And I know we'll be
4 getting to that secondarily. But this was a joint
5 discussion of both proposals, so I just want the
6 record to reflect that that discussion took place
7 and we -- the one question that came from Nebraska.
8 And we responded -- our consultant, Willem
9 Schreüder, had responded to that question.

10 And our -- my recollection of those
11 discussions, too, that Nebraska did not raise any
12 specific issues related to the compliance with the
13 FSS or the Compact in regards to the CCP proposal.
14 Kansas -- State of Kansas had a number of questions
15 that came out of that discussion on the 22nd. And
16 I'll, I think, try to characterize them in kind of
17 four types of questions and requests for
18 information. And I would like to just step through
19 those and indicate what Colorado did in response to
20 those questions.

21 Kansas had a question regarding the
22 groundwater commission, which is the commission that
23 oversees the administration and permitting and
24 rule-making-type activities within the designated
25 groundwater basins, which is -- includes the

1 Republican River Basin. And there was a question
2 regarding the banking provision that's described in
3 our proposal and we -- how that would work. And so
4 we responded to that and provided information to
5 both states from our rules that specifically details
6 how the banking provision would apply to the water
7 rights that are associated with our proposal.

8 Secondly, Kansas had a question regarding a
9 review of groundwater permits to determine the
10 compliance period for the historic consumptive use.
11 That analysis shows from the permit applications
12 that were approved on this that they -- they are
13 limited as described in our proposal, specifically a
14 limit of 2500 acre-feet per year. And there's other
15 provisions that are in those permits that dictate
16 how those limits will be enforced in accordance with
17 the rules that were provided to both states.

18 Thirdly, there was questions that Kansas had
19 raised in regards to the model runs that Colorado
20 had conducted in regards to its proposal and the
21 operation of the Compact Compliance Pipeline. And
22 this specifically deals with how the groundwater
23 model is informed of the operation of the Compact
24 compliance wells, as well as the deliveries that
25 come from those Compact compliance wells as it's

1 introduced into the stream system. So those results
2 and examples of that -- those model runs were
3 provided by our consultant, Willem Schreüder, to
4 both states.

5 And the kind of fourth area that we had
6 talked about, the questions had come up and -- was
7 in regards to a sample Excel spreadsheet that would
8 be used to calculate the projected deliveries. We
9 had talked in concept or in actual specifics in
10 regards to this in accordance with the resolution
11 that's identified as Exhibit A in our application.
12 And so we had said that we would prepare a sample
13 spreadsheet on how those calculated projected
14 deliveries would be made.

15 But we -- under the time constraints Colorado
16 was unable to complete that task. So we were unable
17 to submit such a sample spreadsheet to both states.
18 And as part of that informal discussion, beyond
19 those questions that were asked, Kansas did not
20 raise any specific issues related to the proposal as
21 it -- regarding the compliance with the FSS or the
22 Compact.

23 And I guess before I move on, I guess, just
24 in terms of before I introduce the resolution, I
25 would certainly entertain any questions from either

1 state or comments on that statement I just made, in
2 case I mischaracterized or misrepresented anything
3 that took place in regard to our informal discussion
4 on April 22nd.

5 (Pause.)

6 CHAIRMAN DUNNIGAN: David Barfield here. I
7 did not bring my notes of that meeting, so I -- I
8 can't -- certainly the summary you did, those things
9 did transpire. You also did, since the meeting,
10 provide some model runs related to the Bonny
11 simulations you did as well. I would just note that
12 for the record.

13 CHAIRMAN WOLFE: Yes. That's correct,
14 Chairman Barfield. And I will go into maybe those
15 specifics as well when we get to the Bonny proposal.
16 But thank you for stating that for the record.

17 (Pause.)

18 CHAIRMAN WOLFE: This is Commissioner Wolfe
19 again. What I would like to do, I guess just, one,
20 in the interest of time, as well as just
21 documentation for the record, we will provide -- we
22 have provided to each state a complete package of
23 both of our proposals. Those were submitted on
24 April 5th. We would like to make those -- that as
25 part of the record for purposes of today's meeting

1 and available to the recorder.

2 And so unless directed otherwise, I guess the
3 essence of our proposal is outlined in the
4 resolution that was attached as Exhibit A to our
5 letter dated April 5th. And I will just introduce
6 that for consideration and action by the RRCA today
7 and ask that we waive, if you will, the reading of
8 the actual resolution by -- verbatim into the
9 record, unless there's an objection.

10 Colorado has not made any changes to any of
11 those documents. It's a part of the application --
12 or the proposals that were submitted to both states
13 on April 5th. I guess before I go on I just wanted
14 to make sure that was acceptable to both of the
15 other states.

16 CHAIRMAN DUNNIGAN: David Barfield here.
17 Yes. So you're speaking about Exhibit A? It's a
18 five-page resolution that you're speaking of
19 specifically, correct?

20 CHAIRMAN WOLFE: Yes. It's a -- what's
21 labeled as Exhibit A to the April 5th letter. The
22 -- and what's also further -- just for clarification
23 and a refresher, Exhibit A also incorporates a
24 number of attachments that are in there that are
25 listed as exhibits that are also included in that

1 proposal. And then what's also referenced in the
2 cover letter is an Exhibit B, which just basically
3 outlines the time frame associated with the process
4 we're under regarding the fast-tracked arbitration
5 process.

6 CHAIRMAN BARFIELD: Kansas has no objection
7 to that being a part of the record of this meeting.

8 CHAIRMAN DUNNIGAN: This is Commissioner
9 Dunnigan. I would just note for the record that
10 Exhibit A is six pages long, and there is a date of
11 May 5th, 2013, on that exhibit.

12 CHAIRMAN WOLFE: Yes. Thank you,
13 Commissioner Dunnigan. And I think I would -- I
14 appreciate you bringing that up. I think when we
15 had submitted this proposal, that we knew we would
16 have to act on it within 30 days. And we had put
17 the date of May 5th on there anticipating this could
18 have gone up on the last day of that period. So I
19 would ask that as part of a decision to act on this,
20 that the record would reflect that as an amendment
21 to that Exhibit A to be dated May 2nd, 2013.

22 What I would ask at this time is I would like
23 to make a motion to approve this resolution dated
24 May 2nd, 2013. And after such vote, Colorado
25 anticipates that it would like to have a further

1 comment in regards to that action, depending on how
2 the vote goes. So unless there's any other comments
3 or questions, Colorado would move adoption and
4 approval by the RRCA of its resolution dated May
5 2nd, 2013, for the Compact Compliance Pipeline.

6 CHAIRMAN DUNNIGAN: This is Commissioner
7 Dunnigan. I'll second that.

8 CHAIRMAN BARFIELD: Okay. It's been moved
9 and seconded. And just for clarification, the
10 Exhibit A is six pages, as Commissioner Dunnigan
11 noted, not five as I think I said earlier. And then
12 Commissioner Wolfe suggested that it be dated --
13 that it be considered to be dated May 2nd, 2013,
14 rather than May 5. Is that correct?

15 CHAIRMAN WOLFE: Yes, Chairman Barfield.
16 What I would suggest as part of that is, it probably
17 wasn't necessary that on Page 1 at the top that we
18 listed the date, because on Page 6 -- as you
19 indicated, this is a six-page resolution. There is
20 a location where we can actually affix today's date
21 to it, with each of the signatures by each of
22 commission members. So that resolution, I think, is
23 -- what would be reflected in the record is we could
24 remove the date on Page 1 and just let the signature
25 and date on Page 6 stand as the official date and

1 signature page.

2 CHAIRMAN BARFIELD: Okay. So is there any
3 other discussion before the vote?

4 CHAIRMAN DUNNIGAN: Yes. This is
5 Commissioner Dunnigan. I would just note for the
6 record that Colorado's proposal has gone above and
7 beyond the strict requirements of the FSS. And we
8 recognize that some of this is in regard to Colorado
9 state law and other negotiation -- negotiations that
10 have taken place. Nebraska supported the original
11 plan, and the modifications to that plan are also
12 acceptable to Nebraska, and that it is unfortunate
13 that an issue like this would remain unresolved for
14 so many years after it's been presented to the RRCA.
15 And that's all I have.

16 CHAIRMAN BARFIELD: Okay. Well, thank you,
17 Commissioner Dunnigan. I guess Commissioner Wolfe
18 wanted to make a statement after the vote, and I
19 guess I would -- why don't we go ahead and take the
20 vote. And then I would also like to make a
21 statement after the vote as well. So why don't I
22 call the question. Colorado?

23 CHAIRMAN WOLFE: Yes.

24 CHAIRMAN BARFIELD: Nebraska?

25 CHAIRMAN DUNNIGAN: Yes.

1 CHAIRMAN BARFIELD: Okay. And Kansas will
2 vote no. And Dick, if you will permit me to maybe
3 make my statement first, then I'll allow you to make
4 your statement and move us further through this
5 issue. You know, these issues are very important
6 and, you know, we worked quite hard, and I believe
7 in good faith, to work -- work through them with
8 Colorado.

9 You know, Kansas is unable to vote yes today
10 because we're still reviewing several aspects of the
11 most recent version of the proposal; you know, most
12 significantly the modeling results. And as I've
13 spoken to Commissioner Wolfe about Kansas' desire to
14 continue to work toward resolution of the
15 outstanding issues that we do have, that Colorado's
16 revisions in response to our concerns and the
17 arbitrator's decision certainly narrow the issues
18 considerably.

19 But there still are some issues that are
20 outstanding that we would like to continue to
21 dialogue and work as expeditiously as possible to
22 finish our review and seek to work through those
23 issues. So we have an arbitration process ahead of
24 us, should Colorado elect to do that. And my
25 understanding is they will. We -- as I talked to

1 Commissioner Wolfe about -- would like to, over the
2 coming weeks, to sort of work through the issues
3 that remain and see if we can, either through
4 additional review of what's been proposed, get
5 comfortable with those aspects of the modeling and
6 such or find some resolution that can be mutually
7 agreed to.

8 Again, I think there's -- as I told him, of
9 the sort of eight issues that he outlined in his --
10 in the proposal, you know, there's five or six that
11 I think are fairly simple and it's -- need a little
12 time to work through it. So we're -- so that's
13 where Kansas is at.

14 CHAIRMAN WOLFE: Thank you, Chairman
15 Barfield. This is Commissioner Wolfe. And first I
16 want to thank Nebraska for their favorable
17 consideration of our proposal. Secondly, in
18 response to Chairman Barfield's statements, I would
19 like to maybe just get some additional
20 clarification. We do appreciate Kansas' statement
21 that they're continuing to be willing to work
22 towards a resolution on this.

23 But as all three states know, Colorado has
24 been at this for over five years now and did take
25 action on this proposal back in 2009. And we've

1 worked in earnest to -- in many dozens of meetings,
2 I know, with Chairman Barfield and members of his
3 staff and our staff, working over the last three
4 years, and certainly in earnest since the arbiter's
5 decision on this proposal in 2010.

6 And so we -- as we've articulated in our
7 application, in particular Exhibit 1 -- and Chairman
8 Barfield had referenced the eight areas under
9 Section 5 of that application that we enumerated in
10 detail, specifically addressing the issues and
11 concerns that were raised by Kansas that were
12 addressed by the -- Arbiter Paygel (phonetic). And
13 so we felt that through those discussions over the
14 last particularly two years, almost three in that
15 process, that we felt that we addressed the concerns
16 of Kansas and felt that we made a good faith effort
17 to present those. And it certainly has continued to
18 seek input from Kansas on that.

19 So in light of that, Chairman Barfield, if it
20 would be possible, if you could enumerate for us
21 what your remaining issues are. And if it's
22 specific -- on these specific points and whether
23 it's -- because the analysis that you've conducted
24 that's caused you to have this concern to vote no or
25 if it's, as you stated earlier, due to time

1 constraints; you've just been unable to fully
2 evaluate Colorado's proposal.

3 CHAIRMAN BARFIELD: Okay. Just give me a
4 moment to gather my notes here to respond.

5 (Pause.)

6 CHAIRMAN BARFIELD: Okay. Well, let me give
7 you the -- the principal response there. The first
8 is the modeling aspect of this. I certainly
9 recognize that you -- you know, we suggested that
10 the augmentation flows need to be incorporated into
11 the model. And your proposal does that. The
12 specifics of how it does that is not something we
13 had seen prior to receiving them and do require, I
14 believe, some additional time for us to complete our
15 review and determine, you know, if that's the
16 correct -- or if that's an approach that we can
17 agree to, or if there's some alternative to it.

18 The second aspect is the South Fork and
19 whether the limitations imposed in the resolution
20 and what you've offered here provide sufficient
21 protection for our -- the South Fork issues. And
22 related to that is the operational limitations.
23 Again, we would like to understand more fully what
24 the resolution does in terms of the operational
25 concerns we had and whether incorporating some of

1 the elements that we've had during our discussions
2 might make it more complete.

3 And I think finally, the periodic review
4 aspect. Again, appreciate that you've addressed
5 that. In our discussions we had provided a listing
6 of the elements that we thought should be a part of
7 that periodic review. And we would like to see if
8 we can come to agreement on what -- more
9 specifically incorporate in the document what should
10 be in that review.

11 CHAIRMAN WOLFE: Thank you, Chairman
12 Barfield. I appreciate your comments on that. And
13 part of my, I guess, questioning or asking for that
14 input was, I guess, leading to the next thing.
15 Given that Kansas has voted no on that, and the time
16 frames and constraints we're under as outlined in
17 our Exhibit B for the arbitration process, does
18 Kansas have any commitments that it's going to make
19 in terms of when it's going to complete the review
20 that you've described there and respond to Colorado
21 with those concerns? And I guess I would just like
22 to explore that a little bit and understand how we
23 can stay on track in accordance with the timelines
24 as outlined in Exhibit B.

25 CHAIRMAN BARFIELD: Well, thank you. And

1 yes, again, I would -- as we discussed before the
2 call here, shortly before the call -- anticipate
3 that we would perhaps work through any issues we
4 have related to Issues 3 through 8 maybe in the next
5 week or so. I think there's a -- several of those
6 we can check off as already resolved, and others I
7 think that are fairly easy to resolve; and then work
8 through Issues 1 and 2 related to operational issues
9 and the South Fork issues maybe the week or so after
10 that; and then finally work through the modeling
11 issues hopefully in the second half of May.

12 CHAIRMAN WOLFE: Colorado appreciates, I
13 guess, the commitment to work through those in the
14 time frame that you've just discussed. I guess --
15 although I don't think it needs action, but I guess
16 I would ask that hopefully by tomorrow, somehow
17 through our respective attorneys, that we can commit
18 to, you know, memorializing whether -- in whatever
19 fashion we need to get this -- those issues, as you
20 described 3 through 8, discussed and hopefully
21 resolved in a conditional form, if you will, next
22 week and try to set some constraints on the
23 additional work that you said that Kansas needs to
24 complete for the modeling and the operational
25 constraints.

1 And I'm just, I guess, suggesting that and
2 seeing if there's any agreement to that approach.
3 And certainly if any of the attorneys want to weigh
4 in on that as part of the record here today, I
5 certainly would turn to them as well for their
6 comments or feedback.

7 CHAIRMAN BARFIELD: This is Commissioner
8 Barfield. Dick -- Commissioner Wolfe, we'll work to
9 make that happen; have our attorneys talk and figure
10 out what would be appropriate in terms of
11 memorializing this commitment.

12 CHAIRMAN WOLFE: And I guess along those
13 lines, we've got to certainly ensure that Nebraska
14 -- although they voted in support of our proposal, I
15 think it would be important as well that they are
16 kept in the loop to the degree they feel they need
17 to be while we have these discussions in the
18 upcoming weeks.

19 CHAIRMAN BARFIELD: Okay. Is that it for the
20 CCP issues?

21 (Pause.)

22 CHAIRMAN BARFIELD: We look forward to
23 continuing to work with you to work through this
24 issue.

25 CHAIRMAN WOLFE: Thank you. We appreciate

1 that.

2 CHAIRMAN BARFIELD: Okay. Well, with that,
3 I'll move us to the next agenda item, discussion of
4 potential action regarding the Colorado's Bonny
5 Reservoir accounting proposal. And again,
6 Commissioner Wolfe, I'll turn it over to you.

7 CHAIRMAN WOLFE: Thank you, Chairman
8 Barfield. Similarly to our CCP proposal, Colorado
9 also submitted on April 5th, 2013, a second proposal
10 that's referred to as the Bonny Proposal. It
11 similarly has a cover letter that was dated
12 April 5th, 2013, and also referenced two exhibits.
13 One was Exhibit A, which is referred to as Bonny
14 Exhibit A, which is the resolution for this
15 proposal. And then it also within that resolution
16 references an Exhibit 1, which is attached. And
17 then lastly there's an Exhibit B, which is similar
18 to the Exhibit B in the CCP proposal, with the
19 identical time frames associated with the
20 arbitration process.

21 Since these were submitted simultaneously,
22 those time frames identified in Exhibit B are the
23 same as in the CCP proposal. And again I'd like,
24 for the record, to have this resolution and the
25 attachments to it incorporated as part of the record

1 for the reporter. And Colorado does not intend to
2 read verbatim the resolution, but I will represent
3 for the record that this resolution is a three-page
4 resolution that's -- it's referenced as Exhibit A.

5 And again, this had a date on it on Page 1 of
6 May 5th, 2013. And I will also, in the point of
7 introduction for a vote, I would ask that the
8 resolution be amended to remove that date on Page 1
9 and left the date, once ultimate action is taken to
10 approve that, be reflected on Page 3 or whatever
11 subsequent page that may be in the future. But it
12 also has a place for a date and signatures by each
13 of the three states.

14 I'd like to just -- just step through this
15 again. This particular proposal, this is obviously
16 a very important part of Colorado's overall efforts
17 for Compact compliance, particularly in regards to
18 its efforts to achieve not only state-wide
19 compliance, but also to ensure that it meets its
20 obligations under the sub-basin nonimpairment test.
21 And Colorado has taken extensive actions in the
22 basin, not only in regards to the CCP proposal, but
23 in addition to other efforts on acquisition of water
24 rights, both surface and groundwater, as well as
25 land retirement in the basin, throughout the basin.

1 And I think the record will reflect that
2 Colorado's exhibits demonstrate a continued decline
3 in its degree of noncompliance over the last several
4 years due to those efforts. But we recognize the --
5 to reach and achieve ultimate compliance, would
6 necessitate the operation of the Compact Compliance
7 Pipeline, as well as its actions that it has
8 undertaken in the South Fork Basin within Colorado,
9 principally regarding the draining of Bonny
10 Reservoir, which is a federal facility, and the --
11 this action was not taken lightly by Colorado.

12 We understand it had great impacts to not
13 only water users and recreationalists in Colorado,
14 but the other states surrounding Colorado as well
15 who visited this site. But we recognize this was an
16 action that Colorado needed to take, and that order
17 was given by me to drain Bonny Reservoir to the
18 Bureau back in September of 2011. In the early part
19 of 2012 Bonny Reservoir was drained and has remained
20 in a drained condition with no storage since that
21 point in time.

22 So this proposal that we have submitted
23 reflects that background, as well as the operational
24 characteristics that would be employed for Bonny
25 Reservoir into the future in terms of its accounting

1 and operation, as well as the actions and changes
2 that would need to be conducted as part of the
3 groundwater model to reflect these future
4 operational conditions of Bonny Reservoir. And just
5 briefly we've characterized in Exhibit 1 a write-up
6 that describes these kind of three general
7 operational conditions that Bonny Reservoir would
8 result in in the future.

9 Obviously, currently in a dry condition we
10 refer to that as dry Bonny. And there's a
11 description in that exhibit of how that would be
12 reflected in the groundwater model. And then
13 there's -- the next stage would be a -- anything
14 above the dry condition up to a certain reservoir
15 level that would -- what we characterize as small
16 Bonny.

17 And the write-up then also describes how that
18 would be modified, changes in the model to reflect
19 the small Bonny condition. And then the last kind
20 of operational condition would be a full Bonny
21 Reservoir, which is that stage in the reservoir
22 that's above what we refer to as small Bonny. And
23 likewise, the exhibit reflects those changes as well
24 in the groundwater model and the associated
25 accounting that goes along with that.

1 And I guess just as part of that, as well as
2 Chairman Barfield had indicated, based on our
3 meeting from April 22nd the states had requested the
4 model runs from that. And those were provided to
5 the states in -- I guess, before I step on to the
6 next part I just wanted to confirm, it is our belief
7 that you had received them and whether you had an
8 opportunity to look at those runs that were provided
9 by Mr. Schreüder.

10 CHAIRMAN BARFIELD: This is Commissioner
11 Barfield. We did receive those, I believe, last
12 week. I have not personally examined them, and I'm
13 not sure that our modelers have been able to in this
14 time frame.

15 CHAIRMAN WOLFE: Okay. I guess at this time
16 I would invite any comments or questions in regards
17 to this proposal. And I would ask each state if
18 they would have any at this time.

19 CHAIRMAN BARFIELD: Commissioner Wolfe, yeah.
20 This is Commissioner Barfield. Let me go ahead and
21 make my comments here. We appreciate you bringing
22 this proposal. Obviously this is something that we
23 have been discussing in our -- as part of the whole
24 CCP issue, although it is distinct from it, but part
25 of your overall compliance plan as well. Some of

1 the -- you know, some of the elements of this
2 proposal we've seen, and some of the elements of it
3 are new as well. And so we have not had the
4 opportunity to fully work through sort of our review
5 of that model to determine its impacts fully.

6 We have started that assessment based on some
7 work we've done. And the implications of this model
8 change are quite significant, just as the
9 implications of draining Bonny were quite
10 significant. It results in some significant
11 reductions in groundwater -- in estimates of
12 groundwater beneficial consumptive use; I mean, on
13 the order of at least, looking into the future, of
14 6, 7, 8,000 acre-feet for Colorado, and I think some
15 for Kansas as well.

16 It has some significant implications to
17 Kansas, northwest Kansas compliance test during
18 water-short years, because Colorado -- the South
19 Fork is a part of that. So we -- we're working on
20 it. We just have not had a chance to complete an
21 understanding of the modeling and its implications
22 and appropriateness.

23 CHAIRMAN WOLFE: Thank you, Chairman
24 Barfield. Oh, go ahead, Commissioner Dunnigan.

25 CHAIRMAN DUNNIGAN: This is Commissioner

1 Dunnigan and I would add a few comments. I would
2 note for the record that this appears to be a
3 straight-forward technical issue that needs to be
4 addressed by the RRCA. And this solution reflects
5 real-world conditions and has been before the RRCA
6 for several years.

7 CHAIRMAN BARFIELD: This is Commissioner
8 Barfield. Just one more thing to add to my
9 statement. When we spoke a few minutes ago on the
10 CCP items, and I spoke about modeling issues in
11 terms of the time frames under which we would seek
12 to work through those, I was including this issue as
13 well. So we're committed to working through these
14 issues in the short-term future.

15 CHAIRMAN WOLFE: Thank you, Chairman
16 Barfield. And also thank you, Commissioner
17 Dunnigan, for your comments. Just for
18 clarification, Chairman Barfield, you had stated in
19 your comments that -- the concerns of the
20 implications that this proposal would have on
21 Kansas. And I guess I would like further
22 definition of that statement. When you refer to
23 implications, is this conjecture that this has some
24 potential impact on Kansas, or have you looked at
25 the actual analysis and determined that there's

1 actually a impact and whether those -- that this
2 proposal is any way inconsistent with the Compact or
3 the FSS?

4 CHAIRMAN BARFIELD: Well, we're still working
5 through, again, what are the implications. Again,
6 it means changes in consumptive use estimates in
7 Colorado and Kansas and, I believe, in Nebraska.
8 that has implications to the computed water supply
9 and allocations, both on the South Fork, and
10 therefore the South Fork compliance test of the
11 various states. So what does it mean to those? And
12 then in our northwest Kansas test, unused South Fork
13 allocations are part of that test. And if they're
14 dramatically reduced, what does that mean?

15 CHAIRMAN WOLFE: So if I understand
16 correctly, you've not actually determined what those
17 impacts are. You're just stating that you need to
18 evaluate this proposal to determine how it may
19 affect those parameters that you just described.

20 CHAIRMAN BARFIELD: Yeah. We're working
21 through that analysis of what they've been
22 historically and what they might be in the future.

23 CHAIRMAN WOLFE: Okay. Thank you, Chairman.
24 Are there any other comments or questions for
25 Colorado before we take a vote?

1 (Pause.)

2 CHAIRMAN WOLFE: Hearing none, I -- Colorado
3 would move adoption by the RRCA of its resolution
4 for the Bonny Proposal as submitted in our April
5 5th, 2013 -- and again the -- it's referenced as
6 Exhibit A to our April 5th letter. It's a
7 three-page proposal. And I would like that to be
8 incorporated in as part of the record for the
9 reporter today.

10 CHAIRMAN DUNNIGAN: This is Commissioner
11 Dunnigan. I'll second the motion.

12 CHAIRMAN BARFIELD: Very good. It's been
13 moved and seconded. Let's take a vote.
14 Commissioner Wolfe?

15 CHAIRMAN WOLFE: Yes.

16 CHAIRMAN BARFIELD: Commissioner Dunnigan?

17 CHAIRMAN DUNNIGAN: Yes.

18 CHAIRMAN BARFIELD: And Kansas votes no.
19 Okay. Well, thank you for that. And again, we'll
20 work through those issues as we've stated. The next
21 item is discussion of the status of an update to the
22 regulations of the RRCA. And pursuant to the
23 earlier discussion I would note that during the
24 December 11th special meeting of the RRCA we did,
25 in, fact approve those changes that updated, I

1 believe, the dates of the accounting procedure and
2 the model and change the date by which we should
3 have the annual meeting to September 1. There is
4 provision to extend it, but that's sort of the
5 default expectation of the rule. So I will make
6 sure we move those around for signature pursuant to
7 that previous action. Any other discussion on this
8 point?

9 CHAIRMAN WOLFE: None from Colorado.

10 CHAIRMAN DUNNIGAN: None from Nebraska.

11 CHAIRMAN BARFIELD: Okay. Very good. We'll
12 move on to Item 6, discussion potential action
13 regarding the RRCA annual reports for 2007 to 2011.
14 My understanding is that last week -- well, let me
15 back up. We've had drafts of those five annual
16 reports, which in some cases include summaries of
17 special meetings as well, out on our website for
18 review for some time. It was suggested that we put
19 those on a CD and send it to the states to have to
20 sort of memorialize precisely what we were seeking
21 to approve. We accomplished that last week.

22 My understanding is that the states have --
23 have some review of that, and there are some
24 corrections that need to be made. And perhaps after
25 that we can actually consider approving these. So I

1 guess I'd invite the floor to whoever has comments
2 on those needed changes.

3 CHAIRMAN WOLFE: This is Commissioner Wolfe.
4 Did we want one of the engineer advisors to
5 articulate those now, or did I understand maybe
6 these could be documented and make the actual
7 amendments and then take this action -- or
8 consideration for action at a further date after
9 we've looked at all of the amendments that might be
10 the most appropriate to make sure we've caught
11 everything?

12 I think from what Ivan Franco has indicated
13 to me that we are acceptable with the amendments
14 being proposed. But maybe just in -- for efficiency
15 sake and completeness, maybe we ought to just direct
16 the engineer advisors to document those actual
17 amendments and circulate those for concurrence by
18 all three states and defer action on this agenda
19 item until a subsequent meeting.

20 CHAIRMAN BARFIELD: Okay. How extensive are
21 the changes that are suggested? Chelsea, can you
22 answer that, or who is the appropriate person?

23 MS. ERICKSON: This is Chelsea Erickson in
24 Stockton. I can probably answer that. I would say
25 the changes are minor. A couple of them have

1 already been made. But considering the time frame,
2 perhaps it would be better to have a little more
3 time for people to complete their review, if they
4 have not. Otherwise, I do have -- I can do the
5 memorializing that list, if that's what people want
6 to do.

7 CHAIRMAN BARFIELD: David Barfield here. I
8 guess if there's sort of a list, perhaps it is best
9 to -- to circulate that list and make sure
10 everybody's agreeable and to act on this next time.
11 Is that the consensus of the group? Anybody opposed
12 to that procedure?

13 CHAIRMAN WOLFE: Colorado is acceptable to
14 that proposal.

15 CHAIRMAN DUNNIGAN: That's also acceptable to
16 Nebraska.

17 CHAIRMAN BARFIELD: Very good. I don't think
18 that needs any sort of resolution or vote, so we'll
19 plan on that then. So again if -- if the states can
20 provide Chelsea, I guess, with any final
21 corrections, we'll hopefully be able to approve
22 those five annual reports at our next meeting.
23 Okay. Well, that completes our agenda. I would
24 take a motion for adjournment.

25 CHAIRMAN WOLFE: So moved.

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CHAIRMAN DUNNIGAN: Second.

CHAIRMAN BARFIELD: All right. I'll take
that as were adjourned. Thank you very much.

CHAIRMAN WOLFE: Thank you all.

* * * CONCLUSION OF MEETING AT 4:05 P.M. * * *

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

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