

Non-Binding Arbitrations before

Jeffrey C. Fereday, Arbitrator

Initiated Pursuant to Final Settlement

Stipulation

KANSAS v. NEBRASKA & COLORADO

No. 126, Orig, U.S. Supreme Court

Decree of May 29, 2003, 538 U.S. 720

N-CORPE Augmentation Plan

(Arbitration Initiated July 10, 2013)

DEPOSITION OF: DR. JAMES SCHNEIDER

DATE: January 14, 2014

TIME: 11:06 a.m.

PLACE: 1221 N Street, Suite 600, Lincoln,

Nebraska

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1 APPEARANCES:
2 APPEARING FOR KANSAS:
3 Mr. Christopher M. Grunewald
4 Assistant Attorney General
5 120 SW 10th Ave., 2nd Floor
6 Topeka, KS 66612
7 chris.grunewald@ksag.org
8
9 APPEARING FOR NEBRASKA:
10 Mr. Thomas R. Wilmoth
11 Attorney at Law
12 206 South 13th Street
13 Suite 1425
14 Lincoln, NE 68508
15 - and -
16 Mr. Justin D. Lavene
17 Assistant Attorney General
18 2115 State Capitol
19 Lincoln, NE 68509
20 justin.lavene@nebraska.gov
21 APPEARING FOR COLORADO (Telephonically):
22 Mr. Daniel E. Steuer
23 Mr. Scott Steinbrecher
24 Assistant Attorneys General
25 Colorado Department of Law
Ralph Carr Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203
daniel.steuer@state.co.us
scott.steinbrecher@state.co.us
ALSO PRESENT:
Jasper Fanning, Thomas Riley, Marc
Groff, Blake Johnson, Brian Dunnigan
ALSO PRESENT TELEPHONICALLY:
Willem Schreuder

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1 I-N-D-E-X
2 WITNESS Direct Cross Redirect Recross
3 DR. SCHNEIDER 4 -- -- --
4
5 EXHIBITS Marked Offered
6 1. Deposition Notice 63 --
7 2. N-CORPE Proposal 63 --
8 3. N-CORPE Information Sheets 63 --
9 5. Arbitrator's Order 11-25-13 89 --
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1 P-R-O-C-E-E-D-I-N-G-S
2 DR. JAMES SCHNEIDER,
3 Of lawful age, being first duly cautioned and
4 solemnly sworn as hereinafter certified, was
5 examined and testified as follows:
6 DIRECT EXAMINATION
7 BY MR. GRUNEWALD:
8 Q. Good morning, Dr. Schneider.
9 A. Good morning.
10 MR. GRUNEWALD: I have a few
11 documents premarked ahead of time. So I
12 thought I would hand a few of those around.
13 We can use -- the one for the deponent
14 can be the one that goes in the record, if
15 that's okay with the reporter. I'm getting
16 yes.
17 So Exhibit No. 1 here is -- I have an
18 extra copy if you want to hand that down -- is
19 the deposition notice.
20 You know, I'm just now realizing for our
21 folks on the phone, Colorado, you know, I
22 apologize, I could have had these forwarded
23 electronically. And that escaped me. I'll be
24 sure and get them to you.
25 If while we're doing this you have a

5

1 question about what document we're dealing
2 with, we can go off the record and talk about
3 how to deal with that.
4 MR. WILMOTH: Did you catch
5 that? No. 1 is the depo notice.
6 MR. STEUER: Yes.
7 Q. (BY MR. GRUNEWALD) And as Deposition
8 Exhibit No. 2, we have a copy of the State of
9 Nebraska's cover letter and attachments for the
10 proposal we're dealing with here. I'm going to
11 read it out.
12 We'll refer to it as an acronym. It's
13 Nebraska Cooperative Republican Platte
14 Enhancement Augmentation Plan. And so we'll
15 refer to that as -- in short as N-CORPE.
16 And Exhibit No. 3 -- and we'll go back
17 over each of these specifically. And you'll --
18 Dr. Schneider, you'll have a chance to take a
19 look at them and verify them as needed.
20 No. 3 is a -- what we found to be a fax
21 sheet regarding the N-CORPE project. It has a
22 date of January 2013.
23 MR. WILMOTH: Could you tell us
24 where you got this, Chris, or --
25 MR. GRUNEWALD: You know, I --

<p style="text-align: right;">6</p> <p>1 I'm afraid I don't have on the -- it embedded 2 on the printout. It was -- I believe it was 3 pulled off of a website dedicated to N-CORPE. 4 I believe it will be familiar. But we can go 5 over that more specifically in a moment. 6 Q. (BY MR. GRUNEWALD) All right. So have 7 you seen your deposition notice before, 8 Dr. Schneider? 9 A. Yes. 10 Q. And in that notice -- we're taking this 11 deposition to ask questions and find out 12 information regarding the State of Nebraska's 13 N-CORPE proposal which is embodied in Exhibit 14 2. For the purposes of our arbitration 15 agreement, we're treating that as an initial 16 expert report or disclosure. And you've been 17 designated as the author of that. 18 In our deposition notice, it refers to 19 any backup materials, electronic or hard 20 copies, that haven't been previously turned 21 over. So I understand some have been placed on 22 the website. And I wanted to follow up this 23 morning and verify if there are any other 24 materials to supplement those that have not yet 25 been provided to the states?</p>	<p style="text-align: right;">8</p> <p>1 the -- Nebraska's N-CORPE Augmentation Plan. 2 Could you please take a look at the copy we 3 provided to you and see if it looks like a copy 4 of that proposal? 5 A. Without going through it page by page, 6 it does appear to be the complete proposal. 7 Q. And what are the major components of the 8 proposal? Because it seems like it has a 9 narrative text and a couple of pieces appended 10 to the back of it. How would you break down 11 what the proposal includes? 12 A. Well, there is the narrative text that 13 describes the project and the proposal. 14 I guess there's -- there's kind of two 15 layers within this whole document because this 16 is a transmittal letter that has several 17 exhibits. So that's kind of outlined on the 18 front page in that letter. 19 So the Exhibit A is the proposal and the 20 appendices to the proposal. 21 And Exhibit B is the timeframe 22 designation that we had set out for potential 23 fast track arbitration. 24 So within that Exhibit A, there's the 25 proposal itself, which then has -- as a -- as</p>
<p style="text-align: right;">7</p> <p>1 A. There's nothing that I'm aware of that 2 hasn't been provided. 3 Q. Okay. I should probably do a couple of 4 the introductory items. You've been deposed 5 before; right? 6 A. Yes. 7 Q. Okay. So you're pretty familiar with 8 it. If you want to take a break, just let us 9 know. 10 A. Okay. 11 Q. We want your answers to be as complete 12 as possible. So I will try not to interrupt 13 you. 14 And if you think of something later to 15 fill in an answer, let's be sure to go back and 16 please let me know. And we can make sure you 17 fill in your answer. Does that sound okay? 18 A. Yes. 19 Q. Is there any reason this morning, such 20 as medication or any other reason, why you 21 think your answers won't be complete and 22 truthful this morning? 23 A. No. 24 Q. Thank you. Okay. 25 So moving to Exhibit No. 2, and that's</p>	<p style="text-align: right;">9</p> <p>1 Appendix A, the proposed red line to the RRCA 2 accounting procedures and reporting 3 requirements that would implement any changes 4 to the -- to those accounting procedures that 5 would be necessary as part of the proposal. 6 And then Appendix B to -- to the plan is 7 the backup information, which is essentially 8 a -- location of an FTP site with log-in and 9 password to obtain the model runs that are -- 10 and other information. And that's where we 11 augmented earlier this week or last week with 12 some of the other backup materials, such as the 13 spreadsheets that contain the data that are in 14 the tables and the GIS files for the maps. 15 Q. Great. Thank you. Are you the sole 16 author of this proposal? 17 A. Well, I think similar to the Rock Creek 18 proposal, you know, I had quite a bit of 19 assistance from others at DNR with consultants 20 and other -- others that reviewed it. So, you 21 know, I'm the primary author. But there was 22 a -- quite a bit of collaboration in developing 23 it. 24 Q. Did anyone else draft the text that's in 25 the narrative portion of the proposal?</p>

<p style="text-align: right;">10</p> <p>1 A. Certainly Jesse Bradley from the 2 department would have drafted some of it in 3 working together with me to put this together. 4 And that was similar to the Rock Creek 5 proposal. You know, we had consultants doing 6 model runs, helping to pull the data together 7 and creating the tables. So there may have 8 been some texts associated with those as well. 9 Q. Was Mr. Bradley responsible for any 10 particular section in this narrative portion of 11 the proposal? 12 A. No. I wouldn't say that he would be the 13 sole author of any specific section. 14 Q. You reviewed -- so you reviewed and took 15 primary control for all of the texts? The 16 opinions, the facts and calculations, 17 everything in the narrative text would go 18 directly to you as the primary author? 19 A. I'd be responsible for all of that, yes. 20 Q. Thank you. Now, you said a number of 21 other people had assisted you. Can you tell me 22 who it is you're referring to? Sounded like 23 there were both people in the Nebraska 24 Department of Natural Resources as well as 25 consultants.</p>	<p style="text-align: right;">12</p> <p>1 relates to getting approval from the Republican 2 River Compact Administration; is that a fair 3 characterization? 4 A. Well, I guess I think I would say that 5 it outlines our understanding of the 6 requirements for an augmentation plan under the 7 final settlement stipulation and shows how this 8 project operating under the accounting that 9 we've laid out would meet those requirements. 10 Q. We'll be using probably a lot of 11 acronyms, but Republican River Compact 12 Administration is also going to be the RRCA. 13 The FSS is the Final Settlement Stipulation. 14 So based on your last answer in terms of 15 what the proposal is directed at doing, do you 16 have any other opinions about how it satisfies 17 the FSS, if I can paraphrase, that are not 18 expressed in this proposal? 19 A. Well, the only reason I'm pausing, I'm 20 thinking through the Rock Creek arbitration 21 that we did and the decisions that we received. 22 So, you know, there was some development, I 23 suppose, of kind of the -- with the concessions 24 that we made for the Rock Creek plan and the 25 way that that developed through that</p>
<p style="text-align: right;">11</p> <p>1 A. Yeah, I mean, I know Brian Dunnigan 2 would have reviewed it. And we've had 3 discussions there. And I can't recall if we 4 had other help within the department. 5 The consultants with the Flatwater 6 Group, Tom Riley, Marc Groff, possibly others 7 would have been involved in reviewing various 8 elements of it, as well as legal counsel. 9 Q. Okay. And the -- there -- in the 10 report, you refer to some tables. There are 11 some spreadsheets. There are some calculations 12 that were performed, as well as I believe you 13 referred to model runs. And who is it that 14 performed those calculations and model runs? 15 A. The model runs were completed by Chuck 16 Spalding with McDonald Morrissey. 17 There was some assistance from 18 consultants at the Flatwater Group in helping 19 to, for lack of a better word, direct those 20 model runs, you know, communicate exactly what 21 we wanted done and putting the final results 22 together in some of the tables that are in 23 there. 24 Q. Okay. And this proposal contains your 25 opinions about the N-CORPE proposal as it</p>	<p style="text-align: right;">13</p> <p>1 arbitration and with the arbitrator's order 2 approving that plan given some of those 3 concessions. 4 So I think those things, you know, have 5 developed since this was submitted and would 6 probably also fall into the area that you were 7 asking about. 8 Q. Okay. The -- let's talk about the 9 timeframe for this proposal. So this proposal 10 was complete as of the date on the cover 11 letter; is that right? 12 A. Yes. 13 Q. So June 2013? 14 A. Yes. 15 Q. The Rock Creek you're referring to, we 16 recently had an arbitration regarding 17 Nebraska's Rock Creek Augmentation Proposal; is 18 that right? 19 A. Yes. 20 Q. Okay. And that completed with an 21 arbitrator's order coming down in late 22 December; right? 23 A. Yes. 24 Q. Okay. And that's the order you're 25 referring to?</p>

<p style="text-align: right;">14</p> <p>1 A. Yes.</p> <p>2 Q. So if we can go back to what you</p> <p>3 referred to there, you mentioned some</p> <p>4 concessions. Could you list for me what you</p> <p>5 consider to be Nebraska's concessions in that</p> <p>6 Rock Creek arbitration that would relate to</p> <p>7 this N-CORPE proposal?</p> <p>8 A. Well, the concessions were essentially</p> <p>9 that we would agree to have a review of the</p> <p>10 plan, to look at the plan and make sure -- and</p> <p>11 talk about whether or not changing conditions</p> <p>12 might warrant some changes to the plan after 20</p> <p>13 years of project operation.</p> <p>14 And the other was related to the new net</p> <p>15 depletions and not counting the augmentation</p> <p>16 water that was -- that's being pumped to cover</p> <p>17 those new net depletions as an augmentation</p> <p>18 credit.</p> <p>19 Q. I'd like to take each one of those just</p> <p>20 for some follow-up.</p> <p>21 So on -- you mentioned a review of the</p> <p>22 plan, and I believe you said talking about</p> <p>23 changing condition or talking about review.</p> <p>24 Who would be doing the review, talking with</p> <p>25 whom about the review? Could you explain what</p>	<p style="text-align: right;">16</p> <p>1 well, let's just -- if those discussions never</p> <p>2 do happen, let's make sure we have some</p> <p>3 discussion in that 20-year timeframe. So I</p> <p>4 think that was -- that was the intent.</p> <p>5 Q. Is the process you're describing in the</p> <p>6 current N-CORPE proposal from Nebraska?</p> <p>7 A. To commit to a discussion 20 years down</p> <p>8 the road?</p> <p>9 Q. Yes.</p> <p>10 A. I don't believe so, no.</p> <p>11 Q. Is it Nebraska's intention to include</p> <p>12 that in the N-CORPE proposal?</p> <p>13 A. I believe that we would be intending to</p> <p>14 make similar concessions as -- you know, in the</p> <p>15 same manner that we did through the last</p> <p>16 arbitration. Those were included in my</p> <p>17 responsive expert report.</p> <p>18 Q. Do you know when a decision's going to</p> <p>19 be made on that?</p> <p>20 A. No.</p> <p>21 Q. Do you know if a decision has been made</p> <p>22 already on that?</p> <p>23 A. It will be made when we're writing that</p> <p>24 report, I guess.</p> <p>25 So -- I mean, I -- if I were -- if I</p>
<p style="text-align: right;">15</p> <p>1 you meant by that?</p> <p>2 A. Oh, that would be in the RRCA.</p> <p>3 Q. So is it that an augmentation plan like</p> <p>4 Rock Creek and like the N-CORPE plan would have</p> <p>5 review by the RRCA for -- if there were changed</p> <p>6 conditions and, also, at the end of 20 years;</p> <p>7 is that about right?</p> <p>8 A. Well, the augmentation plan, it</p> <p>9 basically incorporates the operations and the</p> <p>10 results of it, you know, in terms of to</p> <p>11 increase stream flow into the accounting</p> <p>12 procedures.</p> <p>13 So, you know, the accounting is</p> <p>14 something that the RRCA does every year. So,</p> <p>15 you know, from my perspective, anything related</p> <p>16 to the accounting that we're doing on an</p> <p>17 annual, ongoing basis could always be discussed</p> <p>18 in the RRCA in terms of whether or not the</p> <p>19 assumptions underlying the accounting need to</p> <p>20 be reviewed or other formulas or things like</p> <p>21 that.</p> <p>22 So that's -- that's something that,</p> <p>23 yeah, would be -- would be there on an ongoing</p> <p>24 basis.</p> <p>25 And then we also just said, you know,</p>	<p style="text-align: right;">17</p> <p>1 were to tell you what I think we're going to do</p> <p>2 right now, I think that that's what we're going</p> <p>3 to do.</p> <p>4 Q. The other concession you mentioned was</p> <p>5 related to a concept termed new net depletions.</p> <p>6 Could you explain what that means that's</p> <p>7 somehow different from what's currently in the</p> <p>8 N-CORPE proposal?</p> <p>9 A. Sure. It would probably help to look at</p> <p>10 one of the tables. I would point to Table 3 on</p> <p>11 page 12 of 104 of the plan.</p> <p>12 So the way -- the way this is laid out</p> <p>13 is the augmentation water supply credit is the</p> <p>14 amount of water that was pumped into the</p> <p>15 stream, the 60,000 acre-feet that's shown there</p> <p>16 in the years that it was operated.</p> <p>17 And then when you look at the new</p> <p>18 depletion, you know, the way this was presented</p> <p>19 is it compared the new depletion to the</p> <p>20 augmentation water supply credit and made sure</p> <p>21 there was no new net depletion or, in other</p> <p>22 words, an accretion benefit.</p> <p>23 This plan is a little different in that</p> <p>24 there are other exceptions to the moratorium</p> <p>25 that apply. But I -- we can get into that if</p>

<p style="text-align: right;">18</p> <p>1 you want to.</p> <p>2 But setting that aside, essentially it</p> <p>3 would look at the new depletion. And when you</p> <p>4 look at this table, the new depletions are, in</p> <p>5 fact, accretions for the early years. But when</p> <p>6 they do become positive depletions, a certain</p> <p>7 amount of the pumping is going to cover that</p> <p>8 new depletion.</p> <p>9 So while -- if we look at 2002, for</p> <p>10 example, in this table, there was 356 acre-feet</p> <p>11 of new depletion and 60,000 acre-feet of</p> <p>12 pumping. And we designate that as the credit</p> <p>13 in this table. And then it shows the net of</p> <p>14 that as an accretion benefit of 59,644.</p> <p>15 As we discussed in the arbitration and</p> <p>16 as the arbitrator ruled, this would probably be</p> <p>17 more proper to make that accretion benefit be</p> <p>18 the credit, just kind of the netting out of</p> <p>19 what was actually a benefit to the stream.</p> <p>20 I think the way he laid it out is that</p> <p>21 second column should be called the augmentation</p> <p>22 water supply and the third column should be</p> <p>23 called the augmentation water supply credit.</p> <p>24 Q. Thank you. And just if we could stick</p> <p>25 with that table --</p>	<p style="text-align: right;">20</p> <p>1 Does that mean there would be a negative credit</p> <p>2 entered for the year 2001?</p> <p>3 A. Well, I think that's something that we</p> <p>4 didn't -- I didn't fully think through in</p> <p>5 presenting those concessions and in discussing</p> <p>6 and presenting that with the arbitrator. So</p> <p>7 there probably needs to be some additional</p> <p>8 minor conditions that -- you know, because when</p> <p>9 you implement the way he ruled on the way this</p> <p>10 should look, I think there's a -- a couple of</p> <p>11 additional minor clarifications need to be made</p> <p>12 so you don't end up with some of those effects.</p> <p>13 I'm kind of working through that right</p> <p>14 now. And I don't -- so that specific</p> <p>15 situation, I'm still thinking through that.</p> <p>16 But they're fairly minor just additional</p> <p>17 details. So I don't -- I guess what I'm saying</p> <p>18 is I don't think it should result in a negative</p> <p>19 credit. It probably shouldn't result in a</p> <p>20 credit that's more than the pumping either,</p> <p>21 like you see in the years 1988 through 1991</p> <p>22 further up on that table, because it just would</p> <p>23 inadvertently result in double counting, not</p> <p>24 counting for water.</p> <p>25 That negative 401 is represented just</p>
<p style="text-align: right;">19</p> <p>1 A. Uh-huh.</p> <p>2 Q. So if the year before that has -- the</p> <p>3 year 2001 is a year of no pumping; is that</p> <p>4 right, in this projection, which is a</p> <p>5 hypothetical; right?</p> <p>6 A. That's right.</p> <p>7 Q. And so in that year, there is a</p> <p>8 depletion associated with the augmentation</p> <p>9 wells that have been running previously, and</p> <p>10 that depletion is 401; is that right?</p> <p>11 A. Well, that is the new depletion from the</p> <p>12 project operations. It's not the total</p> <p>13 depletion from those wells operating.</p> <p>14 It's comparing the condition with</p> <p>15 irrigation operations to the condition with</p> <p>16 augmentation operations. And so, you know,</p> <p>17 there would have been some depletion caused by</p> <p>18 those wells anyway. And that's not included in</p> <p>19 that column. It's just the -- the additional</p> <p>20 depletion due to the change in operations and</p> <p>21 the -- and any potential increase, you know, in</p> <p>22 long-term pumping volumes.</p> <p>23 Q. And so under your explanation, the</p> <p>24 accretion benefit column might be more properly</p> <p>25 termed the augmentation water supply credit.</p>	<p style="text-align: right;">21</p> <p>1 fine in the new depletion part of it. It's</p> <p>2 accounted for there, I guess.</p> <p>3 Q. Could you explain what you meant by</p> <p>4 double counting? And I apologize for having</p> <p>5 you walk me through the accounting. But I want</p> <p>6 to make sure I understood that.</p> <p>7 A. Well, I guess I've thought about it more</p> <p>8 in the example I went to up in, say, 1991 where</p> <p>9 the augmentation water supply is 60,000</p> <p>10 acre-feet. And so that should be the credit.</p> <p>11 If we -- if we add the accretion due to -- the</p> <p>12 negative new depletion on top of that, I think</p> <p>13 we would be putting it in two places because</p> <p>14 the -- the accretion due to the change in</p> <p>15 project operations, that negative 151 means</p> <p>16 there's less depletions from the new operation.</p> <p>17 And that would be reflected in the accounting</p> <p>18 anyway. So we wouldn't want to reflect it</p> <p>19 again. That's what I was referring to.</p> <p>20 Q. The 151 in this case accretion in 1991</p> <p>21 is -- at least in that year's accounting, could</p> <p>22 be included by using the accretion benefit</p> <p>23 column here as the augmentation water supply</p> <p>24 credit; is that right?</p> <p>25 A. Well, I -- what I was trying to say is I</p>

<p style="text-align: right;">22</p> <p>1 think it would be more proper to make the</p> <p>2 augmentation water supply credit be -- maybe an</p> <p>3 easier way of saying it is it's either the</p> <p>4 augmentation water supply or the augmentation</p> <p>5 water supply minus any new depletion, whichever</p> <p>6 is less.</p> <p>7 I think I said that right.</p> <p>8 Q. Would be you be willing to say it one</p> <p>9 more time?</p> <p>10 A. For example, the augmentation water</p> <p>11 supply would be 60,000. And if you -- if you</p> <p>12 assume that you're going to net out the new</p> <p>13 depletion and the augmentation water supply to</p> <p>14 get the augmentation water supply credit, in</p> <p>15 that case you would get -- you'd get these two</p> <p>16 numbers, 60,000 or 60,151.</p> <p>17 Q. Uh-huh.</p> <p>18 A. For the augmentation water supply</p> <p>19 credit, we should choose the number that's</p> <p>20 less -- the lesser number.</p> <p>21 Q. I see.</p> <p>22 A. So when you look down further in the</p> <p>23 table, you'll see that you apply the same test.</p> <p>24 And you would not choose 60,000. You would</p> <p>25 choose the 59,644.</p>	<p style="text-align: right;">24</p> <p>1 years of no pumping.</p> <p>2 So, you know, this is a hypothetical.</p> <p>3 That -- that particular occurrence may never</p> <p>4 actually happen. But in this case, it did</p> <p>5 because of the way we set that up. And we</p> <p>6 started with a time period where the first few</p> <p>7 years were years where we wouldn't have pumped</p> <p>8 it.</p> <p>9 Q. Is -- are the negative numbers in the</p> <p>10 new depletion column here an artifact of it not</p> <p>11 having been done for project operations at</p> <p>12 all -- it's a start-up problem, it's just going</p> <p>13 to happen at the very beginning of the first</p> <p>14 time you run this project but if there are</p> <p>15 cycles of running it, as you're predicting,</p> <p>16 then you're not going to have that issue?</p> <p>17 A. Well, that's -- I wouldn't say that's</p> <p>18 absolutely true. But that's the most likely</p> <p>19 time that that would happen.</p> <p>20 It could also happen if you had a long</p> <p>21 period of little to no operation.</p> <p>22 Q. Now, similar to what we were discussing</p> <p>23 about what you called the first concession in</p> <p>24 terms of review, have -- is it Nebraska's</p> <p>25 intention to modify the calculation of the</p>
<p style="text-align: right;">23</p> <p>1 Q. Kind of a one-way ratchet? It will --</p> <p>2 it will go down; it's not going to go over the</p> <p>3 60,000?</p> <p>4 A. Right.</p> <p>5 Q. And was the arbitrator talking about</p> <p>6 using the new depletion that you've got</p> <p>7 conceptually in this column here in your Table</p> <p>8 3? Or was he talking about the actual -- was</p> <p>9 he talking about a different depletion number</p> <p>10 in the Rock Creek decision?</p> <p>11 A. Well, I won't try to speak for him. But</p> <p>12 my -- I understood what he was saying to be the</p> <p>13 new -- that it was the new depletion.</p> <p>14 Q. Okay.</p> <p>15 A. And, you know, it -- I think we were</p> <p>16 just discussing it in terms of that new</p> <p>17 depletion being positive. So you don't run</p> <p>18 into that issue if -- as long as that's</p> <p>19 positive.</p> <p>20 But you can run into that issue in this</p> <p>21 case, as an example, because we switched to</p> <p>22 project operations but then didn't operate the</p> <p>23 project for three years. So you have --</p> <p>24 instead of those first three years of</p> <p>25 irrigation pumping, you have those first three</p>	<p style="text-align: right;">25</p> <p>1 credit along the lines of what the arbitrator</p> <p>2 suggested or put in his arbitrator's decision</p> <p>3 for Rock Creek?</p> <p>4 A. Well, it hasn't all been worked out at</p> <p>5 this point. But I would anticipate, at least</p> <p>6 my understanding is we're going to do something</p> <p>7 similar to what we did before, and that would</p> <p>8 incorporate his ruling.</p> <p>9 Q. Do you know if a decision has been made</p> <p>10 yet on whether to try and incorporate changes</p> <p>11 based on the Rock Creek ruling?</p> <p>12 A. You mean changes to this plan itself?</p> <p>13 Q. Yes.</p> <p>14 A. That's -- that's something that I</p> <p>15 believe we're going to work on. But I haven't</p> <p>16 gotten to it yet. So --</p> <p>17 Q. Been busy?</p> <p>18 A. Very busy.</p> <p>19 Q. Do you know when a decision's going to</p> <p>20 be made on that?</p> <p>21 A. Sometime before February 7th, I would</p> <p>22 believe.</p> <p>23 Q. Which is --</p> <p>24 A. I think that's the day my responsive</p> <p>25 expert report is due. But if I'm wrong on</p>

<p style="text-align: right;">26</p> <p>1 that, it would be that day.</p> <p>2 Q. So if a decision's going to be made on</p> <p>3 any changes to the accounting procedures markup</p> <p>4 or the N-CORPE proposal, it's your intention</p> <p>5 those changes would be fleshed out by February</p> <p>6 7th; is that what you're saying?</p> <p>7 A. That's what I'm saying.</p> <p>8 Q. Okay. Are there any other items or</p> <p>9 issues that you consider a concession? You</p> <p>10 mentioned concessions, plural. So are there</p> <p>11 any other concessions that came up as you</p> <p>12 understand the term in the Rock Creek decision</p> <p>13 that would affect Nebraska's N-CORPE proposal?</p> <p>14 A. I don't believe so.</p> <p>15 Q. I want to talk about the N-CORPE project</p> <p>16 objectives generally. How would you describe</p> <p>17 the N-CORPE project, what its major concepts</p> <p>18 are and its major aims are?</p> <p>19 A. Well, I guess real generally, it would</p> <p>20 be to meet the requirements of the Integrated</p> <p>21 Management Plans. By that I mean the natural</p> <p>22 resource districts implementing -- building and</p> <p>23 operating this project to meet any projected</p> <p>24 deficits that might come out of the forecast as</p> <p>25 it's outlined in the Integrated Management</p>	<p style="text-align: right;">28</p> <p>1 there's a -- how would you describe it?</p> <p>2 There's an interlocal cooperative agreement.</p> <p>3 So there's a joint board, per se, that oversees</p> <p>4 the -- right now would be the construction and</p> <p>5 other aspects of the project.</p> <p>6 My understanding that that agreement is</p> <p>7 between four NRDs, the three Republican NRDs</p> <p>8 and the Twin Platte NRD and they each have a</p> <p>9 member on the joint board.</p> <p>10 Q. Is the -- is the same -- that same</p> <p>11 agreement controls all aspects of the project</p> <p>12 or only certain aspects?</p> <p>13 A. I guess I don't know of anything that</p> <p>14 would fall outside of that other than maybe</p> <p>15 what we're dealing with here today in terms of</p> <p>16 the interaction between the states on the RRCA.</p> <p>17 But I don't think you're asking about that side</p> <p>18 of the project.</p> <p>19 Q. So -- well, I'll give you -- for</p> <p>20 example, the project entailed some land</p> <p>21 acquisition and then there may have been some</p> <p>22 construction associated with wells,</p> <p>23 construction associated with pipelines, and</p> <p>24 then there's going to be long-term operations</p> <p>25 of the project and management I think was the</p>
<p style="text-align: right;">27</p> <p>1 Plans.</p> <p>2 Q. Is that just the Republican River side</p> <p>3 of the N-CORPE project? Is there another</p> <p>4 aspect to it?</p> <p>5 A. There is. And the answer would be very</p> <p>6 similar, except that on the Platte side of the</p> <p>7 project, you know, the specific requirements,</p> <p>8 you know, aren't obviously tied to the</p> <p>9 Republican River Compact but to the -- to the</p> <p>10 Groundwater Management Protection Act as well</p> <p>11 as Platte River Recovery and Limitation Program</p> <p>12 and Nebraska's new depletions plan under that.</p> <p>13 Q. What was the last item? Nebraska's --</p> <p>14 A. New depletions plan.</p> <p>15 Q. And that's part of the Platte River</p> <p>16 Recovery and Implementation Project?</p> <p>17 A. It's part of the program documents.</p> <p>18 They're -- each state in the federal government</p> <p>19 has a depletions plan. Those are contained in</p> <p>20 the Water Plan, which is a very lengthy</p> <p>21 document that has other elements as well.</p> <p>22 Q. What entities -- entity or entities are</p> <p>23 responsible for the N-CORPE project?</p> <p>24 A. Well, if you're talking about ownership</p> <p>25 and operation, there -- as I understand it,</p>	<p style="text-align: right;">29</p> <p>1 term you used.</p> <p>2 Of those things that I've listed, is the</p> <p>3 agreement the source for all the control for</p> <p>4 those items and the basic operations?</p> <p>5 A. That's my understanding, that that --</p> <p>6 that agreement creates that joint board and</p> <p>7 that board makes all those decisions. That</p> <p>8 probably was a very poor legal description of</p> <p>9 how that functions. But --</p> <p>10 Q. Legal descriptions are often not very</p> <p>11 helpful.</p> <p>12 So the -- have you ever seen that</p> <p>13 agreement?</p> <p>14 A. I have not.</p> <p>15 Q. Is there a board of directors that makes</p> <p>16 the decisions, do you know?</p> <p>17 A. That's my understanding, yeah.</p> <p>18 Q. Have you ever met with the board of</p> <p>19 directors?</p> <p>20 A. Well, I -- I don't know specifically who</p> <p>21 each one is. But I'm sure I know all of them.</p> <p>22 They're associated with each NRD. I haven't</p> <p>23 gone to a meeting, if that's what you mean.</p> <p>24 Q. So you may have met the members of the</p> <p>25 board independent of their, say, meetings as</p>

<p style="text-align: right;">30</p> <p>1 the N-CORPE board; is that what you're saying?</p> <p>2 A. Right, right. Just through our</p> <p>3 interactions between the department and the</p> <p>4 natural resource districts.</p> <p>5 Q. Okay. So do you know whether or not</p> <p>6 there's an equal representation for each of</p> <p>7 those NRDs on the board?</p> <p>8 A. That's my understanding, that it's one</p> <p>9 representative from each NRD.</p> <p>10 Q. And do you know whether or not they all</p> <p>11 have an equal amount of control or a vote, if</p> <p>12 you will?</p> <p>13 A. That would be my understanding, that</p> <p>14 they do.</p> <p>15 Q. Do -- besides the board, is there --</p> <p>16 have -- has the board put some -- somebody or</p> <p>17 an entity in more day-to-day control of the</p> <p>18 project?</p> <p>19 A. I wouldn't -- I wouldn't know, you know,</p> <p>20 how they've designated responsibilities.</p> <p>21 Q. So you don't know whether there's</p> <p>22 someone like a general manager or an executive</p> <p>23 director or anything like that?</p> <p>24 A. I don't.</p> <p>25 Q. Okay. When was this project -- the</p>	<p style="text-align: right;">32</p> <p>1 the development of the project.</p> <p>2 There are these two sides of it, the</p> <p>3 Republican River side and the Platte side. And</p> <p>4 so is the Republican River side fully developed</p> <p>5 but the Platte side of it still under</p> <p>6 development in terms of concept or other</p> <p>7 things? I want to see if I understand. Is the</p> <p>8 project still being developed on the Platte</p> <p>9 side, or would you consider it done?</p> <p>10 A. I don't believe it's fully developed in</p> <p>11 terms of the construction plans and that type</p> <p>12 of thing.</p> <p>13 There's a -- there's not the same</p> <p>14 timetable that they're dealing with on the</p> <p>15 Platte side. So they, at least the last I</p> <p>16 heard, had been working out various routes and</p> <p>17 that kind of thing. But I haven't heard any</p> <p>18 decisions have been made on that.</p> <p>19 Q. When you say not the same timetable,</p> <p>20 what is the timetable on the Platte side?</p> <p>21 A. The Twin Platte NRD has kind of taken</p> <p>22 care of their water offsets through 2019 by</p> <p>23 participating in a -- in another project that</p> <p>24 we're currently just getting started on</p> <p>25 building in the Platte Basin. So they've</p>
<p style="text-align: right;">31</p> <p>1 N-CORPE project first discussed with you?</p> <p>2 A. That's a good question. Probably</p> <p>3 sometime in late 2011 or 2012.</p> <p>4 Q. And was -- was the project something you</p> <p>5 heard about, or was the project your idea?</p> <p>6 A. It was something I heard about.</p> <p>7 Q. Okay. How would you describe your role</p> <p>8 related to the development of the project?</p> <p>9 A. It was very similar to my role in the</p> <p>10 development of the Rock Creek project,</p> <p>11 generally helping -- you know, whether it was</p> <p>12 myself or my staff, working with the NRDs in</p> <p>13 terms of what potential benefits might be</p> <p>14 anticipated and then, more specifically, in</p> <p>15 this -- developing this augmentation plan.</p> <p>16 And the role also -- once this is</p> <p>17 implemented on the Platte side, our role would</p> <p>18 also be in providing data and information which</p> <p>19 would be incorporated into our annual reporting</p> <p>20 honoring the depletions plan to the Platte</p> <p>21 River program.</p> <p>22 Q. Would you consider the -- I'm going to</p> <p>23 have some questions about the Platte side of</p> <p>24 it, which we may come back to. And I was</p> <p>25 aiming for a question focused on your role in</p>	<p style="text-align: right;">33</p> <p>1 leased some benefits from that. So they don't</p> <p>2 strictly need this project operation on the</p> <p>3 Platte side until 2019.</p> <p>4 Q. Okay. Now, I had asked you what your</p> <p>5 role was in the development side of -- or the</p> <p>6 development phase of the project.</p> <p>7 Were there any others -- other people at</p> <p>8 Nebraska Department of Natural Resources that</p> <p>9 had a role in the development of the project?</p> <p>10 A. Well, Jesse Bradley is the head of our</p> <p>11 Integrated Water Management Division. He has</p> <p>12 probably been in on other conversations that I</p> <p>13 haven't been in on.</p> <p>14 But I don't -- you know, I guess I'm a</p> <p>15 little confused by your term development.</p> <p>16 Certainly wouldn't be in terms of recommending,</p> <p>17 you know, how it should be developed in terms</p> <p>18 of routes or number of wells or anything like</p> <p>19 that that I would be aware of.</p> <p>20 Q. It might be easier to not try and split</p> <p>21 up the different phases or the evolution of the</p> <p>22 project. Is -- and so let me retry my</p> <p>23 question, just focused on who else at Nebraska</p> <p>24 Department of Natural Resources has been</p> <p>25 involved with work on the project.</p>

<p style="text-align: right;">34</p> <p>1 And so far I know you and Mr. Bradley. 2 And you've described what it is you were doing. 3 So is there anybody else? And, if so, what is 4 it that they were doing for the project? 5 A. I don't think there's anyone else. The 6 one thing that comes to mind now -- well, I 7 guess I should say I don't know if it there was 8 anyone else. Jesse probably had staff helping 9 with -- with some of this. 10 But what I'm referring to is some of the 11 funding that was provided. The department 12 provided funding last year the Republican River 13 NRDs but -- and I don't remember if any of it 14 went to this project or if that went to other 15 projects. 16 But we do have a -- we have a number of 17 groups in the Platte River Basin, are generally 18 the same people, but we have what's called a 19 Platte -- the Platte Basin Coalition, the 20 Platte Overappropriated Committee, the Platte 21 Basin Habitat Enhancement Program. And through 22 those, there's a -- the state's committed a 23 certain amount of funding. 24 And I know that the Twin Platte NRD 25 brought at least their portion of the cost of</p>	<p style="text-align: right;">36</p> <p>1 been some discussions over that. 2 But, really, you know, we don't make any 3 of those decisions. 4 Q. Do you remember being asked to provide 5 specifics for stream depletion information 6 about these -- the wells associated with the 7 N-CORPE project? 8 A. No. I was -- I was just talking about 9 as a general matter. That's something we've 10 developed in the past. And that has been 11 provided and discussed in a number of different 12 contexts so -- 13 Q. And you don't remember anything specific 14 for -- for the N-CORPE project? 15 A. I don't. 16 Q. Did Nebraska Department of Natural 17 Resources identify any specific benefits to the 18 State of Nebraska of the project going forward? 19 A. Well, I guess we -- I don't know that we 20 identified them. We had discussions about what 21 those would be and more -- probably more so 22 confirmed that that's how those benefits -- 23 what those benefits would be. 24 Q. How would you describe those benefits 25 that were discussed?</p>
<p style="text-align: right;">35</p> <p>1 the N-CORPE project to that group to a -- 2 receive an allocation of the -- of what we 3 would refer to as the budget that that group 4 has, which consists of state monies and local 5 monies. 6 Q. When you were talking about 7 Mr. Bradley's involvement and you mentioned not 8 talking about routes or number of wells, I was 9 going to ask questions about the siting 10 decisions that were made for the pipeline or 11 for wells. 12 Was Nebraska DNR involved at all in any 13 of those decisions? 14 A. I don't think so. 15 Q. You say you don't think so. Is it 16 possible there's anybody that you wouldn't know 17 about that would be involved in that sort of 18 stuff in Nebraska DNR? 19 A. I only, I guess, hedge a little bit 20 because some of it -- some of the decisions 21 made have been based on information that we 22 provided. You know, as an example, stream 23 depletion factors that we may have developed 24 that would potentially factor into well 25 locations, as an example. And there may have</p>	<p style="text-align: right;">37</p> <p>1 A. The benefits for compact compliance 2 related to the Republican River Compact and the 3 benefits with regard to meeting the terms of 4 our new depletions plan, as well as some of the 5 requirements under statute for the 6 overappropriated portion of the Platte River 7 Basin. 8 But those are -- those are -- I mean, 9 we've had general discussions on those types of 10 things for quite some time, not that that -- 11 and augmentation is one way that those benefits 12 can be realized. And there's other ways. But 13 it -- certainly we've had discussions in the 14 context of augmentation on that. 15 Q. Do you know of any documents that were 16 created by Nebraska DNR focused on N-CORPE 17 project benefits that you're referring to 18 there? 19 A. I believe that we sent them a letter 20 similar to the one that we sent for the Rock 21 Creek project that -- and it would have been 22 very similar and with the same intent that we 23 discussed regarding that letter that we had 24 discussed during the arbitration on that. 25 Q. If I remember in that letter -- and you</p>

1 might remember it better than me -- it was
2 focused on the consequences in the Republican
3 River Compact accounting of discharge of a
4 certain amount of augmentation water and how
5 those consequences would play out in the
6 accounting results. Is that the type of letter
7 you're referring to?

8 A. Yes.

9 Q. I want to ask if you know who owns the
10 land. But I suspect from our earlier
11 discussion, you don't know a whole lot of
12 specifics about the N-CORPE entity and the
13 agreement and that sort of thing. So bear with
14 me.

15 Do you know who owns the land currently?

16 A. I don't.

17 Q. And do you know who owns the facilities
18 related to the N-CORPE project?

19 A. No. I could guess. But --

20 Q. No need. Your attorney might not like
21 that.

22 There's a certain amount of acreage that
23 was associated with the land with this project
24 that used to be irrigated; is that right?

25 A. That's right.

1 Q. (BY MR. GRUNEWALD) Table 1 in your
2 report -- and it starts on page 9, I believe.
3 Table 1 is listed as historical certified
4 acres. Do you see that?

5 A. I do.

6 Q. Is -- are those the lands that we're
7 talking about when we're talking about the
8 acreage that would be retired?

9 A. Yes.

10 Q. Okay. Bear with me, some more questions
11 about the project, to the extent you know.

12 Do you know who's responsible for
13 operating the project, when it's going to be
14 operated for augmentation purposes?

15 A. I mean, aside from the joint board that
16 oversees the whole project, I don't.

17 Q. And so as far as you know, that entity
18 would be responsible for operating, for
19 repairing facilities related to the project,
20 that sort of thing?

21 A. Yes.

22 Q. Now, I want to ask some more questions
23 about operation. If -- if it helps or makes
24 sense to separate operations for Republican
25 River purposes or for Platte purposes, if you

1 Q. Okay. And is all of that acreage that
2 was irrigated going to be retired?

3 A. I'll go ahead and turn to the map, which
4 is on -- it's figure 2. My understanding is
5 all or almost all of the land will be retired
6 with the caveat that there may be -- some of
7 these parcels that are kind of sitting at some
8 distance from the -- kind of the bulk of the
9 lands. I think in particular the one up to the
10 northeast.

11 Q. Just for the record, you're pointing to
12 what -- I think is -- it's a collection of --
13 is it eight wells --

14 A. Yes.

15 Q. -- up there? Okay.

16 A. And I'm aware that there's been some
17 discussions about, you know, trying to swap
18 that land so that there's more contiguous land,
19 in other words, that the land associated with
20 the projects are more contiguous.

21 MR. WILMOTH: Just for the
22 record, Chris, Dr. Schneider's referring to
23 page 26 of 104 of the augmentation plan, which
24 is part of Exhibit 2 to the deposition.

25 MR. GRUNEWALD: Thank you.

1 could just please flag that. I'm just going to
2 ask generally about operating the project. But
3 if it makes more sense to split it and go down
4 two tracks, certainly we can do that.

5 So do you know how the decisions will be
6 made as to whether or not to operate the
7 project in a given year?

8 A. Well, I think -- I know, generally
9 speaking, that the decisions will be based on
10 the forecast in terms of whether or not there's
11 any forecasted deficits that need to be made
12 up. But they'll also be based on what other
13 options there are. So I think those -- those
14 things will go into consideration of whether or
15 not and the extent to which the project's
16 operated.

17 Q. When you say forecast, you're referring
18 to the forecast in the Integrated Management
19 Plans?

20 A. Yes.

21 MR. GRUNEWALD: That's another
22 acronym, IMPs, that you'll hear.

23 Q. (BY MR. GRUNEWALD) And it may make more
24 sense for us to focus on the Republican River.
25 Let me see if you think that's a good approach.

<p style="text-align: right;">42</p> <p>1 You had mentioned that the Twin Platte</p> <p>2 NRD was focused on a need in 2019. Did I have</p> <p>3 that right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. A need related to the Platte</p> <p>6 River requirements?</p> <p>7 A. Yes.</p> <p>8 Q. And so decisions that will be made with</p> <p>9 respect to the Platte, at the moment, are you</p> <p>10 aware of anything in place to make any</p> <p>11 decisions about using the project for Platte</p> <p>12 purposes at this point?</p> <p>13 A. No specifics that I'm aware of.</p> <p>14 Q. So more focused on whether the project</p> <p>15 will be used for our purposes today, should we</p> <p>16 just confine it to the use of it for the</p> <p>17 Republican River?</p> <p>18 A. That would make sense to me.</p> <p>19 Q. All right. You mentioned that the</p> <p>20 forecast for Republican River purposes would be</p> <p>21 used. How would you describe Nebraska DNR's</p> <p>22 role in terms of these decisions to operate the</p> <p>23 augmentation or the plan?</p> <p>24 A. Our role would be in producing the</p> <p>25 forecast and, you know, it's a statewide</p>	<p style="text-align: right;">44</p> <p>1 process to turn this thing on will go forward?</p> <p>2 A. Just the IMPs and the forecasts that --</p> <p>3 you know, for example, this year, I mean, we've</p> <p>4 produced a forecast, and so that will weigh</p> <p>5 heavily into the decision-making.</p> <p>6 Q. Who would you say is the person with</p> <p>7 most information about the day-to-day</p> <p>8 operations that the N-CORPE project is going to</p> <p>9 entail?</p> <p>10 A. Well, I -- it would be somebody that's</p> <p>11 involved with that joint board or the whole</p> <p>12 board.</p> <p>13 Q. Can you think of anybody?</p> <p>14 A. Jasper Fanning comes to mind.</p> <p>15 Q. And why does he come to mind?</p> <p>16 A. Because I just -- my impression he's</p> <p>17 been pretty involved in the day-to-day aspects.</p> <p>18 But that's just -- that's just an impression.</p> <p>19 So I think that would be the case. But --</p> <p>20 Q. I just want to be sure. Your impression</p> <p>21 is that specific to the N-CORPE project, that</p> <p>22 he's involved with day-to-day operations?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Who do you think would know the</p> <p>25 most about the Platte side of the project?</p>
<p style="text-align: right;">43</p> <p>1 forecast in terms of whether or not we have to</p> <p>2 have a compact call year.</p> <p>3 But then in those situations where it is</p> <p>4 a compact call year, to provide specific values</p> <p>5 on an NRD basis for their projected deficits.</p> <p>6 And then our role would be to work together</p> <p>7 with the NRDs on their planning, to the extent</p> <p>8 they have questions or want discussions.</p> <p>9 And then that our role would be in</p> <p>10 reviewing their proposed plan, which is in the</p> <p>11 compact call years due on January 31st and</p> <p>12 verifying that it will, in fact, meet the</p> <p>13 requirements.</p> <p>14 Q. That's a January 31st deadline for an</p> <p>15 NRD proposal to meet any projected deficit?</p> <p>16 A. That's right.</p> <p>17 Q. Can Nebraska DNR order this N-CORPE</p> <p>18 project to go into operation?</p> <p>19 A. I don't know from a legal standpoint,</p> <p>20 you know, how that would work.</p> <p>21 Q. So you're not sure?</p> <p>22 A. Yeah, I guess that's a fair assessment.</p> <p>23 I doubt it.</p> <p>24 Q. Are you -- are you aware of -- are you</p> <p>25 aware of any documents that explain how the</p>	<p style="text-align: right;">45</p> <p>1 A. Probably Kent Miller, the manager of the</p> <p>2 Twin Platte NRD.</p> <p>3 Q. I wanted to ask some questions about the</p> <p>4 Platte. Given some of what we've talked about</p> <p>5 before, this may go pretty quickly.</p> <p>6 And you -- I think you've described it</p> <p>7 as the Platte side of the project would be</p> <p>8 focused on helping with Nebraska's depletion</p> <p>9 plan; is that right?</p> <p>10 A. It's the new depletions plan under the</p> <p>11 program, as well as generally the IMPs, which</p> <p>12 kind of focus on that but, also, on statutory</p> <p>13 requirements.</p> <p>14 So the new depletions plan focuses on</p> <p>15 depletions due to new development that has</p> <p>16 occurred after July of 1997. That's also hard</p> <p>17 wired into the statutes, the Groundwater</p> <p>18 Management Protection Act, in terms of first</p> <p>19 increment of the Integrated Management Plans</p> <p>20 for the overappropriated area, which is the</p> <p>21 Platte Basin above Elm Creek, Nebraska.</p> <p>22 Q. How -- on the Republican River side</p> <p>23 where we have a proposal, Nebraska's called an</p> <p>24 augmentation plan, is there something</p> <p>25 particular that it would be called to satisfy</p>

<p style="text-align: right;">46</p> <p>1 these Platte requirements, either an 2 augmentation plan or something else? 3 A. No. The way that -- kind of the way 4 that we do business in the Platte, so to speak, 5 is for the IMPs, we have an annual meeting 6 which involves an annual report from the 7 department and from each of the five NRDs in 8 the overappropriated area. 9 In that area, we have IMPs, but we also 10 have kind of a -- an umbrella document called a 11 Basinwide Plan that was also required by 12 statute. So that Basinwide Plan calls for that 13 annual report and that annual meeting. 14 That allows us to get the information 15 from the NRDs and for everyone, you know, all 16 the interested stakeholders to have that 17 interaction on an annual basis. 18 And then we take that information and 19 package it up into a annual report to the 20 Platte River Recovery Program that documents 21 our progress on meeting our new depletions plan 22 requirements. 23 Q. Okay. So do you know whether the -- 24 whether the Platte side of this project is 25 going to require retirement of additional acres</p>	<p style="text-align: right;">48</p> <p>1 to are being considered? 2 A. I don't. 3 Q. Do you know whether the wells that are 4 going to be used to supply the Republican River 5 pipeline are going to be the same wells 6 providing supply to the Platte side? 7 A. I don't know for certain. I think so. 8 Q. Do you know whether it's intended for 9 both the Republican River and Platte parts of 10 the project to be operating at the same time? 11 A. I think that was -- would certainly be a 12 possibility. 13 Q. Do you know how decisions will be made 14 to allocate water to which side of the project? 15 A. No. Except that I assume that will be 16 done in that joint board that I was referring 17 to. 18 Q. Cooperatively? 19 A. Right. I think that's the C. 20 Q. Does the -- you've mentioned on the 21 Platte side a reference to depletions. Are 22 depletions tracked the same way that they're 23 tracked in the Republican River Compact 24 accounting for the Platte River side? 25 A. Well, yes and no. And what I mean by</p>
<p style="text-align: right;">47</p> <p>1 from what's being retired right now? 2 A. It will not. 3 Q. It's the same universe of retired acres 4 for both purposes? 5 A. Yes. 6 Q. You mentioned the 2019 target date for 7 the Twin Platte NRD. And do you have any other 8 information about when the Platte side portion 9 of this project might be completed? 10 A. No. 11 Q. And so do you have any idea what they're 12 going to do in terms of a pipeline or any other 13 facilities associated with the Platte side? 14 A. No specifics. Just that they're 15 planning on building a pipeline to discharge 16 water into the Platte or potentially one of the 17 canals that runs along the south side of the 18 Platte. I know that's been discussed too. I 19 don't know any of the specifics. 20 Q. The intention is for a similar surface 21 water discharge through a pipeline as is being 22 done in the Republican River side? 23 A. That's my understanding. 24 Q. And do you know whether any delivery 25 point besides those that you've just referred</p>	<p style="text-align: right;">49</p> <p>1 that is, you know, in terms of the science, you 2 know, the approaches from groundwater modeling 3 and that type of thing would be similar; 4 though, obviously with a different model. 5 The other -- the other big distinction 6 is that at least at this point in the Platte, 7 we're just looking at post-'97 new development. 8 So it's kind of a '97 baseline level of 9 development. And we're tracking new depletions 10 relative to that baseline level. 11 It's not -- it's not the -- how much the 12 total depletions increase, but it's the -- it's 13 the effect of new irrigation and, also, the 14 effect of retired irrigation kind of in 15 combination on the overall depletions and 16 whether or not those new depletions have 17 occurred, and then to the extent they have, we 18 mitigate that through projects like this or 19 other activities. 20 Q. Okay. Do you know what the lifespan of 21 the project is? 22 A. No. 23 Q. Do you know whether or not it's intended 24 to have the same lifespan for the Republican 25 side as for the Platte side?</p>

<p style="text-align: right;">50</p> <p>1 A. I don't know specifically. I guess I 2 would assume it does, you know, that that is 3 how they're constructing it. But I don't know. 4 Q. For the Republican -- well, actually, I 5 guess for the whole project, the -- there 6 are -- augmentation wells are being used; is 7 that right? 8 A. Yes. 9 Q. Are they all new wells, or are they 10 repurposed wells? 11 A. I'm not certain about that. I think 12 some of them are repurposed. 13 Q. And do you know how many wells we're 14 talking about for this project? 15 A. No, not specifically. I think if you 16 look at figure 3 on Exhibit 2 on page 27, it 17 gives you a general potential configuration of 18 the pipe, labeled proposed pipe. It doesn't 19 show the wells. So I'm sure those details have 20 been worked out or been largely worked out. 21 But, you know, given that configuration, it's 22 certainly not all of the existing wells that 23 will provide water. 24 Q. Right. Because on figure 3, each of the 25 yellow circles are the wells that were</p>	<p style="text-align: right;">52</p> <p>1 proposal? 2 A. No. Not as submitted. We may -- we may 3 bring a modified proposal forward to -- or we 4 may propose, you know, to expand that and have 5 that discussion and hopefully eventual 6 resolution in RRCA. 7 But if that were to happen, that any -- 8 any amount of water over 60,000 acre-feet would 9 just look like any other stream flow in the 10 accounting, until we got another change. 11 Q. So if I understand right, a -- the 12 maximum amount of credit that's possible under 13 the N-CORPE plan is the 60,000 that's in the 14 plan; is that right? 15 A. Right. It's just like the Rock Creek 16 proposal. It had a clear maximum 20,000. 17 Q. And Nebraska's request for credit beyond 18 the 60,000 would require a modified proposal; 19 is that right? 20 A. Yes. 21 Q. And would require RRCA approval? 22 A. Yes. 23 Q. For the pipeline, I wanted to ask some 24 questions about that. Do you know how the 25 discharge location was chosen?</p>
<p style="text-align: right;">51</p> <p>1 associated with acreage; is that right? 2 A. Right. On Figure 2, it shows the actual 3 well locations. So they're spread out quite a 4 bit more than that pipeline configuration. 5 Q. Do you know how many of these -- the 6 augmentation wells are operational at this 7 point? 8 A. I don't. 9 Q. Do you know whether or not the wells are 10 going to be metered? 11 A. They are. 12 Q. What will be the limit -- the pumping 13 limit in any one year for these wells? 14 A. Well, the plan covers a potential 15 maximum pumping amount of 60,000 acre-feet. 16 Whether or not they can physically pump more 17 than that, I don't know. But I believe the 18 design was intended to achieve that amount. 19 And that's -- that's certainly what this plan 20 is intended to cover is a maximum of 60,000 21 acre-feet. 22 Q. If the wells are physically capable of 23 pumping more in a year and they do pump more 24 than that, would Nebraska be seeking more than 25 60,000 acre-feet of credit under the N-CORPE</p>	<p style="text-align: right;">53</p> <p>1 A. I don't. 2 Q. Do you know if any approvals from local 3 governments or other state agencies were 4 required for the pipeline and its discharge 5 location? 6 A. I know there was some -- I'm familiar 7 that there was some discussion related to that. 8 I don't know if there was approval that was 9 needed. I think they looked into that. And I 10 don't know how that was resolved. 11 Q. What does the FSS require with respect 12 to an augmentation pipeline's discharge 13 location? 14 A. I don't think the FSS has any 15 requirement about discharge location. 16 Q. The 60,000 acre-foot annual amount of 17 water we're discussing, is that the intended 18 pipeline capacity, if you will, at least that 19 amount is possible to come out of the pipeline? 20 A. That's my understanding. 21 Q. And at this point, you don't know what 22 the capacity would be for the Platte side? 23 A. No. 24 Q. If it has a -- 25 A. I don't know.</p>

<p style="text-align: right;">54</p> <p>1 Q. Is the pipeline discharge measured?</p> <p>2 A. Yes. That's my -- my understanding is</p> <p>3 that will be measured as well.</p> <p>4 Q. How is it measured?</p> <p>5 A. I'm not familiar with the detailed</p> <p>6 specifications. Yeah.</p> <p>7 I think it's with a meter. That's --</p> <p>8 yeah.</p> <p>9 Q. Has any pumping taken place yet for the</p> <p>10 N-CORPE project?</p> <p>11 A. I don't believe so.</p> <p>12 Q. When pumping does happen and pipeline</p> <p>13 discharge happens, what sort of records are</p> <p>14 going to be kept for the project?</p> <p>15 A. Well, I think we outlined those -- a lot</p> <p>16 of this stuff we've been talking about here in</p> <p>17 the plan, certainly the pumping volumes and the</p> <p>18 delivering volumes.</p> <p>19 Yeah, I was thinking about some of the</p> <p>20 language here in Section III entitled</p> <p>21 operational aspects of the project.</p> <p>22 Q. That's on page 3 of the proposal?</p> <p>23 A. Yes.</p> <p>24 Q. Are those records going to be provided</p> <p>25 to the -- to Nebraska DNR?</p>	<p style="text-align: right;">56</p> <p>1 is decided to be, by the board or whoever is</p> <p>2 making the decisions, turned on, is that what</p> <p>3 makes it a compact operation year? Or is there</p> <p>4 some other way that it's decided that it's a</p> <p>5 compact operation year?</p> <p>6 A. It's -- I think like the sentence says,</p> <p>7 it's -- that would be decided based on the fact</p> <p>8 that it's being operated to ensure compact</p> <p>9 compliance. In other words, there's a</p> <p>10 forecasted shortfall that triggers operations.</p> <p>11 Q. So you have a forecast with projected</p> <p>12 shortfall January 31 of a particular year, and</p> <p>13 NRD or several propose using the N-CORPE</p> <p>14 project, and in turn, that's approved by</p> <p>15 Nebraska DNR, if that's the right term. And</p> <p>16 would it be at that point that the N-CORPE</p> <p>17 project operation would be termed a compact</p> <p>18 operation year?</p> <p>19 A. I suppose so.</p> <p>20 Q. How is the connection made between its</p> <p>21 operation and the -- and the ensuring compact</p> <p>22 compliance? Who makes that connection?</p> <p>23 A. Well, I guess it's done jointly when</p> <p>24 we -- as the NRDs -- well, back up.</p> <p>25 We give them the forecast and say you</p>
<p style="text-align: right;">55</p> <p>1 A. Yes.</p> <p>2 Q. On an annual basis or more frequently</p> <p>3 than that?</p> <p>4 A. Probably -- well, at a minimum, on an</p> <p>5 annual basis because we have to have those</p> <p>6 records to complete our annual data exchange</p> <p>7 with the other two states.</p> <p>8 Q. So there are augmentation wells</p> <p>9 associated with the project. Does Nebraska DNR</p> <p>10 do the same review for those sorts of well</p> <p>11 records as it does for other well records that</p> <p>12 you receive?</p> <p>13 A. I can't think of any reason why we would</p> <p>14 review them differently.</p> <p>15 Q. Here on page 3, you brought us to</p> <p>16 Section III, the operational aspects. In the</p> <p>17 middle of the first paragraph, there's a</p> <p>18 sentence that says, "During years in which the</p> <p>19 State of Nebraska is operating." Do you see</p> <p>20 that?</p> <p>21 A. Yes.</p> <p>22 Q. And it refers to those years as compact</p> <p>23 operation years. Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And so is -- if the project is being --</p>	<p style="text-align: right;">57</p> <p>1 need to do something to make up this amount of</p> <p>2 water in order to ensure compact compliance.</p> <p>3 And then they give us their proposal</p> <p>4 that says this is what we'll do to ensure</p> <p>5 compact compliance.</p> <p>6 And then we respond we agree that will</p> <p>7 ensure compact compliance.</p> <p>8 Q. Okay. The Rock Creek augmentation</p> <p>9 project, if I remember correctly, had some</p> <p>10 timing elements. If I'm remembering</p> <p>11 correctly -- correct me, please, if I don't get</p> <p>12 this correct -- that the Rock Creek</p> <p>13 augmentation project was intended to be run</p> <p>14 during certain times of the year and not during</p> <p>15 others or there was an attempt to, say, run it</p> <p>16 in the spring and fall but not during the</p> <p>17 irrigation season in the summer. Is that -- is</p> <p>18 that right? Did Rock Creek have some sort of</p> <p>19 timing or delivery guidelines or restrictions?</p> <p>20 A. The plan itself did not. I think we</p> <p>21 discussed that through the various depositions</p> <p>22 and trial, that -- as to whether or not there</p> <p>23 would be. And as I recall, there were some</p> <p>24 reasons why it -- it would be potentially</p> <p>25 operated during certain times of the year and</p>

<p style="text-align: right;">58</p> <p>1 not year-round, so to speak, if that's what you</p> <p>2 mean. Certain things, like, power costs could</p> <p>3 drive those decisions.</p> <p>4 Q. Is there anything similar with respect</p> <p>5 to the N-CORPE project in terms of whether or</p> <p>6 not to run it year-round?</p> <p>7 A. Well, I mean, obviously the other</p> <p>8 element is if -- if you need the whole project</p> <p>9 capacity. So, you know, if we needed 60,000</p> <p>10 acre-feet, then it obviously would have to run</p> <p>11 year-round or nearly so, my understanding of</p> <p>12 the capacity of the project.</p> <p>13 So if the need were significantly less,</p> <p>14 then I suspect that it wouldn't be operated at</p> <p>15 just a lower rate for the entire year but,</p> <p>16 instead, for a -- just a shorter time period.</p> <p>17 Maybe also at a lower rate, too.</p> <p>18 Q. Okay. When we talk about the 60,000</p> <p>19 acre-feet per year, it would be -- what are the</p> <p>20 reasons why the deliveries would be less than</p> <p>21 60,000 acre-feet per year?</p> <p>22 A. The reason why it would be less is if we</p> <p>23 didn't have to do that much to ensure compact</p> <p>24 compliance.</p> <p>25 Q. Is it -- I believe your report referred</p>	<p style="text-align: right;">60</p> <p>1 followed what you meant by harm the surface</p> <p>2 water users. How is it able to do that?</p> <p>3 A. If there was a new depletion in those</p> <p>4 years.</p> <p>5 We could look at Table 5, I guess, on</p> <p>6 page -- starts on page 15. So this is -- this</p> <p>7 doesn't show any deliveries in those</p> <p>8 intervening years, but there are -- there are</p> <p>9 new depletions, at least once you get out to</p> <p>10 2024, from the operation of the project.</p> <p>11 They're fairly minor. And they're projected to</p> <p>12 be fairly minor.</p> <p>13 But, you know, as I think we</p> <p>14 described -- it's basically what we're calling</p> <p>15 our state-based objectives.</p> <p>16 Q. And is it intended that -- do you expect</p> <p>17 that you'll have to run it in years you don't</p> <p>18 need it for compact compliance, in every year</p> <p>19 that you don't need it for compact compliance?</p> <p>20 A. Well, that's hard to say. If the</p> <p>21 project needs to be utilized either frequently</p> <p>22 and/or in large volumes, then that's more</p> <p>23 likely to be the case.</p> <p>24 Q. And that's because in the years that</p> <p>25 it's not being operated because it had been run</p>
<p style="text-align: right;">59</p> <p>1 to it being used potentially in years other</p> <p>2 than those for compact compliance. But I don't</p> <p>3 want to misstate things.</p> <p>4 So if the State of Nebraska didn't</p> <p>5 project a shortfall, how would the decision be</p> <p>6 made to run the project? Or would the project</p> <p>7 not be run at all?</p> <p>8 A. Well, that's laid out in Section VI on</p> <p>9 page 7 entitled alternative state-based</p> <p>10 operation. That's the major difference between</p> <p>11 this plan and the Rock Creek plan.</p> <p>12 And it arises because the geographic</p> <p>13 location of this project places it outside of</p> <p>14 the moratorium area. Therefore, not imposing</p> <p>15 the requirement of avoiding new net depletions</p> <p>16 annually or long term. But we also have, you</p> <p>17 know, internal reasons that we would want to</p> <p>18 run the project to take care of any new</p> <p>19 depletions, basically relating to trying to</p> <p>20 eliminate the harm to the surface water users</p> <p>21 from the impacts of the project in those years</p> <p>22 when it wasn't being operated for compact</p> <p>23 compliance.</p> <p>24 Q. Could -- I'd like to stop you there.</p> <p>25 If you could explain -- I'm not sure I</p>	<p style="text-align: right;">61</p> <p>1 for a number of years at maximum capacity, the</p> <p>2 depletions are higher? Is that why it would</p> <p>3 need to be run in those off years?</p> <p>4 A. We would be trying to address any new</p> <p>5 depletion, right, that was occurring due to the</p> <p>6 different operation of the project relative to</p> <p>7 the historic operation of the irrigation on</p> <p>8 those lands.</p> <p>9 You can see hypothetical comparison if</p> <p>10 you look at, for example, Table 9 on page 20.</p> <p>11 Q. And what's it showing us?</p> <p>12 A. Well, it shows the project operations</p> <p>13 with no pumping in years that -- in which</p> <p>14 pumping was needed to ensure compact</p> <p>15 compliance, that's the project operations</p> <p>16 columns.</p> <p>17 And then the state-based operations</p> <p>18 column incorporates some pumping in intervening</p> <p>19 years.</p> <p>20 You can see that -- that value is 1,800</p> <p>21 acre-feet per year. It's more than enough to</p> <p>22 cover any new depletion.</p> <p>23 Part of the intent of this is to</p> <p>24 demonstrate that that additional state-based</p> <p>25 pumping would have minimal effect on those new</p>

<p style="text-align: right;">62</p> <p>1 depletions. That's the last column.</p> <p>2 Q. The additional depletions column in that</p> <p>3 last column, those depletions are going up;</p> <p>4 right?</p> <p>5 A. Right. And that column represents the</p> <p>6 difference between the two new depletion</p> <p>7 columns, column 2 and column 5.</p> <p>8 Q. And the new depletion columns in both of</p> <p>9 those sets of operations are going up; is that</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. Why is that?</p> <p>13 A. Well, they go down and then up. And</p> <p>14 over the long term, they go up because the</p> <p>15 volume of pumping is greater than -- in the</p> <p>16 project operations is greater than the volume</p> <p>17 of pumping that would have occurred for</p> <p>18 irrigation.</p> <p>19 But initially they go down because the</p> <p>20 volume is less, you know, those first three</p> <p>21 years again where there's no pumping when -- if</p> <p>22 the lands had been left in irrigation, then</p> <p>23 there would have been pumping.</p> <p>24 Q. When you say the volume was greater than</p> <p>25 was under irrigation, did you mean in any one</p>	<p style="text-align: right;">64</p> <p>1 Dr. Schreuder, are you there?</p> <p>2 MR. WILMOTH: Scott, is Willem</p> <p>3 with you?</p> <p>4 MR. SCHREUDER: Sorry. Yes, I'm</p> <p>5 here.</p> <p>6 MR. GRUNEWALD: And is Dan</p> <p>7 there, too?</p> <p>8 MR. STEUER: Yeah, I'm still</p> <p>9 here, too.</p> <p>10 Q. (BY MR. GRUNEWALD) Okay. The discharge</p> <p>11 point for the pipeline for N-CORPE is on</p> <p>12 Medicine Creek in Nebraska; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. What -- where does the water flow</p> <p>15 downstream from that point? Walk me through</p> <p>16 the next reaches, I think we called them. What</p> <p>17 happens next as the water exits the pipe.</p> <p>18 A. It would flow downstream to Harry Strunk</p> <p>19 Reservoir.</p> <p>20 Q. That's on -- sorry. That's on</p> <p>21 Medicine Creek?</p> <p>22 A. That's on Medicine Creek. Then it would</p> <p>23 be discharged through that reservoir, flow down</p> <p>24 the rest of Medicine Creek into the mainstem of</p> <p>25 the Republican River, where it would flow</p>
<p style="text-align: right;">63</p> <p>1 year, or did you mean over the long term, it's</p> <p>2 going to be more pumping than was historically</p> <p>3 done?</p> <p>4 A. I meant over the long term, the average</p> <p>5 annual, you know, if you averaged it over all</p> <p>6 of these years or if you summed it up.</p> <p>7 Q. Okay. Thank you.</p> <p>8 MR. GRUNEWALD: I'd say let's</p> <p>9 take a break for five minutes.</p> <p>10 THE WITNESS: Five minutes.</p> <p>11 MR. GRUNEWALD: Five, ten</p> <p>12 minutes.</p> <p>13 (A noon recess was taken.)</p> <p>14 (Exhibit Nos. 1 through 3 marked</p> <p>15 for identification.)</p> <p>16 Q. (BY MR. GRUNEWALD) Good afternoon,</p> <p>17 Dr. Schneider.</p> <p>18 MR. STEINBRECHER: In case you</p> <p>19 didn't hear me, I'm here.</p> <p>20 MR. GRUNEWALD: Oh, great.</p> <p>21 Welcome.</p> <p>22 MR. WILMOTH: Scott</p> <p>23 Steinbrecher, for the record,</p> <p>24 S-T-E-I-N-B-R-E-C-H-E-R. No umlaut.</p> <p>25 MR. GRUNEWALD: Yet.</p>	<p style="text-align: right;">65</p> <p>1 downstream into Harlan County Lake for</p> <p>2 potential retiming and delivery to Kansas water</p> <p>3 users or passing through Harlan County Lake to</p> <p>4 flow into Kansas.</p> <p>5 Q. And where -- where are the gauges on</p> <p>6 Medicine Creek, surface water gauges?</p> <p>7 A. The compact gauge is near the mouth of</p> <p>8 Medicine Creek.</p> <p>9 Q. Mouth of Medicine Creek is where it</p> <p>10 joins up with the mainstem?</p> <p>11 A. Right.</p> <p>12 Q. So on the downstream side of Harry</p> <p>13 Strunk Reservoir?</p> <p>14 A. Yes.</p> <p>15 Q. Are there any other gauges on</p> <p>16 Medicine Creek?</p> <p>17 A. There's a gauge above the reservoir.</p> <p>18 There's also a gauge on Fox Creek, which</p> <p>19 is a tributary to Medicine Creek. But this</p> <p>20 water would not interact with that gauge</p> <p>21 directly.</p> <p>22 Q. Is that because that -- Fox Creek joins</p> <p>23 upstream of where the discharge of the N-CORPE</p> <p>24 project is?</p> <p>25 A. No. I believe it's -- it comes in</p>

<p style="text-align: right;">66</p> <p>1 downstream of the discharge. But it's just --</p> <p>2 that gauge would just be gauging what's coming</p> <p>3 out of Fox Creek.</p> <p>4 Q. The gauge is on Fox Creek, not on</p> <p>5 Medicine Creek?</p> <p>6 A. Yeah, right.</p> <p>7 Q. And do you know whether -- let me</p> <p>8 rephrase that. Is Nebraska DNR going to add</p> <p>9 any stream gauges on Medicine Creek between the</p> <p>10 discharge point of the pipeline and the</p> <p>11 mainstem of the Republican?</p> <p>12 A. We don't have any plans at this point to</p> <p>13 add any stream gauges.</p> <p>14 Q. Are the NRDs planning on adding any</p> <p>15 gauges?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. What's the distance in stream miles from</p> <p>18 the discharge point of the N-CORPE project and</p> <p>19 the compact gauge you referred to on</p> <p>20 Medicine Creek?</p> <p>21 A. Well, I don't know specifically. But</p> <p>22 I'm going to guess that it's -- well, it's 10s</p> <p>23 of miles. How many 10s of miles, I'm not</p> <p>24 exactly certain.</p> <p>25 Q. More than 10?</p>	<p style="text-align: right;">68</p> <p>1 loss between the discharge point of the N-CORPE</p> <p>2 project and Harry Strunk Reservoir?</p> <p>3 A. We've done -- at this point we've done</p> <p>4 no specific studies of that. Though, it is</p> <p>5 a -- clearly a -- appears to be a gaining</p> <p>6 stream throughout.</p> <p>7 Q. And by gaining stream throughout, could</p> <p>8 you unpack that? What do you mean by that?</p> <p>9 A. Stream flow increases as you -- as you</p> <p>10 go downstream.</p> <p>11 Q. From where to where on Medicine Creek?</p> <p>12 A. Well, the -- from the headwaters to the</p> <p>13 mouth. Of course, the reservoir will disrupt</p> <p>14 that to some extent when it's retiming those</p> <p>15 flows. But --</p> <p>16 Q. And how is it you know or how is it that</p> <p>17 you think that it's a gain stream during</p> <p>18 that -- in that -- or how is it that you think</p> <p>19 that it's a gaining stream from the headwaters</p> <p>20 to the mouth?</p> <p>21 A. Well, it's base flow dominated. It's</p> <p>22 significantly affected by the groundwater mound</p> <p>23 from the Platte River -- the mound area south</p> <p>24 of the Platte River.</p> <p>25 Q. And when you say mound, under the</p>
<p style="text-align: right;">67</p> <p>1 A. It's definitely --</p> <p>2 Q. Less than 100?</p> <p>3 A. Yes.</p> <p>4 Q. 50?</p> <p>5 A. It's -- it could be as much as 50. I</p> <p>6 don't think it would be quite that much but --</p> <p>7 if I were to guess.</p> <p>8 Q. And so the compact gauge is on the</p> <p>9 downstream of Harry Strunk Reservoir; right?</p> <p>10 A. Yes.</p> <p>11 Q. So how many stream miles then to Harry</p> <p>12 Strunk Reservoir?</p> <p>13 A. Again, I'm not -- I'm not certain on</p> <p>14 that. It's -- again, that would be 10s of</p> <p>15 miles as well.</p> <p>16 Q. Okay. How large is Harry Strunk</p> <p>17 Reservoir? How long a stream is it?</p> <p>18 A. How long?</p> <p>19 Q. On the stream.</p> <p>20 A. On the stream? It's miles. I mean,</p> <p>21 it's a 40,000-acre-foot reservoir, roughly,</p> <p>22 when it's full. Surface area would be</p> <p>23 thousands of acres.</p> <p>24 Q. Okay. And have you or anyone from</p> <p>25 Nebraska evaluated the potential for transit</p>	<p style="text-align: right;">69</p> <p>1 compact accounting, we also refer to that as</p> <p>2 the imported water supply; is that right?</p> <p>3 A. That -- yes, that would be --</p> <p>4 Q. Colloquially the --</p> <p>5 A. Yes, same thing.</p> <p>6 Q. -- terms are almost interchangeable?</p> <p>7 A. Right, right. The import water supply</p> <p>8 forms the mound.</p> <p>9 Q. Are you aware of any studies of the</p> <p>10 stream conditions between the discharge point</p> <p>11 of the N-CORPE project and Harry Strunk</p> <p>12 Reservoir?</p> <p>13 A. I don't believe so.</p> <p>14 Q. How would -- how would water that's</p> <p>15 discharged out of the N-CORPE project be</p> <p>16 accounted for as it gets to Harry Strunk</p> <p>17 Reservoir, in the compact accounting?</p> <p>18 A. Well, excuse me, again, we're getting</p> <p>19 into this distinction between the drops of</p> <p>20 water versus the volumes of water.</p> <p>21 The compact accounting doesn't account</p> <p>22 for drops of water. And neither would this</p> <p>23 augmentation plan. It does account for volumes</p> <p>24 of water. And that's how we would account for</p> <p>25 the augmentation water, as a volume.</p>

<p style="text-align: right;">70</p> <p>1 Q. And how would it be accounted for as a 2 volume? 3 A. It would be measured. 4 Q. Measured where? 5 A. At the outfall. 6 Q. Will the water that's discharged out of 7 the pipe be storable at Harry Strunk Reservoir? 8 A. It certainly could be. 9 Q. Is it Nebraska's intention that the 10 water will be stored at Harry Strunk Reservoir? 11 A. Not necessarily. 12 Q. Does Nebraska have preferred outcome as 13 to whether the water should be stored or not 14 stored? 15 A. Well, the only preferred outcome we 16 would have is that if we're providing 17 augmentation water for compact compliance, that 18 that same volume of water would be made 19 available for Kansas. 20 Q. Made available for Kansas where? 21 A. Well, it could be temporarily retimed at 22 Harlan County Lake. In the simplest sense, it 23 would be made available by -- for Kansas by 24 having that water flow into Kansas. 25 Q. So it could be made available by storing</p>	<p style="text-align: right;">72</p> <p>1 you mean retiming only at Harlan County Lake or 2 something else? 3 A. Well, there's certainly other 4 reservoirs -- we talked about Harry Strunk 5 Lake. So some of it could be retimed through 6 there as well. But that would probably only be 7 for internal considerations. 8 For example, one thing we've made clear 9 to the Bureau is that if they have preferences 10 on where water's released in terms of different 11 reservoirs, that, you know, we're not -- we 12 don't really care where it comes from. We're 13 just interested in the right volumes of water. 14 So -- you know, so, for example, some of 15 it could be kept in Harry Strunk but tons more 16 was released out of Hugh Butler to make up for 17 it, then we would know we had the same volume 18 that came down the stream. 19 The other part of that is that similar 20 to the way we did the administration last year. 21 At a certain point, we allowed the Bureau to 22 temporarily impound water in those upstream 23 reservoirs until we could make a better 24 assessment of the situation in terms of compact 25 compliance towards the end of the year and with</p>
<p style="text-align: right;">71</p> <p>1 that same volume of water at Harlan County 2 Lake? 3 A. It could be. I believe they're working 4 on arrangements for that for this year. By 5 that I mean the Bureau of Reclamation, Kansas 6 Bostwick Irrigation District. 7 Q. When you say made available, sounded 8 like there was another alternative there; is 9 that right? Besides storing at Harlan County 10 Lake? 11 A. Yeah. Could just flow through it. 12 Q. Flow through Harlan County Lake to get 13 down to the state line at Hardy? 14 A. Potentially. Could flow to Hardy or 15 could be diverted at Guide Rock into Kansas. 16 Q. And when would the water be made 17 available for Kansas? 18 A. It would depend on whether or not it was 19 retimed. It could just be a steady flow 20 throughout the year. 21 It could be that water is temporarily 22 held in Harlan County Lake and then it's 23 available when they need it in the Kansas 24 Bostwick Irrigation District. 25 Q. And when you say depends on retiming, do</p>	<p style="text-align: right;">73</p> <p>1 the hope that we could turn out -- turn a 2 portion of the water that was -- that did flow 3 into their reservoirs back to the -- to the 4 Bureau as legally stored water at the end of 5 the year. And that's exactly what happened in 6 2013. 7 Q. Is that something that could happen to 8 the volume of water that's associated with the 9 N-CORPE project, where it gets impounded and 10 then turned into -- I think you called it 11 project water? 12 A. It's something that could happen to the 13 drops of water. 14 Q. But not the volume of water? 15 A. Right. 16 Q. And so does that mean no amount of the 17 volume of water associated with the N-CORPE 18 project is intended to be turned into project 19 water? 20 A. It's not intended to. The only scenario 21 that I can think of that would result in that 22 is a sudden and very extreme change towards 23 March weather conditions that -- you know, that 24 basically filled everything up for us and 25 brought us out of a water-short year or</p>

<p style="text-align: right;">74</p> <p>1 something like that. So that -- which is 2 something that happens from time to time. But 3 I think '93 is a good example, 1993. 4 But for the most part, as long as things 5 remain dry or, you know, at least not 6 significantly above average, then I wouldn't -- 7 I wouldn't foresee that happening. 8 Q. This -- if I'm following, the 9 distinction between the two situations is that 10 if Nebraska was interested in the volume of 11 water associated with the N-CORPE project, 12 helping with compact compliance, then the 13 intention would be not to turn it into project 14 water versus the situation where it gets wet in 15 the middle of the year and Nebraska's no longer 16 looking to associate the N-CORPE water -- 17 project water with compact compliance? 18 A. Right. As long as it's provided for 19 compact compliance, then that volume of water 20 will be delivered to Kansas that year. 21 Q. With respect to the water that comes out 22 of the N-CORPE project pipeline, will there be 23 any transit losses for that water, which I 24 believe we're calling the drops of water, as it 25 goes downstream to Harry Strunk Reservoir?</p>	<p style="text-align: right;">76</p> <p>1 time, that you would see that there really 2 wasn't any. 3 Q. I -- what do you mean by -- give me an 4 example of what the right amount of time would 5 be. 6 A. Well, it would be case specific. But I 7 guess if you looked at the downstream gauge 8 before water was released and it had a certain 9 flow, just that the natural base flow, it would 10 be the time after the release stopped until the 11 flow dropped back down to that -- that flow 12 that you had before the release was started. 13 Q. Is it something that would happen over 14 days, weeks, months, years? 15 A. I would say typically that would happen 16 in multiple days to weeks. But, again, would 17 be -- would depend on the specific geologic 18 conditions and other factors potentially. 19 Q. What about the situation in 20 Medicine Creek? 21 A. How long is that -- are you asking how 22 long that time period is there or -- 23 Q. Yes. Would you expect -- what would you 24 expect it to be, given what you know about the 25 hydrology and geology for Medicine Creek?</p>
<p style="text-align: right;">75</p> <p>1 A. I don't expect significant transit 2 losses. My -- my guess is that those would be 3 minimum to de minimis. We haven't operated it 4 yet but -- 5 Q. And what about from Harry Strunk 6 Reservoir down to Harlan County Reservoir? 7 A. I think there could -- there probably 8 could be some temporary bank storage that may 9 occur, which would then kind of even -- net 10 itself out over time. 11 Q. Could you explain what you mean by 12 temporary bank storage? 13 A. Sure. You know, if there -- for 14 example, if they're releasing 100 cfs out of 15 the reservoir and 90 cfs is getting to the 16 gauge, as an example, then that 10 cfs is water 17 going into bank storage, being stored 18 temporarily in the -- in the alluvial aquifer, 19 and then after the release is stopped, that 20 water flows back out into the stream and 21 becomes stream flow later. 22 So that if you look at it on a daily -- 23 you know, at a single day, you might say 24 there's some transit loss. But when you 25 properly consider it over the right amount of</p>	<p style="text-align: right;">77</p> <p>1 A. Haven't looked into that in great 2 detail. But I would expect it to be fairly 3 short term. Days to a week or two maybe. 4 Q. We talked a bit about water potentially 5 be stored in Harlan County Lake. And water 6 stored in Harlan County Lake is related to 7 something known as the Consensus Plan which is 8 attached to the FSS; is that right? 9 A. Generally speaking, yes. 10 Q. Okay. If water -- a volume of water 11 associated with the N-CORPE project were stored 12 or temporarily retained, whatever the right 13 legal term is, at Harlan County, how would it 14 affect the operations or calculations done 15 under the Consensus Plan? 16 A. Well, the Consensus Plan has a -- an 17 inflow term that's used for the January through 18 May time period. And I'm really not -- I'm 19 really not certain how the Bureau would look at 20 that in terms of whether or not they included 21 those inflows that came into the reservoir 22 while their storage permit was closed into 23 that -- I don't think that they would. I think 24 that that's the way they did it last year, that 25 those -- those inflows weren't counted in terms</p>

<p style="text-align: right;">78</p> <p>1 of determining the project water supply. 2 I'd have to go back and look through 3 that and talk to the Bureau. 4 Q. Do you think any adjustment is needed to 5 the Consensus Plan? 6 A. No. 7 Q. You talked about a volume of water that 8 Nebraska would like to ensure be delivered to 9 Kansas. Do you remember that part of our 10 discussion? 11 A. Yes. 12 Q. Is that volume of water under the 13 control of Nebraska DNR so that it gets to 14 where you want it to go? 15 A. Yes. 16 Q. How is it under Nebraska DNR's control? 17 A. Through our regulatory -- regulatory 18 authority over surface water that -- 19 Q. What specific aspects of that authority 20 relate to the control over the water? 21 A. The director is -- the director of the 22 department is tasked with administering all 23 surface water appropriations so that when 24 necessary, those appropriations are closed and 25 there's -- removes the ability of those as far</p>	<p style="text-align: right;">80</p> <p>1 going to need, as an example. 2 Q. Last year I think there was some ability 3 of some of the reservoirs to temporarily retain 4 water, water you mentioned in a previous 5 answer, about it being converted at the end of 6 the year because it wasn't needed to move 7 downstream. 8 Is anything like that being done right 9 now with respect to the reservoirs in the 10 Republican -- 11 A. Not at this time. 12 Q. So the gates are open on everything? 13 A. Yes. Well, that's not technically true. 14 On some of them, they have to get on a schedule 15 because their minimum gate opening is too much 16 for the inflow. 17 So -- Hugh Butler, you know, they 18 released 20 cfs for a while, and it drew it 19 down. And now it's coming back up. I don't 20 know if they'll -- they'll be, you know, open 21 one week, closed the next, something like that 22 but -- 23 Q. Okay. The -- there's a provision in the 24 FSS for designated -- designating certain years 25 water-short administration years. Are you</p>
<p style="text-align: right;">79</p> <p>1 as water users to take water out of the stream 2 or to store water in a in-stream reservoir. 3 Q. Is that control exercised as part of the 4 compact call year operations referred to in the 5 Integrated Management Plans? 6 A. Yes. 7 Q. Is it only during years where there's a 8 compact call year designation? 9 A. We administer for under prior 10 appropriations pretty much every year around 11 the state. 12 There is some administration on the 13 Republican almost every year but not for 14 compact compliance. Administration for compact 15 compliance would be limited to a compact call 16 year. 17 Q. And is that when this water from the 18 N-CORPE project is being controlled by Nebraska 19 DNR? 20 A. If we're talking about the volume, then, 21 yes. This year we issued an order on January 22 1st. And we closed all the reservoirs. 23 They're currently bypassing their inflows so 24 that we can start to bring water downstream and 25 accumulate the volumes of water that we're</p>	<p style="text-align: right;">81</p> <p>1 familiar with that? 2 A. Yes. 3 Q. I think there's a trigger volume 4 associated with that. Do you remember how that 5 provision works? 6 A. If the water supply in Harlan County 7 Lake is less than 119,000 acre-feet, then it's 8 a water-short year. And that's something that 9 is looked at in terms of the water supply on 10 July 1st. 11 Q. Is -- does Nebraska intend to use any of 12 the N-CORPE project water to assist in avoiding 13 that water-short year administration trigger? 14 A. I suppose it's possible. But it's 15 probably not practical in almost every 16 situation because, you know, the water -- 17 water-short years, while it's defined based on 18 a water supply, it's really -- it -- it's 19 really determined by Mother Nature. And when 20 it doesn't rain, it doesn't -- you know, 21 there's -- it doesn't rain. And that's where 22 you're at. So -- 23 Q. Could any of the volume of water from 24 the N-CORPE project be used to fill that water 25 supply that's in Harlan County Reservoir?</p>

<p style="text-align: right;">82</p> <p>1 A. It would be pretty difficult because -- 2 because of the way those computations work. It 3 takes quite a bit of water to catch up. So 4 it's not -- it's -- you know, it's not simply a 5 matter of being -- being under by a little bit 6 and pumping it in because what happens is 7 there's these shared shortage adjustments that 8 occur, so some of the inflows don't count for 9 that year. And there's this ability to drop 10 down into the sediment pool. So, you know, 11 they're going to -- they're going to go down 12 into the sediment pool on -- when there isn't 13 enough water in the irrigation pool. And if 14 you start pumping water in, it just -- it 15 doesn't really get you that much farther ahead 16 because you're just putting water in the 17 irrigation pool. So instead of taking it out 18 of the sediment pool, they'll take it out of 19 the irrigation pool. 20 So it's not a simple matter of saying 21 we're at 115, let's pump 40 -- 4,100 acre-feet 22 and it will all be over. 23 Q. Okay. If we could turn in your report 24 to page 3, there's a reference in Section 4 in 25 that first paragraph, which I'm looking for and</p>	<p style="text-align: right;">84</p> <p>1 I'm not sure what you're getting at exactly, 2 though. 3 Q. Is there a situation where some other 4 water -- surface water user could contract and 5 say I want water from that project as opposed 6 to it being turned on at the request of the NRD 7 for the purpose of compact compliance? 8 A. Well, I mean, I guess theoretically if 9 they made the right arrangements with the 10 N-CORPE board and they had that worked out, I 11 suppose it's theoretically something that might 12 happen. 13 Q. You're not aware of any prohibitions 14 against that water being used in that way? 15 A. No. 16 Q. Okay. If we could turn to page 6 in 17 your report. I'd like to take a look at the 18 formulas that you've laid out there in the 19 middle of the page. Do you see those? 20 A. I do. 21 Q. Now, the first set of formulas is 22 labeled current RRCA accounting procedures for 23 Medicine Creek Sub-basin; is that right? 24 A. Yes. 25 Q. Are those formulas you have listed there</p>
<p style="text-align: right;">83</p> <p>1 not finding -- oh, in the end of the paragraph, 2 it refers to questions or concerns raised by 3 other states. Has Colorado raised any concerns 4 specific to this N-CORPE proposal? 5 A. Well, they've probably -- I can't 6 recall. We've gone through a couple of these. 7 And we've had various workshops where there's 8 been questions from all sides. So I don't 9 remember specifically related to this one. At 10 times they've had questions. 11 Q. Do you remember whether any questions 12 from Colorado or concerns from Colorado came up 13 related to the Platte side of this project as 14 opposed to the Republican side? 15 A. I don't believe so. 16 MR. WILMOTH: I'm sorry, Chris, 17 could we take a quick break? 18 MR. GRUNEWALD: Yeah. 19 (A short recess was taken.) 20 Q. (BY MR. GRUNEWALD) The N-CORPE project 21 water, could any other water users acquire the 22 right to that project water, the ability to get 23 water from the project? 24 A. I'm not sure. I guess I'm -- I'm trying 25 to think through scenarios. I don't think so.</p>	<p style="text-align: right;">85</p> <p>1 the actual formulas out of the accounting? 2 A. I think it's the generalized formula 3 that's given. Here, let me look for you. 4 If you look at page 40 of 104, Section 5 III of the accounting procedures, the second 6 line of that table is the sub-basin virgin 7 water supply. They have a generalized formula 8 for all the sub-basins. 9 Q. Okay. And there are specific -- 10 A. I'm sorry. We've neglected the change 11 in storage term. 12 Q. The change in storage term, is that 13 related to any of the federal reservoirs that 14 are on the -- in the particular sub-basin? 15 A. Well, there would be one for 16 Medicine Creek because of that reservoir. But 17 it's not important for purposes of this 18 calculation. So we just simplified it and left 19 it out. 20 Q. Okay. Now, the -- so the reference to 21 gauge, which is the first term listed in that 22 first equation after the equals sign, is the -- 23 is that the compact gauge for Medicine Creek, 24 or is that intended to be that? 25 A. Yes, that's intended to be that.</p>

<p style="text-align: right;">86</p> <p>1 Q. Okay. And so in the first example, 2 going to that second equation where you filled 3 in numbers -- sorry, it's on page -- oh. 4 A. Yeah, go ahead. 5 Q. Okay. That gauge -- hypothetical gauge 6 reading, is it a thousand acre-feet past the 7 gauge that year? Is that what that's supposed 8 to mean? 9 A. Yes. 10 Q. And if you go to the second set of 11 equations, now, this is the -- as a 12 hypothetical if you -- if -- if the N-CORPE 13 project were putting out 60,000 acre-feet; is 14 that right? 15 A. Yes. 16 Q. That's 60,000 acre-feet for the year; is 17 that right? 18 A. That's right. 19 Q. And so in the -- where it had said gauge 20 in the equation, as you filled in the numbers 21 there, there's a set of brackets. Do you see 22 that? 23 A. Yes. 24 Q. Okay. Can you tell me what the numbers 25 are that you put in there?</p>	<p style="text-align: right;">88</p> <p>1 would be negative 400; is that right? 2 I'm going to simplify with lawyer's 3 math. If the end result in your hypothetical 4 as you have it there is a positive 1,600 from 5 that equation but 2,000 less acre-feet, fewer 6 acre-feet were present, then it would be 2,000 7 acre-feet less than the 1,600 acre-feet? 8 A. Right. That's how the math would work 9 out. I was just thinking through it. 10 Q. Fair enough. How would a -- if that 11 value were negative there for the virgin water 12 supply, how would that be allocated? 13 A. 53.55 percent to Nebraska and 46.45 14 percent to Kansas. 15 Q. So there would be a negative virgin 16 water supply allocated between the states? 17 A. Yes. 18 Q. I want to switch to the arbitrator's 19 decision in Rock Creek. And I have a copy. 20 But I don't know that we'll necessarily need to 21 go to it. We discussed it earlier today. Do 22 you remember that? 23 A. Yeah, generally, yeah. 24 Q. And are you aware that Nebraska issued a 25 notice accepting the decision?</p>
<p style="text-align: right;">87</p> <p>1 A. The 1,000 is the stream flow that would 2 have occurred without operating the project. 3 The 100 is the new depletion caused by 4 operating the project. 5 And the 60,000 is the delivery of water 6 from the project. 7 Q. Now, if we add those up, we get -- what 8 do we get? 9 A. 60,900. 10 Q. Now, is that supposed to represent the 11 amount of water passing that gauge? 12 A. Yes. 13 Q. Okay. So in this hypothetical, 60,000 14 acre-feet left the discharge pipe, and the 15 amount that showed up at the gauge was 60,900; 16 is that right? 17 A. Well, the increase in flow would be 18 59,900. And the total gauge flow was 60,900. 19 Q. Thank you for that correction. And I -- 20 what I meant to say is that the total flow at 21 the gauge is 60,900; is that right? 22 A. Yes. 23 Q. If the total flow at the gauge ended up 24 being 58,900 acre-feet, so 2,000 acre-feet less 25 there, then the end result for the equation</p>	<p style="text-align: right;">89</p> <p>1 A. Yes. 2 Q. Okay. 3 MR. WILMOTH: Mr. Grunewald, 4 would it be all right if I provided a copy of 5 the report? 6 MR. GRUNEWALD: Absolutely. You 7 know, I've got a copy marked. So why don't we 8 go ahead and mark that. 9 (Exhibit No. 5 marked for 10 identification.) 11 Q. (BY MR. GRUNEWALD) Okay. So in front of 12 you, you have what's been marked Exhibit 5. 13 There is no Exhibit 4 for the deposition. And 14 this is the arbitrator's order we were 15 discussing for two disputes, one of which is 16 Rock Creek. Do you see it? 17 A. Yes. 18 Q. Does that look like the decision? 19 A. Yes, it does. 20 Q. Did you read the decision when it came 21 out? 22 A. Yes, I did. I enjoyed it thoroughly. 23 Q. I thought you might. 24 A. Uh-huh. 25 Q. Was there -- were there any conclusions</p>

<p style="text-align: right;">90</p> <p>1 reached by the arbitrator that you disagreed 2 with? 3 A. I don't believe so. 4 Q. Okay. Earlier we did talk about working 5 through the accounting terms in terms of the 6 augmentation water supply credit. And I 7 believe you said you're still working through 8 some of that; is that right? 9 A. Well, I think what I was -- what I was 10 trying to say is that, you know, when we put 11 that concession forward and what he obviously 12 recognized was -- was appropriate, I hadn't 13 thought through some of the consequences of 14 doing that. 15 And, really, all I mean is that I 16 over -- I think it was just presented in an 17 oversimplified way that would always work if 18 there's a positive new depletion but it just 19 didn't consider some of the potential outcomes 20 that we'd want to, you know, make sure we 21 avoided. 22 And I think -- I think, as I read his 23 opinion, it was clearly geared towards -- and 24 at least my interpretation is that's what he 25 was thinking about was situations where there</p>	<p style="text-align: right;">92</p> <p>1 maximum credit that would be sought; is that 2 it? 3 A. That's what the plan is for is for the 4 60,000, right. 5 Q. Is it because the credit is 60,000 or 6 the maximum amount of delivery would be 60,000? 7 A. Well, the delivery would be 60,000. And 8 the credit could be 60,000. But it wouldn't be 9 more than that. 10 Q. Okay. We've talked about things you're 11 working through up to your deadline of your 12 other report that might affect the N-CORPE 13 proposal. Don't want to rehash those. Is 14 there anything else that this decision that you 15 know of would lead to changes in the N-CORPE 16 proposal besides what we've already talked 17 about? 18 A. I don't believe so. 19 Q. And Rock Creek augmentation -- the Rock 20 Creek augmentation project is operating now 21 or -- I should say operated in 2013; is that 22 right? 23 A. They're both right, yeah. It operated 24 then. And it's operating now. 25 Q. Lucky me. How much water was delivered</p>
<p style="text-align: right;">91</p> <p>1 was some positive new depletion, there was some 2 delivery and then there was some netting out of 3 that for the augmentation water supply credit. 4 Q. One of the other subjects covered in the 5 decision was the -- was a limit on the maximum 6 amount out of the Rock Creek Augmentation Plan. 7 Do you remember that issue? 8 A. Yes. 9 Q. For what it's worth here on intro pages, 10 ii, I believe subject heading there on the page 11 is F, do you see heading F there? 12 A. Yes. 13 Q. The phrase -- there's a phrase there. 14 It says, "Meaningful RRCA review requires each 15 such plan to include a maximum amount." Do you 16 see that? 17 A. Yes. 18 Q. Do you agree with that? 19 A. Sure. That's why we provided one. 20 Q. And for Rock Creek, the maximum amount 21 was -- do you remember what the maximum amount 22 was for Rock Creek? 23 A. 20,000. 24 Q. And for N-CORPE here, it's 60,000 25 acre-feet because the plan states that's the</p>	<p style="text-align: right;">93</p> <p>1 out of Rock Creek in 2013? 2 A. I don't have the exact number at this 3 point. I -- I understand the -- they were 4 planning to deliver 16,000 acre-feet, 5 approximately. 6 Q. Were records provided to Nebraska DNR 7 about the Rock Creek project operations, 8 reflecting how much was pumped? 9 A. They will be. That will be part of our 10 annual reporting for this year. 11 Q. You don't know if they were provided 12 before then? 13 A. I don't think we've received them yet. 14 Q. Okay. And will you be getting records 15 of both the pipeline discharge and the well 16 pumping? 17 A. That's what I would anticipate. 18 MR. GRUNEWALD: I think I'm 19 nearly done, if I could just take a minute to 20 circle back through. I think we're just about 21 done. 22 (A short recess was taken.) 23 MR. GRUNEWALD: I'm all done. 24 MR. WILMOTH: All right. Scott, 25 did you have any questions?</p>

<p style="text-align: right;">94</p> <p>1 MR. STEINBRECHER: No, no 2 questions from Colorado. Thank you, Tom and 3 Chris. 4 MR. WILMOTH: All right. We 5 have no follow-up. 6 THE REPORTER: And you're 7 reading and signing? 8 MR. WILMOTH: Yes. 9 (Deposition concluded at 2:21 p.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">96</p> <p>1 C-E-R-T-I-F-I-C-A-T-E 2 STATE OF NEBRASKA) 3 : ss. 4 COUNTY OF LANCASTER) 5 I, Lori J. McGowan, General Notary Public 6 in and for the State of Nebraska and Registered 7 Professional Reporter, hereby certify that DR. 8 JAMES SCHNEIDER was by me duly sworn to testify 9 the truth, the whole truth and nothing but the 10 truth, that the deposition by him as above set 11 forth was reduced to writing by me. 12 That the within and foregoing deposition 13 was taken by me at the time and place herein 14 specified and in accordance with the within 15 stipulations; the reading and signing of the 16 deposition having not been waived. 17 That the foregoing deposition is a true 18 and accurate reflection of the proceedings 19 taken in the above case. 20 That I am not counsel, attorney, or 21 relative of either party or otherwise 22 interested in the event of this suit. 23 IN TESTIMONY WHEREOF, I place my hand and 24 notarial seal this day of January, 2014. 25</p>
<p style="text-align: right;">95</p> <p>1 Deposition of DR. JAMES SCHNEIDER 2 3 _____ 4 Signature of witness 5 6 STATE OF _____) 7 : ss. 8 COUNTY OF _____) 9 10 Subscribed and sworn to before me this 11 day of , . 12 13 _____ 14 15 GENERAL NOTARY PUBLIC 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">97</p> <p>1 DEPOSITION OF: DR. JAMES SCHNEIDER 2 3 Page & Line/ REASON FOR CHANGE 4 / 5 / 6 / 7 / 8 / 9 / 10 / 11 / 12 / 13 / 14 / 15 / 16 / 17 / 18 / 19 / 20 / 21 / 22 / 23 / 24 / 25 /</p>