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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: February 18, 2014 TIME: 9:02 a.m. PLACE: 1221 N Street, Suite 600, Lincoln, Nebraska

NCORPE K152 2 of 16

Page 2 Page 2 1 APPEARANCES 1 PR OC EE ED IN GS 3 APPEARING FOR KANSAS: Mr. Chrisopher M. Granewald (elephone) Assistant Atroncy Ceneral 120 SW 10h, Ass. 2nd Floor 1 PR OC EE ED IN GS 5 120 SW 10h, Ass. 2nd Floor 3 for identification.) 6 chrisopher M. Granewald (elephone) Mr. Done S. R.Winoth (telephone) Mr. Done S. R.Winoth (telephone) Mr. Done S. R.Winoth (telephone) Mr. David S. Bankhana 1 10 APPEARING TOR NEDRASKA: Bank 143 2 0. Good morning. Dr. Schneider. 11 Jamin D. Larence merein 10 Q. Good morning. Dr. Schneider. 12 Mr. Lanin D. Larence piptistin Javnee forebraka.gov 11 3 13 Lincoh, NF 6580 justin Javnee forebraka.gov 11 3 14 ALSO PRESEDT: J. Jasper Fonning. Thomas Riley, Marc Golf, Bran Dumigan 11 15 15 Jacoper Fonning. Thomas Riley, Marc Golf, Bran Dumigan 12 Q. Grat. And we're scheduled to go for a couple of brows. If gure we'l phobably take at least one break. Here in the middle, if you are early easo that brows. If gure we'l phobably take at least one break. Here in the middle, if you reports he brought with you or provided. 7 2 Q. And we marked before the deposition 4 2 3 Page 5 1 Ist me know. Does that sound okay? 2 A. Yes, 1	Г	
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6 chink gramewald@ksag.org 7 APPERARNG FOR NERRASKA: 8 Mr. Thomas R. Wilmoth (telephone) 9 Attomeys at Law 9 Attomeys at Law 10 Statistan Attomeys 11 and- 12 Assistan Attomeys 13 Lincoln, NE 6809 14 Mr. Thomas R. Wilmoth 15 Jastian Attomeys 16 ALSO PRESENT: 17 Jastian Attomeys 18 ALSO PRESENT: 19 Jastes Schneider 14 hopefully we can make a clear record. I 15 Jastes Schneider 14 Lever of Besize in advance if we have to repeat 14 hopefully we can make a clear record. I 15 James Schneider 14 I-N-D-E-X 2 I-N-D-E-X 2 I-Notice of Deposition 4 Letter to Mr. Gary Campbell 4 10 Scorecast of Allowable Depletions 4 Letter to Mr. Brian Dunnigan 4 16 Scorecast of Allowable Depletions 4		5 Being first duly cautioned and solemnly sworn as
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1819your report dated February 7th, 2014; is that1920right?2021A.Yes.2122Q.Does that look like a copy, a complete2323copy of your report?2424A.Yes.		
1920right?2021A. Yes.2122Q. Does that look like a copy, a complete2323copy of your report?2424A. Yes.		
2021A. Yes.2121A. Yes.2222Q. Does that look like a copy, a complete2323copy of your report?2424A. Yes.		
21A. Tes.22Q. Does that look like a copy, a complete23232424A. Yes.		
2223copy of your report?2324A. Yes.	19	
24 24 A. Yes.	19 20 21	21 A. Yes.
	19 20 21 22	21A.Yes.22Q.Does that look like a copy, a complete
	19 20 21 22 23	 A. Yes. Q. Does that look like a copy, a complete copy of your report?
	19 20 21 22 23 24	 A. Yes. Q. Does that look like a copy, a complete copy of your report? A. Yes.

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	Page 6		Page 8
1	questions on the report. We might talk about	1	presented by the Kansas experts and compared
2	some of the other exhibits and come back to it	2	that to the actual real-world conditions that
3	later. If you well, I want to confirm who	3	both I observed and was further illuminated on
4	worked on the report. Who drafted the text for	4	through Mr. Riley's report.
5	the report?	5	Q. Besides the Kansas results, did you look
6	A. I did.	6	at any other Model results to compare to
7	Q. And did anyone else help draft text?	7	Mr. Riley's work?
8	A. There would have been some, you know,	8	A. Nothing that's coming to mind at this
9	feedback in terms of working through the	9	right now.
10	editing of the report with attorneys and others	10	Q. Okay. So moving down to the let's
11	at the Department as well as consultants.	11	see. I'm not sure if that's a new paragraph or
12	Q. Were you the primary author of the	12	not. We'll go with, it looks like the fourth
13	report?	13	paragraph. It starts "In contrast." Do you
14	A. Yes.	14	see that?
15	Q. Is there anybody else you would consider	15	A. Yes.
16	a coauthor?	16	Q. And when you say "In contrast, the Model
17	A. No.	17	appears to compute," are you referring just to
18	Q. Who was it that helped you with the	18	the Kansas Model results there?
19	report?	19	A. Yes.
20	A. Legal counsel, Brian Dunnigan, and Jesse	20	Q. And so the Kansas Model results you're
21	Bradley at the Department; Tom Riley and	21	saying show that perennial flow in Medicine
22	possibly others at the Flatwater Group.	22	Creek begins 10 miles downstream of the
23	Q. And when you say the "Department," you	23	discharge of the project?
24	mean the Nebraska Department of Natural	24	A. Right. That's what the Model results
25	Resources; right?	25	appear to be showing when I reviewed the
	Page 7		Page 9
1		1	
1 2	A. Yes.	1 2	reports.
	A. Yes.Q. Thanks. The report here that's dated		reports. Q. Thank you. If we could go to
2	A. Yes.	2	reports.
2 3	A. Yes.Q. Thanks. The report here that's datedFebruary 7th, does that contain all of your	2 3	reports. Q. Thank you. If we could go to page three?
2 3 4	A. Yes.Q. Thanks. The report here that's datedFebruary 7th, does that contain all of your responsive opinions regarding the N-CORPE	2 3 4	reports. Q. Thank you. If we could go to page three? A. Okay.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Yes. Q. Thanks. The report here that's dated February 7th, does that contain all of your responsive opinions regarding the N-CORPE Project? And I should pause to spell that out. "N-CORPE" is an acronym for Nebraska Cooperative Republican Platte Enhancement, and so I'll ask my question again. Does this report contain all of your responsive opinions regarding the N-CORPE Project? A. It contains all of my responsive opinions regarding the Kansas reports that were filed. Q. Thank you. Could you turn to page two, please? A. Yes. Q. Thank you. Right there up at the top of the page, the first sentence, do you see that sentence? It says "Comparison of Model output to the actual real-world conditions." A. Yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 reports. Q. Thank you. If we could go to page three? A. Okay. Q. And there is a paragraph that says "Ultimately, transit losses." Do you see that? A. Yes. Q. And I wanted to see if I understood what you were saying in this paragraph. The second sentence there, if you see it, it says in the middle of the sentence, "Kansas fails to note Nebraska's allocation would be harmed even more," and I wanted to understand what you meant by "even more." A. Well, it's just the way the math works out as I guess tried to explain in the rest of the sentence because we receive a higher allocation for Medicine Creek. Q. And what is that allocation? A. It's about it's about 53 and a half percent of the total once you factor in the direct allocation and the split of the

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	Page 10		Page 12
1	A. Yes.	1	at the Medicine Creek gage, for example?
2	Q. And I want to make sure I understand the	2	A. Well, it's I suppose possible, although
3	example. If I was following your description	3	what really matters is that it doesn't make it
4	there, it takes on a hypothetical situation	4	to the State line. That's kind of the
5	where there's a credit for 60,000 acre-feet; is	5	underlying assumption.
6	that right?	6	Q. Now, if all of the if the losses in
7	A. Yes.	7	this hypothetical were all at the Medicine
8	Q. And there's an amount of that water that	8	Creek gage, then does it matter what's
9	was for the credit, the amount that shows up at	9	happening after the Medicine Creek gage?
10	the State line. In this hypothetical, it's	10	A. It could. Possibly not, possibly so, I
11	40,000 acre-feet; is that right?	11	guess.
12	A. Yes.	12	Q. Now, how is it that Nebraska is going to
13	Q. And I take it it's saying here that	13	know that all of the water didn't show up at
14	you're saying that there's a problem if the	14	the State line that you wanted it to?
15	full 60,000 doesn't arrive at the State line.	15	A. Well, we have the forecast that we work
16	Is that is that a fair characterization?	16	through and it's basically got us working under
17	A. Right, because if we needed to make up	17	a forecasted shortfall. So, you know, if we
18	60,000 acre-feet in terms of our Compact	18	generate credits upstream but don't get the
19	compliance balance and that full amount didn't	19	water to the State line, there's kind of a
20	show up, we would have a 60,000 acre-foot	20	feedback loop where some of the water is made
21	credit, but the allocation that we received	21	up, but then the so the shortfall shrinks,
22	would be reduced so we would still end up with	22	but then the allocation shrinks and so the
23	a shortfall.	23	shortfall grows again.
24	Q. Now, would the reduced allocation be	24	So, you know, aside from that, we'll
25	more or less than the credit you were getting?	25	I guess we'll know that the water is showing up
	Page 11		Page 13
1	Page 11 A. Well, it would be less.	1	
1 2	A. Well, it would be less.	1 2	at the State line. It's really kind of the
	A. Well, it would be less.Q. Now, in that paragraph, you have a		at the State line. It's really kind of the other way around from the way your question was
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2 3 4 5 6	 A. Well, it would be less. Q. Now, in that paragraph, you have a sentence that says "this is exactly why." Do you see that? A. Yes. Q. Are you saying there that because 	2 3 4 5 6	at the State line. It's really kind of the other way around from the way your question was posed, I think.Q. Does that mean that if Nebraska met its compliance target, then all of the water must have shown up?
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		1	
	Page 14		Page 16
1	that, you know, it's to our advantage to try to	1	project like N-CORPE to arrive at some
2	ensure that transit losses are minimized if	2	downstream location? Is that what you mean by
3	they're going to occur, but it's also, you	3	managing volume of water?
4	know, if they're inherent and something that is	4	A. Well, it's a little broader than that.
5	occurring, it's something that we have to deal	5	It's not necessarily that water. I mean, it's
6	with anyway.	6	just an equivalent volume. Maybe that's what
7	Q. And so is it an incentive driving	7	you meant.
8	Nebraska's work on the augmentation project?	8	Q. It is. And the downstream location
9	A. I'm sorry. Did you mean minimizing	9	you're looking at is the State line?
10	transit loss? Is that the incentive that	10	A. Correct.
11	you're getting at?	11	Q. Let's go to the next section right there
12	Q. Yes. That's right.	12	below. There's a heading "Compact Call Year
13	A. Right. So I think the way those	13	Water Administration." Do you see that?
14	projects were designed and constructed, that	14	A. Yes.
15	that was something that was taken into account	15	Q. In the second sentence of that first
16	and that at least, you know, in the vicinity of	16	paragraph, it says "Nebraska administered this
17	the delivery area and, you know, in terms of	17	water in strict accordance with its Integrated
18	the economic tradeoffs of, you know, building a	18	Management Plans." Do you see that?
19	pipe further downstream versus where is you	19	A. Yes.
20	know, where is an outfall reasonably situated	20	Q. Could you explain what you mean by
21	so that transit losses would be minimized.	21	"strict accordance"?
22	That's clearly something that would be taken	22	A. Well, there's a surface-water control in
23	into account, and was.	23	the Integrated Management Plan that requires
24	Q. Now, I want to make sure I've captured	24	the Department to administer surface-water in
25	everything you're trying to suggest here in	25	Compact Call Years in order to ensure Compact
	Page 15		Page 17
1	Page 15 terms of when you say "this is exactly why."	1	Page 17 compliance.
1 2		1 2	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 terms of when you say "this is exactly why." It seems to me that you're saying that if there are large transit losses with the augmentation deliveries, that works against Nebraska's efforts to meet their compliance target. Is that a fair characterization of what you're suggesting here? A. Well, I think in terms of specifically what this is talking about, it's just simply saying that, regardless of what happens, we have to get that same volume of water to the State line. Q. And how is it that Nebraska is going to make sure that those transit losses aren't working against your compliance efforts? A. Well, I guess we do that by managing volumes of water instead of drops of water and everything is laid out in the Integrated Management Plans that we've been over. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 compliance. Q. And so when you say "administered this water," what are you referring to specifically? A. I'm sorry. I didn't understand. Q. What do you mean by "administered this water"? Which water and how was it administered? A. I mean the streamflow in the Basin and it was administered under prior appropriations. Q. Do you mean the closing notices? A. Closing notices are a part of water administration, yes. Q. Is there anything else besides the closing notices you're referring to here? A. Well, there were there was an order that was signed on January 1st. There were closing notices that went out. There was subsequent opening notices, so it's just kind
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 terms of when you say "this is exactly why." It seems to me that you're saying that if there are large transit losses with the augmentation deliveries, that works against Nebraska's efforts to meet their compliance target. Is that a fair characterization of what you're suggesting here? A. Well, I think in terms of specifically what this is talking about, it's just simply saying that, regardless of what happens, we have to get that same volume of water to the State line. Q. And how is it that Nebraska is going to make sure that those transit losses aren't working against your compliance efforts? A. Well, I guess we do that by managing volumes of water instead of drops of water and everything is laid out in the Integrated Management Plans that we've been over. Q. That we've talked about a couple of 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 compliance. Q. And so when you say "administered this water," what are you referring to specifically? A. I'm sorry. I didn't understand. Q. What do you mean by "administered this water"? Which water and how was it administered? A. I mean the streamflow in the Basin and it was administered under prior appropriations. Q. Do you mean the closing notices? A. Closing notices are a part of water administration, yes. Q. Is there anything else besides the closing notices you're referring to here? A. Well, there were there was an order that was signed on January 1st. There were closing notices that went out. There was subsequent opening notices, so it's just kind of the whole everything that we did, I
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 terms of when you say "this is exactly why." It seems to me that you're saying that if there are large transit losses with the augmentation deliveries, that works against Nebraska's efforts to meet their compliance target. Is that a fair characterization of what you're suggesting here? A. Well, I think in terms of specifically what this is talking about, it's just simply saying that, regardless of what happens, we have to get that same volume of water to the State line. Q. And how is it that Nebraska is going to make sure that those transit losses aren't working against your compliance efforts? A. Well, I guess we do that by managing volumes of water instead of drops of water and everything is laid out in the Integrated Management Plans that we've been over. Q. That we've talked about a couple of times? A. Yeah. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 compliance. Q. And so when you say "administered this water," what are you referring to specifically? A. I'm sorry. I didn't understand. Q. What do you mean by "administered this water"? Which water and how was it administered? A. I mean the streamflow in the Basin and it was administered under prior appropriations. Q. Do you mean the closing notices? A. Closing notices are a part of water administration, yes. Q. Is there anything else besides the closing notices you're referring to here? A. Well, there were there was an order that was signed on January 1st. There were closing notices that went out. There was subsequent opening notices, so it's just kind of the whole everything that we did, I guess. Q. If I crack open an IMP, am I going to
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 terms of when you say "this is exactly why." It seems to me that you're saying that if there are large transit losses with the augmentation deliveries, that works against Nebraska's efforts to meet their compliance target. Is that a fair characterization of what you're suggesting here? A. Well, I think in terms of specifically what this is talking about, it's just simply saying that, regardless of what happens, we have to get that same volume of water to the State line. Q. And how is it that Nebraska is going to make sure that those transit losses aren't working against your compliance efforts? A. Well, I guess we do that by managing volumes of water instead of drops of water and everything is laid out in the Integrated Management Plans that we've been over. Q. That we've talked about a couple of times? A. Yeah. Q. Well, when you say "volumes of water," 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 compliance. Q. And so when you say "administered this water," what are you referring to specifically? A. I'm sorry. I didn't understand. Q. What do you mean by "administered this water"? Which water and how was it administered? A. I mean the streamflow in the Basin and it was administered under prior appropriations. Q. Do you mean the closing notices? A. Closing notices are a part of water administration, yes. Q. Is there anything else besides the closing notices you're referring to here? A. Well, there were there was an order that was signed on January 1st. There were closing notices that went out. There was subsequent opening notices, so it's just kind of the whole everything that we did, I guess. Q. If I crack open an IMP, am I going to find when an opening notice is issued after a
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 terms of when you say "this is exactly why." It seems to me that you're saying that if there are large transit losses with the augmentation deliveries, that works against Nebraska's efforts to meet their compliance target. Is that a fair characterization of what you're suggesting here? A. Well, I think in terms of specifically what this is talking about, it's just simply saying that, regardless of what happens, we have to get that same volume of water to the State line. Q. And how is it that Nebraska is going to make sure that those transit losses aren't working against your compliance efforts? A. Well, I guess we do that by managing volumes of water instead of drops of water and everything is laid out in the Integrated Management Plans that we've been over. Q. That we've talked about a couple of times? A. Yeah. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 compliance. Q. And so when you say "administered this water," what are you referring to specifically? A. I'm sorry. I didn't understand. Q. What do you mean by "administered this water"? Which water and how was it administered? A. I mean the streamflow in the Basin and it was administered under prior appropriations. Q. Do you mean the closing notices? A. Closing notices are a part of water administration, yes. Q. Is there anything else besides the closing notices you're referring to here? A. Well, there were there was an order that was signed on January 1st. There were closing notices that went out. There was subsequent opening notices, so it's just kind of the whole everything that we did, I guess. Q. If I crack open an IMP, am I going to

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	Page 18		Page 20
1	IMP?	1	much of which was diverted through the Cortland
2	A. Only the first closing notice. The rest	2	Canal. That was in May.
3	of it is all depending upon conditions and	3	Then later in the year, later in the
4	it's that's what's clearly contemplated, and	4	irrigation season, about 6,000 acre-feet of
5	it's, as I said, simply and clearly stated that	5	Compact water was released to the Kansas
6	we administer to ensure Compact compliance. So	6	Bostwick Irrigation District for irrigation
7	that's our that's our tool. We use the	7	purposes. And then later in the year, there
8	Compact accounting to determine when if,	8	was about 10,000 acre-feet remaining which was
9	when, how many closing/opening notices are sent	9	required to make it to the State line for
10	out.	10	Compact compliance purposes, so we that
11	Q. In 2013 there, you mentioned that there	11	water was released and transferred into
12	were some well, I want to make sure I've got	12	Lovewell Reservoir where it resides right now.
13	this right. The operations that happened in	13	Q. Thank you. Was there any water that had
14	2013, that they include these closing notices	14	been administered in reservoirs upstream of
15	and then opening notices you were referring to?	15	Harlan County Lake that was allowed to remain
16	A. Yes.	16	in those reservoirs through the end of 2013?
17	Q. And when we're talking about closing	17	A. Yes. I don't recall the exact
18	notices, is that also or does that include	18	volume. I believe it was somewhere over
19	notices issued for the Bureau of Reclamation's	19	20,000 acre-feet, and so that would have been
20	reservoirs in Nebraska in the Republican River	20	water that was accrued in May and early June
21	Basin?	21	well, probably all of June. The reservoirs
22	A. Yes.	22	were open during July and August.
23	Q. And so were those reservoirs part of	23	At a certain point, all of the
24	this administration you were referring to?	24	appropriations were opened and then they were
25	A. Yes.	25	subsequently closed in September through the
	Page 19		Page 21
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Page 19

1	Q. What was the volume of water that was	1	end of the year so that while we evaluated
2	managed To pick up on your earlier point	2	whether or not that water was also going to be
3	about managing the volume, what volume of water	3	needed to ensure Compact compliance, it, in
4	was managed for Compact Call purposes in 2013?	4	fact, was not. So that water was turned back
5	A. Well, I'm speaking from memory, so I may	5	over to the Bureau's project water,
6	not have this exact. In April and I guess	6	legally-stored water on January 1st of 2014.
7	there was another component beyond the closing	7	Q. So can or is Nebraska planning to call
8	and opening notices, which were storage release	8	for that water to be released?
9	notices.	9	A. No. As I said, that was that's now
10	So early in the year, we closed the	10	considered legally-stored water by order of the
11	reservoirs, but didn't require immediate	11	Director. The Department can't order a release
12	releases of water under those closing notices.	12	of legally-stored water, at least under prior
13	Release notices were sent out in April for	13	appropriations. There may be a dam safety
14	release of water that had accrued in January,	14	issue I'm not as familiar with that may allow
15	February, and March. I believe that was about	15	us to order the evacuation of a facility,
16	10,000 acre-feet. And then another notice was	16	but
17	sent out in May for additional release of water	17	Q. Okay.
18	that accrued in April, and I believe that was	18	A that would be a different thing.
19	13,000 acre-feet, although I may have those two	19	Q. Besides the dam safety issue that you
20	volume numbers mixed up. It may have been	20	mentioned as a potential other reason to
21	13 first and 10 second.	21	release, is there any other reason to release
22	There was also a notice issued for	22	that you would be thinking of?
23	Harlan to evacuate Compact water in May, which	23	A. No. I mean, that water is
24	was further stayed or lifted, but before that,	24	legally-stored water for them to use under
25	about 8,000 acre-feet was released downstream,	25	their storage-use appropriations as they see

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1	fit.	1	A. We included it in the streamflow. I
2	Q. Let's go to page four. The last	2	mean, I suppose more straightforwardly, we used
3	paragraph of this section, just above the	3	the streamflow that was gaged at the Rock
4	heading for 4.0, do you see that?	4	Creek, at Parks gage, and that included the
5	A. Yes.	5	augmentation water.
6	Q. And there's a mention of Nebraska's	6	Q. Do you know how much of the deliveries
7	Alternative Water-Short Year Plan as well as a	7	from the pipeline outfall reached the Parks
8	Rock Creek Plan. Do you see that?	8	gage?
9	A. Yes.	9	A. Well, based on the gage readings that I
10	Q. That's the Rock Creek Augmentation Plan;	10	observed throughout the year, it appeared to be
11	is that right?	11	nearly all of it, if not all of it.
12	A. Yes.	12	Q. Did you look at anything besides the
13	Q. Was the Rock Creek Augmentation Plan	13	gage reading at Parks?
14	operating in 2013?	14	A. I have not at this point.
15	A. Yes.	15	Q. Did you look at the pipeline outfall
16	Q. How much water was delivered out of the	16	discharge amount?
17	pipeline for the Rock Creek Augmentation	17	A. I have not looked at that data at this
18	Project?	18	point.
19	A. Approximately 16,000 acre-feet.	19	Q. I just wanted to make sure I'm
20	Q. And do you know when those deliveries	20	following. I might be missing something. So
21	happened in sort of general terms throughout	21	you looked at the gage data which had a number,
22	the year?	22	but you didn't look at any other number and
23 24	A. I believe they began in mid February and	23 24	that was the basis for your conclusion that all
24 25	ran through December 31st.Q. Was it constant deliveries?	24	of the water was reaching the gage? A. Yes. That data didn't give me any
20	Q. was it constant derivenes?	2.5	A. Tes. That data didit t give me any
	Page 23		Page 25
1	Page 23 A. More or less.	1	Page 25 other any reason to believe otherwise.
1 2		1 2	_
	A. More or less.		other any reason to believe otherwise.
2	A. More or less.Q. Let's see. So if I divide 16,000 by	2	other any reason to believe otherwise.Q. And how much water did you expect was leaving the pipe at that point?A. My understanding is it operates at
2 3	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. 	2 3	other any reason to believe otherwise.Q. And how much water did you expect was leaving the pipe at that point?A. My understanding is it operates at approximately 28 cfs.
2 3 4	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. 	2 3 4	other any reason to believe otherwise.Q. And how much water did you expect was leaving the pipe at that point?A. My understanding is it operates at
2 3 4 5 6 7	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? 	2 3 4 5 6 7	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage
2 3 4 5 6 7 8	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual 	2 3 4 5 6 7 8	other any reason to believe otherwise.Q. And how much water did you expect was leaving the pipe at that point?A. My understanding is it operates at approximately 28 cfs.Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data?
2 3 4 5 6 7 8 9	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be 	2 3 4 5 6 7 8 9	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You
2 3 4 5 6 7 8 9 10	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there 	2 3 4 5 6 7 8 9 10	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they
2 3 4 5 6 7 8 9 10 11	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times 	2 3 4 5 6 7 8 9 10 11	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think
2 3 4 5 6 7 8 9 10 11 12	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a 	2 3 4 5 6 7 8 9 10 11 12	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for
2 3 4 5 6 7 8 9 10 11 12 13	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I 	2 3 4 5 6 7 8 9 10 11 12 13	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data
2 3 4 5 6 7 8 9 10 11 12 13 14	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, 	2 3 4 5 6 7 8 9 10 11 12 13 14	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project deliveries, was that amount of water used in 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it. Q. Thanks. Now, do you recognize
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project deliveries, was that amount of water used in determining Nebraska's Compact compliance 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it. Q. Thanks. Now, do you recognize Exhibit 3?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project deliveries, was that amount of water used in determining Nebraska's Compact compliance situation for 2013? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it. Q. Thanks. Now, do you recognize Exhibit 3? A. I do.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project deliveries, was that amount of water used in determining Nebraska's Compact compliance situation for 2013? A. Yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it. Q. Thanks. Now, do you recognize Exhibit 3? A. I do. Q. And did you help prepare or direct the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project deliveries, was that amount of water used in determining Nebraska's Compact compliance situation for 2013? A. Yes. (Mr. Brian Dunnigan joined the 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it. Q. Thanks. Now, do you recognize Exhibit 3? A. I do.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. More or less. Q. Let's see. So if I divide 16,000 by 11 for 11 months, I'll get the delivery amounts that were done each month? A. Approximately I believe that would work. I don't know when they started in February. Q. You don't have a better estimation? A. Well, obviously we'll have the actual data from the pumping and delivery that will be available here by April but, you know, there was there was, you know, a few brief times where they had to bring the system down for a day, at least once that I know of. You know, I think they ramped it up initially so, you know, there would be those considerations, but you could obtain estimates the way that you laid out. Q. Was the Rock Creek Augmentation Project deliveries, was that amount of water used in determining Nebraska's Compact compliance situation for 2013? A. Yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 other any reason to believe otherwise. Q. And how much water did you expect was leaving the pipe at that point? A. My understanding is it operates at approximately 28 cfs. Q. And do you know if it was operating at 28 cfs when you were looking at the Parks gage data? A. It was a fairly constant discharge. You know, the one thing I can say is when they like on days when it went down for I think there was a one-day time that it went down for repair and it was quite apparent in the data that it wasn't operating at that level. Q. I would like to switch over to Exhibit 3 if we could. We'll come back to your report in a moment. Could you pull out Exhibit 3 for me? A. I have it. Q. Thanks. Now, do you recognize Exhibit 3? A. I do. Q. And did you help prepare or direct the preparation of this document?

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		1	
	Page 26		Page 28
1	this document, which is labeled "Forecast"?	1	it a little differently; that in the
2	A. Yes.	2	computation of the virgin water supply, the
3	Q. If you were to paraphrase what this	3	augmentation water supply credit would be
4	document is for, what does it do for Nebraska?	4	subtracted out and then reassigned after the
5	A. Well, this determines whether or not we	5	allocations were divvied up from that virgin
6	need to declare a Compact Call Year under the	6	water supply to the fully to the State.
7	Integrated Management Plan.	7	Q. Thank you. You used the word "credit"
8	Q. And this particular one is being done	8	there. I think we just we had a decision
9	for the current year we're in, 2014; is that	9	come down from the arbitrator regarding Rock
10	right?	10	Creek, and I think he would refer to it as the
11	A. Yes. This applies to 2014.	11	augmentation water supply being removed from
12	Q. And will 2014 be a Compact Call Year?	12	the virgin water supply calculation. Does that
13	A. It is a Compact Call Year. That	13	sound right to you?
14	determination was made on January 1st.	14	A. I believe so, yes. The specific details
15	Q. And once your once Nebraska is in a	15	of how we implement that those tweaks would
16	Compact Call Year, can it ever come out of a	16	need to be worked out but, yeah, we would have
17	Compact Call Year?	17	to account for those new net depletions in
18	A. No.	18	determining the credit. So there's that to
19	Q. Now, if you can turn to page two, I	19	address, but I wasn't trying to address that in
20	would appreciate it. You can maybe draw your	20	my answer.
21	attention to Table 1. Do you see that?	21	Q. Fair enough. And since we're talking
22	A. Yes.	22	about the Rock Creek Arbitrator's order, I have
23	Q. I just wanted to connect the dots. So	23	a follow-up question on that and it relates as
24	this is a forecast which is looking at	24	well to the N-CORPE Project, which is that
25	provisional data for 2013 and a forecast of	25	arbitrator recommended that the Republican
	Page 27		
			Dage 29
-	-		Page 29
1	2014 to put together, I'm going to call it a	1	River Compact Administration, which I'll
2	2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair	2	River Compact Administration, which I'll probably call "RRCA" from here on out, should
2 3	2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization?	2 3	River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are
2 3 4	2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes.	2 3 4	River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that
2 3 4 5	2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization?A. Yes.Q. And so earlier we were talking about the	2 3 4 5	River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation?
2 3 4 5 6	2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization?A. Yes.Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they	2 3 4 5 6	River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes.
2 3 4 5 6 7	2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization?A. Yes.Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that	2 3 4 5 6 7	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should
2 3 4 5 6 7 8	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the 	2 3 4 5 6 7 8	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning?
2 3 4 5 6 7 8 9	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I 	2 3 4 5 6 7 8 9	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes.
2 3 4 5 6 7 8 9 10	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, 	2 3 4 5 6 7 8 9 10	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that?
2 3 4 5 6 7 8 9	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional 	2 3 4 5 6 7 8 9 10 11	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge.
2 3 4 5 6 7 8 9 10 11	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, 	2 3 4 5 6 7 8 9 10 11 12	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it?
2 3 4 5 6 7 8 9 10 11 12	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, that's where the Rock Creek Augmentation 	2 3 4 5 6 7 8 9 10 11 12 13	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it? A. It seemed to be a reasonable concession.
2 3 4 5 6 7 8 9 10 11 12 12	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, 	2 3 4 5 6 7 8 9 10 11 12	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it? A. It seemed to be a reasonable concession. In my view, the FSS requires review of the
2 3 4 5 6 7 8 9 10 11 12 13 14	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, that's where the Rock Creek Augmentation Pipeline deliveries would show up in Nebraska's 	2 3 4 5 6 7 8 9 10 11 12 13 14	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it? A. It seemed to be a reasonable concession.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, that's where the Rock Creek Augmentation Pipeline deliveries would show up in Nebraska's forecast for Compact compliance? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it? A. It seemed to be a reasonable concession. In my view, the FSS requires review of the accounting every year. So under that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, that's where the Rock Creek Augmentation Pipeline deliveries would show up in Nebraska's forecast for Compact compliance? A. Right. Because Kansas has rejected 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it? A. It seemed to be a reasonable concession. In my view, the FSS requires review of the accounting every year. So under that requirement, anything that is related to the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 2014 to put together, I'm going to call it a target for Compact Compliance. Is that a fair characterization? A. Yes. Q. And so earlier we were talking about the Rock Creek Augmentation deliveries and how they were used and you mentioned streamflow; that you looked at streamflow with respect to the Compact compliance situation. In Table 1, I see under "2013 Provisional," one of the items, it uses streamflow and it says "provisional records." Is that just to connect the dots, that's where the Rock Creek Augmentation Pipeline deliveries would show up in Nebraska's forecast for Compact compliance? A. Right. Because Kansas has rejected Nebraska's ability to claim a credit, then 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 River Compact Administration, which I'll probably call "RRCA" from here on out, should review an Augmentation Plan in 20 years. Are you familiar or do you remember that recommendation? A. Yes. Q. And did Nebraska agree that that should be done for augmentation planning? A. Yes. Q. Does the FSS require that? A. Not to my knowledge. Q. And why is Nebraska agreeing to it? A. It seemed to be a reasonable concession. In my view, the FSS requires review of the accounting every year. So under that requirement, anything that is related to the accounting is reviewed by the RRCA every year.
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	Page 30		Page 32
1	when you're there.	1	A. I don't believe so.
2	A. I'm there.	2	Q. Do you know if Director Dunnigan has?
3	Q. So it's a section called "Conclusions	3	A. I don't believe so.
4	and Opinions," and Number 4 discusses this	4	Q. Now, this letter, on the first page
5	review. Do you see that?	5	there, the last paragraph talks it has a
6	A. Yes.	6	sentence, "authorized beneficial purposes." Do
7	Q. And in your report, it says "review the	7	you see that?
8	Plan in 20 years and discuss any potential	8	A. I do.
9	revisions to the Plan that should be considered	9	Q. Are you familiar with what the Corps
10	at that time." Does that that's your	10	letter means by "authorized beneficial
11	conclusion?	11	purposes"?
12	A. Yes.	12	A. Generally speaking, I am.
13	Q. I want to understand how that relates to	13	Q. Do you know what the authorized
14	what you said a little earlier here regarding	14	beneficial purposes are for Harlan County Lake?
15	it being redundant in terms of what the RRCA	15	A. Well, it lists these five items. To the
16	reviews. Are you saying that this should	16	best of my knowledge, that's what they are.
17	happen every year?	17	Q. Do you think there are any in addition
18	A. I'm saying that there's an opportunity	18	to those five?
19	for this every year, just as there's an	19	MR. BLANKENAU: Are you asking
20	opportunity to review any aspect of the	20	him for a legal conclusion, Chris?
21	accounting procedures every year.	21	MR. GRUNEWALD: I'm just asking
22	Q. I guess I just want to understand. Does	22	if he thinks there are any besides those five.
23	Nebraska see this as conceding something	23	MR. LAVENE: That sounds like a
24	additional or is Nebraska's position that what	24	legal question.
25	happens every year is what's going to happen in	25	MR. GRUNEWALD: Well, I'm asking
	Page 31		Page 33
1		1	
1 2	Page 31 the 20th year; that nothing different happens in 20 years?	1 2	Page 33 the question. MR. BLANKENAU: Well, you're
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	Page 34		Page 36
1	Q. Did Nebraska prepare a response to this	1	forecast document or well, is it the
2	letter?	2	forecast document we were looking at earlier?
3	A. Yes.	3	A. Yes.
4	Q. Did you work on that response?	4	Q. And it refers to an amount of acre-feet
5	A. Yes.	5	that well, maybe we'll just do it generally.
6	Q. So for this February 5th letter from the	6	Do you disagree with the numbers that they have
7	Bureau, do you agree with the letter, the	7	in that first paragraph?
8	contents of the letter?	8	A. They appear to be accurate. I'm just
9	A. Well, I don't agree with it entirely,	9	looking at the forecast document and they are
10	that's for certain. There probably are parts	10	what was contained on the forecast document.
11	in here that are accurate, such as their	11	Q. If we stop at the first page, we've got
12	recitation of one of the IMP goals. Their	12	all sorts of agreement. Now, the forecast
13	characterization of the situation in 2013 is	13	document is making a hypothetical assessment of
14	I don't agree with.	14	Nebraska's Compact compliance situation under
15	Q. What in particular don't you agree with?	15	particular conditions is my understanding; is
16	A. Well, I think some of the numbers with	16	that right?
17	regard to releases are consistent with my	17	A. It's a drier forecast of the compliance
18	understanding, such as the some of this	18	outcome for the upcoming year, absent any
19	stuff on the first page. The characterization	19	additional management actions. I'm sorry.
20	that Compact Call administration impacted	20	Q. So that forecast document took
21	federal storage facilities by no less than	21	provisional data for 2013 and then projections
22	50,000 acre-feet, I don't agree with. I could	22	for 2014; is that right?
23	go through it sentence-by-sentence if you like.	23	A. Well, I wouldn't call them projections
24	Q. Well, let's start on page one that you	24	but, yes, there's estimates of various terms
25	mentioned. I wanted to make sure if we found	25	that are a part of the accounting that allow us
	5 25		
	Page 35		Page 37
1	something that you did agree with. You	1	to forecast the potential shortfall for 2014 or
2	something that you did agree with. You mentioned numbers for releases. So on page one	2	
2 3	something that you did agree with. You mentioned numbers for releases. So on page one there at the bottom, there's references to some	2 3	to forecast the potential shortfall for 2014 or the potential compliance balance under a dry year.
2 3 4	something that you did agree with. You mentioned numbers for releases. So on page one there at the bottom, there's references to some additional storage. I'm sorry. I should say	2 3 4	to forecast the potential shortfall for 2014 or the potential compliance balance under a dry year. Q. Now, if you had hopefully gone back to
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	Page 38		Page 40
1	Q. So it sounded like there were a certain	1	requests for additional management actions on
2	amount of water, that 10,000 acre-feet, that	2	groundwater users in the second to last
3	Nebraska didn't call to bring down from	3	paragraph, for example.
4	upstream reservoirs and I want to see if I can	4	Q. Okay. Anything else?
5	understand. Why wouldn't Nebraska be trying to	5	A. Well, I should note that we had the
6	make that number closer to zero or even instead	6	benefit of having a pretty lengthy meeting with
7	of leaving water on the table, if you will?	7	Aaron Thompson and Craig Scott regarding this
8	Could you explain the decision-making process	8	letter prior to them sending it. They they
9	there?	9	sent us a draft letter and scheduled a meeting
10	A. Sure. Well, obviously for 2013, we had	10	with us so that we could discuss it before they
11	to look at the two-year average of 2012 and	11	sent it. And so quite a bit of the statements,
12	2013, so that averages out with that 2012 value	12	which I can't recall exactly for you here, but
13	to produce a positive two-year average. The	13	quite a bit of the statements and arguments and
14	other part of it is that we had we had	14	discussion that they brought to that meeting
15	forecasted for 2013 that if we took the	15	would also factor into my position.
16	management actions that were required to stay	16	Q. Okay. And is there anything else that
17	in compliance, we would end up at a balance of	17	you would pick out, a particular point of
18	around 10 or 11,000 acre-feet to the negative.	18	disagreement, that we haven't already talked
19	So we were trying to make sure that we ended up	19	about with the content of this letter?
20	at that at that value going forward because	20	A. I would take issue with the
21	that's where that was the plan and target	21	characterization that we arbitrarily
22	that we had set out at the beginning of 2013.	22	disregarded or forgot parts of the Integrated
23	Q. Is the thinking there that the minus	23	Management Plan as they state on the top of
24	10,000 acre-foot of a one-year amount is the	24	page three. There may be other things.
25	sort of one-year shortfall that can be	25	MR. GRUNEWALD: Okay. What I
	Page 39		Page 41
1	5	1	2
1 2	compensated for in the following year?	1 2	would like to suggest is we take a I'm going
	compensated for in the following year? A. That's how the accounting would work,		would like to suggest is we take a I'm going to suggest a 10-minute break. I show it's
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	Page 42		Page 44
1	Q. Fair enough. Do you have any opinions	1	the N-CORPE Project. Is there anything that
2	on what the trends on base flows in the	2	the Nebraska DNR well, that the Nebraska
3	Republican River Basin are looking forward?	3	Department of Natural Resources has to approve
4	A. I know that we plan through our IMPs to	4	for the Platte portion of the project to become
5	keep groundwater depletions at a, you know,	5	operational?
6	steady rate. So if the only thing that factors	6	A. Not to my knowledge.
7	into base flows in the future are groundwater	7	Q. Are there any accruals at all related to
8	depletions, then I think they'll be flat, but I	8	how the project will be run in relation to the
9	don't necessarily believe that that's the case	9	Platte River?
10	because there are other things that affect base	10	A. Well, I suspect the N-CORPE Board will
11	flows.	11	take some kind of action on that, but I don't
12	Q. And the other things you're referring	12	know.
13	to, when you're thinking of the other things	13	Q. Is there anything like a plan, on the
14	that might have an impact, what categories of	14	order of an Augmentation Plan like is being
15	things are you talking about?	15	submitted here, that is prepared and submitted
16	A. Climate, weather, land use as examples.	16	by the State of Nebraska?
17	Q. And you think those things are likely to	17	A. No.
18	cause base flows to rise or to increase?	18	Q. Are there any plans to for the State
19	A. I don't know. I guess it would depend	19	of Nebraska to collect data on whatever
20	on it would depend on what happens.	20	pipeline routes there might be that would go to
21	Q. And what about trends on groundwater	21	the Platte River?
22	pumping in the Nebraska portion of the Basin?	22	A. Yes.
23	Do you have any opinion on whether there's a	23	Q. What other plans?
24	trend?	24	A. We would coordinate that work with Twin
25	A. Are you talking about the future or	25	Platte Natural Resources District in terms of
	Page 43		Page 45
1	Q. I'm talking about the do you have an	1	calculating and quantifying, summarizing the
2	opinion on the trend looking into the future?	2	offsets that are provided, whether it be under
3	A. Well, I think that we'll keep them at	3	requirements of the Integrated Management Plans
4	least stable over the long-term. Conditions		
-		4	for statutory requirements or for the for
5	will dictate whether or not those values have	4 5	our new Depletions Plan under the Platte River
	will dictate whether or not those values have to decrease, but I would see them flat,		our new Depletions Plan under the Platte River Program.
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	Page 46		Page 48
1	Q. And that includes both the pumping and	1	Q on Medicine Creek?
2	the discharge data?	2	A. No. I don't know.
3	A. Well, under the plan, it would. I don't	3	Q. If you had to determine what transit
4	know that the discharge data would be relevant	4	losses are occurring on Medicine Creek, how
5	given you know, until there's an approved	5	would you do it?
6	plan.	6	A. Well, I suppose if I were to set out and
7	Q. So at the moment, there are no plans to	7	study something like that and I assume you
8	provide the discharge data?	8	mean transit losses of the augmentation water?
9	A. You know, we hadn't really thought about	9	Q. Yes. Let's start with that.
10	it at this point. We may provide it anyway. I	10	A. Then I would take measurements on the
11	don't know that there's any requirements.	11	creek.
12	Q. Are you willing to provide it?	12	Q. How often would you measure?
13	A. I don't know that I can answer that	13	A. I haven't considered that very
14 15	right now. I don't see why not, but Q. What sort of factors will go into	14 15	thoroughly. It would depend on, I guess, the
16	deciding whether or not you're willing to	16	operational pattern of the project. If we were operating in a fairly constant manner, then
17	provide it?	17	probably less often than if there were a lot of
18	A. I suspect the litigious environment that	18	changes in the outflow.
19	we're in would be the primary factor.	19	Q. Is there anything else that you would
20	MR. BLANKENAU: Chris, a point	20	consider doing?
21	of clarity. Are you talking about providing it	21	A. I can't think of any. You know, I
22	to the RRCA or to whom are you referencing your	22	haven't given it a lot of thought. That's all
23	question?	23	I can think of off the top of my head.
24	MR. GRUNEWALD: Yeah. I think	24	Q. Okay. Thank you. I want to ask a few
25	that's a fair characterization. I was trying	25	questions about the if water is being
			1 0
	Page 47		Page 49
1	to follow the thread of what data was being	1	
	6	L T	delivered out of the N-CORPE Pipeline, what
2	provided from the Department to the RRCA, and I	2	delivered out of the N-CORPE Pipeline, what might happen to that water. And can Nebraska
2 3	provided from the Department to the RRCA, and I believe I had asked after that whether it was		delivered out of the N-CORPE Pipeline, what might happen to that water. And can Nebraska store the water that comes out of the
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	Page 50		Page 52
1	A. Well, eventually it all will be. That's	1	Q. Does the Augmentation Plan require that
2	the only	2	staging for Kansas you just referred to?
3	Q. What do you mean by "eventually"?	3	A. No.
4	A. Well, that's really the only place for	4	Q. Do you consider that the water that's
5	it to go, is downstream from there.	5	being held in upstream reservoirs above Harlan
6	Q. Is it possible that it could be held	6	County Lake under temporary authorization from
7	over a calendar year?	7	the Department to also be staged for Kansas?
8	A. It's possible.	8	A. Well, potentially.
9	Q. Is it possible that it could be lost to	9	Q. I just want to get at whether the
10	evaporation?	10	staging is only in Harlan County Lake or if
11	A. Well, evaporation will occur regardless	11	it's also occurring elsewhere in the Basin in
12	of whether or not that water is there, so I	12	Nebraska.
13	don't know. I don't really know if those drops	13	A. Well, last year we had water that was
14	of water will evaporate.	14	temporarily impounded and released from those
15	Q. So do you expect that the water from the	15	reservoirs in the spring and we had other water
16	augmentation pipeline will be passed through	16	that was temporarily impounded and turned back
17	Harry Strunk Reservoir in the same year that	17	to the Districts so, you know, it could be
18	the pipeline discharged the water?	18	either of those.
19	A. I would expect that certainly the	19	Q. So it's staged or it's stored, but
20	majority of it would be.	20	whether or not it's coming downstream is a
21	Q. Following it downstream, the next	21	decision that's made later?
22	reservoir, federal reservoir down the stream is	22	A. That's that's how last year worked,
23	Harlan County Lake on the main staff?	23	yes; that we initiated those releases based on
24	A. Yes.	24	our ongoing assessment of Compact compliance.
25	Q. Do you expect that the water the	25	Q. And is that how it works for Harlan
	Page 51		Page 53
1	Page 51	1	Page 53
1	majority of the water that is from the	1	County Lake as well?
2	majority of the water that is from the augmentation pipeline will be passed through	2	County Lake as well? A. That's how it's been working.
2 3	majority of the water that is from the augmentation pipeline will be passed through Harlan County Lake in the same year that it's	2 3	County Lake as well?A. That's how it's been working.Q. Do you expect that it's going to work
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	Page 54		Page 56
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1	legal aspects of it and whether or not it		DEPOSITION OF DR. JAMES SCHNEIDER
2	should or shouldn't be required, but the end	2	
3	outcome of what it's providing, we certainly do	3	Ciomotomo of mitroog
4	support.	4	Signature of witness
5	Q. I really want to say the end justifies	6	
6	the means, but I'll withdraw that that		STATE OF)
7	question.	7	: ss.
8	MR. GRUNEWALD: I think if we		COUNTY OF)
9	could just take a short break, I'm pretty close	8	,
10	to being done. So maybe just a couple minutes.	9	
11	I'm just going to put you on mute if that's	10	Subscribed and sworn to before me this
12	okay.	11	day of , .
13	MR. BLANKENAU: Okay.	12	
14	(A short recess was taken.)	13	
15	MR. GRUNEWALD: I don't have any	14	GENERAL NOTARY PUBLIC
16	other questions.	15 16	
17	MR. BLANKENAU: Okay. I guess	17	
18	that concludes your deposition.	18	
19	THE WITNESS: All right.	19	
20	MR. GRUNEWALD: No questions	20	
21	we never did get Colorado on the phone; did we?	21	
22	MR. BLANKENAU: I don't believe	22	
23	so. Scott, you haven't joined us; have you?	23	
24	Nope.	24	
25	MR. GRUNEWALD: All right.	25	
	Page 55		Page 57
1	We're all done. Thank you, Dr. Schneider.	1	C-E-R-T-I-F-I-C-A-T-E
2	THE WITNESS: You're welcome.	2	STATE OF NEBRASKA)
3	(At 10:41 a.m., the deposition		: SS.
4	was concluded.)	3	COUNTY OF LANCASTER)
5		4	I, Jill R. Pilkington, RMR, General
6		5	Notary Public in and for the State of Nebraska,
7		6	do hereby certify that DR. JAMES SCHNEIDER was
8		7	by me duly sworn to testify the truth, the
9		8	whole truth and nothing but the truth, and that
10		9	the deposition by him as above set forth was
11		10	reduced to writing by me.
12		11	That the within and foregoing deposition
13		12	was taken by me at the time and place herein
14		13	specified and in accordance with the within
15		14	stipulations; the reading and signing of the
16		15	witness to his deposition having not been
17		16	waived.
18		17	That I am not counsel, attorney, or
19		18	relative of either party or otherwise
20		19	interested in the event of this suit.
21		20	IN TESTIMONY WHEREOF, I have placed my
		21 22	hand and notarial seal the day of February, 2014.
22			1001ully, 2011.
22 23		23	
22			Jill R. Pilkington, RMR

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1	DEPOSITION OF DR. JAMES SCHNEIDER	
2	DEPOSITION OF DR. JAMES SCHNEIDER	
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