

SENATOR CROSBY: Senator Beutler.

SENATOR BEUTLER: Thank you, Senator McKenzie. I was almost finished. I just wanted to point out that in the Kansas litigation or in any litigation we're involved in it behooves us to have a method for managing our systems in the way that the federal courts will call upon us to manage our systems. And I want to talk a little bit more later about whether or not, in the event that we were found not to be sending enough water across the border, whether we'd be called upon to account for our use of ground water. That is, do the federal courts consider water conjunctively? And when I get a little more time I will point out to you that in recent cases involving Texas and New Mexico, and in cases involving Colorado and Kansas, and in our own case versus Wyoming, Nebraska v. Wyoming, in each and every case the federal courts have said ground water is part of the surface water where there is, in fact, a hydrological connection and will be considered as part of the water to be dealt with in these kinds of lawsuits. And one of the things that I've cut out for you is some excerpts from the Republican River Compact. And if you will look at that, you'll see that it says the water to be considered is all the water in the basin untouched by the activities of man. If you look at that language, compared to language in other compacts, such as the Texas-New Mexico Compact, it becomes quite clear that if we ever got into a court action with Kansas we would be called upon to account for our ground water. What if we were called on to account for...what if we passed this law and were ahead of the game, and the problem in the Republican Valley can be resolved simply by using best management practices and not cutting off or seriously curtailing anybody's use of water, any current users? Wouldn't that be a great solution. But you know if our negotiators went now and tried to effectuate some sort of solution that required metering and more careful management practices but really didn't seriously do harm to anybody, they couldn't effectuate that solution, they couldn't make that deal. Why? Because under our law only the NRDs can regulate ground water users. They couldn't say to the NRDs you go out, Republican River Valley NRDs, they could not say to them right now, you go out and require best management practices from the farmers in that area so that we don't have to pay any money damages and we don't drive any farmers off the land by taking away their right to use water. We could not do that today because we don't have a conjunctive use law. We have not