MEMORANDUM

TO: Members, Colorado Water Conservation Board and Colorado Water Investigation Commission.

FROM: Felix L. Sparks, Director.

SUBJECT: Agenda Item #3, Board Meeting, April 14, 1965.

Attached hereto is copy of a letter from Region 7, Bureau of Reclamation, requesting the views of this Board on a proposed sale of water from Green Mountain Reservoir to The Oil Shale Corporation and associates. The letter is self-explanatory.

Senate Document No. 80, 75th Congress, 1st Session, provides that Green Mountain Reservoir shall be constructed to a capacity of 152,000 acre-feet. The document then states:

"Of said capacity 52,000 acre-feet of water stored therein shall be available as replacement in western Colorado, of the water which would be usable there if not withheld or diverted by said project; 100,000 acre-feet shall be used for power purposes; and all of said stored water shall be released under the conditions and limitations hereinafter set forth."

The conditions and limitations thereafter set forth as they apply to the request of The Oil Shale Corporation and associates is as follows:

"Said 100,000 acre-feet shall be stored primarily for power purposes, and the water released shall be available, without charge, to supply existing irrigation and domestic appropriations of water, including the Grand Valley reclamation project, to supply all losses chargeable in the delivery of said 52,000 acre-feet of water, and for future use for domestic purposes and in the irrigation of lands thereafter to be brought under cultivation in western Colorado. It shall be released within the period from April 15 to October 15 of each year as required to supply a sufficient quantity to maintain
the specified flow of 1,250 cubic feet per second of water at the present site of said Shoshone diversion dam, provided this amount is not supplied from the 52,000 acre-feet heretofore specified. Water not required for the above purposes shall also be available for disposal to agencies for the development of the shale oil or other industries." (Emphasis supplied).

It is therefore recommended that this Board approve the request of The Oil Shale Corporation and associates, and that the Director of this Board be authorized to indicate such approval in writing to the Director of Region 7, Bureau of Reclamation.
Mr. Felix L. Sparks, Director
Colorado Water Conservation Board
215 State Services Building
1525 Sherman Street
Denver, Colorado 80203

Dear Mr. Sparks:

We would appreciate receiving the policy views of the Colorado Water Conservation Board on the United States proposed sale of replacement water from Green Mountain Reservoir, Colorado-Big Thompson Project, to the Oil Shale Corporation and its associates. The replacement water will be used in connection with the development of privately-owned oil shale properties in Garfield County, Colorado.

The Oil Shale Corporation, SOHIO Petroleum Company, and Cleveland Cliffs Iron Company are jointly constructing a proto-type oil shale processing plant which is scheduled for completion in June 1965. We understand also that a mine opening has been made preparatory to furnishing shale for the plant.

The Oil Shale Corporation has filed claim to 100 c.f.s. of water from the Colorado River. The filing (No. 21096A entitled "The Oil Shale Corporation Pumping Plant and Pipeline") was presented in the District Court at Glenwood Springs in January 1964 for adjudication. The Oil Shale Corporation anticipates that, in due course, a conditional decree will be issued. We understand that the water right will be based on a priority date of 1957 and, therefore, will not assure a constant minimum supply of water during months of reduced river flow. Hence, The Oil Shale Corporation will have a critical need for replacement water to assure the constant availability of water essential to the successful operation of the oil shale development.

The situation is similar to that faced by the Crown-Zellerbach Corporation when it was considering plans for the construction of a paper mill near Kremmling, Colorado. You will recall that by resolution of August 15, 1960, the Colorado Water Conservation Board urged that
replacement water from Green Mountain Reservoir be made available to the Crown-Zellerbach Corporation and subsequently, on June 22, 1962, a contract for that purpose was entered into between the United States and the Crown-Zellerbach Corporation. By the terms of the contract, Crown-Zellerbach Corporation has the option, until June 28, 1967, of initiating water deliveries under the contract and thereby commencing the 40-year term of the contract.

A similar contract is proposed with The Oil Shale Corporation and its associates. Under the proposed contract, upon payment of an annual "readiness to serve" charge, 500 acre-feet of Green Mountain Reservoir water will be reserved for use by The Oil Shale Corporation and associates. Additional water, not to exceed 6,700 acre-feet annually, will be reserved, if available, upon payment in advance annually. The water will be delivered on demand at the outlet works of Green Mountain Reservoir at a rate not to exceed 12 c.f.s. The contract, which will be renewable, will run for 40 years from the date of the initial delivery of water. The Oil Shale Corporation will have five years from the date of the contract in which to request the initial delivery of water.

The water will be delivered from the 100,000 acre-feet of space in Green Mountain Reservoir in excess of the 52,000 acre-feet of space reserved for replacement water required by Colorado-Big Thompson Project diversions to the east slope. The contract will provide that in the event the United States receives firm offers from other parties to purchase, on a permanent basis, part or all of the 6,700 acre-feet of option water, or if the United States should have need for the water (e.g., for other western slope developments), then The Oil Shale Corporation will either pay for such water on a permanent basis or release all or part of such option water as it does not desire to retain and pay for on a firm basis. Of the 100,000 acre-feet of Green Mountain Reservoir space referred to above, 5,000 acre-feet have already been reserved for the proposed Silt Project and Crown-Zellerbach has contracted for 500 acre-feet on a firm basis and 5,500 acre-feet on an option basis subject to the same conditions as proposed above with The Oil Shale Corporation.

The contract will also provide that delivery of water to The Oil Shale Corporation will be subject to the provisions of (a) Section 13(c) of the Boulder Canyon Project Act of December 21, 1928, (b) Section 14 of the Colorado River Storage Act of April 11, 1956, (c) the contract of July 5, 1938, as amended, between the United States and the Northern Colorado Water Conservancy District, and (d) the final judgment, final decree and stipulations incorporated therein in the consolidated cases of the United States of America v. The Northern
Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016, and 5017, in the United States District Court for the District of Colorado. Additionally, the United States will have the right to suspend delivery of water under the proposed contract upon seven days advance notice if the United States determines that further delivery of water will be detrimental, injurious or contrary to the normal operating requirements of the Colorado-Big Thompson Project, or the operation of the Green Mountain Reservoir in accordance with item (d) above.

Inasmuch as the above proposed arrangements for the sale of Green Mountain Reservoir water have been under negotiation for an extended period of time and the The Oil Shale Corporation and associates wish to contract for the water as soon as possible, it would be greatly appreciated if the views of the Colorado Water Conservation Board could be received at an early date.

Copies of this letter are being forwarded to the Northern Colorado Water Conservancy District and the Colorado River Water Conservation District in connection with our solicitation of their views on this matter.

Sincerely yours,

/s/ PAUL H. BERG
Paul H. Berg
Acting Director