

DISTRICT COURT, WATER DIVISION NO. 1,
STATE OF COLORADO
Weld County Courthouse
901 9th Avenue, P.O. Box 2038
Greeley, Colorado, 80632
(970) 351-7300

Plaintiff: The Jim Hutton Educational Foundation, a
Colorado non-profit corporation,

v.

Defendants: Dick Wolfe, in his capacity as the
Colorado State Engineer; David Nettles, in his
capacity as Division Engineer in and for Water
Division No. 1, State of Colorado; the Colorado
Department of Natural Resources; Colorado Division
of Water Resources; and Colorado Parks and Wildlife

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Association, Inc.

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Case Number: 2015CW3018

Water Div. No. 1

**ANSWER OF TRI-STATE GENERATION
AND TRANSMISSION ASSOCIATION, INC.**

Tri-State Generation and Transmission Association, Inc. ("Tri-State"), by and through its undersigned attorneys, and pursuant to the Court's Order re: State and Division Engineers' Motion for Joinder in the above captioned case dated July 9, 2015, hereby submits its Answer to The Jim Hutton Educational Foundation's Complaint for Declaratory Judgment Regarding Administration of Water Rights in the Republican River Basin and the Constitutionality of Senate Bill 52 (2010), and the Ground Water Management Act. Tri-State is a wholesale electric power supplier owned by the 44 electric cooperatives that it serves. Tri-State is owner and operator of the Burlington Generating Station, a 100 megawatt power plant located near Burlington, Colorado, the water supply for which is Tri-State's Northern High Plains Designated Basin well, Well Permit No. 3529-FP. According to the Certificate of Mailing filed by The Jim Hutton Educational Foundation ("Plaintiff") on October 9, 2015, Plaintiff mailed Tri-State notice of this action pursuant to the Court's Order dated September 25, 2015.

Plaintiff's introductory paragraph to the Complaint contains Plaintiff's characterization of its action and its requested relief, and does not require a response. To the extent a response is required, Tri-State denies the introductory paragraph.

JURISDICTION

1. Paragraph 1 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-92-203(1) speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 1.

2. Paragraph 2 contains legal characterizations or conclusions to which no response is required. To the extent a response is required, Tri-State denies the allegations contained in Paragraph 2.

3. Paragraph 3 contains legal characterizations or conclusions to which no response is required. To the extent a response is required, Tri-State denies the allegations contained in Paragraph 3.

4. Paragraph 4 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 4 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the law and the statutes cited in Paragraph 4 speak for themselves. Tri-State is without knowledge or information

sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 4, and therefore denies the same.

PARTIES

5. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5, and therefore denies the same.

6. Tri-State admits that the Colorado Department of Natural Resources includes the Division of Water Resources (“DWR”), headed by the Colorado State Engineer, and that the DWR includes the Division Engineers. Tri-State also admits that C.R.S. §§ 24-1-124(3) and (4) speak for themselves. To the extent Paragraph 4 contains legal characterizations or conclusions, no response is required. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 6.

7. Paragraph 7 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-80-102(1)(a) speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 7.

8. Tri-State admits that the State Engineer is also the Executive Director of the Commission and a Republican River Compact Commissioner.

9. Paragraph 9 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-92-202 speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 9.

10. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10, and therefore denies the same.

WATER RIGHTS

11. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11, and therefore denies the same.

12. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 and its subparagraphs A-D, and therefore denies the same.

13. Paragraph 13 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 13 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 13, and therefore denies the same.

14. Paragraph 14 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 14 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the water court decree, if it exists, speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 14, and therefore denies the same.

15. Paragraph 15 and its subparagraphs A and B contain a mixture of factual allegations and legal conclusions. To the extent Paragraph 15 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the water court decrees, if they exist, speak for themselves. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 15 and its subparagraphs A and B, and therefore denies the same.

16. Paragraph 16 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 16 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Water Contract, if it exists, speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 16, and therefore denies the same.

17. Paragraph 17 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 17 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Water Contract, if it exists, speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 17, and therefore denies the same.

18. Paragraph 18 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 18 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Land Contract, if it exists, speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to

the truth of the factual allegations contained in Paragraph 18, and therefore denies the same.

19. Paragraph 19 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 19 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Water Contract and Land Contract, if they exist, speak for themselves. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 19, and therefore denies the same.

20. Paragraph 20 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 20 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Water Contract and Land Contract, if they exist, speak for themselves. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 20, and therefore denies the same.

COMPACT COMPLIANCE AND GROUND WATER DEPLETIONS

21. Paragraph 21 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 21 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Republican River Compact of 1942 and C.R.S. § 37-67-101 speak for themselves. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 21, and therefore denies the same.

22. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22, and therefore denies the same.

23. Paragraph 23 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 23 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Ground Water Management Act speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 23, and therefore denies the same.

24. Paragraph 24 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 24 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Northern High Plains Designated

Ground Water Basin (“NHP Basin”) designation order speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 24, and therefore denies the same.

25. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25, and therefore denies the same.

26. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26, and therefore denies the same.

27. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27, and therefore denies the same.

28. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28, and therefore denies the same.

29. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29, and therefore denies the same.

30. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30, and therefore denies the same.

31. Paragraph 31 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 31 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Special Master’s ruling speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 31, and therefore denies the same.

32. Paragraph 32 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 32 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Special Master’s ruling speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 32, and therefore denies the same.

33. Paragraph 33 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 33 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the settlement stipulation between Colorado, Kansas, and Nebraska and the United States Supreme Court decision

regarding said settlement stipulation speak for themselves. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 33, and therefore denies the same.

34. Paragraph 34 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 34 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Special Master's final report and the United States Supreme Court ruling dated October 20, 2003, speak for themselves. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 34, and therefore denies the same.

35. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35, and therefore denies the same.

36. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36, and therefore denies the same.

37. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37, and therefore denies the same.

38. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38, and therefore denies the same.

39. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39, and therefore denies the same.

40. Paragraph 40 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 40 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 40, and therefore denies the same.

41. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41, and therefore denies the same.

**ACTIONS TAKEN BY DEFENDANTS TO ADDRESS THE COMPACT
SHORTFALL**

42. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42, and therefore denies the same.

43. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43, and therefore denies the same.

44. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44, and therefore denies the same.

45. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45, and therefore denies the same.

46. Paragraph 46 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the United States congressional dedication and approval of Bonny Reservoir, and the Bonny Reservoir water right decree, if they exist, speak for themselves. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 46.

47. Paragraph 47 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the Compact and the Bonny Reservoir water right decree, if they exist, speak for themselves. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 47.

48. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48, and therefore denies the same.

49. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49, and therefore denies the same.

50. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50, and therefore denies the same.

51. Paragraph 51 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 51 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the Water Court's Order dated December 16, 2013 in Case No. 12CW111, if it exists, speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 51, and therefore denies the same.

52. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52, and therefore denies the same.

53. Paragraph 53 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the Order of the Water Court in Case No. 11CW186 dated December 16, 2013, if it exists, speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 53.

INJURY TO FOUNDATION FROM DEFENDANTS' ACTIONS AND INACTIONS

54. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54, and therefore denies the same.

55. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55, and therefore denies the same.

56. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56, and therefore denies the same.

57. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57, and therefore denies the same.

58. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58, and therefore denies the same.

59. Paragraph 59 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 59 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 59, and therefore denies the same.

60. Paragraph 60 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 60 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 60, and therefore denies the same.

61. Paragraph 61 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 61 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 61, and therefore denies the same.

62. Paragraph 62 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 62.

SENATE BILL 52 (2010)

63. Paragraph 63 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-90-103(6)(a) and the *Gallegos* opinion speak for themselves, and that the cited case contains the quoted language and is presented out-of-context. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 63.

64. Paragraph 64 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the opinions and publication cited by the Plaintiff speak for themselves, and that the cited cases contain the quoted language and the language is presented out of context. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 64.

65. Paragraph 65 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-90-106(1)(a) and the *Gallegos* opinion speak for themselves. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 65.

66. Paragraph 66 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the *Gallegos* opinion speaks for itself, and that the cited case contains the quoted language and is presented out of context. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 66.

67. Paragraph 67 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the *Gallegos* opinion speaks for itself, and that the cited case contains the quoted language and is presented out of context. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 67.

68. Paragraph 68 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 68 contains legal characterizations or conclusions, no response is required. Tri-State admits only that the order in Case No 06CV31 speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to

the truth of the factual allegations contained in Paragraph 68, and therefore denies the same.

69. Paragraph 69 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the *Powell* opinion speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 69.

70. Paragraph 70 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 70 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 70, and therefore denies the same.

71. Paragraph 71 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 71 contains legal characterizations or conclusions, no response is required. Tri-State admits only that Senate Bill 52 ("SB-52") speaks for itself. Tri-State is without sufficient information to form a belief as to the truth of the factual allegations contained in Paragraph 71, and therefore denies the same.

72. Paragraph 72 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 72.

73. Paragraph 73 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 73.

74. Paragraph 74 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 74.

75. This paragraph states intentions to which no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 75, and therefore denies the same.

CLAIMS FOR RELIEF
(Declaratory Judgment, Injunction)

CLAIM 1: The Administration of Water in the Republican River Basin and Related Actions and Omissions by Defendants are Unlawful.

76. Tri-State incorporates all answers above as if fully set forth below.

77. Paragraph 77 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 77.

78. Paragraph 78 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 78.

79. Paragraph 79 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 79.

80. Paragraph 80 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 80 contains legal characterizations or conclusions, no response is required. Tri-State admits only that C.R.S. § 37-80-102(1)(a) speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 80, and therefore denies the same.

81. Paragraph 81 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the statutes speak for themselves. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 81.

82. Paragraph 82 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 82.

83. Paragraph 83 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 83.

84. Paragraph 84 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 84.

85. Paragraph 85 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 85.

86. Paragraph 86 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 86 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 86, and therefore denies the same.

87. Paragraph 87 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 87 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 87, and therefore denies the same.

88. Paragraph 88 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 88 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 88, and therefore denies the same.

89. Paragraph 89 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 89 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 89, and therefore denies the same.

90. Paragraph 90 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 90 contains legal characterizations or conclusions, no response is required. Tri-State admits only that 43 U.S.C. § 390b(e) speaks for itself. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 90, and therefore denies the same.

91. Paragraph 91 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 91 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 91, and therefore denies the same.

92. Paragraph 92 and its subparagraphs A-D contain a mixture of factual allegations and legal conclusions. To the extent Paragraph 92 and its subparagraphs A-D contain legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 92, and therefore denies the same.

93. Paragraph 93 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 93 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 93, and therefore denies the same. To the extent any additional response is required, Tri-State denies that Plaintiff is entitled to any such relief.

CLAIM 2: Senate Bill 52 is Unconstitutional When Applied to the NHP Basin.

94. Tri-State incorporates all responses above as though fully set forth below.

95. Paragraph 95 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-90-106(1)(a) speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 95.

96. Paragraph 96 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that SB-52 speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 96.

97. Paragraph 97 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 97.

98. Paragraph 98 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 98.

99. Paragraph 99 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 99 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 99, and therefore denies the same.

100. Paragraph 100 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the Colorado Constitution speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 100.

101. Paragraph 101 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 101 contains legal characterizations or conclusions no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 101, and therefore denies the same.

102. Paragraph 102 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that SB-52 speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 102.

103. Paragraph 103 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 103.

104. Paragraph 104 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 104.

105. Paragraph 105 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 105.

106. Paragraph 106 and its subparagraphs A and B contain legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies that Plaintiff is entitled to any such relief.

107. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 107, and therefore denies the same.

CLAIM 3: The Ground Water Act is Unconstitutional if Designated Ground Water that is Subject to the Compact Cannot be Administered Pursuant to the Compact.

108. Tri-State incorporates all responses above as though fully set forth below.

109. Paragraph 109 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 109.

110. Paragraph 110 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that C.R.S. § 37-67-101 and the *Green* opinion speak for themselves. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 110.

111. Paragraph 111 contains legal characterizations or conclusions to which no response is required. Tri-State admits only that the United States Constitution speaks for itself. To the extent any additional response is required, Tri-State denies the remaining allegations contained in Paragraph 111.

112. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 112, and therefore denies the same.

113. Paragraph 113 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 113.

114. Paragraph 114 contains a mixture of factual allegations and legal conclusions. To the extent Paragraph 114 contains legal characterizations or conclusions, no response is required. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 114, and therefore denies the same.

115. Paragraph 115 and its subparagraphs A and B contain legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 115.

116. Paragraph 116 contains legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies the allegations contained in Paragraph 116.

117. Paragraph 117 and its subparagraphs A and B contain legal characterizations or conclusions to which no response is required. To the extent any response is required, Tri-State denies that Plaintiff is entitled to any such relief.

118. Tri-State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 118, and therefore denies the same.

Any allegation not otherwise responded to is denied.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted pursuant to C.R.C.P. 12(b)(5).
2. Plaintiff failed to challenge the actions of the State Engineer and Division Engineer within the time prescribed under the Colorado Administrative Procedure Act.
3. Plaintiff failed to challenge the actions of the Colorado Ground Water Commission within the time prescribed under the Colorado Administrative Procedure Act.
4. This Court does not have subject matter jurisdiction to hear Plaintiff's claims, in whole or in part.
5. The Plaintiff's claims are barred, in whole or in part, for failing to exhaust administrative remedies.
6. Plaintiff's claims are not ripe for adjudication.
7. Plaintiff is estopped from asserting the claims for relief in this matter.

8. Plaintiff's claims are barred, in whole or in part, by issue preclusion and/or claim preclusion.
9. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.
10. Plaintiff's claims are barred, in whole or in part, by the applicable statute(s) of limitations.
11. Plaintiff's injuries or losses, if any, were caused, in whole or in part, by Plaintiff's own negligence or fault.
12. Tri-State reserves the right to supplement or modify its Affirmative Defenses and to assert any defense in law or fact to the stated claims for relief.

WHEREFORE, Tri-State Generation and Transmission Association, Inc., requests that this Court deny the Plaintiff's requested relief.

Respectfully submitted this 14th day of December, 2015.

VRANESH and RAISCH, LLP

Signature on file pursuant to C.R.C.P. 121 § 1-26(7)

By: 

Aaron S. Ladd, Atty. Reg. #41165

Justine C. Shepherd, Atty. Reg. #45310

TRI-STATE GENERATION AND
TRANSMISSION ASS'N, INC.

Signature on file pursuant to C.R.C.P. 121 § 1-26(7)

By: 

Roger T. Williams, Atty. Reg. # 26302

ATTORNEYS FOR TRI-STATE GENERATION
AND TRANSMISSION ASSOCIATION, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December, 2015, I served a true and correct copy of the foregoing **ANSWER OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.** by ICCES e-filing addressed to the following:

City of Holyoke	Alvin Raymond Wall	Alvin R Wall Attorney at Law
City of Wray Colorado	Alvin Raymond Wall	Alvin R Wall Attorney at Law
Colorado Department of Natural Resourc	Ema I.g. Schultz	CO Attorney General
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