Colorado faces a number of new realities—not just in water, but in many other respects as well. The 1980s will be a decade whose terms and conditions are different from the past. Indeed, significant changes are upon us.

The history of Colorado is written in how we have developed and utilized our water resources. By the same token, the history of the coming decade will be a function of how we deal with the realities of water resources, development, and management in the years ahead.

No civilization exists that is not in touch with the realities which it confronts. In turn, history will judge us by our policies and how well we dealt with the realities of our time. There will be a reckoning in history as to whether we grasped and acted on the political realities which I believe will confront us—the implications of which we do not yet fully comprehend.

My optimism stems from discussions between the various water interests in Colorado. I sense opportunities that we do not yet fully comprehend.

There are many reasons for this. The federal budgetary situation is clearly one factor; Government, at both the federal and state levels for that matter, is actually shrinking when measured in real dollars. And this is occurring against a backdrop of entitlement programs that consume an ever increasing portion of the federal budget.

For example, did you know that federal pensions are still being paid to survivors of veterans of the Civil War, Indian Wars, and Spanish War? And it is estimated that pensions payable to the survivors of veterans of the Vietnam conflict will extend well into the second half of the 21st Century. These kinds of outlays are written into our federal budget for decades to come—they are a chain letter to the future. From now on, the question will inevitably be one of what the federal government can cut, not add.

There are other reasons for reduced federal expenditures on water projects too. The lack of Congressional support for water development is one. Shifting regional alliances is another. Finally, the criteria that require benefits to exceed costs has left several Colorado projects in the posture of being "economically unjustified" by federal standards.

We have built a system of property beneficial uses, which can be changed through a forthright effort to address those realities by involving all parties at the outset.

Needless to say, we have much work to do. The history of Colorado is written in the "friendly rain" that the rainfall needed a little more of, and the "rainbow" that the prayers of the people were answered with. In turn, history will judge us by our policies and how well they dealt with the realities of our time. I am optimistic about some aspects of what we will see ahead. At the same time, I find myself sobering to the economic and political realities which I believe confront us—the implications of which we do not yet fully comprehend.

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And in the midst of this process of conflict and resolution is the federal government, for despite our desired pride as Coloradans, we do understand and have not ever made, our water decisions solely as a separate State. Our predecessors in this region settled on the public domain and put the waters of the public domain to their beneficial use, under the statutory blessing of the United States Congress pursuant to the Mining Laws, and Desert Land Act, and other statutes. Whether this has been a good thing or a bad thing, we have looked to the federal government to help us build our water projects, believing rightly that a strong State economy is a vital part of a strong national economy. We have supported the creation of national parks, forests, and wilderness areas within our boundaries, and have looked at the promulgation of state environmental laws on the state and federal level to provide these resources. All done in the search for balance, the human and natural economies, which in turn requires careful and balanced interpretation and administration of all these laws.

What has caused great difficulty is that the United States has decided to create systems to obtain water rights under our State system — by which the place of diversion and use, and the nature, extent and priority of use of water are necessary to accomplish the purposes for which the reservation was created. In fact, in most Coloradoans have never questioned this. What has caused great difficulty is that the United States has not in the past proceeded to obtain water rights under our State system by which the place of diversion and use, and the nature, extent and priority of use of water are determined, so that others can build their expectations accordingly and all the various rights can be administered.

The Colorado Supreme Court has now given us some very practical and welcome guidance. Just how welcome this guidance turns out to be is the work of the Colorado water courts in interpreting the federally reserved rights into the State system, in accordance with the Supreme Court's decision. Here is what we have learned from our Supreme Court:

1. Historically, the federal government acquired comprehensive state control over the appropriation of water, including the appropriation of water on federal lands by private appropriators.

2. When Colorado became a State, the United States did not pass title to the water on the public domain to the State.

3. In acquiescing to the western state appropriation systems, the United States did not forego its right to make use of unappropriated waters necessary to fulfill the purposes for which its land reservations were created.

4. "Reserved" water is reserved only for the purpose for which the reservation was created.

5. The federal reserved rights doctrine can be expressed as follows: (a) the federal government must have "intended" to reserve unappropriated water for the purposes for which the reservation was created; (b) "reserved" water is necessary to accomplish the purposes for which the reservation was created.

6. Only that amount of water necessary to fulfill the purpose of the reservation, no more, is reserved.

7. The federal reserved rights doctrine must determine the precise purpose for which that water is reserved, and that purpose would be frustrated without receipt of that amount of water.

8. In each case of a federal reserved right, the court must examine the facts and circumstances surrounding the creation of the reservation to determine its precise purpose.

9. All other U.S. claims for water, other than federal reserved rights, must be pursued by filling for appropriated rights under State law, or by the exercise of its condemnation power by the United States.

The Colorado Supreme Court said further that the purpose of national forest reservations was for watershed and timber protection and did not include minimum stream flows for recreational, scenic, and scenic purposes. With respect to Dinosaur National Monument, the Court held that flows for recreational boating were not included but, on remand, the water court should determine whether water for conservation of the endangered Colorado River fish is within the purpose of the original reservation. The court also said that there exists a federal reserved right in springs and waterholes on federal reservations, but only for domestic and stock use or water storage.

A federal reserved right cannot be lost by non-use, the Court added, all changes of use or changes in point of diversion of a federal reserved right must be made to Colorado water court, and all federal reserved water rights are subject to administration by the State Engineer. (United States of America v. Colorado, (1982).)

What is left for the water courts to do now is Division 2. Earlier cases do not sort out the pending U.S. claims and determination of the potential usefulness of these proceedings will cause may well depend on the vigor with which our State attorney general, State Engineer, and affected water users pursue proceedings in State court.

Important questions remain. The court has yet to decide whether an earlier State commissioner, diligently pursued, will result in a priority date antedating the reserved right.

One of the most important questions remaining in Division 5 involves the Naval Oil Shale Reserve claim to waters of the mainstem Colorado and East Parachute Creek. The Colorado River does not flow through the Naval Oil Shale Reserves. Generally, in the federal reserved rights recognized to date, the water in question has flowed, in through a pass (1982).

8th Annual Membership Forum & Water Workshop

The 8th Annual CWC Membership Forum and Water Workshop has been scheduled to be held at Beaver Run in Breckenridge, Colorado on August 18, 19 and 20, 1983. The theme of the summer meeting will be "Colorado Water Law: Is It Working for the Future?" An outstanding group of "young turk" speakers representing various view points will address the delegates. Some of the thought-provoking addresses include:

2. "Applying Darwin's Theories to Colorado Water Law: Will We Survive?" — Reed Kelley
3. "State Water Plan: Keep Your Back to the Wall!" — Harold Minkel

If you desire advance information on the meeting and lodging reservations, please contact the Colorado Water Congress, 1390 Logan Street, Room 312, Denver, Colorado 80203, or phone (303) 387-0812, to be placed on the mailing list.

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New CWC Officers

ROBERT E. THOMASON

Robert E. Thomason serves as vice-President of the Colorado Water Congress. He is Vice President of Occidental Oil Shale Inc., and of Cathedral Bluffs Shale Oil Company. Mr. Thomason is currently responsible for environmental and regulatory affairs for the Cathedral Bluffs Shale Oil Project Development, located in the Piceance Basin of Colorado on the federal lease tract. Responsibility further extends to lease hold planning and water resource development. Mr. Thomason has been employed by Occidental Petroleum Corp. for over 14 years. He has over 30 years of experience in ranging, agribusiness management and water resource development. Mr. Thomason holds a Bachelor's Degree in Agriculture from California Polytechnic University. He has been a director of the Colorado Water Congress since 1980 representing the energy industry. Mr. Thomason, his wife Vickie, and two children live in Grand Junction where they have made their home since 1974.

RICHARD C. "DICK" MARTIN

Richard C. "Dick" Martin of Carbondale is the immediate Past President of the Water Congress. Mr. Martin moved to the Carbondale area when he bought a ranch on the Roaring Fork River in 1952. A Colorado native, Mr. Martin is a 1950 graduate of Pauley High School, where he was tutored by the Honorable Wayne N. Aspinall.

Mr. Martin has been active in a number of groups including: Club 20 (former chairman); Colorado Moun-
tain College; Colorado Farm Bureau and Garfield County Farm Bureau; Rifle, Glenwood Springs and Carbon-dale Chambers of Commerce; Garfield County Planning & Zoning Commission; and Garfield County Airport Authority. Mr. Martin received the annual Colorado Farm Bureau award for Service to Agriculture in 1978. In addition, Mr. Martin is a life member of the Holstein Frisonian Association and life member of the Elks Lodge 5755G.

Dick and his wife, "Billy," were married in 1934 and have three grown children (Bill, John and Jimmie). They also have six grandchildren.

RICHARD D. "DICK" MACRAVEY

Richard D. "Dick" MacRavey, 52, is Secretary and Executive Director of the Colorado Water Congress. MacRavey is no stranger to Colorado. He served three years as Executive Director of the Larimer-Weld COG and seven years as Executive Director of the Colorado Municipal League. During his tenure with the Larimer-Weld COG, he was responsible for developing and guiding the early stages of the Larimer-Weld "208" Water Quality Management Planning effort.

In 1970, MacRavey served as Chairman of the Colorado Good Government Committee for the promotion of State Constitutional Amendment I, II and III. All three amendments were approved overwhelmingly by the people of Colorado.

MacRavey is a member of the American Society of Association Executives and International City Management Association (cooperating member). MacRavey is the father of three children (Pam, 25; Mike, 20; and Mark, 16). MacRavey has a bachelor of science degree from the University of Colorado and a masters of science degree (in public administration) from the University of Colorado.

Larry D. Simpson of Loveland, Secretary-Manager of the Northern Colorad0 Water Conservancy District and Municipal Subdistrict, was elected CWC Treasurer at the February annual convention of the Congress. For a four year period (1972-76), Simpson was a member of the Larimer-Weld Board of Water Resource Planning Commission and then the Larimer Weld Land Use and Transportation Committee of the Larimer-Weld COG.

Simpson, 46, has a civil engineering degree from the Colorado School of Mines. In addition, he has a Masters degree in Business Administration from California State University at Los Angeles. He has also done graduate work in engineering at the University of Southern California. Simpson is a licensed civil engineer in both California and Colorado.

Simpson is a member of the American Society of Civil Engineers, the Four States Irrigation Council, Water Resources Congress and the National Water Resource Association. Larry is married and he and his wife, Ruby, have two children (Ty and Bernece). Additionally, Larry also does some farming in both the Loveland and Lucerne areas.

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The Narrows Unit—Colorado

by Gary R. Friswold

The Lower South Platte Valley's future development of agriculture, industry, rural life and municipal growth depends on the availability of an abundant, economical and stable water supply. (Eric Wendt, testimony; United States House of Representatives, Hearings Report, November 25, 1968).

Water-oriented recreation is also coming on as a strong competitor. Our greatest interest in the Narrows project lies in the fact that it will lend considerable assistance to preserving our present agricultural economy and will enhance future industrial and recreational opportunities.” (Honorable John A. Love, Governor, Colorado, United States House of Representatives, Hearings Report, November 25, 1968).

The Narrows Dam and Reservoir has been designed to provide a very important management tool, through storage, of flood flows such as those which occurred in 1965, 1969, 1973, and 1981; and of unusually high flows which present agricultural economy and will receive a construction appropriation. One million dollars were appropriated that year. Narrows was once again formally under construction. Through 1976 nearly $14 million was appropriated to Narrows. At the time work was terminated, following the 1977 Carter Administration project “Hit List”, the Narrows benefit cost ratio was 2.6 to 1.

Status:
Preconstruction work recently resumed on the Narrows Unit, funded by the Congress and the Administration, and supported by the Governor of Colorado and the Colorado General Assembly.

In the FY-1982 appropriation bill Congress instructed the administration to conduct studies to ready the project for construction. The administration then approved a transfer of $500,000 in the Reclamation budget so preconstruction activities could get underway. The President also recommended an additional $500,000 to fund work in fiscal year 1983.

In July 1982, the Colorado General Assembly authorized the newly formed Colorado Water Resources and Power Development Authority to pledge some $30 million in state funding for construction of the Narrows Unit in northeastern Colorado, and the Animas-La Plata project in the southwest. Furthermore, the Governor included funds in his 5-year capital improvements program equal to about 10 percent of these project's costs. Preconstruction activities will be continued during the remainder of fiscal year 1983 to review and update information required to ready the project for construction.

Geologic mapping in the damsite area has been conducted and holes were drilled to provide designs with additional information concerning geologic materials at the dam site. Some 140 holes have been drilled in the immediate area since the project's inception in 1943. Test pits are also being drilled to determine suitability of available material.

A review of hydrologic data conducted earlier this year, analyses of updated information based on longer term records resulted in a minor reduction in the estimated average annual yield of water from the project. Other contributing factors to the reduction include: revised evaporation rate estimates and the elimination of the joint-use pool.

Much of the above information will be used in the review of the dam design and in updating the project's estimated costs. Activities necessary to ready the project for construction will be completed this summer.

The final environmental statement, published in 1976, is being reviewed during 1982 and 1983. Consultations with the Fish and Wildlife Service concerning compliance with Endangered Species Act requirements have resumed.

Reclamation is consulting with several state and federal agencies concerning various aspects of the Narrows Unit. These included the Colorado Division of Parks and Outdoor Recreation and National Park Service concerning recreation plans; the Colorado Division of Wildlife and U.S. Fish and Wildlife Service concerning fish and wildlife issues; Colorado Division of Highways, concerning relocation of roads within the project area; and the Army Corps of Engineers concerning flood control issues. State officials from Nebraska and Colorado were also briefed concerning the Narrows Unit flood control benefits and storage capacity.

A revised addendum to the Definite Plan Report will be published during fiscal year 1983. This document will contain updated plan, design, cost estimate, economic data, and other information.

The U.S. Fish and Wildlife Service recently issued a biological opinion concerning effect of the Narrows Unit on the endangered species. The opinion stated that construction of the project is not likely to jeopardize the continued existence of the peregrine falcon.

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continued on page 5
Water Challenges

Our Colorado Water Congress presented a new challenge at this issue's annual meeting for Tom Pitts, an active member of the Colorado Water Congress and Chair of the Colorado Water Conservation District Board. Under the direction of the Colorado Water Congress Membership Committee. By profession, Tom is a water engineer and manager. Tom Pitts and Associates, Consulting Engineers, Loveland, Colorado. He has been a member of the Colorado State University faculty since 1970.

Tom Pitts has been an important figure in the Colorado Water Congress, and with this new challenge, his expertise in water resources management will be of great value.

Benefits:

The Narrows Unit will provide many benefits, including water for irrigation, recreation, municipal and industrial use, and fish and wildlife habitat improvement. In addition, the dam and reservoir will provide storage to control flooding.

Irrigation: Additional water from Narrows Reservoir will boost both crop and livestock production. Under the current plan, some 96,400 acres of supplemental irrigation water will be made available for the growing season. Additional benefits include sediment and flood control, increased water supply, and enhanced recreation opportunities.

Municipal and Industrial: As the population and economy of northeastern Colorado increase, the demand for water for use in homes, businesses, and industry also increases. Municipal and industrial water use is expected to continue growing over the next several decades.

Sprinkling:

Sprinkling the 25-year flood project will provide nearly all the protection associated with regulating the 100-year flood.

South Platte Compacts:

The South Platte Compacts represent the agreement between Colorado-Nebraska in a similar manner. These compacts are designed to provide a dependable water supply to the State of Nebraska and to the City of Denver.

Multi-State Benefits:

Water users in Nebraska have an excellent understanding of the value of a non-channel storage. There are six storage facilities on the North Platte River, Nebraska, and they are designed to provide a dependable water supply. The Nebraska State legislature indicated their support for Narrows through passage of a resolution supporting construction of the project, which was adopted in 1981. Benefits to Nebraska will derive from the Narrows flood control capacity and from the more uniform return flows. Narrows will truly provide multi-state benefits.

Summary:

"Never in the history of Colorado has any reclamation project received all the support that has been given the Narrows Project. The Narrows Project has been given the highest possible rating by all persons associated with the project." (Honorable John A. Love, Governor, Colorado, United States House of Representatives Hearings Report, November 25, 1968).

The need for Lower South Platte Main Stem Storage has been a subject of discussion for nearly half a century. The need for storage facilities and reservoir configurations have been studied and restudied over the years. Two more studies were just completed - one by the State Engineer and the second by the Colorado Department of Natural Resources. These studies reaffirmed the concept of the Narrows Dam and Reservoir.

Recreation:

Located just 70 air miles from the Denver metro area, the Narrows Dam is expected to draw more than a million visitors annually - with that number doubling in 10 years. Major activities include boating, water skiing, swimming, hunting and fishing, hiking, picnicking, and sightseeing. Facilities may include boat-launch ramps, and parking areas. Several public use areas and a dam are planned at Narrows. Facilities will be managed by the Colorado Division of Parks and Outdoor Recreation.

Personnel

The Narrows Unit is an important project for Colorado, and it is critical that the project be completed in a timely manner. The Narrows Dam and Reservoir will provide a much-needed source of water for the future.

The Narrows Unit is a small firm by design, as this allows Tom to maintain a high level of involvement in his firm's projects. Pitts and Associates has a reputation for providing high-quality, cost-effective, and sometimes controversial projects.

Tom enjoys his role as consulting engineer in Colorado, and he is known for his ability to make difficult decisions. "Consultants are not policy makers; consultants may provide the advice and decision makers with options, and the important role of the consultant is to help the client's policies and decisions are made, consultants can play a role in implementing those policies and decisions. There is a distinction to be made between the roles of public and private officials who are responsible for establishing policy and making decisions. One of the things that consultants need to do is to develop policies and strategies that are working with a wide variety of people in the water business throughout Colorado. He also serves on the Board of Directors of the Colorado Water Congress, which is responsible for representing engineers in the 4th Congressional District.

On future water development in Colorado, Tom thinks that it is going to go away. Indeed, they are apt to be on the upstream side of the Colorado River in this state can run free. By the years ahead. The greatest challenge is going to be the proper blend and balance of development and conservation. During the "last few years, I think a lot of things have been recognized for nearly eighty years. Numerous locations and reservoir configurations have been studied and restudied over the years. Two more studies were just completed - one by the State Engineer and the second by the Colorado Department of Natural Resources. These studies reaffirmed the concept of the Narrows Dam and Reservoir.

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Colorado Water Congress Board Elections

by Tom Potts, Chairman, Membership Committee

The Board of Directors of the Colorado Water Congress is its membership. The Water Congress is a very successful organization, largely due to the outstanding professional staff; (2) its diversified active support from (1) and (3) the members are genuinely concerned about water issues.

The members are located in diverse geographic, professional, water use, and professional activities. The Water Congress can continue to be successful with this kind of diversified active support from its members. One of the principal goals of the Membership Committee is to assist the Water Congress in developing its membership.

This report will bring you up to date on some of the Membership Committee's activities which are designed to accomplish the Organization's goals. In 1982, the Board of Directors reorganized the Membership Committee to assure its continued effectiveness in supporting the organization. A Membership Committee, reorganized in 1983, was appointed which includes Tom Potts, Chairman, Wayne Miller, Vice Chairman, Brent Spronk, Secretary, R. B. Raley, Cheryl Signis, and Larry Simpson, Director. The Membership Committee includes representation from each geographic division, professional and regular division, and it is the responsibility of the Membership Committee to encourage membership activities, but to get those suggestions to assist the Membership Committee in supporting the organization.

The Steering Committee functions as a group of representatives to encourage and promote membership activities in the geographic and non-geographic divisions of the Water Congress. These activities include contacting division members whose dues are delinquent, identifying a geographical ordivisional area to drop and taking remedial action to reduce the drop rate, encouraging new memberships, reactivating and new goals. The idea behind reorganizing the Membership Committee was not only to encourage members to return, but to involve more people in their activities. One of the primary purposes of the committee in the last few months has been to reduce delinquent membership accounts and identify potential members, thereby ensuring their membership at an early date to determine if any action can be taken to encourage continued membership in the Water Congress.

Tom Potts, Chairman of the CWC Membership Committee, is Principal of Tom Potts and Associates, Consulting Water Engineers, Loveland, Colorado.

The following sections on the Board election process are quoted from CWC's Restated Articles of Incorporation for the membership of the CWC membership.

ARTICLE XI, Section 1. Each member of the Colorado Water Congress shall be a member of a division as set forth in Article IV, and shall represent the geographically designated division in which the member resides unless a different division has been designated in accordance with Article III.

ARTICLE XI, Section 4. The Division Chairman of each geographic or non-geographic division may call a written ballot for the purpose of nominations for nomination director or other purposes. Upon the written request signed by five members of the division, the division chairman shall call a meeting of said division within 20 days of receipt of such notice. Notice of any division meeting shall be in writing and mailed to the division members not less than seven (7) days in advance of the meeting.

ARTICLE IV, Section 2. A. Elections. The membership of the Board of Directors shall be elected by and from respectively divisions. Elections shall be by the majority of votes cast on written ballot at the annual meeting.

ARTICLE XII, Section 3. A Nominating Committee composed of five immediate past presidents and five individuals representing the membership in good standing and able and willing to serve, the most recent past presidents may serve on the Committee. If any division shall not have a continuing organization pursuant to Article XI, Section 4 of these Articles, one or more candidates by December 1st of each year, the Nominating Committee shall select one or more qualified candidates for each directorship.

ARTICLE III, Section 3. Each individual member shall be entitled to vote in and to represent only one a non-geographic division. Which shall be the geographic division of his or her residence. If any geographical area is designated in writing or on an appropriate form a division other than geographic, it shall be entitled to one vote, which must be exercised by a person by that member at the annual meeting of a member of that division, or at any meeting at which a vote of the membership is taken.

ARTICLE III, Section 4. Each existing membership shall be entitled to vote in any one representative geographic division in which it has residence, but may distribute in accordance with the by-laws its votes among other divisions in which it sponsors membership. Sponsors membership shall not be the date of filing, not the date of the registration.

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New CWC Sustaining Members

by Tom Potts, Chairman, Membership Committee


New CWC Individual Members

by Tom Potts, Chairman, Membership Committee

Ruth Williams, Golden Joe Gilmer, El Paso, Texas Dr. Loren S. Sutherland, Lamar David R. Stewart, P.E., Fort Collins Karl Kumi, III, Boulder Timothy Maywalt, Denver D. Cary Goodsen, Fort Lupton

Water Rights: Vision or Nightmare? continued from page 2

under the reservation. When the United States filed the Naval Oil Shale claim, it asserted the right to 200,000 acres feet annually with a priority date of 19, 1983. It was recognized, could greatly affect projects which have been built since that time, such as the Frying Pan and Roaring Fork Projects. Thompson projects and numerous western slope appropriations.

A month later, the United States moved to amend its claim to reduce its asserted right to 49,000 acres feet annually. This would mean that the Arvold Points, but the United States is also seeking a five year running average. It is well known that 245,000 acre feet could be taken in one year and cause a large disruptive effect. The amended claim appears to be more reasonable than the original but whether it should be recognized at all, and if so, under what conditions, will be a matter of vigorous debate.

Also, the United States has been filing reserved rights claims in Divisions 4, 5 and 6. The Golder & McCurrach Amendment to the United States was first joined under the Billings projects and numerous western slope appropriations.

In essence, the United States had its opportunity to obtain the earlier dates and establish firm riparian rights. Today, the United States has an opportunity to obtain the earlier dates and firm riparian rights. Today, its claim to be the date of filing, not the date of the registration.

Also left on Colorado's federal reserved rights agenda is the matter of continued on page 9
Water Congress Supports Agricultural Water Users in 404 Suit

by Greg Hobbs

The Colorado Water Congress on May 25 moved to intervene on the side of the Army Corps of Engineers in a lawsuit brought by the National Wildlife Federation and fifteen other environmental groups, including Sierra Club, Natural Resources Defense Council, Environmental Defense Fund, and National Audubon Society.

The Water Congress seeks to defend new Corps' regulations which are meant to implement some of the reforms to the section 404 dredge and fill permit program sponsored by Senator Hart in 1977. Chief among the 1977 Clean Water Act reforms was an expanded use of general permits, and exemptions for irrigation ditches and farming and ranching operations.

The complaint, filed in Washington, D.C., against Secretary of the Army, combines Senator Hart, the Corps, and EPA of seeking to unlawfully expand the irrigation ditch exemption. In particular, the environmental groups complain that the term "irrigation facilities" used in the new regulations is broader than the term "irrigation ditch" found in the statute.

The Water Congress has pointed out in its intervention papers that use of the broader term is appropriate. An agricultural ditch necessarily includes facilities by which water is diverted from the stream for irrigation. These diversion structures, so integral to operation of the ditch for its purpose, are often washed out or damaged by high water in May or June, just when the irrigation season is about to begin. Congress intended that the shorthande reference to "ditch" would relieve agricultural water users from the burden of obtaining individual 404 permits each time construction of an irrigation ditch and its associated facilities is required.

The Water Congress intervention papers state that "CWC represents numerous irrigation districts, ditch companies, ranchers, farmers, and other irrigation individuals and entities who have substantial and critical interest in upholding the challenged regulation to ensure that they will not need to obtain a 404 permit to construct or make repairs to their headgates, wingwalls or other irrigation structures each spring. CWC also has a considerable interest in general permit issues as they affect irrigation facilities and practices."

In January of this year, the National Wildlife Federation lost its case to require all dams in the United States to obtain Clean Water Act pollution control permits. A number of Colorado water user agencies intervened successfully in that litigation in order to counter the Federation on a question of Congressional intent involving the regulation of water works as they are doing here.

Narrows Unit

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ing 21,850 acre feet annually from the project for use as soon as the water can be made available. Also, additional water has been requested to meet future needs.

The Upper Yampa One Dam, One Reservoir. The delivery systems to 287,000 acres are already in place. Some of Colorado's finest arable land is waiting for an adequate and dependable water supply. On the verge of major growth need water supplies to meet that growth.

The Narrows...the need is imminent...a promise a long time arriving...the opportunity fragile...an idea whose time has come.

Water Rights: Vision or Nightmare?

continued from page 6

the Ute Indian rights in Southwestern Colorado. Division 7. The Animas-La Plata Project has been planned to assure the Indians their water while making use of Colorado River Basin waters for the benefit of other users as well. If the project does not proceed in some form, the Ute claims will be fought out at the expense of a process aimed toward reconciliation.

Are the Indian rights limited to that amount of water necessary to irrigate reservation lands in order to guide mineral development, industrial use and minimum stream flows? Recent Special Master decisions in Washington, Arizona and California point toward an expanded view of the Indian rights.

Eight streams flow through Ute lands in Colorado: the Navajo, Blanco, San Juan, Piedra, Pine, Florida, Animas, La Plata, and Gila. The Animas-La Plata Project would allocate 12,000 acre feet of agricultural water and 6,000 acre feet of industrial water to the Ute Moun­ tain Utes, and 2,000 acre feet of agricultural and 26,000 acre feet of industrial water to the Southern Ute. It appears in the best interest of Colorado to help all our citizens meet their needs through coordinated, cooperative and environmen­ tally responsible projects. Litigation is a very inadequate process by which to govern our affairs.

Finally, let us urge that the Federal Government not pursue its notion that it can lay claim to so called federal non­ reserved rights. This is a theory, as yet untested in court, which states that the United States, without a land reservation, has the power to claim federal appropriative rights and may have already done so under various laws. The federal reserved rights concept has intruded into the rights of water users based upon State appropriation systems which have been established by Congress for over a hundred years.

If the United States needs additional water, let it proceed as any other appropriator must—under State laws as they have been developed and constitutional law as they have been interpreted in the Supreme Court. Only in this fashion can we hope to maintain a reasonable and just compensation. At least, in that event, the true value of the water resource will be recognized. The Congress may wish to pass federal and State laws to create federal water rights, unless Congress expressly includes language appropriating unap­ propriated waters, should not be countenanced by the executive branches of State or Federal government. The federal government would destroy the balance which the Colorado Supreme Court has attempted to achieve in its recent decision.

Executive Director Dick MacRaevey is leading the continuing effort to obtain sufficient financial contributions from Water Congress members who support the agricultural viewpoint being heard in this suit. To date, only industrial water user organizations, such as the American Water Congress and the American Petroleum Institute, have sought to intervene. These groups do not seek to represent the interests of agricultural water users.

NWF v. Marsh Lawsuit

Contributors


Colorado Water Rights
regard. It is too early to declare that it has been a success. But I am optimistic. At the very least, parties are exchanging views on matters that previously would have been litigated first and negotiated, if at all, second. That the negotiations are being attempted first is in itself a major step forward. Finally, there are the challenges from beyond our borders. Our determination to protect the waters to which we are entitled must and will be undaunted. The means we choose to pursue such protection must be carefully chosen.

In conclusion, let me stress that we must be realistic about our choices. Today's public officials take the world as they find it, not as it was. We cannot make progress without being realistic. We must be prepared to mold new arrangements from previous agreements when it is to our benefit to do so. For example, the last three years have seen the evolution of firm policies expressed to other Colorado River Basin states that Colorado's cooperation in utilizing Colorado River Storage Project power revenues to finance weather modification and salinity control projects will be contingent upon steps being taken which will bring to fruition the water resource development opportunities contemplated in the 1956 and 1968 acts. Agreement has not been reached. We will continue to press for an accommodation beneficial to Colorado. It will require imagination and leadership to meet the challenges ahead of us. I invite your recognition of the new realities we face and your participation in shaping our future.

Silver Anniversary Convention Highlights

Dam safety, water project financing and 1983 water-related legislation were the key topics of discussion at the CWC 25th Annual Convention which was held last February at the Downtown Denver Holiday Inn. Key speakers at the three day event included Colorado Governor Richard D. Lamm, Dr. Garrey D. Carruthers, Assistant Secretary of the Interior for Land & Water Resources and Congressman Ray Kogovsek.

During the Convention, an impressive array of water knowledge and experience were in evidence as nearly 300 registrants from across the state attended or participated in updates, roundtables and panel discussions.

Congressman Ray Kogovsek stated, "Colorado cannot operate in a vacuum, immune to the needs and pressures of Basin states and immune to the political processes at the federal and interstate levels that might affect not only our desires, but our ability to control our water resources."

Mr. Felix (Larry) Sparks accepts the Aspinall "Water Leader of the Year Award."

Robert K. Dawson, Deputy Assistant Secretary of the Army, visits with Dwight Holter and John Fetcher. During his address to the convention, he estimated that $20 billion dollars need to be invested in water projects in the coming decade.

Silver Anniversary Convention Highlights

Dr. Garrey Carruthers outlined the latest water policy developments presented by the Reagan Administration.

Colorado Water Congress

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