A GUEST EDITORIAL

Last October our dear friend and colleague passed away after struggling with a long illness. But, as his son Owen eulogized, Wayne Aspinall won the race of immor-
tality. "His reward—eternal peace with his creator and a
legacy for his fellow man that will serve as an inspiration
for many people for years to come." To us left behind, his
company and counsel will be sorely missed, but his deeds
and thoughts will live on in the hearts and minds of his
many admirers and friends.

In 1971, Wayne Aspinall spoke to the annual conven-
tion of National Water Resources Association in Dallas.
He talked about how the water resource community
could strengthen our water development programs and
particularly those in the West.

He began by eloquently defining what he saw the water
resource community as: "a secular trinity—of sorts—one
body with three elements in the form of the Legislative,
Executive, and Private sectors," with the single public
motivation to preserve "our economic well-being through
balanced use of water and related land resources." He
then went on to address what he saw as the main problems
facing our water programs. Thirteen years later, they,
unfortunately, are still with us today in one form or
another.

Money is as tight as ever, and appropriations for Federal water projects
authorized in the 1960's and before have been scarce.

Western water projects are still at the center of natural resource war-
between the East and West, and we constantly have to deal with rhetoric
that our proposed projects are "pork-barrel."

We are still fighting with the economic purists who
find fault with our cost-sharing principles.

Federal reserved and "non-reserved" water rights
issues still haunt us.

To add to this already lengthy list, we now have what I
would call the hallmark problems of the 1980's.

The first is the Supreme Court's reading of the Com-
merce Clause of the Constitution in the 1982 case
Sporhase v. Nebraska, which resulted in the Court
finding that Colorado's prohibition of the export of
water was unconstitutional "Vary 7.

The second issue arises from the Federal District
Court's recent decision in the Riverside v. Andrews
case, that essentially finds that the section 404 permit-
ting provisions of the Clean Water Act can be used to
limit stream flows for the preservation of endangered
species habitat.

The third issue is closely related to the second, and
concerns the Fish and Wildlife Service's delayed jeopardy
opinions on Colorado dams that are already
under construction—the Dallas Creek, Dolores, and
Ruedi.

And last, but not least in the litany of western water
troubles, is the Federal Government's recent imposition of the Federal Land
Policy and Management Act's permitting requirements to irrigation ditches
crossing Federal lands.

Wayne was fond of comparing the politics of the Reclamation program with the
axiom of physics that for every force in one direction there is an equal and
continued on page 4

United States Senator
William L. Armstrong

SUMMER W ATER RIGHTS

PUBLISHED BY THE COLORADO WATER CONGRESS

SUMMER 1984

VOL. 3, NO. 2

Green Mountain Reservoir: Lock or Key?

The "Green Mountain exchange" is a
concept, whereby those with a substan-
tial investment in the Colorado-Big
Thompson Project (the United States
and the Northern Colorado Water Con-
servancy District) and the beneficia-
tion of Green Mountain Reservoir (the
Northern District and the water users
of western Colorado) are being asked to
consider changing legal arrangements
which they made in 1937 and which have
affected parties to consider substan-
tial change in past relationships.

According to this concept, the Denver
Water Board would not pursue its
planned diversions from the Eagle
River, by means of the Eagle-Colorado
and Eagle-Pines projects, or its planned
East Gore Collection System, which
would capture waters high on tributar-
ies to the Blue River and carry them to
Dillon Reservoir by gravity. Rather, Den-
ver would pump Green Mountain
Reservoir waters back up the Blue River
Valley through a pipeline to Dillon
Reservoir, then to the Denver Metropoli-
tan Area via the Roberts Tunnel.

Green Mountain Reservoir

Summer Water Workshop August 17 & 18

Current Events

by Gregory J. Hobbs, Jr.
Davis, Graham & Stubbs
Denver, Colorado

The Colorado Water Resources and
Power Development Authority, at the
request of Governor Lamm's Metropoli-
tan Area, is about to undertake a feasibility study of a water
exchange project involving Green Mountain Reservoir. This exchange
project has tremendous implications for the rights of water users in western
and northeastern Colorado. Whether a new
arrangement for Colorado River opera-
tion within the State can be imple-
menced depends on the willingness of
the affected parties to consider substan-
tially different water resource policies.

SUMMER WATER WORKSHOP

August 17 & 18

Published by the Colorado Water Congress

Green Mountain Reservoir
New CWC Officers

ROBERT E. THOMASON
Robert E. Thomason of Grand Junction serves as 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 C-b federal lease tract. His responsibility further extends to leasehold planning and water resource development. Mr. Thomason has been employed by Occidental Petroleum Corp. for over 15 years. He has over 30 years of experience in ranking, 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.

LARRY D. SIMPSON
Larry D. Simpson of Loveland, Secretary-Treasurer of the Northern Colorado Water Conservancy District and Municipal Subdistrict, was elected CWC Treasurer at the February annual convention of the Congress. During a four year period (1973-76), Simpson was a member of the Larimer-Weld Regional Planning Commission, and then the Larimer-Weld Land Use and Transportation Committee of the Larimer-Weld COG. Simpson, 47, has a civil engineering degree from the Colorado School of Mines. In addition, he has a Master's 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 Resources Association. Larry is married and he and his wife, Robin, have two children (Tad and Bernece Jane), incidentally. Larry also does some farming in both the Loveland and Lucerne areas.

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 1953. A Colorado native, Mr. Martin is a 1930 graduate of Palisade High School, where he was tutored by the late Wayne N. Aspinall. Mr. Martin has been active in a number of groups including Club 20 (former chairman), Colorado Mountain College, Colorado Farm Bureau and Garfield County Farm Bureau, Rifle, Glenwood Springs and Carbondale 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 Hobohemian Fraternal Association and life member of the Elks Lodge 575GJ. Dick and his wife "Billy" were married in 1934 and have three grown children (Bill, John and Jimmie). They also have six grandchildren.

WHEREAS, ED BORESEN LEFT THE COLORADO WATER CONGRESS A LEGACY OF DEDICATED LEADERSHIP AND HARD WORK UNSURPASSED IN ITS HISTORY;

WHEREAS, THE STRENGTH, DURABILITY AND PERVERSIVE INFLUENCE OF THE COLORADO WATER CONGRESS IS IN SIGNIFICANT RESPECTS DUE TO THE EFFORTS OF ED BORESEN; AND

WHEREAS, ED BORESEN SERVED THE COLORADO WATER CONGRESS WITH DISTINCTION AS ITS 1983 PRESIDENT, AS A MEMBER OF ITS BOARD OF DIRECTORS FOR NINE YEARS, AS A MEMBER OF ITS MANAGEMENT AND BUDGET COMMITTEE SINCE ITS FORMATION, AND IN COUNTLESS OTHER CAPACITIES OVER THE YEARS;

NOW, THEREFORE, BE IT RESOLVED BY A UNANIMOUS VOTE OF THE COLORADO WATER CONGRESS MEMBERSHIP THAT THE NAME AND MEMORY OF, AND GRATITUDE TO, ED BORESEN, SHALL BE INDELENTLY IN THE MINDS OF THE COLORADO WATER CONGRESS MEMBERSHIP, AND THAT THE STANDARDS OF LEADERSHIP HE ESTABLISHED SHALL BE THE GOAL FOR ITS FUTURE LEADERS.

CWC 9th Annual Membership Forum & Water Workshop

The 9th Annual CWC Membership Forum and Water Workshop has been scheduled to be held at the Sheraton Hotel, Steamboat Springs, Colorado on August 17 and 18, 1984. If you desire advance information on the meeting and lodging reservation forms, please contact the Colorado Water Congress.

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Water Congress 1984 State Laws of Interest to Water Users

The Colorado Water Congress has published a complete book containing all water and water-related laws of the second regular session of the fifty-fourth General Assembly. Since this book is several hundred pages in length and paper, printing, postage and labor are significant, the present price of the book is $50 (CWC members) and $100 (nonmembers). Furthermore, since there are only fifty copies of this book available, distribution will be governed in order of requests. Readers are urged to place their order for the “1984 Colorado Laws Entitled of Interest to Water Users” as quickly as possible—call or write the Colorado Water Congress, 130 Logan Street, Room 312, Denver, Colorado 80203, phone (303) 837-0812.

President Reagan has designated Jack M. Dille as the United States Commissioner to the Upper Colorado River Commission. The designation was made on April 20, 1984 requesting that Mr. Ross succeed Hugh P. Dugan. Mr. Ross, President of the Denver Water Law Firm of Saunders, Snyder, Ross & Dickson, P.C., was born in Colorado Springs, Colorado, January 1, 1931 and admitted to the Colorado Bar in 1956. His preparatory education occurred at Yale University (A.B., 1953) and his legal education at the University of Michigan (J.L.B., 1956). Legal fraternities: Delta Theta Phi, Barristers. He was Assistant Attorney for the Denver Water Board of Water Commissioners from 1956 to 1966. He has been a member of the Colorado Water Congress since its inception in 1959 having served in various capacities as an officer and member of a number of different commissions and committees. He is currently a member of the Federal and Legislative Committees.

He was a member of Resolutions Committee of the National Water Resources Association from 1965 until 1975, and its Chairman from 1965 to 1974. Thereafter he became a member of the Board of Directors from 1975 to 1981 and the President of that association from 1978 to 1979. He was made a life member in 1982.

He is a member of the Denver, Colorado (member), water section and American (member, section of Natural Resources law) Bar Association.

Green Mountain continued from page 1

The “Green Mountain compromise” broke the stalemate between western Colorado’s demand for acre-foot-by-acre-foot consumptive use, and northeastern Colorado’s offer only to disturb it, and a greater, and that is application of the water to the land.”

A similar view was expressed by W.S. Appler, western section “Green Mountain compromise” participant who joined the call for the Grand Junction meeting. “It is our job to perfect a comprehensive and just plan of water development in Colorado.”

Hammes Courier, February 26, 1935.

With wisdom and foresight on both sides of the Divide, these discussions produced, in part, the trans-mountain diversions. The Colorado Water Congress has been a part of this state’s concern for water development in Colorado ...

Colorado Water Rights 3
reach the construction of water projects by $161.6 million for Bureau water project construction, planning and operations. That budget request represents an increase of $151 million in funds amounts appropriated for the 1984 fiscal year.

For fiscal 1985 in Colorado, the President has requested a total of $161.6 million for Bureau water project construction, planning and operations. That budget request represents an increase of $151 million in funds amounts appropriated for the 1984 fiscal year.

I would like to say, first, that with regard to water project funding generally, we were successful. The President for the 1985 fiscal year requests approximately $1.08 billion for overall Bureau of Reclamation planning, development and project operation in the 17 Western States. That represents an increase of $151 million over the amounts appropriated for the 1984 fiscal year.

For fiscal 1985 in Colorado, the President has requested a total of $161.6 million for Bureau water project construction, planning and operations. That budget request represents an increase of $151 million in funds amounts appropriated for the 1984 fiscal year.

For fiscal 1985 in Colorado, the President has requested a total of $161.6 million for Bureau water project construction, planning and operations. That budget request represents an increase of $151 million in funds amounts appropriated for the 1984 fiscal year.

Or Bighorn project, which will in the end cost a total of $143 million to build, had been provisioned in the [Redacted] project. As I mentioned earlier, the Bighorn project was provisioned with $105 million last year. This year, the President requested only $138 million for the Bighorn project. Colorado's portion of the Bighorn project included $143 million for Bureau water project construction, planning and operations. That budget request represents an increase of $151 million in funds amounts appropriated for the 1984 fiscal year.

Colleges of water, I know, were committed to moving forward with one of our projects--Animas-La Plata--in the 1985 fiscal year budget. I reaffirmed that commitment with Secretary Clark on the day he was confirmed. For Colorado, we made careful preparation in the Department of Interior Office of Management and Budget, including funding for a construction start on Animas-La Plata. However, OMB knocked that out of the budget, and even though Secretary Clark sought to have funds added, it was not successful.

On the Congressional side, with a strong push from both Ray Kogovsek and Hank Brown, the House acted last year on a separate appropriations bill with funding for the Animas-La Plata and the Narrows projects. When the bill came to the Senate, I met with Appropriations Committee Chairman Mark Hatfield, who agreed to fund Animas-La Plata in the Senate version of the bill. However, the Department of Interior recently reached an agreement to add funds for the Narrows projects, so its legislative status is by no means certain. All of us--those of you who support these projects, and other members of the delegation, and myself--will have to continue working together with the Appropriations Committees, the House and Senate leadership, and the Department of Interior to ensure we have these projects.

I don't intend to tell any of you that this will not be easy, and may for some period be overtaken by the most serious of all budget issues--the federal deficit. However, nothing in the history of Colorado water development has been easy.

Salinity and the Clean Water Act

To bring you up to date on other water issues not related directly to appropriations, this year's legislative agenda includes my bills, S.752 and S.1842, which address the salinity pollution problems in the Colorado River. Hearings were held in this Senate committee on S.1842, the Sustainable Salinity Control Bill, last September. Those concerns were raised by the Administration that the bill did not address. I am pleased to say that the Senate has established the Colorado River Salinity Control Fund, and I was able to have this interior recently reached an accord to add funds for the Narrows projects, so its legislative status is by no means certain. All of us--those of you who support these projects, and other members of the delegation, and myself--will have to continue working together with the Appropriations Committees, the House and Senate leadership, and the Department of Interior to ensure we have these projects.

I don't intend to tell any of you that this will not be easy, and may for some period be overtaken by the most serious of all budget issues--the federal deficit. However, nothing in the history of Colorado water development has been easy.

Armstrong: CWC to Organize Water Issues Conference

U.S. Senator Bill Armstrong (R., Colo.) announced on April 6, 1984 that the Conference on Water and Congress Board of Directors has agreed to serve as an organizing committee to establish and conduct an Upper Basin States water issues conference.

During a speech to the Water Congress' annual meeting, Armstrong called for such a conference for the Upper Basin States--Colorado, Wyoming, Utah, and New Mexico--to confer on critical water issues in the West.

Citing recent federal court decisions and other federal actions as threatening to the water systems of the West and the country, Armstrong recommended that members of Congress, governors, state legislators, and water interests in the Upper Colorado River Basin states meet in a conference to iron out common positions.

In a letter to Armstrong, Richard D. MacRae, executive director of the Colorado Water Congress, noted that the group's Board of Directors voted unanimously to accept the call for the conference--"but only after the Colorado Water Congress is organized to carry out the purpose of the conference.""
Stagecoach Reservoir Passes A Major Hurdle

Approval of the Stagecoach Reservoir project was granted by a substantial majority from the elections of the Upper Yampa Water Conservation District in a bond election held on Tuesday, May 8, 1984, according to John R. Fechter, District Secretary.

This action will permit the District to proceed with the many steps which have to be taken to build a 34,000 a.f. reservoir 16 miles south of Steamboat Springs on the Yampa River. Total cost is estimated at $13.5 million, of which $6 million was authorized as a loan from the Colorado Water Conservation Trust Fund. The balance is to come from the Federal Small Reclamation Projects Act and the District's own funds.

Calendar of COMING EVENTS

- **June 20, 1984**: COLORADO GROUND WATER CONSERVATION BOARD—3:45 P.M., 110, 1315 SHERMAN STREET, DENVER. FOR MORE INFORMATION, CALL CWCB OFFICE IN DENVER (303) 866-3441.
- **July 18, 1984**: COLORADO GROUND WATER CONSERVATION BOARD—3:45 P.M., 110, 1315 SHERMAN STREET, DENVER. FOR MORE INFORMATION, CALL CWCB OFFICE IN DENVER (303) 866-3441.
- **July 22-24, 1984**: COLORADO WATER CONSERVATION DISTRICT BOARD OF DIRECTORS—3:45 P.M., 110, 1315 SHERMAN STREET, DENVER. FOR MORE INFORMATION, CONTACT THE CWCB OFFICE IN DENVER (303) 865-8012.
- **August 1, 1984**: COLORADO WATER RESOURCES ASSOCIATION BOARD OF DIRECTORS MEETING—THE VIRGINIA LOXIE JACKSON, 110 W. WASHINGTON STREET, DENVER. FOR MORE INFORMATION, CONTACT THE NRWA SUITE 1200, 555 LEVITAN PLACE, S.W. WASHINGTON, D.C. 20022-2140 PHONE (202) 488-0610.
- **August 17-18, 1984**: COLORADO WATER CONSERVATION DISTRICT BOARD OF DIRECTORS MEETING—THE VIRGINIA LOXIE JACKSON, 110 W. WASHINGTON STREET, DENVER. FOR MORE INFORMATION, CONTACT THE CWCB OFFICE IN DENVER (303) 866-3441.
- **September 6 & 7, 1984**: COLORADO WATER CONSERVATION BOARD MEETING—SCHEDULED FOR 3:45 P.M., 110, 1315 SHERMAN STREET, DENVER. FOR MORE INFORMATION, CONTACT THE CWCB OFFICE IN DENVER (303) 866-3441.
- **November 1 & 2, 1984**: COLORADO WATER CONSERVATION BOARD MEETING—SCHEDULED FOR 3:45 P.M., 110, 1315 SHERMAN STREET, DENVER. FOR MORE INFORMATION, CONTACT THE CWCB OFFICE IN DENVER (303) 866-3441.

Green Mountain continued from page 3

4. To conserve and make use of these waters for irrigational, power, industrial development, and other purposes, as to create the greatest benefits.

5. To maintain conditions of river flow for the benefit of domestic and sanitary uses of this water.

In order to accomplish these purposes the project should be operated by an independent, fair and efficient manner, equitable to all parties having interests therein, and in conformity with the following particular section:

(a) The Green Mountain Reservoir, or similar facilities, shall be constructed and maintained on the Colorado River above the present site of the diversion dam of the Shoshone power plant, above Glenwood Springs in western Colorado, with a capacity of 152,000 acre-feet of water, with a reasonable expectation that it will fill annually. Of said capacity, 52,000 acre-feet of water shall be held as replacement in western Colorado, of the water which would be unusable if not stored 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.

(b) Whenever the flow in the Colorado River at the present site of said Shoshone diversion dam is less than 1,250 cubic feet per second, then there shall be demand of the authorized irrigation division engineer or other State authority having charge of the distribution of the waters of this stream, be released from said reservoir as part of said 52,000-acre-foot, the amount necessary with other waters available to fill the vested water right of any water users; no amount from the amount concurrently being diverted or withheld from such vested appropriations by the project for diversion to the project.

(c) Said 100,000-acre-foot shall be stored primarily for power purposes, and the water released shall be available, with charge, to supply existing irrigation and domestic and industrial appropriations of water, including the Grand Valley reclamation project, to supply all losses chargeable in the delivery of said 52,000-acre-foot of water, and for future use for domestic purposes and for the irrigation of lands thereon 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 no less than 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-foot as hereinbefore specified. Water not used for these purposes shall also be available for disposal to agencies for the development of the slate oil or other industries.

Also in 1937, by reference in an appropriations bill, Congress adopted Senator Document 80, spelling out the manner of construction and operation of Green Mountain Reservoir. The 152,000-acre-foot anticipated yield, $2,000 acre-feet was set aside to replace out-of-season diversions of Colorado and 10,000 acre-feet was set aside to provide for future reclamation, existing and future beneficial consumptive uses in western Colorado.

On July 5, 1938, the United States and the Northern District executed the Repayment Contract for construction and operation of the CBT Project. This project has resulted in an annual average diversion of 245,000 acre-feet of Colorado River water being put to use in the western United States.

Today's objections to water projects on environmental grounds tend to mirror objections which were made against the CBT project on the environmental section. The Adams Tunnel would pass through Rocky Mountain National Park and, thereby, became the focus for attack.

Again, however, although the Congress had authorized the project and granted the first appropriation, the National Parks Association formed by Eastern societies and individuals made another attempt to stop the project. They induced Secretary luce to call another hearing to hear protests against his authorization the Bureau to proceed with actual construction. At this hearing on November 17, 1937, a number of "Wildlife" organizations made bitter but unfounded statements against the project urging the Secretary to withhold release of funds. J.M. Dille, A Brief History of Northern Colorado Water Conservancy District and The Colorado-Big Thompson Project (1958), at p. 21.

The Battle Over Green Mountain, 1955-1968

The call which Green Mountain Reservoir places on Dillon Reservoir has been a source of constant frustration for Denver. Three rounds of litigation between Denver, the United States, the Northern District, and the Colorado River District have resulted finally in a judicial determination that Denver has "right, title and interest" in the waters of the Green Mountain Reservoir, and that the United States is a "trustee" for the Northern District and western Colorado water users as operator of Green Mountain Reservoir.

The position of the United States in implementing these projects has been that the Water Resources Act has consistently been that of a trustee. ** *** As previously noted, both the 1955 and 1964 decisions mandate that Denver, through curtailment and other actions, be deprived of the use of waters of the Blue River is subject to the right of the United States to fill Green Mountain Reservoir each

United States of America v. Northern Colorado Water Conservancy District, supra, 608 F.2d at 430.

An immediate benefit of the "Green Mountain compromise" was that water users of western Colorado urged the federal government to ignore environmental objections. Green Mountain Reservoir, at a construction cost of $4,226,206.60, represents approximately 18% of the $25,000,000.00 amount which the Northern District obligated itself to repay for construction of the Colorado-Big Thompson Project. Construction of Green Mountain Reservoir was commenced first, in order to fulfill the"agreement with Congress under the 1937 Act to build before any water was diverted to the East Slope."J.M. Dille, supra, at p. 30.

The Colorado Supreme Court recently observed that the CBT system was "constructed and developed through the cooperative efforts of the United States and the district under the project." The Construction Act, and the Constitution, served as the CBT Project and Green Mountain Reservoir in the following way:

Green Mountain Reservoir, located on the Blue River west of the continental divide, is an integral part of the project, and provides replacement water for the eastern slope of Colorado. The western slope interests for the trans-mountain diversions. Under the Project contract, the United States contains its share of internal and other facilities necessary to the operation of the project. In return, the district agreed to pay over a forty-year period the cost of the deferred irrigation, domestic and other related benefits of the project, exclusive of power benefits.


Due to construction delays caused by World War II and inadequate federal appropriations, the CBT Project, began in 1938, was not completed until 1956, nineteen years later, at a total cost of $162,290,358.00.

Revenues from the numerous power features on the CBT project, including the 25 megawatt Green Mountain power plant, will eventually repay to the United States the total cost of the CBT project. Each year the Northern District pays half the annual operation and maintenance costs of the CBT system, including half the costs of Green Mountain operation and maintenance. Green Mountain Reservoir has a depreciable period of 85 years. 154,645 acre-feet of storage and 1726 kw for power production. Denver's priority for Dillon Reservoir, upstream of Green Mountain on the Blue, is June 1946 for storage of 252.678 acre-feet.
It's my judgement that the next band of growth around Denver is absolutely one of the most important decisions. Rural community will make in the next twenty years. Both in terms of water service and transportation.

Obviously you've another factor here. The direction that this state goes in water, transportation, and education involves not just public decisions. It involves the free-market system. Very clearly you know in water policy that this is a tough decision that you make as to when you subscribe or when you don't. When you direct the use of water by regulation and law and when you don't.

I then would argue that we need in this state to think more clearly about what are our strategic alternatives in developing those three areas, water, transportation and education. Lay out a model of what it is that they seek to achieve in the next thirty years in this state. What is the character of that growth? the kind of jobs. Those are the ingredients in that transportation plan. Those are the ones we ought to be making strategic decisions about. With that knowledge, we should determine who the free market system in that process. If you're making strategic decisions, you should determine who the builders are in that process.

I happen to have seven children. I, if I were governor of Colorado, would point out that we should be able to say... the children. We have enough on our plate as a tax payer and I want to invest in it. That really is a very simple decision of what political processes are all about. So let's use that image for a moment. If the Congress is to decide what the price is and what the price is and what alternatives a person has to choose. When you go back and you put that one back... and then you take another one. What's happening there? It's an individual working out his values clearly as to what he wants to have as his food for that evening. It's a very interesting process.

The fascinating thing that I'm leading up to is this. It is obvious that each of those groups has some conception of water policy, but they should have a state that's growing on a resource base. But the next 50 to 100 years is going to be different. Our economic future is going to be dependent very largely upon what we are doing today. And that's the kind of work that we're able to do with our hands and our minds are going to be the character of our economic prosperity and the character of our growth. And that's the kind of work that we're able to do with our hands and our minds are going to be the character of our economic prosperity and the character of our growth. And that's the kind of work that we're able to do with our hands and our minds are going to be the character of our economic prosperity and the character of our growth.

So if we're asking ourselves the critical question... what will create economic opportunity... what will create specific jobs... what kind of jobs there will be... where will they be located and what kind of settlement patterns will fall from that... we're looking at those three strategic plans. Water... transportation... and education.

The last 100 years have been shaped very much by transport and water policies, probably not as much by educational decisions as by water policies. The stages that they have been a water policy at the state level... is the development of a state that's growing on a resource base. But the next 50 to 100 years is going to be different. Our economic future is going to be dependent very largely upon what we are doing today. And that's the kind of work that we're able to do with our hands and our minds are going to be the character of our economic prosperity and the character of our growth.

The 404 permit case, in which the Colorado Water Congress intervened on behalf of agricultural water users, has been settled. The National Wildlife Federation and a number of other environmental organizations challenged new regulations of the Army Corps of Engineers which were designed to implement the "Bush Task Force" regulatory proposals. Among other features of the new regulations, the environmental groups challenged the Corps' assertion that the "irrigation ditch" exception which was placed into the 1977 Clean Water Act through the efforts of Senator Hart and Representative Perry Harvey. The complaint of the environmental groups attacked Senator Hart for his role in the Corps' efforts to change the law.

The Water Congress intervened in order to ensure that the irrigation ditch exception includes diversion structures, headgates, wingwalls, siphons and other facilities which must be maintained and repaired, so that an irrigation ditch may serve its purpose.

In the settlement document, the environmental groups agreed to adopt the recommended language of the Water Congress. Hence, the Corps' regulations will include those facilities as appurtenant and functionally related to irrigation ditch exemptions in this case.
Green Mountain Reservoir has a decreed priority date of August 1935 for 154,645 acre-feet of storage and 1726 cfs for power production. Denver's priority for Dillon Reservoir, upstream of Green Mountain on the Blue, is June 1946 for storage of 252,678 acre-feet.

The call which Green Mountain Reservoir places on Dillon Reservoir has been a source of constant frustration for Denver.

Three rounds of litigation between Denver, the United States, the Northern Colorado River District, and the Western Colorado Water Users Association have resulted in a judicial determination that Denver has no "right, title or interest" in the waters of Green Mountain, and that the United States is a "trustee" for the Northern District and western Colorado water users as operator of Green Mountain Reservoir.

Following the 1964 stipulation, and despite its explicit language, Denver attempted once again to relieve itself of the Green Mountain right. It refused in 1977 to release 28,622 acre-feet of water in Dillon belonging to Green Mountain. Denver claimed it was unable to pay for deliveries to northeastern Colorado, but had could deprive western Colorado water users of their water in favor of an asserted Denver domestic preference.

The Colorado Supreme Court, the Northern Colorado River District, and the Northern District repelled Denver's attempt to gain the use of Green Mountain waters. The Court said that:

"Denver cannot, at this late date, circumvent the rights afforded the participants to the stipulation incorporated into Senate Document 80, and impose uncontrolled, additional diversions which are absolute and unequivocal."

In the 1970's, a dispute arose between the Colorado River District and the Municipal Subdistrict of the Northern Colorado River District over the Subdistrict's proposed Windy Gap Project. The Subdistrict asserted that because the CBT Project had anticipated 310,000 acre-feet of annual deliveries to the Denver City and County, it actually accomplished only 245,000 acre-feet historically. Green Mountain Reservoir should also "compensate" for 65,000 acre-feet annual average additional diversions through the Adams tunnel to northeastern Colorado.


In the early Sixties, renewed litigation resulted in the 1964 Consolidated Cases decree, through which Denver stipulated that it had no right, title, or interest in the waters of Green Mountain Reservoir. What Denver got from this stipulation was a one sentence provision to the effect that the Secretary of the Interior could approve a limited exchange of waters, allowing Denver to keep water out of priority in Dillon Reservoir, with release of replacement waters elsewhere and repayment of energy in kind for waters lost to Green Mountain power plant.

The exchange is permitted under three conditions, that the replacement waters are actually on hand, that energy is replaced in kind for power lost to Green Mountain power plant, and that the "fill of Green Mountain Reservoir and to use Green Mountain Reservoir for decreed purposes will not be impaired" (emphasis added).

Colorado Supreme Court has interpreted the fill energy replacement obligation is figured at 210-kilowatt-hours per acre-foot, by a ratio of two-thirds on peak and one-third off peak, according to an agreement reached between the Bureau, Denver, and Colorado Springs on September 30, 1968.

The battle over Green Mountain Ditch was entered by the United States District Court for the Colorado Ditch pursuant to stipulation in the "Consolidated Cases" (Civil Action Nos. 2782, 5016 and 5017). These cases concerned Denver's flog to dam the Colorado by the Great Northern Water Conservancy District, in the Supreme Court, in City and County of Denver v. Northern Colorado Water Conservancy District, 130 Colo. 375, 262 P.2d 1046 (1954).


On December 22, 1983, the Bureau of Reclamation published a revised set of operating criteria for Green Mountain Reservoir, which preserves 66,000 acre-feet of Green Mountain water free of charge to meet water rights in western United States, as preferred as of 1977. Federal Register, 48 Federal Register 56567 (Thursday, December 22, 1983). The additional 34,000 acre-feet of the 100,000 acre-feet "compensatory" pool in the Blue River stipulation will be made available, three acre-feet per acre-foot, "for use on the western slope. But the Bureau's hydrological analysis of dry years in the mid-fifties shows that only 5000 acre-feet of annual firm yield can be counted on for the purpose of long-term water sales contracts."

It would make sense that the Colorado River District become the delivering agent for Green Mountain water, so the Bureau does not need to worry about very small contracts for water distribution. The water could be "allotted" by the Blue River District, as conservancy districts now do.

The new Green Mountain operating criteria is not expected to significantly alter the historic operation of Green Mountain Reservoir, although, if water is taken out above Dillon for Song Mountain projects, Denver's ability to make compensatory Williams fork exchanges may be affected. Return flows from uses such as snowmelt might help to ameliorate the impact on Denver.

From October through the middle of May, the Bureau draws down the waters of Green Mountain for power production, and replacement of CBT out-of-priority acre-feet as necessary for the Shoshone priority. The average carryover from the summer irrigation season is 120,000 acre-feet. The target for winter releases is to get the reservoir down to 40,000 acre-feet at the April Water releases are made at a steady flow rate in order to avoid icing problems on the Colorado River.

In April, following receipt of the runoff forecast, Denver is notified that it may store water in Dillon out-of-priority. The Bureau maintains records of a "paper fill" of Green Mountain while Denver stores in Dillon. When the Spring run-off arrives from the Gorge Range, Green Mountain inflow of the 52,000 acre-foot replacement pool has first priority.

If the reservoir does not fill from Gore Range runoff and from Dillon by-passes, the Bureau informs Denver that it must release sufficient water from Dillon to fill Green Mountain. Waters which Green Mountain releases during the fill period per power generation are deducted in order to determine Dillon's release obligation.

Denver may hold water in Dillon otherwise belonging to Green Mountain, if waters are available in Williams Fork Reservoir on a one-for-one replacement basis. By mid-July, Green Mountain fills and then is drawn down considerably during May through September in order to breed the Grand Valley irrigation call.

Thus, a system has evolved under Senate Document 80 and the Consolidated Cases decrees which provides for the maximum use of Blue River waters, with control exercised by the Bureau through Green Mountain Reservoir. "Fill without spill" has developed as a Bureau's watchword.

Under the proposed Green Mountain exchange concept, "a "plug" would be placed in Green Mountain Reservoir and the water from behind up to Dillon Reservoir, except for the minimum fish flow releases. Altering the winter and summer releases from Green Mountain, as proposed by the "Green Mountain Exchange" concept, could significantly alter the flow of Middle Park and 597. The Colorado River from the Blue to the Eagle is currently used heavily by the rafting industry, centered in Grand County, during the summer months."

The "Colorado River accounting system" is currently maintained by the Bureau of Reclamation in its northeastern Colorado offices, determining the key role which Green Mountain plays in administration of the River. This accounting system consists of a daily record throughout the year of all

*Contributors*
Plata projects for funding. This joint resolution is a requirement under the statute. Without that joint resolution funding would not be available and the money would totally be used to move by the authority and issue them for construction. This is an especially truly fundamental step in the construction of the federal projects and that none work be given to this. Of course you realize that in late 1981 and early 1982 all of the talk within the legislative arena was that the federal projects would be going to change and that none would be constructed on the capitation by the States in this area if they were not. We know anything about the Narrows and the Plata projects you know that the federal project is the one that will take the majority of 30 million dollars and do not begin to accomplish any significant portion therefore. As the federal projects we were told that the 30 million dollars was given to us so that we could be in a position to cost share as soon as the policy of the federal government was solidified. You know better then I to this date the cost sharing policy has been established by the administration.

Many people have expressed displeasure with the Authority because nothing tangible has occurred as of this date. That is, there are no dams being built to be funded by the Authority, there are no canals being dug, and for all practical purposes we appear totally inactive. The difficulty was that there were no projects on-line ready to start when we were formed. I am sure that the people in this audience are very much the fact that there are not many projects within the state of Colorado that can be constructed today and the water sold and the proceedings of that sale reduced to pay in full the costs of construction. There are a few but, as a practical matter, those few projects are moving forward with their private water merits. The difficulty has not been called upon or is not foreseen as needed to build the projects and put the water to the use in a degree, that is correct. If no subsidy is necessary whatsoever and assuming that the entity that wants to build the project has any track record whatsoever it can then go into the market and issue its own bonds.

We are then faced with a proposition that we have no immediate project ready to modify. We are advancing the money in order to do a feasibility study in connection with the St. Vrain project. I don't know how familiar all of you are with the South Fork of the St. Vrain just a short distance upstream from the Town of Lyons. This project had all of the appearances of being very close to financially feasible, and for that reason we were pleased to be involved with the feasibility study. The only reason that we were called into the matter is that there was considerable controversy within the area, and I believe it was felt that perhaps we would have more credibility with people involved to determine whether or not the project was feasible at all and whether there are alternatives to the way the project is conceived and whether it should be built.

We have looked at other projects. We looked at the Stage Coach Reservoir project and the Grand Mesa project. We are now beginning to look at a Clear Creek project and a small project to enhance and develop a domestic water system for Pagosa Springs. However, even if these projects prove to be feasible both from an engineering and environmental and financial point of view there is a feasibility study it's going to take many months and perhaps years in order to have that feasibility study completed in a manner which is acceptable to the parties concerned.

I personally believe, however, that neither the Clean Water Act nor the Endangered Species Act were intended to work in this fashion, and that at most the Clean Water Act was intended to address issues of water quality—not water quantity. When the issue finally gets, the debate in Congress promises to be very heated indeed. This has to be one of the highest priority issues for those of us from the West and on this fight we must close ranks.

And last, but not least, on the list of current western water concerns that should be looked at closely is the Federal government's recent imposition of the Federal Land Policy and Management Act that provides for new procedures to be put into place when crossing Federal lands. Now ranchers' and farmers' ditch rights are being regulated like special use permits issued by the Forest Service for a summer cabin, and the state granted ditch rights are being treated as incidental to their right-of-way across the public domain.

This creates a clear Federal state water right conflict by the simple fact that a state granted water right can be denied or condemned in the permitting process. And I think the only solution is to amend the Act to exempt ditches crossing Federal lands from the permitting requirements of the Act.

Last year, Congressman Kogovsek introduced a bill, HR 2982, which passed the House before the Christmas recess. The bill was amended in the House Interior and Insular Affairs Committee and provides some relief for ditches in existence before the enactment of the Federal Land Policy and Management Act in 1976. However, I want to make sure that the guarantees extend as broadly as possible, so that water rights passing through ditches in any formulation—old, new, refurbished or sold—are protected.

Therefore, I have asked that Secretaries Clark and Block impose a moratorium on requiring ditch permits until the matter is cleared up legislatively, and I intend to introduce a measure that will exempt all ditches, old and new, from the permitting requirements of the Act.

All these efforts are important, but they are only a part of an overall western water program that needs to be defined by this water resource community. We need not be to separate the forest and the local levels. Water is a far-reaching problem, and I think it's the only solution is to amend the Act to exempt ditches crossing Federal lands from the permitting requirements of the Act.

In the league with the purposes of this resolution, I ask the Colorado Water Congress officers and members to consider the merits of calling an Upper Basin conference on the full water issues that affect the entire basin of the state and the Colorado Water Congress is the perfect organization to provide the leadership in calling it together. And, if you decide that the Water Congress should be scheduled to convene on Wednesday. I would like to think that an Upper Basin conference call by the Colorado Water Congress, in bringing together all the political and water interests, would provide a fitting conclusion to the "Year of Water" and would make a great beginning for the future of water resource management in our region.
Green Mountain continued from page 7

flow, storage, diversion, and releases for all water rights above the Cameo gauge. Consisting of seventy-eight different operational tools, this system is utilized to determine who "owes" the water to receive "credit" for releases, and in what amount. The new Green Mountain Operating Policy envisions that the State Engineer will assume responsibility for managing this accounting system. When the recently authorized computer system for water accounting in Colorado comes on line, the State Engineer will administer the river on a current basis using the accounting system properly programmed as an operational tool.

Trading Green Mountain, For What?

The "Green Mountain exchange" concept proposes operation of Green Mountain Reservoir for Denver's benefit. The multiple ironies of this proposal are fascinating. The proposal was initially made by persons who have no water rights to exchange but, rather, who object to the proposed Denver Eagle-Piney, Eagle-Colorado, and East Gore projects on philosophical and environmental grounds. Yet, the "exchange," to be successful, requires the consent of those who may not share such objections to Denver's plans.

Second, Denver has not demonstrated that it has a need for the Eagle River or East Gore projects, or the capability to build them. The Colorado River District is presently in court challenging Denver's claimed water rights for these projects. The East Gore and Eagle-Piney projects were partially located in federally designated wilderness areas, which would require a presidential waiver for construction. Thus, projects to be replaced "for Denver, in return for the use of Green Mountain Reservoir, may never materialize.

Third, the proposed Denver Eagle River projects, if they are technology and financially feasible in the future, may be capable of being built in an environmentally acceptable fashion, with adequate provision for subordination to needed water uses in Eagle and Summit Counties.

First, the proposal was initially made by persons who have no water rights to exchange but, rather, who object to the proposed Denver Eagle-Piney, Eagle-Colorado, and East Gore projects on philosophical and environmental grounds. Yet, the "exchange," to be successful, requires the consent of those who may not share such objections to Denver's plans.

Fourth, Denver's proposed Eagle River projects could result in a better distribution of diversions needs, and impacts, rather than concentrating impacts on the Blue and Fraser rivers in Grand and Summit Counties.

Fifth, water planning and the construction of projects, such as the joint use project on the Williams Fork, Project new major Green Mountain Reservoir and the condition of the Western Slope projects.

Sixth, the Green Mountain exchange, as proposed, would result in shutting down a valuable power plant while at the same time requiring considerable energy for the pump-back to Dillon.

Seventh, it is not clear that the reservoirs to be substituted for Green Mountain will provide significant new water for western Colorado beyond replacement of what western Colorado already has through the 100,000 acre-feet Green Mountain compensatory pool.

The greatest irony is that Denver has never agreed to provide the western slope compensatory storage free of cost, whereas northeastern Colorado users have done so twice, in connection with the Colorado-Big Thompson project and the Windy Gap projects. Yet the Northern District is being asked, without any palpable benefit, to consider rearrangement of its 1937 agreement with the United States and western Colorado.

It is too early to say what will be produced by the Government Water Roundtable discussion, the Colorado Water Systemwide and site specific EIS studies, and the Water and Power Authority's analysis of the Green Mountain exchange.

Absence consent by northeastern Colorado and western Colorado water users, it cannot be assumed that the "Green Mountain exchange" is capable of being implemented, or that the exchange can operate on a priority earlier than 1984.

Concepts like the proposed Green Mountain exchange, because they require major policy and/or legislative changes, do not ordinarily fall within the "reasonable alternatives" which a federal agency must study in preparing an environmental impact statement. (see New York v. United States Department of Transportation, 715 F.2d 732, 743 (2d Cir. 1983). Discussion of the exchange concept exists wholly by reason of the willingness of affected parties to continue the discussion.

This leads to one sure conclusion. The effort to "reappropriate" the Colorado River by Denver's "Green Mountain exchange" requires nothing less than a bipartisan study of present and future projects, which in turn requires solid water engineering—made available to the affected parties—formation of a plan to meet the interests of all affected parties, and demonstration that all affected parties, particularly those with water rights and property interests at stake, can benefit from a new arrangement. Without this, the Denver Metropolitan Area cannot count on Green Mountain Reservoir as a source of supply, or relief from the Green Mountain call, in the near future.

In April of 1983, Denver and western Colorado representatives, at the Governor's Water Roundtable, tentatively agreed to construction of a "joint use reservoir" if Denver was made to assume responsibility for maintaining this reservoir. Denver was not in favor of this; instead, they proposed a reservoir in the Green Mountain area, which would be capable of being built in an environmentally acceptable fashion, with adequate provision for subordination to needed water uses in Eagle and Summit Counties.

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In 1982 it came to our attention that Conrail was finding it necessary to shut down its rail line servicing the state of the Arkansas River. We came forward at that time and funded the last quarter of a million dollars in $25 individuals. This was the first idea that the Legislature would see it as a matter to take over and fund it in the year 1983 and 1984. This was the look at the idea that the Moore Corporation became convinced that such a system was necessary to be considered the major river systems within the State of Colorado. As a result of that conviction, and with a joint resolution from the Legislature, we decided to forward a a state system and we are now about to enter into a contract with a company to do this. Authority, will buy a satellite-linked system to be a part of the State of Colorado. This system will relate to and measure the major streams and rivers throughout the State of Colorado. We then intend to extend this system for the use of the people of the State of Colorado, that is, if the people are interested in having this system installed in their communities. It is no fault of the contractor but has proven to be inherent in our State Government. As our counsel, has stated, it is much easier to sell something than it is to buy it. The members of the Board are convinced that the State of Colorado will see more benefits from the system than can presently be visualized. Certainly the measurement of water is well recognized as being of great importance and the State Engineer should be able to react to varying rates of run-off and sudden rainfalls in order to apportion the waters available, not only for the sole benefit of irrigators and domestic users, but also to diminish and minimize damage from sudden floods and to enhance dam safety. I am sure that you will be pleased to know that we anticipated that irrigation or conservancy districts will be able to use this system under special arrangement. We are in fact, planning that system in the future. Well, that fairly well tells you where we have been since the statute was actually passed and, along with this, things you somewhat current on what we are doing at the present time. I suppose the real question is what we anticipate for the future.

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or three more; but assume for a moment that we complete two or three feasibility studies and we find that none of the projects can really be built today without subsidy. It's the age-old question: do you pay for storage today so that it can be used tomorrow? Do you pin your water rights down today for future generation? Well, even if we were to decide that this is the thing to do, how far will $30 million go? Suppose we have a project to be constructed first and we spend $30 million, but we negotiate every contract we can and the maximum amount of bonds which can be floated is based upon reliable anticipated income is $75 million. Do we commit the $30 million as an additional guarantee for the $100 million bond issue? If we do, we are going to be any money forthcoming so that can we do a second project? And if there isn't, should we not pick the absolute best project to make our one-time effort? What is that project? It is not easy to decide.

Our Quandary

The longer we look at the problem of water development in Colorado, the more convinced the Board has become that is is necessary to have continuous funding, that is, there must be a commitment by the people of this State that they are going to devote a certain amount of their tax dollars to water development. Otherwise, the projects which can be built are severely limited.

I am sure that you are aware that Representative Youngdahl has introduced a bill in this session which would give a certain portion of the ad valorem tax, sales tax and lottery receipts to be appropriated for water development. As I understand it, the projection is that this would result $70-80 million per year. That money is not necessarily committed to the Water and Power Authority, but it is not bad. We might anticipate that a portion of it at least would be appropriated to help us show the people who want to buy bonds that there is a source of income that the bonds can be retired, notwithstanding the fact that the present market for sure will not support a certain sized bond issue. The bill is introduced — may or may not be adopted; and of course there are legislatures each year who would have an opportunity to consider such a measure.

What I am here to say to you today is that we, really, definitely have a source of income upon which to build a water development program. The market is simply not going to be forthcoming at this time. Maybe there is, and we are trying to find it. But one project is not what the State of Colorado needs. It needs projects which will provide for the future.

In the eulogy at the memorial service for the late great water leader, Wayne N. Aspinall, it's true, many others were present, including the fourth recipient of the "Wayne N. Aspinall Water leader of the Year Award" at the 26th Annual Convention of the Colorado Water Congress is available for $25. If interested in obtaining a copy of this photograph, please contact the Colorado Water Congress, 1390 Logan Street, Room 312, Denver, Colorado 80203, or phone (303) 837-0812.
Millers To Lead Tour

Bill and Ginny Miller will be leading a 17 day round-the-world trip on behalf of the Dwight D. Eisenhower People to People program. The trip will begin October 12, 1984 from San Francisco. Visits will be made to Shanghai, Beijing, Moscow and Leningrad along with an overnight rest stop in Helsinki. People to People International is a non-profit, non-sectarian organization and this project will be a working educational program designed to foster goodwill among water utility professionals throughout the world.

Bill has invited a number of water industry professionals throughout the continent to join him on the tour. If you would like additional information, please write to William H. Miller, Manager, Denver Water Department, Denver, CO 80224.

Resolutions Available

Copies of the CWC Resolutions adopted at the February 24, 1984 business meeting are available at the Colorado Water Congress, 1700 Logan Street, Room 312, Denver, CO 80203 (or phone: (303) 837-0812). The resolutions adopted or re-adopted by the delegations are as follows:


In the Memory of the Honorable Byron G. Rogers, and In the Memory of 1983 CWC President Edward M. Berreson.

Ogalalla Aquifer Summary Report

A summary report on the depletion of the Ogalalla Aquifer in Colorado has recently been released by the Colorado Department of Agriculture. The 50-page report was prepared in cooperation with Colorado State University and the Colorado Division of Water Resources, with Colorado Department of Agriculture participation in the six-state High Plains Study Funded by Congress.

This report has been ordered by the Colorado Department of Agriculture, Resource Analysis Section, 1525 Sherman Street, Denver 80203 at the cost of $3.00 postpaid.

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This problem again shows the interlock of rights and expectations built around Green Mountain Reservoir and the need, in light of current conditions, to reconsider Green Mountain operations if mutual benefit can be demonstrated.

The Proposed Green Mountain Exchange, Other Possibilities?

It is possible that the Water and Power authority study will show that an alternative to the present "Green Mountain exchange" concept might be the best way to proceed.

For example, instead of building a diversion on the Blue River Valley, perhaps the East Gore Collection System should be built, taking water by gravity to Dillon. Once filled, a 100,000 acre foot recreation area would be maintained in Green Mountain, taking the Green Mountain call off of Dillon.

Dillon would provide "replacement" and, in addition, "compensatory" water free of charge to the western slope, perhaps utilizing a combination of Wofford and Wolcott Reservoirs. The 52,000 acre foot CBT replacement pool would continue to be kept in Green Mountain Reservoir and released through the power plant.

In this way, elimination of energy capacity and addition of a costly new heavy energy load for pumping -- a direct result of the present Green Mountain exchange concept -- would not occur.

In connection with building the East Gore Collection system and the replacement and compensatory reservoirs, adequate provision for water supply and environmental protection in Summit and Eagle counties would be made.

The Eagle-Piney and Eagle-Colorado projects would not be built. The operational regulation of the mainstem of the Blue River stretch from Kremmling to the Eagle River, taking into account Grand County's tourist economy, would be devised. Denver would be able to build Two Forks on the South Platte to impound the South Platte, as well as imported Blue River waters, the by-product taking pressure off of sole reliance on Colorado River water as a source.

The Bureau, or another mutually acceptable operating entity, would operate Green Mountain and the replacement and compensatory reservoirs, receive earnings for the beneficiaries of Senate Document 80 and of the agreement which institutionalizes the new arrangement. The exchange would be subordinated to the Windy Gap, and River District water rights.

The United States Fish and Wildlife Service would find some way of conserving the Colorado River squawfish and the other squawfishes that have roamed the lower Green Mountain's use of its full compacted apportionments waters or interfering with the exercise of Colorado water rights.

Concepts like this, and others to be thought of, need to be explored before the present "Green Mountain exchange" concept is fixed in the minds of negotiators and decision-makers.

The effort to "reoperate" the Colorado River in the manner suggested by the "Green Mountain exchange" requires nothing less than a basinwide study of present and future projects, which in turn requires solid water engineering made available to the affected parties.

Bargain And Trade, Crossing The Waters

The Northern Colorado District has made a change in the current legal status governing Green Mountain Reservoir, whether for purposes of the "joint use reservoir," or of the "Green Mountain exchange," or of any other arrangement.

The agreement reached between the Northern Colorado District and Colorado Department of Water Resources has, as a result of the annual average yield to northeastern Colorado from the CBRT project capacity (245,000 acre feet annually, CBRT water rights) and the Windy Gap, 95,000 acre feet (50,000 acre feet water rights, ten year running average) is protected, and that future water development needs of northeastern Colorado within the boundaries of the Northern District are not foreclosed.

The proposed Cache la Poudre River Wild and Scenic designation must be a part of this discussion, because it is clear to northeastern Colorado water users, as a result of the Windy Gap negotiations and the current Denver-western Colorado dispute, that additional transmountain diversions from the Colorado River basin may not be acceptable to the Northern District.

The Poudre River passed over 500,000 acre feet last year, lost to the Northern District area because of lack of management facilities in the Poudre basin.

The District has water rights in the mainstem of the Poudre River in the Idylwilde to Grey Mountain reach. The District cannot countenance a Poudre River designation which will lock-up reservoir sites which may be needed for the future of northeastern Colorado, while at the same time the District's rights and interests in Green Mountain Reservoir are made the subject of suggested bargain and trade.

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Those who propose the current "Green Mountain exchange" concept are so in exchange for a new water management, preservation of environmental values, water for the Denver Metropolitan Area, and leaving water for future development in western Colorado. Such planning cannot occur isolated from the needs and plans of northeastern Colorado which, historically, has demonstrated a willingness to work with and resolve the water development and environmental concerns of others, in the course of pursuing its own interest.

It is said that Wayne Aspinall, shortly before his death, cautioned western Colorado water leaders against giving up Green Mountain Reservoir, the key to the Colorado River which the Western Slope Protective Association fashioned forty-six years ago. As the Valley of the Colorado which, historically, has demonstrated a willingness to work with and resolve the water development and environmental concerns of others in the course of pursuing its own interest.

It is said that Wayne Aspinall, shortly before his death, cautioned western Colorado water leaders against giving up Green Mountain Reservoir, the key to the Colorado River which the Western Slope Protective Association fashioned forty-six years ago. A key is no good when the lock has been changed. On the other hand, if interconnected doors can be opened using the same lock and key, we may find that Colorado's families can live under the same roof.
Colorado Water Rights

Romer continued from page 6

portation, education... what are the alternatives. We need to do it in a way that they can image, that they can see it, feel it, touch it, and smell it. The great tragedy right now about the corridor of E-470 is that I don't think anybody can see that there are really great alternatives that can be done with that corridor. I think it will go incremental and haphazard rather than our backing up and saying hey, we could do a quality growth scenario with that.

Let me close with one other illustration. Imagine yourself as the Board of Directors of Mission Viejo. You have what... a build-out of forty to eighty years in Mission Viejo with that area of ground. Now it is obvious if you collectively were the Board of Directors of Mission Viejo, you would not allow somebody to begin the front end of that subdivision unless they had thought through where it would ultimately come out. Now how critical is it to begin and how do we want to end? How do we want to phase in this kind of development, this kind of resource. That is the kind of modeling that the private sector has to do today and day out. What I'm asking is that we increase our capacity in the State of Colorado to begin to image the model... what it is we're after... what it is that we think is better or worse. Now obviously, because we're in a free-market system, the government does not control and should not control. The government only has the ability to leverage and to direct and to shift from time to time. And it does by law, by regulation, by subsidy. It's obvious that historically we have shifted some funds to agriculture by subsidizing water projects that agriculture could not alone sustain. As the ex-commissioner of agriculture, as a farmer under the Amity Canal in the lower Arkansas Valley, I appreciated that policy and I think it has been necessary from time to time. We have to recognize that Agriculture is a very important part of our diversified economy. But if we are to continue to convince the people of this state that we can allow and permit this state to grow so that we do not foolishly... understate the fundamental it is in the West that we have a viable agricultural community.

Let me close with one last comment. I image three models, one of which makes our own, one is a imagination and one by the educators. You may have coughed at a bit when I said... well why do you bring education into that... and I'd like to ask you to remember that the future of this state will be shaped by our skill. New jobs are going to be created and located by the ability of our minds much more than our resources we have. But those are not the only three tables that ought to be in the lay of the Cardet. There ought to be one more... and it ought to be the environmental quality of live image of what it is we want. But it ought not be drawn by the environmentalists. It ought to be put together by the Colorado Association of Commerce and Industries. And let me make that argument.

One of the strongest economic advantages of the State of Colorado is that it is a damned good place to live. Time and time again I will talk to people who have located or started a company here and say... why did you finally choose Colorado... and they say... I want to live here. It's a very important additional consideration we make when we go through our future strategic planning we... in addition to what our Angle has said, but I want to think clearly about how we can maintain that quality. that quality we value so much in our lifestyle here in Colorado. And why would you put it together? Because of the people. It's a characteristic of the state you now see. If you happen to be in Logan when I'm talking to you today you probably think of the people and the characteristics of the people who are thinking in terms of entrepreneurship, of how we allow and permit this state to grow so that we do not foul our nest.

And without getting into another separate speech and defining what is that... I'll simply again point you to some of the characteristics of the state you now see. If you happen to be in Denver and you walk through a Ch essen Park, a Washington Park, a City Park or you walk from the Explodane and then the Capitol to City Hall you can get a feel for the quality.

The E-470 Corridor... You've all seen conversation about a proposed new freeway of E-470. It's my judgement that the next band of growth around Denver is absolutely one of the most important decisions this community will make in the next twenty years. Both in terms of water service and transportation.

The question is... are they talking to each other? And then let me bring in yesterday's newspaper on terms of education. We have some very critical decisions in this state to decide whether or not we're going to make X more investments into education beyond high school or higher education. And a lot of states in this country are saying... hey, we're gonna get it in with high tech and economic growth. Arizona and many others are getting your key competitive. Do we want to stay in that race? I think we do. Therefore we need to be back to this gentleman, the father taking his family through the cafeteria line, and he's saying to you, look... what I want for myself and my family are... certain choices that are clearly defined... and choices that tell me how much I can get in the good life by going this route rather than that route. And you know, a tax payer can't separate in his mind the total tax bill he pays. He has to say... hey... how much can I pay totally and how much do I want to allocate, to water investment, to transportation investment, and is public education. Because all of them are subsidized in some ways at certain times in certain places. And so that tax payer going down the cafeteria line is saying to you as part of the leadership community in Colorado... Package it, price it out... and then I'll get with you and I'll decide with you what it is we want to do and I'll support you.

Now why do I bring this message to you this morning? It's because we have the opportunity of the next days are gone in which we can... it is clear that... that the "jobs" are going to do it for us. If we are going to rationally develop and use the water resources of this state, we're primarily going to be responsible for that effort. Therefore, we have got to not only clarify our thinking as to where it wants to go, but we've got to bring along a consistent community to decide whether or not we're going to do that effort. And we can... I'm willing to make that effort. I'm willing to do the best we can with it. But don't get foolish for us to look at new environment sources for broad-base public tax supported water development projects unless you can get with it in terms of high technology and economic growth. That he'll get more for his money going this way with that project than he will in another form.

Now there are tough questions... it's much easier for us to say... just give us a block of money for transportation and well... just do the best we can with it. Give us a block of money in water and we'll do what we're going to do. Give us some for education and we'll do the best we can with it. But don't you understand that's not the way people make decisions.

When I went into the cafeteria line with seven children I didn't necessarily need to limit the meal ticket to thirty-six dollars. I can decide that... yeah... I'm willing to pay a little bit more... maybe forty-two dollars because it's that important to me if you produce something that I want.

So in conclusion, I think Colorado more than any other state has as bright a future as any state in the West. Secondly, I think that the future can be shared strategically by people such as you in this room and others. And thirdly, you're only going to be able to shape it if you can build a constituent base that is able and willing to make rational decisions. It can only be shaped if you as leaders can begin to lay out on this cafeteria line of public policy, clearly enunciated alternatives. If you build this project, and here's the cost and here's how we pay for it and here's how it will benefit you, and here's why it's important to you and your family and your extended family for years to come... if we do that job with water policy then I think we'll have a constituent base that will support us. And there is nothing so exciting as to see a community, and I call Colorado our political community, that can find a way to clearly express its values.

Colorado Water Congress

1390 Logan Street, Room 312
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William's conclusion

Before closing, I want to sincerely state to you that we have had admirable cooperation from the Legislature. They want us to succeed, beyond question. Some of the members of the Legislature are upset because nothing is being built, but those members of the Legislature who are knowledgeable in water affairs understand the problems which we confront. I also want to point out that the Colorado Water Conservation Board has been most helpful with the Author- ity. I was not certain how receptive that Board would be to the creation of our organization, and I think many others wondered. But I want to tell you that the cooperation has been superb. We are doing everything in their power to help us achieve our purpose.

We also have a Body which I'm not very popular to many of you here, in the audience, and I cannot speak for the Board of Directors of the Authority when I make these comments, I speak only for myself. Any investment banker will tell you that it is important for the Authority to have a good, solid bond issue when it confronts the market for the first time. That can very well affect the rates that we will be able to enjoy for future projects. This means that it would be ideal if we could locate a project which has participants with impeccable credit so that we could issue those bonds without any necessity to subsidize. The only project I know of which is a bond board and has not been bonded and fits this description is the effort to expand the municipal water supply for the metropolitan area of our capital city. Unfortunately, the people involved seem to fear some sort of governmental interference in creating their own authority and issuing the bonds from the source. I am sure that they do not want... their regard, but it might be a real help to the State if they would use the vehicle of the Water and Power Authority to issue those bonds. Hopefully there is no detrac- tion to the participants in doing so, and there is a possibility that it could create a track record for bonds which would be very appealing in the market. Whether or not the metropolitan area sees fit to consider use of the Authority, you may rest assured that the Board of Directors will continue in its efforts to evaluate water projects which are brought to its attention, and we sincerely hope either by the Board or by the Authority, will be able to make its recommendation. And I am sure that I and the various members of the Authority Board who are in the audience would be quite pleased to discuss any part of these comments or anything else which I may not have covered, and which is of interest to you. Thank you.

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