Guest Editorial

Water - Lifeblood of the West
by Greg Walcher
Executive Director, Colorado Department of Natural Resources

One of my earliest memories of growing up in the Grand Junction area is of riding along with my Grandpa, who was a ditch rider on the Stub Canal in Palisade, to check headgates. He mediated many skirmishes among various water users and he understood well the important differences between being at the head of the ditch with a shovel and being at the end of the ditch with a water right.

Indeed, the entire 123-year history of the State of Colorado is filled with water "wars" and disputes between users, between regions, between basins. The careers of some of the State's greatest leaders have been built on involvement in these water issues, and in some cases the water battles. The problems we face in achieving consensus on such difficult issues have never been more serious or more contentious. That consensus has never been more important, either, than today. I believe Colorado no longer has the luxury of waging these battles, nor the time to fight them. The threats are too serious, too immediate for us to continue wasting time on the old battles.

Colorado water users face three sets of challenges going into the 21st century; drought, growth, and federal policies.

Drought: The 1998-99 winter may turn out to be a good example of the problems we'll face in dry years. Our dealings with ourselves and with other states have been easier the past three decades then it would be if we were to suffer the kind of sustained drought that many experts say is... Continued on Page 9

Water Law Always Vital To Colorado
by Justice Greg Hobbs
Colorado Supreme Court

Can a state starting with a nineteenth century water law handle the twenty-first century? I believe Colorado can and will. Its people will make it so. Its water law will continue to adapt to the values and needs of Coloradans and the United States, as throughout the twentieth century. Conflict, expense, settlement, state and federal legislation, and court decisions will mark the way. They always have. They always will.

Climate, Custom, and Public Land Law

These are basic historical facts. The water law is vital, principled, and adaptable. Water is a public resource. When Congress carved Colorado Territory out of the Kansas and Utah Territories in 1861, our first Territorial Legislature provided that water could be taken from the streams and conveyed across the lands of another to grow crops. This was very different from the common law of England and the eastern United States. Under their riparian law system water was to remain in the stream for navigation. The commerce of the west, the land of little rain, demanded a different law.

Through the 1862 Homestead Act, Congress opened up the public lands of the West for settlement. In the Mining Act of 1866, Congress provided that the customs and laws of the states and territories would govern water use within their boundaries. In 1872 the Territorial Supreme Court identified Colorado water law as arising from "natural law" and "necessity". Preemptive conditions of climate compelled this decision.

Any area of the country with less than forty inches of annual precipitation is considered to be within the "arid region". Colorado annual average precipitation from rain and snow ranges from less than ten inches of moisture on the plains to a little over thirty inches in the mountains.

A precipitation chart of this phenomenon mirrors the geography of Colorado. It's flat on the eastern and western plains... Continued on Page 10

Colorado Water Congress
Summer Convention
Sheraton Steamboat Resort
August 26 & 27, 1999
CWC OFFICERS

JOHN PORTER

CWC President John Porter was born in Montezuma County, at Lewis, Colorado (a community named after his maternal grandfather) on November 4, 1933. He received his education at Lewis Elementary and Montezuma-Cortez High Schools. He graduated from Colorado A&M College in 1955. He has been married to Nancy Hicks (Porter) for 43 years. He has two daughters, and two grandchildren, Laura and Andy Spann of Gunnison.

He has been in the water business since childhood - as a father's helper/irrigator, father's partner/irrigator, farm corporation manager/irrigator, Board of Director for Montezuma Valley Irrigation Company, South West Water Conservation Board and Colorado Water Resources & Power Development Authority and finally as General Manager of the Dolores Water Conservancy District for the past 16 years. As the new Dolores Project came "on-line" he guided DWD/CD growth from a staff of 1 (himself) to its present 23 members.

ROD KUHARICH

Rod Kuharich was elected Vice President of the Colorado Water Congress in January 1999. Rod is Government Affairs Manager for Colorado Springs Utilities. He holds a B.A. in Political Science from St. Ambrose College and a M.S. in Environmental Planning from Southern Illinois University. Mr. Kuharich is a member of the Advisory Board for Colorado Water Resources Institute and is actively involved in the Colorado Water Congress Board of Directors and various committees.

Rod and his wife, Martha, have been married for 11 years and have three children.

DOUG KEMPER

Doug Kemper, 43, of Aurora, was re-elected CWC Treasurer in January 1999. Doug is the Manager of Water Resources for the City of Aurora. He holds a B.S. in Environmental and Water Resources Engineering from Vanderbilt University and a M.S. in Civil Engineering/Water Resources from the University of Colorado. He is a registered Professional Engineer. He is in charge of raw water operations, water resources planning, and water development. He is now in his twelfth year with the city.

Prior to working with Aurora, he worked five years as a consulting engineer chiefly with Rocky Mountain Consultants, Inc.

He is currently serving his sixth term on the Board of the Colorado Water Congress and has been active on most of the organization's special and standing committees.

KIT KIMBALL

Kit Capers Kimball was re-elected CWC Assistant Treasurer at the January 1999 convention. Ms. Kimball has over 20 years of experience in the natural resources/public policy arena. She managed at one time the governmental affairs program for Amax Inc., a large international resource development company, both in Washington, D.C. and at the state level.

Also, Ms. Kimball was the principal in Kimball & Associates, a natural resources consulting firm. In addition, Ms. Kimball served as the environmental legislative assistant to U.S. Senator James McClure (R-ID) in Washington, D.C. She was also Vice President of a Washington, D.C. consulting firm where she represented The Western Regional Council, an organization of western Fortune 500 companies.

Ms. Kimball has served in numerous roles for the Colorado Mining Association and is the past Chairman of that organization. She also serves on the Board of the Colorado Water Congress. Ms. Kimball holds two Masters degrees; one in Business Administration from the University of Colorado and one in Counseling from the University of Montana. Her B.A. is from the University of Idaho.

ERIC WILKINSON

Eric Wilkinson, 48, of Fort Collins, is CWC Immediate Past President. Eric was appointed General Manager of the Northern Colorado Water Conservancy District on January 14, 1990.

Eric has worked for the District since 1987 as a water resources engineer with various responsibilities. From 1991 to 1994 he was a Supervisory Water Resources Engineer managing the Water Rights Section of the Engineering Services Branch. From 1984 to 1987 Eric worked from the City of Greeley Water Department as a Water Resources Engineer. From 1973 to 1985 he was employed by the Colorado Division of Water Resources, Office of the State Engineer, in increasing levels of responsibility and title as a Water Resources Engineer in the Dam Safety Branch. In 1972 Eric served as the Deputy Water Commissioner for the Cache La Poudre River.

Eric was born and raised in the Fort Collins, Colorado area where he currently resides. He attended Colorado State University and graduated in 1973 with a Bachelor of Science Degree in Civil Engineering.

He is a registered professional engineer in Colorado, is a member of ASCE, and holds various positions on boards and advisory committees. He is married and has three children.

RICHARD D. "DICK" MacRAVEY

Richard D. "Dick" MacRavey, 68, is in his twentieth year as Secretary and Executive Director of the Colorado Water Congress. MacRavey is no stranger to Colorado. He served those years as Executive Director to 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 piloting the early stages of the Larimer-Weld "21st Water Quality Management Planning" effort.

In 1970 MacRavey served as Chairman of the Colorado Good Government Committee for the promotion of the State Constitutional Amendments (Governor's Cabinet), Two (State Civil Service Reorganization) and Three (Local Government Modernization). All three amendments were approved overwhelmingly by the people of Colorado. During 1988 MacRavey was appointed by the Legislative Leadership and served as one of the 48 members of COLORADO VISION 2000. In 1989, the Legislative Leadership appointed MacRavey to the 16-member Legislative Council Subcommittee on Long-Range Planning for the State Government.

During 1989-71 MacRavey served on the National League of Cities Board of Directors. He served as a member of the Boards for the Colorado Water PAC and the Colorado Water Education Foundation. MacRavey is a member of the American Society of Association Executives, Colorado Water Congress, American Water Works Association and International City Management Association (cooperating member). In 1991, MacRavey was named the nineteenth recipient of the "Wayne N. Appignani Water Leader of the Year Award".

MacRavey and his wife, Mary, are the parents of six adult children and two step-grandchildren. MacRavey has a Bachelor of Science Degree from the University of Wisconsin - Madison and a Master of Science degree (in public administration) from the University of Colorado - Boulder. During the Korean conflict he served with the U.S. Navy.
Governor Bill Owens has asserted Colorado's commitment to build the Animas-LaPlata water project in southwestern Colorado in a letter to Secretary of the Interior Bruce Babbitt.

"Colorado will continue to support construction of the project as soon as possible as provided by the Indian Water Rights Settlement Act," Owens told Babbitt. "Colorado believes A-LP is the only reasonable solution to the 130 year-old Tribal water rights issue and I believe fairness to the Tribes and the local water users requires it."

Owens said a Babbitt proposal last year, commonly referred to as "A-LP Ultra Light," does not meet Colorado's requirements.

"We are skeptical about several aspects of 'A-LP Ultra Light,'" Owens said, "It drives a wedge between local water users and Tribes."

"Finally, you need to know that under no circumstances is Colorado prepared to support de-authorization of its entitled and authorized water projects as part of the A-LP agreement," Owens told Babbitt. These projects were authorized as part of the deal between Upper and Lower Basins that resulted in the Central Arizona Project and Colorado will not surrender its half of the bargain for nothing."

Owens supports the Animas-LaPlata proposal introduced in Congress last year by U.S. Senator Ben Nighthorse Campbell and U.S. Representative Scott McInnis.

The full letter from Owens to Babbitt is set forth below.

STATE OF COLORADO

March 9, 1999

The Honorable Bruce Babbitt
Secretary of the Interior
1849 C Street N.W.
Washington, D.C. 20240

Dear Bruce:

You and I have not had a chance personally to discuss the Animas-LaPlata water Project in Southwest Colorado, but the recent public scoping meetings in Colorado attracted a great deal of attention, and I want to make clear my Administration's position on A-LP.

First and foremost, Colorado will continue to support construction of the project as soon as possible as provided by the Indian Water Rights Settlement Act. Colorado believes A-LP is the only reasonable solution to the 130 year-old Tribal water rights issue, and I believe fairness to the Tribes and the local water users requires it. We intend to hold the federal government to commitments that have been made, and will expect action soon.

Second, we are skeptical about several aspects of your proposal of last August, commonly called "A-LP Ultra Light." In particular, providing the Tribes some of the water to which they are entitled while providing no irrigation component or non-Indian water is half a solution at best. It drives a wedge between local water users and Tribes, which can only further the difficulty of getting the project built and avoiding more costly litigation. Moreover, the small size of the reservoir you proposed clearly does not solve the problem, and may actually created a worse environmental problem, as I think you are aware.

Finally, you need to know that under no circumstances is Colorado prepared to support de-authorization of its entitled and authorized water projects as part of the A-LP agreement. These projects were authorized as part of the deal between Upper and Lower Basins that resulted in the Central Arizona Project and Colorado will not surrender its half of the bargain for nothing. As you well know, California and Nevada are facing extreme difficulty supplying the water they need, the 4.4 Plan is not progressing well, the effort to quantify senior water rights in the Lower Basin remains illusive, and the Interim-operating agreement is not yet in place. These are separate issues from A-LP and must be addressed separately. At this time, it would be irresponsible for Colorado to surrender federal authorization to build projects to use its share of the River, and I assure you we have no intention of doing so.

I think an earlier proposal developed reluctantly by the Ute Indians; endorsed by the Colorado Water Conservation Board and formally introduced by Senator Campbell and Congressman McInnis a year ago is a more prudent option. That proposal also limits the amount of water available for irrigation and municipal and industrial uses from A-LP to 57,100-acre feet. It also shrunk the cost of the project to $257 million. I request that alternatives considered in the EIA include this version of the project, which is supported by the State of Colorado and its major stakeholders.

I sincerely hope we can work collaboratively on construction of A-LP as soon as possible. I am anxious that Colorado be helpful in resolving the remaining issues so we may proceed, and I hope you will let me know how that can be done. I look forward to working with you to that end.

Sincerely,

Bill Owens

CC: Senator Wayne Allard
Assistant Senator Ben Nighthorse Campbell
Congressman Scott McInnis
Lieutenant Governor Joe Rogers
SHERATON STEAMBOAT RESORT
CWC 1999 SUMMER CONVENTION PROGRAM

Wednesday, August 25, 1999

7:15 p.m. CWC Board of Director's Meeting

8:00 a.m. REGISTRATION OPENS

8:30 a.m. OPENING GENERAL SESSION
Presiding — Kit Kimball, CWC Assistant Treasurer

8:30 a.m. Six Keynoters on Water Issues - The first six (6) individuals who request to serve as a keynoter will be given that opportunity. Each of these individuals, however, must submit their paid conference registration in advance and the title of their speech by no later than July 23, 1999. It should also be understood that each keynote address will be limited to five (5) minutes in length.


10:00 a.m. COFFEE BREAK

10:15 a.m. GENERAL SESSION II — FUTURE DIRECTIONS OF THREE KEY DEPARTMENTS
Presiding — Rod Kuharich, CWC Vice President

10:15 a.m. Greg Walcher, Executive Director, Department of Natural Resources
10:45 a.m. Jane Norton, Executive Director, Department of Public Health & Environment
11:15 a.m. Don Ament, Commissioner, Department of Agriculture

12:00 p.m. LUNCHEON
Presiding — Senator Dave Wattenberg (R-Walden) and David Robbins, Hill & Robbins, Denver
An Address by Wally Stealey of Stealey & Associates, Pueblo, on "The Politics of Water."

1:45 p.m. GENERAL SESSION III - PAST, PRESENT AND FUTURE WATER PLANNING
Presiding — Doug Kemper, CWC Treasurer

1:45 p.m. Steve Arveschoug, General Manager, Southeastern Colorado Water Conservancy District, Pueblo
2:05 p.m. Ralph Curtis, General Manager, Rio Grande Water Conservation District, Alamosa
2:25 p.m. Kathleen Klein, Manager, Upper Gunnison River Water Conservancy District, Gunnison
2:45 p.m. BREAK

3:00 p.m. Eric Kahn, General Manager, Colorado River Water Conservation District, Glenwood Springs
3:20 p.m. Ed Pokorney, Director of Planning, Denver Water, Denver
3:40 p.m. John Porter, General Manager, Dolores Water Conservancy District, Cortez
4:00 p.m. Other Events to be Announced

Friday, August 27, 1999

9:00 a.m. GENERAL SESSION IV — COLORADO WATER LAW IN THE 21st CENTURY
Presiding — Sara Duncan, Denver Water, and Chair of the CWC Resolutions Committee

9:00 a.m. David Hallford, General Counsel, Colorado River Water Conservation District, Glenwood Springs
9:25 a.m. John Hill, Jr., Bratton & McClow, Gunnison
9:50 a.m. Brian Nazarenus, Friedlob, Sanderson, Raskin, Paulson & Tourtillott, Denver

10:15 a.m. COFFEE BREAK

10:30 a.m. Bill Paddock, Carlson, Hammond & Paddock, Denver
10:55 a.m. Bennett Raley, Trout & Raley, P.C., Denver
11:20 a.m. Tom Sharp, Sharp & Barney, Steamboat Springs

12:00 p.m. LUNCHEON
Presiding — John Porter, CWC President
A presentation will be made by John R. Fetcher on "An Easterner Discovers Western Water."

1:30 p.m. CWC Business Meeting
Presiding — John Porter, CWC President
- President's Report
- CWC Strategic Plan Report
- NWRA Report
- Treasurer's Report
- Vote on Honorary Life Member(s)
- Consideration of 1999 Mid-Year CWC Resolutions/Policies

2:00 p.m. ADJOURNMENT
COLORADO WATER CONGRESS
COLORADO WATER LAW SEMINAR

September 13-14, 1999
CWC Conference Room
1390 Logan Street, Suite 312, Denver, Colorado 80203

Monday, September 13, 1999

7:45 a.m.  REGISTRATION
Presiding - Rod Kuharich, CWC Vice President

8:00 a.m.  The History of Colorado Water Law — Hon. Gregory J. Hobbs, Jr., Justice, Supreme Court of Colorado

11:00 a.m.  Water Distribution Organization (Mutual Ditch Companies, Carrier Ditch Companies, Special Districts and Municipal Systems) — Mary Mead Hammond, Carlson, Hammond & Paddock, Denver

11:45 a.m.  The Water Court System and Procedure — Mary Mead Hammond, Carlson, Hammond & Paddock, Denver

12:15 p.m.  LUNCH — DNR Perspectives — Greg Walcher, Executive Director, Colorado Department of Natural Resources (address from 12:45 p.m. to 1:15 p.m.

1:30 p.m.  The Relationship Between the Federal Government and Colorado Water Law — Sara Duncan, Manager of Intergovernmental Affairs, Denver Water, Denver

2:15 p.m.  The Impact on Colorado of Interstate Compacts — Hal Simpson, State Engineer, State of Colorado

3:00 p.m.  The Colorado Division of Water Resources, Ground Water Commission, and the Office of the State Engineer: Responsibilities and Roles in Water Matters — Hal Simpson, State Engineer, State of Colorado

3:45 p.m.  Water Conservancy Districts: Responsibilities and Roles in Water Matters — Eric Wilkinson, Manager, Northern Colorado Water Conservancy District, Loveland

4:30 p.m.  The Colorado River, The Colorado River Water Conservation District, and Western Colorado Water Projects — David C. Hallford, General Counsel, Colorado River Water Conservation District, Glenwood Springs

5:30 p.m.  Recess until 7:45 a.m. TUESDAY, SEPTEMBER 14th

Tuesday, September 14, 1999

7:45 a.m.  Overview of Colorado Ground Water Law — Gilbert Y. Marchand, Moses, Wittemyer, Harrison & Woodruff, Boulder

8:45 a.m.  The Colorado Water Resources & Power Development Authority: Its Responsibilities and Role in Water Matters — Dan Law, Director, Colorado Water Resources & Power Development Authority

9:30 a.m.  The Colorado Water Conservation Board: Its Responsibilities and Role in Water Matters — Peter Evans, Director, Colorado Water Conservation Board

10:15 a.m.  Historical Overview of the Denver Water System — Rocky Wiley, Manager of Planning, Denver Water

11:15 a.m.  Federal & State Water Quality Laws — Tad Foster, Attorney at Law, Colorado Springs; and Tom Pitts, Water Consult, Loveland

12:00 p.m.  Federal & State Water Quality Laws — Tad Foster, Attorney at Law, Colorado Springs; and Tom Pitts, Water Consult, Loveland

12:00 p.m.  LUNCH — The luncheon speaker will be Leah Ash, Director of Water Resources, Colorado Springs Utilities (address from 12:30 p.m. to 1:00 p.m.)

1:15 p.m.  The Colorado Water Resources Research Institute: Its Responsibilities and Roles in Water Matters — Dr. Robert C. Ward, Director, Colorado Water Resources Research Institute, Fort Collins

4:00 p.m.  ADJOURNMENT
Colorado Water Congress
41st Annual Convention

Floyd Donnelly, Retired BLM Commissioner, delivers the Aspinall Luncheon address.

The Aspinall award recipients were: (L to R) Hon. John Sergy, W.D. Farr, Hon. Fred Anderson, Dick MacInisky, Sam Meyers, Bill Miller, Fred Kneager, John Fitcher and Ralph Adkins.

The opening general session set the tone and challenges for the convention. (L to R) Attorney General Ken Salazar, Walt Haarts, BLM Director Greg Walcher, Rocky Brooks, CEA President Ken Aasvold, Division Water Manager Chips Barry, Moderator Dave Robinson and Pat Martey of Las Vegas.

The Aspinall Luncheon head table members were: (L to R) CWC President Eric Wilkinson, Supreme Court Justice Greg Hobbs, Hon. Fred Anderson, Floyd Donnelly, John Fitcher, W.D. Farr, Hon. Hank Browne, Hon. John Sergy, Fred Kneager, Sam Meyers, Bill Miller and Ralph Adkins.

Workshop sessions on “Organizing Grass Roots Democracy: The San Luis Valley Experience.” Participants were: (L to R) Mary Shrader, Marie Shriver, Doug Shriver and Ralph Curtis.

The general session was packed.


The Southwest delegation was well represented at the reception.

Water Education Workshop came up with some good ideas.

The “Y2K Issues” were addressed in a workshop led by Doug Kemppe of Arvada.

Moffat County Commissioner T. Wright Dickerson and Dick Brat of the River District Board enjoying the reception.

Dave Robinson was his usual animated self. Mary Frawnick of Durango was the moderator.

There is always some clowning around at the reception.
CWC 1999
CONVENTION EXHIBITORS

Wright Water Engineers
(L to R) Ken Wright, Ruth Wright and Julie McKenna

Woodward-Clyde Water Consultants

Water Information Program

Water Technology Services, L.L.C.

RiskPlan, Insurance Associates

Colorado Water Conservation Board

GEI Consultants, Inc.

McLaughlin Water Engineers, Ltd.

Hix Insurance Associates
Walcher: Lifeblood . . . cont.

Inevitable. There is, of course, little the state can do to make it rain or snow, but clearly drought planning must be a vital part of the State's water agenda for the foreseeable future.

Growth: Rapid population growth will continue to challenge water agencies and organizations. Municipal agencies and conservation districts are increasingly challenged with meeting the new demand created by this growth. Agricultural water organizations - mutuals, conservancy districts, and others - will continue to face the prospect of water rights being changed from agricultural to municipal and industrial uses within Colorado's market system. The high prices municipal governments are paying for C-BT units (over $300,000 per unit in some cases) reflect the strong demand exerted by the market sector. We also already contend with increased pressure for the recreational use of water, whether recreational users own water rights or not.

Federal Policies: The U.S. Congress has created a series of seemingly insurmountable challenges to water users in the West. A small minority of the nation's population, we must deal with policies of the U.S. Fish and Wildlife Service under the Endangered Species Act and those of the U.S. Forest Service under the Federal Land Management Program (FLPMA) and the National Forest Management Act. Those policies will continue to be the source of pressure and uncertainty in the affairs of Colorado water users.

Colorado state government, particularly the Department of Natural Resources, will needlessly work to help Colorado water users address these challenges, and I believe there are several important roles the state can play. It is important, however, for us to remain mindful that the state's role in water issues should be one that complements but does not usurp the historical leadership of the private sector and local governments in developing and putting into practice the use of the state's water resources. The State is not a water czar in control of the resources, nor should it be. But working closely with our partners in the community, I think the State can help.

First, we will continue the work of providing financial assistance through the Colorado Water Conservation Board's construction fund loan program for the construction and improvement of water storage and distribution systems. Well thought-out water development projects continue to be the best hedge against the future water supply uncertainty, whether the source of the uncertainty comes from the climate or from the federal government.

Second, we will continue to provide technical assistance to water users on the adoption and implementation of water efficiency technologies and management techniques that can help conserve irrigated water supplies during droughts. We know that water users understand the importance of using water wisely, but many urban and agricultural users simply do not have the resources to keep. current on the innovative applications in water saving technologies and practices. That's where state government can help. Governor Owens recently signed into law a bill sponsored by Senator Chabot and Representative Coutinho to reauthorize the Federal Water Conservation District within the CWCB. Such technical assistance will remain a high priority for the administration.

Third, state government under the Owens administration will continue to work aggressively to foster constructive discussion on ways to meet future demand in growing metropolitan areas, without sacrificing irrigated agricultural operations or the future development plans of communities in basins-of-origin. The recently completed Metropolitan Water Supply Investigation is a good start, but it's only a start. These strategies should start with maximizing the utility water supplies already available within particular regions of the state. For instance, northern Colorado water users under the leadership of the Northern Conservancy District have started a very productive discussion on this subject. Similar efforts are underway in the Arkansas River Basin and in the headwaters of the Upper Colorado River system above Kremmling. These efforts are critical to determining state goals, because the leaders in the state's various regions and river basins must develop a clear sense of where they want to go, so we can determine the state's role in helping them to get there.

This must, of course, be done within Colorado's prior appropriation system, our tradition of using the market to allocate scarce water resources, and our rights and responsibilities as a state under our various interstate compacts.

Thus, state government under the Owens administration will continue to insist that federal environmental and natural resource management laws are applied in Colorado in a manner that does not reduce water supplies or materially increase their cost. We will continue to work hard and in both the Upper Colorado River and Platte River Basins to ensure that water use and development can continue in Colorado without interference from the Endangered Species Act.

The Recovery Programs that have been developed for these basins are not without their flaws, but generally they have reduced the number of ESA-related problems Colorado water users otherwise would face in the absence of such programs. But neither are these programs sacred cows that can't be fine-tuned. We are especially frustrated that the Recovery Program for the endangered fish in the Colorado River has still not defined recovery goals after 13 years of discussion. We have already begun to serve notice that Colorado will insist on Publication of these recovery goals, and that we are not prepared to continue discussing how to allocate water among the different users without knowing where we are going. Rather, we seek to actually accomplish the true purpose of the program, to recover the fish, de-list them, and abolish the program.

Our approach on all endangered species issues ought to have that concept as its underlying premise. We have strong state policy already in place that seeks to avoid the listing of new species by the federal government. We should have - and will have strong state policy - supporting the recovery, as soon as possible, of species once they are listed. Only then can water users and others count on any real certainty in the future of these important economies. Another emerging endangered species issue revolves around the Preble's meadow vole and the need to provide habitat for this species. We have a long way to go, but again, I am determined that state government will work hard to ensure this issue does not become unduly burdensome to water users on the Front Range, particularly in relation to irrigation and maintenance of irrigation ditches.

Finally, we can't forget the Forest Service. Five years ago, Fort Collins, Greeley, and the Water Supply and Storage Company put together an innovative water management and plan for the Poudre River in order to secure federal permits under FLPMA. This effort, protected by a Forest Service proposal that water providers by-pass water from the Poudre to put some water back into the streams immediately below the dams. These by-pass flow demands revealed the arrogance and lack of understanding by some federal officials of water management in Colorado. We will remain vigilant to ensure these kinds of proposals - should they ever crop up again - are pushed backward aggressively.

I do not believe any of these problems are insurmountable. Indeed, I am more confident than ever that Coloradans from both sides of the mountains can work together to achieve solutions that work for all. I believe Colorado can develop a better working relationship with our federal partners to foster a solid understanding of the importance of Colorado's water laws and traditions. And I am convinced that we can come together more successfully in the future to pursue the state in a way that preserves the beauty and richness of our state. I am anxious to work closely with Colorado water community to make that happen.

The State is not a water czar in control of the resources, nor should it be. But working closely with our partners in the community, I think the State can help.

VIDEOS AVAILABLE

There are four (4) copies of the video taken at the 1999 CWCC Annual Convention pertaining to historical perspectives offered by Ralph Adkins of Pueblo, Sam Moyes of Cañon and Bill Miller of Denver. This VHS video (ninety minutes) is available at $50 plus tax (if applicable) and postage.

There are also four (4) copies of the video taken at the 1999 CWCC Annual Convention Wayne N. Aspinall Leadership Luncheon. This VHS video (sixty minutes) features Floyd E. Dominy, Retired Commissioner of the Bureau of Reclamation and is available at $50, plus tax (if applicable) and postage.

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Calendar of COMING EVENTS

August 26 - 27, 1999 — CWCC SUMMER CONVENTION - Sheraton Steamboat Resort, Steamboat Springs, Colorado. For more information, contact the CWCC office in Denver, Colorado: 303-837-0812.

September 13 - 14, 1999 — CWCC COLORADO WATER LAW SEMINAR — CWCC Conference Room, Suite 312, 1390 Logan Street, Denver, Colorado. For more information, contact the CWCC office in Denver, Colorado: 303-837-0812.


Colorado Water Rights
and plates, then gradually ascends to a precipitous mountain crescently mirroring the peaks of the Divide. In April, May, and June the water rushes off the mountains. Then the streams shrink from July until the next snow melt.

It's a fact of life. The Anglo settlers did not invent western water use. The native peoples of the Southwest, followed by Minnie pioneers, used ditches and reservoirs. In the 1700s, one hundred and sixty community ditches, called acequias, were operating in New Mexico.

The earliest Colorado water right, an 1852 priority, followed the construction of the Madison Ditch on the South Platte River. In 1861, the explorer Lieutenant Joseph Ives reported to Congress that the Hopi people stored water in reservoirs to irrigate their corn. Apparently, they had done so for centuries.

In 1864, Benjamin Eaton, later a Colorado Governor, dug a direct flow ditch from the Poudre River to his farm. He had come to Colorado with the miners when gold was discovered at the confluence of Cherry Creek and the south Platte River. Becoming disillusioned with mining, he took up farming in New Mexico. It was a trade he knew from living in Ohio and Iowa. He learned to work water along an acequia in northern New Mexico's Cimarron county.

Settling permanently in Colorado and starting his own farm, Eaton helped the Union Colony of Greeley lay out their irrigation and domestic water supply works, as he did later with the Madison Ditch and West Canal in the South Platte and Colorado and the Denver area's High Line Canal. Eaton is but one example of those Colorado pioneers who discovered what people before them had already learned about living west of the Hundredth Meridian. Water is essential to survival.

The Colorado Constitution

Upon admission to the Union in 1876, the people of Colorado adopted a constitution declaring the water of every natural stream of the state to be "the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation." The constitution further guaranteed the right to appropriate unappropriated waters for "beneficial uses". All persons and corporations were allowed to appropriate water by judgment of just compensation, to obtain a right-of-way across public and private lands of others for the construction of ditches, canals, and flumes for cartage of water to its place of use.

Water Courts

Under the constitution and laws, water use rights are property rights. They are created by using unappropriated available water for a beneficial purpose. The earlier the date of appropriation, the more valuable the right. Water rights are enforced in priority during times of short supply. Junior rights are curtailed until senior rights are satisfied.

Through an 1879 statute, the Colorado General Assembly early assigned the adjudication of water rights to the courts. The judicial form affords due process to contestants. Judges must be careful to decide cases based on their facts and the law, one at a time, giving effect to the constitution and the acts of the General Assembly.

Colorado disallowed the location and amount of the diversion, the type of use, and include any operative conditions to protect senior rights against injury. Each water division has a division engineer answerable to the state and federal public lands. The type of use, and include any operative conditions to protect senior rights against injury. Each water division has a division engineer answerable to the state and federal public lands. The type of use, and include any operative conditions to protect senior rights against injury. Each water division has a division engineer answerable to the state and federal public lands.

Engineering testimony in water cases can be complex and technical. Colorado State Engineer files consultation reports in court proceedings and is often a party to them. Proponents and opponents of a particular water rights claim can be highly adversarial. Because water is a public resource, citizens who do not own water rights are allowed to participate.

Under a 1969 statute, seven water divisions of the district court exist with special jurisdiction over the district court. Each division has the power to hear and determine disputes over water use in a specific geographical area.

Colorado experienced the third highest number of homestead entries, totaling 107,618 covering 22,146,400 acres of land. Only Montana and North Dakota experienced more entries. Thirty-seven percent of Colorado claims were in federal ownership today as a legacy of the progressive conservation movement. Making water available to farms, cities and businesses was a primary reason for the proposed forest reserves.

Fourteen million acres of forest reserves were created in Colorado. Colorado farmers and city residents supported Roosevelt and Pinchot. Many reservoirs and ditches existed before the parks, and the 1909 federal appropriation for entry on public lands for these purposes. Congress legislated in 1897 the Forest Organic Act that state water law would continue to apply to the forest reservations.

Reservoirs

Storage of water for later use was also a fundamental precept of progressive conservation. Congress passed the 1922 Reclamation Act to help Colorado and the other western states finance reservoirs. On both sides of the Divide, Coloradans rejoiced.

The pioneering Colorado water runner, John Wesley Powell, in an 1879 report to Congress, had stressed the necessity of storage. He also feared that corporate monopolies would control the sale and use of water through their financial might unless government intervened on behalf of the farmers.

In 1891, the farmers joined in neighboring cooperation. They established mutual irrigation companies and irrigation districts. The Colorado General Assembly followed with the creation of water conservancy districts and water conservation districts with the power to collect and spend public tax money to develop water for the use of Colorado citizens and businesses.

Reclamation project partnerships with the federal government have benefited Colorado. By using the early Uncompahgre Project diverting from the Colorado River. The immediate result was that irrigated land on the western slope doubled from three hundred thousand acres in the early 1900s.

The Colorado-Big Thompson Project, completed in 1955, provides water for six hundred thousand acres of farmland and two hundred cities and water districts in seven counties of northwestern Colorado. The Frying Pan-Arkansas Project supplies water to farmers and cities in the Arkansas Valley. The Closed Basin Project exists for the residents of San Luis Valley, helping Colorado meet its Rio Grande River Compact commitments to the United States.

Other reclamation reservoirs, along with many private and public non-federally financed reservoirs, exist throughout the state. Many cities own their own reservoirs. As of 1990, Colorado reservoirs numbered more than 1,800 stateside. They have the capacity to hold 8.5 million acre feet of water. They are the backbone of the state's water supply infrastructure and, together with free flowing streams, constitute an invaluable fishing and boating resource.

Interstate Water Compacts

Colorado is the mother of many rivers. Much of its water is committed by law to downstream states. Colorado experienced a decrease in water use from 1955 into account depletion by all its uses, Colorado still delivers an annual average of 9,097,000 acre feet from the Pacific side of the Divide and 1,337,000 acre feet from the Atlantic side.

Records of the State Engineer from 1996 show that surface water deliveries from streams for uses in Colorado that year were 18,276,658 acre feet. Irrigation occurred on 3,190,014 acres, which is 52 percent of the state's total cropland area. Agricultural use varies from five percent to forty percent consumptive, depending on the extent of lawn irrigation. Every water use varies from five percent to forty percent consumptive, depending on the extent of lawn irrigation.
The Environment

The Great Depression, World War II, and post-war economic development produced the building of large transmountain dams. In the west for water supply, power production, flood control, and recreation. The nation survived and prospered. At the same time, magnificent canyons and free-flowing rivers were destroyed. Wilds of America shrank and shrank. Citizens of the West and of the Nation awoke to the need for preservation. A reservoir that would have flooded Echo Park in the Colorado-Utah Dinosaur Park country was halted.

Among states, Colorado led the way in integrating instream flows into its water rights system. In 1973, the Colorado General Assembly passed the state water Conservation Board to permit minimum stream flows and lake levels for the preservation of the natural environment to a reasonable degree. A 1986 act of the legislature allows the Board to buy or accept the donation of senior water rights for instream flows. Because post-1973 appropriations can be very junior, this law allows the advantage of using senior priorities under a judicial change decree.

Cooperation between environmental interests and federal agencies led to designation of the Poudre Wild and Scenic River in 1966, passage of the 1953 Colorado Wilderness Act, and the North Saint Vrain Protection Act in 1996. Colorado is co-operating with Utah, Wyoming, New Mexico, Nebraska, and the United States to conserve the endangered birds of the Platte River.

Colorado is nearing full compact utilization. This has occurred already in regard to the Arkansas and Rio Grande compacts. Colorado presently consumes over 2.8 million acre feet of water annually of its Colorado River Compact allocation. Colorado’s legal appropriation is 3,825,000 acre feet. Depending upon natural conditions and conflicting interpretations of other compact provisions, Colorado’s additional development potential may be less than the 8,000 acre feet theoretically remaining from the Colorado River system.

Federal Reserved Water Rights

In 1907, the United States Supreme Court determined that the states could not deprive Native Americans of the water reserved to them by Congress when the reservations were established. Reserved water rights also exist to serve the primary purposes of other federal reservations, such as national parks.

Congress adopted the 1952 McCarran Amendment permitting the states to require the United States to adjudicate federal water claims in state courts. including tribal rights. Colorado has successfully adjudicated claims reserved federal reserved water rights.

But a very significant set of rights yet remains to be implemented. The Ute peoples of Colorado, with financial assistance by the state, await construction by the United States of the Animas-La Plata Project. It remains unstarted.

The farmers and cities of the eastern plains largely depend upon the Ogallala aquifer, which is regulated by the Colorado Ground Water Commission and local management districts.

Colorado’s Water Future

As the history of Colorado demonstrates, beneficial use is a reservoir for water supply in the western heart, the two lobes of our brains. Our state and federal public land, land use, water, and environmental laws mirror these fundamental principles. Land use decisions made in accordance with law will be instrumental in determining the look and feel of Colorado.

We coexist in the land of little rain with other living creatures we must respect and help to survive. Coloradans will proceed into the twenty-first century with values that will be reflected in water decisions at every level.

Local citizens will react to proposed diversions, which will affect the economic, cultural, and political strength.

The era of their fuller implementation is upon us.

Despite our trans-mountain growlings near every arena of public debate, we revel in being the high point of water supply planners will be required to examine all options: among them, conservation, exchange, ground water recharge, joint use projects, conjunctive use of ground water and surface water, out of priority diversions through decreed augmentation plans, and the sale and purchase of water rights for use within the state.

Use of local water resources for local purposes will become even more necessary. Efficient means of diversions and storage, beneficial use without waste, recognition of all purposes which Coloradans value, these have always been fundamental precepts of Colorado water law. The era of their fuller implementation is upon us.

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This report is intended to bring the membership up-to-date with Colorado Water Congress activities for the calendar year 1998. No organization, it should be noted, will have a meaningful impact on issues of concern, unless its membership is involved and asserting itself. Also, special thanks is expressed to the members of the General Assembly and the Executive Branch for their timely access to the CWC's concerns and acted in a positive and helpful manner.

CWC notes the following in terms of highlights:

1. Sixteen of the nineteen water bills introduced in the State Legislature and supported by CWC were enacted into law;
2. The two water bills opposed by CWC were killed;
3. Continued the major effort (as a CWC Special Project) to address the issues in the U.S. Fish & Wildlife Service, Platte River and Colorado River Threatened and Endangered Species endeavors;
4. Continued its Strategic Planning effort as to CWC's role in the 21st century;
5. Assisted in the Colorado Farm Bureau Future Water Resources effort;
6. Participated in the Legislature's interim studies of water and land resources and SB96-74; and
7. Assisted in the campaign to defeat proposed Amendments 15 and 16.

It should be noted that CWC's efforts with constitutional amendment initiatives is consuming a considerable amount of time.

In regard to CWC's involvement in the General Assembly and the Colorado Water Resources and Power Development Authority.

None of the aforementioned events or bill enactments would have been possible without - as already pointed out - the dedicated involvement of CWC members. This involvement is translated into the following statistics as they relate to the number of CWC Board and Committees meetings:

- Board of Directors - 1/28/98, 1/30/98, 3/12/98, 7/24/98, 8/20/98 and 12/14/98.
- Federal Affairs Committee - 3/2/98.
- Federal Affairs Subcommittee on Forest Guardians - 6/29/98.
- CWC Nominating Committee - 8/26/98.
- CWC Resolutions Committee - 7/24/98 and 12/14/98.
- CWC Litigation Committee - 3/1/98.

CWC sponsored meetings were another dimension of membership involvement activity and these were:


There were a number of other actions that enhanced and assisted greatly in making CWC more effective. These actions were:

- Secured twelve new sustaining members, and four new individual members during 1998.
- Named Stephen L. R. McNichols the 18th recipient of the "Wayne N. Aspinall Water Leader of the Year Award" at the 1998 CWC Annual Convention.
- Published Colorado Water Law Enacted in 1998 of Interest to Water Users (168 pages).
- Produced one Educational Video; namely Historical Perspective by Aspinall Recipients; W.D. Farr, J.R. Fitcher and J. Sayre.

In regard to CWC's written communication (newsletters), the following newsletters were published during 1998:


Again, we are, indeed, proud and honored to be associated with such an outstanding and dedicated group of people as the CWC membership.

Dick MacRae
Executive Director

Colorado Water Rights
1390 Logan Street, Room 312
Denver, CO 80203

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