Politics is the practical exercise of the art of self-government, and somebody must attend to it if we are to have self-government; somebody must study it, and learn the art, and exercise patience and sympathy and skill to bring the multitude of opinions and wishes of self-governing people into such order that some prevailing opinion may be expressed and peaceably accepted. Otherwise, confusion will result either in dictatorship or anarchy. The principal ground of reproach against any American citizen should be that he is not a politician. "Everyone ought to be, as Lincoln was."

— Elihu Root

Speech presenting statue of Lincoln to the British people, July 28, 1920

Dedicated to the Candidates of Colorado

Water Rights

CANDIDATES

“Talk on Water”

SENATOR

GOVERNOR

ATTORNEY GENERAL

CONGRESSIONAL DISTRICT 7

CONGRESSIONAL DISTRICT 4

CONGRESSIONAL DISTRICT 1

Senator Wayne Allard

Governor Bill Owens

Attorney General Ken Salazar

Bob Beauprez

Stan Matsunaka

Ken Chlouber

Tom Strickland

Rollie Heath

Matt Albright

Mike Ferley

Marilyn Musgrave

“While the days of large federally-funded water projects are over, federal agencies can provide financial help...”

“Conservation includes developing incentives... One way to accomplish this is to use tiered pricing structures.”

“The current drought reminds us that water is the lifeline of Colorado. We must do all we can to protect Colorado’s water for Colorado’s citizens.”

“It is unacceptable to have utility service interrupted when planning and cooperation between local, state and federal officials could prevent it.”

“Any good water plan needs to focus on conservation, expansion of existing water storage facilities, and the creation of new water storage facilities.”

“Water will always be a divisive issue in Colorado, and these drought circumstances should strengthen our resolve to take a cooperative approach...”

“Water supply solutions will require joint state and federal activity to secure reliable sources of water without compromising environmental integrity.”

“I will fight for Colorado’s fair share of drought relief for our farmers and ranchers... and will work for additional storage projects.”

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“I will fight for Colorado’s fair share of drought relief for our farmers and ranchers... and will work for additional storage projects.”
BE THE FIRST TO KNOW!!!

Be the first to receive the publications issued by the Colorado Water Congress by sending your e-mail address to macravey@cowatercongress.org. As soon as the issue is complete, it is sent out to those members who have requested e-mail service. This is especially important in regard to developments in the Legislature, since changes in bills can take place very quickly and may impact your organization.

Due to business needs and hiring temporary staff to handle regular mailing of these publications, it can take as much as a week to ten days for the regular mail to go out. The Colorado Water Congress requests that you assist this distribution process by providing your e-mail address. Then you will be the first to know.

2002 Colorado Water Laws Enacted

In October, the Colorado Water Congress will be publishing a book containing all water and water-related laws of the second regular session of the 63rd General Assembly and the July special session. Since this book is over 150 pages in length; and paper, printing, postage, and labor are significant costs; the price of the book is $50 (CWC members) and $100 (non-members) - plus mailing costs, and if applicable, sales tax. Furthermore, since there will be only 25 copies of this book available, distribution will be governed in order of requests.

Aspinall Award Nominations & Water Law Scholarships

If interested, the following forms for your completion and return to the Colorado Water Congress office are available:

1. Nomination form for the 2004 Wayne N. Aspinall Water Leader of the Year Award
2. Ed Boresen, W.D. Farr, John R. Fetcher, Frank Milenski and Bart Woodward Scholarship (for an active member of the agricultural community) for 2003 - Colorado Water Law Seminar.
5. Larry D. Simpson, Ralph Atkins and John R. Fetcher (for either an engineering student or a non-partner of an engineering firm) Engineering Scholarship for 2003 - Colorado Water Law Seminar.

The Wayne N. Aspinall Award nomination form is due at the CWC offices by August 4, 2003. The scholarship nominations are due at the CWC offices by July 1, 2003. If you are interested in any of the above forms, please fax or write: Colorado Water Congress, 1580 Logan St., Suite 400, Denver, CO 80203; phone (303) 837-0812, fax (303) 837-1607; e-mail macravey@cowatercongress.org.

Calendar of COMING EVENTS

October 16, 2002 — ENDEARING SPECIES WORKSHOP — CWC Conference Room, 1580 Logan Street, Suite 400, Denver, CO.

October 17, 2002 — WATER QUALITY WORKSHOP — CWC Conference Room, 1580 Logan Street, Suite 400, Denver, CO.

November 8, 2002 — COLORADO INITIATIVE PROCESS WORKSHOP — CWC Conference Room, 1580 Logan Street, Suite 400, Denver, CO.

November 15, 2002 — WORKSHOP ON WHAT YOU SHOULD KNOW ABOUT THE NINE INTERSTATE COMPACTS THAT COLORADO IS A SIGNATORY — CWC Conference Room, 1580 Logan Street, Suite 400, Denver, CO.

December 13, 2002 — WORKSHOP ON LEGAL ETHICS & ENVIRONMENTAL LAW — CWC Conference Room, 1580 Logan Street, Suite 400, Denver, CO.

For more information on these events or the latest information on other newly scheduled events, call the Colorado Water Congress at (303) 837-0812, fax (303) 837-1607, e-mail macravey@cowatercongress.org or check our website at www.cowatercongress.org.

Colorado Water Rights

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CWC Video Available

"Historical Perspective by Aspinall Recipients; John Porter, Larry D. Simpson & Richard D. "Dick" MacRavey" is available to members of the CWC for $60.00 and non-members for $120.00. This video is one hour and fifteen minutes long and covers the period involving these three individuals (Porter, Simpson and MacRavey). This video may be obtained by contacting the CWC at the above e-mail address, or phone numbers.

Colorado Water Rights
Decades ago, water scholar Wells A. Hutchins, stated that western water law had one "outstanding feature in common—inefficiency of water to supply completely the rapidly growing demands of industry and agriculture with the use of the control facilities then available." Like Hutchins, we are accustomed to the arid climate and geography of the interior west. Yet when tree rings along Boulder Creek reveal that the last comparable drought occurred nearly 300 years ago, we are reminded that nature presents an unpredictable challenge to the very best of our engineering accomplishments. Through ingenuity, vision and leadership, Colorado has created a water infrastructure to help quench its thirst for water. As the winter snows approach (which account for 80 percent of our water) and with reservoirs at historic lows, it is imperative that we expand our water storage capabilities to ensure that our communities have the water they need to survive and thrive well into the future. With these initial thoughts in mind, I share with you my vision for Colorado water—state priority, increased strategic water storage, innovative conservation, and federal financial and project assistance.

One of the most serious threats to Colorado water is the federal government. I firmly believe that the federal government's interest in water must be consistent with state water law, and that Congress must defer to the states. You can be assured that I will continue to guard our water against federal encroachment, for it is only through a solid commitment to local governance and state rights that federal attempts to control Colorado's water can be rebuffed. I will continue to fight efforts like those undertaken during the 2002 Farm Bill debate when Senate Democrats, led by Senator Harry Reid of Nevada, attempted to usurp state water law by requiring that private water rights be given to the federal government (for endangered species) as a condition of enrollment into a federal farm program.

In order to utilize water for people, recreation or for trout habitat, water must be strategically stored in reservoirs and released when there is demand. Seven major rivers, fed by 16 million acre feet of run-off, flow out of Colorado. During this, the worst drought in Colorado's history, run-off is less than 8 million acre feet, yet our reservoir capacity is less than 6.5 million acre feet. The failure to build new reservoirs in the state has not slowed development, but it has led to the pump-up and dry-up of thousands of acres of productive irrigated farmland. Bottling strategic water storage capacity and improving Colorado's water infrastructure is but one element of successful water planning that will combat this problem. We must increase storage capacity in order to deal with droughts of the magnitude that we are facing today. We are entitled to develop an additional 1.2 million acre feet under the compacts that govern the Colorado River, and we should do so immediately.

Preserving the Colorado River Compact is vital to Colorado's interests. We must continue to force downstream users such as California to abide by its allocations to the various states.

Innovative means of water "saving" and conservation are also elements of good water planning. Recently, Senators Pete Domenici, R.-N.M., Ben Nighthorse Campbell, R.-Colo., and other Western Senators introduced legislation that would eradicate the salt cedar from riverbanks in Colorado, Utah, New Mexico, Arizona and Texas. The salt cedar, or tamarisk, is an invasive species that steals up to 200 gallons of water a day. The salt cedar consumes millions of acre feet of water that could otherwise remain in the river for Coloradans, and help meet downstream obligations. Sound water savings and responsible conservation also means proper forest management. The same over-crowded forest conditions that are fueling catastrophic wildfires are also robbing river systems of precious water.

Water is one of the most important elements of a healthy economy in Colorado. It is also a source of endless conflict—between the growing municipal demands on the Front Range and the recreational and agricultural communities outside of the urban corridor, between Colorado and downstream states, and sometimes between the State and the federal government.

Our challenge is to ensure that all of the affected interests—such as the irrigators in the Grand Valley, the public water suppliers in the Denver metropolitan area, the boaters in the Arkansas, and the defenders of endangered species along the South Platte—have a meaningful voice in water resource decisions. I will work hard in the Senate to protect Colorado's water rights, to find ways federal agencies can cooperate with Colorado to meet traditional water demands in times of drought while ensuring strong protection of aquatic and riparian ecosystems, and to keep Colorado’s water supply free from pollution.

Without question, the drought is one of the most pressing issues facing Colorado today. The current drought in Colorado has created enormous hardship for all Coloradans and pointed out some of the weaknesses as well as surprising strengths in our systems for managing water. The federal government can provide limited emergency relief and could do considerably more to help the states plan for and respond to drought, as outlined in the May 2000 report of the National Drought Policy Commission, and pending legislation to implement its recommendations. However, the primary responsibility for balancing water supplies and demands rests with the State and its water users and providers.

In order to successfully address the current drought, and future droughts, we must examine the need for more storage capacity in certain parts of the state. However, it is important to develop the most cost-effective and least environmentally damaging projects. Enlargements of existing structures—such as Gross Reservoir—or construction of smaller reservoirs—such as Rueder-Hess in Douglas County—should be considered before the commencement of larger, more expensive projects that have the potential for environmental harm. The rehabilitation of reservoirs could make a very significant contribution to meeting existing demands. Conjunctive use of surface and groundwater can also provide significant yield while minimizing impacts on the riparian environment.

Non-structural alternatives must also be pursued, as communities throughout the state can save thousands of acre-feet of water by promoting conservation, efficiency, and better integration of existing supply systems. Water providers and other public agencies—including the federal government—can provide regulatory and cost-effective financial incentives for reductions in domestic water use through metering, installation of low-flow plumbing fixtures, improved treatment and delivery systems, inverted rate structures, and restrictions on residential covenants that require water-intensive landscaping. We must realize these savings, and fully develop facilities for the reuse of municipal effluent and return flows where permitted, and in some cases required by state and federal law, before additional water is diverted from the Colorado or Arkansas River basins.

I oppose any new trans-basin diversion unless there is broad support for such a project among all of the affected areas and interests, and unless the long-term water supply benefits of the proposed project are protected for consumptive use, as well as environmental and recreational purposes. Cooperative approaches, demonstrated by the Wolfsord Mountain and Eagle Park Reservoir Projects, can develop new water supplies without creating the divisive controversy and litigation that so often drains our collective resources. There may be opportunities for cooperative, voluntary transactions between municipal

Continued on page 12

Colorado Water Rights
Rollie Heath is the Democrat date for Governor of Colorado. Bill Owens, the Republican candidate, seeks a second term.

The problem of drought in Colorado is not a new one, which makes it all the more amazing that it was only this summer that Bill Owens seemed to realize the state was facing a crisis.

He buried his head in the sand for the past four years. And now — in the midst of a severe and extended drought — the state is unprepared to address Colorado’s water challenges.

The people of Colorado have worked hard to make a home here, raise families and attain a quality of life second to none. But, the Governor’s lack of leadership and vision on water threats to pit neighbor against neighbor in a fight for the survival of our communities and the long-term viability of our state.

In fact, we’ve already seen this. Suburban cities are fighting in court to make sure their water rights are protected. Meanwhile average citizens are left to wonder when their sprinklers will run dry.

What will I do as your next governor? As soon as I am elected, and before I take office, I will convene a statewide water summit. By the end of the summer, we will have the framework for a statewide blueprint for water management.

Our blueprint will include:

1) Linking land use planning to water planning.

Our water policy must be closely linked to land use planning and growth management measures. Governor Owens missed the opportunity to demonstrate leadership during the 2001 growth debate by avoiding discussion of one of the most critical elements of growth — water.

2) Constructing storage projects and diversions only if they are part of the statewide water blueprint.

High-altitude storage and diversion projects must be considered as part of a long-term strategy. We must avoid short-term, stopgap measures that are expensive and will not help us achieve our long-term vision.

Colorado’s water to grow crops and graze cattle. The state was facing a crisis. In 2001, $120 million was lost. In April, I made an unprecedented request to the U.S. Agriculture Secretary to designate the entire state as a drought disaster area. I sought and obtained this designation in order to allow farmers and ranchers to access federal financial assistance for crop losses.

I also instructed the State Water Availability Task Force to activate the state’s Drought Response Plan, which mobilized all state and local resources available to combat the drought.

This summer I ordered the State Legislature to consider drought and fire issues when they met in a special session. Several measures were passed to give farmers and ranchers financial relief from the drought. For instance, ranchers who sold their cattle for lack of grazing pastures will now receive much-needed tax relief.

Unfortunately, a larger measure that would increase the financing available for water projects passed the House and died in the Democrat-controlled Senate. I will continue to support legislation that gives communities a greater ability to finance large water projects.

The current drought simply underscores Colorado’s need for new water storage. In my first year as Governor, I hosted a summit with 250 of the state’s top water experts and users to discuss our water needs. Together, we concluded that Colorado needs additional water storage, as well as innovative programs to conserve and reuse water.

Responding to the needs identified in the Summit, my administration loaned $11.3 million throughout Colorado to improve existing reservoirs and $43 million to build new reservoirs. These projects increased Colorado’s storage capacity by 134,000 acre-feet of water (an acre-foot of water can meet the needs of two households per year). In addition, we required that all loan recipients have a water conservation plan in place that includes re-using water whenever possible.

Despite our progress, Colorado’s need for water storage remains dramatic. Even in our dry years, Colorado owns water that goes unused before it leaves the state, and as a result over one million lawns in California can reap the benefits.

I believe we should store all of the water that Colorado owns and put it to beneficial use in our state. In fact, I recently asked the Colorado Water Conservation Board to test the feasibility of large-scale water projects such as the Big Straw project supported by many on the Western Slope. The Big Straw could capture California-bound water in the Colorado River near the state line and pump it back into the mountains for additional use inside our state.

I will also continue to promote water conservation and education. I supported new programs that provide...
The Attorney General
Candidates

Ken Salazar, a Democrat, is Colorado's Attorney General and is seeking a second term.

Marti Allbright, a Republican, second in command under former Colorado Attorney General Gale Norton is a candidate for Colorado Attorney General.

The Attorney General is charged with upholding and defending Colorado's constitution and laws. Paramount to that duty is the protection of Colorado's water for the use of all Coloradans. As the chief legal officer for the state, the Attorney General does not set policy for how or where water users develop, use or store water. Instead, the job of the Attorney General is to work cooperatively with the Department of Natural Resources and the State Engineer to protect the legal right of Colorado water users to fully develop their compact and decreed apportioned waters.

Unless the Attorney General is diligent in carrying out the responsibility of protecting Colorado's water from other states and from intrusion and takings by the federal government, the Attorney General can lose all the water we need. As a Democrat, Ken Salazar has been outspoken in protecting Colorado's water rights and enforcing Colorado's water laws.

Additional Storage. Colorado's undeveloped water is found mostly on the Western Slope in the Colorado River Basin, including its tributaries. Development of this water needs to have the support of the West Slope and the East Slope to balance the needs of both areas.

Enlargement of Existing Reservoirs: In most of the major river basins throughout Colorado, water users are aware of projects that have been proposed to enlarge existing facilities for additional water supply. These can be found in the Colorado, Arkansas, South Platte, and Rio Grande Basins.

Grant Program for Rehabilitation of Existing Water Infrastructure: Since the adoption of Colorado's Dam Safety Act, many dams throughout the State of Colorado have been placed under the Colorado State Engineer so that the reservoirs cannot store the amounts of water decreed to them. Thousands of acre feet of water capacity in reservoirs throughout Colorado is unused because of the dam safety restrictions in place.

Environment and Recreational Needs: During the past 12 years I have had the honor to speak to the Colorado Water Congress many times. I understand the importance of the Colorado Water Congress in helping protect Colorado's water. As a fifth generation Coloradan whose family has farmed in the San Luis Valley for 150 years, I learned about the importance of water and Colorado's water system from the "High end of the shovel and the low end of the ditch."

As Colorado's Attorney General, I will continue our major efforts to (1) protect Colorado's compact entitlements as we have been doing on the Arkansas, Platte, Colorado, Rio Grande and Republican Rivers; (2) protect Colorado water rights from unwanted federal intervention as we have done with respect to Forest Service bypass flows and reserved rights cases; (3) protect Colorado water rights in the nearly 1,000 water cases each year in the seven water divisions of Colorado; and (4) help the General Assembly and water users proactively solve water issues faced by the State of Colorado.

Compact Entitlements. As the mother of rivers, Colorado is subject to eighteen interstate compacts and decrees that apportion the waters that flow from our rivers to other states. Those compacts continue to serve as a keystone of Colorado's protection to develop its water. At this time, all of our basins have been extremely dry over-appropriated with the exception of the Colorado River.

On the Colorado River, because of our concerted effort over the last decade, California has agreed to reduce its consumptive use of water from the Colorado River in recognition of the Upper Basin's development rights. We must continue to support the ability of State authorities to protect Colorado's rights on each of our rivers.

In many cases, these reservoirs and dams have not been rehabilitated simply because the agricultural communities that depend on those reservoirs do not have the resources to rehabilitate them even when a very low price loan is offered. Indeed, the drought impacts on farmers and ranchers will make it even more impossible to finance the rehabilitation of many of these structures. A grant program to finance the rehabilitation of these reservoirs and dams is needed to ensure the full utilization of these already existing facilities.

Continued on page 13
As a third generation Colorado farmer, I have personal knowledge that this state's destiny is tied to the wise use of its scarce water resources. The drought of 1952-54 hit the Beauprez family farm hard. My parents were threatened with bank foreclosure on their mortgage and while they survived, it was nearly twenty years before the family fully recovered financially. This boyhood incident left a strong impression on me. I watched as some communities flourished because they had the common sense to plan for future water needs, while others failed to heed the warnings and ignored the need to plan for future water infrastructure. Some of those communities are out of water today.

Fortunately for Coloradans of that era as well as future generations, this state enjoyed the strong visionary leadership of men like Wayne Aspinall. Leaders who during the 50s and 60s made sure Congress would take the actions necessary to ensure Colorado water was protected from California and the downstream states seeking to make use of Colorado's river entitlements.

Wayne Aspinall didn't call for watering restrictions and recycling of sewage water. He didn't suggest we just learn to live with less water. With customary western good sense, Aspinall set about to take the lead and in 1952 Congress made sure that Colorado water was stored for Colorado's future. By having the Federal Government build water storage projects high in the mountains, Aspinall helped to ensure future droughts would not devastate the largely agricultural economy of Colorado.

Unfortunately, with the large population growth this state has experienced, there are new threats like the southwestern cultural economy and the western lifestyle we all enjoy. The primary threat is lack of planning both here in Colorado as well as in Washington. I don't understand a Washington mentality that says its acceptable to spend billions of dollars in California for water projects and billions of dollars for subways in Washington, D.C., but somehow it's not acceptable to spend any federal money to help the Front Range of Colorado protect itself from drought cycles. It is unacceptable.

There is a role Congress can play to help ensure expanded water supply for the people of Colorado. I plan to work with the Bush Administration and Interior Secretary Gale Norton to keep existing federal projects and to cut through the bureaucratic red tape that makes water from our rivers almost impossible to store and use.

Right now federal projects do exist which store water that we aren't currently using, such as Blue Mesa Reservoir. A recent Colorado Supreme Court Decision firmly stated that 240,000 acre-feet are still available in Blue Mesa for use anywhere in Colorado. That is the same amount of water in a full Lake Dillon. With cooperation from federal agencies, that water can be sold out of that federal project to the Front Range and moved through a series of conduits to the Front Range users. No new dams have to be built to obstruct any additional rivers on the Western Slope, no recreation has to be lost and no endangered species have to be threatened if the logical option is pursued.

Other common sense options are also available to insulate us from the next drought. Many of our Front Range communities such as Lakewood, Arvada and Aurora need more storage even along the Front Range. In order for these communities to build reservoirs either by themselves or in coordination with other utilities, federal permits are required. Many times the only way for Colorado to obtain these permits is by agreeing to provide water to projects like sand bars for nesting areas for birds or the acquisition of habitat for mice. Meanwhile our own habitat...
Once again, Colorado Supreme Court Justice Greg Hobbs gave an impressive perspective on historical Colorado Water Law.

The presentations at the Water Law Seminar kept the attention of those in attendance.

Luncheon speakers included Representative Diane Hoppe and Senator Jim Isaak.

Tad Foster, Colorado Springs Attorney, really got into his subject on water quality.

The STATE FAIR offers an informative and spectacular exhibit on WATER.
Colorado Water Congress
Summer Convention 2002

Wally Smokey, Board Member of the Southeastern Colorado Water Conservancy District, addressed the Friday luncheon with a stimulating presentation — "We Have Met the Enemy and It Is Us."

Frank Cooley was making a point.

Now here is an all-star lineup on "Instream Flows: Past, Present, and Future" —
(Left to right): Lee Miller, Fred Anderson, Rod Kukutach, Mark Pijker and John Hill.

Dillon Reservoir told the drought story.


The three "wise men" were in good humor.

The general sessions were well attended with some heavy hitters.

Coffee breaks allowed some needed conversation.

The luncheons were well attended.

Above:
State Engineer, Rod Simpson, got everyone's attention with his Thursday Luncheon remarks on drought.

Right:
Simpson's concluding remarks said it all.

"Forest Management & Water Resources" was the important topic presented by Charles Teegardin, Consulting Hydrologist.

Elements of Regional Plans
- 20-year water supply plan under drought of record conditions
- Assess available supply
- Assess demand
- Forecast and manage water supply strategies to meet drought
- Implement water efficiency and reuse policy

Texan Craig Pedersen, of URS Corporation, provided the audience with insights on the Texas water approach.
The August 23, 2002 Meeting of CWC Education Committee at the CWC Summer Convention in Vail, Colorado

Meeting chaired by Senator Lewis H. Entz.


The committee was well attended.

The First Colorado Water Education Workshop in Pueblo on August 29, 2002

Above & right: The audience was attentive throughout the day.

Left & below: The panels of speakers were informative.

Above & right: The voting for the new Board of Directors was active and meaningful.

Part of the new Foundation Board — ready to serve.

Tom Cech, long time Chairman of the CWC Education Committee, got things off to a good start.
The 4th Congressional Candidates

Stan Matsunaka, a Democrat, is President of the State Senate, and is a candidate for the 4th Congressional District.

Marilyn Musgrave, a Republican, is a state senator and is a candidate for the 4th Congressional District.

Grew up in rural Colorado and that is where I learned my values. A 4th generation Coloradan, my family has survived the cyclical droughts that are characteristic of life in Colorado. I am confident that the rains will come and the hardship will pass, but it is time we came to grips with our cyclical water shortages. It is time for all Coloradans to look to the future and create a comprehensive water plan that sets achievable 5, 10, 20 and 40 year goals. Once we have that plan, we need to make sure the water goes to our farmers and ranchers where it’s needed the most.

To help ease our current water crisis I recently called on the state to release more water from the Cherry Creek Reservoir to save crops downstream on the Platte River. I did this because I believe saving the agricultural economy along the Platte River is a better use of the water than jet-skiing and sailing.

Because of the extremely dry conditions this year, farmers along the Platte River would have to shut down their irrigation wells in order to comply with Colorado water law, effectively devastating crops and wasting the money and water already poured into them this season. The state owns enough water stored in Cherry Creek Reservoir—currently being used for recreational purposes—to allow farmers to harvest their crops. Agriculture is the lifeblood of Colorado and contributes $5 billion in cash receipts to our economy. We need to support Colorado’s farmers and ranchers, and we need a solid water plan that can stand up to the extremes of normal water cycles.

Any good water plan needs to focus on three areas: conservation, expansion of existing water storage facilities, and the creation of new water storage facilities. We need to practice efficient water use every year, not just during drought years. We can expand our water storage capacity by 40% through dredging and repairs to existing facilities. And in the long term, we need to expand our water resources to keep more Colorado water for Colorado’s farmers and ranchers.

As we learned in the recent special session, water policy and legislation cannot be rushed. I supported and voted for the $10 billion water storage bond legislation that failed after a bipartisan coalition of Western Slope and Front Range legislators mustered the votes to kill the bill. Before we settle on a plan for new water storage that will not show results for 20 years, we need to craft common sense solutions to address short and long-term water needs.

Our water storage and transportation system is in disrepair, operates under capacity and wastes millions of gallons of water daily. During the special session, experts indicated that repairs to our existing storage facilities would increase capacity by as much as 20% and that repairs and a program of dredging would increase storage capacity by 40%.

Add to a program of repairs and dredging a common sense water conservation plan that looks beyond the current crisis and we have the beginnings of a comprehensive water policy. By starting the water policy discussion with new water storage funding without a comprehensive plan, the representatives from the Western Slope and Front Range had little to take back to their constituents to balance the future sacrifices we had asked our fellow Coloradans to make.

It was in the appropriations committee that the $10 billion water storage bond bill was voted down at the hands of Republicans and Democrats from the Western Slope and Front Range. As a fiscal conservative, I understand that the appropriations committee must coordinate spending taxpayers’ money. Any time you propose a $10 billion expenditure, the impact on the state budget must be

Thank you for the opportunity to share with you, the Colorado Water Congress, my views and beliefs about Colorado’s most precious resource, water. When you start to build a house the most important thing is to build it on a strong foundation. The same is true in legal principles, water law, in particular. Colorado’s system of prior appropriation is our foundation and is a strong one at that. On every water issue I have faced in the past eight years in the legislature the first question I asked is, “How will this affect prior appropriation?”

The honest answer to that question has always provided guidance on how to vote on each proposal. In the upcoming paragraphs, I’ll detail my views on a series of water issues that are critically important to our great state.

The drought is on everyone’s mind this year. While the drought is devastating it is making people aware that we live in the Great American Desert and that dry cycles are inevitable. The fact that public opinion is beginning to sway in favor of more storage may be a silver lining in our near cloudless skies. As your Congressman I will fight for Colorado’s fair share of drought relief for our farmers and ranchers. Over the long haul, I will fight for funding for water projects and, more importantly, fight for rules changes with federal agencies making it easier to permit additional projects. I want to make it very clear that while I strongly support conservation measures and repair of our existing dams, I support and will work for additional storage projects. Our state attracted 1 million new people in the last ten years and I expect our population to continue to grow. In planning for the future it is imperative that we anticipate the need for more water. I’m not so naive to think that it will be easy but it’s a challenge that our Congressman must face and be willing to fight for Colorado’s future.

Water storage is what has changed Colorado from a desert that was unsuitable for humans to an abundant oasis. Leaders, such as, W.D. Farr, whose support I appreciate, helped build the Colorado that we all love by having the foresight to build, store, and efficiently use Colorado’s water. Many premium locations remain available for storage including, but not limited to, Animas-La Plata, Two Forks, and the Poudre. Instead of saving for a rainy day, we in Colorado must save more on our rainy days for days like today when we are experiencing a hundred year drought.

One of the most onerous federal actions of recent years has been the chain by the U.S. Forest Service to bypass flows on our rivers to assure minimum stream flow. If approved, I will fight for Colorado maintaining priority over our waters and work to force our federal government to abide by our laws, which of course forces them to recognize prior appropriations. Tinkering with in-stream flows should be done in Colorado, by the state legislature, if at all.

Another federal program that has become a weapon against the beneficial use of water is the Endangered Species Act. I promise as your Congressman to always work on the side of humans and our needs above the needs of plants and animals. If the Endangered Species Act can’t be abolished during my tenure in Congress, I will work to weaken it.

Wilderness designation of additional federal lands in Colorado is a hot-button item because it drives land use decisions to the federal rather than the local level. I believe it is time for us to err on this issue it will be on the side of caution. I won’t consider supporting any more wilderness designations in Colorado, or any other state for that matter, unless District’s Congressman and both Senators are backing it. I will not introduce such legislation for other Congressional Districts, either.

Trans-basin diversion has been the most contentious of all Colorado water issues. I believe in the right and

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Colorado Water Rights

Continued on page 13
Allard ⭐⭐⭐ Talking on Water, cont.

Continued from page 3

In the North Platte basin alone, an estimated 185,000 acre feet has been lost due to unhealthy forest conditions. With selective management, 55,000 to 93,000 acre feet of water could be restored per year.

Earlier this year, I cosponsored the National Drought Preparedness Act of 2002. The legislation would bring local, state, and federal officials together to coordinate drought preparedness plans and prepare for future droughts. It would also provide grants for communities to improve their response to drought disasters.

I must also promote conservation by educating the public and adopting new water practices. School outreach programs, public awareness campaigns, new irrigation technologies (such as GPS irrigation) and conservation tillage will reduce intense water usage and water loss. A tax credit for conservation practices could provide water users with the incentive to purchase expensive water-saving equipment that they otherwise could not afford. In addition, a Ciruli Associates poll pointed out that 86 percent of Coloradans support sharing water between cities, farms and ranchers in a way that allows agriculture to stay in business while providing for the needs of our urban areas. We must facilitate partnerships that build the kind of water relationships that turn conflict into collaboration.

The federal government plays an important role in the funding of water projects. The creation of federal-local partnerships such as the one created by the Arkansas Valley Conduit bill that I introduced earlier this summer, will help provide clean water to the lower Arkansas Valley, while saving hundreds of millions of dollars in facility upgrades. The 106th Congress must take a leadership role in water storage projects - technical and financial assistance from the federal government is key to rapid development of water projects. The government must also work with stakeholders to overcome unreasonable regulations and litigation that act as tremendous hurdles to building new storage projects, and help resolve contentious issues before the project gets derailed. In the 1980s, $65 million was spent on lawyers and environmental compliance costs on one project alone - and it was never built. We cannot afford the loss of millions of dollars of water.

I look forward to working with the State of Colorado, to create new water storage projects and to build a new era of water conservation and wise use. We can no longer react to drought - it is our responsibility to take the steps toward responsible water planning before the sky turns dry. Together, we can secure a future of water for our children, water for our states agriculture and tourism industries, and equally important, water for Colorado wildlife and habitat.

Strickland ⭐⭐⭐ Talking on Water, cont.

Continued from page 3

and agricultural water users, such as dry-year leases, that can also satisfy growing urban demands while protecting rural communities.

Colorado's eighteen interstate compacts provide essential protection for the State's ability to make full and effective use of its water resources. These agreements and appropriations decrees must be honored by each of the states and by the federal government. There is an important federal role in this area, most notably in managing the Colorado River system and ensuring that California lives up to its commitment to reduce its use of the Colorado River water.

I support the strong implementation of Colorado's in-stream flow program, including the recent expansion of the Water Conservation Board's authority by S. B. 156. Colorado's cooperative relationship with federal agencies, which have jurisdiction over many of the State's water resources, depends in large part on our ability to effectively protect in-stream flows under state law. While there are cases in which federal water rights play an important role in protecting local and national interests - such as in the San Luis Valley - the tradition of deference to state law will survive and flourish if the state can successfully adapt to new demands for the use of its water.

There is a limited, but important federal role in other aspects of water resource management. I will encourage the Bureau of Reclamation, Army Corps of Engineers, and other agencies responsible for the operation of federal water projects to operate those projects to meet a variety of demands, including consumptive use as well as instream flows for recreation and fish and wildlife protection. While the days of large federally-funded water projects are over, federal agencies can provide financial help to agricultural and municipal water users and encourage more efficient use of water resources.

Together, the federal and state agencies must ensure that new water projects are thoroughly reviewed and authorized under existing federal laws, including the Clean Water Act, the Endangered Species Act, and other statutes governing use of public lands. These laws provide important protection of water quality, threatened plant and animal species, recreational uses, and other broad public interests. I will support strong enforcement of these statutes in a manner that encourages cooperation with state agencies, water users, and the public, including conservation and environmental organizations.

Colorado needs effective leadership to develop a coordinated federal-state water policy and to find creative ways to address our growing water demands. Through state and federal partnerships, we can work to find the best solutions, such as incentives for water conservation and efficiency, effective re-use of municipal effluent, rehabilitation and enlargement of existing reservoirs, and new, carefully planned storage projects. The optimum use and development of our water resources is a challenge that can best be met by the combined efforts of citizens and their representatives at every level of government.

Owens ⭐⭐⭐ Talking on Water, cont.

Continued from page 4

over 51 million in water conservation incentives, teaching communities in over a third of Colorado's counties. Now over 800,000 acre-feet of water are subject to water use efficiency requirements.

While our cities are becoming more efficient, our forests are becoming less efficient in providing water to Colorado's rivers. The same over-crowded forest conditions that are fueling catastrophic wildfires in Colorado are also robbing river systems of precious water. In the North Platte basin alone, an estimated 185,000 acre-feet has been lost due to over-crowded forest conditions. With selective management, 55,000 to 93,000 acre feet of water could be restored to that river basin each year. I strongly support active forest management practices that not only yield more water, but also improve forest health and reduce fire danger.

Finally, I will remain vigilant in protecting Colorado's water from thirsty downstream states, like California. My administration recently worked with other states along the Colorado River to ensure California cut its over-use of Colorado River Water by 700,000 acre feet. The agreement was a landmark achievement, but more work must be done.

Above all, this drought has made it clear that Colorado needs to have more water storage. The consensus that is developing around this fact is at least one beneficial result of our current drought.
Continued from page 4

Heath Golden was then forced to cut back—leaving its citizens in Colorado for several decades has been about the very regular session of the General Assembly this year, legis­lation was enacted that would allow the Colorado Water Conservation Board to accept donations of water rights for streamflow purposes and also to help in the acquisition of water for those purposes. Since passage in 1973, Colorado's instream flow program has provided protection to over $500,000 of streams and many lakes. The action by the General Assembly in the regular session to expand the authority of the Colorado Water Conservation Board in this arena was an important step in the right direction.

Economic and Environmental Mitigation When Water Rights are Transferred: A debate that has raged since 1973, which was once about the very definition of a water right, has now expanded to include how water rights should be used. The question of the definitions of cultural users and transfer them to municipal needs. The consequences are evident in many rural areas on the

Arkansas and South Platte Basins where over 100,000 acres of land have been dry up as water has been taken from those rural communities.

I recognize the legal authority of the owner of water rights as well as the buyer of water rights to engage in these kinds of transfers. However, state law is inadequate in ensuring that when these transfers occur appropriate economic and environmental mitigation occurs to the communities affected when their "lifeblood" is taken away.

Increase Well Inspections to Ensure Compliance With State Standards: Colorado's unprecedented drought is requiring many well owners to drill new wells. Wells must be correctly constructed to produce quality water and avoid contamination between aquifers. Yet there is not a single well construction inspector on staff at the Division of Water Resources to ensure compliance with required standards. This problem must be addressed to protect well owners and water quality.

Maintenance of Augmentation Water Supply for Agriculture: The possibility exists that numerous wells could be shut down because there is insufficient augmentation water available for wells to continue pumping along both the South Platte and Arkansas Rivers. Because surface water rights are generally much more senior than groundwater rights, groundwater appropriators have been required to provide augmentation water to continue pumping. Yet, many of the groundwater appropriators do not have the resources to acquire replacement water for augmentation plans. Senate Bill 02S-001 established funding from the Perpetual Base Account of the Sovereign Tax Trust Fund for emergency drought response, making grants available to agricultural organizations for augmentation water. This effort has to be continued to ensure that this emergency drought response fund has sufficient funds to address the needs for emergency augmentation water to protect both surface water users and groundwater users.

I look forward to working with the Colorado Water Congress on these very important issues over the next four years.

Allbright

Continued from page 5

We must also not ignore the need for defense in water court against the reserved rights claims of the federal government. In the Gunnison basin, pending federal claims would wipe out Colorado's remaining Colorado River compact entitlement. Too often we have been willing to concede minimum stream rights to the federal government to our detriment and contrary to the precedents of the Supreme Court. An Attorney General representing the state the people of the state cannot concede such important legal points.

The job of the Attorney General is to be the lawyer for the state and to advocate for the state. It is not the role of the Attorney General to pit one region of the state against another, nor to take sides with one group of water users against others. The integrity of our prior appropriation system depends on an even-handed implementation and enforcement of the law.

There is plenty of legal work to be done to protect Colorado's water rights. The state's top lawyer must aggressively defend the state's right to develop its water and to ensure that water allocation decisions for Colorado are made by Coloradans, not by Californians and not by bureaucrats in Washington, D.C.

Beauprez

Continued from page 6

sion of water service for our homes, our parks and our recreational facilities is a fundamental need of civilized society. It is unacceptable to have utility service interrupted when planning and cooperation between local, state and federal officials could prevent it. We wouldn't accept an every third day schedule for having electricity to our homes. We shouldn't accept an every third day schedule to use water to keep our homes well kept and keep our urban environment alive.

The quality of life for future Coloradans depends on our ability to use the expense of our own quality of life, something is wrong.

We need to bring common sense back to Washington. We need to pursue reliable utility service for Colorado's new Seventh Congressional District. After all, the provision of water service for our homes, our parks and our recreational facilities is a fundamental need of civilized society. It is unacceptable to have utility service interrupted when planning and cooperation between local, state and federal officials could prevent it. We wouldn't accept an every third day schedule for having electricity to our homes. We shouldn't accept an every third day schedule to use water to keep our homes well kept and keep our urban environment alive.

Fecely

Continued from page 6

have concluded that selective cutting— not clear cutting—of overgrown forests can add increased water flow to rivers coming out of forest land. The resulting increase in water flow could wipe out Colorado's remaining Colorado River compact entitlement. Too often we have been willing to concede minimum stream rights to the federal government to our detriment and contrary to the precedents of the Supreme Court. An Attorney General representing the state the people of the state cannot concede such important legal points.

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Ignoring the infrastructure needs of our rapidly grow­ning state is shortsighted and irresponsible. Whether in the name of growth control or mice habitat in Nebraska, to not provide the water our citizens need and are entitled to is an absolute failure to provide leadership for Colorado's future. When I am sworn into office next January I will make it one of my highest priorities to help secure the cooperation from federal agencies necessary to ensure a reliable water supply for the residents of Colorado.

Matsunaka

Continued from page 11

We need to make sure that we elect leaders that will respond to Colorado's farmers and ranchers, and ensure that when drought conditions exist, our water goes to farmers and ranchers, not jet skis and sail boats.

To protect Colorado's water resources, we must analyze all facets of the water issue, balance the equities and create a policy worthy of our great state and its people. I look forward to taking the common sense leadership I learned on the Eastern Plains to Congress and fight­ing for Federal funding as part of a comprehensive plan to solve Colorado's water problems once and for all.

Colorado Water Rights
Continued from page 12

The Gunnison River.

responsibility to put the waters of Colorado to more benefi
cial use. I also believe that Colorado will never build another trans-basin project without the importing basin
providing compensatory storage to the exporting basin. I
don't believe that it necessarily has to be acre-foot for
acre-foot, but instead that it provide necessary public
good for the exporting basin. Examples of public good
might include: water for municipal needs, in-stream flow
requirements, agriculture, well augmentation, and inter-
state compact requirements.

Good science combined with adherence to the prior
appropriation doctrine must rule with respect to use of
ground water. Proving injury to surface users by ground
water wells must use good science rather than emotional
claims.

In summary, the Colorado Water Congress can count
on me to represent the Colorado water community in
Congress. I believe in limiting the Federal role in
Colorado water issues, in maximizing the storage and
beneficial use of our waters and will do everything I can
to protect Colorado water in my tenure in Congress.

The Colorado River Water Conservation
District is asking the voters of the District to
approve a one-quarter of one mill (0.25) tax
increase to:

• Secure local ownership and control of
federally-controlled reservoir water,
• Rehabilitate existing reservoirs currently
under dam safety restrictions,
• Participation in small reservoir storage
projects where locally supported, and
• Provide matching funds for increased
water efficiency projects, particularly those
which also improve water quality.

The drought of 2002 has taught all of us that
we must be prepared for the inevitable drought
cycles in the arid West. Whether the current
drought continues into next year or visits us
again in ten years, we must plan ahead. This
requires a certain investment.

Additionally, several streams and rivers in
Western Colorado are federally listed as water
quality impaired. Before strict federal regula-
tions and standards are imposed, the River
District proposes to proactively address these
conditions, especially where increased efficien-
cy projects result in water quality improvements
and increased water supplies.

The River district’s TABOR referendum
represents a $2.30 annual increase in property
tax for every $100,000 in residential market
value for 20 years. If approved, the roughly
$2.7 million annual tax income will be dedicat-
ed to a separate capital project fund. These
funds cannot be spent for general administra-
tion. They will be used for capital projects to
prepare Western Colorado for drought and
address water quality issues before federal inter-
vention occurs.

The following question will appear this
November on all ballots within the Colorado
River District’s boundaries:

**REFERENDUM 4a**

Shall Colorado River Water Conservation District taxes increase $2,700,000 in the year 2003 and annually thereafter
through the year 2022 in such amounts as are received each year by the imposition of an additional property tax mill
levy not to exceed twenty-five hundredths (0.25) of a mill upon the taxable real and personal property within the
District; the revenues from which shall be deposited in a special fund and used solely for the purposes of capital fund-
ing of water supply, water development and water quality projects or programs throughout the District; and shall the
District be authorized to collect and spend or retain all such revenues and interest earned thereon, generated as a voter-
approved revenue change, not withstanding any revenue or expenditure limitation contained in Article X, section 20 of
the Colorado constitution or in C.R.S. 29-1-301.

With passage of Referendum 4a, the River District will:

- Purchase existing water resources in West Slope reservoirs, cur-
rently owned by the federal government, to solve water dilemmas that
come up in dry years and even in the not so dry ones.
- Assist local entities in constructing additional water storage proj-
ects.
- Combine local funds with matching federal funds to increase irri-
gation efficiency in areas of the West slope that have water quantity and
water quality problems.
- Rehabilitate dams and reservoirs that we already have to restore
the water storage capacity that has been lost over the years.

To Counteract Drought-Related Water Shortages
in 2002, the River District has:

- Compensated Redlands Water and Power Company to reduce
summer power-related demands and to remove the winter power call on
the Gunnison River.
- Negotiated with Orchard Mesa Irrigation District (OMID) and
Grand Valley Irrigation Company (GVIC) to arrange winter power call
reduction to prevent domestic water users from being shut off during
record setting low flows.
- Organized the release of 8,000 acre-feet of available Ruedi
Reservoir water to benefit Green Mountain Reservoir contract holders
without any water due to drought. This included arranging the donation
of 5,000 acre-feet of ExxonMobil contract water that State Engineer Hal
Simpson called “unprecedented.” Other West Slope water users also ben-
efited from this release.
- Successfully demanded that West Slope water users not be shorted
any water due to the risk that fully utilizing Green Mountain Reservoir
would trigger slide areas that threaten the Town of Heeney. Arranged for
release of 10,000 acre-feet from Ruedi Reservoir and remaining 10,000
acre-foot loss to be allocated to the pool that replaces water from upstream
transmountain diversions to mitigate loss of stored water at Green
Mountain.
- Arranged for a one year purchase of 1,400 acre-feet of Climax
water to increase water storage at Green Mountain Reservoir.
- Negotiated for release of 150 AF of water from Colorado Springs’
Upper Blue Reservoir to benefit Breckenridge Ski Area as part of substitu-
tion arrangement.

Colorado Water Rights
The Upper Colorado River Endangered Fish Recovery Program: Is it needed?

By Tom Pitts

Upper Basin Water Users Representative

Upper Colorado Endangered Fish Recovery Program

The Upper Colorado River Basin Endangered Fish Recovery Program was established in January, 1983. The stated goal of the Program is recovery of four endangered fish species (Colorado pikeminnow, razorback sucker, bonytail, and humpback chub) while water development proceeds in accordance with state law and inter-state compacts.

The Colorado Water Congress (CWC) was involved in the negotiation of the Upper Colorado River Endangered Fish Recovery Program from 1983 to 1987. In fact, CWC originally proposed recovery of the endangered fish as part of the negotiated resolution of conflicts with implementation of the Endangered Species Act (ESA). CWC has been involved in Program implementation since its inception.

In response, Colorado water users asked the Board of Directors to establish the Colorado Water Congress Special Project on Threatened and Endangered Species in 1983. The objective was to create an administrative solution that would 1) uphold interstate water compacts, and 2) ensure that the costs of any such solutions were equitably distributed, and 3) provide economic and regulatory certainty to water users.

Water users chose the course of negotiation rather than legal confrontation in light of the uncertainties associated with legal challenges to implementation of the Endangered Species Act. After four years of intense negotiations involving federal agencies, the States of Colorado, Wyoming, and Utah, water users, and environmentalists, the Upper Colorado River Endangered Fish Recovery Program was established.

National Policies of the Endangered Species Act

The ESA is, without question, the most powerful environmental law in this country. This is recognized by both proponents of the Act and by those who are affected by the Act in their everyday activities.

In the 1970s, the Act was primarily applied in the west to proposed construction of water projects by the U.S. Bureau of Reclamation. In the late 1970s, construction of Tellico Dam in Tennessee was temporarily halted to protect the snail darter. The decision to halt construction was upheld by the U.S. Supreme Court. In 1981, the Act was applied to a non-federal project, the Windy Gap Project. Colorado water users were among the first to be concerned about the ESA.

Application of the Act expanded with the number of species protected. The number of parties concerned about implementation of the Act grew proportionately. By the late 1980s, Congress was beginning to hear from many groups concerned about the power of the Endangered Species Act, and its social and economic impacts. By the early 1990s, calls for amending the Endangered Species Act to reduce those impacts were being made by a wide variety of interests. Those interests included local governments, some Indian tribes, commercial fishermen, trade organizations, timber and mineral interests, private property advocates, western water users, land owners, ranching and farming organizations, the Western Governors Association and others.

The Endangered Species Act was scheduled for re-authorization by Congress in 1992, based on its five year cycle of re-authorization. Beginning in 1991, calls for reform of the Endangered Species Act resulted in bills being introduced by Congress to amend the Endangered Species Act. On the other hand, supporters of the Act urged Congress to strengthen it, and to fiercely resist any attempts to weaken the Act. As a result, there was - and is - no Congressional consensus on amending the Endangered Species Act.

Since 1991, numerous bills to amend the ESA have been introduced. None have made it through both houses of Congress. No amendments are likely in the foreseeable future. Congressional gridlock on amending the Endangered Species Act will continue. It cannot be strengthened and it cannot be weakened.

Power of the Endangered Species Act

The power of the Endangered Species Act derives from several characteristics of the law and implementing regulations:

1. The Act gives enormous administrative discretion to two federal agencies, U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service, and their employees, in making critical decisions. Those decisions involve listing, designation of critical habitat, determining whether or not impacts of an action will jeopardize a species or adversely modify critical habitat, and identifying mitigation measures (reasonable and prudent alternatives) to offset impacts of actions that affect endangered species or their habitat.

2. Most of the critical decisions made by the agencies are not subject to any economic or social impact criteria. The most fundamental decision, i.e., whether or not to list a species as threatened or endangered, is not subject to any economic or social impact criteria whatsoever, regardless of impact.

3. There are virtually no standards for application of scientific data to support decisions regarding endangered species. In an attempt to require the use of sound data, Congress included a requirement for use of the best available scientific and commercial data. In practice, this often means whatever might be available, and that data is subject to interpretation by the agencies.

4. With over 1,200 species listed as threatened or endangered, an increasing number of activities have some impact on endangered species, thus expanding application of the Endangered Species Act geographically.

5. For the most part, federal courts, including the United States Supreme Court, have upheld the decisions of the agencies implementing the Endangered Species Act, and the substantive provisions of the Act.

6. For parties needing federal permits or approvals to proceed, legal challenges of decisions by agency staff are not usually a reasonable alternative. This would result in holding up a project for an indeterminate time, with an uncertain outcome.

There has been virtually no change in the legislative, judicial, or regulatory environment since 1983 that would eliminate the need for the Upper Colorado River Endangered Fish Recovery Program.

Is this Program working for water users?

In 1983, when the Colorado Water Congress established the special project, three criteria were set forth for a successful negotiation:

1. Any solution must operate in accordance with interstate water compacts and state water law.

2. The cost would be equitably distributed.

3. Regulatory and economic certainty under the Endangered Species Act would be achieved.
Discussions of these criteria are provided below.

Intermediate water compacts and state water law. The Upper Basin Program operates in accordance with intermediate compacts and state water law, and has not been tasked with the purpose of providing habitat for endangered species. Contractual obligations of Bureau of Reclamation to water users are being met.

Water needed for endangered fish is obtained and administered under state law. Appropriations under state law have been made for endangered fish purposes in the 15-mile reach of the Colorado River for junior water rights. At this time, further appropriation is not being considered. However, as a condition of downlisting and delisting of the species, some form of legal protection of flows needed to ensure continued survival of the fish will be necessary. This will be done in accordance with state law.

Equitable distribution of costs. Primary funding for the Recovery Program is provided by congressional appropriations to Reclamation and USFWS. Under negotiated cost sharing agreements, the states of Colorado, Wyoming, and Utah are providing capital and annual funding for the Program. Project revenues are also being used to fund capital projects and annual costs associated with the Recovery Program. Capital projects include fish passages and fish screens at water diversions where needed, hatcheries, and habitat restoration. Operation and maintenance costs of these facilities are also paid by the Program.

Water users agreed to pay a one-time depletion fee on new depletions. In 1988, the fee was $10/acre-foot, adjusted for inflation. In 2002 it is approximately $15/acre-foot. Projects in existence as of 1988 do not pay depletion fees.

The total depletion fees collected to date have been approximately $1,064,285. Total cost of the Program to date has been approximately $110 million.

Regulatory and economic certainty. Economic certainty for water users is achieved through 1) operation of Program consistent with interstate compacts and state water law, and 2) predictable and acceptable compliance costs.

The Program has provided regulatory certainty for water users in the Upper Colorado River basin in Colorado, Wyoming, and Utah. As shown in Table 1, 684 projects have completed Section 7 consultation under the ESA between 1988 and June 30, 2002. These projects deplete 1,700,000 acre-feet per year. This includes consultations on almost 1.5 million acre-feet per year of historic depletions, and approximately 200,000 acre-feet per year of new depletions. These projects are in compliance with Endangered Species Act as a result of the actions taken by the Upper Colorado River Endangered Fish Recovery Program. No lawsuits have been filed on any of the 684 consultations. The distribution of these consultations by river basin is shown in Table 2.

Table 1

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<th>Table 1 Upper Colorado River Endangered Fish Recovery Program Summary of Section 7 Consultations by State (1/1988 through 6/30/2002)</th>
<th>REGIONAL DEPLETIONS</th>
<th>HISTORIC DEPLETIONS</th>
<th>NEW DEPLETIONS</th>
<th>TOTALS</th>
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Table 2

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<tr>
<th>Table 2 Upper Colorado River Endangered Fish Recovery Program Summary of Section 7 Consultations by River Basin (1/1988 through 6/30/2002)</th>
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Prepared by Water Consult, Engineering and Planning Consultants, Loveland, Colorado.

Conclusion

The judicial, legislative, and regulatory setting that prompted development of the Recovery Program has changed little since 1983. Of the available options for dealing with the Endangered Species Act, the Recovery Program appears to be the best course of action for the foreseeable future.

Water users in other parts of the country are experiencing significant problems with such conflicts. The Upper Colorado River Endangered Fish Recovery Program has allowed water users to avoid those types of lengthy and costly conflicts.

The Upper Colorado River Endangered Fish Program is clearly working for water users in the Upper Colorado River basin in Colorado, Wyoming, and Utah. The Program operates in accordance with interstate water compacts and state water law. Costs to water users have been minimized. A total of 684 water projects depleting 1,700,000 acre-feet per year have received ESA compliance as a result of the Program. The burden of ESA compliance has been shifted from individual water users to the Recovery Program.

Maintaining these benefits requires continued implementation of the Upper Colorado River Recovery Program, and achievement, over time, of recovery of the four endangered fish species.

Tom Pitts has served as Project Coordinator for the Colorado Water Congress Special Project on Threatened and Endangered Species since December 1, 1983. He is the designated representative of the Colorado Water Congress, Utah Water Resources Association, and Wyoming Water Association to the Upper Colorado River Endangered Fish Recovery Program. He is a principal of Water Consult, Engineering and Planning Consultants, Loveland, Colorado.