"With demand for water far outreaching increases in present sources of supply, conflicts between the States and the Federal Government over the control and use of water are growing sharper and more serious. The problem is a national one, but its threat is especially grave in the public land States of the semiarid West, where not only is water even more scarce than elsewhere in our country, but where Federal ownership of millions upon millions of acres of land give the Federal Government an asserted basis for claiming proprietorship, paramount rights, or title in fee simple absolute to all unappropriated waters in many of our States." (Senate Select Committee on Water Resources)

**COLORADO WATER CONGRESS NEWSLETTER**

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IN THE TRANSMISSION LINE CONTROVERSY, negotiations will take place between the Bureau of Reclamation and investor owned utilities on an individual company, state by state basis. Big question is whether negotiations will proceed to the full extent desired by Colorado water interests.

October 6th meeting of Upper Colorado River Commission on transmission line controversy was a disappointment. Colorado Water Conservation Board and Gov. McNichols vigorously sought to have UCRC set up an engineering committee to objectively develop transmission line recommendations that would help USBR and investor utilities negotiate towards the economically ideal system. New Mexico wouldn't go along, the federal representative abstained from voting and UCRC adopted a watered-down, mostly meaningless resolution. CWCB, with a 46% stake in the basin fund, is still trying to work through UCRC. But if this effort fails, CWCB may be forced to go it alone in efforts aimed at developing a mutually beneficial transmission system that will yield maximum net power revenues to the basin fund for irrigation development.

Congressional action last month on the transmission line issue may not have been decisive. Appropriations made available to the Bureau of Reclamation probably are not sufficient to permit much actual construction on controversial backbone lines. Next year, transmission line appropriations will be decisive ($50 million). If the transmission line issue is red hot again next year, there may be further congressional troubles on reclamation project authorizations.
Sweeping claims have been made by the Department of Justice that the federal government has proprietorship and overriding paramount rights. It's the old problem of whether ownership of land by the federal government carries with it ownership of water rights. Justice Dept. says it does, western states say it doesn't. Legislation clarifying federal-state water rights is difficult to enact. Meanwhile, the issue is being fought in the courts on many fronts.

The Pelton Dam decision by U.S. Supreme Court cast a shadow over all water rights on streams arising on federally reserved land. In the Fresno case the Justice Department claimed outright ownership by the federal government of all rights to all unappropriated water in California. In an Iowa case, U.S. Supreme Court held that a private utility licensed by a federal agency did not need to comply with state law preventing diversion of water from one river to another. In Nevada's Hawthorne Case, the Navy refused to comply with state law requiring certificates of appropriation from the state engineer on underground water supply for a military reservation. Nevada objected and now, several years and hundreds of thousands of dollars later, they are still arguing the matter in the courts.

Latest legal assault occurred last May when Justice Dept. filed a brief in U.S. Supreme Court vigorously objecting to these words of the special master in the Arizona v. California case: "State law governs intra-state rights and priorities of water diverted from the Colorado River." Justice Dept. brief asserted "The power of the Secretary to determine, without threat of veto by State authorities, the quantities and priorities of the water to be delivered is essential to efficient and effective operation intra-state as is his power to select the persons to whom the water will be supplied."

What do you think of this statement:

"In our view the Colorado doctrine, insofar as it may deny ownership by the United States of the right to use on its public and reserved lands the waters which pertain thereto and which are not the subject of valid prior appropriations, is not legally sound." (Justice Dept. comments on Mitchem study, Senate Interior Committee hearings, June 15, 16, 1961.)

COLORADO TOWNS AND CITIES: Pueblo citizens will be well informed when they vote next month on the issue of whether or not Pueblo Water Board should be abolished. Pueblo Chieftain
reporter Terence Curran has written a comprehensive series of over 20 articles on the water board. . . Westminster officials are looking for new sources of water following rejection of the proposed Standley Lake contract by Farmers Reservoir & Irrigation Co. . . .

Georgetown Dam on Clear Creek won't be rebuilt by Colorado Game & Fish Commission. Biologists say the site is unsuitable for fish. Georgetown might seek help from other agencies to rebuild the dam. . . Walsenburg is working closely with G & F Dept. on agreements regarding use and development of the Martin Lake recreational area. . . $192,000 dam on Lester Creek near Steamboat Springs will be constructed by Colorado Game and Fish Dept.

. . . Winter Park hosted (last month) the first field meeting of the Advisory Committee on Multiple Use of the National Forests.

Montrose will host wilderness bill hearings on November 1. Testimony before Public Lands Subcommittee of House Interior Committee will be given by Colorado Water Congress, Tri-County Water Conservancy District and others. . . Trinidad is attempting to have a 200,000-acre tract in the Fisher's Peak Area (including several lakes) designated as a national park. . . Loveland city council approved the sale of $1.2 million general obligation bonds to finance improvements and additions to the city's water system (3.427% net interest). . . Glenwood Springs' city forces are constructing a new water inlet and filtration system in Glenwood Canyon. . . Proposed $1 million bond issue by Alameda Water and Sanitation District in suburban Jefferson County for water distribution system (Denver water) was defeated by 7-to-1 ratio in recent vote. . . A New York engineering firm has recommended an alternate site for the new Denver metropolitan sewage plant. It's in an area bounded by the S. Platte River, Sand Creek and the Burlington Ditch.

WATER PEOPLE: Leonard R. Kuiper will be acting director of the Colorado Water Conservation Board during Felix Sparks' absence on active military duty. Kuiper's background: Colonel in chemical warfare service, World War II, operated private contracting business in Delta, city manager for Delta, manager of public works for Aurora, CWCB chief engineer. Kuiper placed second to Sparks in State Civil Service exam for permanent appointment to the director's job. Three others in a field of 14 passed the exam conducted by a 7-member board of specialists: Marvin Greer of Englewood (engineer), Robert Gildersleeve (CWCB deputy director) and David Miller of Greeley (CWCB member and attorney).
William R. Kelly of Greeley has been awarded the second annual William Lee Knous award by the University of Colorado for distinguished service in his chosen field. Kelly, a widely known water law expert, was attorney for Northern Colorado Water Conservancy District for many years. Richard S. Kitchen, Denver attorney, has been appointed special instructor in water law at Denver U. Allen P. Mitchem, Denver attorney and minority counsel for Senate Interior Committee, prepared a significant "Memorandum on State Water Rights" for Interior Committee hearings on federal-state water rights, June 15-16, 1961. Mitchem's memo drew vigorous comments from the U. S. Dept. of Justice. The name of Selby Young, Colorado Springs rancher and former vice chairman of the Colorado Water Congress, is included in the list of possible candidates in southeastern Colorado for congressional nomination.

Joe Barrett, USBR engineer in charge of planning for the South Platte and Arkansas river basins, is leaving soon on an extended foreign assignment. Wallace Miller, formerly in charge of the USGS surface water branch in Denver, is now head of a newly established USGS planning and operations section in Washington, D. C. Nominating committee for Colorado Water Congress' forthcoming annual election of officers: J. R. Barkley of Loveland, Clarence Quinlan of Antonito, John Barnard, Jr. of Denver. Main speakers at the National Reclamation Association annual meeting in Billings included Colorado's congressman Wayne Aspinall and J. Edgar Chenoweth. J. R. Barkley was chairman of NRA's water users sectional meeting. Nebraska Reclamation Association's newsletter quotes major portions of Congressman Aspinall's address "Reclamation Pays". (Copy available from NRA, 897 National Press Bldg., Wash. 4, D. C.)

WATER LITIGATION: Colorado Supreme Court recently made a far-reaching decision on the Eagle River adjudication case. The high court unanimously (Justice Sutton of Colorado Springs abstaining) overruled District Judge Luby of Eagle and granted conditional decrees to the metropolitan Suburban Water Users Assn. (includes Colorado Springs and Aurora), Denver and Colorado River Water Conservation District. CRWCD had vigorously opposed the granting of conditional decrees to Eastern Slope cities on grounds that needs for water were speculative. John Barnard, Sr. of Granby, CRWCD attorney, has filed a motion with the Colorado Supreme Court asking for a new hearing.
Big suit in the Arkansas Valley now in preliminary stages may establish underground water law if eventually appealed to Colorado Supreme Court. It may also establish precedent regarding the effect of federal soil conservation dikes, dams and diversions on downstream water rights. Plaintiffs seek damages and injunction prohibiting further water diversions by defendants. Plaintiffs allege defendants have constructed dams and diversions interfering with flow in Horse Creek, source of water for Box Springs Canal & Reservoir Co. Defendants claim an assistant water commissioner advised them to use the soil conservation methods now under attack. Case has been continued to November 7 in district court at Ordway.

Suit in Trinidad alleges that Northside Ditch Company illegally shut-off irrigation water at a time when failure to receive water would damage crops. Defendants claim plaintiff was delinquent in ditch company payments. Hearings have been continued to November. . . A $350,000 civil suit filed in district court at Golden seeks to restrain Adolph Coors Co. from pumping water from wells. Plaintiff (a geologist and greenhouse operator) contends that wells drilled by defendants "deprived him of his home and forced him to live in motels and hotels and eat his meals in a restaurant."

Arvadans have protested overloaded sewers which backup and overflow into basements during heavy rains. Taxpayer: "The city claims it has municipal immunity from a suit. I can't afford a claim that won't pay off, so I guess I'm stuck." (James Eddy, a $600 loser) . . . City of Grand Junction has been notified by two downtown business firms that it will be expected to pay damages and all expenses resulting from water main breaks. (Water main breaks have been occurring recently in GJ at the rate of nearly one a day.)

Bostwick Park Water Conservancy District, formed by court order on Sept. 6, was in district court this month to settle a dispute between opposing factions over appointments to board directorships. (BPWD, composed of portions of Montrose and Gunnison Counties, was formed to contract with federal government for proposed Bostwick Park project, a storage project participating unit) . . . Grand Valley underground water case is going to the Colorado Supreme Court. Motion for additional time to prepare appeal has been granted and writ of error has been filed by John Barnard, Jr., first assistant state attorney general . . . Kannah Creek water case won't be retried in district court. Judge Dutcher overruled
a new trial motion by a group of Whitewater area farmers. Farmers will await results of a study by state engineer's office before deciding on appeal to Supreme Court.

Water litigation in district court for Rio Blanco County is looking like one of Colorado's classic, no-holds-barred inter-basin water battles. Battlers: Rocky Mountain Power Co. of Denver, sponsor of Sweetwater hydroelectric project (plan to divert water from South Fork of White River to Sweetwater Creek, Colorado River tributary above Dotsero). Yellow Jacket Water Conservancy District, sponsor of proposed Yellow Jacket project (USBR plan to divert from White River into Yampa River drainage). White River ranchers diverting through Highland Ditch. White River Electric (REA) Assn., member of Colorado Ute Electric Assn., owner of a White River power right not used since about 1948. Individuals and organizations interested in saving water for oil shale development and preventing trans-basin water diversion.

Wanted from District Judge Clifford Darrow of Glenwood Springs: Conditional decrees by Rocky Mtn. Power Co. and Yellow Jacket WCD (They've reached agreement between themselves on relative priorities). Change in point of diversion by White River Electric (Proposal to transfer power right upstream to Highland Ditch apparently would block RMPCo., would also seriously endanger feasibility of Yellow Jacket project). Additional conditional decrees (ahead of Sweetwater and Yellow Jacket) by local ranchers with senior decrees who claim they have been using water in excess of adjudicated rights.

Current situation: Peace pipe has been offered by Yellow Jacket board to White River Electric board. Adjudication proceedings set for Sept. 25 were postponed to December 11 because of procedural snafu (notices weren't mailed to water users). Petition for change in point of diversion hearing was set for October 16. Main issue: That old Colorado bugaboo of what constitutes abandonment of a water right.

Grand Junction Sentinel: "Many western states have laws spelling out how much time may elapse during which water is not used before the right is considered abandoned, but Colorado, a pioneer in much western water law, never got around to putting such a measure on the books."

Denver Post: "A challenging and vital task has been put before five Colorado attorneys: helping to draft the first general codification of Colorado water laws in the state's history."
"The job is long overdue. Colorado's water law has largely grown according
to need. It should be simplified, clarified and whenever possible, improved. . .

"Many decrees, issued years ago, have not, or are not, being used. But by
being on the books they constitute a major hazard to anyone who would like
to put that water to use. The law really isn't specific enough as to what
constitutes abandonment" (Editorial 9-26-61)

Ray Moses (Chairman, Colorado Water Recodification Committee): "No matter
how good the proposals of the committee may be, they cannot be enacted into
law without the support of an informed public.

"Our committee welcomes the press to any of our meetings and hopes that the
excellent coverage given the inception of its work will continue, so that all
may know the problems and the efforts being made to correct them."

COLORADO WATER RESEARCH: Southeastern Water Conservancy District officials have decided
not to contribute $10,000 at this time to supplement available funds for joint state-federal
water research study in the Arkansas Valley. SEWCD will work to secure additional funds
for this study in the next session of the legislature. (Study by CSU and USGS seeks ways
of using surface and groundwater resources of the Arkansas Valley in Colorado in a coordi-
nated manner to provide maximum benefits.) . . . State of Colorado is contributing $100,000
is fiscal year for continued USGS investigations of Colorado's underground water resources.
(Federal government has appropriated $100,000 in matching funds.)

Governor Steve McNichols: "Comparatively little is known about Colorado's
underground water supplies. We cannot begin to achieve full development
of our water potential until we know more about this."

Drainage well technique for lowering water table and removing salt accumulations is a
promising result of Grand Valley irrigation research. (By CSU & USDA in cooperation with
Mesa County agricultural research committee, county commissioners, Lower Valley Soil
Conservation District and several industrial and commercial firms.) Pumping wells would
supplement open drainage ditches. Other GV research indications: Community approach may
be best way to finance drainage wells . . . Border irrigation (sloping borders with cross
checks) reduces land leveling costs, controls water while leaching salts . . . Plastic
drain tile (installed at less than 10 cents a foot) is economically feasible.

"Reservoirs and Fishing" by Tom Lynch and Rex Taliaferro is an interesting research
article in Colorado Outdoors (Colo. G & F Dept.) magazine for Sept-Oct 1961. Discussed:
North Sterling and Jumbo Reservoirs in northeastern Colorado, Horse Creek and Two Buttes
reservoirs in southeastern Colorado and the controversial question of whether fluctuating reservoirs provide fish resource benefits.

**Colorado Outdoors:** "For many years it has been the belief that water level fluctuation in irrigation reservoirs was the major factor that limited sport fishing success. Current information, however, derived from reservoir research, indicates that the proper use of irrigation storage space has a far greater influence on sport fishing.

"More than 60 percent of the warm water sport fishing in Colorado is confined to the waters of irrigation reservoirs . . . the tenacious ability of most fish species to survive and multiply regardless of the deficiencies of the reservoir environment or their operational patterns has resulted in sport fishing opportunities in spite of everything."

**Tree crusher** is being tested by U. S. Forest Service in the Uncompahgre National Forest. Fifty ton machine pushes over unsaleable brush and trees and grinds them into the ground . . . **Oil shale research** progress has been reported by a team from the U. S. Bureau of Mines Petroleum Research Center at Laramie, Wyoming. **Progress:** Freeing the kerogen oil base product from pyrite, a mineral which has largely defied commercial separation.

Little publicized **cooperative watershed research** is underway in Colorado under provisions of the Watershed Protection and Flood Prevention Act. **Badger Wash** study (4300 federal acres in western Colorado) has four federal agencies cooperating: Geological Survey, USBR, Forest Service, Bureau of Land Management. BLM will construct all improvements. Final results of study are not expected for some 20 years.

**COLORADO WATER DOLLARS:** Colorado has been allotted $1,038,500 (out of $80 million federal appropriations total) to help finance **sewage disposal facilities** . . . Colorado Water Conservation Board budget for next fiscal year ($491,111) is less than this year's budget ($509,000). Budget breakdown: $171,141 general administration, $265,250 special investigative studies, $54,720 interstate compacts (includes $51,750 to Upper Colorado River Commission, 51.75% of UCRC's expenses) . . . **One billion dollars** is the price tag on authorized or planned water resource development in Colorado over the next 20 years. **Federal projects in Colorado:** $41 million for projects authorized but not yet started; $318 million for projects awaiting authorization; $281 million for projects being feasibility studied; $246 million for projects now in reconnaissance investigation stage.
COLORADO WATER PROJECTS: CWCB has informed USBR of its full approval of the Bureau's proposed feasibility report for the Animas-La Plata project in Southwestern Colorado and New Mexico. Feasibility report on proposed Bostwick Park project in Gunnison and Montrose Counties has been forwarded by USBR to CWCB and interested federal agencies for comment. Definite plan report for Silt project (Western Colorado) is expected soon. Request for federal appropriations might come next year.

**Narrows project:** USBR has completed a site selection report which recommends the Narrows site over the Weld County (Hardin) site. At steering committee's suggestion, USBR will prepare an addendum setting forth alternative benefits and capabilities of both sites as far as upstream exchange potential is concerned. In these further planning studies, USBR will assume that an upstream reservoir (Two Forks or equivalent) will be built. Over $1.5 million has been spent to date on USBR planning for Narrows. Colorado is contributing $100,000 to current site selection studies by USBR. Water user concern: Narrows wheel spinning.

**Trinidad project:** Authorized multipurpose flood control and irrigation project now in final planning stage. Main feature is proposed $27 million Trinidad dam on Purgatoire (Arkansas R. tributary) five miles west of Trinidad. Planning completion anticipated for 1963, then construction by Corps of Engineers. USBR is planning irrigation features and negotiating repayment contract with Purgatoire River Water Conservation District. USBR says Trinidad dam won't affect John Martin Reservoir water supply.

**Indian Wash Dam** in Grand Junction will protect more than $1 million of assessed property value from flooding. Construction of 62-ft. dam will start next year. Sponsor: Soil Conservation Service. Participants: Grand Junction Drainage District, Grand Valley Irrigation Co., City of Grand Junction, Mesa County. (These local groups are providing equipment and labor.) Mesa County has agreed to provide maintenance after construction. City of Grand Junction will be the contracting agency for dam construction.

**Fishers Peak flood retardation dam** south of Trinidad is under construction. This 5,000 SCS-engineered project is a cooperative effort of the City of Trinidad and Purgatoire Soil Conservation District. Big Sandy Creek SCS project in Elbert and
El Paso Counties is nearing completion (14 small dams). Recently added: Enlargement of Ramah Dam, between towns of Ramah and Calhan to provide 500 acre ft. permanent pool for fish and wildlife. Colorado G & F Dept. will pay half (federal government half) of $105,000 enlargement cost.

Watershed rehabilitation projects: Trout Creek project, a pilot venture by U. S. Forest Service, is utilizing a complete conservation program to halt erosion and improve water utilization in the upper Arkansas River basin . . . Sheep Creek project, east of Collbran, is a Forest Service watershed rehabilitation project started several years ago. Current work includes contour trenching, gully sloping and gully plugging to retard flood runoff and prevent soil erosion.

Corps of Engineers official (Col. Arfman), speaking to a group of Fremont County civic leaders and farmers, emphasized the need for a comprehensive flood control survey of the entire upper Arkansas River basin, instead of piecemeal work. Arfman: "There is no point in trying to come up with a cure for dandruff when the patient is afflicted with cancer." Army Engineers now have funds for planning an 11-mile flood protection dike along the Arkansas River. Appropriations request for dike construction is anticipated for 1963.

COLORADO WATER NEWSBITS: First concrete lined irrigation ditch in Las Animas County has been installed on the Richard Compton farm south of Hoehne . . . Colorado high school students will see the Freeport, Texas salt water conversion plant this month in a 20-minute news and feature film (Screen News Digest's "Camera on the World") made available by Colorado Fuel & Iron Corp., Denver Post and Rio Grande Railroad . . . Beautiful Soil Conservation Service color photographs in Denver Post's Empire Magazine (9-3-61) showed water facilities in Mt. Sopris Soil Conservation District above Glenwood Springs . . . Colorado G & F Dept. has swapped Williams Creek Reservoir, northwest of Pagosa Springs to the U. S. Forest Service in exchange for acreage in national forest area . . . Irrigation practices were the most popular Soil Conservation District programs during the past year in the Rocky Ford area.

SUPPORT YOUR WATER CONGRESS. PLAN TO ATTEND THE ANNUAL MEETING IN DENVER ON NOVEMBER 17.