"We don't intend to stand for our government trading Colorado River water for a handshake with the Mexican governor . . . They can give away our money but we can't print water." (Remarks at the Colorado Water Conservation Board meeting on January 17, 1962.)

COLORADO WATER CONGRESS NEWSLETTER

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THESE ARE CRITICAL TIMES for Colorado water users. Serious problems confront your state water policy board and major water interests. Each problem is big, difficult to handle, mostly submerged in controversy and complexity.

Take time to become informed about Colorado water problems. Take a quick highlighting trip around Colorado's water front with your Water Congress Newsletter.

First stop: Colorado's long-awaited FRYINGPAN-ARKANSAS PROJECT.

It's now or never for Fry-Ark authorization. Here's why: Fry-Ark is a two-time loser. First introduced in 1952, it passed the House Interior Committee twice. Received a favorable rule once from House Rules Committee, but the House declined to accept the rule for debate and sent it back. Fry-Ark passed the Senate three times but never has been allowed on the floor of the House.

Fry-Ark's last-chance congressional effort has been carefully quarterbacked by Colorado's Wayne Aspinall, chairman of the powerful House Interior Committee.

Fry-Ark passed the House Interior Committee last year and is now awaiting House Rules Committee clearance. Then: crucial House floor debate. If Fry-Ark clears the House, Senate approval should come rather easily.
Everything possible is being done to help Fry-Ark. Colorado's congressional delegation is uniting solidly behind the project. Help from the reclamation West is expected. Southeastern Colorado Water Conservancy District is opening a Washington office to provide more on-the-spot help for its project. Felix L. Sparks, Colorado Water Conservation Board director (now on active military duty), may be able to devote week-ends in Washington to the authorization effort. Interior Department help potential increased considerably with the recent appointment of a highly capable New Mexican (Robert C. McConnell) as congressional liaison officer.

Many congressional perils await the Fry-Ark when it walks the authorization tightrope. Aspinall and New Mexico's Clinton Anderson, chairman of the Senate Interior Committee, apparently have buried one threat . . . the omnibus reclamation bill proposed by Interior Secretary Udall. It would have put reclamation, flood control, rivers and harbors projects together in a gigantic authorization pork barrel loaded with politically appealing pet projects of questionable feasibility. Such a bill would have been so big that the President probably couldn't sign it.

Congressional timing is a big hazard for the Fry-Ark. Experts say that even the day of week is important for corralling certain votes. Biggest concern is to get Fry-Ark and New Mexico's Navajo-San Juan-Chama to the House floor before they become involved in controversy over other reclamation proposals. Supporters of highly controversial Burns Creek power project in Idaho would like to speed up committee hearings and hitch onto the 1962 authorization train. No-holds-barred congressional fight over public v. private power appears imminent.

THE TRANSMISSION LINE CONTROVERSY is simmering. Technical level discussions between Bureau of Reclamation and private utilities have been encouraging. But the negotiation climate may have been shattered by Colorado-Ute's application for a federal REA loan to build the first unit of a big steam electric generating plant near Craig.
Engineering committee of the Upper Colorado River Commission was supposed to report back to UCRC by Jan. 15 on economic evaluations of transmission line proposals made by private utilities. But no UCRC meeting is scheduled. Bureau of Reclamation has announced plans to issue bid invitations soon for constructing four of the controversial transmission lines. But construction won't get under way until Congress appropriates funds. These appropriations may be difficult to obtain.

Colorado-Ute's loan application charged the western power picture with more controversy. Granting of the $20 million, 2% interest loan is expected soon. Then another big power debate will get under way. **Question:** Can federally financed REA steam plants be built to firm-up Bureau of Reclamation hydrosystems? REA assumes it has the necessary authority by acts of Congress. USBR likes technical and financial aspects of the idea. Interior and Agriculture Departments want it. But investor owned utilities disagree, claim this life and death matter must be decided by Congress or by the courts, not be administrative agency decision.

GLEN CANYON FILLING CRITERIA problems are still around, still undecided, still as important to Coloradans as they were in 1958. That was the year your Water Congress went all out to put Colorado's top legal and engineering talent to work on hurryup Glen Canyon studies. **Upper basin prospects** for fair treatment on Glen fill look much better now. But remember, it's a power issue and various Glen Canyon interests are deeply involved in other hot controversies. Interior Secretary Udall will have to decide soon. Filling of Lake Powell is scheduled to start next January.

**THE WILDERNESS BILL** passed the Senate last year carrying some, but not all, of the amendments necessary to protect western water interests. House Interior Committee hearings will start soon. Passage of the wilderness bill is expected this year. **The question is** not how to fight the bill, for it has good general objectives, but rather how to add protective amendments.

**The Senate-passed wilderness bill** allows establishment and maintenance of
transmission lines, reservoirs, water conservation works and other facilities in wilderness areas, providing the President authorizes such uses within a specific area "in accordance with such regulations as he may deem desirable." It also allows gathering of water resource information and completely subsurface use (water tunnels) under wilderness areas, if these activities are carried on "in a manner which is not incompatible with the preservation of wilderness environment."

These Senate amendments are largely the result of vigorous efforts by Colorado's Senator Gordon Allott.

**Senator Allott fought hard** for a key amendment to provide that wilderness areas could only be established by affirmative acts of Congress. But he couldn't get it into the Senate version. As it now stands, wilderness areas would be virtually created by the Secretaries of Interior and Agriculture. The President, acting on the Secretaries' recommendations, could recommend that a vast area be made a permanent part of the wilderness system. This recommendation would become law if during one full session neither House of Congress takes action to disapprove it.

**Leonard R. Kuiper:** We do not feel that adequate safeguards, to permit the orderly conservation and development of our rapidly dwindling water supplies, have been incorporated into the legislation now under consideration. It is our feeling that this legislation approaches the problem from the negative rather than from the affirmative side. As a practical matter the (wilderness) Act amounts to an abandonment of Congressional authority over public lands and leaves the disposition of vast areas to the decisions of administrators who are not answerable directly to the people. It is our feeling that a more proper procedure would be for the legislative branch to take affirmative action in the establishment of specific wilderness areas. The legislative branch should not be placed in the position of being required to veto administrative recommendations. The privilege of local and state interests of making their voices heard in the halls of Congress through affirmative actions of their elected representative should not be denied . . .

"At present 21-1/2 percent of the land area of the State of Colorado is included in national parks, monuments, and national forests (including wild and primitive areas). The concern we have for the administration of these areas can be appreciated when it is realized that 90 percent of the water supply in Colorado, which is subject to development for beneficial uses, originates within this 21-1/2 percent of our state. Anything which is done in this area, whether it be in the nature of restrictive
regulations or permissive regulations, affects water, the life blood of our economy." (Statement by acting director of Colorado Water Conservation Board before the Public Lands Subcommittee of the House Committee on Interior and Insular Affairs, Montrose, Colo. (Nov. 1, 1961.)

THE WATER RESOURCES PLANNING ACT OF 1961 is receiving much attention in the West. This is an administration bill aimed at coordinated planning of water and related land resources. It was introduced last year in the Senate (S. 2246) by Clinton Anderson of New Mexico and in the House (H. R. 8177) by Colorado's Wayne Aspinall. Joint hearings have been held by the Senate Interior Committee. House Interior Committee hearings are expected to follow consideration of the wilderness bill. The WRP Act is expected to be pushed hard this year on Capitol Hill. It's the administration's answer to Senate Select Committee recommendations and to the widely recognized need for a national water policy and for better coordination between federal water resource agencies. It's the most far-reaching legislation on water resources planning and development to be presented to Congress in many years.

The planning act proposes to establish a water resources council and river basin commissions. It proposes to provide financial assistance to states for water project planning. The council would be composed of four cabinet level secretaries or their representatives. Job: Develop water policy recommendations for the President in a joint manner . . . establish principles, standards, procedures for preparation of comprehensive regional and river basin plans, review joint plans for comprehensive river basin development. Council would have a small, high-grade staff.

River basin commissions would be created upon request of one or more governors of in-basin states. Membership: Chairman, four federal representatives (one from each department), one or more representatives from each basin state . . . all appointed by the President. Job: Coordination of federal, state and local planning for water resource development. No administrative or control responsibilities. Something like present river basin interagency committees, but with status as the principal agency for coordinated regional water planning.
Financial aid to states would be similar to grants now made under the federal water pollution control act passed last year. Appropriations of $5 million a year would be available to states as grants to assist them in developing comprehensive water resources plans. Allotments would be based on state's population, land area, planning need and financial need.

Broad objectives of the planning act are good, long overdue. But like the wilderness bill, the planning act needs amendments to protect western water interests. Biggest concern is that too much power over water development would be given to federal agencies, not enough power to local, state and river basin compact organizations. Colorado Water Conservation Board staff will study the planning act further, will probably recommend specific amendments at CWCB's March meeting. Colorado Water Investigation Commission has made preliminary studies, will help CWCB develop protective amendments. National Reclamation Association committees are giving serious consideration to the planning act.

Colorado Water Conservation Board: "A dominant purpose of any such legislation should be to provide for effective participation of the various states at both the national and regional levels in water development planning and construction with the states having the preponderant influence in matters which are principally of local or regional concern . . .

"This Board offers to assist the Congress, through the use of its staff and the Colorado Water Investigation Commission, in the preparation of specific legislative language to accomplish the good purposes and avoid the possible pitfalls presently inherent in such legislation, and without correction of which the legislation, is not acceptable." (Resolution adopted at 1-17-62 Board Meeting.)

MEXICO'S PLEA FOR MORE COLORADO RIVER WATER is a serious matter.

History: Mexican Treaty guaranteed 1.5 million acre feet of Colorado River water each year to Mexico by scheduled release from Lake Mead. Salinity has been increasing steadily on lower Colorado due to irrigation return flow and depletions by transmountain
diversions. Salinity increased rapidly last year when a new drainage system in New Mexico began discharging return flow into the Colorado River channel above Yuma. Last year the Secretary of Interior granted Mexico 40,000 acre feet in excess of treaty obligations when Mexico was short of water. Last month Mexican water users protested to U.S. State Department about delivery of highly saline water. The Secretary of State apparently ordered the Secretary of Interior to release water from Lake Mead in excess of treaty obligations, in order to improve water quality. Forceful objections from Colorado Water Conservation Board, Colorado River Water Conservation District and Upper Colorado River Commission were transmitted to the Secretary of Interior. Secretary Udall adjusted the treaty delivery schedule to give Mexico more water now, less later, without increasing the treaty's annual delivery total.

Water quality isn't mentioned in the Mexican Treaty or in the Colorado River Compact and related documents. Congressional hearings in U.S. on Mexican Treaty ratification established a record of intent that there were no quality limits. But Mexico's treaty ratification testimony record apparently mentioned water quality standards. The Pan American Treaty (1929) between U.S. and Pan-Am states provided arbitration machinery for settlement of international disputes. Big legal question is whether Mexico can demand that the Colorado River water quality question be submitted to arbitration under Pan American Treaty procedures, if dispute settling machinery provided by Mexican Treaty and International Boundary Commission deadlocks? Pan-Am method of arbitration on Mexican Treaty water problems would not be good for Colorado River basin states.

Rescheduling of treaty deliveries has not solved anything. It merely postpones the salinity crises for a few months. Colorado River Compact requires upper basin states to make up half of any deficiencies in Mexican Treaty water deliveries.
Colorado has a 52% share in the upper basin's water delivery obligation. Real danger lies in possibility of State Department intervention in behalf of an administration which is deeply sensitive to international relations in the Western hemisphere.

Colorado Water Conservation Board staff is due much credit for its quick and decisive action in meeting the Mexican salinity crisis. CWCB's actions were criticized by some of the other upper basin states. CWCB has assigned Donald Hamburg to further studies of Mexican salinity legal problem. Colorado Water Investigation Commission will help if needed. Attorney John Barnard, Sr. of Granby is chairman of a Colorado River Water Users Association (7 basin states) legal committee that is working on the Mexico problem. You will hear more about this salinity problem. It's important.

WATER FOR FISHING has become a perplexing Colorado water problem. Colorado Game and Fish Commission recently asked Eagle County district court to reopen Water District 53 adjudication proceedings so that it could file claims for fish water in Sweetwater Creek. G & F seeks to appropriate the flow of Sweetwater Creek (without diversion) "to maintain constant lake levels and minimum and maximum stream flows in amounts necessary to preserve fish, promote the propagation of fish, and preserve the public recreational values . . ." G & F's legal attack is against a private organization (Rocky Mountain Power Co., Denver) which seeks decree for a proposed hydroelectric power project on Sweetwater Creek, a Colorado River tributary.

Precedent implications are of the greatest concern to Colorado Water Conservation Board, and to all water interests in Colorado.

The G & F commission's attempted move into the Eagle water rights proceedings raises disturbing ethical and administrative questions. Colorado Attorney General's office is supposed to represent all state agencies, including G & F and CWCB, in litigation. But Colorado Game & Fish Commission is paying for the legal services of
a special assistant attorney general who is a member of a law firm that is opposing
the power project for private clients in the Eagle and Meeker proceedings, and represen-
ting property owners from whom project rights of way must be obtained. If CWCB
now turns to the attorney general's office for legal services, this would put two staff
members of the attorney general's office on opposite sides in the adjudication pro-
ceedings. This can't be done.

Serious questions are being raised about the effectiveness of administrative
machinery available to the Department of Natural Resources. NR Dep't. was supposed
to resolve inter-agency differences long before they reached the court room stage.

CWCB has diligently worked through the Natural Resources Dep't. on matters of
inter-agency concern. But not the Game & Fish Dep't. It's 1960 annual report (just
released) shows an organization chart with the director of natural resources in a staff
(rather than line) position between the G & F Commission and the Governor. This
implies advisory services rather than chain of command authority. Incidentally, the
G & F Dep'ts. chart also shows a new division "created for land and water acquisition
and development for fish and game purposes." And the State Fish Manager's annual
report list of specific objectives for future years includes "A continuous program to
include fish, wildlife and recreation as recognized uses under state water laws."

DON'T YOU AGREE? These are serious times for Colorado water users. This
month's water highlights do not cover the entire list. There's the water law recodifi-
cation proposal for example. It's due to be released soon for extensive discussion prior
to consideration next year by the state legislature. There's a problem on the assign-
ment of water rights held by the Colorado River Water Conservation District to the
Bureau of Reclamation for the Curecanti project. It involves priority of beneficial
uses by participating irrigation projects over storage in Curecanti and proposed limi-
tations on CWCB support for new federal transmountain diversion projects.... There
are many other water problems, each vitally important to some Colorado water people.