"Today all parts of the Nation are being caught up in a movement toward full comprehensive development of water resources. This movement is emerging as the dominant conservation issue of our time. We are beginning to realize that our Nation's economic future demands that we develop to the fullest extent all of the Nation's water resources whether the water eventually is to be used for agriculture, industry or for our rapidly growing cities and towns."

(Rep. Wayne N. Aspinall of Colorado, 11-29-62)

**TAX WRITE-OFF FOR WATER?** A U.S. district judge in Texas has ruled that farmers can claim an **income tax depletion allowance** for irreplaceable ground water used to irrigate crops. This decision, if upheld on appeal to U.S. Supreme Court, may establish legal precedent of great significance to some Colorado water users.

**Background:** In 1954, High Plains Water District of Lubbock, Texas started gathering factual evidence for a test suit seeking a depletion allowance on **non-renewable groundwater**. In January 1962, the case was tried in federal court at Lubbock. Marvin Shurbet, a west Texas farmer, sued the U.S. Internal Revenue Service for an **income tax refund** of about $300. The case was decided recently, when Judge Joseph Dooley upheld Shurbet's argument that the **irreplaceable groundwater** he uses for crop irrigation is a **mineral** and should be subject to a depletion allowance similar to that
allowed on gas and oil. **Dooley found** that groundwater used in the production of agricultural crops on the southern high plains of Texas is a depletable natural deposit under federal tax laws.

**This decision will help** dramatize the fact that some underground water supplies are truly exhaustible and that **conservation** and wise use of these supplies is a necessity.

**High Plains Water District:** "In the beginning (of this litigation) our Board had the feeling that too many people are not really convinced that the ground water is not being replaced, or that they accept the fact of decline only in an abstract sort of way. The Board thought that if each person had to physically check the water level in his own wells in order to take the tax deduction, that then the decline in water level would be a personal thing and would make him cognizant of his plight. Only when some men reach this point are they ready to discover ways and means of using water as efficiently as possible." (Tom McFarland, District Manager, 1-14-63)

**GROUND WATER BILL** recently introduced in the Colorado Senate by Sen. Ted Gill of Hillrose provides that in any proceedings there shall be **no presumption** that underground water either is or is not tributary to any surface stream. Colorado Supreme Court has ruled that in most instances groundwater is **presumed** to be tributary to a stream.

**Senator Gill:** "At a recent meeting of the Colorado Water Congress in Fort Morgan, it was brought out that geological surveys have shown that the present underground storage between Kersey and Julesburg in the South Platte Basin is in excess of 10 million acre feet of water. The fact was also brought out that this water travels downstream at the rate of five feet per day through the gravel. The value of this underground storage in acre feet amounts to as much as the Colorado-Big Thompson importation would amount to in 30 years or more."
'"Now if it has to be presumed that all of the underground water is a part of the South Platte, a call on the river by senior appropriators upstream could conceivably shut down all the wells on the river. My bill would simply clarify a matter of much confusion in the adjudication of water rights and provide some protection for owners of wells in areas of plentiful underground water."

**Interest in Sen. Gill's groundwater bill** is likely to be sparked by implications of the Texas water depletion allowance decision. **Full-scale debate** on the ground water bill has been announced by Sen. Ranger Rogers of Littleton, chairman of the Senate water committee and majority floor leader. **Sen. Rogers:**

"The more we talk about water and get the public to understand the problems of it, the better." Several senators are reported to be planning **extensive research** on the measure. A similar bill was defeated a few years ago by a single vote.

**NATURAL RESOURCES DEPARTMENT** may be abolished by action of the Colorado General Assembly. **Repeal of the law** creating the department is being discussed. Abolishment proposal may be inserted in the **Dines-Burch bill**, which is aimed at streamlining statutes covering state executive departments. **Governor Love** is reported to feel that the resources department function could be accomplished better by a member of his staff than by a separate department. **Opposition** to the resources department abolishment proposal has been expressed in recent western slope newspaper **editorials** (Grand Junction Sentinel, Glenwood Springs Sage).
WATER COMMITTEE assignments have been named by the Colorado General Assembly.


**General assembly members** who attended the January 9 meeting of the Colorado Water Conservation Board included Senators Rogers, DeBerard, Blackwell, McCulloch and Bledsoe and Representatives Wyatt, Gill, Gossard, McNeil, Kendrick, Pellet, Frank Kemp of Denver, Clarence Quinlan of Antonito and Art Anderson of Greeley. **Rep. Quinlan** has been an active supporter of the Colorado Water Congress since its beginning in 1958. Also attending the CWCB meeting were many members of the **Colorado Ground Water Commission**. Recent appointments and reappointments to this commission are **Simon Elliot** of Pueblo, **Lail Schmidt** of Lamar, **James McDaniel** of LaJara and **Frank Gray** of Bayfield.

**ON CAPITOL HILL,** biggest thing going for Colorado water users seems to be the **wilderness bill**. Sen. Clinton Anderson of New Mexico has introduced a bill similar to the controversial measure that
passed the Senate in 1961 but couldn't get through the House. **Substitute wilderness bill** authored by Colorado's Rep. Wayne Aspinall was reported out of the House Interior Committee late in the last Congress, but didn't receive a rule for floor debate. Reason: Aspinall insisted on a closed rule (no floor amendments). **Core** of the controversy over wilderness legislation is the degree of responsibility and authority to be exercised by the legislative and executive branches of federal government. **Anderson wants** to give wilderness authority to federal agencies. **Aspinall wants** Congress to retain direct control. Western water interests back Aspinall. Well organized, well financed conservationists are hopping mad at Aspinall. **Outlook:** Likely passage next year of a compromise version, somewhere between the Anderson and Aspinall bills but retaining most of the amendments considered essential by Aspinall.

**Death of Sen. Robert S. Kerr** of Oklahoma may affect Colorado water interests. Kerr's death improves chances for a reduction in the 27½% oil depletion allowance, at an opportune time. Treasury Department is now taking the view that some reduction in the depletion allowance must be recommended in connection with tax revision and tax reduction. Kerr's influence was a big factor in blocking previous attempts to make oil shale competitive by cutting the depletion allowance. Colorado oil shale boom would have a significant effect on western slope water development plans.
Kerr's death, combined with the recent death of New Mexico's Sen. Dennis Chavez, has weakened western influence on the Senate Public Works Committee. Chavez chaired, and Kerr dominated, this powerful pork barrel committee. New chairman: Sen. Pat McNamara of Michigan, who moves up front from No. 3 spot behind Chavez and Kerr . . . Sen. Clinton Anderson of New Mexico will give up his chairmanship of the Senate Interior Committee to become chairman of the Senate Space Committee, vacated by Kerr's death. Anderson might retain chairmanship of the Senate Irrigation and Reclamation Subcommittee. But his influence in congressional water matters probably will be decreased.

Anderson and Colorado's Wayne Aspinall, chairman of the House Interior Committee, have not seen eye to eye on western water problems. Anderson's departure would boost Aspinall's (and Colorado's) influence in the conservation and natural resources field. Furthermore, it would reduce New Mexico's retaliatory capabilities in connection with some trouble currently brewing with New Mexico (and Texas) over Colorado's water debt under the Rio Grande compact . . . Anderson's departure from Interior Committee chairmanship will put Washington's Sen. Henry Jackson in the Senate's water saddle. He rides a white public power horse, boldly and aggressively. Anderson was generally found in the public power camp, but was not labeled as an all-out public power zealot.
Floyd Dominy, popular and capable commissioner of reclamation, may be affected by the chain reaction set off by Sen. Kerr's death. Washington observers report that Dominy and Undersecretary James Carr have been feuding for two years, with each trying to pry the other out of his job. Showdown is near. Dominy has been supported by Anderson and Aspinall. But Jackson's support appears unlikely. Jackson didn't like the way Dominy compromised the Upper Colorado River transmission line battle. And he didn't like Dominy's handling of recent reclamation project repayment problems in Washington state... Three new Colorado reclamation project authorization bills have been introduced in Congress: Savery-Pothook in Routt County near Craig and extending into Wyoming ($15.5 million), Fruitland Mesa near Grand Junction ($27.3 million) and Bostwick Park near Montrose ($4 million)... 

COLORADO IS IN TROUBLE on the Rio Grande. Colorado owes over 700,000 acre feet to Texas and New Mexico, under provisions of the Rio Grande Compact. Colorado Water Conservation Board has been informed that Colorado faces a lawsuit if it does not act to alleviate this shortage prior to the Feb. 20 Compact Commission meeting. New Mexico and Texas have also indicated that they may vote against Colorado project authorizations and appropriations if Colorado doesn't fulfill its compact obligations. Painless solution has been proposed, in the form of a Bureau of Reclamation plan to pump salvaged drainage water into the Rio Grande from the San Luis Valley closed basin below Alamosa. Trouble is that San Luis Valley water users
aren't entirely convinced that the remedy is painless. They fear that the project might lower water tables and deprive them of some of their water supply. Colorado Water Conservation Board approved the closed basin drainage plan, on Jan. 9, now hopes to develop local support for the plan through meetings with water users.

WATER LITIGATION: San Luis Valley lettuce growers will find out if Colorado's commissioner of agriculture has constitutional authority to enforce a lettuce disc-up program initiated by the local board of control. Trial started Jan. 18 in Alamosa district court . . . Rocky Mountain Power Co. won a significant legal victory recently over Colorado River Water Conservation District in district court at Meeker. Judge Clifford Darrow dismissed claims by CRWCD for conditional decrees to maintain substantial flows for fish in the South Fork of the White River and several of its tributaries. . . . Rainbow Bridge suit against Interior Secretary Udall by a group of conservation lobbies has failed. U.S. District Court for District of Columbia was petitioned for temporary injunction to stop construction on Glen Canyon Dam until protective works are built around Rainbow Bridge. Judge said plaintiffs had no standing before his court to sue Udall . . . Reclamation project farmers in the Columbia basin have filed a test suit against the government to determine if they are liable for excess drainage costs as part of their operation and maintenance obligations.
Colorado PUC appears deadlocked over Colorado-Ute's application for permit to build a $30.5 million steam electric plant at Hayden. Howard Bjelland of Montrose, new appointee to the 3-man PUC, probably will decide the case. But first he will have to study nearly 3,000 pages of testimony and hundreds of exhibits . . .

Borrow areas for dam fill are subject to usual condemnation proceedings, according to a recent California Supreme Court decision. . . . Houston's $67.5 million industrial water development program is stalled by a lawsuit charging that financing an industrial water supply system with bonds backed by domestic water revenues is illegal and discriminatory . . . Water District 40 final hearing on conditional decrees started Jan. 18 at Delta. Diligence testimony in WD 40 has been presented during the past year . . .

Roberts Tunnel contractor may become involved in lawsuit with Denver Water Board over extra payment claims . . . San Joaquin River (Calif.) case now under consideration by U.S. Supreme Court may decide issues of interest to Colorado water users: (1) Is the Bureau of Reclamation required to comply with state water laws? (2) May the U.S. condemn water needed for industrial, municipal and domestic purposes for a lesser use such as irrigation? (3) May the U.S. charge cities a rate for water service which will produce a profit, over and above the government's cost plus interest on investment?
NARROWS PROJECT damsite selection problem has led to some interesting plans for future reclamation project reservoirs on the South Platte River. Narrows project was authorized many years ago, but subsequently bogged down in local controversy over where the dam should be located. Recent revival of local interest led to further Bureau of Reclamation studies, financed largely by Colorado Water Conservation Board funds. These studies looked beyond the Narrows damsite selection controversy, towards the possibility of an enlarged project plan that would include a federal reservoir at the Denver Water Board's Two Forks site on the South Platte River above Denver. Current USBR thinking is that there should also be a third reservoir. It would be at an off-channel location, immediately below the Denver metropolitan area at a point where Denver's sewage disposal plant effluent could be stored. These recent developments will be considered at the Feb. 13 meeting of the Narrows Steering Committee. However, these changes in the Narrows project plan are not likely to delay the decision as to whether the downstream dam will be located at the Narrows site or at the Weld County site. That decision is expected to be made before April 1.

COLORADO CITIES AND TOWNS: Pueblo has approved a $1.5 million bond issue for water distribution system improvements, which will be supplemented by a $1,185,000 federal grant. Pueblo is studying its future water needs to determine if it should negotiate for more
than its present allocation of Fryingpan-Arkansas project water.

... Report on the Alamosa meeting of the Colorado Water Congress by Paul Lincoln of Del Norte sparked a lively discussion on water at the annual meeting of the San Luis Valley Chamber of Commerce.

... Trinidad City Council nearly came to blows last month over a proposal to double water rates for customers living outside city limits. Trinidad will be protected from flood damage by two Soil Conservation Service flood control structures being constructed under provisions of Public Law 566. Florence is spending $300,000 for water system improvements. Aquilar is planning to improve its water system. Las Animas is studying a long range water plan. Walsenburg is considering the possibility of using a 66% federal grant under the accelerated public works program in Huerfano County to improve its water and drainage systems.

Lamar has increased its minimum water rate $1 per month. Previous minimum averaged $2.50 per month. Lamar is purchasing land for the $110,000 Clay Creek Reservoir to be constructed by Colorado Game and Fish Dep't. Valley Water Company of Manzanola, a farmers organization, has completed a domestic water supply and distribution system serving 50 farms. Palmer Lake has received an interest free federal loan to extend and improve its water system. Telluride has raised its water rates $1 per tap per month. Arvada has doubled its water rates (from 25 to 50 cents a thousand gallons) for a water district located outside city limits.
Buena Vista, Leadville and Basalt will have temporary field offices for Fryingpan-Arkansas project work . . . Ordway is negotiating for more water . . . Broomfield residents have purchased the water company that previously served their city . . . Brighton parents have been warned by health authorities that infants under six months of age should not be given water from shallow wells in the Brighton area because of an increase in nitrate content that causes a reduction of oxygen in the blood . . . Olathe turned to ditch water and hauled water when its 22-mile long water supply lines froze. Efforts to thaw the water pipe have failed . . . Aurora and other communities near Tollgate and lower Cherry Creek may benefit from flood plain studies nearing completion by Corps of Engineers.

Littleton is considering a substantial water rate increase. . . . Montrose has increased its tap fee for outside city water mains from $20 to $200 per tap . . . Grand Junction fire hydrants aren't red anymore. New paint job used green and chrome yellow paint . . . Fruita, Collbran and Mesa water supplies need improvement, but supplies at Palisade and DeBeque are in good shape, quality-wise, according to a study by Mesa County Health Dep't. . . . Westminster will increase its water rates 35% to pay for water system improvements under a $2.5 million bond issue approved by voters last July. But a citizens group has petitioned city council to drop the Twin Lakes-Coal Creek water development plan and purchase Denver water instead . . . Consolidated Mutual Water Co. of Lakewood voluntarily reduced December water bills by 50 percent.