It is ridiculous to suppose that we or any other area can support measurable growth without an adequate supply of good water and an adequate sewage system. We must have both—and immediately." (From an editorial in the Daily Sentinel, Grand Junction, Colorado, December 13, 1966)

CONSERVANCY DISTRICT LAW CLARIFIED

YOUR NEWSLETTER extracted and printed in the January 1 issue a news release originating in Meeker, Colorado stating that Judge Fulghum of Glenwood Springs had declared the Water Conservancy District Act as unconstitutional. The story was factual in part only and it is believed that the issue is sufficiently important for clarification. The facts are:

- Chevron Oil Company with holdings near Meeker petitioned the District Court for an injunction against the formation of the Lower White River Water Conservancy District in the Meeker area, basing its action on a claim that it had been denied its right to protest.

- In 1961 the State Legislature amended the Water Conservancy District Act. By oversight it failed to amend Section 7 which was necessary to protect the right of protest by those people or entities located in proposed districts where the assessed valuation of irrigated lands is less than $200,000.

- On the strength of the validity of Chevron Oil Company's claim, Judge Fulghum issued the injunction and declared that "the 1961 amendment to the Water Conservancy Act contained in Section 2, Chapter 272, 1961 Session Laws, and the corresponding portions of Colorado Revised Statutes 1963, Paragraph 150-5-4 create a class of persons who are denied the right to file petitions to protest the organization of a water conservancy district while other persons, similarly situated, are granted that right, and the unequal treatment accorded to the class of..."
persons which was created by said 1961 amendment is unreasonable, arbitrary and capricious and not related to the Water Conservancy Act. That portion, therefore, of Section 2 of Chapter 272, 1961 Session Laws which in sub-paragraph (2) (a) and in sub-paragraph (2) (c) deleted the words 'but not less than two hundred thousand dollars' is therefore an illegal denial of the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States."

The proposed Lower White River Water Conservancy District has an assessed valuation of irrigated lands of less than $200,000.

WATER BOARD SUGGESTS MORE CHANGES TO H.R. 4671

THE COLORADO WATER CONSERVATION BOARD, at its January 12 meeting in Denver, adopted a resolution requesting that the Colorado River Basin Bill (H.R. 4671) be amended to provide more protection to the water rights of the Upper Colorado River Basin. These changes would amend Title VI to:

- Provide that the Secretary of the Interior administer his responsibilities under the Act in such a manner that he, his permittees, licensees and contractors shall in no way encroach upon, alter, or affect the Colorado River Compact apportionment of waters to the upper and lower basins; and to condition all contracts for the delivery of water originating in the basin of the Colorado River system upon the availability of water under the Colorado River Compact.

- Provide that the criteria developed for the operation of Lake Powell shall be submitted to the governors of the seven basin states not later than July 1, 1968 for their review and comment; and that beginning January 1, 1970, the Secretary shall submit to Congress and to the various governors an annual report on the criteria adopted and that he shall not change such criteria until he has consulted with the governors of the seven basin states.

Felix L. Sparks, director of the Colorado Water Conservation Board, in his report to the Board said, "If there is any one thing that the four Upper Basin states are agreed upon, it is the necessity for Title VI in H.R. 4671. I cannot over-emphasize the fact that the pro-
visions of this Title do not enlarge upon the powers of the Secretary of the Interior, but they do conversely place a limitation on those powers; and that Title VI, if changed as recommended, will be considerably improved."

Amendments approved at the December 14, 1966 meeting would change the type of water import study from "feasibility" to "reconnaissance", eliminate Marble Canyon Dam and lower the height of Bridge Canyon Dam so that Grand Canyon National Park will not be flooded.

Another action the Board adopted a resolution to seek an amendment to H.R. 4671 authorizing a Compact between the State of Colorado and the State of New Mexico governing the Animas-La Plata Project to be located in Southwestern Colorado and Northwestern New Mexico which is proposed to be included as a part of the Colorado River Basin Bill (H.R. 4671). The proposed Compact includes these provisions:

- New Mexico's right to store and divert water from the project, including return flow, shall be valid and of equal priority with those rights granted by Colorado Court decrees for uses in Colorado, provided that such uses in New Mexico are within the allocation of water made to that state by Article III and Article XIV of the Upper Colorado River Basin Compact.

- Restrictions imposed by the last sentence of Section (a) of Article IX of the Colorado River Basin Compact shall not be construed to vitiate the provisions of the new Compact.

If H.R. 4671 is passed with this proposed amendment, the legislative bodies of Colorado and New Mexico must ratify the Compact as authorized.
WELL ADJUDICATION DEVELOPS DILEMMA

"HE'S DAMNED IF HE DOES AND HE'S DAMNED IF HE DOESN'T." Such is the dilemma well owners are feeling as a result of the new policy of serving notice to all users of underground water to appear at adjudication proceedings. Well owners, as a result of recent initiation of court action on adjudication of water rights in water districts Nos. 14 and 17 started in Pueblo and Las Animas, feel that if they adjudicate their wells they will admit they are taking water from a flowing stream with the possibility that the stream will be administered in such a manner that their well rights become junior to all ditch rights, even those holding only flood rights.

On the other hand, they feel that if they do not adjudicate and then the stream is so administered that early well rights are in a good position, in a later adjudication their right may become junior to those wells taken care of in the first adjudication.

Ditch owners feel that their adjudication actions should be divorced from the general proceedings as it would be detrimental to their interests to become involved in hearings of the magnitude indicated by the crowded court rooms in Pueblo and Las Animas.

At both the Pueblo and Las Animas hearings, the Southeastern Colorado Water Conservancy District which is represented by Charles Beise, Denver water attorney, filed a motion to dismiss basing its action on the premise that the only wells over which the court has jurisdiction are those which the owner admits are pumping from a flowing stream.
The Las Animas hearing has been delayed until October 23, 1967. In the meantime motions will be heard and ground rules will be established.

RECREATION AT PUBLIC WATER SUPPLIES DEFENDED

FRANK M. STEAD, Chief, Division of Environmental Sanitation, California State Department of Public Health, writing in the November 1966 issue of Civil Engineering published by the American Society of Civil Engineers, defended the multiple-use concept of public water supplies which would permit recreational use. "As far as the natural waters of a state are concerned we cannot say that diversion for domestic use imposes a higher standard of quality than use in place for recreation," Stead said.

"Sewage," he said, "is inherently as much a part and responsibility of the public system as smoke is a part and responsibility of a power plant system. In the light of this fact it is obvious that water recreation is a relatively 'clean' use of water resources when compared to the total public domestic water supply system."

"If we have to choose between perpetuating our present wasteful pattern of insisting that the entire household water supply be of drinking water quality, or foregoing for our population any water recreation opportunities, we might find that recreation was the survival item and that receiving drinking water through the utility pipes is a mere convenience."

"We have long since reached the point where the demand for the water resource exceeds the supply. Consequently planned multiple use, recla-
ation, and reuse are mandatory if the water resource is not to become exhausted and if the environment is not to deteriorate progressively.

"This means that there must be agreement upon a framework of basic principles within which independent interests can bring their operations into accord with an overall water management plan," Stead said.

RECENT COURT DECISIONS

District Judge William E. Rhodes presiding over the State v. Fellhauer case just concluded in Pueblo District Court issued a permanent injunction against Roger Fellhauer, Fowler farmer, and ordered him to stop pumping water from his well near the Arkansas River out of priority. Attorneys for Fellhauer argued that the law is unconstitutional. The case is expected to go to the Colorado Supreme Court.

* * *

U.S. District Court of the District of Columbia in Yuma Mesa Irrigation and Drainage District v. Udall, 353 F Supp. 909 (D.C. 1966) upheld the Secretary of the Interior in his 1964 order cutting down on Colorado River water use out of Lake Mead by 10 percent as a result of low water supplies. The court said that the action taken by Mr. Udall was within his statutory authority and was the action of the sovereign, which, not having consented to the suit, may not be enjoined, or otherwise made the subject of any court proceeding.

* * *

A three-judge court in city of Altus, Oklahoma v. Carr (D.C.W.D. Texas, 1966) held that a Texas statute prohibiting the removal of water from underground sources in Texas for use in other states without legislative permission constitutes an unconstitutional burden on interstate commerce. (Source - Water Law Newsletter, December 1966)

WATERGRAM

- Expect the counties in the southeast part of the state to organize an Arkansas Valley Council of Governments. The purpose of the council will be to coordinate governmental problems and their solution which affect all or most of the counties in the basin.

- Expect Ute Water Conservancy District to purchase the Bookcliff Mutual Water Line near Grand Junction if suitable terms can be reached and a clear title to the water line can be obtained.
- Expect an early agreement between the Ute Water Conservancy District and the City of Grand Junction on negotiations for the sale of water by Ute to the city.

- Expect an appeal on a U.S. Internal Revenue Service ruling that contributors of money to the Sierra Club cannot deduct those sums from their income tax report. The reason for the ruling was that a substantial part of the Club's income is devoted to efforts to influence legislation. (Colorado River Association Newsletter, January 1967).

ITEMS IN BRIEF

District Judge Calhoun, Delta, has set February 7 as the election date for the formation of the proposed Hotchkiss Sanitation District. The election will be conducted in the Hotchkiss Town Hall from 7 A.M. to 7 P.M. Voters, besides deciding on the district, will also elect a board of directors. Proposed projects include two sewage lagoons and an enlarged sewage collection system estimated to cost $182,000, of which $25,690 will be picked up by the federal government.

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San Miguel Water Conservancy District is spearheading a campaign to raise $2,500 to create a fund to lobby for the proposed San Miguel Project. All service clubs, chambers of commerce and other interested groups in the area will be contacted for a contribution. Mike Young, district board president, said the district would also work vigorously to support the Colorado River Basin bill which includes the Central Arizona Projects and five projects in Colorado including the San Miguel.

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When President Johnson appoints a director of the newly created Four Corners Economic Development Commission, the area is expected to get an economic shot in the arm. The area includes 92 counties located in Colorado, New Mexico, Arizona and Utah. Development plans include water resources, power, roads, recreation and industry.

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City of Boulder set April 4 as the election date for the voters to approve or reject a proposed $3 million bond issue to improve the city's water facilities. This issue is part of a $22 million plan developed by Black & Veatch, Kansas City water engineers. The first bond issue will not require any increase in water rates, according to the engineers report.

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Governor John Love requested Game, Fish and Parks Department to submit an early report on how it can improve its program on game, fish and recreation development. Love said he thinks the department and the commission "are not doing enough to match and surpass other states' recreation accomplishments." He called for "more game for hunters, more fish for fishermen and more recreation areas for the outdoorsman." The commission, in response to the governor's request said license fees must be raised to provide more game winter range, more fish hatcheries and more habitat improvement.

The Colorado Wildlife Federation, at its January 8 meeting in Denver, authorized its executive board to support the commission's request conditioned upon the commission furnishing a detail of the request.

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Aurora is now officially a member of the Denver Metropolitan Sewage Disposal District. Under the terms of the signed agreement, Metro will assume the indebtedness on Aurora's Sand Creek Plant, which will become a Metro facility after the twenty year bonds are paid off. Metro agreed not to make any claims to Aurora's water rights.

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The Trinidad Project, which includes the Purgatoire River Dam, has hurdled one of its last major obstacles with the signing of a contract between the Hoehne Ditch Company and the Purgatoire River Water Conservancy District. John Myers, president of the Hoehne Company and Dr. James Donnelly, president of the Conservancy District, came to an agreement after the district had filed condemnation proceedings against the ditch company in District Court. The Arkansas River Compact Commission has not yet approved the project due to delays requested by Kansas.

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Game, Fish and Parks announced the completion of two recreational use reservoirs: Big Meadows (115 acres) on the South Fork of the Rio Grande in Mineral County; and Upper Stillwater (46 acres) on Bear River about 17 miles southwest of Yampa in Garfield County. "Both reservoirs are expected to be filled by the 1967 runoff, at which time trout will be stocked," the department reports.

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Arizona Power Authority filed a motion with the Federal Power Commission requesting the agency to issue a license for the proposed Marble Canyon Dam. The Authority asked immediate action without any further
hearings. The Congressional moratorium on the issuance of the permit expired December 31, 1966. In its motion Arizona testified it can finance the project which would provide power for pumping Colorado River water to Central Arizona.

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The Federal Power Commission ruled that it does not have jurisdiction over rural electric cooperatives. The ruling was made in response to a petition by nine members of the Colorado Rural Electric Association that the commission take over jurisdiction of the Colorado Ute Power Plant at Hayden. The commission, however, retained jurisdiction over the issue and it will determine whether an emergency exists within the meaning of the Federal Power Act which requires continued operation of the plant.

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Quincy C. Cornelius of Hooper, Colorado was re-elected president of the Colorado Association Soil Conservation Districts at the concluding session of the association’s 22nd annual convention in Denver on January 7. James L. Johnson of Brighton was re-elected vice president. Among resolutions adopted by the association:

- Recommendation that local districts provide all possible assistance in promoting more beneficial use of water in their areas.

- That soil conservation districts be given limited power of eminent domain in obtaining easements for flood prevention and sediment reduction projects.

- That the Colorado Water Pollution Control Commission not establish "excessively rigid" water quality standards until more information is available.

* * * * *

Directors of the Lower South Platte Water Conservancy District recently adopted a resolution expressing their disapproval of Senate Bill 3, which has been introduced by Senator Ted Gill of Fort Morgan. Gill's bill would amend the water laws to provide that an appropriator should combine the use of wells and surface diversions to satisfy the amount of the decree before placing a call on the river. The district claims "this measure would place a burden and expense upon the senior appropriator without any compensating requirement of obligation upon the junior appropriator."

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Two water organizations elect officers: Stockholders of the Rocky Ford Ditch Company re-elected the entire slate of officers including John R. Morrison, president, Kenneth Madison, vice president, William Madonna, secretary treasurer, Marvin Thimgan and Vern Campbell, directors, all of Rocky Ford; and the St. Charles Mesa Water Association elected five new members to its board of directors including Earl K. Hood, Sam Cardinal, Louis Schwartz, Charles Guardomondo and Henry Fabian, all living in the Pueblo area.

THROUGH THE WATER METER

Holbrook Lake Sportsmen's Club in Swink voted against the development of wildlife ponds within the Setchfield Reservoir Basin in Bent County by Game, Fish and Parks. The club is supporting a drive to rebuild the reservoir which was washed out in 1965. Rocky Ford engineer, Harry Barnes, is drafting plans to construct a system for rapid drainage of the Rocky Ford Ditch in order to prevent destructive floods during periods of heavy run-off. Las Animas reports that precipitation in the area for 1966 is less than one-half of what it was in 1965. Governor John Love has been appointed chairman of the committee on state planning, a part of the National Governor's organization.

Fort Lyon Canal Company, at its annual meeting in Las Animas on December 19, re-elected all of its board of directors to serve during the coming year. Membership in the board includes Seth Coen of Lamar, Roy Cooper of Las Animas, George Reyher of McClave, A. F. Esgar of Wiley and Alvin Spady of Las Animas. The engineering firm of Minor and Minor of Greeley has been retained by the City of Delta for a review of proposals to expand the city's power plants. State Health Department notified Fruita to increase its planned sewage lagoon from 10 acres to 18 acres.
to be eligible for state and federal money grants. . . . A TV Western is being filmed on the Lower Rio Grande River near Las Cruces, New Mexico. Everything was OK except the river - it was bone dry . . . Earl N. Haynes, 38, of the Colorado Springs Public Utilities Department has been named superintendent of the Homestake Water Project . . . State Health Department has served notice on uranium mills that their mill tailing piles must be stabilized within 45 days . . . Delta City Council adopted a resolution calling for the sale of $600,000 of general obligation water development bonds and retained the engineering firm of Nelson, Haley, Patterson and Quirk of Greeley to study and design the needed improvements . . . U.S. Department of Agriculture reports it has found no evidence that farm wells used for human drinking water are contaminated with pesticides . . . Plans for improvements to the Pueblo sewage disposal plant have been approved by the staff of the water pollution control division of the State Health Department. Estimated cost - $403,000, of which the federal government may provide 33 percent . . . Senator Peter H. Dominick (Colo) will propose that Congress appropriate $9 million for a 3-year weather modification project to increase the run-off in the Colorado River Basin . . . Within four years the Colorado River Storage Project will generate enough electricity to supply 1.5 million persons according to a report by Floyd E. Dominy, commissioner of the Bureau of Reclamation . . . Denver Planning Board has given approval to begin work immediately on beautifying a mile-long pilot stretch of the South Platte River through Denver . . .
Game, Fish and Parks Department asked the Joint Budget Committee for legislative approval of a $14,832,979 budget for fiscal year 1967-1968.

In Hochstadt, Germany, a plumber, while repairing a broken water line, connected the new line to a beer pipeline in the basement of the Sun Inn. Needless to say the guests did not complain about the error.

GAME, FISH AND PARKS DEPARTMENT ATTORNEY DIES

Donald H. Henderson, assistant attorney general assigned to the Game, Fish and Parks Department died on December 24, 1966 in Denver, of leukemia. He had been associated with the department since May 1965.

Henderson, born of missionary parents at Tegau, Korea on March 31, 1934, was chief clerk of the House of Representatives before becoming assistant attorney general.

COMING EVENTS

Colorado Water Congress annual meeting - February 10, 1967, 10:00 A.M., Brown Palace Hotel, Denver, Colorado. Rules Committee - 8:00 A.M.