"When you read and hear about environmentalists who would drastically curtail the use of our natural resources, remember that to preserve and maintain our society we must use these resources. Our big responsibility is to use them wisely and maintain proper balances at all times." (Congressman Wayne Aspinall (Colo.), Chairman of the House Interior Committee, at Montrose, Colorado, February 16, 1970.)

**COLORADO WATER CONGRESS NEWSLETTER**

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C.N. Feast  
Newsletter Editor

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Gordon Scheer  
Executive Director

1200 Lincoln, #530  
Denver, Colo. 80203

**ADVISORY COMMITTEE OFFICIALS ELECTED**

COLORADO WATER CONGRESS ADVISORY COMMITTEE, at its first regular meeting in Denver on March 10, 1970, elected R.W. Fischer, Denver, - chairman, Roland C. Fischer, Glenwood Springs, - vice chairman, and Charles L. Thomson, Pueblo, - secretary. The committee, formed by the Congress Executive Committee in June 1969 as a replacement for the old Colorado River Advisory Committee, is composed of twenty-five members, including the chairman, representing the seven major river basins throughout the state and the city of Denver. The committee is advisory only, and its actions and positions do not necessarily represent the official position of the Colorado Water Congress. The committee functions to consult with and advise state and federal water resource agencies and officials of related agencies.

Felix L. Sparks, director of the Colorado Water Conservation Board, and Ival Goslin, executive director of the Upper Colorado River Commission, appearing before the group, unveiled the latest draft of the Long-Range Operating Criteria for the Colorado River Reservoirs promulgated by the Secretary of the Interior in conformity with Section 602 (a) of the Colorado River Basin Project Act (PL 90-537).
Both Sparks and Goslin advised the committee that the draft as written does not adequately consider the rights of the Upper Colorado River Basin states which are clearly outlined in Section 602.

Sparks warned that the draft says the criteria will be administered consonant with applicable federal laws, contracts, the Mexican Treaty, interstate compacts and Colorado River water use decrees. He advised that Colorado and the Upper Colorado River Commission are strongly opposing such an administrative policy and are insisting that it be drafted in accordance with Section 602 which provides that the criteria shall comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact and the Mexican Water Treaty. "Contracts, federal laws and decrees, should be made subordinate thereto," Sparks said.

He also questioned considering recreation, enhancement of wildlife and other environmental factors as a part of the primary objectives of the operating criteria. "These should be incidental."

Goslin said he believed the proposed draft was unduly influenced by California and Arizona. "This is clearly indicated by the draft's omission of a rule curve which defines the amount of water required in storage in the upper basin reservoirs to supply the upper basin use." He pointed out that this rule curve should be included in the draft and it should be based on the highest probability factor the Bureau of Reclamation used in its studies.

"All the Secretary should do is follow the provisions of the Colorado River Basin Project Act, and we should tell him to do so," Sparks said.
Governors of the basin states were requested to submit formal comments on the proposed criteria not later than April 1, 1970. The Secretary of the Interior must publish the final draft of the criteria not later than July 1, 1970.

Goslin also reported that it is the unalterable position of the four states of the Upper Colorado River Basin that the charging of costs of the so-called "deficiencies" in firm energy generation at Hoover Dam to the Upper Colorado River Basin Fund must be terminated simultaneously with the adoption of the July 1, 1970 reservoir operating criteria. He emphasized that continued drain on the Upper Basin Fund to meet these deficiencies would curtail the availability of funds for future upper basin project construction.

After review of the reports and warnings by Goslin and Sparks, the advisory committee adopted these resolutions:

- Supporting the recommendations of the Director of the Colorado Water Conservation Board and the Executive Director of the Upper Colorado River Commission on the proposed operating criteria for the Colorado River Reservoirs.

- Supporting proposals to discontinue power deficiency payments for Hoover Dam concurrent with the adoption of the criteria.

In accordance with a unanimous expression by the committee, Glenn Saunders, Denver attorney and committee member, drafted these recommendations on objectives and committee procedures:

- Time should be allotted for each committee member in attendance to present water problems in his area which he believes are in need of solution, and to present his own ideas as to their solution. The committee should consider and weigh each problem brought to its attention. Appropriate reports should be requested and received from knowledgeable persons and agencies respecting subjects which are under consideration by the committee. Controversies should be heard. Subcommittee investigation may be in order.
- The committee should **follow through** to determine what action should be taken and how the objectives of Colorado can be reached.

- The committee should be an **originator of ideas** and not merely a reflector. It should furnish **imagination** and **inspiration** and provide leadership.

**PROPOSED AMENDMENT TO 1969 WATER RIGHT LAW DIES**

LEGISLATION designed to amend the tabulation dates and abandonment provisions of the Water Right Determination and Administration Act of 1969 (SB 81) **failed to make the grade** during the waning hours of the 1970 short session of the Colorado General Assembly. The measure died when the House and Senate refused to yield on their respective positions.

The bill, HB 1076, by Representatives H. McCormick, et al, and Senators Denny, et al, as passed by the House, provided for extending the date for **tabulation** of all decreed water rights and conditional water rights to July 1, 1971; and amended 148-21-28, SL 1969, to provide for a March 1, 1972 listing of all decreed water rights which the division engineer determines to have been **abandoned**, said list to be presented upon petition to the water judge for a decree on abandonment under which action the burden of proof to be on the State Engineer.

The Senate Water Committee amended the bill as it passed the House by **changing** the tabulation date to January 1, 1970 and **eliminating** the provisions relative to abandonment and its tabulation. The Senate Committee action also included an amendment specifying retabulations at **four year intervals** instead of two year intervals. The Senate passed the bill as amended and sent it back to the House for concurrence. The House refused to concur and sent it back to the Senate. The Senate refused to yield, thereby **killing the bill**.
Irreconcilable viewpoints were given as the reason for the bill's failure.

Rep. Harold McCormick (Canon City), chairman of the House Natural Resources Committee, said HB 1076 as passed by the House was the result of a year's work by the Joint Interim Committee on Water which met with water users, water lawyers and engineers throughout the state. He said the bill represented grass-root demands and was presented in spirit of commitments given during the 1969 session. McCormick said "in view of all the work done, the House could not concur in actions eliminating basic provisions of the bill."

Sen. Wayne Denny (Cortez), chairman of the Senate Water Committee, said that the Senate was basically opposed to amending the 1969 Water Right Act until sufficient time has elapsed to prove the merits and demerits of the Act. He also said the Senate basically opposed changing abandonment provisions at this time. Denney explained that in view of this nearly unanimous position, the Senate "would not yield."

These water related bills were passed by the 1970 General Assembly:


A Bill for an Act concerning judicial administration and enforcement of "The Water Right Determination and Administration Act of 1969"; and providing for the powers and duties of water judges, referees and clerks, and for fees and publication requirements in connection therefor.

- States that the Chief Justice of the Supreme Court has authority over the appointment of water judges to the division, including specific authority to make temporary assignments; and permits the Supreme Court to prescribe an oath of office and bonds required for water clerks, assistants, and deputies; and requires an oath of office to be executed by the water referee.

- Specifies a fee of $5.00 for each additional water right where more than one right is included in an application.
- Provides that monthly application resumes be published only in the counties affected; and delays the preparation and publication dates to better conform with the publication dates of the various newspapers.

- Changes the requirement that hearings by water judges shall be conducted in accordance with "Colorado rules of civil procedure" rather than "trial practice and procedure" as specified in the Act.

- Allows three years instead of two years for judicial correction of errors in judgments and decrees.

- Provides a $25.00 fee plus additional publication costs for a show cause order.

- Provides that proceedings pending on the date of the Act relative to the adjudication of water rights shall be concluded by July 1, 1972 "in accordance with the provisions of the statute under which they were instituted"; and that the Chief Justice of the Supreme Court may authorize a judge, other than the water judge, to complete proceedings in specific cases.

Senate Bill 35 by Sens. Kemp and Birmingham and Rep. Fentress

A Bill for an Act concerning water pollution and providing penalties for violations.

- Amends 66-28-10, CRS 1963 (1967 Supp.) by adding a new subsection providing that any cease and desist order of the Pollution Control Commission, the State or County Health Department which has become final shall be subject to judicial review and such order shall be stayed pending the decision of the court, if appealed.

- Provides that any person who shall violate any final cease and desist order which is not subject to a stay pending judicial review shall be subject to a civil penalty of not more than $2,500 per day for each day during which the violation occurs. Penalties and remedies shall be accumulative and not exclusive.

- Amends 66-28-12, CRS 1963 (1967 Supp.) by adding a new subsection providing that any person who willfully violates the provisions of Subsection (1) or (2) of Section 12 shall be guilty of misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $500.


A Bill for an Act concerning levies imposed by River Basin Authorities.

- Repeals and reenacts, with amendments, Section 5 (3) (b) of Chapter 374 Session Laws of 1969 providing that a uniform levy of no more than
3 cents per acre-foot of water delivered within a basin authority to each water user from both surface and ground water sources may be levied for purposes of general administration in operation of a river basin authority. Additionally, no more than 10 cents per acre-foot may be levied to pay the cost of planning, construction, operation, and maintenance of projects authorized under the River Basin Authority Act. Such levies related to projects shall be on the basis of benefits.

Senate Bill 45 by Sens. Birmingham and Gill and Rep. Fentress

A Bill for an Act concerning pollution of water by radio active, toxic or other wastes and by boat and camper wastes by repealing and reenacting with amendments 66-28-9, CRS 1963 (1967 Supp.).

- It shall be unlawful for any person to cause a pollution of any water of this State in violation of any order of the Water Pollution Control Commission, and it shall be unlawful for any person to discharge ... or dispose of any radio active, toxic or other wastes underground in liquid or explosive form unless the Commission grants written permit for such disposal. Penalty upon conviction - a fine of not less than $50 nor more than $2,500, each violation day to constitute a separate offense. Exemptions - oil and gas wells, water injection wells, septic tanks, and irrigation and water transportation systems.

- It shall be unlawful for any person to discharge, deposit, or dispose in any waters of the state, or within a hundred feet thereof, any human wastes, or wastes enclosed in any container used in campers, trailers or water vehicles, whether or not such wastes have been subjected to chemical or other treatment. Penalty upon conviction - a fine of $25. Highway patrolmen and game wardens are added to the list of enforcement officers.

THROUGH THE WATER METER

A bill to authorize the Narrows Reservoir Project on the South Platte River above Ft. Morgan has been introduced into the U.S. Senate by Colorado Senators Gordon Allott and Peter Dominick ... District Court Judge Conrad L. Ball ordered the Colorado Public Utilities Commission to set aside an award to the Public Service Company of Colorado to serve the new Eastman Kodak plant near Windsor. Judge Ball ruled that the Poudre Valley Rural Electric Association now has a certificate to serve the plant area. An appeal is expected ... Albert Grable, Ordway, was elected to the board of directors of the Twin Lakes Reservoir and Canal Co., replacing Orville Tomky of Olney Springs ...
Rep. Wayne N. Aspinall (Colo) predicts that delays in construction on the Curecanti Project will threaten the economic feasibility of the power complex. Revenues from the project are necessary to help contribute funds for the five proposed projects authorized under the Colorado River Basin Project Act. U.S. District Court Judge William E. Doyle, Denver, ruled that the temporary injunction against the issuance of a timber sale adjacent to the Gore Range-Eagle Nest Wild Area be continued until Congress decides whether the area included in the proposed timber sale should be classified as "Wilderness." Colorado Legislature appropriated $500,000 out of the Game Cash Fund for pollution abatement at the Rifle Falls Fish Hatchery. Decision on methods is up to the Natural Resources Director. Four Corners Regional Commission moved its headquarters from Farmington, N.M. to Albuquerque, N.M. Public Service Company of Colorado plans to construct a $54.2 million, 350,000 kilowatt electric power generating plant in Pueblo County. Domestic water supply development in Colorado during 1969 amounted to approximately $16 million, according to Wm. N. Gahr, director of engineering and sanitation, State Department of Health. Chatfield Dam on the South Platte River above Denver is scheduled for completion by June 1975, according to a report by the U.S. Corps of Engineers. J. Sid Nichols, Colorado Springs, president of the Southeastern Colorado Water Conservancy District, and Charles L. Thomson, manager for the district, were elected to represent Colorado on the Arkansas Basin Development Association. Thomson was elected vice president for Colorado and Nichols was named Colorado director.