"These days, everybody's for conservation. The movement's oldest, most powerful enemies have raised such a public relations smokescreen you need a score card to tell the polluters from the polluted upon. Fact is, however, everybody's for conservation as long as someone else has to do the conserving." (CONSERVATION NEWS, March 15, 1970).

COLORADO WATER CONGRESS NEWSLETTER

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C.N. Feast
Newsletter Editor

OFFICIAL PUBLICATION OF THE COLORADO WATER CONGRESS

Gordon Scheer
Executive Director

COLORADO WATER CONSERVATION BOARD accepted the recommendation of the Colorado Water Advisory Committee and unanimously voted to support actions taken by the Upper Colorado River Commission opposing certain segments of the proposed Operating Criteria for the Colorado River Reservoirs. The criteria were promulgated by Interior Secretary Walter J. Hickel in compliance with Section 602 of the Colorado River Basin Project Act (PL 90-537). The board, by this action, officially endorsed a draft of Comments and Recommendations prepared on the proposed criteria and jointly signed by the Governors of Colorado, New Mexico, Utah and Wyoming. The action was taken at the board meeting in Denver on April 1 which was the deadline for submission of comments and recommendations by the Basin States.

The recommendations of the four Upper Basin States call for a termination of existing general principles for the Lake Powell filling criteria and for a termination of deficiency payments being made from the Upper Basin Fund to compensate for power losses at Lake Mead during the initial storage in Lake Powell to power producing level. It is the unanimous request of the four Upper Basin States that existing criteria and deficiency payments be terminated concurrently with the adoption of
the new criteria which is called for in Section 602 of the Act.

In summary the statement of recommendations said: The 1962 reservoir filling criteria must be terminated in their entirety because they are not compatible with operating criteria to be adopted under Section 602; To continue charging Hoover power generation "deficiencies" to the Upper Colorado River Basin Fund gives a priority to power generation in the Lower Basin over storage of water in the Upper Basin for agricultural and domestic uses, a clear violation of the Colorado River Compact; If filling criteria are retained along with the operating criteria of Section 602, the adverse effect of the "deficiency" charges will be prolonged; To be equitable, "deficiency" payments should have been terminated when Lake Powell was filled to power producing level; And to continue the filling criteria and the charges of "deficiencies" thereunder to the Upper Basin Fund in terms of dollars, electric energy, or generating capacity has the effect of charging the Upper Basin for that to which it is already entitled under the Colorado River Compact and under the provisions of Section 602.

Recommendations of the Upper Basin States relative to the proposed Long-Range Operating Criteria include these principle points:

- The preamble of the Operating Criteria should clearly provide that the administrative policy comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact and the Mexican Water Treaty, and that compliance thereunder shall be administered under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act and the Boulder Canyon Project Adjustment Act. Other federal laws, contracts and decrees should be administered subordinate thereto in accordance with the "Law of the River".

- The Secretary of the Interior should sponsor a formal review of the Operating Criteria at least once every five years with participation by State Representatives as each Governor may designate. (The draft as proposed by Secretary Hickel reserves with the Secretary of Interior the right to modify the Operating Criteria as he may deem appropriate).
The draft should include a rule curve which defines the amount of water required in storage in the Upper Basin Reservoirs to supply the Upper Basin use, and that a 98.4 plus probability factor be used in developing the curve.

- A provision for a minimum annual release of water of 8.23 million acre-feet from Lake Powell should be eliminated and rewritten to provide that interim releases pursuant to the criteria are to be estimated at eight million acre-feet of water annually, but said releases shall be increased or decreased in any water year in conformity with the controlling factors set forth in Section 602 (a), and that these releases shall not in any way prejudice the position of either the Upper or Lower Basin interests with respect to deliveries at Lee Ferry as required by the Colorado River Compact. Opposition on this point was at the request of Governor John Love of Colorado.

Felix L. Sparks, board director, commenting on the recommendations as set forth by the Upper Basin States, indicated that the criteria, if adopted as proposed, will definitely operate to the benefit of the Lower Basin at the expense of the Upper Basin. "The Lower Basin wants 9.0 plus million acre-feet past Lee Ferry each year to make up the 700,000 annual acre-feet shortage resulting from the Supreme Court decision in Arizona v California which established California's annual share at 4.4 million acre-feet."

Sparks explained that the Upper Basin States are objecting to a minimum annual release of 8.23 million acre-feet, as this is based upon a 750,000 acre-feet non-existent annual requirement supposedly created by the Mexican Water Treaty.

In answer to a question posed by Board member Fred Kroeger, Durango, as to "where we go from here?", Sparks said "if the Secretary of the Interior does not give the Upper Basin States adequate attention to their recommendations regarding the proposed operating criteria, they should consider initiating an action before the United States Supreme Court."

The Secretary of Interior has until July 1, 1970 to finalize the criteria.

* * *
In other actions, the Board approved flood-plain zoning on stretches of Boulder Creek and South Boulder Creek, and approved a channel improvement project on the South Platte River between Denver and Ft. Morgan by the Army Corps of Engineers.

H.S. (Si) Berthelson, board member from Meeker, was appointed as the representative of the Colorado Water Conservation Board on the Colorado Water Pollution Control Commission succeeding Board member Herbert H. Vandemoer of Sterling.

Board Director Sparks reported that the 1970 Session of the General Assembly appropriated $488,101 to the Colorado Water Conservation Board for the fiscal year 1970-71. "This is $44,472 less than the board requested," Sparks said.

He pointed out that the general administration and engineering budget was reduced by $12,472 and that the budget for ground water resource investigation and planning was reduced by $57,000. He disclosed that $25,000 was added to the budget for the San Antonio River Project, a project which the board did not recommend.

Sparks lamented the fact that he had no knowledge as to the cuts until the general appropriation bill was passed. "The board should have been consulted before these cuts were made," he said. "The main trouble we have with our budget is that we are not permitted any contact with the staff of the Budget Committee."

WATER COMMITTEE LEADERSHIP CHANGES

CHAIRMANSHIP of the Legislative Council Committee on Water changed hands at the committee's first 1970 meeting held in Denver on March 26. In accordance with a committee adopted rule Sen. Wayne Denny (Cortez), chairman of the Senate Water Committee, picked up the reins from Rep.
Harold McCormick (Canon City), chairman of the House Natural Resources Committee, who served as the Committee Chairman during 1969.

Sen. Denny charted the 1970 course of action by the committee by emphasizing that the two most important items to be considered are a state water plan and increased activity in control of water pollution.

Speaking on the need of a state water plan, Denny said the State of Colorado must get into the water development picture and must start spending some of its own money and quit relying entirely on federal expenditures for water projects. "I am going to suggest $5 million a year to start with," Denny said. He added that it is bad water management to be faced with water shortages and at the same time pass unused water to which the state is entitled across state lines.

Sen. Ted Gill, committee member from Hillrose, suggested the construction of more on-stream reservoirs to capture flood waters which cannot be stored in off-stream reservoirs due to the limited carrying capacity of supply ditches.

Rep. Harold McCormick expressed disappointment over the failure of House Bill 1076 but he predicted that this bill in one form or another will be introduced in the House during the 1971 session. He pledged his full cooperation with the committee.

ITEMS IN BRIEF

United States Supreme Court agreed to consider an appeal by the federal government of a district court decision in Eagle County which ruled that the government be made a part of state water adjudication proceedings for the Eagle River. The decision of the district court was upheld by the Colorado Supreme Court.

The government, in its appeal to the U.S. Supreme Court, claims that a 1952 federal statute allowing the government to be sued in general water right cases applies only when an entire river system is involved. The Colorado River Water Conservation District, plaintiff in the case, argued that the Eagle River constitutes a "river system".
Colorado Supreme Court ruled that the city of Walsenburg in Southern Colorado is entitled to store water which under its original decree was to be used for direct-flow irrigation. The legal action stemmed from a 1965 State Engineer's decision that the city should stop storing water under a direct flow decree. The opinion of the high court said the water could be stored only if other water user's rights are not injured. The court's opinion upheld the decision by District Judge John N. Mabry at Walsenburg.

* * * * *

District Judge Donald A. Carpenter, Greeley, granted a conditional decree for water storage in the proposed $20 million on-channel reservoir on the South Platte River at the Hardin Site. Weld County groups proposing the reservoir are Weldon Valley Ditch Co., the Riverside Irrigation District, the Bijou Irrigation District, the Riverside Reservoir and Land Co., and the Bijou Irrigation Co. Judge Carpenter's decree established rights to water claims made as early as 1963.

* * * * *

Colorado Water Conservation Board, at its Denver meeting on April 1, turned down an asking price of $750 a share for water rights of The Las Animas Ditch Co., to be used to provide for a 10,000 acre-foot permanent pool in John Martin Reservoir. The negotiation involved the acquisition of 1,625 shares out of 1,900 owned by the Company which has a 38 cubic feet per second right out of the Arkansas River. The Board, under a 1969 Game, Fish and Parks Division appropriation, is authorized to spend up to $1,050,000 for sufficient water to provide and maintain the conservation pool. The Board had previously offered $550 per share.

* * * * *

The unavailability of water to provide a permanent pool at the proposed Fountain River Flood Control Reservoir above Pueblo may doom the project before it gets off the ground. Feasibility was established by high benefits accruing from potential recreation which calls for a 20,000 acre-foot permanent pool.

* * * * *

Rules and regulations governing the operation of wells during the 1970 irrigating season will not be issued, according to a statement by State Engineer Clarence J. Kulper. Kulper said his decision was made after a lengthy conference with Assistant Attorney General James D. Geissinger who recommended waiting for a Supreme Court decision on the State's appeal of the District Judge Carpenter decision which invalidated the 1969 rules and regulations.

* * * * *

Lower South Platte Water Conservancy District is seeking a joint decree for Narrows Reservoir with The Central Colorado Water Conservancy District, according to an announcement by Eric Wendt, district secretary-
manager. Wendt said final action by the District Court in Greeley on the water districts' joint request for a conditional decree is expected on or about May 15.

Hearings on the Narrows Project legislation began before the Interior Sub-committee on Irrigation and Reclamation in Washington on April 16. The bill to authorize the project (H.R. 6715) was introduced in the House by Colorado Congressman Wayne N. Aspinall, chairman of the House Interior Committee. Colorado Senators Gordon Allott and Peter Dominick introduced identical legislation (S. 3547) in the Senate. Sen. Allott, in his introductory remarks said "the project will provide additional water through river regulation. It is estimated that the reservoir will conserve up to an average of 240,000 acre-feet of water annually, which is now being wasted."

* * * * *

Inadequate water supplies and unfavorable water pollution control reports are casting a cloud over the $70 million pulp paper mill proposed to be installed near Alamosa by Parsons & Whittemore, Inc. The State Engineer's office is afraid that a 19 million gallon a day water demand by pumping from the underground aquifer may deprive present well users of water by lowering the underground water table. The Federal Water Pollution Commission has officially discouraged the plant because of seemingly overwhelming water pollution problems affecting the Rio Grande River. "The flow of the Rio Grande River is too low to receive the quantity of effluent from a mill of this type," William C. Galegar, FWPCA regional director in Dallas, reported. (Denver Post, April 12, 1970).

COMING EVENTS

The 1970 Western Resources Conference - July 8, 9, and 10, University of Denver. The Conference theme will be Urban Demands on Natural Resources.

Colorado Water Conservation Board - June 3, Denver, Colorado.
COLORADO WATER CONGRESS
EXECUTIVE COMMITTEE MEMBERS BY WATERSHEDS - APRIL, 1970

A. Colorado
Kenneth Balcomb, Glenwood Springs

B. North Platte, Laramie
Clarence Burr, Walden

C. Gunnison
L. Richard Bratton, Gunnison

D. San Juan, Dolores, San Miguel
Frank S. Maynes, Durango

E. Rio Grande
Quincy Cornelius, Hooper

F. Arkansas
Ralph Adkins, Pueblo

G. South Platte
J.R. Barkley, Loveland

H. Denver
Glenn G. Saunders, Denver

R.W. Fischer, Denver, Chairman
Roland Fischer, Glenwood Springs, Vice-Chairman
Charles Thomson, Pueblo, Secretary-Treasurer
Gordon Scheer, Executive Director
J.R. Barkley, NWRA Director
Jack Ross, NWRA Resolutions Committee
John Sayre, NWRA Resolutions Committee Alternate

RULES COMMITTEE MEMBERS AND DISTRICT CHAIRMEN

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