Since the late 1950s, major changes have taken place in the way water is controlled in the state of Colorado. Gradually decision making has shifted away from those who actually hold priority rights for the use of water to various committees and boards -- committees and boards often composed of individuals with little knowledge of water. This change in water control appeared simultaneously with the switch to a cabinet style of state administration during the McNichols era and the growth of government bureaucracy on all levels. Since that time, water has become politicized.

Before the late 1950s, the concept of water distribution according to a priority system remained largely intact. To put it simply, water in Colorado was allocated according to the time in which the water was first put to beneficial use. If a gold miner was using water to run his sluice box, another miner wasn't allowed to come along later and put him out of business by diverting the water upstream. The late-coming gold miner, however, could use water as long as he did not affect the operations of those who were there before him. Farmers and cities embraced this idea of priorities according to the time water was put to beneficial use because it provided clear guidelines for water use in place of chaos. Anyone holding a priority right to use water could sell that right to another. This allowed for flexibility as times changed and new uses for water emerged. This system developed during the territorial days of Colorado was incorporated in the Constitution when Colorado was approved for statehood in 1876.

By 1900, agriculture had put most of the water in the state to beneficial use. Farmers had dug miles and miles of canals with horse and fresno to grow
crops for the nation. They pioneered in reservoir building and new techniques for controlling and allocating water. Between 90 and 95 percent of the water in the state was used for agriculture, the rest largely used by cities and industries or simply allowed to flow out of the state.

In order to build and operate these complex systems of ditches and reservoirs, many farmers formed mutual ditch companies. Stock was issued to shareholders and by-laws were written to govern the operation of the incorporated companies. Ditches were operated in a way which ensured that each shareholder would receive his fair share of the water available to the ditch company. If a farmer choose not to use his water, the extra water would be shared by other members of the system. These early ditch companies often had their own "committees". A Board of Directors would be elected by the stockholders to carry out day to day administration of the canal system. The Directors were always shareholders, were always given no more than token pay, and were always available to hear the complaints of other shareholders. All major decisions were made at meetings by all the stockholders. These "committees" worked well because the men on the Board knew about water and because the men on the Board lived and worked shoulder to shoulder with other shareholders.

When complex situations arose, mutual ditch companies would join together in cooperative units. For instance, when several ditch companies in Kansas sued Colorado over the use of water in the Arkansas River, 26 ditch companies in Southeastern Colorado joined together in 1902 as the Arkansas Valley Ditch Association to protect themselves. Members came from shareholders in the mutual ditch companies and were knowledgeable in water matters. They still didn't draw much of a salary.

Cities also eventually formed water boards, but they often worked somewhat differently from the boards of mutual ditch companies. Board members did
not always have expertise in water matters. Because of this and because cities often had greater economic resources at their disposal than mutual ditch companies, the board or the city would hire engineers and other "water experts" to help them manage their water use.

Whether it be a mutual ditch company, a city, or an industry, the actual holder of priority rights (or their representatives) made the major decisions about how their water was to be used. Power largely remained in the hands of those who had invested time and money in putting water to beneficial use in Colorado.

With the institution of the cabinet system in the late 1950s and the growth of government bureaucracy, this situation gradually began to change. There was a proliferation of new boards, agencies, and committees created by government which concerned themselves in some way with water. A quick count of the listings in the *Colorado Water Almanac and Directory* for 1990 shows 16 U.S. congressional committees, 20 federal agencies, 6 federal and state courts, 25 state agencies, 9 regional organizations, 20 county organizations belonging to the Colorado Water Congress, 40 city organizations belonging to the Colorado Water Congress, 3 water conservation districts, 45 water conservancy districts, 6 local water users associations, 10 irrigation districts, 9 groundwater management districts, 2 water authorities, 20 water and sanitation districts, and 7 water quality management agencies, 10 non-government national organizations, 17 western states water associations, 19 non-government Colorado organizations, and 38 Colorado environmental organizations. In short there are 313 organizations listed. This does not include the various state legislative committees. Each one of the groups listed can affect water legislation and water policy in some way. Obviously this is a jungle. No one individual could possibly keep tabs on all these various entities.
What is omitted from this directory is as intriguing as what is listed. The directory does not include many of the canal companies, reservoir companies, pumping companies, or private irrigation systems which actually hold the lion’s share of priority rights to the water. Since agriculture still maintains around 85 percent of the water rights, one might think they should be considered worthy of inclusion.

This directory listing reflects a major trend in the water business in Colorado. Agricultural users who hold the bulk of the water rights in the state are being ignored or played down in the decision making process. The composition of the committees concerned with water policy reflect this trend. Those who actually held most of the water rights, receive less and less representation on committees and boards that are making decisions about water use.

Interest groups who have not invested in the heavy financial task of putting water to beneficial use began to realize that they could use these committees to further their own interests “on the cheap”. What they couldn't gain through the well-established priority system, they could gain by undermining the priority system through the passage of new laws and regulations instituted amidst the jungle of water committees. This process was accelerated as groups and individuals came to realize that manipulating water meant "money".

Although the Colorado Water Conservation Board was established by the legislature in 1937, it shows many of the trends seen in committees and boards established since the late 1950s. The Colorado Water Conservation Board sets major policy for water use in the state. Originally over half of this Board's membership was made up of individuals representing agriculture. Today, although agriculture continues to hold about 85 percent of the allocated water, agriculture's membership in the committee has dropped to below one-
third. Special interest groups are much more visible. In the not too distant past, for instance, the Board was headed by a real-estate developer who wanted to initiate deep-well drilling. The Colorado Division of Wild Life, representing sportsmen, now has a member on the board. Members can be and often are removed for political reasons which have nothing to do with their knowledge of water. Indeed it is sometimes embarrassing to have members who actually know a great deal about water.

The Lower Arkansas River Commission set up by Governor Romer by Executive Order on May 12, 1992, to organize and lead efforts to obtain water for John Martin and the Great Plains Reservoirs and to accelerate the process of establishing a state park in Southeastern Colorado has sixteen members. The overwhelming majority of the members of this commission are government bureaucrats and county officials. All sub-committees are headed by "a state agency employee". Of the fourteen sub-committees members, two have agricultural interests. Two of the sub-committees have no representative from agriculture at all. One of these sub-committees is to "address private land issues". Since "the private land" refer to is obviously agricultural land and since the water required for the reservoirs and park will by necessity come primarily from that held by agriculture, the composition of these sub-committees has raised certain eyebrows.

Membership in the Southeastern Colorado Water Conservancy District Board also reflects the decline of agricultural representation on major water boards. Conservancy Districts can be created according to legislative statute after judicial approval. Consequently, district judges appoint the members of the board. In 1958, eleven of the original fifteen members of the board represented agricultural interests. Each county participating in the district was allowed two members with the exception of Prowers County which was allowed
only one member since joining late. The members of the Conservancy District Board wanted to bring more water to the parched eastern slopes of Colorado from the Western slope, to improve flood control, and to increase reservoir storage capabilities. Originally cities, fisherman, rafters, and others showed only minor interest. Colorado Springs only requested 10,000 acre feet from the project and Pueblo said they didn’t really need any extra water at that time. Only after the hard work of raising money, lobbying, and actually constructing the various reservoir and transportation systems seemed assured of success did others become enamored of the project. Cities are fighting to gain extra storage space at the reservoir. Rafters, although they do not have any priority rights to the water, insist that the timing of the release of water from dams on the upper reaches of the Arkansas River should meet with their needs. Without spending a cent for developing water for beneficial use, they are able to influence how the water is delivered to the Pueblo Reservoir by paying a very small fee for evaporation losses. Most of the recreational phases only appeared after the project was completed and recreation users will not contribute directly to the construction costs of the project. However, the permanent pool of water at the reservoir will probably have to be maintained far above the 30,000 acre foot level originally agreed upon in order to accommodate swimmers and boaters. Naturally, the membership of the board changed after water and storage became a reality. In the late 1980s, each of the eight county was assured of only one representative, there was to be one-at-large representative, and the other representatives were to be chosen according to the population of the county. Today, the board is dominated by urban interests. El Paso County has five representatives and Pueblo County has three plus the at-large representative.

The state legislature has also established a number of committees involved with water legislation and use. Agriculture which has 85 percent of
the water, has two percent of the vote. This means that most legislators (65 representatives and 35 senators) are from the cities. Few know about water before their election. Most become experts after several weeks, educated by special interest lobbies.

It is no surprise, therefore, that legislation recommended by legislative committees and passed by the legislature has favored urban interests. Some of the resulting legislation has seriously undermined the original provisions in the constitution dealing with water. Legislation has passed circumventing the provision in the Constitution that water must be put to immediate beneficial use. This has led to stockpiling of water by the cities which in turn has led to water speculation and misuse of water. In the late 1970s an acre foot of water was sufficient to provide for four urban families a year, now an acre foot of water is sufficient for only one and a half families. Cities have extra water; they must use it or lose money. The consequence is the opposite of the conservation of water being advocated publicly by all sides.

Special interest groups have made it politically impossible for the legislature to fully implement the Constitution in other ways. For instance, the constitution allows all water in Colorado to be put to beneficial use. There are still several hundred thousand acre feet of water unappropriated on the Western slope. Yet, because of pressures on committees and legislators by environmental groups and others, this water will probably be lost to Colorado.

Since legislators and state water committee members rarely have time to become experts in water, there is a tendency to pass legislation (wise or not), and then have the State Engineer figure out how to implement the legislation. Naturally funding is inadequate and the state engineer rarely has the resources to adequately administer the vast number of water systems under his jurisdiction in the state. In many instances, this has allowed for abuse —
excessive underground pumping comes immediately to mind. Also cities, because of the state engineer's lack of personnel, keep and report their own figures on water consumption, exchanges, and storage to the state engineer. It really should be the engineer's job to keep these figures so he can make sure no injuries occur to the other user's of the water system.

The decreasing population of farmers has not only made it impossible to elect a legislative body favorable to their interests, it has also made it impossible to find enough qualified farmers to sit on the multitude of committees and boards that now exist. The remaining farmers are so busy trying to earn a living that few of them become water experts. While they may understand local water use, few farmers have the time needed to gain an understanding of all the intricate political, economic, and legal niceties demanded today. As the number of water committees increases, the demands become greater while the resource to meet the demands become smaller. Farmers not only lack time, they also lack money. They can rarely afford to hire full time specialists to represent their interests. Farmers simply aren't getting their fair share of the food dollar and have little or no surplus to invest in this way.

Agriculturists are often excluded from meetings and committees dealing with water in rather interesting ways. Meetings are often scheduled during the busiest time of year for the farmer at places far removed. To attend one often has to stay at expensive hotels and eat expensive meals. This is fine for the bureaucrat whose expenses are paid by the taxpayer or the lawyer being reimbursed by special interest groups. It is death to the farmer who is barely making a living.

Clearly farmers and ranchers who hold 85 percent of the water lack proper representation on the boards controlled politically. This has allowed groups
and individuals who hold no priority water rights to manipulate committees making major decisions about water. I was made aware of the full implications of this the other day when I was told to my face that "agriculture was going to be put out of the water business by red tape and regulations so the cities wouldn't even have to buy the water they wanted." Clearly committees are being used to undermine the priority system which has allowed for an orderly use and exchange of water. Chaos seems to be trailing in the wake. This is "water by committee". And it seems to me that water is too important to mankind to be treated as a political football.