STATEMENT OF ROBERT DELANEY,
GLENWOOD SPRINGS, COLORADO, BEFORE
THE HOUSE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS

My name is Robert Delaney. I am an attorney from Glenwood Springs, Colorado. I appear here by direction of the Colorado River Water Conservation District, an organization created by Statute representing seven counties and part of an eighth county in water matters in Western Colorado, and also as a member of the Board of Directors of the Western Slope Water Association, a non-profit corporation having representatives from all sections of the Colorado River drainage in Colorado.

I appear in opposition to Section 11 of H.R. 270 and 2836 (Also appearing as Section 11 of S. 500), which provision would permit the City and County of Denver to acquire by purchase water rights and other property rights of the United States Government in connection with that City's proposed diversion of waters from the Blue River on the Western Slope of Colorado, through the proposed Montezuma Tunnel to the Eastern Slope of Colorado.

Since the hearings before this Committee adjourned in January of 1954, there have been two principal developments in relation to Denver's attempted transmountain diversion from the Blue River, and to avoid repetition, this statement will be confined to a discussion of those developments. The first development of importance is the fact that Denver has withdrawn her request for a 75 million dollar interest free loan from the United States Government and in lieu thereof seeks to acquire water rights and other property of the United States under Section 11 of H.R. 270,
2836, and S. 500. The second development of importance is the decision by the Colorado Supreme Court adverse to the contentions of the City and County of Denver concerning the adjudication of the waters from the Blue River.

The people of Western Colorado, the area which provides over 70% of the waters of the Colorado River, are almost unanimous in opposing the belated attempt by Denver to inject the so called "Blue River Project" into this bill by means of power politics. The reasons for this opposition were detailed by representatives of Western Colorado in hearings concluded before this Committee in January of 1954.

We believe the provisions of Section 11 are even more harmful and pernicious to the future growth and development of Western Colorado than was the former attempt by Denver to secure the sanction and approval of the United States Government for this diversion by means of a Federal loan.

You will note that Section 11 is general, vague, and ambiguous. No project report or precise definition has been submitted to define what is meant by Denver's "Blue River Project". Denver's plan for diversion from the Blue River has undergone many modifications, changes and revisions. What department of Government is intended by the word "appropriate agencies of the United States" is not specified. The water rights "used or acquired by the United States solely for the generation of power" are not limited or defined as to location or quantity, but would include all waters flowing into, or impounded in the Green Mountain Reservoir, and not required to fill decrees antedating those of the City and County of Denver. The "interests in land" and "other property of the United States" are not limited, described
or defined and in addition to other property, could be construed to include that part of the Blue River watershed above Dillon owned by the United States Government.

As was mentioned in the hearings before this Committee in January of 1954, the Green Mountain Reservoir is an integral part of the Colorado Big Thompson project. It was constructed pursuant to the terms of Senate Document 80 and included 52,000 acre feet of replacement water, and 100,000 acre feet of additional water for power purposes with the specific additional provision that "the water released shall be available, without charge, to supply existing irrigation and domestic appropriations of water, including the Grand Valley Reclamation Project . . . and for future use for domestic purposes and in the irrigation of land thereafter to be brought under cultivation in Western Colorado . . . water not required for the above purposes shall also be available for disposal to agencies for the development of the shale oil or other industries." The Green Mountain Reservoir is the only substantial source of stored water available to users along the Colorado River or its tributaries in Western Colorado. In the 15 year period from 1937 to 1952 there was an increase of almost 19% of lands placed under irrigation by private capital. There have been ever increasing requirements and demands on the water impounded in the Green Mountain Reservoir for agricultural purposes. The uranium, oil shale and coal developments with their attendant industries vital to the national defense are just beginning. Unless a firm supply of water is assured, the agricultural and industrial development of Western Colorado must stop.

Denver has attempted to justify this extraordinary proposal by claiming a need for additional water for municipal
purposes. The facts refute this claim. On the need of Denver for additional municipal water, we ask the Committee to consider the testimony of John Barnard and Frank Delaney, appearing at Pages 620 to 652 of the hearings before this Committee in January of 1954 on H.R. 449, 443 and 4463, and that such testimony may be considered part of the record in those hearings.

Bureau of Reclamation studies show that even assuming a population of one million people, Denver's domestic water requirements in excess of available supplies will exceed 49,000 acre feet. Glenn G. Saunders, speaking for the Denver Water Board has listed this requirement as 73,000 acre feet of water and has further defined the proposed project as "the core of a large Blue-South Platte Project proposed by the U.S. Bureau of Reclamation to bring an additional 270,000 acre feet of water to the Upper South Platte Valley. . .

The real purpose of Section 11 is to permit Denver to sell and speculate in water she now has, and water the Denver Water Board hopes to obtain from the Blue River for power generation and agricultural purposes at a cost greater than that required to utilize those same waters in Western Colorado for beneficial purposes. This is the only basis on which Denver's Blue River Project can be feasible. This fact is clearly recognized in the references by the Colorado Supreme Court to Denver's contract and alliance with the South Platte Water User's Association.

The Colorado Big Thompson Project, of which the Green Mountain Reservoir is an integral part, was constructed at a cost of approximately 169 million dollars, of which the irrigators thereunder are obligated to repay only 25 million dollars, or less than 1/6th of the total cost. The remainder of the cost, if
it is to be paid back at all, must be reimbursed from power revenues. The Green Mountain Hydro-electric Plant, which will be practically deactivated under the proposed Section 11, repays the United States about $500,000 a year and has an average annual generation of 60.6 million KW hours. Without the capacity of this particular hydro-electric plant, the ability of the project to pay will be jeopardized. About 58 million KW hours of the electricity generated at the plants of the system are required to lift the water exported from the Pacific side of the Continental Divide to the Atlantic side. This is a lift of a minimum 230,000 acre feet of water a vertical distance of at least 80 feet to the level of the transmountain diversion tunnel. In addition, a substantial part of the economy of Western Colorado is dependent upon the power generated from this project. There are power lines built to supply R.E.A. consumers in areas up to 100 miles from the plant.

As previously mentioned, the Colorado Supreme Court has handed down a decision since the hearings of January, 1954, which involves the rights attempted to be acquired by Section 11. As a result of that decision, when considered in connection with the undisputed facts of the case, the United States has the prior and better right to the use of water used to generate power. The same question is also for adjudication in a case pending in the United States District Court for the District of Colorado. Denver would not need the Section 11 legislation if she could win either of said cases in the Courts. Hence, Denver asks the Congress to give her by legislation, what she cannot attain in Court.

Section 11 presents an unprecedented request for special legislation. So far as we can determine, never in the history of reclamation has there been a proposal to take away, or give away,
a water right that turns the generators in a plant forming a part of a project costing the United States millions of dollars, practically none of which has been repaid, particularly where there are down-stream beneficiaries and parties in interest who are not to be considered in the proposed legislation.

The nearest approach we have been able to find is the legislation sought by the City of Eugene, Oregon, in H.R. 7815 at the Second Session of the 83rd Congress.

As the Colorado Supreme Court properly determined, Denver does not need the amount of water claimed for domestic purposes, as was evident in the opinion of the Colorado Supreme Court reflecting the fact that Denver had contracted to sell up to half of the water here involved for purposes not in any manner connected with the Denver municipal system. Section 11 constitutes an attempt by a great City to speculate in water it may never need. To the extent that Denver is permitted to speculate in water, the oil shale, coal and other resources of Western Colorado may remain in its primeval state, and in that area there may be no further dispersal of industry to further the national defense.
There is attached as a part of this statement a copy of the decision of the Supreme Court of the State of Colorado defining the present status of the waters of the Blue River in the State of Colorado. From this decision it may be clearly seen that Denver's diversion proposal constitutes a direct interference with power rights of the United States; that Denver does not need the quantity of water demanded for domestic use; that the rights of beneficiaries on the Western Slope of Colorado to waters impounded in the Green Mountain Reservoir are recognized pursuant to Senate Document 80.