

CAPITAL EXPENDITURE FUND

1991

0004

(58923-73500)	ADDITIONAL FOR ADMIN. #2	\$300,000
(57805-72700)	ROAD INFRASTRUCTURE	\$3,973,000
(54360-72700)	LID CONTRIBUTION	\$500,310
	WATER	
(57833-72800)	UNION PARK PAYMENT TO NECO	\$1,200,000
(57833-72800)	UNION PARK LEGAL	\$100,000
(57833-72800)	UNION PARK DEVELOPMENT	\$50,000
(54360-72800)	OTHER WATER	\$250,000
(58920-72113)	OFFICE REMODELING (MISC.)	\$150,000
(57847-73700)	DEBT SERVICE - NEW BUILDINGS	\$1,019,277
(57865-72010)	TREASURERS TAX COLLECTION FEE	\$100,216
	TOTAL CAPITAL EXPENDITURE FUND	<u>\$7,642,803</u>

FUND: 0033

DEPARTMENT: UNION PARK WATER FUND 1991

DESCRIPTION	1989 ACTUAL	1990 BUDGET	1991 BUDGET
71000 SALARIES & WAGES	\$0	\$0	\$0
72000 EMPLOYEE BENEFITS	\$0	\$0	\$0
73000 SUPPLIES	\$0	\$0	\$0
74000 SERVICE & OTHER	\$541,138	\$525,000	\$1,350,000
75000 SOCIAL SERVICES	\$0	\$0	\$0
76000 INTERGOVERNMENTAL CHARGES	\$0	\$0	\$0
77000 AMORTIZATION & MISC	\$160,000	\$309,617	\$0
78000 CAPITAL & FIXED ASSETS	(\$24,499)	\$0	\$0
TOTAL ADOPTED	\$676,639	\$834,617	\$1,350,000
REVENUE	\$821,257	\$691,000	\$1,350,000
SUPPORT BY FUND BALANCE	(\$144,618)	\$143,617	\$0

BUDGET HIGHLIGHTS:

THE UNION PARK FUND WAS DEVELOPED TO TRACK EXPENDITURES RELATED TO THE UNION PARK PROJECT. BOTH REVENUES AND EXPENDITURES IN THIS FUND REPRESENT THE AMOUNT TRANSFERRED FROM THE CAPITAL EXPENDITURE FUND.

UNION PARK IS A MAJOR TRANSMOUNTAIN DIVERSION PROJECT WHICH WOULD STORE WATER IN THE UPPER GUNNISON BASIN FOR USE IN ARAPAHOE COUNTY AND THE CITY OF PARKER. THIS PROJECT, WHICH WILL PROVIDE A MINIMUM OF 60,000 AF PER YEAR, WOULD MEET THE NEEDS OF THE COUNTY WATER PROVIDERS FOR THE NEXT 30-40 YEARS.

[Handwritten signature]

FUND SUMMARY

1992

Fund 0033 Union Park Water Fund

Assessed Valuation Not Applicable

Budget Year 1992 (Estimated Amounts)

1.	Available Revenues:	
	Estimated Fund Balance, Beginning of Year 1/1/92	\$ <u>221,891</u>
	Property Taxes	\$ <u>0</u>
	Revenue, Other Than Property Taxes	\$ <u>150,000</u>
	Total Revenues Available	\$ <u>371,891</u>
2.	Appropriated Expenditures	\$ <u>150,000</u>
3.	Less: One/Sixth Operations Reserve Policy	\$ <u>0</u>
4.	Less: Accrued Vacation/Sick Leave	\$ <u>0</u>
5.	Estimated Unrestricted Fund Balance End of Year 12/31/92	\$ <u>221,891</u>
6.	Mill Levy Required for Property Tax Revenue	<u>0</u> Mills

UND: 0033

DEPARTMENT: UNION PARK WATER FUND 1992

DESCRIPTION	1990 ACTUAL	1991 BUDGET	1992 BUDGET
71000 SALARIES & WAGES	\$0	\$0	\$0
72000 EMPLOYEE BENEFITS	\$0	\$0	\$0
73000 SUPPLIES	\$0	\$0	\$0
74000 SERVICE & OTHER	\$0	\$1,350,000	\$150,000
75000 SOCIAL SERVICES	\$0	\$0	\$0
76000 INTERGOVERNMENTAL CHARGES	\$0	\$0	\$0
77000 AMORTIZATION & MISC	\$299,617	\$0	\$0
78000 CAPITAL & FIXED ASSETS	\$0	\$0	\$0
TOTAL ADOPTED	\$299,617	\$1,350,000	\$150,000
REVENUE	\$792,799	\$1,350,000	\$150,000
SUPPORT BY FUND BALANCE	(\$493,182)	\$0	\$0

BUDGET HIGHLIGHTS:

The Union Park Fund was developed to track expenditures related to the Union Park Project. Revenues in this fund represent the amount transferred from the Capital Expenditure Fund. Expenditures are mostly for legal costs associated with the project.

Union Park is a major transmountain diversion project which is being developed to store water in the upper Gunnison basin for use in Arapahoe County and the City of Parker. This project, if developed, will provide a minimum of 60,000 acre feet per year, and would meet the needs of the County water providers for the next 30 to 40 years.

AURORA SENTINEL
Aurora, CO
(Adams County)
Wed, 7,631

COLORADO PRESS
CLIPPING SERVICE
303-571-5117

Western Slope appeals to taxpayers

Editor:

Your Arapahoe County commissioners are pushing an unrealistic dream of someday building the Union Park project to take water from the Gunnison River basin. They are fighting a losing battle.

Your county commissioners have spent over \$1 million dollars (it may be over \$2 million) on a legal war against us, yet they have lost on every major decision.

The most critical ruling came last month, when the water court judge ruled that no more than 20,000 acre-feet per year is available for transmountain diversion from the Gunnison Basin.

This is not enough to financially justify a half-billion dollar project, so your county commissioners plan to appeal the decision to the Colorado Supreme Court.

The county's lawyers think the Supreme Court will reverse the decision, but the lower court's ruling is strong.

The judge ruled on issues that are factual and legal.

The Supreme Court may choose to look at the legal issues, but the state's high court will be reluctant to examine the factual evidence, and that evidence does not support the quest for our water.

Even if a water right is somehow obtained, the project still will face federal permitting and a controversy much like the Two Forks debate.

Except this project will face a Western Slope community that is completely united against transmountain diversion.

To give you a feeling for the opposition, you should consider that in Gunnison County, environmentalists and ranchers are working side by side to defeat your county's proposal.

Retail store owners, college professors, construction workers, retired people, outfitters, fisherman and all local governments here are united.

We will not allow the destruction of our beautiful

rivers and our economic future. As Coloradans, Arapahoe County residents share this future with Gunnison County people, and we can work together to protect the Western Slope.

I read in the newspapers of the many problems facing Arapahoe County and also of your opportunities for prosperity.

I wish you the best of wisdom and luck in resolving those problems and in creating a better life for yourselves and your children.

I suggest that your commissioners are harming those efforts by continuing to spend money on a fruitless pursuit of our water.

The county commissioners have budgeted \$700,000 for the first year of a multi-year Supreme Court appeal. Even if they win, they still will have to spend millions more on the permitting effort.

(The Two Forks environmental-impact statement cost \$37 million.)

If Arapahoe County were somehow to get the water rights and all the permits, it would spend at least \$500,000,000 to build the project, and that could put your county government at great financial risk.

The result easily could be a major increase in your property taxes to pay for a project that never earns enough to pay for itself.

I urge all Arapahoe County residents to contact your county commissioners and tell them to give up this pursuit of Gunnison County's water.

Tell them to drop the appeal and instead spend the megabucks on solving problems closer to home.

If you want to contact me to learn more about this situation, call me at 303-349-7104, or write HCCA at Box 1066, Crested Butte 81224.

Gary Sprung, president
High Country Citizens Alliance
Crested Butte

Editor's note: Arapahoe County has appealed the water court decision to the Supreme Court.

and your men raped, murdered, and massacred the civilians. Now that the U.S. did not win the Vietnam war, it turns its back. Haven't you punished these people long enough? I worked years and years with children who were the war victims. Children burned by your bombs, without proper medical care, whose chins adhered to their shoulders forever. Children not only with faces and bodies destroyed, but also their souls scarred eternally. Children suffering from losing both parents, all relatives and friends in the world, children who were so innocent, so young but so desperate, so desolate, they confided in me, "Miss, I will not suffer any more physical pain and mental torment if I die now. I will be happy if I could die because I'll reunite with my loved-ones, I won't be so lonely."

Millions of them still walk around today desolate, hopeless in Vietnam. You hold a grudge against the Vietnamese, but how do they feel about what you had done to them? U.S. G.I.'s got cancer from Agent Orange, but they left Vietnam no later than 1975. Where can the Vietnamese natives go? They continue to die of cancer caused by the defoliant spray, suffered from miscarriages, birth defects and other diseases related to the spray.

I am proud of Americans for being very kind, charitable people, and care deeply for others who are less fortunate. I know many Americans want to help the Vietnamese people. But I am not proud of some of us who turn our back to the people of the land we had destroyed.

Please don't help arm the government. Just help the needy war victims. Help them to recover the economy. And please help to restore the Vietnamese rain forests which are very vital not only to the Vietnamese but to all people on earth.

Jacqueline Nguyen-Phuoc lives in Fort Collins

damage after abuse or neglect has occurred are exorbitant, but more importantly, because of the suffering and loss of lives to Colorado's children.

Fortunately, many people in this state have taken heed of this advice and need to be commended. Through the foresight of the legislators and Gov. Roy Romer, Colorado has joined 48 other states in this effort. In July 1989, Romer signed HB 1216 into law which created the Colorado Children's Trust Fund. The Fund exemplifies an ingenious financial partnership between state and federal governments, local communities, private citizens, businesses, corporations, and foundations

and public organizations. While evaluation of prevention services is difficult, the results we are seeing are enlightening. In the first two years of operation, the Fund has allocated over \$303,000 to 18 agencies whose programs serve 23 counties across the state. Parents are learning new and appropriate skills to be better parents; and children are safer as a result.

The staff and volunteers in these community-based prevention programs need to be recognized for their excellent work and foresight as well. By extending support and assistance to families early, child abuse is being prevented before it becomes the tragic stories like those cited

The Denver Post, Nov 30, 1991, p. 7B

have caring, responsible, and productive citizens equipped to handle critical social, economic, and environmental issues facing us in the next century.

Funded by a \$10 surcharge on marriage license fees, the Children's Trust Fund also accepts contributions and donations which are tax deductible. Remember, children make up 30 percent of Colorado's population and 100 percent of Colorado's future. For more information or to make a contribution, contact the Colorado Children's Trust Fund at (303) 692-5600 Ext. 29.

Joyce C. Jennings is program director of the Colorado Children's Trust Fund

Foe calls Union Park dam a 'waterdoggle'

MARLENE ZANETELL

MORE THAN five years of legal wrangling over plans to divert water from the Upper Gunnison River Basin across the Continental Divide to metro Denver climaxed last summer in a five-week trial over Arapahoe County's proposed Union Park project. The state water court's later decision on the amount of water available for this transmountain diversion, in the words of a recent Denver Post headline, "puts the project in doubt." To say the least.

A flock of attorneys from at least three different law firms combined to argue Arapahoe's case for a Union Park water right. The result?

Attorneys for the Arapahoe County Commissioners proved there is indeed unappropriated water available for the Union Park Project: all of 20,000 acre feet annually maximum. This is a far cry (only one fifth) from the 100,000 or more acre feet they sought and which the Natural Energy Resources Company (NECO) of Palmer Lake claimed to be available when that company sold the Union Park design to the Arapahoe Commissioners

for the private gain of NECO investors.

Let's see now. The mammoth Union Park Reservoir would require 900,000 acre feet of water to fill. At 20,000 acre feet per year it would take 45 years to fill. That is 45 years before water would likely go east across the Continental Divide.

Oops. Seems this reservoir would start to silt up before Arapahoe's taxpayers (in Aurora, Littleton, Englewood, etc.) see a resulting crop of water. If they live that long. Conceivably, Arapahoe's consulting water engineers could go from their present work as expert Water Court witnesses to work constructing this "Big Dam of Little Waters" and then directly to work on plans to "de-commission" the silt-ridden waterdoggle.

Arapahoe County has estimated the total cost of Union Park at \$500 million. If so, then each of the 20,000 annual acre feet available to this project would cost \$25,000. We say "water is liquid gold" in

the American West, but this should set a new dam gold standard: never has so much been spent to gain so little.

Clearly, this water project is not feasible or apt to ever hold water. As a mere idea Union Park has already "succeeded" — as a jobs program for Colorado water lawyers. The legal appeals that attorneys now contemplate could keep the Union Park "business" going in water court for years to come.

Oh, we have paid dearly, too, in the Gunnison Basin. But it feels different here. You do not fail or flag when forced to fight for your way of life, for the future, for this beautiful and blessed place and its "creatures great and small." We are grateful, but not surprised, that many individuals and entities throughout the state and the nation have shown they, too, value Colorado's Gunnison Basin and joined us in this costly fray.

We say to our friends and neighbors in Arapahoe County, "Let us stop here." Union Park has proven to be a bad idea on all sides of the Continental Divide.

Marlene Wright Zanetell lives in Gunnison

students near her house.
The boys quickly hopped
in their cars and sped off
when they saw Traeger

"I think they wanted to
talk to them, recruit them,"
Traeger said.
The incident was not

gestures that appear to
express gang affiliation.
Meanwhile, schools are
working with law en-
forcement officials to educate

sees "wannabes," students
who imitate gang dress and
behavior but are not actually
See GANG, Page 2

Water project put on hold

County to appeal
state decision that limits
area rights to water

By Greg Griffin
Independent Staff Writer

Arapahoe County's \$500 million project to divert water from the Gunnison River basin is on hold as the county prepares to appeal a state water court decision that severely limits the county's rights to the water.

The plan to divert 40,000 to 50,000 acre feet of water yearly from the Taylor River, a tributary of the Gunnison, was cut down last month by 4th Water District Judge Robert A. Brown, who ruled the county is only entitled to 20,000 acre feet.

"The judge gave us the option of accepting that, but good Lord, the cost would be \$20,000 per acre foot," said county commissioner John Nicholl.

The appeal could cost the county as much as \$100,000, said commissioner Tom Eggert, but would

See WATER, Page 2

Source:
Sioux Falls Journal-Record
14 Nov 91, p1

Pigposterous!

Pot-bellied pets really ham it up

By Rebecca Kast
Independent Staff Writer

Martin Marietta engineers John and Lynne Vincent don't work to bring home the bacon. Bacon is already at their South Jefferson County home, eagerly honking and squealing and snorting in delighted greeting — as only a pig can — as they walk in the door.

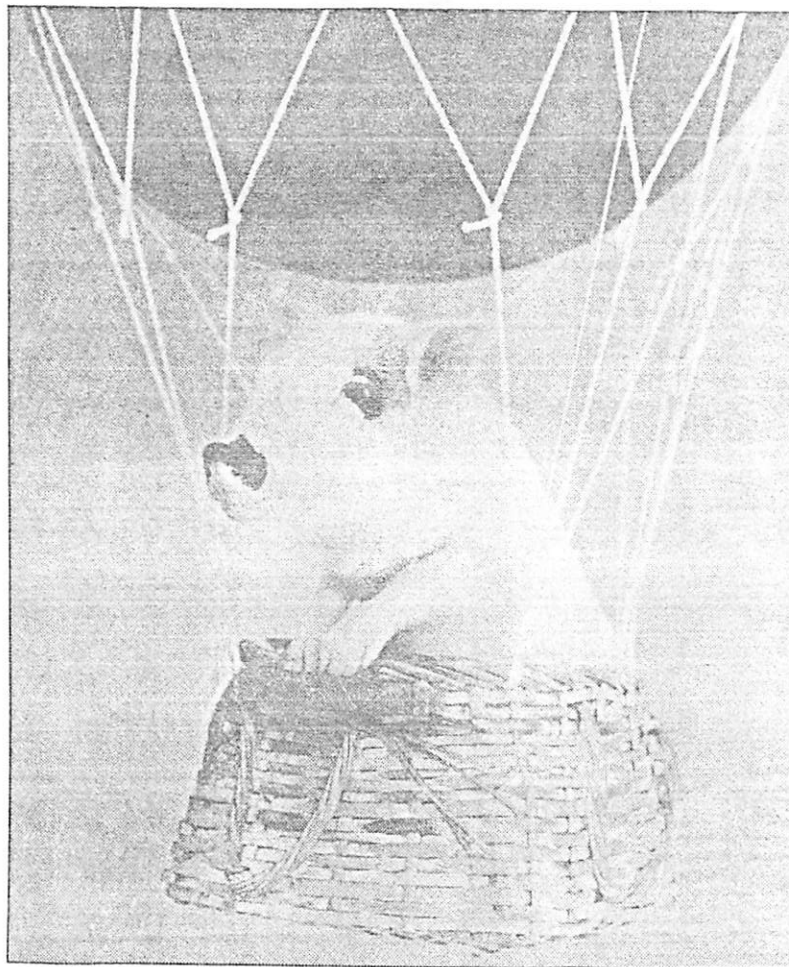
But Pork Chop isn't one to lag behind. He quickly trots in and buries his wet snout in their legs. Then the two dogs saunter up for a scratch; and the three cats amble in.

Aahh . . . home in the suburbs.

With a twist.

"I wanted a pig," says Lynne Vincent, 32, who grew up with horses and cows in Maryland and wanted a farm animal to remind her of home. All it took was one visit to a

See PIGS, Page 15



The Vincents have launched their own pig product company, Hoggin'. One of the company's specialties is greeting cards, such as the one above.

➤ Water from page 1

be worth the money because of the size of the project.

Western Slope opponents of the project have hailed the decision as an environmental victory, but county officials say their plan for the water would benefit the Western Slope as well as Arapahoe County.

"Over 1 million acre feet of water is leaving the state that we are entitled to use," said Assistant County Attorney Peter Ziemke. "The longer that water leaves the state without claim from Colorado landowners, the greater the risk that we will never be able to use it."

Ziemke said the county had claimed 100,000 acre

feet from the Taylor, but no more than 50,000 would be diverted to Arapahoe County.

Though some of the county's water would evaporate in the 1 million-acre-foot Union Park reservoir, the remainder would stay in the river, he said.

The county first invested in the project in 1988 to prepare for long-term water needs, Ziemke said.

The county presently gets most of its water from the Denver Water Board and the remainder from ground water, or wells.

An aquifer containing "billions of acre feet" of water rests under Arapahoe and Douglas counties, Ziemke said, but planners want to tap that resource at a rate that will not drain it.

➤ Gang from page 1

affiliated with gangs.

"You can see in the hats kids are wearing in the junior high and high school levels that it's wannabes, but there is activity going on," Romero said.

The typical "wannabe" might wear a baseball cap with certain letters of the professional athletic team insignia blacked out or with cryptic writing on the sweatband. Others might wear certain colors. When asked what the symbols and colors mean, often the "wannabe" doesn't know, he said.

A new policy will be considered by the board of education Tuesday that would prohibit students from

wearing any clothes that denote gang membership or to use gestures or graffiti to express gang affiliation.

The policy would not ban outright certain colors or types of clothing, but it lets principals decide what is acceptable. The policy would also prohibit expression of affiliation with secret societies that promote ethnic intimidation.

Euclid Middle School faculty recently spent a day discussing gangs and secret societies with law enforcement specialists and

came up with ideas of their own on how to better communicate with students and monitor their behavior. Goddard plans to use a grant to work with "at-risk" students who are more susceptible to gang influence, Romero said.

"These kids are so caught between adolescence and adulthood that they are easy targets for influence," said Euclid principal Aldis Sides. "So we want to teach them now — particularly refusal skills— how to say 'no.'"

Student suspended for walk-out

Euclid Middle School suspended an eighth-grade student last week after he walked out of school to protest a proposed district policy that would give schools the power to restrict students' clothing.

Euclid principal Aldis Sides said the boy was one of a group of eight to 10 students who circulated petitions protesting what they perceived as a school policy banning students from wearing Navy blue, black or red — colors associated with street gangs and professional sports team apparel.

The students organized a walkout to take place Friday afternoon, Sides said, but administrators foiled the plan when they learned of it. They stopped classes to conduct group discussions with students and clarify

that the school does not restrict the colors students can wear.

No students except the eighth-grade boy, whose name was not released, left the building at the designated time, she said.

Euclid policy does ban students from wearing hats, shirts that advertise alcohol or cigarettes, or "half-shirts" that show the stomach, Sides said. The policy is designed to protect the students' safety, she said, and when a student wears a restricted shirt to school they are offered a Euclid T-shirt as a substitute.

The Littleton School Board of Education Tuesday will consider a policy giving principals the power to restrict students' clothing if it appears to express gang affiliation.

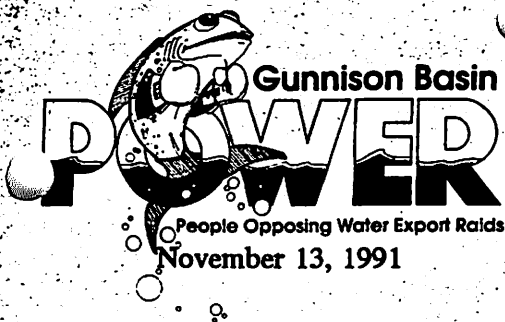
SAVINGS PLAN

ESSENTIALS™ MAIL-IN REBATE
MINI BLINDS

Width	26"	29"	32"	36"	40"	44"	48"	52"	57"		
Length	21"	\$2	\$2	\$4	\$5	\$7	\$8	\$9	\$11	\$12	\$14



**MINI
BLINDS**



Dear Gunnison County Property Owner:

In the last three years, Arapahoe County has been trying to take water from the Gunnison Basin. So far, Arapahoe County has reportedly spent more than \$3,000,000 in their goal to de-water the Gunnison Basin.

Recently, the Water Court rendered a decision culminating the several years of argument and money spent by both sides of the mountains. The court substantially ruled against Arapahoe County. Now your County Commissioners are deciding whether or not to continue spending your tax money and other public funds in the pursuit of Gunnison Basin water. If Arapahoe County appeals, you will probably see increased taxes on both sides of the Continental Divide -- Gunnison County and Arapahoe County.

Arapahoe County estimates the project to cost around \$500,000,000, yet others feel the cost will eventually reach perhaps \$1,000,000,000. Financial gains from building the project will go mainly to a few private interests. And all of us will see the destruction of one of the last pristine places in Colorado.

This proposed project would devastate an area that you treasure -- that you have invested in. Because you own land in Gunnison County, we feel you must value the untouched beauty of this area and the quality of life it offers.

Your County Commissioners are NOW working on their 1992 budget. Recently it was reported that \$700,000 has been budgeted to appeal the recent Water Court ruling. Now would be the time to ask your Commissioners how and who would pay for this costly project, harming the beauty and quality of the public lands in the Gunnison Basin. And you might also ask -- Is this project really necessary??? If you wish to prevent this serious assault on the Gunnison Basin, please do two things:

- 1) Call and write your Arapahoe County Commissioners at 5334 S. Prince Street, Littleton, Colorado, 80166 (303) 795-4630. Let them know your concerns about this project.
- 2) Join POWER (People Opposing Water Export Raids), a group that is working to retain the good quality of life for everyone to enjoy in this beautiful part of Colorado.

For more information on POWER, see the reverse. Thanks for listening and ACTING. Together, we can protect what we share and treasure.

Sincerely,

Marsha T. Julio
Marsha T. Julio

Mary B. Vader
Mary Bocovich Vader

P.O. Box 1742
Gunnison, CO 81230

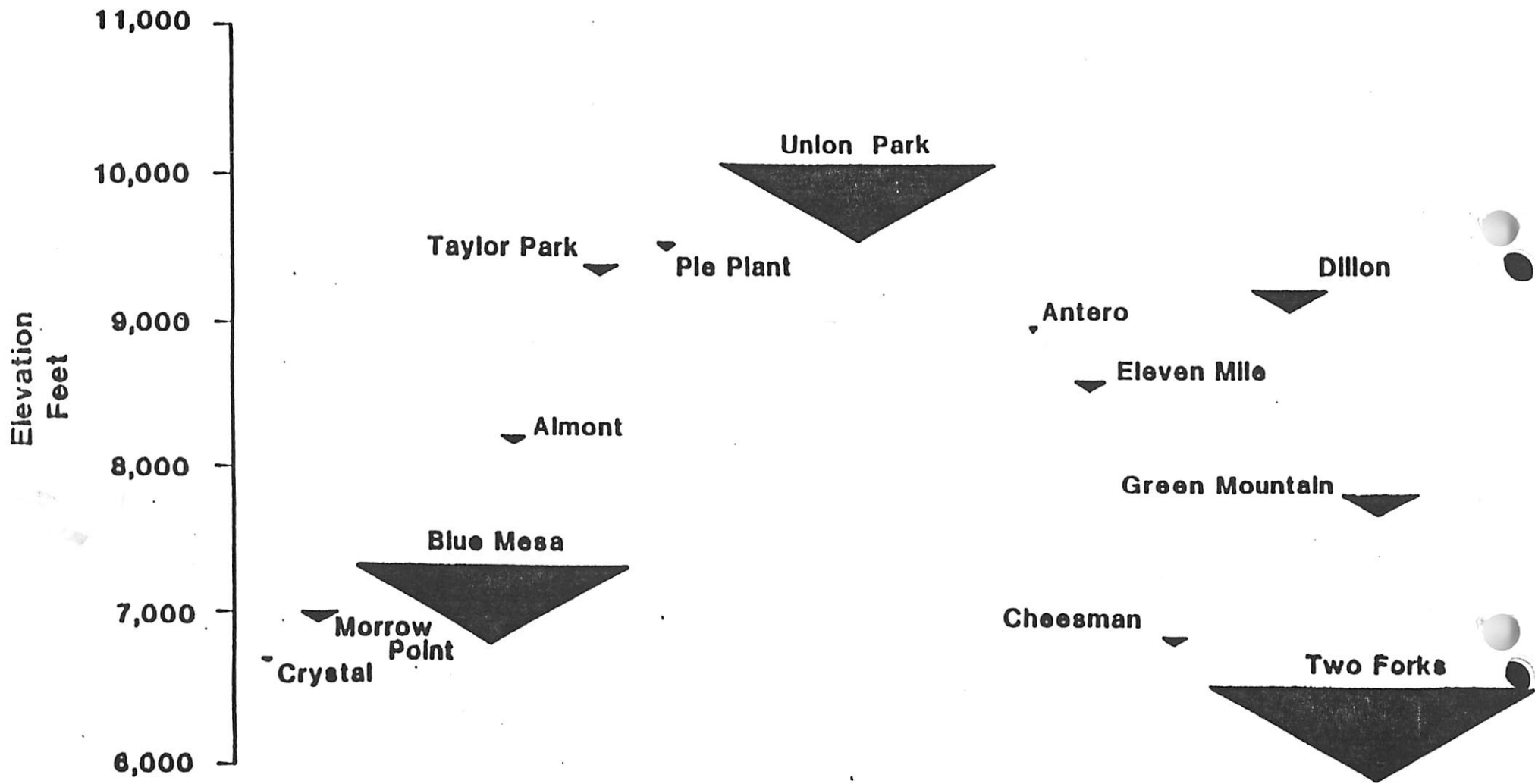
POWER was formed in February 1990 in response to a threat of transmountain diversion of Gunnison Basin water to communities on the Front Range. Members of POWER feel that water availability defines the future of the area -- its quality of life for both the residents and millions who visit it yearly.

POWER has accomplished quite a bit in its infancy:

- Unity: Gunnison County's entities are now united. Environmentalists, ranchers, rafters, sports enthusiasts, business people and others now sit at the same table, sharing their common views on water.
- Education: POWER has vigorously pursued educating local residents, tourists and second-homeowners, making all of us more aware of water threats. We have a weekly column, Taylor Talks, which is designed as an on-going educational tool, in both of our local newspapers in the County.
- Alliances and Networks: We have formed networks with state and federal government agencies and offices along with other grassroots groups whose water is also threatened.
- Research: We are constantly researching innovative, alternate ways of using our water while protecting the environment and retaining the beauty of the area. Two of these ideas are CARP (the Colorado Aqueduct Return Project) and conservation.
- Rocky Point: This proposed project would be one of the largest pumped-back storage electrical generating plants in the United States. Rocky Point, proposed by the same individual responsible for the Union Park transmountain diversion project, is planned for Taylor Reservoir. POWER has intervened in the governmental process and is doing all it can to prevent destructive development of this pristine area.
- American Rivers: American Rivers, a non-profit conservation organization, named the Gunnison River one of the nation's top ten most endangered rivers in the U.S. POWER alerted them to the threats to the Gunnison River, which includes Rocky Point and Union Park.
- Water Court: POWER members regularly attend Water Court hearings in Gunnison and Montrose. In addition, POWER members have testified at state water committee meetings in the state legislature. We're keeping up to speed on legislation, and at times even helping draft legislation and policy.
- Taylor: Taylor, the fighting fish and our mascot, has had exposure on both coasts so far. T-shirts, mugs, bumper stickers, etc. have all been graced by Taylor's presence and goals. He's been to our nation's capitol as well as to the Colorado Governor's mansion. His goals are ours -- to prevent transmountain diversion of Gunnison Basin water, to prevent destruction of Taylor Park by the Rocky Point and Union Park projects, to educate and further our goals of conservation of water, and to unify Colorado by making better use of its water.

Please help. Join POWER. Water is an issue that will be debated, litigated, legislated and written about for a long time to come. We owe it to future generations of Coloradoans to do the best job we can in securing a future that makes the most of this very precious resource.

Thank you for listening. If you have any questions, please call Mary Vader at (303) 641-0138 or Ralph Clark at (303) 641-2907.



Colorado Water Storage Reservoirs

County gets only fraction of requested water

378
Judge's ruling puts entire project in doubt

By Bill McBean
Denver Post Staff Writer

A coalition of ranchers and environmentalists committed to keeping Gunnison River Basin water away from the Front Range won a major court victory yesterday.

Robert Brown, a Gunnison Water Court judge, ruled that Arapahoe County is entitled to claim only 20,000 acre-feet in the basin, a far cry from the county's original

claim of 150,000 acre-feet. An acre-foot is about 326,000 gallons, or enough water to supply a family of four for a year.

Gunnison County residents had argued that most of that water is being used for southwestern Colorado irrigation.

The ruling means there would be only enough water to serve 80,000 people in Arapahoe County, not some 600,000 residents in south

metro Denver as was envisioned.

If Brown's decision sticks, Arapahoe County Commissioner Tom Eggert said it's probably not "economically feasible" to spend \$464 million to build the planned water project.

Commissioner John Nicholl said the commissioners haven't decided whether to appeal. But even if Brown's decision survives, Nicholl said, he doesn't believe it will have a negative effect on the county.

"There are other places we're

looking for water," Nicholl said.

But Eggert said those negotiations are for well water, which is not a renewable supply and therefore must be considered an "intermediate" rather than a long-term source.

Andy Williams, who represented the Upper Gunnison Water Conservancy District, one of several objectors to the Arapahoe County plan, said he thinks there's little

Please see WATER on 3B

Lawyer sees little chance for appeal

WATER from Page 1B

ground on which to appeal Brown's ruling.

"Their grounds are really fairly slim because most of the decision of the judge was based on interpretation of disputed facts," he said. Water court decisions can be appealed only when an issue of law is in question, he said.

Until last March, Arapahoe County was a partner to Aurora in the project, but after spending \$1 million on the effort, Aurora withdrew following several unfavorable rulings by Brown.

So far, Arapahoe County has spent more than \$1 million on the Union Park project.

Water judge rules against diversion of Gunnison River

38
Heather McGregor
Daily Sentinel

GUNNISON — The Western Slope has emerged victorious in a battle with Arapahoe County over transmountain water diversions from the Gunnison River.

"Basically, we won," said Dick Bratton, attorney for the Upper Gunnison Water Conservancy District.

"It's not often the Western Slope wins quite this strongly against efforts for transmountain diversions," said Andy Williams of Grand Junction, special attorney for the district.

In a 79-page ruling released this morning, Gunnison Basin Water Judge Robert A. Brown dismissed Arapahoe County's claims to Gunnison River tributaries and water

See Water, page 5A

Water

From Page One
in Taylor Park Reservoir.

"He shut them down, big time," Bratton said.

And the judge ruled there is no more than 20,000 acre-feet of unclaimed water in the upper Gunnison basin, a fraction of the 150,000 acre-feet the county sought to divert.

An acre-foot equals 325,851 gallons, and 150,000 acre-feet would be enough for 750,000 new metropolitan residents.

Arapahoe County sought to make the first transmountain diversions from the Gunnison basin through a

\$400 million series of canals, pumps, dams and tunnels.

To win the water, the county's attorneys argued in a three-week trial in July that water rights held by the federal government for the three dams in the Aspinall water storage unit were invalid.

And they also attempted to grab water out of Taylor Reservoir, built in the 1930s to provide a steady source of water for farmers in the Uncompahgre Valley.

Until March, Arapahoe County had been a secondary partner in the case with the city of Aurora.

But Aurora withdrew all its

claims in the case that month, after spending \$2 million pursuing the project.

Arapahoe County elected to stay in the case, even though Judge Brown ruled against the county on motions three times before the trial even opened.

Now the judge has given Arapahoe County until Nov. 5 to tell him whether it wishes to proceed with the second part of the water case: deciding whether there is a need for the project and if it is economically feasible to build.

Williams said, "The feasibility is governed by the quantity of water."

10-21-91
DENVER POST
Denver, CO
(Denver County)
AM, 247,053; Sun, 411,793

10-21-91
DAILY SENTINEL
Grand Junction, CO
(Mesa County)
M-F(PM), 31,812; S/Su(AM), 36,235

ARAPAHOE COUNTY COLORADO
DETAILED BUDGET EXPENSE WORKSHEET REPORT

0033 UNION PARK

SUMMARY CENTER

CENTER NUMBER 99999

ACCOUNT NUMBER	DESCRIPTION	1991 REQUEST	1990 BUDGET	1990 ESTIMATE	1990 YTD BUDGET	% CHG BUDGET	% CHG EST.	1989 ACTUAL
SERVICES & OTHER								
54319	ACQUISITION WATER RIGHTS	0.00	0.00	0.00	0.00	0.00	0.00	30,999.37
54320	TRAVEL & TRANSPORTATION	0.00	0.00	0.00	0.00	0.00	0.00	344.32
54350	DUES & MEETINGS	0.00	0.00	0.00	0.00	0.00	0.00	94.25
54360	PROFESSIONAL SERVICES	1,350,000.00	525,000.00	355,000.00	475,945.08	157.14	280.28	508,974.96
54361	AUDITING SERVICE	0.00	0.00	0.00	0.00	0.00	0.00	725.00
TOTAL	SERVICES & OTHER	1,350,000.00	525,000.00	355,000.00	475,945.08	157.14	280.28	541,137.90
MISCELLANEOUS								
57804	TRANSFER TO CAP EXP FUND	0.00	299,617.00	299,617.00	299,617.00	100.00-	100.00-	160,000.00
TOTAL	MISCELLANEOUS	0.00	299,617.00	299,617.00	299,617.00	100.00-	100.00-	160,000.00
CAPITAL OUTLAY								
58921	ENGINEERING & ARCHITECT	0.00	0.00	0.00	0.00	0.00	0.00	24,498.80-
TOTAL	CAPITAL OUTLAY	0.00	0.00	0.00	0.00	0.00	0.00	24,498.80-
CENTER TOTAL		1,350,000.00	824,617.00	654,617.00	775,562.08	63.71	106.22	676,639.10

10-22-91

ROCKY MOUNTAIN NEWS
Denver, CO
(Denver County)
AM, 355,644; Sun, 411,924

Ruling 38 may sink Arapahoe water plan

By Dick Foster

Rocky Mountain News Southern Bureau

A state water judge Monday fired a legal broadside into Arapahoe County's plan to build a huge reservoir near Gunnison and divert enough water from Gunnison River tributaries to supply another 400,000 Front Range residents:

Whether Judge Robert A. Brown's ruling will scuttle the county's massive Union Park Project is yet unknown. An attorney who presented the county's water case, Bob Krassa, declined comment Monday pending an examination of the judge's 79-page ruling.

Krassa said any appeal of Brown's ruling would be a long process, with the case waiting its turn in the crowded "traffic pattern" of the appeals court.

Arapahoe County claimed there were from 97,000 to 156,000 acre feet of unappropriated water available annually from the East and Taylor rivers, tributaries northeast of Gunnison. It sought permission to build diversions and then collect the water in a 900,000-acre-foot reservoir to be constructed at Union Park. From there it would be piped under Cottonwood Pass into the South Platte River and on to metropolitan Denver.

Brown conducted the trial on the proposal in June and July in Gunnison water court.

"The trial was involved with the question of whether there was water available that they claimed. I found that there wasn't more than 20,000 acre feet of water available at those points of diversion that they were claiming," said Brown.

"That likely is not an adequate amount for them. They want a reservoir for 900,000 acre feet of water, so being able to divert 20,000 acre feet a year isn't likely to fill it up very fast," he said. "But they're gonna have to make the decision on whether or not they want to go forward on that finding."

Brown gave Arapahoe County until Nov. 5 to decide whether it wishes to proceed with the second part of the water case, a determination of whether the project is needed and economically feasible.

Meanwhile, in Gunnison, Brown's decision was greeted with elation by opponents, who had organized against the further diversion of Gunnison waters to Front Range cities.

"That is so wonderful. I'm so relieved," said Marlene Zanitell, a member of Gunnison Basin POWER (People Opposed to Water Export Raids).

RAISING THE ROOF

STATE PARK TARGETED

Proposed dam would inundate Castlewood Canyon site

SHOULD CASTLEWOOD Canyon State Park be flooded so that there is a larger water supply for increased development in Douglas and Arapahoe counties?

That's the issue in a very complicated court case shaping up just south of Franktown that will be a landmark case in Colorado.

The canyon has been a state park since 1976, and though it's only 868 acres — a small park in the system — its closeness to Denver and the drama and beauty of the 90-foot deep canyon in the high plains landscape make it the more valuable. Rock climbers flock there as do bird watchers; hikers look for deer, fox, coyotes, antelope, rep

**JOANNE
DITMER**



tiles, jackrabbits and other wildlife. Since 1988 the state has invested \$2.3 million to add 100 parking places, 136 picnic spots and a visitors center at Castlewood.

But get a canyon and there's always someone who wants to build a dam to store water — in part because they're usually so deep, there is less surface, and less loss from evaporation. In this case it was the Parker Water and Sanitation District that envisioned a reservoir holding 24,000 acre-feet of water to meet the projected shortage of water if growth expected in the area by 2010 materializes. The district depends on ground water, and that source will not meet the expected demand with the growth the municipality would love to see. Proponents suggested it could be used as a recreation lake, which they thought would make it more attractive, but that idea sank pretty fast.

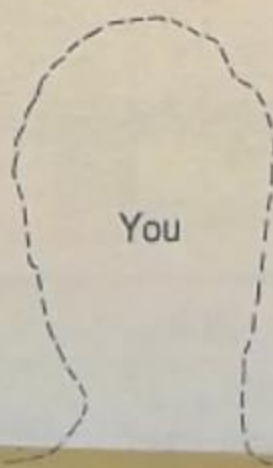
The proposed 600-acre dam would flood the canyon up to the bluffs and also drown four historic ranches. The ruins of an 1890 dam built by the Denver

WHO'S MISSING?

You! Join Mark Koeblich and Sylvia Jennings in our live *Good Afternoon Colorado* studio audience. Write in care of 9K*USA, 1089 Bannock, Denver 80204 or call our reservation line at (303) 893-4458. *Good Afternoon Colorado* weekdays, 4:00pm, only on Channel 9.

Good Afternoon
COLORADO

9K*USA



**WINDOW QUILT
SEALS IN WARMTH &**

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JOANNE
DITMER



Water Storage Company remain; it collapsed in 1933, causing more than \$1 million damage and two deaths.

Today the land belongs to the Colorado Division of Parks and Outdoor Recreation, more specifically to you and me. And the state parks agency isn't cooperating with efforts to change a lovely park to a dam site. The board and staff figure the land was acquired because it was special, because open space is disappearing, and not so it would become a water storage facility

lion, and there's no estimate of the dam construction costs because no specific site has been identified.

Because Parker Water and Sanitation District cannot condemn state land, the town of Parker joined the battle; the town does have the power to condemn land, but the question is whether it can condemn state land. That's never happened in Colorado before, so in legal parlance, it is a "case of first impression."

Two court cases are under way. One is in the Colorado

les, jackrabbits and other wildlife. Since 1988 the state has invested \$2.3 million to add 100 parking places, 136 picnic spots and a visitors center at Castlewood.

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The proposed 600-acre dam would flood the canyon up to the bluffs and also drown four historic ranches. The ruins of an 1890 dam built by the Denver

'There is significant case law throughout the country that a municipality can condemn land owned by the sovereign, in this case the state. There's also the question of which is the "higher use" — the canyon or a water-storage reservoir.'

November 3, 1991

John Hayes
water district attorney

for one small town. Parker's population was 5,450 as of Jan. 1.

State Parks won't even permit engineers and others involved in the project to go on the land to do testing necessary to determine if the dam is feasible. As far as parks is concerned, the dam may not be constructed, so why waste time and effort on research that will be useless? However, the parks board has agreed to permit the town and water district to make another presentation at a Nov. 15 meeting.

The district has offered to provide 3,000 acres that would be comparable to Castlewood Canyon — complete with a canyon — if parks will permit the dam. Cost of the alternative site could run from \$3 million to \$7 mil-

Water Court to get permission to build the dam — and Parker and the water district have to prove that they have the water to fill the dam if they were to build it. The other case is to determine if the municipality may condemn state land, an interesting prospect with all sorts of ramifications in the future, I'm sure.

"There is significant case law throughout the country that a municipality can condemn land owned by the sovereign, in this case the state," explained attorney John Hayes of Hayes, Phillips & Maloney, which represents the water district. "There's also the question of which is the 'higher use' — the canyon or a water-storage reservoir that could have boating and other water recreation. That's a very difficult question."

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One of the interesting facets of the case is that though the initial purchase of 87 acres in 1961 — from Lawrence Brown, son of the "Unsinkable" Molly Brown — was paid for with funds provided by the legislature, all subsequent purchases have been half-paid for with federal Land and Water Conservation Funds. By federal law any changes or replacement lands must be approved by the secretary of the interior. Both of those aspects undoubtedly add several hundred thousand dollars in court costs and several years of litigation to the process, but Hayes says it still would be worth it if they got the dam site.

There are reservoirs in state parks around Colorado, but they were built first, after which the surrounding land became a park. "A park is 'where you find 'em,' and then you protect them — you don't 'make' a Roxborough or Castlewood Canyon," explained Ralph Schell, business manager for state park recreation area is 'made' if reservoir is installed." In the past, lands with a reservoir called recreation this year all ar

Parker had

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FORGET THE
FUR SALES

IT JUST MAKES SENSE TO BUY MANUFACTURER DIRECT

All coats in our showroom are designed and individ-

programs, according to a water district spokeswoman, and I find that quite exasperating and short-sighted. The only constraint is dollars: If you can pay for it, you can use it. Water-saving procedures could stretch existing facilities tremendously.

Denver, by contrast, has the every-third-day watering of lawns in the summer; has redesigned its rate structure so that water usage above a certain base takes a big step up in price; is giving rebates when a 1.6-gallon toilet is installed instead of the 3.5-gallon toilet; and has other water-saving innovations.

It's deeply troubling that a state park can be inundated because one town wants to do so. What else or what other uses can erode the land that has been bought to preserve it for the public, for now and the future? There's always someone who wants to use someone else's property for their own gain — we see that time and again in this state. This is a case that deserves close attention from all of us.

Joanne Ditmer writes about historic preservation and environmental issues.

Arapahoe property taxes to

D.P. Sept 4, 1991

By Ginny McKibben
Denver Post Staff Writer

ARAPAHOE COUNTY — Arapahoe County property taxes will rise because of \$361 million in reduced property valuations by Assessor Jim Reeves, county officials said yesterday.

The loss in valuation is \$36 million more than officials previously had estimated and will result in a reduction of about \$6 million in revenues to the county.

Tax hikes will hit some residents harder

Evaluations cost county \$6 million

than others. Homeowners whose property values were not reduced by Reeves will bear much of the tax hike, because they will have a higher property-tax rate applied to valuations that did not change or went up.

County Commission Chairman John Nicholl said commissioners don't yet know how much the county's 14.733 mill levy

will increase. Previously, when the loss in valuation was estimated at \$325 million, he said a two-mill increase in the property-tax rate was likely.

A 2-mill increase would cost the owner of a \$150,000 home an additional \$44 a year.

Nicholl also said yesterday the county will have to make unspecified cuts in its

spending to help
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Residents also
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lion. The total valuation is based
on Reeves' appraisals of proper-
ties since he took office on Jan. 8.
Last year, his predecessor, Joe
Marceny, set the county's com-
mercial, residential, agricultural
and vacant property at about
\$3.579 billion.

Reeves, who took office in Janu-
ary, has been under fire since a
Denver Post investigation re-
vealed the assessor had dropped
commercial property values so
much that homeowners will bear a
heavier property-tax burden while
businesses pay less.

Arapahoe County District Attor-
ney Bob Gallagher said last week
his office would investigate allega-
tions of cronyism and unfair valu-
ations raised by The Post



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Who property taxes to rise

Evaluations cost county \$6 million

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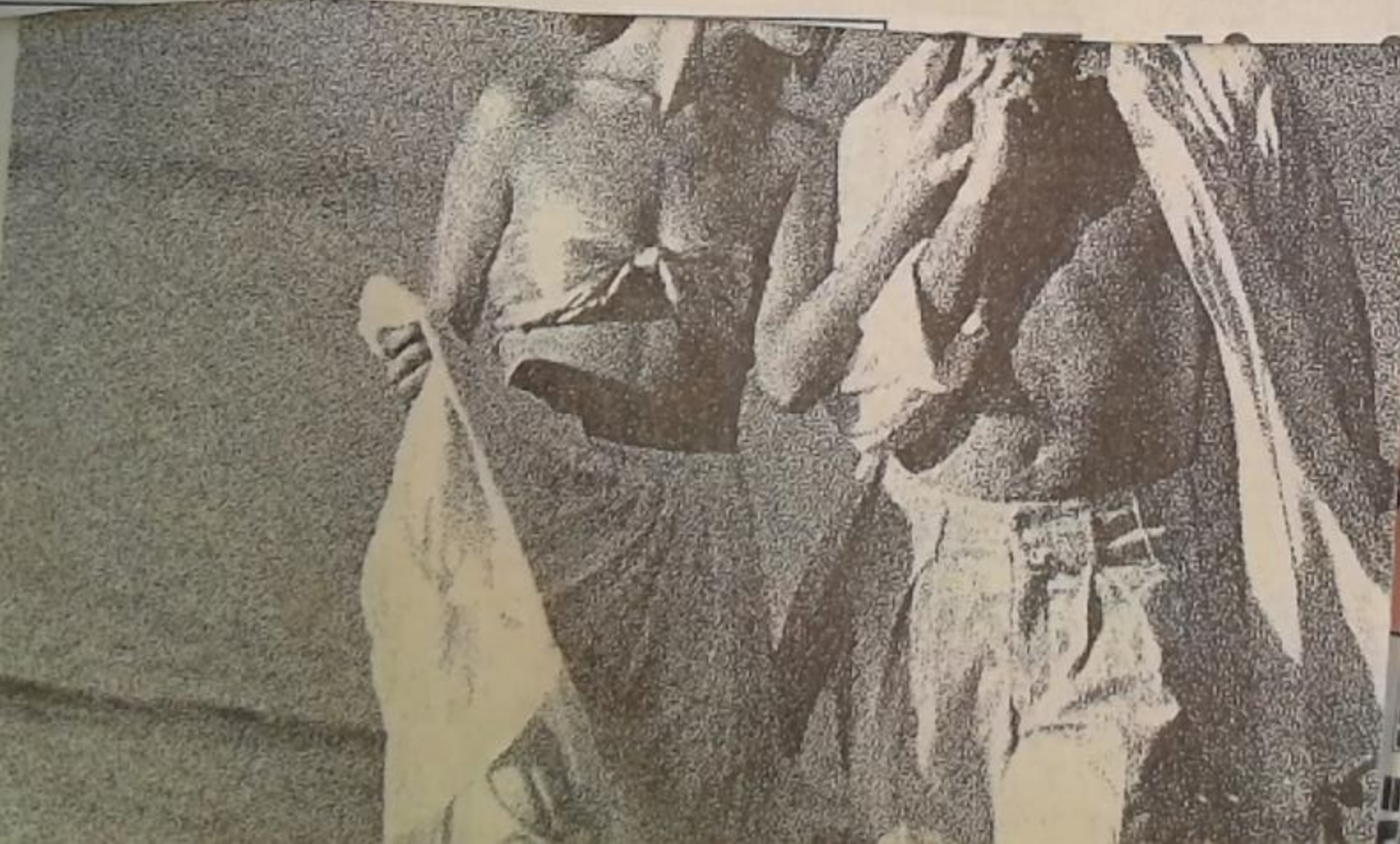
spending to help make up for the \$6 million revenue loss.

Residents also could pay a higher property-tax rate to support the Cherry Creek School District, which collects 59.760 mills from property owners in the district.

"With the decline in assessed value . . . the mill levy could float higher to generate the same amount of income," said Guy Bellview, finance officer for the school

Please see **ASSESSOR** on 11A

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Arapahoe to hike taxes, cut spending

ASSESSOR from Page 1A

district.
As with county taxes, homeowners whose valuations did not decrease would see hikes in property taxes to support schools.

Arapahoe County commissioners, sitting as the county Board of Equalization, yesterday approved the Abstract of Assessments setting county values at \$3.217 billion. The total valuation is based on Reeves' appraisals of properties since he took office on Jan. 8.

Last year, his predecessor, Joe Marceny, set the the county's commercial, residential, agricultural and vacant property at about \$3.579 billion.

Reeves, who took office in January, has been under fire since a Denver Post investigation revealed the assessor had dropped commercial property values so much that homeowners will bear a heavier property-tax burden while businesses pay less.

Arapahoe County District Attorney Bob Gallagher said last week his office would investigate allegations of cronyism and unfair valuations raised by The Post.

Reeves has failed key portions of a state audit of his 1991 assessments. The state wants him to reappraise all commercial, industrial and multi-family housing because he undervalued properties by an average of 30 percent.



...s a li-
"Terry Harper is unbeliev-
ar," Schneider said, adding that none of
the other witnesses corroborated Harper's
testimony. Harper has been married seven
times, held 15 jobs during the past three

O'Brien replayed several segments of
tapes of conversations secretly recorded
for police by Holloway's former brother-
in-law, Terry Harper, the state's star wit-

mercial, residential, agricultural and vacant property at about \$3.579 billion.

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Reeves has failed key portions of a state audit of his 1991 assessments. The state wants him to reappraise all commercial, industrial and multi-family housing because he undervalued properties by an average of 30 percent.

The audit also says Reeves has applied a "developers discount" improperly and undervalued vacant land. Reeves said last month he would contest the audit.

The county's Abstract of Assessments has been prepared by Reeves for State Property Tax Administrator Mary Huddleston to include in statewide records.

It reflects the assessor's final tally of county valuations, including 3,545 changes approved by the county board of equalization, after review by Reeves.

County Attorney Peter L. Vana said 2,273 of the changes were the result of the county commissioners determining that valuations in Cherry Hills Village were unequal, and ordering Reeves to restore this year's assessments to 1990 levels.

However, valuations throughout the county could be reduced further during an appeals process.

**STONE DAMAGED
WINDSHIELD?**
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FIESTA AMERICANA

Arapahoe GOP to discuss

By Paul Hutchinson

Denver Post Staff Writer

Arapahoe County Republicans have called a special meeting tonight to discuss what to do about the county's embattled assessor, James Reeves.

The county executive committee will huddle behind locked doors at 7 p.m. It could decide:

- To organize a recall effort.
- To issue a statement repudiating Reeves.
- To issue a statement of support.
- To do nothing.

Privately, some GOP officials have grown exasperated with Reeves since he took office in January and immediately began slashing property taxes for businesses and industries, including some contributors to his election campaign.

But publicly, the word on Reeves is that he's done nothing criminal, although the district attorney has begun an investigation based on recent articles in The Denver Post.

Reeves will attend tonight's meeting, where he'll be grilled by party officials. Then he probably will be asked to leave while the committee discusses what to do, County Chairman Ruth Cullen said yesterday.

"I'm hearing mostly from party activists," Cullen said. "They are concerned enough that they are interested in damage control."

Cullen said she doubts that damage control would result in a recall effort, at least not one with the party's official blessings.

But years of bad blood between warring party factions could make

Greenwood Village who now works as a lobbyist.

The Poundstone faction helped Reeves to a victory over fellow Republican and incumbent assessor Joe Marceny.

Despite rumors of a grassroots

recall effort, no one at Arapahoe County Clerk Marjorie Johnson has any recall information. It would require the valid signatures of 100 voters — a considerable effort to force a recall.

Reeves refused to comment.

GOLDEN GIRLS Love

If you wore bobby sox, swooned over Ol' Blue Eyes, danced to Lawrence Welk, and loved Shirley Temple...then this Oregon Pharmacist, Robert Heldfond, had you in mind when he developed his exciting EB5 Wrinkle Cream.

"It's perfect," he says, "for the woman 40 to 80+ who wants to look younger but may have the signs of aging...crow's feet, facial lines, dry, sallow skin."

Women all over the world love Heldfond and his EB5 Wrinkle Cream...millions of jars have been sold (a nationwide department store chain, JCPenney, has sold almost 2 million jars). Happy users flock to see him when he visits their city and show him their new, younger look.



Pharmacist Robert Heldfond, shown above talking to "Golden Girls" all over the nation. Phone toll-free. SEE BELOW.

Thousands of letters flow in over, reporting... "EB5 Cream really works... facial lines appear smoother"... "People I look 10 to 15 years younger."

Phone Pharmacist Heldfond Today

Here is your chance to hear directly from Pharmacist Heldfond and see the results he has seen with EB5 Cream and how you, too, may have smoother looking skin. Phone toll-free 1-800-6951-EB5, THERE IS NO CHARGE FOR THE CALL.

the GOP to discuss assessor

Greenwood Village who now works as a lobbyist.

The Poundstone faction helped Reeves to a victory over fellow Republican and incumbent assessor Joe Marceny.

Despite rumors of a grassroots

recall effort, no one has contacted County Clerk Marjorie Page for recall information. It takes 21,133 valid signatures of registered voters — a considerable task — to force a recall.

Reeves refused to comment yes-

terday on tonight's meeting, and his spokesman, Waller Hurtt, said: "I will not be releasing any information to The Denver Post unless I am contacted by your editor or your publisher."

GOLDEN GIRLS Love This Pharmacist

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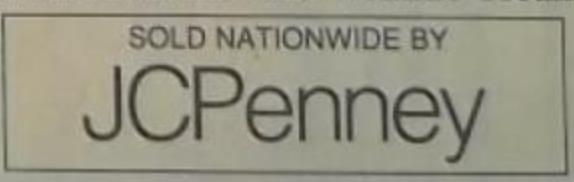
"I like the fact that EB5 is 5 creams in one jar...a Wrinkle Cream, Moisturizer, Day Cream, Night Cream, and Makeup Base, all in one...it worked wonders for me."

Heldfond adds, "If facial lines and aging skin make you look older than you should, buy a jar of EB5 Wrinkle Cream and watch things happen. You will look and feel so young you will dig out your prom dress and go swinging again."

"Oh yes, when you go into a JCPenney cosmetic department, ask the EB5 beauty adviser for a special gift from me. I have told them all to give you wonderful women a generous travel size of EB5 Wrinkle Cream and an assortment of my other discoveries in an attractive travel kit when you purchase EB5 Wrinkle Cream. You will love it."

Phone Pharmacist Heldfond Today...At No Charge!

Here is your chance to hear directly from Pharmacist Heldfond and hear him tell all about his EB5 Wrinkle Cream. You will be thrilled with the exciting story he tells of the wonderful results he has seen with EB5 Cream and how you, too, may have younger-looking skin. Phone toll-free 1-800-6951-EB5, THERE IS NO CHARGE FOR THE CALL.



Allen D. (Dave) Miller
P.O. Box 567
Palmer Lake, Colorado 80133
(719) 481-2003 • FAX (719) 481-4013

B.H.K.

August 16, 1991

Directors of Sponsoring Organizations
Gunnison River Basin Water Management And Planning Study
C/O Colorado Water Conservation Board
1313 Sherman Street, Suite 721
Denver, Colorado 80203

**RE: Need to Restructure Proposed
Gunnison Water Management Study**

Gentlemen:

After attending your first Public Focus Group meeting in Montrose on the 6th of August, I am compelled to point out the immediate need to restructure your proposed Gunnison Water Management Study. As currently planned, the project is a serious misuse of Colorado taxpayer money. It is also potentially harmful to Colorado's long-term water interests.

The original purpose of the state's recently completed Phase I Gunnison Basin Water Study was to determine the best of four proposed out-of-basin diversion options that could be used to finance construction of several desired recreational reservoirs to enhance the Gunnison's tourist economy. Unfortunately, this \$500,000 state funded study was politically changed midstream to be inconclusive. This was because of late blooming pressures from local activists opposed to interbasin water sharing. However, Phase I did identify substantial surplus Gunnison waters. It also clearly recommended further analysis of the viable transmountain options in a follow-up Phase II Study.

Colorado has an urgent need to develop its invaluable Colorado River Compact waters that are currently in jeopardy. These entitled waters are flowing unused from the Gunnison to water short California and Arizona growth areas. However, instead of continuing with the priority Phase II Study, the Gunnison Sponsors have changed the objectives into a plan that would micromanage a water surplus basin. The Gunnison has never required the strict water administration that is necessary for Colorado's overappropriated basins. It is obvious the Gunnison sponsors' real intent is to use the proposed study to develop complex water management barriers to out-of-basin water sharing.

This unreasonable local resistance to water exports is best illustrated by Gunnison attempts to have Colorado's

Phase I Study excluded as evidence in the recent Arapahoe County diversion trial. Curiously, the Gunnison opposers are now discrediting the same 3 year study that the state conducted with Colorado taxpayer money at their request.

Because of the emotional conflict between misguided local activists and the urgent statewide need to beneficially use and protect Colorado's wasted Gunnison waters, the proposed Gunnison Study should be restructured as a logical Phase II follow-up to the unfinished Phase I effort. With this change in direction, Colorado water leaders could soon have invaluable insights regarding the state's most critical long-term water supply and demand issues. The restructured study should be under the strict control of the Colorado Water Conservation Board. The Gunnison sponsors should not call the shots, because they have been vigorously opposing any and all out-of-basin export proposals in water court.

The enclosed critique provides additional comments on the major faults in your proposed Gunnison Study Plan.

Sincerely,



Dave Miller
Public Focus Group Member

ADM/bm

Enclosure: Gunnison Water Management Study Critique

cc: Governor Romer, Legislators, Colorado Attorney General, Colorado State Planning and Budgeting, U.S. Bureau of Reclamation, CDNR, SEO, CRWCD, UGRWCD, UVWVA, TCWCD.

**CRITIQUE OF PROPOSED GUNNISON RIVER BASIN
WATER MANAGEMENT AND PLANNING STUDY PLANS**

1) **Project Management:** The Sponsors Committee members currently plan to jointly share the management of this \$360,000 study effort. The Sponsors Committee is manned with staff representatives from the Colorado Water Conservation Board (CWCB), the Upper Gunnison River Water Conservation District (UGRWCD), the Tri-County Water Conservancy District (TCWCD), the Uncompahgre Valley Water Users Association (UVWUA), the Colorado Division of Water Resources/State Engineers's Office (SEO), the Colorado River Water Conservancy District (CRWCD), and the U.S. Bureau of Reclamation (BOR).

Comment: To avoid subversion of state funds it is imperative that the Colorado Water Conservation Board serve as lead agency and designate a project director. The outside contractors, Public Focus Group members, and other interested parties must also have a single point of contact. Task committees are more effective when there is an identifiable head. Published minutes explaining the key committee decisions should be provided to all Public Focus Group members. The lead agency responsibility is consistent with CWCB's legislative charter. CWCB is the largest contributor of Colorado taxpayer funds for the project. Leadership under CWCB would hopefully eliminate local bias and assure maximum statewide application and benefit.

2) **Conflict of Interest:** One of the Study Sponsor Committee members is a governor appointed board member of CWCB.

Comment: It is inappropriate for a political appointee, who sits in judgement on state water policy matters, to also serve as an influencing working member of the project management team. CWCB board members are required to take an oath to uphold state water interests. This Gunnison resident readily admits that the Gunnison Basin is his first concern. He has also prejudged the issue with public statements against Gunnison water exports to the dryer Colorado basins that have greater need.

3) **Project Objectives:** The proposed study objectives have been narrowly defined to satisfy a shortsighted, erroneous point of view for the water rich Gunnison Basin.

Comment: The objectives should be changed to specifically evaluate the statewide need for surplus Gunnison waters and viable development options to satisfy future needs. The resulting information would be invaluable for Colorado officials to assure development and beneficial use of the state's wasted and threatened Colorado River Compact entitlements. A well planned out-of-basin diversion can be accomplished without detrimental impact to the Gunnison's

environmental and economic future. In fact, further study will support the irrefutable claim that a high altitude cyclic storage reservoir can actually enhance the Gunnison way of life by guaranteeing multi-year drought protection.

4) Background Justification: The background justification for the study in the plans and contracting documents is inaccurate and misleading.

Comment: The proposed project is not a logical follow-up to the recently completed Phase I Gunnison Water Study. The Phase I Study was devoted to identifying surplus Gunnison waters that could be exported to the South Platte Basin. The intent was to generate revenue for the construction of several small water facilities that would enhance the Gunnison's tourist economy. Most of the study funds were used to model four specific export proposals, including Arapahoe County's Union Park Water Conservation Project, Aurora's Collegiate Concept, the Colorado Water and Power Authority's Taylor Park Reservoir Diversion idea, and a Blue Mesa Reservoir Pump Back option. Unfortunately, the Phase I Feasibility Study was not conclusive, because of belated pressures from a few misinformed Gunnison activists. This study did, however, identify substantial surplus Gunnison waters. It also recommended a follow-up Phase II Study to further evaluate the Gunnison's export options. The proposed new Gunnison Water Management Project is limited to an elementary planning model and a daily water accounting spreadsheet exercise. These management tools are already being used in the overappropriated basins, and are unnecessary for the underutilized Gunnison Basin.

5) Taxpayer Savings: There are some basic review steps that should have been taken to reduce the project cost.

Comment: For example, consideration should have been given to broadening one of the sophisticated Gunnison Basin models that was used extensively during the recent Gunnison water court hearings. Either one of the highly experienced consulting firms that prepared the court models could provide a flexible planning model for less than half the dollars appropriated by the legislature. Also, daily water accounting spreadsheets are routinely used in Colorado's water short basins to administer water by priority. If a spreadsheet is necessary, Gunnison water experts should be able to adapt one without an expensive outside contract. This is especially true since BOR data shows that the Gunnison Basin only consumes 17% of its native flow. In fact, strict water accounting has not been required, because this underutilized Gunnison Basin seldom has a priority call of any type.

6) Water Policy Crisis: A major Gunnison water policy conflict is surfacing within Colorado and between Colorado and the federal government. The outcome of this conflict is

certain to have a significant impact on Colorado's long-term water future.

Comment: At the recent water export trial between Arapahoe County and Gunnison opposers, a U.S. Attorney surprised the court with the claim that the Bureau of Reclamation owned and controlled Colorado's unallocated Compact waters from the Gunnison River. Incredibly, the Gunnison and Colorado River Water Conservancy Districts agreed with this federal position, and even asserted that the untapped Gunnison was off-limits for exports to other Colorado basins. This would mean all future East Slope diversions would come from the over depleted Colorado River Mainstream tributaries. This alarming policy position is in direct conflict with the Colorado State Engineer's recent statement to a Gunnison audience that Colorado hydrology dictates future East Slope diversions from the Gunnison Basin. The obvious immediate intent of the new policy is to block Arapahoe County's diversion plans. If the new federal/West Slope position prevails, Colorado will never be able to develop its Colorado River Compact entitlements. Most of Colorado's Compact losses to the down river states are from the untapped Gunnison Basin. Coloradans should recognize a large part of the legal opposition to Colorado interbasin water sharing is being funded by out-of-state interests.



WRC ENGINEERING, INC.

August 8, 1991

Messrs: Canon, Gross, Hokit, Kepler, Seaholm, Trampe, and Ulinberg
Sponsors Representatives
Gunnison River Basin Water Management and Planning Project



WRC File: 1736/1

Gentlemen:

As a member of the Public Focus Group for the subject study, I would like to provide you in writing my comments, the majority of which were shared with you verbally during your August 6, 1991 meeting in Montrose. As I stated to you during the meeting, I represent myself as a private consulting engineer (citizen), and also represent Arapahoe County. My specific input is as follows:

1. Arapahoe County is interested to see the outcome of this study to be a credible accounting spreadsheet and a model that accurately simulates the historic and future operations of the Gunnison River Basin facilities.
2. Any modeling of existing conditional water rights must be based on the contemplated draft of the subject right on the stream system and the overall in-basin demand projections. Both the subject right must have a realistic chance of being developed, and the amount of water used must be based on a reasonable quantity of water being put to beneficial uses.
3. The modeled consumptive use (c.u.) must be based on actual figures versus optimum c.u. as previously modeled in the Phase-I of the Colorado Water Resources and Power Development Authority Study.
4. Arapahoe County would strongly object to developing a model that will engage in ushering water downstream through unreasonable assumptions and fictitious constraints and thus benefit downstream states at the expense of Colorado water users.
5. Arapahoe County would urge the sponsors of this study; and in particular CWCB, and the State Engineer's representatives, to see that in developing this model, that Colorado's ability to develop its compact entitled water is not impaired. The bulk of Colorado's compact entitled water from the Colorado River, that has not yet been developed, is available in the Gunnison River Basin.
6. The developed model should include an optimizing routine, when the Basin water is put to a max beneficial use in Colorado and provide a tool to better manage the basin water resources.

CONSULTING ENGINEERS

7. In light of all the spreadsheet and modeling presently completed for Gunnison River Basin, we believe a budget of \$360,000 for this study to be extremely high. We encourage utilization of the information from the existing Gunnison Basin models and thus cut the cost of this study.
8. As a representative of Arapahoe County I would like to request in writing that my name be included as a member of the Public Focus Group for this study.
9. Both the Accounting Spreadsheet and the Model should be well documented, for easy access and use, and be available to any party wishing to purchase it at a nominal fee. No part of the model should be considered a proprietary by the Consultant or any other private party.
10. This modeling effort should not be aimed at solidifying recent statements made by Mr. Johnston of USBR in the water court which is contrary to Colorado's interest in developing its compact entitled water under the Colorado River Compacts.
11. In modeling the Aspinall unit, the primary purpose of the unit must be considered which is to store water and make it available during dry years for releases and thus protect Colorado Compact water users against any call from Lower Basin States. Further, the hydro power right cannot call upstream municipal and agricultural beneficial uses.
12. It was represented in the draft scope of work that the model would be used to determine water availability. Further, the water availability would be used to evaluate shortages, integrating project operations, and study effects of alternative water development plans. I am extremely concerned about the focus being placed on water shortages, integration of projects, and lack of a definite alternative addressing water export from the basin. Unrealistic shortages could be translated into rebound calls, and integration of project could prevent further water development in the basin.
13. Temperature should not be the sole criteria in determining consumptive use. The dates water is diverted and used to irrigate be used to determine the beginning and ending of c.u. periods.
14. Reasonable ratios of water diverted to water consumptively used must be used to determine future irrigation water needs. Such ratios would encourage good irrigation management practices.
15. In modeling water rights that are under appeal to the supreme court, the model must reflect the results with and without these rights in effect.

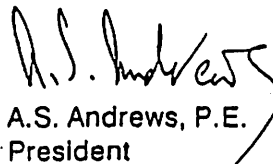
16. The model should not include forensic engineering that is aimed at stopping further development of water from the Gunnison River Basin.
17. The developed spreadsheet should not include unreasonable assumptions that produces theoretical water shortages upon which the division engineer will declare the river basin to be over appropriated.
18. The CWR&PDA Phase-1 study was identified in the scope of work as an appraisal level study. This is contrary to the representation recently made by both the Colorado River and Upper Gunnison Districts in their diligence Case (88CW183) related to the Upper Gunnison Project.
19. Majority of the sponsoring agencies have legal mandates that call for development and efficient management of our water resources. These mandates must be kept in mind when conducting this study and thus insure development of a management tool that will be consistent with these legal mandates.

During the meeting, I expressed concerns related to the lead agency for the study. We would strongly recommend the CWCB be the lead agency. Such a role by CWCB would be appropriate and in line with their legislative mandate, and will further remove any potential stigma that may be attached to the study arising out of any potential local bias.

All of you, as representatives of the sponsoring agencies, have a golden opportunity here to demonstrate that appropriate tools can be developed to better manage our water resources. Anything short of developing such tools, would be nothing more than engaging, in an exercise of advancing forensic engineering, reinventing the wheel, and wasting taxpayers dollars. I am sure you will agree with me, that Colorado deserves better. Thank you.

Very truly yours,

WRC ENGINEERING, INC.


A.S. Andrews, P.E.
President

ASA/kap

cc: Commissioner John Nicholl
Mr. Jeris Danielson, State Engineer
Mr. David Walker, CWCB

WHY Union Park DOESN'T MEASURE UP

Proponents of the Union Park Project frequently express its "advantages and benefits" in letters and at meetings. With Aurora's recent withdrawal from the Collegiate Range Project, we can expect even more focus on Union Park. Members of POWER testified to the Colorado Legislature's Interim Committee on Water last September voicing concern about this project and its multitude of problems, which is compiled in a sixteen page report.

The following are condensed responses to just a few of the statements most frequently advanced by proponents of the Union Park Project, all pointing out just why this project doesn't measure up.

1 Proponents claim 60,000 acre-feet is the average project yield--the amount to be withdrawn each year. However, the water right filling made for the project in 1986 is for the enormous amount of 900,000 acre-feet per year. The project is designed to take everything that it can make available out of the Upper Gunnison Basin--from flood water, from reducing established instream flows, from squashing existing conditional decrees, from the Bureau of Reclamation, and from even perhaps attacking water uses within the basin. All this would be very damaging to most present and future water users and uses.

2 DROUGHT PROTECTION is a frequently claimed benefit of the Union Park Project. As a practical matter, drought water releases from Union Park could benefit only a very small proportion of the basin's irrigated lands. Blue Mesa Reservoir already provides water storage for the benefit and protection of the Western Slope. Furthermore, proponents figure the value of any water to be released to

the Western Slope from Union Park at \$305 per acre-foot. Many agricultural water users are unwilling, or unable, to pay even \$10 per acre-foot.

3 FLOOD PROTECTION is claimed as being provided by this project. However, Taylor Reservoir already captures flood flows. Its operation under the 1975 Exchange Agreement and the recent "Second Filling" decree obtained by the Upper Gunnison River Water Conservancy District provides flow stabilization. What more could Union Park provide? Union Park would control only a small proportion of the flow of the rivers downstream where damage is most likely to occur. Finally, the flood waters of the Upper Gunnison Basin are not "wasted" as the proponents claim. They are retained in the reservoirs of the Aspinall Unit.

High water and flooding should not be eliminated--just respected. The regular surges of flood water are essential in maintaining the ecological and physical systems associated with the rivers, which in turn support economic and aesthetic values. They also sustain the more recent junior water rights which require higher than normal flows for satisfaction. Appropriate land use planning is a far better way to deal with flooding than building a dam.

4 Proponents claim the Gunnison Basin loses over a million acre-feet of "wasted" water a year to California. Under the Colorado River Compact water would flow across Colorado's borders to meet obligations to lower basin states--but we get to use and reuse this water first--in many ways, instream and outstream. It is certainly not wasted. Estimates of Colorado's unconsumed compact entitlement varies

from about 300,000 acre-feet to about 1,200,000 acre-feet; but this comes from water flowing through all of the river basins west of the Continental Divide--not just the Gunnison. However, it appears that the Gunnison Basin's water is already fully committed westward to a diverse combination of valued uses.

5 The Gunnison Basin actually has several transmountain diversions from it, but these are very small. Proponents of Union Park say that because there are 18 diversions from the Upper Colorado Basin, a fairer balance would be future large diversions from the Upper Gunnison Basin. Compounding a problem does not provide a solution! Any further diversions from any headwaters should cease in Colorado. It is just not necessary. IF there must be more transmountain diversions, it should NOT occur at the headwaters, but rather from the Colorado-Utah state line as suggested in the Colorado Aqueduct Return Project (CARP). (See front of newsletter.)

6 Proponents say our opposition to the project is a wasteful, immoral, and losing cause. Nonsense! The water is not wasted; protection of natural, social, and economic resources and opportunities for the future is moral; and our cause is winning. Water in Colorado can be shared and water efficiency in all uses can be encouraged. However, rural areas should no longer be exploited for their water resources just to promote dreams of metropolitan growth.



Rocky Point

...ONE OF THE LARGEST PUMPED BACK STORAGE PROJECTS IN THE U.S.

POWER sponsored a special meeting in January to discuss the Rocky Point project.

Proponents of the Rocky Point Project expect the cost to be about \$997 million dollars. Experience elsewhere suggests the cost might be closer to \$1.2 billion.

Ken McBryde, with Colorado Ute, explained the different types of electrical generating plants. Rocky Point would be a pump storage unit for peaking use.

The role of the Forest Service was explained by local district manager, Pam Bode. The mission of the Forest Service is to see that the land and water are used to the greatest good. A balance should be struck between progress and preservation. Ms. Bode said she was impressed with a pumped back storage project she visited in California last summer.

Bruce Cranor from the Taylor Park Trading Post, expressed grave concern for the tourism industry of our County if the project is ever brought to life. He questioned the effects the fluctuation levels of the reservoir would have on fish and on the food chain. It certainly could have an adverse effect on recreation in the area both because of what it may do to the quality of fishing and increased traffic on the roads. He questioned the impact of the boom-bust problems with a construction project this size.

Kermit Johansson discussed the Federal Energy Regulatory Commission (FERC) permitting process. FERC is an independent federal agency responsible for regulation of non-federal hydroelectric projects. FERC'S procedures are court like. It does not manage natural resources in the same way

as the Forest Service or Bureau of Land Management.

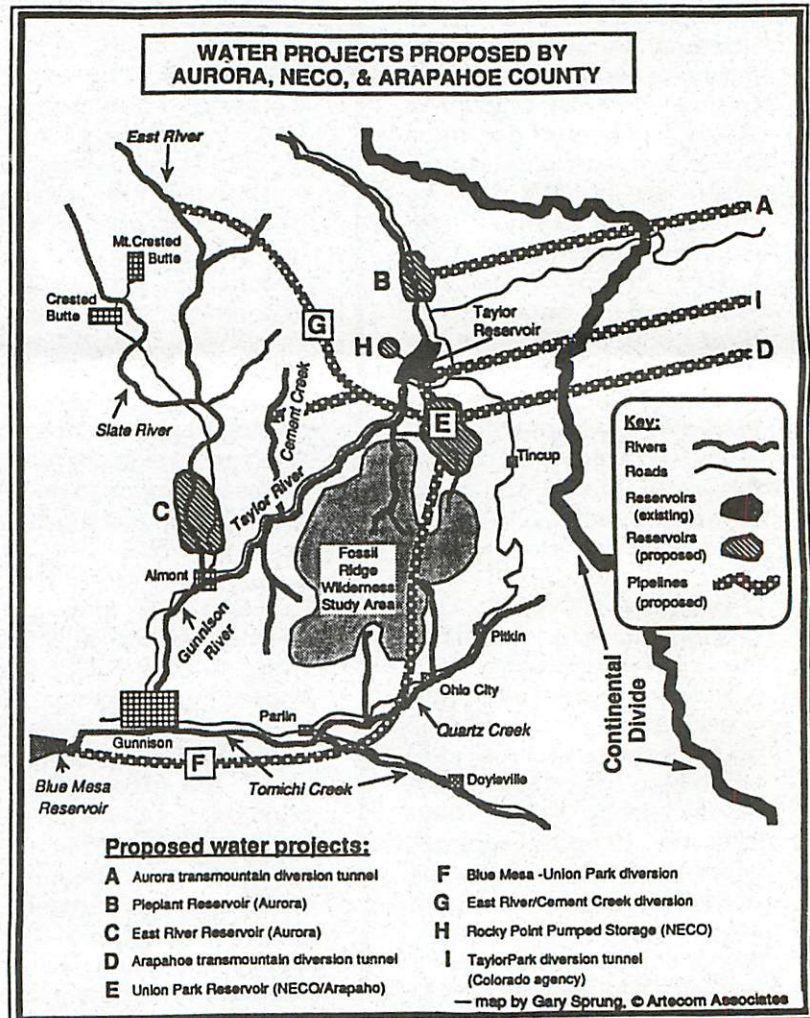
If FERC finds the project proposal to be acceptable for a license application, the next step is to issue a public notice of the project in the local newspaper. For a proposal of this size, FERC is expected to prepare an environmental impact statement (EIS) before making a decision on the application.

The purpose for the EIS is to evaluate the project's potential economic benefits and project-specific and cumulative environmental impacts. The EIS also provides examination of the project's economic feasibility, of possible alternatives, and of mitigation and

enhancement considerations.

Gunnison County has become an intervener and is involved in the permitting process, which should take one to two years to complete. Gunnison's County attorney was in Washington D.C. recently to hear discussions by the proponents of the project presented to FERC.

Thanks to the many hours of research by **POWER'S** President, Ralph Clark, we have compiled several pages detailing many, many concerns to be examined in the EIS. All people with concerns and questions are encouraged to join in the EIS process. There comes a point in the process when it will be too late to raise your concerns.



July 30, 1991

METRO DENVER'S OBSOLETE WATER PLANS

A multi-year court battle over the Environmental Protection Agency veto of Two Forks Dam is not worth the public cost and confusion. Metro Denver has less damaging water options that were overlooked in the environmental studies.

The National Environmental Policy Act specifically requires detailed evaluation of "all reasonable alternatives". One of the prime reasons for EPA's veto was the Gunnison Basin oversight.

Recent Bureau of Reclamation data indicates the Colorado River Mainstem depletions above Grand Junction are about 36% of the river's original virgin flow. Of this amount, nearly half is going to Colorado's Front Range via 18 transmountain diversions.

Metro Denver still has plans for Two Forks and other undeveloped water rights that would more than double future diversions from West Slope Mainstem tributaries. Some of these headwater streams would ultimately lose more than 70% of original flow. Most of Denver's yet-to-be-developed water rights were acquired long before environmental protection became a worldwide concern.

In contrast, Colorado's overlooked Gunnison branch of the Colorado River has no out-of-basin diversions. The Gunnison Basin generates more water per square mile, and it currently consumes only 17% of native flow -- primarily for irrigation. Most of Colorado's unused share of the Colorado River Compact is being permanently lost to California and Arizona from the Gunnison River. At the July 23rd, 1991 meeting of the Colorado Water Conservation Board, Jerris Danialson, Colorado State Engineer, clearly advised a Gunnison audience that Colorado hydrology dictates future diversions from the untapped Gunnison Basin.

It is fortunate for Colorado that farsighted Arapahoe County is vigorously developing a unique Gunnison reservoir project that will help save the state's entitled Compact waters. It will also balance usage between basins and resolve Metro Denver's confused water management crisis. This unprecedented project will store wasted Gunnison flood flows in a large, high altitude, off-river reservoir to protect Colorado environments on both slopes during severe droughts. Metro Denver's 50 year growth needs will also be satisfied for about half the cost of Two Forks.

Before deciding to appeal EPA's veto decision, Metro Denver water leaders should give the public a full accounting of their undeveloped water rights. This would include when each right was acquired, from whom, cost, and ultimate cumulative depletion planned for each West Slope tributary.

After this easy to provide and understand disclosure, the public can quickly determine if Metro Denver should continue its relentless pursuit of more water from the overdepleted Mainstem headwaters. Meanwhile, Western downriver cities continue to thrive on Colorado's wasted Gunnison water alternative.

Dale Raitt, Lakewood (303) 985-9932
Abner Watts, Denver (303) 237-3449
Consulting Engineers

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 22, 1991
P.O. Box 567
Palmer Lake, CO 80133
(719) 481-2003

Board of Directors
Colorado River Water Conservation District
P.O. Box 1120
Glenwood Springs, CO 81602

RE: Appeal of Muddy Creek Transmountain Diversion, COC-45805

Gentlemen:

Enclosed please find Notice of Appeal of the Muddy Creek Decision.

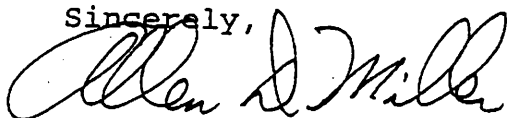
It is incredible that your West Slope river district is sponsoring another Mainstem diversion to the Front Range from the overdepleted Blue River.

The general public and federal permitting agencies have been misled into thinking that Muddy Creek is primarily a West Slope mitigation reservoir for the earlier Windy Gap Transmountain Diversion. This perception is simply not true. Muddy Creek is primarily an exchange reservoir in Grand County to allow diversion of another 30,000 acre-feet from Summit County's Blue River to Metro Denver. When this new depletion is added to Metro Denver's future diversion rights and plans, the Blue River will have lost nearly 70% of its native flow. Surely your need for Denver water lease payments is not so great that it justifies compromise of West Slope interests.

Your sponsorship of Muddy Creek is even more unplausible when considering the district's costly court battle to block Arapahoe County's environmentally sound diversion alternative from the untapped Gunnison Basin. The original native flow of the Gunnison River was about 2.5 million acre-feet at Grand Junction. Mainstem flows averaged 3 million above that point. Computerized back-up data from the Bureau of Reclamation's June 1991 Colorado River System Consumptive Uses Report shows that the Mainstem above Grand Junction in Colorado is consuming and exporting 1.1 million acre-feet or 36% of its native flow. Of this amount, an average of .5 million is currently being exported to the Front Range via 18 diversions. Metro Denver has water rights and plans to export another .4 million acre-feet from Mainstem tributaries. In contrast the Gunnison has no out-of-basin exports, and it consumes only .43 million acre-feet or 17% of its native flow.

How can your district justify its "not one drop from the Gunnison" policy, while encouraging excessive Mainstem depletions such as Two Forks, Muddy Creek, Straight Creek, Green Mountain, Shoshone, Eagle Piney, Homestake II, Williams Fork, etc.? Your explanation will be of interest to all Colorado citizens.

Sincerely,



Allen D. (Dave) Miller

Enclosure: July 15, 1991 Appeal of BLM Muddy Creek Decision.

cc: BLM, BOR, USFS, EPA, other local, state and federal officials.

Public slams water board for Arapahoe County settlement

by Laura Anderson

Some people in the Gunnison Basin are unhappy that the Colorado Water Conservation Board chose to negotiate a settlement with Arapahoe County on the Union Park Project. They told the board that in no uncertain terms at a meeting in Gunnison Tuesday.

In the final settlement, signed July 11, Arapahoe County agreed to respect all of the senior instream flow rights held by the state in the Gunnison River Basin if the Union Park Project, diverting water to the Front Range, is ever built. In addition, it conceded that water rights obtained by the Natural Energy Resources Company in 1982, which were later sold to Arapahoe County, would not harm instream flows obtained by the

state in the Taylor Basin at a later date. Whether these rights, decreed for generating electricity, could be used to compensate water diverted to the Front Range, has yet to be decided.

Perhaps most controversial is a section of the settlement in which the state agreed that instream flows in Lottis Creek could be flooded to fill Union Park subject to rules and regulations that the board has yet to devise. These rules and regulations will presumably require that some form of compensation occur for the flooding of instream rights, but will probably not prevent the inundation.

In exchange, the Colorado Water Conservation Board and the State of Colorado agreed to drop their legal opposition to Arapahoe County's water rights application.

Some in the audience Tuesday

were concerned that proper procedure had not been followed when the board made its decision. Although there was public comment on whether flooding instream rights was appropriate last February, no public input was solicited on whether a settlement with Arapahoe County was appropriate.

Instead, the board decided in executive session last June to direct Colorado attorney Steve Simms to negotiate with Arapahoe County. They gave Simms parameters in which to work, but they authorized *continued on page ten*

continued from page one

him to make the final decision as to whether to accept the deal.

Simms told the board that although they could vote on whether or not to ratify the settlement, their decision did not really matter, since the deal was made.

"I perceive a violation of the Colorado Sunshine Act," Pitkin resident Ramon Reed said. "It should never have gone this far where Simms says, 'you can ratify it or not - it doesn't matter' without I, the public, ever having a chance for input. I would urge you not to ratify this agreement." Reed said that he had contacted the Attorney General's Office for an opinion as to whether the board had acted illegally. "The fact that you authorized Simms to proceed in executive session is a violation of the [Sunshine] act," he explained.

Simms responded that he believed no laws had been violated since the board merely authorized him to negotiate, and did not sign off on a settlement, in executive session.

Ralph Clark, president of Gunnison Basin People Opposed to Water Export Raids, commented that a slower pace would have been more appropriate. "I would like you to consider local hearings before inundation of instream flows," he

said.

Gary Sprung, president of the High Country Citizens' Alliance, remarked that he was disappointed, not with the procedure, but with the results. "I'm concerned with inundating public lands," he said. He quoted from Rocky Mountain Biological Lab Director Susan Allen, who said that the idea that instream flows could be protected when they were flooded was like calling the sand at the bottom of the ocean a beach. Sprung questioned the board's protection of instream flows and noted that the board seems to favor "development over preservation in all instances. It leads me to wonder is the fox guarding the henhouse?" he asked.

The board voted to ratify the settlement with the exception of Tyler Martineau, of Gunnison, who opposed it. Martineau also spoke against the agreement in executive session, but was unable to sway the rest of the board members.

Other business

The Colorado Water Conservation Board decided to put out for public comment a donation of water rights in the Gunnison River.

The Nature Conservancy has agreed to donate 300 cubic feet per second to the CWCB for instream purposes between the Gunnison Tunnel and the North Fork. This is the minimum amount of water that the Bureau of Reclamation tries to release from Blue Mesa Reservoir, anyway. The contemplated agreement would not be likely to harm any other water users.

Representatives from Arapahoe County and Colorado Springs spoke against the water donation. CWCB board member Jerry Davidson remarked that he was concerned that the instream right not commit water to downstream states. "You look at the hydrology and you look at Front Range need... it's the Gunnison" that will be developed in the future, he said.

A final decision will probably not be made until December on whether the board will accept the water from the Nature Conservancy; the board is concerned that plenty of opportunity be given for public input. Board members noted that they would not want this decision to be a precedent for other instream donations.

↑ Davidson, Colorado State Engineer

WHEN IN THE
COURSE OF
HUMAN
EVENTS"

AND SEVEN
YEARS AGO"

"ASK NOT WHAT
YOUR COUNTRY
CAN DO
FOR YOU."

a
PARADE!"



STEIN '91
ROCKY MTN.
NEWS-NEA

Colorado divisiveness gives downriver states what belongs to us

Contrary to common belief, Colorado's water losses to the thirsty downriver states are steadily increasing because of long-term agricultural trends.

The U.S. Department of Commerce reports that Colorado's irrigated pasture and cropland declined by 400,000 acres (12%) from 1978 to 1987. This decline has recently stabilized. However, water needs for agriculture will continue to drop because of improvements in irrigation efficiency.

About 94% of Colorado water use is for irrigated agriculture. Colorado's 10-year loss of 400,000 irrigated acres means that an additional 400,000 to 600,000 acre-feet of state-entitled water is flowing unused to downriver growth centers. As a comparison, the entire Denver area consumes less than 300,000 acre-feet per year.

Colorado's overlooked Gunnison Basin suffered a surprising 22% drop in irrigated acres during the last 10-year census period. This untapped basin is currently losing well over a million acre-feet of Colorado's legal share of the Colorado River.

Farsighted Arapahoe County has been working for several years on a large Gunnison water conservation project. During wet cycles, this project would save the Gunnison's wasted spring runoff in an off-river reservoir on the Continental Divide. These surplus waters would only be released when needed to protect the environments and economies of both slopes during the severe drought cycles.

Incidental to this needed drought protection, metro Denver would have an assured 50-year supply for about half the

cost of the obsolete Two Forks Dam concept.

Although state officials are starting to recognize the value of a large Gunnison storage project, two West Slope river water conservancy districts are still vigorously opposing the Arapahoe project. Apparently these districts would rather share Colorado's water with California and Arizona. These downriver states are thriving on Colorado's endless water wars.

Instead of counterproductive infighting, Colorado must quickly unite behind a cooperative plan to use its growing water surplus. Why should the environmental and economic future of Colorado be jeopardized by its historically divisive water leadership?

Jim Erger
Past President
Colorado Water Congress
Brighton

No matter what the tune, Gov. Lamm sings same old song

Instead of vicious attacks more so than other Latino as those issues relate to Latinos.

Summary of Benefits

ROCKY POINT PUMPED STORAGE PROJECT

(1000 Megawatts)

- * World's highest head, most efficient peaking power facility.
- * Contributes to national clean energy and clean air goals.
- * Reduces future need for additional coal-fired plants in the West.
- * Increases 24 hour productivity of existing fossil fueled plants.
- * Reduces power costs -- estimated 30 year savings over fossil peaking power alternatives is \$11.3 billion (1987 dollars).
- * Could help solve major Grand Canyon environmental problems caused by daily peaking power water surges.
- * Improves local tax base, employment, infrastructure.
- * Minimal local environmental impact.

NOTE: This \$997 million Gunnison, Colorado project will provide power for Southwestern United States users starting in 1998. For info call Dave Miller, President, Natural Energy Resources Company, (719) 481-2003.

26 June 91

Hope for water, work

With Two Forks vetoed by the EPA, Arapahoe County's Union Park Project has moved into the spotlight as an ingenious way of helping the metropolitan area meet its future water needs, as well as a prospective source of work for companies in the heavy construction field. The complex and controversial project is described in these pages, as is a successful effort by Upper Gunnison River interests to defend their water rights, which Arapahoe County challenged and would have liked to see erased — since the Upper Gunnison is at the heart of Union Park.

Arapahoe County's Union Park Project

A. Objective

The objective of the Union Park Reservoir Project is to provide a dependable water supply to meet Arapahoe County's future water supply needs. The project will divert unappropriated water from the upper reaches of East River and its tributaries and the Taylor River and its tributaries to storage in Union Park Reservoir. This water will be subsequently delivered to Arapahoe County and its contractual users, City of Aurora, Parker Water and Sanitation District and Castlewood Water District. At the time this report was prepared, the City of Gunnison had requested to withdraw from the Union Park Reservoir Project.

B. General Location

The major feature of the project, Union Park Reservoir, will

be approximately 100 air miles southwest of Denver and approximately 30 miles northeast of Gunnison. The proposed reservoir site is in Union Park, a high mountain park. Directly north of Union Park is the existing Taylor Park Reservoir.

C. Project Background

The concept of the Union Park Reservoir Project was developed by Natural Energy Resources (NECO). In Case No. 82CW340, NECO secured from the Water Court a conditional water storage right decree for hydroelectric power generation. Subsequently, NECO filed an application with the Water Court in Case No. 86CW226 for water storage rights, surface water rights and a change of water rights.

On Aug. 29, 1988, NECO

Continued on page 2, column 4

Existing water rights protected despite opposition of Arapahoe

Editor's note: Judge Robert Brown of Water Division 4 recently extended to 1997 the conditional water rights of the Upper Gunnison River Water Conservancy District. Brown overturned a referee's ruling canceling the rights. Arapahoe County contended that the rights should be canceled "for failure to prosecute then with reasonable diligence." The judge's order follows.

District Court, Water Division 4, Colorado

Case No. 88-CW-183, May 30, 1991, Order:

The Upper Gunnison River Water Conservancy District filed for a quadrennial finding of reasonable diligence in December 1988.

Statements of opposition were filed by Aurora and Arapahoe County, but, prior to trial, Aurora withdrew from the case.

Representing the applicant: L. Richard Bratton and Anthony W. Williams. Representing Arapahoe County: Paul J. Zilis and Robert E.T. Krassa.

Evidence was presented at trial from April 30, 1991, through May 2, 1991. Judgment is based on that, and on counsel's oral arguments presented May 3, 1991.

The court finds:

1. The application for water rights was referred to the refer-

ee, who on Dec. 27, 1989, issued a ruling which declared the conditional water rights to be canceled for failure to prosecute them with reasonable diligence. The referee found that studies performed during the diligence period duplicated studies previously accepted as diligence. He also found that the studies did not relate to all of the structures in the application, and that the work done was not sufficient to constitute diligence.

2. The applicant protested the referee's ruling.

3. Four of the structures and conditional water rights for which diligence is sought in this case are described in A through D below. These four rights were conditionally decreed Jan. 27, 1961, in the District Court of Gunnison County (Case No. 5590). The remaining 12 structures and conditional water rights for which diligence is sought are described in E through P below. These 12 rights were conditionally decreed Dec. 15, 1961, in the District Court of Gunnison County (Case No. 5591). The priority date is Nov. 13, 1957.

A. Castleton Reservoir, conditional priority for 9,000 acre-feet of water; gets its water from Castle Creek and natural drainage. Would supply water to Ohio Creek Canal.

B. Ohio Creek Canal, conditional priority for 277 cubic feet of water per second; gets water from Ohio Creek, Pass Creek and Castle Creek; and that released from Castleton Reservoir.

C. Taylor River Canal, conditional priority for 302 cubic feet per second; gets its water from the Gunnison River and that released from Taylor Park Reservoir.

D. East River Canal, conditional priority for 82 cubic feet per second; gets its water from East River.

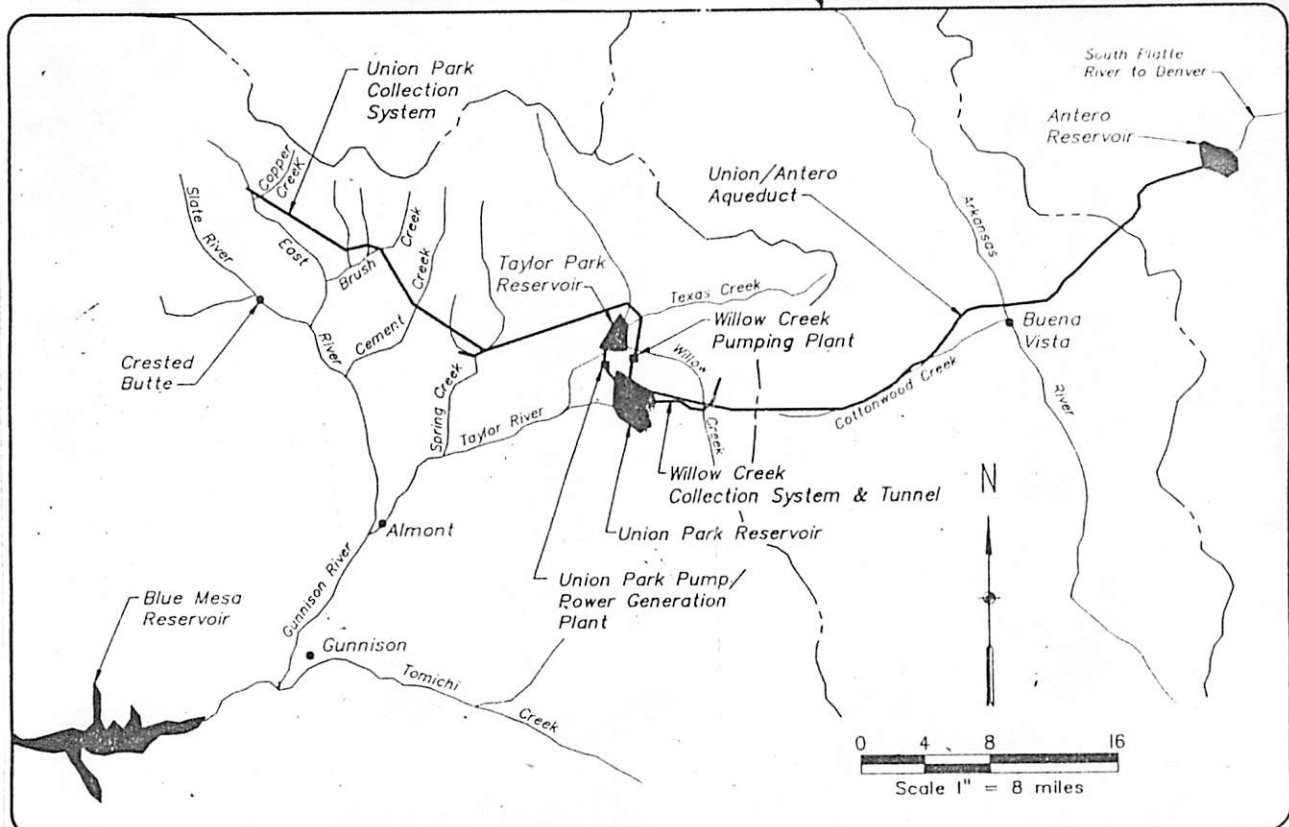
E. Ohio City Reservoir, conditional priority for 22,757 acre-feet; gets its water from Quartz Creek and tributaries, and surface drainage. Would release water to Quartz Creek Canal.

F. Monarch Reservoir, conditional priority for 29,200 acre-feet; gets its water from Tomichi Creek, Long Branch Creek, Marshall Creek and tributaries, and surface drainage. Would release water to South Crookton Canal.

G. Quartz Creek Canal, conditional priority for 277 cubic feet per second; gets its water from Quartz Creek, intercepted tributaries of Quartz Creek and Tomichi Creek, and that released from Ohio City Reservoir.

H. South Crookton Canal,

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• Proposed location of Union Park Reservoir, which Arapahoe County wants for diversion of water across the Continental Divide into the South Platte River.

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—Union Park

Continued from page 1, column 2

(seller) and Arapahoe County (purchaser) signed an agreement for sale of the Union Park Reservoir Project. Under the provisions of the agreement, Arapahoe County acquired (1) a conditional decree to store approximately 325,000 acre-feet of water for power purposes in the Union Park Reservoir issued by the Water Court in Montrose in Case No. 82CW340; (2) water storage rights for municipal and trans-mountain diversion purposes at Union Park Reservoir filed by NECO with the Water Court in Montrose in Case No. 86CW226; (3) all other facilities, structures, rights-of-way, governmental permits, titles and interests associated with the Union Park Reservoir Project. From the original decree in Case No. 82CW340, NECO retained 4,450 acre-feet of water storage at the Rocky Point Reservoir alternate point of storage. Arapahoe County ratified the existing contracts between NECO and the City of Gunnison and Parker Water and Sanitation District.

Arapahoe County became a substitute applicant in Case Nos. 86CW226 and 88CW020 filed by NECO. Case No. 86CW226 is currently pending with the Water Court in Montrose. In addition, the Board of Arapahoe County Commissioners has filed an application with the Water Court in Case No. 88CW178, requesting conditional storage rights, surface water rights and for a change of water rights. On Nov. 30, 1990, Arapahoe County filed an amended application to Case Nos. 86CW226 and 88CW178 for additional points of diversion and storage and for a plan of augmentation, if the Water Court rules that such an augmentation plan is necessary.

D. Project Description

The Union Park Reservoir Project comprises a number of facilities aimed at diverting, storing and delivering unappropriated water to Arapahoe County. These facilities include Union Park Dam, Union Park Reservoir, Union Park-Antero aqueduct (tunnels and conduits to deliver water from Union Park Reservoir to the South Platte River Basin upstream of Antero Reservoir), Union Park Collection System (diversion structures and tunnels on the East River and tributaries and Taylor River and tributaries), Union Park Pump-Power Generation System, Willow Creek Pumping Plant and Willow Creek Collection System and Tunnel.

A general description of the different features of the project is as follows:

1. Proposed Union Park Dam and Reservoir

Lottis Creek, a tributary of the Taylor River, flows into Union Park from the south and meanders westward to the dam site at or near the mouth of Union Canyon. The cross-section geometry of the Union Canyon

mouth permits the consideration of several types of dams. The permitted dam types could include earth-core rockfill, roller compacted concrete, concrete gravity and asphalt, or concrete faced rockfill. Selection of the dam type will be made after further geophysical analysis and design.

The dam axis will be at one of two sites as follows:

- The south abutment is at a point which bears south $15^{\circ}20'19''$ west a distance of 22,332 feet from the northwest corner of Section 21, Township 14 S, Range 82 W, Gunnison County. The dam axis intersects Lottis Creek at a point which bears south $15^{\circ}20'19''$ west a distance of 21,700 feet from the northwest corner of said Section 21.

- The north abutment is at a point which bears South $18^{\circ}36'00''$ West a distance of 20,564 feet from the Northwest corner of said Section 21, thence South $41^{\circ}36'25''$ West along the dam axis a distance of 1,790 feet to the south abutment. The dam axis intersects Lottis Creek to a point approximately 700 feet from the north abutment.

The proposed reservoir will have a capacity of 900,000 acre-feet at a normal maximum operating level of 10,052 feet above sea level. The reservoir at maximum level will occupy part or all of Sections 20, 28, 29, 30, 31, 32, 33 and 34 of Township 14S, Range 82W and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 21 and 22 of Township 15S, Range 82W.

Provisions will be made for roads, boat ramps and other facilities located as required to fully develop the recreational potential of the reservoir. Motorized recreation may be prohibited depending on environmental and water quality considerations.

2. Union-Antero Aqueduct

The proposed Union-Antero Aqueduct will extend from Union Park Reservoir a dis-

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DAVID J. GAUKEL has joined the Colorado Contractors Association as assistant director of its Highway Division, a new position. Said CCA President Harold Elam of Elam Construction Inc., Grand Junction, "We look forward to his contributions as a member of the staff." Jay R. Lower, executive director, announced the appointment.

—Union Park

Continued from page 2, column 2

tance of 42 miles in Gunnison, Chaffee and Park Counties to a point upstream of Antero Reservoir on the South Fork of the South Platte River.

The proposed aqueduct consists of the following:

Minor changes in the original sizing and lengths of these facilities have been made as part of this study based on a more de-

tailed analysis of the aqueduct hydraulics and profile.

The first tunnel (Jones Mountain Tunnel) extends from Union Park Reservoir almost straight east until it daylight in the South Cottonwood Creek Valley. From the tunnel, a pipeline will follow the creek alignment until it reaches the Arkansas River Valley where it will be routed directly to a crossing under the Arkansas River by an inverted siphon one

mile north of Buena Vista. The continuing pipeline and flume will traverse directly to the second tunnel heading in the upper reaches of the South Fork of Seven Mile Creek. The second tunnel (Trout Creek Tunnel) is northwest of Trout Creek Pass. The final flume (or pipeline segment) will traverse the relatively flat terrain between the Trout Creek Tunnel outlet and Antero Reservoir.

The aqueduct is proposed to pass through the following sections: 32 and 33 of Township 14S, Range 82W; 4, 3, 2 and 1 of T 15S, R 81W; 6, 5, 4, 3 and 2 of T 15S, R 80W; 6, 5, 4, 3 and 2 of T 15S, R 80W; 36 of T 14S, R 80W; 31, 32, 29, 28, 27, 22, 23, 13 and 12 of T 14S, R 79W; 7, 6, 5, 4, 3, 2 and 1 of T 14S, R 78W; 36 of T 13S, R 78W; 31, 30, 20, 19, 17, 16, 10, 9 and 3 of T 13S, R 77W; 34, 35, 36, 26 and 25 of T 12S, R 77W; 30 of T 12S, R 76W.

3. Union Park Collection System:

The Union Park Collection System consists of a series of diversion structures and tunnels which collect water from watersheds tributary to the East and Taylor Rivers and deliver this water to the Willow Creek Pumping Plant for pumping into Union Park Reservoir. The components of the collection system are listed in the accompanying table.

The tunnels will pass through the following sections: 34, Township 12S, Range 86W; 1, 2, 3, 12 of T 13S, R 86W; 7, 8, 13, 14, 15, 16, 17, 22, 24, 25 of T 13S, R 85W; 30, 31, 32 of T 13S, R 84W; 4, 5, 9, 10, 13, 14, 15, 23, 24 of T 14S, R 84W; 1, 9, 10, 11, 12, 16, 17, 18, 23 of T 14S, R 83W; 32, T 13S, R 82W; 4, 5, 6, 9, 16, 20, 21, 29, 32 of T 14S, R 82W.

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Aqueduct Segment	Length (miles)
11 ft. diameter tunnel under Continental Divide	12.50
6 ft. diameter pipeline to Arkansas River	11.43
6 ft. diameter siphon under Arkansas River	1.80
6 ft. diameter pipeline from Arkansas River	2.70
Flume from pipeline to tunnel	2.76
11 ft. diameter tunnel under Arkansas-Platte Divide	5.70
Flume from tunnel to Antero Reservoir	4.95
Total Length	41.84

Diversion Location	Connecting Tunnel Structure		Length (ft.)	Capacity (CFS)
	Capacity (CFS)	Size (F.L.I.D.)		
East River	80	10	3,300	80
Copper Creek	40	10	34,000	120
West Brush Creek	50	10	8,180	170
Middle Brush Creek	65	10	3,040	235
East Brush Creek	50	10	21,870	285
Cement Creek	125	10	25,000	410
Spring Creek	225	10	50,600	675
Taylor River	290	14	7,720	1140
Texas Creek	100	14	10,840	1240
Willow Creek	140			
Deadman Gulch to Spring Creek	40	4	3,090	40

—Union Park

Continued from page 2, column 2

In addition to the described collection system, a small forebay structure will be constructed along the tunnel route between Spring Creek and Willow Creek. It will function as the forebay to the Willow Creek Pumping Plant.

4. Willow Creek Pumping Plant:

The Willow Creek Pumping Plant is a 144,000 horsepower pumping facility designed to pump inflows from the Union Park Collection System into Union Park Reservoir. The Plant will be just southwest of the Willow Creek Diversion Structure.

The plant will consist of four 36,000 horsepower pumps, each designed to pump 345 cfs at a design head of 775 feet. The pumping plant facility will be about 200 feet wide, 200 feet high, 300 feet long, and will require excavation of up to 220,000 cubic yards of rock and topsoil.

The pumping plant discharge tunnel to Union Park Reservoir will be 8,800 feet long, 11 feet inside diameter, and concrete lined.

5. Union Park Pump-Power Generation System:

The Union Park Pump-Power Generation System is a hydroelectric pumped-storage system to be located between Union Park Reservoir and Taylor Park Reservoir. The hydroelectric system will utilize the existing Taylor Park Reservoir as the lower reservoir and the proposed Union Park Reservoir as the upper reservoir in the system. (Taylor Park Reservoir was constructed by and is owned by the U.S. Bureau of Reclamation to provide storage and deliver water to the Uncompahgre Valley Water Users Association.)

The Union Park Pump-Power Generation System will be operated as a hydroelectric pumped storage facility to meet the service needs of electric utilities and the Willow Creek Pumping Plant by generating electricity with a turbine-generator during periods of high electrical demand with water released from the higher reservoir to the lower reservoir. The revenues generated during the power generation cycle will be used to buy back power during periods of low electrical demand to pump water from the lower to the upper reservoir and to buy power for the Willow Creek Pumping Plant.

Water for the system will be diverted by gravity from Willow Creek (through the Willow Creek Collection System and Tunnel) and by pumping from the Taylor River in Taylor Park Reservoir. The Taylor River diversion point is on the shore of Taylor Park Reservoir at a point South 83°21'02" West a distance of 11,054 feet from the northwest corner of Section 21, Township 14S, Range 82W in Gunnison County. Diversions from Taylor Park Reservoir will be pumped to Union Park using a single pump-turbine system.

A pump-turbine is proposed for the water transfer facility because of its proven history of providing reliable service. The size of the pump-turbine was selected to match the expected maximum inflow into Taylor Park Reservoir in other than extreme flood conditions. Based on review of the Taylor Park Reservoir release records to date, a 1,000 cfs pumping rate would meet all but the extremely high and rare inflow conditions. The pumping rate of 1,000 cfs and a design head of 600 feet results in a unit capacity of 60 MW. The maximum unit discharge in the generating direction will be approximately 1,450 cfs. A single unit, located in an underground powerhouse, was selected for economic reasons and for minimum environmental impacts.

The powerhouse cavern will be sized to accommodate a 60 MW single-stage vertical reversible pump-turbine which directly couples to a motor-generator. To house the pump-turbine, motor-generator and all necessary auxiliary electrical and mechanical equipment, the cavern excavation will be approximately 90 feet wide, 100 feet high, and 125 feet long and will require excavation of about 40,000 cubic yards of rock. The machine hall will have a floor elevation of approximately 9,230 feet. The powerhouse cavern will be composed of two bays: the control-machine bay and the transformer bay. An access tunnel will enter the powerhouse cavern at the machine hall level. In addition to the access tunnel, two emergency exits will be provided.

The hydroelectrical project is an integral part of the proposed Union Park Reservoir Project. It's purpose is to provide lower cost electric power to the Willow Creek Pumping Station during periods of high electri-

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— Union Park

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cal demand and pump water to the Union Park during periods of low electrical demand, thus enhancing the feasibility of the subject multi-purpose water project. The system is also designed to allow pumping of water from Taylor Park, Texas Creek, and Willow Creek in lieu of pumping the same water at the Willow Creek Pumping Plant. This may allow a downsizing of the Willow Creek Pumping Plant and related facilities during more detailed evaluations and analysis of the project. Arapahoe County and the Parker Water and Sanitation District have applied for a preliminary hydropower permit from the Federal Energy Regulatory Commission.

6. Willow Creek Collection System and Tunnel:

Water from Willow Creek and its tributaries is proposed to be diverted by gravity to Union Park Reservoir through the Willow Creek Collection System and Tunnel. This gravity system is proposed as an alternative to save the cost of power to pump the same water at the Willow Creek Pumping Plant or the Union Park Pump-Power Generation System. This system comprises diversion facilities, open channels and a tunnel which collect and divert water from Bertha Gulch, three unnamed tributaries of Cow Creek, and Willow Creek.

The capacity of the collection system facilities was sized based on the estimated water availability from the respective streams at the different locations on the collection system. For example, the capacity from Willow Creek to the east portal of Bertha Gulch Tunnel is 263 cfs, while the capacity of the tunnel is 340 cfs.

E. Taylor Park Dam and Reservoir

The existing Taylor Park Dam and Reservoir could play a key role in minimizing the cost of both the water supply and hydroelectric power components of the Union Park Reservoir project. Taylor Park Dam and Reservoir was constructed from 1935 to 1937 by the U.S. Bureau of Reclamation. It is on the Taylor River approximately 30 miles northeast of the City of Gunnison.

The dam is a zoned, earthfill dam and is 206 feet high. The dam's top and base widths are 35 feet and 1,000 feet respectively. The crest length is 675 feet and is 9,344 feet above sea level. The structure contains 1.12 million cubic yards of material. The outlet works consist of a concrete-lined tunnel through the right abutment, controlled by two 48-in. needle valves. The dam is equipped with an uncontrolled, side-channel, concrete weir with a concrete-lined chute in the left abutment.

The reservoir capacity at 9,330 feet above sea level is 106,200 acre-feet. The surface area of the reservoir at this elevation is 2,040 acres.

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conditional priority for 277 cubic feet per second; gets its water from Tomichi Creek, intercepted tributaries, and that released from Monarch Reservoir (not that released from what is identified in recent diligence applications and decrees as Ohio City Reservoir).

I. Banana Ranch Reservoir, conditional priority for 21,733 acre-feet; gets its water from Cochetopa Creek and tributaries, and surface drainage. Would supply water to Cochetopa Canal and Pass Creek Canal.

J. Flying M Reservoir, conditional priority for 15,457 acre-feet; gets its water from Los Pinos Creek and its tributaries and from Pauline Creek through the Cochetopa Meadow Ditch Enlargement, and surface drainage. Would supply water to Los Pinos Canal and Pass Creek Canal.

K. Upper Cochetopa Reservoir, conditional priority for 12,693 acre-feet; gets its water from Cochetopa Creek, tributaries and surface drainage. Would supply water to Stubbs Canal.

L. Cochetopa Meadows Ditch Enlargement, conditional priority for 11 cubic feet per second; gets its water from Pauline Creek, tributary of Cochetopa Creek. Would deliver water to the Flying M Reservoir through Los Pinos Creek.

M. Cochetopa Canal, conditional priority for 240 cubic feet per second; gets its water from Cochetopa Creek and that released from Banana Creek Reservoir.

N. Pass Creek Canal, conditional priority for 45 cubic feet per second; gets its water from Cochetopa Creek and that released from Banana Creek Reservoir.

O. Los Pinos Canal, conditional priority for 51 cubic feet per second; gets its water from Los Pinos Creek and that released from Flying M Reservoir.

P. Stubbs Gulch Canal, condi-

tional priority for 277 cubic feet per second; gets its water from Cochetopa Creek and that released from Upper Cochetopa Reservoir (and at times also from Flying M and Banana Ranch Reservoirs).

4. The decrees in Cases 5590 and 5591 relate to the water rights for the Upper Gunnison Basin Project, which consists of the Curecanti (now Aspinall), Fruitland Mesa, Tomichi, Cochetopa and Ohio Creek Units. This entire project received varying degrees of federal authorization under the Colorado River Storage Project Act. The Curecanti Unit received construction authorization, Fruitland Mesa was accorded status as a "participating unit," and the remaining three units — referred to in the act as "Upper Gunnison" were in a category that authorized the Secretary of the Interior to conduct further investigations.

a. No evidence was presented to the court that the water rights involved here have ever been actually designated by federal legislation as "participating units" under the act.

4. The original decrees in Cases 5590 and 5591 recognized the following:

a. That the Upper Gunnison Basin Project is one project with multiple "interrelated features."

b. That the project should promote integrated or unified distribution of waters in the Upper Gunnison Basin.

c. That the claimant's pursuit of diligence to effect the completion of the project was to be done in a manner commensurate with the size and complex nature of the project.

d. That the project would be constructed by the federal government. The Colorado River Water Conservation District applied for the water rights for the project because at that time the federal government refused to submit state court jurisdiction to obtain decrees for water rights.

e. That local conservation districts would be formed to contract with the federal government for actual construction of the project.

6. On Jan. 26, 1962, the conditional water rights described in paragraph 3 of this decree were assigned by the Colorado River Water Conservation District to the present diligence applicant, the Upper Gunnison River Wa-

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ter Conservancy District.

7. Since then, the applicant has worked with the Colorado River District and the Bureau of Reclamation for the development of the project features. The District Court of Gunnison County and the Division 4 Water Court made findings over the years (from 1961 to 1984) that reasonable diligence had been shown. These courts entered orders continuing the conditional status of the water rights involved in each diligence period subsequent to the date of entry of the original conditional decrees. Diligence was last approved by a decree of this court on July 2, 1985, for the period 1981 through 1984.

8. The court finds that the following activities relevant to the water rights were performed prior to the present four-year diligence period which began Jan. 1, 1985.

a. In 1951, the Bureau of Reclamation conducted a reconnaissance study of the Upper Gunnison Project.

b. In 1964, the bureau issued a report in which it evaluated comprehensive, intermediate and small-scale development and concluded that small-scale development would be the most desirable. The report recommended feasibility investigations of the entire basin, rather than individual unit development which had been recommended in the 1951 report.

c. In 1970, the bureau conducted a number of site-specific feasibility studies and concluded that construction of a reservoir at the decreed site for the Banana Ranch Reservoir was infeasible.

d. In 1973, the bureau published the "Upper Gunnison Project Colorado, Concluding Report, August 1973." Among its findings:

• The only developments that were economically justified were a single-purpose Ohio Creek Unit to provide water to the City of Gunnison, and the East River Unit near Crested Butte to provide municipal water and new reservoir opportunities for recreation and fishing.

• Although the Ohio Creek and East River Units were economically justified, they were not appropriate for federal development because of their small size. Both units "could be considered for development by state or private interests," the bureau said.

e. The bureau's 1973 report concluded that the Castleton site and its alternative, the

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Hinkle site, were not feasible because of adverse geologic conditions. And, in concluding that the Cochetopa unit was not justified, the analysis focused only on the Banana Ranch Reservoir site, not on other reservoir sites or structures along Cochetopa Creek.

6. In the 1973 report, the bureau recommended that "during advanced planning stages a total environmental study be made to determine what environmental alternatives there may be to enhance the esthetic values of the project features."

9. After 1973, funding of large water projects by the U.S. Congress through the Bureau of Reclamation became virtually nonexistent. This restrictive policy became more entrenched during the years of the Carter administration (the

"Carter hit list" which targeted various water reclamation projects). And, in concluding that the federal administration (state and local matching funds).

10. From inception to 1975, the Bureau of Reclamation spent \$907,500 on the Upper Gunnison Basin Project. This includes \$173,000 spent in 1970-75.

11. From 1975 to 1984, the applicant and the Colorado River District paid \$21,000 for work performed by Western Engineering. This work was found by the court to sufficient to support diligence.

12. There was a significant economic downturn in the Gunnison Valley beginning in the mid-1970s and extending to at least 1984. There was a slump in agriculture, a decline in mining activity and a decrease in the enrollment at Western State College at Gunnison. This downturn discouraged the applicant from pressing its conditional rights more vigorously during the two diligence periods from 1975 to 1984.

13. In 1981, because of the federal decision to stop funding major water projects through the Bureau of Reclamation, the Colorado legislature created

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the Colorado Water Resources and Power Development Authority. The purpose was to aid in the financing and construction of large water projects in Colorado.

14. During the diligence period from 1985 to 1988, the following work was done:

a. Western Engineers studied the Banana Ranch Reservoir site, apparently without knowledge of the bureau's 1970 report. Western reached the same conclusion that the bureau did

that the Banana Ranch site was geologically unsuitable for development. Western also studied the Monarch, Ohio City and Castleton sites, and concluded that the bureau in 1973 had the correct site for construction because of landslides. Some of Western's work may have duplicated the bureau's work, but some was new.

b. In 1986, the applicant finally recognized that the Bureau of Reclamation was not going to finance and build the Upper Gunnison Basin Project. Meanwhile, the applicant learned of the role the Colorado Water Resources and Power Development Authority could play in helping develop the project. The applicant asked the authority for an in-depth study of the Upper Gunnison River Basin. The authority agreed to do a Phase I Feasibility Study, and hired HDR Engineering Inc. to provide consulting services.

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The study was completed in 1989 and produced six alternative development plans to meet projected in-basin water demands.

The study identified Alternative No. 5 as the preferred plan. This plan called for a 20,000 acre-ft. reservoir in the Ohio Creek sub-basin and a 25,000 acre-ft. reservoir in the Tomichi Creek sub-basin. The study also concluded that, regarding potential financing, the various alternatives were infeasible.

15. Andy Andrews, an engineer, was the only witness presented by Arapahoe County at the trial. He said the authority's study was of no value for purposes of showing diligence.

16. As part of the diligence work claimed by the applicant, attorneys provided legal advice in support of the diligence application and in pursuit of litigation to oppose transbasin diversion applications by Arapahoe County and Aurora, filed in 1986. Total fees were \$71,000.

17. The court concludes that

a lengthy delay in completion of a project does not necessarily justify denial of a diligence application. Circumstances surrounding the delay must be examined. It is the 25-year delay in completion of construction in this case that is the major basis for Arapahoe's opposition to the application. In fact, the project is still in very early stages of development. Arapahoe argues that the significant delays, with preliminary feasibility work still being done, warrant cancellation of the water rights. On the face of it, this is a compelling argument. But the court concludes that the delays through 1984 were essentially beyond the control of the applicant and do not warrant cancellation of the water rights.

18. Of course, the primary issue in this case is whether the applicant did sufficient diligence work during the latest diligence period (1985 through 1988) to justify continuing the conditional status of the water rights. The court concludes that the answer is "yes" because the court accepts the work of Western Engineers and the Colorado Water Resources and Power Development Authority as significant after minimal work had been done during the two prior diligence periods.

19. Arapahoe's expert witness, Andrews, opined that there was no progress made during the latest diligence period. However, the court concludes that significant progress was made. The authority's study goes substantially beyond the diligence work of prior studies, and the information developed is important to the completion of the project.

20. In almost every instance, the authority's study concluded that an alternative site was preferable to the decreed reservoir site. Thus, Arapahoe County contends that a new project has been born which is not

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related to the decreed project, and that work performed in connection with these alternatives cannot be considered for due diligence. The court rejects this legal theory. It is necessary to study alternate sites to get an EA permit for construction of a project. And the court should not require that the water adjudicated for the original site be abandoned and a new right adjudicated at the new location, should not require the applicant to start over merely because the project will be better served by a feature in an alternate location.

21. The court concludes that the attorney's fees for initial investigation in 1986 of the Arapahoe and Aurora applications are diligence expenses, but that the fees incurred to oppose the Arapahoe and Aurora applications are not, since the litigation expenses incurred in opposing these applications did not directly protect or advance the conditional water rights which are the subject of this decree.

22. The court expects that during the next diligence period the applicant will significantly narrow the scope of its project to the features which are most likely to be constructed within the foreseeable future, that it will make appropriate transfers of water rights, and that it will complete all necessary Phase I Feasibility Studies; further, with respect to the features to be given priority, that it will make significant progress toward completion of Phase II Feasibility Studies and the Environmental Impact Statement phase of its project development.

DECREE: The conditional water rights are continued, except that the rights for Taylor Creek Canal, East River Canal, Quartz Creek Canal and Ohio City Reservoir are canceled.

Judge Robert Brown,
Water Division No. 4

May 30, 1991

To the reader:
Editorial space in Section II of today's Daily Journal is devoted to Arapahoe County's description of its controversial Union Park water diversion project and to an abridged version of Water Judge Robert Brown's order in a case related to Union Park.

Union Park: fresh battleground

By JACK PHINNEY
Daily Journal Editor
Union Park, the proposed development that would divert

water from western Colorado to the metropolitan area, is, as Gov. Roy Romer points out, a long way from happening.

But it is viewed as an imminent threat or an urgent need, depending on one's point of view.

The proposed diversion project would draw water from the high country northeast of Gunnison, bring it across the Continental Divide and deliver it to Arapahoe County.

Romer pointed out recently that Union Park will require a long approval process. "After significant water court hearings," he said, "Arapahoe County will need to obtain federal approvals from both the Corps of Engineers and the Environmental Protection Agency."



environmental protection agency."

As to where he stands, Romer said he thinks "it's premature for me to take a position at this time."

Others are not so reluctant to express their views.

One of those is Dave Miller, president of Natural Energy Resources Co. and unquestionably the state's most outspoken promoter of Union Park.

It was Miller who originated the Union Park plan and persuaded Arapahoe County to adopt it. It is Miller who persistently extols its merits. He rails against western Colorado "no-growth activists" who vehemently oppose Union Park.

"West Slope leaders should remember that metro Denver has old water rights for at least five major upper Colorado River diversions," Miller said. "Most of these rights were secretly acquired by surrogates before the days of environmental enlightenment. In contrast, Union Park is being openly pursued as a statewide environmental-enhancing drought-insurance project in Colorado's wettest basin that has never been touched by diversions."

Union Park, Miller contends, "will benefit the Gunnison Basin and all of Colorado — not just farsighted Arapahoe County. The unprecedented Union Park concept provides

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Letter to the editor

To the Editor:

Reference your May 15 article on Collegiate Range and Union Park.

From your Griswold quotes, it is obvious Tom is trying to rewrite history to save face.

Aurora made out-of-court peace with Arapahoe in 1990, because it was losing the Arapahoe/NECO (Natural Energy Resources Co.) complaint that Aurora improperly purchased Collegiate from a renegade NECO board member. In 1986 Griswold rushed Aurora into claiming surplus Gunnison water because he had inside information that NECO was about to file on Union Park. As a professional engineer, Griswold should have considered the ethics and engineering feasibility before his hasty action on a flawed concept.

The real reason Aurora dropped Collegiate was because it was not technically and environmentally feasible. The "good faith" gesture is another ruse to avoid public embarrassment for a \$2 million mistake.

Union Park is a totally different concept from Collegiate. Union Park is exciting, and worth some in-depth reporting.

Dave Miller
Palmer Lake

To the Editor:

In your May 15 article about the decision of Aurora not to further pursue the Collegiate Range Project, the competing Union Park Project was mentioned, along with questions which have been raised by Aurora officials about not only Union Park but also its principal promoter, Allen D. (Dave) Miller.

Then you reported that "other observers have been kinder to Union Park," and you quote a retired Denver engineer, Dale Raitt, that Union Park is "the finest multipurpose water alternative ever conceived for Colorado."

As it happens, I received the press release from which that quotation was taken and I called Mr. Raitt to express concern about the veracity of some of the things which were said, as well as to determine who actually wrote the material which Mr. Raitt signed.

I asked him if Dave Miller had written it. Mr. Raitt said that Mr. Miller indeed had.

Small wonder the "other observers" are kind to Union Park!

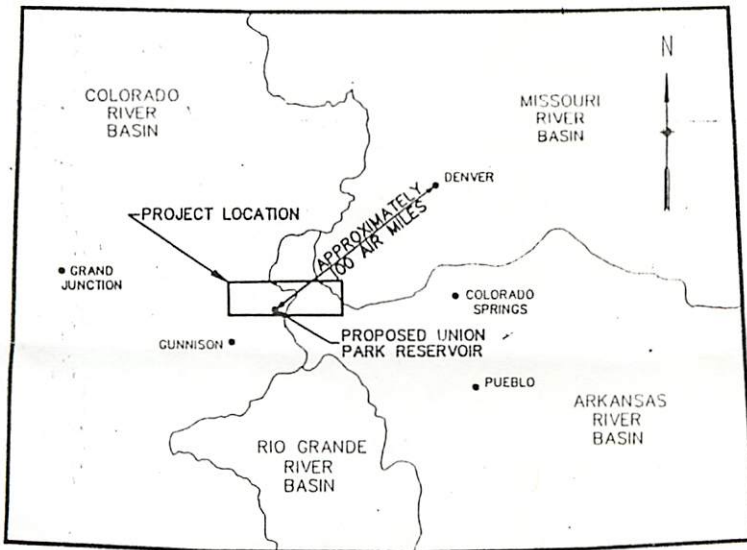
Bob Tonsing
Littleton

Gunnison Basin: the big picture

The Gunnison River Basin encompasses 8,020 square miles, or about 8 percent of the area of Colorado. Elevations vary from 4,500 feet to 14,300 feet above sea level. Average annual precipitation ranges from less than 10 to more than 40 inches. Settlement of the basin began in 1873, with mining being the principal industry. Livestock raising and farming followed the decline of the mining industry. Seventy-one percent of the land in the Gunnison Basin is federally owned, 28 percent is privately owned, and approximately 1 percent is owned by the State of Colorado. Approximately 5 percent of the lands of the basin are used for crop production, with the remaining 95 percent being used for grazing and timber production and recreation purposes.

The Gunnison River is formed by the confluence of the Taylor and the East Rivers at Almont, 11 miles northeast of Gunnison. The river flows through Gunnison, the county

(continued on page 2, column 2)



• Where Union Park reservoir would be. Detailed map of area is on Page 1 of Section II.

Waterpower '91 to be in Denver

Engineers working in the hydropower field will gather in Denver July 24-26 for Waterpower '91.

With 22 topic sessions, some 200 papers and more than 100 exhibits, the conference will bring together nearly 2,000 hydropower professionals from 15 nations. Sponsors are the U.S. Bureau of Reclamation

and the Western Area Power Administration. Conference manager is the American Society of Civil Engineers.

Invited speakers include Interior Secretary Manuel Lujan Jr. and Federal Energy Regulatory Commission Chairman Martin Allday.

Sessions will be at the Colorado Convention Center.

river, which flows 40 miles more to enter the Colorado River near Grand Junction. The Gunnison River's 74-year average flow at this confluence is 1.8 million acre-feet per year.

The 72-year average flow of the Taylor River at Almont is 241,300 acre-feet per year. The average flow of the East River at this town is 272,700 acre-feet per year. There is just one large water development on the two streams. This is Taylor Park Reservoir which can store 111,260 acre-feet and has a water right for this amount. The water is used by the Uncompahgre Valley Water Users Association. The annual flow at the reservoir, which was completed in the late 1930s, is 136,120 acre-feet. The Taylor Park Reservoir when full covers 2,240 acres.

— Gunnison

(continued from page 1, column 4)

seat of Gunnison County. Flowing another eight miles, the river enters Blue Mesa Reservoir which when full, inundates 15 miles of the streambed. It then flows through Morrow Point Reservoir and Crystal Reservoir and enters the Black Canyon of the Gunnison, where it is entrenched a mile below the adjacent mesas. Below the canyon, near Delta, the North Fork of the Gunnison enters the

That sounds like a good deal for everyone. Why, then, does the Gunnison Country Times, in a recent editorial, condemn Union Park as "a poorly planned water grab by a county not yet prepared to be a Front Range power?"

The answer might be found in the newspaper's further comment:

"The Arapahoe County Commissioners obviously think the world is theirs for the taking," the editorial says. "Arapahoe County will take our water — all of our water — any way it can ... water used for more than 100 years by county ranchers ... The world may be for the taking, but the Western Slope and its citizens are not. Aurora, a much more sophisticated entity, understands that. Arapahoe County is only just learning. It could become an expensive and politically painful lesson."

At a trial under way at Gunnison County Courthouse, Water Judge Robert Brown is trying to determine whether the Upper Gunnison Basin produces enough water to allow a diver-

sion project such as Union Park.

The trial began in early June and promises to spill over into July. So far, it has been alleged that so-called instream flow rights held by Gunnison County ranchers are jeopardized by Arapahoe County's plans. Earlier this year, these rights were upheld by the water court after being challenged by Arapahoe County.

During lengthy questioning by lawyer Barney White, Alan Leak of WRC Engineering, Denver, said Arapahoe County is considering condemnation proceedings against holders of the rights — the only privately held instream flow rights in the state.

Leak testified that Union Park, in capturing excess spring runoff, would eliminate the need for flood control at Blue Mesa Reservoir on the Gunnison River. But arguments such as this only feed the opposition of groups such as Gunnison Basin POWER (People Opposing Water Export Raids) whose slogan is "Not one drop over the hill!"

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(continued from page 1, column 4)

— Union Park

(continued from page 1, column 5)

massive West Slope compensatory storage to guarantee optimal Gunnison River flows for 12 months of the year instead of two."

COMMENTARY

The Need For More Water Storage — Now

Remember, the Chatfield Flood Control Dam wasn't built until after the 1965 flood

By Leonard Rice

The U.S. Soil Conservation Service water supply outlook, as of May 1, 1991, contains the following estimates of runoff for the April through September, 1991, period at the gages shown:

	April Runoff (1000 AF)	Percent 1961-1985 Average
South Platte River at South Platte	190	89
Arkansas River above Pueblo	285	91
Rio Granada near Del Norte	540	106
Gunnison River near Grand Junction	950	74
Colorado River near Dotsero	1,330	84

Yampa River near Maybell	810	79
Animas River near Durango	450	93

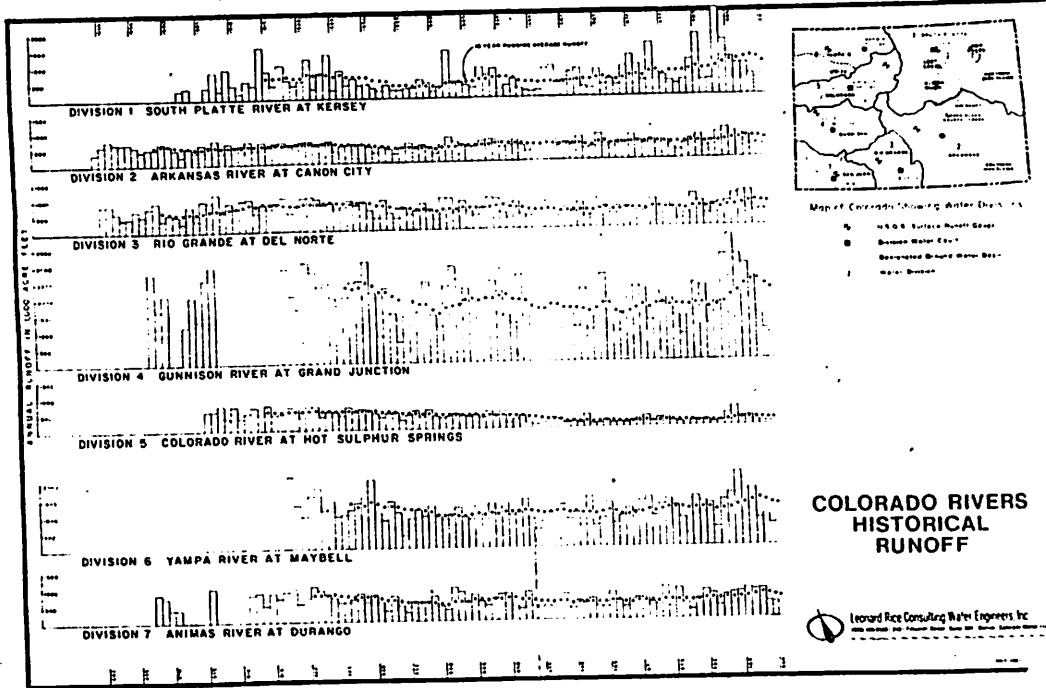
It appears that we are in for another dry year. The forecast are for below average runoff in six of the seven basins.

Colorado's water supply is derived mainly from river runoff generated by melting of the high mountain snowpack. Recent forecasts of the 1991 runoff prepared by the U.S. Soil Conservation Service based on May 1 snowpack measurements indicate that Colorado is in for another year of below average water supply. This is the fifth consecutive year that forecasts for seven of Colorado's major rivers have been for below average runoff. The one exception is that for 1991 the estimat-

ed supply of the Rio Grande near Del Norte is predicted to be 6 percent above average.

The importance of this information is that Colorado's water supply is subject to climatic cycles that range from severe drought to floods. In addition, most of the annual runoff from melting snow occurs in spring and early summer, while demand occurs all through the year, especially in late summer and early fall. To accommodate these vagaries of nature it is essential to have storage to "Bank" the excess flow when available for use during the dry periods.

The last severe drought in Colorado occurred during the early 1950s. Since that time, Colorado's population and demand for water has increased at a far greater rate than has the construction of new storage facilities. Although some water



COMMENTARY

"It is essential to 'bank' excess water flow for use during dry periods."

users experienced water shortages during the 1950's drought, there was in general enough reservoir capacity to provide sufficient carryover storage to make up for the deficit in natural supply. Whether that situation will be true when the next severe drought occurs, as it surely will, is a question that needs to be addressed now, not when it happens. Given the length of time it takes to plan, finance and build a water storage project, it is never to soon to start.

Unfortunately, however, the reality is that we will wait until we experience a severe situation such as is now occurring in California and then wonder why we don't have enough storage to provide for our needs. After all, the Chatfield Flood Control Dam was not built until after the 1965 flood. ■

Leonard Rice is a Denver water engineer operating his own firm, Leonard Rice Consulting Water Engineers Inc.

State, Arapahoe County settle water rights battle

By Jan Mangels
SENTINEL STAFF WRITER

Arapahoe County won a small battle in its fight for Western Slope water rights.

The Colorado Water Conservation Board pulled out of a lawsuit against the county a week after lawyers began debating the issue in water court in Montrose.

"It's a very important step for us," assistant county attorney Pete Ziemke said. "They (the state) carry a lot of weight when they're on the other side."

The lawsuit was filed

when Arapahoe County bought water rights in the Gunnison River basin for its \$1.4-billion Union Park reservoir, a transmountain diversion project. Several groups, including the conservation board, the Upper Gunnison Water Conservancy District and Aurora, challenged the county purchase. Aurora pulled out earlier this year when it struck a deal with the county.

The trial is expected to end this month, but may drag on to mid-July.

Despite pressure from Union Park opponents, the

state agency withdrew its objections when the county guaranteed it wouldn't interfere with the state's rights to state-owned water. Ziemke said Union Park won't, but the state was reassured when Arapahoe County officials agreed to monitor the water flow.

The agreement allows the county to flood Lottis Creek, but it will reimburse the state for the loss, CWCD's Dan Merriman said. Not all of the board members embraced the agreement because it may set a precedent. The board remains neutral on the project.

Don't be 'HOT' dog this summer ... take it from me, Mr. Cool



June 14, 1991

Colorado Water Realities

Contrary to common belief, Colorado water losses to the thirsty down-river states are steadily increasing because of long term agricultural trends.

The U.S. Department of Commerce, Census of Agriculture, shows that Colorado's irrigated pasture and cropland declined by 400,000 acres (12%) from 1978 to 1987. This acreage decline has recently stabilized. However, water needs for agriculture will continue to drop because of world-wide improvements in irrigation efficiency.

About 94% of Colorado water usage is for irrigated agriculture. An irrigated acre consumes between one to two acre-feet of water per year -- depending on type of crop, weather, altitude, and methods used. Colorado's ten year loss of 400,000 irrigated acres means that an additional 400,000 to 600,000 acre-feet of state entitled water is flowing unused to down-river growth centers. As a comparison, the entire Metro Denver area consumes less than 300,000 acre-feet per year.

Colorado's overlooked Gunnison Basin suffered a surprising 22% drop in irrigated acres during the last ten year census period. This untapped basin is currently losing well over a million acre-feet of Colorado's legal share of the Colorado River.

Farsighted Arapahoe County has been working for several years on a large Gunnison water conservation project. During wet cycles, this project will save the Gunnison's wasted spring runoff in an off-river reservoir on the Continental Divide. These surplus waters will only be released when needed to protect the environments and economies of both slopes during the severe drought cycles. Incidental to this needed drought protection, Metro Denver will have an assured 50 year growth supply for about half the cost of the obsolete Two Forks Dam concept.

Although state officials are starting to recognize the value of a large Gunnison storage project, two West Slope river water conservancy districts are still vigorously opposing the Arapahoe project. Apparently these districts would rather share Colorado's entitled water with California and Arizona. These down-river states are thriving on Colorado's endless water wars.

Instead of counterproductive infighting, Colorado must quickly unite behind a cooperative plan to beneficially use its growing water surplus. Why should the environmental and economic future of Colorado be jeopardized by its historically divisive water leadership?

Jim Erger
Past President
Colorado Water Congress
Brighton, Colorado
(303) 289-5555

Page 8 Chronicle and Pilot June 7, 1991

State board, Arapahoe County strike deal

by Laura Anderson

The State of Colorado and Arapahoe County negotiated a deal Monday. Under the terms of the stipulation, which had not been signed as of press time, the state's Colorado Water Conservation Board agreed to drop its legal opposition to the Union Park transmountain diversion project. In exchange, Arapahoe County will not deplete instream flows held by the state if it ever builds Union Park.

The Colorado Water Conservation Board is a state agency, the only entity allowed to own water but leave it flowing in streams. The legislature permits it to file for instream rights to protect fish at a minimal level. Many of the streams that Arapahoe County seeks to deplete to build the Union Park Project have instream flows held by

the state.

The problem, according to Steve Sims, a lawyer with the State Attorney General's Office, is that the state was not allowed to file for water until after the original Union Park developer, the Natural Energy Resources Company, had obtained water rights for power generation in Union Park. Thus, the state's rights are junior to some of those now held by Arapahoe County.

With the agreement, all of the state's water, junior as well as senior, will be protected.

Another segment of the stipulation deals with flooding. One of the state's instream flow rights is in Lottis Creek, which would be inundated if Union Park were ever built, since the creek would be underneath the reservoir. Arapahoe County has agreed to abide by whatever rules and regulations the Colorado Water Conservation Board

comes up to mitigate for flooding an instream flow. However, these rules and regulations have yet to be formulated.

According to Colorado Water Conservation Board member Tyler Martineau, the board authorized the Attorney General's Office to negotiate with Arapahoe County May 31 at a board meeting. The board voted on the matter in executive session; Martineau, from Gunnison, said that he was not at liberty to make the results of the vote public, but that he opposed negotiation with Arapahoe County. Afterward, in public meeting, the board directed the

Attorney's General's Office to negotiate.

Martineau stressed that the settlement does not mean that the Colorado Water Conservation Board in any way supports the Union Park Project "despite what [NECO developer] Dave Miller may say."

Martineau commented that he believed the board would ratify the settlement in public; the next meeting of the board is July 22 and 23 in Gunnison. He added that the normal proceedings of the board are to allow public input before making decisions.

However, Sims said that it was his understanding that he had the authority to "sign off" on the

agreement. He said that he intended to run it by the director of the board who would show it to "key" board members.

Sims said that once the agreement is final, the Colorado Water Conservation Board will withdraw its opposition to Union Park. The Colorado Division of Wildlife will also withdraw its opposition. "It has no water rights affected," Sims explained. The only state entity that will continue to oppose Arapahoe County's Union Park Project is the State Engineer's Office, which does not plan to take an active role in this month's water availability trial.

NECO Take Pride award no great honor

continued from page one

of our "environmental" president. NECO is responsible for planning the Union Park transmountain diversion project and the Rocky Point hydropower project.

But it turns out that the award is no great honor. In fact, the applications were not even screened. In 1989, all in NECO's category, Colorado corporations, were sent to the national level without being looked at first. There they were judged; the losers, like NECO, received certificates of merit and were designated semi-finalists.

Kate Jones, director of the program for the State of Colorado, said that since 1989 the policy has changed; all applications are now screened on a state level.

At the national level, every applicant not found to be a winner is named a semi-finalist and is sent a certificate "in recognition of demonstrated commitment and exceptional contribution to the volunteer stewardship of America's natural and cultural resources." In 1989, the certificate was signed by Manual Lujan, Jr., and Barbara Bush, among others.

The Union Park/Two Forks connection

Dave Miller, NECO president, nominated his company for the award. The projects, he wrote, "were conducted to enhance the Western states' environment, while realizing a reasonable return for the company's investors." He added that NECO's work "informed the... federal permitting officials that Colorado had overlooked sound water supply and power alternatives for both

population growth and environmental protection. This realization led to EPA's veto of Denver's environmentally destructive Two Forks Dam."

The application for the award does not mention environmental damage that might occur if the water projects are ever built. The High Country Citizens' Alliance cites potential detriment to plants, elk, deer, bighorn sheep, trout and aquatic life in the Taylor River Basin, in the East River Basin, and downstream all the way to California. HCCA adds that downstream salinity might be increased if the basin's water is withdrawn, and that endangered fish habitat might be affected.

The Union Park Project is being opposed by the National Wildlife Federation, the Colorado Wildlife Federation, the High Country Citizens' Alliance, Western Colorado Congress and POWER. Many of these groups also oppose Rocky Point for environmental reasons, and no conservation organizations support either project.

Taylor Park woman objects

Martha Todd, from Rainbow

Subdivision in Taylor Park, wrote to the Department of the Interior last year, objecting to the NECO award. What follows are excerpts from a response by Clifton White, director of Take Pride in America.

"At the national level, all applications received are considered national semi-finalists. These applications are then screened by a panel of federal agency personnel who are active in the Take Pride campaign and are considered experts in their fields.... The NECO application was judged by the pre-screening committee and did not receive enough points to be designated a national finalist. If it had received enough points, it would have been subjected to still another screening by our Blue Ribbon Panel of Judges, on which Mrs. Bush served as Honorary Chair. Had it been deemed good enough by the Blue Ribbon Panel, it would have been declared a national winner. Obviously, the project was not outstanding enough to 'make the cut' at the national level.

"You should be assured that top honors were not accorded to NECO," the letter reads.

Saturday, June 15

Mt. Crested Butte clean up set

Mt. Crested Butte Town clean up will take place Saturday, June 15, beginning at 8:00 a.m. Please pick up your trash bags at the Town Hall during office hours starting June 10. If you can clean up your neighborhood by 10:00 a.m. and place your trash bags along the roadside, we'll be happy to collect them. After 10:00 a.m. all trash will need to be taken to the dumpster located at the Ski Area parking lot. Absolutely no construction material will be accepted! Your help is greatly appreciated, let's keep in clean and green.

NATURAL ENERGY RESOURCES COMPANY

P. O. Box 567 • Palmer Lake, Colorado 80133 • (719) 481-2003 • FAX (719) 481-4013

Honorable Roy Romer
Governor, State of Colorado
State Capitol Building
Denver, Colorado 80203

May 17, 1991

Re: Rocky Mountain Biological Lab -- Arapahoe Water Agreement

Dear Governor Romer:

In your April 11, 1991 letter you cited Rocky Mountain Biological Laboratory concerns as a reason for reserving your position on Colorado's Union Park Water Conservation Project.

You will be pleased to know that the Lab and Arapahoe County have reached a stipulated agreement. Under this out-of-court settlement, two of Union Park's diversion points will be moved to a lower location to avoid impacting the Laboratory's scientific work. Hopefully, stipulated agreements will also soon be reached with the Colorado Water Conservation Board, Colorado Division of Wildlife, and the Colorado Land Use Commission.

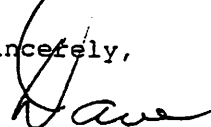
It is interesting to note that the Lab is now receiving unreasonable "heat" from local "not one drop over the hill" activists who are unalterably opposed to any form of cooperation with Front Range water providers (see enclosed editorial). Our enclosed answer is another attempt to provide understanding for those who still refuse to recognize Union Park's local and statewide benefits.

It is difficult to understand why our state water management agencies can evaluate and approve key ground water alternatives. But under Colorado's highly legalistic system, these same agencies are not free to study the relative merits of Colorado's renewable surface water options. Colorado is the only Western state that keeps its water resource data, insights, and policies under wraps, while local conflicting interests unnecessarily consume public resources in endless legal battles. Meanwhile, California grows on Colorado's water surplus.

We sincerely believe that this restrictive water management dichotomy at the state level is the root cause of Colorado's divisive provincialism and resultant water development gridlock.

To protect the public interest and Colorado's position in the competitive arid West, we again urge initiation of a Governor's Strategic Water Committee to consider the state's most crucial water management issues.

Sincerely,


Allen D. (Dave) Miller
President

/mjb

enclosures

cc: Colorado legislators, water management agencies, providers.

correspondence

Editorial seriously flawed

Dear Lee:

Your emotional May 10th editorial against the Rocky Mountain Biological Laboratory's April 30th compromise agreement with Arapahoe County is seriously flawed.

The real Colorado water "grabber" is California - not Arapahoe's Union Park Water Conservation Project. The reality of California's water crisis is behind Colorado's current unity for a "waterless Wilderness Bill." Colorado will also soon vigorously oppose federal plans to quadruple Black Canyon of the Gunnison flows for the same reasons.

Concerned Colorado leaders are uniting behind Union Park, because high-altitude Gunnison storage is the best environmentally sound answer for saving Colorado entitled waters for future growth and drought protection on both slopes.

If Colorado did not have reservoirs, about 75% of its renewable surface waters would be lost every year during the 50 day spring run-off. Well conceived reservoirs can benefit river ecosystems - not destroy them. Please remember, every Gold Medal fishery in Colorado is below a dam that can provide adequate flows for 12 months instead of 2.

The Taylor and East Rivers provide the most graphic comparison for Gunnison citizens. These rivers generate about the

same volume of water, and they drain the two wettest sub-basins in Colorado. However, the Taylor is far more valuable for fishing, recreation, and irrigation, because of the seasonal carry-over capabilities of Taylor Park Reservoir. Union Park's off-river, high altitude storage will further enhance the Gunnison's environment and economy with its guaranteed carry-over protection against several years of severe drought. A key point to remember

is that diversions into Union Park will only occur during the spring run-off in wet years when high altitude valleys are supersaturated with water that can not possibly be used for any local purpose, including wildflowers.

You can rest assured that our company's shareholders will not profiteer from our \$2.2 million bargain sale of Union Park to Arapahoe County. We do, however, hope to eventually recover our expenses for a project that will have

invaluable long-term benefits for all of Colorado. As with the previously controversial Taylor and Blue Mesa Reservoirs, Gunnison citizens will also be pleased and proud of Union Park. That will be the greatest reward for our environmentally concerned shareholders.

The Rocky Mountain Biological Lab should be commended for its wise decision to drop its legal action against Union Park's East River Diversion. By

concentrating on the scientific facts, the lab will soon appreciate the overall benefits of Union Park. Ralph Clark's resignation from lab's board is regrettable, because it shows that the leader of People Opposed to Water Export Raids (POWER) will continue his uncompromising campaign against the finest water conservation project in Colorado's history. Sincerely,
Dave Miller
President



editorial

Ripples of the RMBL deal

A society without love is like a land without rivers, it is as a desert; but where there are rivers the land is rich, it has abundance, it has beauty.

Krishnamurti
Think On These Things

Why don't we sing this song all together?

The Rolling Stones

Arapahoe County has a plan to divert water from the Upper East River Valley; consume vast amounts of electricity to pump water uphill; store the water in a giant new reservoir up Taylor Park and send it on across the Continental Divide where it will be used to create more ugly urban sprawl.

Arapahoe County's plan would reduce stream flows in the East River drainage to a trickle. A rich and diverse ecosystem would virtually be destroyed. Arapahoe County's water plan is not based on need; it is based on greed.

The City of Aurora, because of aggressive annexation policies, was for a time the fastest growing population center in America. Presently the population of Aurora is 230,000. Aurora has enough water now. They have enough water for the foreseeable future. In fact, Aurora, which once coveted East River water, has withdrawn its claim. Thank you.

Arapahoe County, however, still aggressively pursues Upper East River drainage water. They have budgeted over one million dollars in 1991 to finance their water grab.

Arapahoe County has recently suffered two court setbacks. They go to court again in June in an attempt to dry up and destroy an ecosystem. Until recently the list of legal opposers to the water grab included the Rocky Mountain Biological Lab in Gothic.

In December, 1990, Arapahoe County, in an amazing display of stupidity coupled with hubris, actually filed for a diversion structure on RMBL land. This filing mobilized well over a hundred scientific, well connected individuals to write reams of letters opposing the project. These letters had their effect and Arapahoe County came, tail between its legs, to RMBL's legal counsel Wes Light ready, willing, and salivating to cut a deal. RMBL said okay.

As of this week, Arapahoe County no longer proposes to divert water from RMBL. They propose to start a little further downstream. RMBL is thus protected from direct, deleterious effects of the water grab.

While this deal is good for the lab, it has created some ripples and floated up some questions.

At least one of the RMBL's 12 member board of directors has resigned as a result of the deal. At least two of the members of the RMBL board voted against the deal. Maybe more. The vote was private.

While lab director Susan Allen says that the lab will continue to oppose the project and, in fact, divert resources which would have been used to help finance the legal battle toward research on the effects of this vast dewatering, it has been our experience that an individual or a group fights with more resolve when they are actually threatened. Such is no longer the case with the good people at RMBL.

One has to wonder how a decision which makes Dave

Miller happy (he stands to personally gain several million dollars should the project actually happen) is in the best interests of Gunnison County and/or RMBL. RMBL cutting this deal suggests, in the worse case, thinking that they are prepared to commune in their high mountain enclave, continue their valuable work while the rest of the rest of the Upper East River Valley is sucked dry. This is not their position philosophically, morally, ethically; it is now regrettably their legal position.

The people of RMBL have been and will continue to be a welcome addition to the Upper East River Valley summer community. They lend diversity. They help the economy. They are a source of community pride not to mention they have the best and only marching band in the 4th of July parade.

We can only hope that operating as an anomaly, a sort of biological zoo on the periphery of destruction, is unthinkable and untenable to the majority of the RMBL board and members.

—Lee H. Ervin

Arapahoe County's second smart thing

Hydropower from Blue Mesa: should it take priority over Union Park?

by Laura Anderson

Should the Blue Mesa Reservoir be used for power generation? Or should the water that would have filled it be sent across the Continental Divide to Arapahoe County?

A ruling by Water Court Judge Robert Brown May 6 suggests that domestic water use may take priority over hydroelectric generation. Brown's decision seems to reverse an earlier ruling in April, where he

that domestic use may take precedence over power generation.

After Brown's April ruling, which favored the U.S. Government, Arapahoe County filed a motion for clarification. "Arapahoe County did another smart thing when they filed that motion," Bruce Driver, lawyer for the High Country Citizens' Alliance, commented. In clarifying the motion, Brown apparently reversed his first ruling. According to Driver, the new ruling is "opaque.... The issue is very

opposition to Union Park in exchange for Arapahoe County's moving its diversion points below Gothic.

Arapahoe County's Union Park Project would include an enormous reservoir south of Taylor Park, and would divert massive amounts of water to the Front Range from the Taylor Basin and the East River Basin. The concept is being opposed by most people in Gunnison County.

"Arapahoe County did another smart thing when they filed that motion."

indicated that if the priority date of the hydro project was earlier, generating electricity would be senior to domestic use.

The way Colorado water law works is that water rights claimed first take precedence over later rights. Given this, one would think that the Aspinall Wilson dams, built in the 1950s, would be senior to Arapahoe County's Union Park Project, which has a 1990 priority date.

The monkey wrench in the business is the Colorado River Storage Project Act, enacted by Congress in the 1950s. This sets up the Aspinall Wilson Storage Unit, which includes Blue Mesa and gives the U.S. Government the right to use the water in the three reservoirs to generate electricity. But a clause in it indicates

complicated," Driver continued. "My concern is that no one knows quite what he decided."

The issue may be resolved after a trial, scheduled for the entire month of June, which will decide whether enough excess water exists to make the Union Park Project feasible. Driver added that even if domestic use takes priority over hydropower, he does not believe that a transmountain diversion project falls under the definition of domestic use.

The first smart thing

Arapahoe County's "first smart thing," according to Chris Meyer, lawyer for the National Wildlife Federation, was to work out a deal with the Rocky Mountain Biological Lab where the lab dropped its

Rocky Mountain Biological Lab, Arapahoe County cut deal on water

continued from page one

wanted to know how far downstream the diversion would have to take place to remove the threat to RMBL's water rights. At first, RMBL director Susan Allen responded "across the hill." However, Allen later determined that if Arapahoe County diverted water well below the lab, around the Mt. Crested Butte Water and Sanitation District pumphouse, ongoing biological research would not be affected, nor would the lab's water

rights. "My orders are to protect the lab and its water rights," Light said. "When this resolution was proposed, I made sure that it did that."

Unity serves us well

The decision to settle with Arapahoe County was made by RMBL's 12 member Board of Trustees. While Light will not make the results of the vote public, at least two members of the board, Barbara Frase and Ralph Clark, voted against the

proposal. Clark, who is president of People Opposing Water Export Raids, has decided to resign from the RMBL

asked. He speculated that the county may have political motives such as a 'divide and conquer' strategy.

"RMBL... continues to believe that the proposed Union Park project is ecologically unwise, and will not support the project in any fashion."

board. "I wear a variety of hats for several different organizations," Clark explained. "There was a major difference of policy [between POWER and RMBL]. POWER has a position of no negotiation." Clark added that he resigned from the RMBL board "regrettably."

Ralph Clark explained that unity in opposing transmountain diversion has served the Western Slope well in the past, and was one reason the City of Aurora withdrew its diversion plans earlier this year.

"Arapahoe County did not have to have this agreement [with RMBL]. What is it going to be used for?" Clark

Clark stated, "There is no need for RMBL to acknowledge, even with a 'thank you,' the withdrawal of a threat and imposition upon itself."

He continued that no settlement with Arapahoe County was satisfactory in his mind, short of a total withdrawal from the Gunnison Basin including recovery of all unjustifiable costs imposed on opponents.

Victory with momentum

Susan Allen called the settlement "a victory with momentum." She pointed out that RMBL mobilized its members after Arapahoe County changed its plan. 150 letters were sent from all over the world to Arapahoe County telling the county that the diversion was a bad idea. "They had an effect," she said. "It illustrates that pressure can work. My next letter [to members] will say there's good news but don't stop here."

Allen added that the scientific studies being done by the lab can still

Miller explained that a number of people, including Governor Romer, had been concerned that the work of the RMBL scientists might be harmed by diverting water from the East River and its tributaries.

"Anything to get people to reason together is a good move," Miller added. "I've been trying to say that for a long time - cooperation, not conflicts." While Miller realized that RMBL might still oppose the project elsewhere, he commented, "the court case is the main thing." Miller expects further settlements to be forthcoming between Arapahoe County and opponents.

Pumping the water?

One question that remains unanswered is how Arapahoe County plans to get its water from the new diversion points to Union Park. "It implies a major conceptual change," Ralph Clark said. The Front Range county now wants to take water from the East River at an elevation of 9100 feet, but Taylor Reservoir has a surface level of 9330 feet, which would

"This is the first smart thing Arapahoe County has done."
—Chris Meyer

be used in the court cases by other legal opposers. Allen believes that the Union Park Project would harm many of the birds, animals and plants in the East River drainage, particularly those that depend on high spring runoff, which would be diverted by Arapahoe County.

Arapahoe's first smart thing

"This is the first smart thing Arapahoe County has done," Chris Meyer, attorney for the National Wildlife Federation, commented. The National Wildlife Federation is one of the groups opposing the Union Park Project in court. "We are sorry not to have RMBL as a full-time opponent in court, but we are pleased they have retained their ability to oppose outside the courtroom. They will be able to put their resources into scientific work and spend the lab's money on science, not lawyers. I understand that some people are very disappointed, but opposition has not been divided - RMBL is not supporting the project."

Minor in the scheme of things

Dick Bratton, attorney for the Upper Gunnison River Water Conservancy District commented that he does not believe the RMBL/Arapahoe County deal will have any effect on the court case. "Every entity doesn't have to oppose Arapahoe County," Bratton said. "They're paying taxes to us and to Gunnison County [to fight Arapahoe County's water rights application.] It doesn't affect the other legal opposers, who won't back down an inch. RMBL's decision is minor in the total scheme of things. In the end, the issue will be decided on facts and the law."

"I hope RMBL will direct some of its financial resources toward those groups that remain in the case since we know they care about water and the environment of Gunnison County," Gary Sprung, president of the High Country Citizens' Alliance, commented.

A good move

"I think the agreement is a good

move." Dave Miller, president of the Natural Energy Resources Company, commented. NECO developed the Union Park concept and sold it to Arapahoe County. "I was encouraging it," Miller continued. "It makes Arapahoe County's court case stronger."

Miller explained that a number of people, including Governor Romer, had been concerned that the work of the RMBL scientists might be harmed by diverting water from the East River and its tributaries.

Those who remain opposed to Arapahoe County in court include the Upper Gunnison River Water Conservancy District, the Crystal Creek Homeowners, the National Wildlife Federation, Gunnison County, the City of Gunnison, the High Country Citizens' Alliance, Rainbow Homeowners, the United States, the State of Colorado, the Colorado River District, and Colorado-Ute.

Lab still opposed to diversion Rocky Mountain Biological Lab, Arapahoe County cut deal on water

by Laura Anderson

The Rocky Mountain Biological Laboratory has struck a deal with Arapahoe County. Under the terms of the agreement, signed April 30, RMBL

will drop its legal opposition to Arapahoe County's Union Park Project. In exchange, Arapahoe County will move its planned diversion structures downstream on the East River, so that the biological lab's water rights will no longer be directly affected if the Union Park Project is ever built.

"In response to concerns raised by Rocky Mountain [RMBL] regarding the impact of Arapahoe's amended Water Application on Rocky Mountain's research and educational operations, Arapahoe hereby agrees to move its proposed points of diversion on the East River and Copper Creek to a point below the confluence of those two streams at a location downstream... to avoid impacts on Rocky Mountain, its water rights and ongoing studies at its laboratory," the stipulation reads.

The agreement does not prevent the lab from opposing the project in other ways. According to Wes Light, attorney for RMBL, the lab decided

occurred on RMBL property, as well as on federal land where the 60 year old lab conducts research.

Now Arapahoe County intends to drop its Copper Creek diversion and move its East River diversion downstream. The total diverted

would still be 1205 cubic feet per second, a tremendous amount of water. The town of Crested Butte, during the summer with everyone's sprinklers going, uses at a maximum, one cubic foot per second. The water would be piped to the Union Park Reservoir, and from there, under the Continental Divide to the Front Range.

How to remove the threat?

The negotiation between Arapahoe County and RMBL began when Wes Light received a letter from Arapahoe County asking what the county could do to stem RMBL's opposition. Light talked to Arapahoe County water attorney Paul Zillis, who

information generated by the Lab on such issues as wetlands and biological resource impacts will be available for use in the future litigation and permitting process.

Wes Light would not reveal how much it might have cost RMBL to stay in the legal case, but he said it was "well beyond what RMBL had raised."

RMBL joined the legal case in January, 1991, after Arapahoe County filed an amendment to its original plan. At first, Arapahoe County intended to get all of the water to build the Taylor Basin. But on November 29, 1990, it added diversion points along the East River and a number of its tributaries. Under the new scenario, water would have been diverted from such places as the East River north of Gothic, Copper Creek, West Brush, East Brush and Middle Brush creeks, Cement Creek, Deadman Gulch and Spring Creek. Diversions would have

that, its money would be better spent opposing the Union Park Project outside of court. If Arapahoe County moved its points of diversion, the lab's court case would be weakened, according to Light, since its water rights would no longer be potentially harmed.

"RMBL, as an institution, continues to believe that the proposed Union Park project is ecologically unwise, and will not support the project in any fashion," the lab stated in a press release. "In particular, the Trustees of RMBL remain opposed to transmountain water diversions from the Gunnison Basin for significant environmental and public policy reasons."

"As a non-profit organization, RMBL will henceforth place its limited financial resources toward the scientific analysis of project impacts, and the process by which governmental agencies will review the environmental acceptability of the