

BRATTON & McCLOW LLC
232 West Tomichi Ave., Suite 202
P.O. Box 669
Gunnison, Colorado 81230
(970) 641-1903

Upper Gunnison River Water
Conservancy District
275 South Spruce Street
Gunnison, Colorado 81230

Statement for legal services for period ending March 24, 1996

Professional services:

| | | <u>Hrs/Rate</u> | <u>Amount</u> |
|----------------------------|---|-------------------|---------------|
| <u>Administrative</u> | | | |
| 3/11/96 | LRB Prepare for monthly meeting. Review agenda materials. Attend March meeting. | 5.00 125.00/hr | 625.00 |
| SUBTOTAL: | | [5.00 | 625.00] |
| <u>Dominguez Reservoir</u> | | | |
| 3/4/96 | BAW Telephone conference with Me! Sabey's office re: vacation of hearing. Discuss with LRB. | 0.20 100.00/hr | 20.00 |
| SUBTOTAL: | | [0.20 | 20.00] |
| <u>Union Park</u> | | | |
| 2/27/96 | LRB Work on strategy for Union Park case with JHM. | 0.75 125.00/hr | 93.75 |

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED.

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE OF 1½% PER MONTH
WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

| | | <u>Hrs/Rate</u> | <u>Amount</u> |
|---|--|-------------------|---------------|
| 3/1/96 | LRB Conference with Bill, Tyler and John re: Union Park Case. | 1.00 125.00/hr | 125.00 |
| 3/12/96 | LRB Attend meeting in Grand Junction with engineers (Tyler, Helton and Gross) and attorneys (Williams and Halford) to discuss strategy, especially re: engineering aspects. (Travel 1/2) | 8.00 125.00/hr | 1,000.00 |
| 3/14/96 | LRB Telephone conference with Steve Sims re: various legal issues. Telephone conference with Andy and David Halford re: same. Conference call with opposers' attorneys. | 3.50 125.00/hr | 437.50 |
| 3/19/96 | LRB Telephone conference with Halford, Williams and Kuhn re: strategy with CWCB on 670(f) issue. | 0.50 125.00/hr | 62.50 |
| 3/20/96 | LRB Telephone conference with Scott Loveless (U.S.) re: strategy on 620(f). | 0.50 125.00/hr | 62.50 |
| SUBTOTAL: | | [14.25 | 1,781.25] |
| For professional services rendered | | 19.45 | \$2,426.25 |
| Itemization of costs | | | |
| - Call Record for the month of February | | | 20.30 |
| - Photocopier expense | | | 13.95 |
| Total costs | | | \$34.25 |
| Total amount of this bill | | | \$2,460.50 |
| Previous balance | | | \$2,795.88 |

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Upper Gunnison River Water

Page 3

Amount

3/13/96- Payment - thank you

(\$2,795.88)

Balance due

\$2,460.50

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WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.**

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT

SCHEDULED BOARD MEETING MINUTES

March 11, 1996

The Board of Directors of the Upper Gunnison River Water Conservancy District conducted a regularly scheduled meeting on March 11, 1996 at 1:00 p.m. at the Gunnison County Fairgrounds, Gunnison, Colorado.

Board members present were: Ralph E. Clark, III, Carol Drake, Susan Lohr, Diane Lothamer, Ramón Reed, Mark Schumacher, Peter Smith, Dennis Steckel, Doyle Templeton and William S. Trampe. Board member not present was Lee Spann.

Others present were:

Dean Blackwell, Vader Cloverleaf Ranch
Dick Bratton, Board Attorney
Laura Martineau, Crested Butte Chronicle & Pilot
Tyler Martineau, Manager
Jill Steele, Office Secretary
Frank Vader
Mary Vader, Gunnison Country Times
Paul Vader, Vader Cloverleaf Ranch
George Wear, Department of Water Resources

1. CALL TO ORDER

Board President Bill Trampe called the meeting to order at 1:11 p.m.

2. LEGAL MATTERS

2a. ARAPAHOE/UNION PARK LITIGATION

Board attorney Dick Bratton addressed the board regarding the Arapahoe County/Union Park Litigation. He said that Judge Brown is going to allow a new trial and allow new evidence to be presented. The judge said he is doing this because his earlier rulings could have been misleading to Arapahoe County. Mr. Bratton said that the judge restricted the trial to a narrow number of issues. He said that Arapahoe County will attempt to expand the scope of the trial. Mr. Bratton said that the judge is going to consider the two federal issues: 1) What are the ramifications of the fact that there are 240,000 acre feet available for sale by the

Bureau of Reclamation. Bratton & McClow believes that since there are multiple uses for all those decrees, the United States can have the water available for sale, and it is not water available for other potential applicants, and 2) 620(f) of the Colorado River Storage Project Act, which deals with hydropower. The hydropower decrees for the Aspinall Unit are of a sufficient amount to dominate and control the stream. They are absolute rights which have been utilized. One issue is if there is a distinction between domestic use and municipal use. The opinion of Bratton & McClow is that there is not. The most significant issue is whether the federal hydropower rights must be subordinated to rights claimed by Union Park. Arapahoe claims 620(f) requires subordination to domestic and agricultural uses (but not its own hydropower claims). In the previous trial, Arapahoe County did not quantify their water rights, therefore the judge ruled they would not be entitled to a preference as they claimed both hydropower (which is not prior to U.S. hydropower) and domestic (which may be). A major issue is whether the judge will allow Arapahoe County to quantify those separate uses in this new trial to correct this problem. Bratton & McClow believes that the judge was incorrect in his basic interpretation of 620(f) that there is no preference for any use. They intend to address that issue again. Bratton & McClow believes that 620(f) relates only between the upper basin states and the lower basin states in the matter of subordination of hydropower rights to domestic and municipal uses, and that it does not apply within the state of Colorado. He said that the judge did not open for reconsideration the issue of the availability of Taylor Park reservoir as a pumping plant for this project, which he previously ruled against. Mr. Bratton said that on March 12, 1996 there is a meeting for the opposers in Grand Junction. Mr. Bratton recommended that the board discuss other issues related to the litigation in Executive Session.

2b. OTHER LEGAL MATTERS

There was no discussion of other legal matters.

3. UPPER GUNNISON PROJECT

The manager discussed his February 20, 1996 memorandum which was circulated to the board. He said that he, Bill Trampe, and Dick Bratton met with Bureau of Reclamation representatives to discuss the use of the Upper Gunnison water rights in conjunction with the Aspinall Unit. He recommended discussing this matter in Executive Session at the end of the meeting because it relates to the Arapahoe County litigation.

4. BLUE MESA RESERVOIR WATER SERVICE CONTRACT

Referring to the same February 20, 1996 memorandum as in Agenda Item 3, the manager said that at the same meeting with Bureau of Reclamation representatives, the possibility of a water service contract between the Bureau and the District was discussed. He said that the Bureau of Reclamation is very eager for this possibility to become reality because otherwise they will have to do environmental compliance and section 7 each time they contract with an individual water user for water. If the District and the Bureau should enter into a contract,

the Bureau can do the environmental compliance just one time in conjunction with the contract with the District. The manager said that the Bureau proposed that the District lease twenty to fifty acre feet of water at a cost of \$7.00 - \$10.00 per acre foot per year as a stand-by charge, that is, for water not actually under contract between the District and a potential water purchaser. The proposed charge for water actually under contract is in the area of \$50.00 per acre foot per year. Twenty-five years is the maximum contract length possible by the Bureau now. The question for the District to consider is how much water to contract for with the Bureau? An idea which was discussed at the meeting is to have the contract cover what the District estimates to be ten years of demand. If that water was all contracted for at the end of ten years and there was additional demand for this service, the potential would be there to enter into a new contract, which would run twenty-five years from that date. The Bureau said that the District could charge an application fee if it chooses or charge more for the water than it pays the Bureau to recoup some of the District's administrative costs. The manager said that the Bureau might be willing to waive its application fee for the District but that it is not clear to him whether the District would have to pay the cost of the NEPA compliance for this master contract. The manager said that the next step toward this contract would be to write the Bureau and tell them that the District is willing to enter into a negotiation process with them on a contract of this type. The negotiation would not bind the District but would start the formal process which would probably take a couple of years to complete.

Ramón Reed asked what is the benefit to the District in this arrangement. He said that the Bureau did not see what the benefit is to them on adding the Upper Gunnison rights to the refill. He said that most of the rights that would be covered under a water service contract with the Bureau would be junior or not even applied for yet, and would be potentially affected by the 60,000 acre foot subordination which has not yet been resolved. Mr. Reed suggested waiting to discuss this matter further with the Bureau until the subordination issue is resolved because how much augmentation a junior right needs can be very dependent on the resolution of that matter.

Susan Lohr agreed with Mr. Reed and said that the three topics in the manager's memorandum (water service contract, Upper Gunnison decrees, and subordination) are not unrelated and could give the District some leverage in negotiations with the Bureau.

Butch Clark said that the District needs to set up an enterprise to administer this program.

The manager said that two points for the board members to consider are, 1) Are we interested in doing this or not? and, 2) Should we hold off on the negotiating process? Or go ahead and start the negotiating process even having concerns, since the negotiating process will probably take from one to two years.

Susan Lohr said she would like to know more in terms of the strength of the need for this type of service, since the NEPA compliance would be a large and costly enterprise and may not cover certain site-specific issues.

Several board members expressed the desire for more information on the subject and requested that the manager prepare some.

5. ASPINALL UNIT SUBORDINATION

Ramón Reed said that he requested this agenda item as a follow up to some work sessions last year on the subject, at one of which POWER presented their point of view on the subordination. He said that two things came out of this: 1) A group from POWER, along with the manager, looked through some old records of Bratton & McClow's, and 2) The historical information unearthed by POWER could be made available to anyone who wants it, or copies could be provided of subsequent correspondence between Bratton & McClow and POWER on some of the specific issues contained in the old files. He added that Butch Clark and John Cope are working on a very condensed summary of the whole thing, which should be finished in about one month.

The manager again discussed his February 20, 1996 memorandum regarding the February 16, 1996 meeting with representatives of the Bureau of Reclamation. He said that the Bureau stated that the original purpose of the 60,000 acre feet subordination was that the Bureau would agree not to use its Aspinall Unit 1957 decrees to call out up to 60,000 acre feet of depletions upstream of Crystal Dam for junior rights, but that it did not include protection of upper Gunnison water rights from downstream calls. Judge Brown said that since there is no contract in place administering the subordination, he could not consider it in the Arapahoe County trial.

The manager then discussed his March 8, 1996 memorandum, which was distributed to board members at the meeting and which pertains to a second meeting he, Bill Trampe, and Ken Knox had with Bureau of Reclamation representatives on the Aspinall Unit subordination with the goal of moving towards a formalized contract. In the meeting it was agreed that movement towards a contract could be made if four steps were taken: 1) Definition of existing depletions junior to 1957, 2) Development of a protocol for providing protection against an Aspinall call, 3) Development of a database containing the name of the water right holder, structure, and amount of water depleted, for each water right receiving protection under the contract, and 4) That development of the contract should be initiated with the Bureau of Reclamation. The manager also said that the commitment to develop a contract to formalize the 60,000 acre foot subordination exists at the Grand Junction level but that they need to find support for it in Washington, D.C. The manager recommended that the District write a letter to the Bureau of Reclamation asking to begin negotiations on an agreement which would protect the junior depletions in the basin from a call from the Aspinall Unit. He said that the process will probably take several years, and there is some risk in the process because of possible questions of who the subordination will and will not cover. He said that the way to make progress is to urge the Bureau to start seeking approval from the upper levels to honor this commitment, and we can start doing the work here, such as building the database.

Dennis Steckel moved and Ramón Reed seconded that the District move ahead with the Bureau of Reclamation on a subordination agreement as outlined in the manager's memorandum of March 8, 1996.

Ramón Reed suggested telling the Bureau that we will do the quantification of water rights junior to the Aspinall Unit.

Susan Lohr said that development of a contract with the Bureau formalizing the subordination could replace the development a basin-wide augmentation plan.

Dick Bratton suggested the possibility of an interim contract which could provide protection in case of a call between now and completion of a contract.

Ramón Reed said that there may need to be specific language in the contract dealing with the second fill.

Butch Clark said that whether Fruitland Mesa will be included or not is an issue to discuss with the Bureau.

The motion carried.

6. 1996 LEGISLATIVE SESSION

Ramón Reed said that he was at a meeting yesterday regarding SB-48 and Senator Powers said she expected it to be killed in local government today but that it may be appended to another bill in the future.

7. JOB DESCRIPTION AND PERFORMANCE EVALUATION PROCEDURE FOR MANAGER

Susan Lohr said that the committee's report was circulated to board members in their meeting folders and asked if there were questions.

Several board members complimented the committee on their work in devising the new job description and evaluation procedures for the manager.

Butch Clark moved and Ramón Reed seconded to table this matter until the next meeting. The motion carried.

8. MANAGER'S QUARTERLY REPORT

Bill Trampe asked for board comments on the Manager's Quarterly Report which was circulated to board members.

Butch Clark asked if the modelling effort in terms of Union Park could be used for some of the other purposes listed in the Manager's Quarterly Report. The manager said that the problem is that the District does not get to choose which models are used in the Arapahoe County/Union Park litigation. He also said that the Colorado River Decision Support System (CRDSS) is being developed in Denver, and they are attempting to construct a model which shows activity in the Gunnison Basin but there is a chance that some factors are not taken into consideration, such as the 60,000 acre foot subordination or that some underlying assumptions are incorrect.

9. MISCELLANEOUS MATTERS

Butch Clark moved and Ramón Reed seconded that the District write letters of thanks to the Gunnison County Stockgrowers, Natural Resources Conservation Services, and the Division Engineer's office for their part in the Water Measurement Workshop. The motion carried.

Butch Clark said that he received a letter from the Bureau of Reclamation regarding travel time, unit concentration, longitudinal dispersion of streamflows in the Gunnison River downstream from Crystal Reservoir in relation to hazardous spills. He said that over several years he would like to get many different entities who are interested in the kind of information generated in this study to cooperate in payment of the large fees.

The manager discussed a handout which was circulated to the board on the Ditch Bill. He said that Ken Knox plans to hold a meeting on the Ditch Bill issue on April 6, 1996 at 2:00 p.m. in Montrose and that Knox plans to send out a formal announcement of the meeting.

The manager called attention to his March 5, 1996 memorandum which was circulated to the board on the Aspinall Unit Environmental Studies. He said that the schedule is set and that this will be followed up with a biological opinion. The manager said that there will be a determination of how the Aspinall Unit will be operated in the future in order to try to recover the endangered fish. The interim contract will terminate and the new contract will be developed to comply with the biological opinion. He said it is an open question as to whether we can obtain the same provisions in the new contract as in the current one.

10. UNSCHEDULED CITIZENS

Frank Vader asked if dates had been set for the Taylor Park Reservoir Operations meetings yet. The manager said no, but that the Bureau of Reclamation agreed to get us preliminary proposed operation information on Taylor Park flows by March 25 and that he will try to set something up approximately a week after that. He said that the Taylor Park Reservoir Operations meeting, between the four parties to the 1975 agreement, has been scheduled for April 18, 1996 at 9:30 a.m. in Grand Junction.

Paul Vader addressed the board urging them to continue in their opposition to the Arapahoe

County/Union Park project, citing the impact it would have on Taylor Park pool, ranchers who graze their cattle in Taylor Park and Union Park and move them through the area of the proposed dam site. He commended the local efforts to obtain funding from Go Colorado to save the ranching industry in the area.

Board member Peter Smith said that he has been asked to fill a vacancy on the school board and that there is a conflict between meeting times of the school board and those of the District. He asked that board members consider changing the day the board meets.

There was some discussion among the board of possible days on which to hold meetings.

Susan Lohr moved and Ramón Reed seconded to change meetings of the UGRWCD to the fourth Monday of each month, beginning in April, with the possible exception of the annual meeting. The motion carried.

There was discussion regarding leaving the annual meeting date as the second Monday in June or else changing the By-laws of the District to change the annual meeting date to conform with the other meeting dates.

Susan Lohr moved and Ramón Reed seconded to change by District's By-laws so that the annual meeting takes place at the regularly scheduled June meeting, and to schedule a public hearing for the April 22, 1996 meeting to take public comment on the proposed change of the by-laws. The motion carried.

11. APPROVAL OF FEBRUARY 12, 1996 MEETING MINUTES

Susan Lohr moved and Carol Drake seconded approval of the February 12, 1996 meeting minutes. The motion carried.

12. CONSIDERATION OF OPERATIONAL EXPENSES PAID

Butch Clark moved and Susan Lohr seconded approval of Operational Expenses Paid. The motion carried.

13. CONSIDERATION OF OTHER EXPENSES PAYABLE

Diane Lothamer moved and Susan Lohr seconded approval of Other Expenses Payable. The motion carried.

14. MONTHLY BUDGET REPORT

The manager discussed District bookkeeper Claire Ayraud's March 4, 1996 letter of resignation which was circulated to board members. In her letter she recommended training the office secretary to perform the bookkeeping functions for the District.

There was discussion among the board as to the propriety of such an arrangement and it was decided to ask the new auditors their opinion on the matter, and for the manager to do some research about internal controls.

The manager called attention to the 1995 final, revised budget, pointing out that the District was under budget for the year.

15. APPROVAL OF USGS JOINT FUNDING AGREEMENT FOR 1996 WATER MONITORING PROGRAM

The manager recommended that the board approve signature of the agreement.

Butch Clark moved and Susan Lohr seconded that Board President Bill Trampe sign the USGS joint funding agreement for 1996 water monitoring program. The motion carried.

16. SELECTION OF AUDITOR FOR 1995 AUDIT

The office secretary discussed her March 11, 1996 memorandum and comparison chart which were circulated to board members. She recommended that the board engage the firm Chadwick, Steinkirchner, Davis & Co., P.C. to perform the 1995 District annual audit.

There was discussion regarding the price of the estimated fee for the audit and the possibility of negotiating a not-to-exceed price.

Carol Drake moved and Ramón Reed seconded to begin negotiations with the firm Chadwick, Steinkirchner, Davis & Co., P.C., if a specified price can be negotiated. The motion carried.

The manager recommended that the board designate a second choice firm in case an agreement cannot be reached with Chadwick, Steinkirchner, Davis & Co., P.C. regarding price.

Ramón Reed moved and Butch Clark seconded naming Hawkins, Beckwith & Blair, P.C. as the second choice firm if an agreement cannot be reached with Chadwick, Steinkirchner, Davis & Co., P.C. The motion carried.

17. FUTURE MEETINGS

The next meeting of the Upper Gunnison River Water Conservancy District will be on April 22, 1996 at 7:00 p.m..

18. EXECUTIVE SESSION

Carol Drake moved and Susan Lohr seconded that the board adjourn into Executive Session to discuss the Arapahoe/Union Park litigation and the Upper Gunnison Project. The motion carried.

Board President Bill Trampe re-convened the regular meeting at 6:24 p.m.

19. ADJOURNMENT

Board President Bill Trampe adjourned the March 11, 1996 meeting at 6:25 p.m.

Respectfully submitted,

Mark Schumacher, Secretary

APPROVED:

William S. Trampe, President

Upper Gunnison River Water Conservancy District

BOARD OF DIRECTORS

Monday, March 11, 1996

Gunnison County Community Building
County Fairgrounds
Gunnison, Colorado

A G E N D A

REGULARLY SCHEDULED MEETING

- | | |
|-----------|---|
| 1:00 p.m. | 1. Call to Order |
| 1:10 p.m. | 2. Legal Matters |
| | a. Arapahoe/Union Park Litigation |
| | b. Other Legal Matters |
| 1:20 p.m. | 3. Upper Gunnison Project |
| 1:30 p.m. | 4. Blue Mesa Reservoir Water Service Contract |
| 1:40 p.m. | 5. Aspinall Unit Subordination |
| 1:50 p.m. | 6. 1996 Legislative Session |
| 2:00 p.m. | 7. Job Description and Performance Evaluation Procedure for Manager |
| 2:20 p.m. | 8. Manager's Quarterly Report |
| 2:30 p.m. | 9. Miscellaneous Matters |
| 2:40 p.m. | 10. Unscheduled Citizens |
| 2:50 p.m. | 11. Approval of February 12, 1996 Meeting Minutes |
| 2:55 p.m. | 12. Consideration of Operational Expenses Paid |
| 3:00 p.m. | 13. Consideration of Other Expenses Payable |
| 3:05 p.m. | 14. Monthly Budget Report |
| 3:10 p.m. | 15. Approval of USGS Joint Funding Agreement for 1996 Water Monitoring Program |
| 3:15 p.m. | 16. Selection of Auditor for 1995 Audit |
| 3:30 p.m. | 17. Future Meetings |
| 3:35 p.m. | 18. Executive Session |
| | a. Arapahoe/Union Park Litigation |
| | b. Upper Gunnison Project |
| 4:30 p.m. | 19. Adjournment |

Persons with special needs due to a disability are requested to call the district at 641-6065 at least 24 hours prior to the meeting.

275 South Spruce Street * Gunnison, Colorado 81230
Telephone (970) 641-6065 * Fax (970) 641-6727

2-29-96

COLORADO RIVER WATER
CONSERVATION DISTRICT

MEMORANDUM

February 27, 1996

TO: Legislative Issues Committee

FROM: Chris

SUBJECT: ISSUES AND UPDATES FOR 2/28 MEETING

Since my last update went out Friday a full dozen-page report is not in order. Instead I'll highlight the few bills receiving action in the past few days and supplement my updates verbally at Wednesday's meeting.

I also want to present several proposed Constitutional initiatives for Board discussion and request direction.

UPDATES:

HB 1044 CONCERNING TRIBUTARY WELLS IN THE DAKOTA AQUIFER
(George)

Passed House (53-10) third reading. To Senate Ag.

Amended to require "SELLER OF A NEW RESIDENCE WHOSE WATER SUPPLY IS A WELL IN AN AQUIFER WHICH IS BEING DEPLETED FASTER THAN RENEWAL, AS DETERMINED BY THE STATE ENGINEER, SHALL DISCLOSE SUCH FACT TO THE BUYER IN WRITING PRIOR TO CLOSING. IF THERE IS A WRITTEN CONTRACT FOR PURCHASE AND SALE, THE DISCLOSURE SHALL BE INCLUDED IN THE CONTRACT FOR PURCHASE AND SALE."

*get
done*
HB 1252 CONCERNING APPROVAL OF AUGMENTATION PLANS THAT
RELY ON CONTRACTED WATER SUPPLIES (George)

Pass House (64-0) third reading. To Senate Ag.

*get
Paragard*
HB 1315 CONCERNING PRIVATE LANDS VOLUNTARILY OPENED FOR
PUBLIC RECREATION

Passed House. Amended to address Water User Associations' concerns
over federal "ownership." Also amended to address Redlands Water &
Power's concerns over City of Grand Junction's efforts to require a
recreational easement in return for requested zoning change.

SB 64 CONCERNING INSTREAM FLOWS

Passed House second reading. On third reading calendared to Wed.,
2/28

Constitutional Initiatives

The century mark was hit on Monday (2/26) for the number of citizen initiatives
submitted to the Legislative Council.

Good
Number 99 would power the threshold for the number of required signatures for
initiatives to reach the ballot to 1000 (from roughly 55,000). It would also require only
500 signatures for a petition-candidate for governor; 100 for state senator; and 50 for
state representative.

Election of Conservancy District Boards: The Water Congress was successful
before the title board to include fiscal impact and other language. This means there are
no grounds for appeal (delay), and the petitions can be circulated for signing
immediately.

Legislative Issues Committee
February 27, 1996
Page 3

*Don't want
as involved*

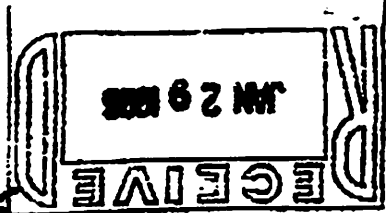
The Farm Bureau and Water Congress will consider late bill legislation to blunt initiative efforts. Legislative approaches under consideration include conservancy district board members' appointment by county commissioners, retention votes (like judges), and a better written election process. Discussion and direction requested.

Public Trust: A copy of the most recent public trust initiative is attached. This version no longer requires dual public trust -- prior appropriation doctrines. It leaves silent the question of whether and how to integrate the two. This version does not repeal current prior appropriation provisions in the Colorado Constitution. Its first hearing before the title setting board is Wednesday, 3/6. *Discussion and direction requested.*

CJT:blk
Attachment

MIN. 1111-1111-1111

Received by
Sam Eloff
6:35 pm
January 29, 1996



1996 COLORADO PUBLIC TRUST INITIATIVE

Be it enacted by the people of the State of Colorado that Section 5 of Article XVI of the Constitution of the State of Colorado is amended to read:

Article XVI Section 5 Water of Streams Public Property.

(1) The water of every natural stream, not heretofore appropriated within the state of Colorado is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.

(2) ON AND AFTER JANUARY 1, 1997, THE STATE OF COLORADO SHALL ADOPT, AND DEFEND, A PUBLIC TRUST DOCTRINE TO PROTECT THE PUBLIC'S RIGHTS AND OWNERSHIPS IN AND OF THE WATERS IN COLORADO, AND TO PROTECT THE NATURAL ENVIRONMENT.

(3) PRESENT OR FUTURE WATER USE RIGHTS MAY BE GRANTED OR ASSIGNED TO THE PUBLIC, AND TO ANY WATERCOURSE, WITHOUT HINDRANCE FROM A GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY. THE STATE OF COLORADO SHALL DEFEND ALL PUBLIC OWNERSHIP'S OF WATER FROM TRANSFER FROM THE PUBLIC OWNERSHIP, AND FROM TRANSFER FROM THE WATERCOURSE TO WHICH THAT WATER RIGHT WAS PLEDGED.

J. Philip Hufford
SPONSOR
7507 Nikau Court
ADDRESS
Longmont, CO 80503

Richard C. Hamilton
SPONSOR
56034 Hwy 285
ADDRESS
Steamer, Co 80475-000F

Jan. 29, 1996
DATE

*just as conveying a concept of beneficial use
taxation without representation*

1996 COLORADO GENERAL ASSEMBLY SCHEDULE
PAGE 2

- Monday 4/1/96 Deadline for final passage in the Senate of all bills originating in the House of Representatives.*
- Friday 4/5/96 Deadline for final passage of the long appropriation bill in the second house.
- Wed. 4/10/96 Deadline for Appropriations Committee in house of introduction to report bills referred to Appropriations Committee.
- Friday 4/12/96 Deadline for adoption of the conference committee report on the long appropriation bill.
- Wed. 4/17/96 Deadline for final passage in house of introduction of all bills referred to Appropriations Committee in that house.
- Wed. 4/24/96 Deadline for Appropriations Committee in second house of all bills referred to Appropriations committee in that house.
- Wed. 5/8/96 *Sine die.*

* All bills in the Appropriations Committee in either house on the day of the asterisked deadline are excluded from these deadlines.

*Just a couple
cost \$2.500
about*

Be it enacted by the People of the State of Colorado:

Article XIV of the Colorado Constitution is amended BY THE ADDITION OF A NEW SECTION to read:

Section 19. Water conservancy district directors - elections. (1) Every director of a water conservancy district shall be elected in a nonpartisan election by a plurality of the eligible electors who vote thereon, or by a majority if there are only two candidates for such office. An eligible elector is one who is otherwise eligible to vote under the laws of this state and (a) who has been a resident of the water conservancy district for not less than thirty days, or (b) who, or whose spouse, owns taxable real or personal property situated within the boundaries of the water conservancy district, whether said person resides within the water conservancy district or not.

(2) Any registered elector^{or} who has been a resident of the water conservancy district for not less than thirty days prior to the election shall be eligible to be a candidate for the office of director of that district.

(3) Except as specifically provided in subsections (1) and (2) of this section, every election for director of a water conservancy district shall be conducted at the same time and in the same manner as elections for ~~of special districts.~~

*why Court is
Simply because
the will of the people is undone
and reversed by legislators
under influence of money
Districts by Director
Board
48 Districts*

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: March 6, 1995

SUBJECT: Agenda Item 8, March 11, 1996, Board Meeting --
Manager's Quarterly Report.

Over the past three months the staff has been engaged in the following activities:

- * Development of Upper Gunnison Project. A meeting was held with the Bureau of Reclamation on February 16 which is discussed in a separate memorandum and will be discussed at the March 11 board meeting.
- * Blue Mesa Water Service Contract. The Bureau of Reclamation continues to be very interested in developing a water service contract with the Upper Gunnison District. Ed Warner of the USBR is developing information on standby charges that the District would be requested to pay for water that it has contracted for but has not yet leased to individual water users.
*But not?
in
up gunnison
water rights*
- * Resolution of 60,000 acre-foot subordination. The Bureau of Reclamation appears willing to work with the District on implementing the subordination of the Aspinall Unit water rights to upstream water rights junior to 1957. I will be meeting with Ed Warner, Coll Stanton, and Ken Knox on March 9 to consider specific ways that the subordination can be administered by the state engineer's office. The Bureau of Reclamation takes the position that 40,000 acre-feet of the subordination is available to water users above Blue Mesa Reservoir.
*Do this
Friedland
where does it
go*
- * Taylor Park Reservoir accounting. Ken Knox has provided the District with his accounting spreadsheet for Taylor Park Reservoir and the 1975 Agreement. The District participated extensively in the technical review of the spreadsheet over the past two months.

*If set up calls and
commitment
then project and feasible*

*?
Historic
are
amount
revenue
Date
for 14 case only
3 quarters
from my effort*

- * Arapahoe/Union Park litigation. Over the past three months I have been preparing the District to address water modelling questions that may arise in the remand case.
- * Uncompahgre Project Title Transfer. The Bureau of Reclamation has indicated that it will have preliminary figures available on its valuation of the Uncompahgre Project in March or April. This valuation would be used if a local entity decides to acquire title to the Uncompahgre Project. *Why is this limited to local entity? All lateral D's in and thru*
- * East River Water Supply and Water Quality Study. The Bureau of Reclamation is preparing responses to the comments received from Crested Butte Mountain Resort and the Mt. Crested Butte Water and Sanitation District concerning the study. The responses and revisions to the final report should be completed in April.
- * Gunnison Basin Planning Model. Hydrosphere, Inc. has provided the sponsors with an update of the model to review.
- * Colorado River Decision Support System's Gunnison Basin Model (State Mod). State Mod's Gunnison Model has been developed and is in the testing phases. I think it is becoming more and more clear that the state will commit its resources in the future to State Mod rather than Hydrosphere's Model. The Bureau of Reclamation, on the other hand, appears to be leaning toward the use of the Hydrosphere model. *So* I have continued to participate in discussions and activities concerning both models to make sure that Upper Gunnison interests are represented. It is still not clear which model will ultimately be regarded as providing a more accurate view of the hydrology and water rights of the Gunnison Basin.
- * The District has taken the steps necessary for the board of directors to retain a new auditor at the March 11 meeting.

Status report on items for which there has been little or no current activity:

- * Taylor Park Water Management Agreement. This matter continues to be on the back burner at the Bureau of Reclamation.
- * Decree for exchange between Taylor Park Reservoir and Blue Mesa Reservoir. The involved parties feel it would best to wait until the Arapahoe litigation is completed before an application for an exchange is pursued.
- * Perfection of the refill water right in Taylor Park Reservoir. A timetable for proceeding with this matter needs to be developed in the light of the new schedule for

the Union Park availability case, and the division engineer's Taylor Park Reservoir accounting.

- * Endangered fish recovery efforts in the Gunnison Basin. For the past three months the major focus of state and federal agencies has been on the proposed CWCB instream flow filings on the Colorado and Yampa Rivers. Research by the Fish & Wildlife Service on the Gunnison River is continuing, and construction is proceeding on the Redlands fish ladder.
- * Black Canyon of the Gunnison National Monument. There has not been any activity concerning this bill at the local level over the past three months.
- * Triennial review of water quality classifications. The Water Quality Control Commission has delayed the triennial review until 1997 in order to collect intensive water quality data in the Gunnison basin first.

MGRSRPT.WPS

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: March 5, 1996

SUBJECT: Agenda Item 9, March 11, 1996, Board Meeting --
Miscellaneous Matters - Aspinall Unit
Environmental Studies

The Bureau of Reclamation and U. S. Fish & Wildlife Service will be preparing a Biological Opinion on the operation of the Aspinall Unit and carrying out a basin-wide Gunnison River Environmental Impact Statement (EIS) as a part of the upcoming Section 7 consultation on the Aspinall Unit.

Attached is a proposed schedule for the development of these documents. The Biological Opinion and Final EIS will provide the basis for reoperation of the Aspinall Unit and appropriation of instream flows in the lower Gunnison River for endangered fish.

John Hamill
Director,
Recovery Program



RECOVERY PROGRAM FOR THE ENDANGERED FISHES OF THE UPPER COLORADO

OFFICIAL FILE COPY
RECEIVED BY R.W.C.A.
NORTHERN DIVISION

FEB 15 1996

CLASS. ESP/1007
Reclamation
Chairman, 96-037
Implementation Committee
FLDR. 5489

U.S. Fish and Wildlife Service • P.O. Box 25486 • Denver Federal Center • Denver, CO 80225 • (303) 236-2985

COKANUT
MS 65412 GJ

| | | | |
|------|--------------|----------|-----|
| DATE | 303-236-2985 | IS | URN |
| 2/15 | BRU | B.V. | |
| | | D.M.C. | |
| | | C.D.E.H. | |
| | | S.M.C.P. | |
| | | F.W.A.R. | |
| | | K.H.O.L. | |

February 13, 1996

Memorandum

To: Chairman, Biology Committee, Grand Junction, Colorado

From: Colorado Instream Flow and Nonnative Fish Coordinator, Colorado River Recovery Program, Grand Junction, Colorado

Subject: Dates and RIPRAP Changes

Here are the dates and RIPRAP language agreed to at the February 12, 1996, meeting between the Service and Reclamation. Language in the RIPRAP would be changed to indicate that the document identifying flow recommendations for the Gunnison River and Colorado River below the confluence of the Gunnison would be the draft Synthesis Report prepared by a team of Aspinall researchers. The proposed RIPRAP changes should be presented to the Biology Committee, and if agreed to, then forwarded to the Management Committee for their consideration.

Gunnison and Colo below Gunn

DATES ARE AS FOLLOWS:

- 12/97 Draft Synthesis Report due (Including flow recommendations for the Gunnison River)
- 2/98 Final Synthesis Report due
- 4/98 Aspinall Biological Assessment due from Reclamation to Service
- 7/98 Service issues Draft Biological Opinion
- 9/98 Service issues Final Biological Opinion
- 11/98 Reclamation completes Draft EIS for Aspinall Operation
- 6/99 Reclamation completes Final EIS for Aspinall Operation

RIPRAP CHANGES ARE AS FOLLOWS:

Colorado River Action Plan: Gunnison River

►I.A. Initially identify year-round flows needed for recovery (Aspinall Studies).

Title should be changed to clarify the document that will initially identify flows for the Gunnison River. Recommended title change is " Initial

~

identification of year-round flows needed for recovery (flow recommendations will be provided in the draft Aspinall Studies Synthesis Report). Final reports for the ongoing Aspinall research come due in spring of 1997 through summer of 1997. The current RIPRAP date for flow identification of 9/97 is not attainable because reports that will be used in the synthesis will not be completed until 8/97 and the researchers preparing the final reports will be the same ones that do the synthesis report. The date for flow identification should be changed to 12/97.

►I.B.1. Review scientific basis...

Date should be changed to 2/98 to reflect change in date for initial flow identification.

►I.B.4 Preliminary notice of bi-level acceptance...

Date should be changed to 5/98 to reflect change in date for initial flow identification.

Colorado River Action Plan: Mainstem

►I.B. Colorado River from Gunnison to Colorado-Utah State line

Title should be changed to clarify the document that will initially identify flows for below the Gunnison River. Recommended title change is "Colorado River from Gunnison to Colorado-Utah State line (Flow recommendations will be provided in the draft Aspinall Studies Synthesis Report).

►I.B.1. Initially identify year-round flows needed for recovery

Final reports for the ongoing Aspinall research come due in spring of 1997 through summer of 1997. The current RIPRAP date for flow identification of 9/97 is not attainable because reports that will be used in the synthesis will not be completed until 8/97 and the researchers preparing the final reports will be the same ones that do the synthesis report. The date for flow identification should be changed to 12/97.

►I.B.2.a. Review scientific basis...

Date should be changed to 2/98 to reflect change in date for initial flow identification.

►I.B.2.d. Preliminary notice of bi-level acceptance...

Date should be changed to 5/98 to reflect change in date for initial flow identification.

cc: FWS/ES, Grand Junction (Attn: Keith Rose)
FWS/COKANUT, Denver (Attn: John Hamill)
BR, Grand Junction (Attn: Brent Uilenberg)

#Maddux:NewDates.ASP:021396

March 4, 1996

Upper Gunnison River Water
Conservancy District
275 S. Spruce
Gunnison, CO 81230

Dear Board of Directors:

I am sorry to have to write this letter and submit my resignation. I have enjoyed working with you as a board and also with Tyler Martineau and Jill Steele. You have all been so appreciative and made me feel that I made a significant contribution to the Water District. I have enjoyed working with the books and refining the systems. It has been challenging and rewarding to see the improvements that have come about because of my efforts.

I am resigning because I will be traveling for the summer in Europe with my children and attending a university to finish my degree during the winter, so I will be gone for at least a year. I will be leaving June 15 and wanted to give you enough notice so that you will not feel pressed for time in your selection process.

I would like to suggest that the accounting systems could be transferred to the computer in the office and I could train Jill to do the job. This would consolidate everything nicely as Jill already knows the procedures that we go through every month and I feel that she is very capable in this area. If you have any questions about this option, I will try to be at the March 11th meeting to answer them. Otherwise, please don't hesitate to call me.

yes
✓
Rue
Control

Thank you again for your support. I will miss my association with the Water District members and office staff. I will be returning after a year and hope to see you all again after my travels.

internal
control
structure

Sincerely,

Claire Ayraud

Claire Ayraud

cda

How much can
Carol
fail



Agenda Item 15
March 11, 1996

2-15-96

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Box 25046 M.S. _____415
Denver Federal Center
Denver, Colorado 80225

IN REPLY REFER TO:

Water Resources Division
Colorado District

February 12, 1996

Mr. Tyler Martineau, Manager
Upper Gunnison River Water Conservancy District
275 S. Spruce Street
Gunnison, Colorado 81230

Dear Mr. Martineau:

Enclosed are two originals of a Joint Funding Agreement in the amount of \$22,750.00, each side, for the operation and maintenance of four streamgages, the NAWQA site on the East River, and the East River Water Quality Monitoring Plan.

| <u>DESCRIPTION</u> | <u>USGS</u> | <u>UGWCD</u> | <u>TOTAL</u> |
|--|-------------------|-------------------|--------------------|
| Slate Rvr nr Crested Butte (09111500) | \$1,000.00 | \$1,000.00 | \$2,000.00 |
| Castle Cr Abv mouth nr Baldwin (09113100) | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| Tomichi Cr at Sargents (09115500) | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| Cochetopa Cr Blw Rock C nr Parlin (09118450) | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| NAQWA site at the East River Below Cement Creek | \$1,000.00 | \$1,000.00 | \$2,000.00 |
| East River Water Quality Monitoring Plan | <u>\$8,750.00</u> | <u>\$8,750.00</u> | <u>\$17,500.00</u> |
| TOTAL | \$22,750.00 | \$22,750.00 | \$45,500.00 |

If the agreement is satisfactory, please sign both copies; keep one for your files; and return the remaining one to this office by March 15, 1996. If you have questions, please contact Paul von Guerard (at 970-245-5257 (ext 3014), or Nancy Driver at 303-236-2101 (ext 224).

Sincerely,

Kathleen R. Wilke
Kathleen R. Wilke
Acting District Chief

Enclosures

Department of the Interior
Geological Survey
Joint Funding Agreement
FOR

Agreement No: CO96077
Customer No: CO023

WATER RESOURCES INVESTIGATIONS

THIS AGREEMENT is entered into as of the 1st day of October 1995 by the GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation operation and maintenance of four streamgages, the NAWQA site on the East River and the East River Water Quality Monitoring Plan, hereinafter called the program.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and office work directly related to this program, but excluding any bureau level general administrative or accounting work in the office of either party.

- (a) \$22,750.00 by the party of the first part during the period October 1, 1995 to September 30, 1996
- (b) \$22,750.00 by the party of the second part during the period October 1, 1995 to September 30, 1996
- (c) Additional amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

3. Expenses incurred in the performance of this program may be paid by either party in conformity with the laws and regulations respectively governing each party, provided that so far as may be mutually agreeable all expenses shall be paid in the first instance by the party of the first part with appropriate reimbursement thereafter by the party of the second part. Each party shall furnish to the other party such statements or reports of expenditures as may be needed to satisfy fiscal requirements.

4. The field and office work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the progress of the work all operations of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties.

9. Billing for this agreement will be rendered annually. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30-day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.).

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT

GEOLOGICAL SURVEY
UNITED STATES
DEPARTMENT OF THE INTERIOR

By _____

Kathleen R. Wilke

By _____

By Acting District Chief, WRD, Colorado Dist.

By _____

(SIGNATURE & TITLE)

Upper Gunnison River Water Conservancy District

MEMORANDUM

TO: UGRWCD Board of Directors

FROM: Jill Steele *J*

DATE: March 11, 1996

SUBJECT: Update on Agenda Item 16, March 11, 1996 Meeting, Selection of Auditor for 1995 Audit

Enclosed you will find an updated comparison chart on audit proposals received by the District. The reason there are three references for two firms and only two for the others is that in playing "telephone tag" I ended up with more references than I had intended and have included all the information I gathered.

Based on the updated information, I recommend engaging Chadwick, Steinkirchner, Davis, & Co., P.C. as the District's auditors.

COMPARISON OF AUDIT PROPOSALS RECEIVED BY UGRWCD

Revised 3/8/96 (new information in bold type)

| <u>NAME OF FIRM</u> | <u>RATE SCHEDULE</u> | <u>FIRM QUALIFICATIONS INCLUDED</u> | <u>INDIVIDUAL QUALIFICATIONS INCLUDED</u> | <u>REFERENCES GIVEN</u> | <u>COMPARABLE WORK EXPERIENCE</u> | <u>CONFLICTS OF INTEREST</u> | <u>WORK PLAN</u> | <u>COMMENTS FROM REFERENCES</u> |
|---|---|-------------------------------------|---|---|-----------------------------------|------------------------------|------------------|--|
| Hawkins, Beckwith & Blair, P.C. | ≤\$1800 Additional Services billed at: \$65.00/hr. Partner \$40.00/hr. Staff \$20.00/hr. Clerical Free telephone consultations | Yes | Yes | Peer review & list of clients including governmental entities. | Yes | None | Yes | Glenda Noble - Town of Palisade: Very happy with the firm, pleasant to work with, knowledgeable, have used them for a number of years and have no desire to change auditors. Marge, Finance, Town of Silverton: Very thorough, accessible, and easy to deal with. After problems with another firm, they performed a comprehensible audit. Jim Cunningham, Crawford Water Conservancy District: Good quality audit, but they were slow completing it and had to obtain an extension. |
| Dalby, Wendland & Co., P.C. | \$1750 plus Out-of-pocket expenses: \$125.00/hr. Principal (Larry Rowan is the audit principal \$ 75.00/hr. Manager & would be our contact) \$ 55.00/hr. Senior \$ 35.00/hr. Staff Bill for telephone consultations at hourly rates. | Yes | Yes | Peer review & list of clients including governmental entities. | Yes | None | Yes | Frank Glick, Mt. C.B. Water & Sanitation: Some dissatisfaction among board, some lack of knowledge on TABOR. When their contact went out of town, support was not there. Board will probably choose new auditors soon. Kevin Swain, Finance Director, Town of Telluride: Very happy with firm, have used them for a number of years, helpful, easy to work with, especially knowledgeable of governmental entities, no desire to change auditors. Jack Dietrich, Crested Butte South Metropolitan District: Very knowledgeable, helpful, and accessible. Not cheap but reasonable. Have used them since mid 1980's. Will continue to use them. |
| Chadwick, Steinkirchner, Davis, & Co., P.C. | \$2000 estimated Free telephone consultations Additional services billed at Standard rates Rates: \$75.00/hr. Principal \$55.00/hr. Senior Accountant \$35.00/hr. Junior Accountant | Yes | Yes | Peer review & list of clients including governmental entities. | Yes | None | Yes | Judy Pierle, Controller, Ute Water Conservancy District: Very happy with firm, easy to work with, very knowledgeable and helpful, have used them for so long because they are so good. No desire to change auditors. Ray Schuster, Clifton Water District: Very good quality work, always accessible, reasonable fee, have used for 5-6 years, no desire to change auditors. |
| Hollister & Co., P.C. | \$3,200 estimated Free telephone consultations | Yes | Yes | Peer review & list of clients including 1 governmental entity. | Yes | None | Yes | Read Hunker, Tall Dog Designs: Very happy with firm, feels their fee is competitive, No desire to change auditors. Jack Dietrich, Crested Butte South Metropolitan District: They do the District's books and do a good job, but he does not think they do audits. |

Upper Gunnison River Water Conservancy District

BOARD OF DIRECTORS

Monday, February 12, 1996

County Commissioners' Meeting Room
Gunnison County Courthouse
Gunnison, Colorado

A G E N D A

REGULARLY SCHEDULED MEETING

- | | |
|-----------|--|
| 1:00 p.m. | 1. Call to Order |
| 1:10 p.m. | 2. Legal Matters |
| | a. Arapahoe/Union Park Litigation |
| | b. Other Legal Matters |
| 1:20 p.m. | 3. Upper Gunnison Project - <i>FWS legalizing flows in memo for 2/11</i> |
| 1:30 p.m. | 4. Report on the January, 1996 Aspinall Operations Meeting |
| 1:45 p.m. | 5. Natural Resources Conservation Service - Development of Best Management Practices |
| 2:00 p.m. | 6. Review Process for Water Rights Applications |
| 2:15 p.m. | 7. Report of the Division Engineer |
| 2:30 p.m. | 8. 1996 Legislative Session |
| 2:45 p.m. | 9. Job Description and Performance Evaluation Procedure for Manager <i>No report</i> |
| 3:00 p.m. | 10. Manager's Contract for 1996 |
| 3:15 p.m. | 11. Miscellaneous Matters |
| 3:25 p.m. | 12. Unscheduled Citizens |
| 3:30 p.m. | 13. Approval of January 8, 1996 Meeting Minutes |
| 3:35 p.m. | 14. Consideration of Operational Expenses Paid |
| 3:40 p.m. | 15. Consideration of Other Expenses Payable |
| 3:45 p.m. | 16. Monthly Budget Report |
| 3:50 p.m. | 17. Selection Process for Auditor for 1995 Audit |
| 3:55 p.m. | 18. Future Meetings |
| 4:00 p.m. | 19. Adjournment |

Persons with special needs due to a disability are requested to call the district at 641-6065 at least 24 hours prior to the meeting.

275 South Spruce Street * Gunnison, Colorado 81230
Telephone (970) 641-6065 * Fax (970) 641-6727

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT

SCHEDULED BOARD MEETING MINUTES

February 12, 1996

The Board of Directors of the Upper Gunnison River Water Conservancy District conducted a regularly scheduled meeting on February 12, 1996 at 1:00 p.m. at the Gunnison County Courthouse, Gunnison, Colorado.

Board members present were: Ralph E. Clark, III, Carol Drake, Susan Lohr, Diane Lothamer, Ramón Reed, Mark Schumacher, Peter Smith, Lee Spann, Dennis Steckel, and William S. Trampe. Board member not present was Doyle Templeton.

Others present were:

Ken Knox, Colorado Division of Water Resources
Laura Martineau, Crested Butte Chronicle & Pilot
Tyler Martineau, Manager
John McClow, Board Attorney
Wayne Schieldt, Colorado Division of Water Resources
John Scott, Gunnison Soil Conservation District
Jill Steele, Office Secretary
Mary Vader, Gunnison Country Times

1. CALL TO ORDER

Board President Bill Trampe called the meeting to order at 1:10 p.m.

2. LEGAL MATTERS

2a. ARAPAHOE/UNION PARK LITIGATION

Board Attorney John McClow addressed the board about the Arapahoe County/Union Park litigation, saying that Judge Brown has not yet issued an opinion, but that he has contacted attorneys on both sides of the case by telephone and indicated that he will allow a new trial. The judge said he has not yet decided what limitations he will put on evidence he will permit to be presented at the trial. He called because he wanted to review some of the briefs filed in the Supreme Court which he does not receive as a matter of course. The matter which seems to be of greatest concern to him is whether he should permit any argument or evidence

on the federal issues. Arapahoe County has asked the Supreme Court to reconsider the fact that it did not address those federal issues in this ruling and they declined to do so. Mr. McClow said that there is a status conference scheduled on February 21, 1996 in Montrose, at which time Judge Brown will consider comments from each side regarding the scope of the trial.

2b. OTHER LEGAL MATTERS

There was no discussion of other legal matters.

3. UPPER GUNNISON PROJECT

The manager said that he had nothing to add to his February 5, 1996 memorandum on the subject which was circulated to the board, in which he recommended that the board authorize Bill Trampe, Dick Bratton, and the manager to attend the meeting.

Lee Spann moved and Ramón Reed seconded to authorize the manager, Bill Trampe, and Dick Bratton to attend the meeting with the Bureau of Reclamation.

Lee Spann asked John McClow if it would be preferable to authorize "legal counsel" to attend the meeting rather than Dick Bratton specifically. Mr. McClow replied that he thought the Board should authorize Mr. Bratton to attend the February 16, 1996 meeting.

The motion carried.

4. REPORT ON THE JANUARY, 1996 ASPINALL OPERATIONS MEETING

The manager said that his January 22, 1996 memorandum which was circulated to the board is self-explanatory. He called attention to the draft operation guidelines which lists all the operating parameters for the various purposes for which the Aspinall Unit is operated. He said that one priority which the spreadsheet misses is the need for conservation storage in Blue Mesa Reservoir which would be used to meet the downstream flow requirements in the long run, specifically the minimum storage level in Blue Mesa Reservoir required by the agreement for the protection of endangered fish. He said that if the storage level goes below that amount, this basin will not be protected against the downstream call; therefore, water storage is the key to being able to meet the downstream needs during a dry year.

Butch Clark said that in looking at the Uncompahgre Valley Water Users' Association water right, the plan to operate that at the maximum is 1000 cfs and the right goes up to 1300. He asked what the reason for the lower figure is. The manager said he did not know.

Ramón Reed asked the manager if there is a similar guideline for the Bureau's other reservoirs. The manager said he has not seen any for other reservoirs.

Butch Clark asked about the power releases, saying that they were not defined and wondered why they were not included. The manager said he would find out.

Butch Clark asked the manager regarding his reference on the second page of his memorandum that Blue Mesa Reservoir be operated in such a way to be able to meet all downstream water needs in a time of drought. He said that it seems that almost the full commitment of the Aspinall Unit water would be required for this purpose.

5. NATURAL RESOURCES CONSERVATION SERVICE - DEVELOPMENT OF BEST MANAGEMENT PRACTICES

John Scott addressed the board saying that Senate Bill 90-126, which was passed in 1990, tries to put in place protection of groundwater from agricultural and chemical use, and that a booklet was developed (which he circulated to the board) including an overview sheet and a list of Best Management Practices dealing with all the different areas which could affect groundwater. He said that by 1997, in the event that groundwater quality is being impacted in certain critical areas, the Commissioner of Agriculture could impose or regulate Best Management Practices for designated areas where problems exist. This was taken as an opportunity for soil conservation districts to locally develop local Best Management Practices for water quality. The Shavano Soil Conservation District tried to get the Gunnison/Dolores watershed, which includes the Shavano District, the San Miguel District, the Delta District, and the Gunnison District, to jointly develop one booklet of Best Management Practices for the whole Gunnison/Uncompahgre/Dolores basin. He said that the Gunnison District is looking to get ideas locally.

Butch Clark said that there needs to be cooperation between several different entities, including the Weed Control District involving pesticide applications, and the municipalities and their concerns with watershed.

The manager said that Mr. Scott is asking for the District's participation in the development of Best Management Practices.

The consensus of the board was that the Upper Gunnison River Water Conservancy District should participate in the committee that would be developing Best Management Practices for the upper Gunnison basin to provide technical support but not be in the front line of developing new policies.

6. REVIEW PROCESS FOR WATER RIGHTS APPLICATIONS

Lee Spann said that he thinks that the process as it stands is sufficient for now and that he doesn't feel that the district should get involved further in the review process for water rights applications.

Butch Clark said that he feels one of the District's roles is to look at the big picture as far as

water resources goes.

Susan Lohr said that the board started looking at this subject in order to identify gaps and that at some point some entity has to take responsibility for knowing what the reality of water rights and water use within the basin is.

Ramón Reed said that he is satisfied, for now, with the District's monitoring of water rights applications as outlined in the manager's February 5, 1996 memorandum, but that he hopes that as more capability becomes available, the board should modify how it looks at these issues.

Dennis Steckel said that continuing to work on and understand the modelling issue should help with understanding of the issue of water use in the basin.

Lee Spann asked Wayne Schieldt if the Division Engineer's office looks at whether non-exempt wells have a proper augmentation plan when reviewing water rights applications. Mr. Schieldt said yes, they do look at this.

The consensus of the board was for the District to continue to review the monthly water court resume as done in the past.

7. REPORT OF THE DIVISION ENGINEER

This agenda item was postponed until later in the meeting, awaiting the arrival of the Division Engineer.

8. 1996 LEGISLATIVE SESSION

The manager discussed his February 5, 1996 memorandum, which includes a summary of bills prepared by Chris Treese, lobbyist for the River District and which was circulated to the board, as well an update which was included in the board members' meeting folders. He said that Senate Bill 96-48 attempts to weaken counties' 1041 powers for regulation of water projects.

Butch Clark said that he thinks this bill is of great concern to this District and that something should be done about it.

The manager said that he thinks the bill represents a significant threat to the ability of counties to regulate water projects.

Butch Clark moved and Lee Spann seconded that this board go on record to oppose any changes in current Senate Bill 96-48. The motion carried.

Butch Clark said he wished that the motion be conveyed to the appropriate parties.

The manager discussed Senator Linda Powers' Senate Bill 96-44 which addresses the subject of well permits for tracts of land of thirty-five acres or more. Senator Powers asked for the board's comments on the bill, and more recently Steve Glazer called on behalf of High Country Citizens' Alliance and asked that the District support the bill.

The manager was requested to obtain a status report on the legislative activities of the Colorado Water Congress.

Discussion on agenda item 8 was delayed until the conclusion of agenda item 10 while information on the current status of SB96-44 was obtained.

9. JOB DESCRIPTION AND PERFORMANCE EVALUATION PROCEDURE FOR MANAGER

Susan Lohr said that next month the committee will have a report for the board's consideration.

10. MANAGER'S CONTRACT FOR 1996

The manager discussed his February 5, 1996 memorandum which was circulated to the board and the attached employment agreement in which the provision for a retirement plan is deleted. He recommended that the three percent amount which was to go into a retirement plan be paid out as salary due to his finding no retirement plan that he could set up for himself other than an Individual Retirement Account.

Ramón Reed moved and Lee Spann seconded approval of the manager's contract for 1996 as submitted. The motion carried.

The manager was requested to provide information on the Colorado Counties Officials and Employee Retirement Association to the committee of Susan Lohr, Mark Schumacher, and Diane Lothamer.

8. 1996 LEGISLATIVE SESSION (continued)

Butch Clark moved and Ramón Reed seconded that the board support the concept as introduced in Senate Bill 96-44.

Dennis Steckel said that eliminating the well provision in this bill in an attempt to regulate water use is the wrong way to go about it.

The motion carried.

11. MISCELLANEOUS MATTERS

The manager discussed the CWCB Issues memorandum by Eric Kuhn which was circulated to the Board and which includes copies of the water rights applications for the instream flow water rights for the endangered fish on the Colorado River and on the Yampa River. These water rights applications are different than typical CWCB minimum instream flow applications because they will come close to taking all the water of the Colorado River above the confluence with the Gunnison River and most of the water in the Yampa River near the state line. He said he expects to see a large amount of opposition to these applications.

The manager discussed the Ichthyofaunal Studies of the Gunnison River 1992-1994 which was circulated to the board members. He referred to page six under the heading Restoration Activities for the Gunnison River. He said several recommendations are made which are critical to this District, specifically the second sentence which reads, "key to this restoration effort is recommending and implementing streamflows that will mimic the historical hydrograph to increase the magnitude and lengthen the duration of spring flows to create and provide riverine habitat for native fishes...". He said that the foundation is being laid for requesting more of a natural hydrograph in the Gunnison River near Grand Junction. In the next paragraph it states that "Paramount to the fishway is legalizing flows in the 2.3 mile reach between the Redlands Diversion Dam and the confluence of the Colorado River. In the past, flow has essentially ceased in this reach for several days.... Legalizing flows will provide maintenance habitat and a migration corridor for fishes moving either up- or downstream of the fishway during these low-flow periods." He said that here the rationale for a continuous streamflow below the Redlands diversion dam is being laid.

The manager next discussed the Town of Mt. Crested Butte forming a downtown development authority, which will use tax increment financing.

The manager told board members that the District has received a contribution of \$100.00 from the East River Sanitation District toward the East River Water Quality Monitoring Project.

The manager said that there has been a great deal of work on the Gunnison component of the Colorado River Decision Support System, which is a computer model which has been developed by the State of Colorado for the whole Colorado River Basin. He said that the process was begun in the Gunnison basin because of the existence of Hydrosphere's Gunnison Basin Model, from which they took a lot of information.

Ramón Reed said that this board should express concerns to the CWCB regarding our lack of knowledge of the underlying assumptions which are being used in the model.

12. UNSCHEDULED CITIZENS

There were no comments from unscheduled citizens.

13. APPROVAL OF JANUARY 8, 1996 MEETING MINUTES

Ramón Reed moved and Susan Lohr seconded approval of the January 8, 1996 meeting minutes. The motion carried.

14. CONSIDERATION OF OPERATIONAL EXPENSES PAID

Diane Lothamer moved and Carol Drake seconded approval of Operational Expenses Paid. The motion carried.

15. CONSIDERATION OF OTHER EXPENSES PAYABLE

Diane Lothamer moved and Dennis Steckel seconded approval of Other Expenses Payable in the amount of \$20,571.32. The motion carried.

16. MONTHLY BUDGET REPORT

Board Treasurer Diane Lothamer asked for questions or comments from board members on the monthly budget report. There were none.

17. SELECTION PROCESS FOR AUDITOR FOR 1995 AUDIT

The manager said that the memorandum concerning the selection process for an auditor was self-explanatory.

Ramón Reed asked when the audit must be submitted to the State Auditor's Office. The manager said it is due at the end of July.

7. REPORT OF THE DIVISION ENGINEER

Division Engineer Ken Knox addressed the Board regarding a ditch bill. Those people who have ditches and reservoirs on Forest Service lands must apply for a permit by December 31, 1996.

Ken Knox provided the board members with copies of the Taylor Park Reservoir accounting spreadsheet which he and Wayne Schieldt developed.

The manager discussed his observations concerning the Taylor Park Reservoir spreadsheet. He said that the spreadsheet embodies a set of policies which Mr. Knox has decided to carry out in administering water rights in the basin. The manager said that to date he has not taken a position with respect to these policies. He said that if there are positions the board wishes to take with respect to the way Mr. Knox has done the spreadsheet, it needs to give direction to the manager, who will communicate it to Mr. Knox. The manager said he observed that on the spreadsheet the refill is not called out by any senior rights other than the Gunnison Tunnel. He said that in the spreadsheet accounting there is no curtailment shown of the refill by a number of downstream rights including the private instream right below

Taylor Dam, private diversions for irrigation, and Redlands. He complimented Ken Knox and Wayne Schieldt in completing the spreadsheet, which he said is an accurate representation of the policies that Ken has decided to carry out as well as being computationally accurate.

Ken Knox said that the three goals of the spreadsheet are: 1) That it be computationally accurate and that it be accurate in conformance with Colorado water law, 2) That it have flexibility, and 3) That it be useful in the management of the 1975 exchange agreement.

Board President Trampe said that Mr. McClow recommended that the board discuss the spreadsheet further in Executive Session.

18. FUTURE MEETINGS

The next meeting of the Board of Directors of the Upper Gunnison River Water Conservancy District will be on March 11, 1996 at 1:00 p.m. at the Gunnison County Fairgrounds.

Dennis Steckel moved and Lee Spann seconded that the board adjourn into Executive Session to discuss the ramifications of the accounting spreadsheet developed by the Division Engineer's office on the Arapahoe County/Union Park litigation. The motion carried.

Board President Trampe re-convened the meeting at 4:25 p.m.

19. ADJOURNMENT

Board President Bill Trampe adjourned the February 12, 1996 meeting at 4:30 p.m.

Respectfully submitted,

Mark Schumacher, Secretary

APPROVED:

William S. Trampe, President

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: February 5, 1996

SUBJECT: Agenda Item 3, February 12, 1996, Board Meeting --
Upper Gunnison Project.

A meeting has been scheduled with the Bureau of Reclamation to discuss the future use of the water rights for the Upper Gunnison Project. The staff in Grand Junction initially informed me that they wished to have an internal discussion of how the rights could be integrated with the operation of the Aspinall Unit before meeting with us. Last week Ed Warner told me that they had not been able to schedule the internal meeting because they and their attorneys have been too busy with the Animas-La Plata Project and the Orchard Mesa check case. As a result he agreed to go ahead and meet with us in Grand Junction prior to their internal meeting.

I recommend that you authorize Bill Trampe, Dick Bratton, and myself to attend this meeting.

Talk about what

Guidelines for talking with Bureau

Should I attend - our cost

MEMORANDUM
January 6, 1996

3

**TO: Mr. William S. Trampe, Chairman; Fellow Board Members;
Tyler Martineau, Manager; and Board Attorneys for the
Upper Gunnison Water Conservancy District**

FROM: Ralph E. Clark III *Butch*

SUBJECT: Interpretation of District's Decrees
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INTRODUCTION

During the Board meeting on December 11th, I said my reading of the decrees for our District's conditional water rights, Civil Action No. 5590 and Civil Action 5591, suggested Blue Mesa Reservoir could be an alternative point for storage and use of water granted by these decrees. The decrees provide for the Upper Gunnison Basin Project (Project) as a whole. My comments were intended to illustrate that the careful wording of these decrees might offer something advantageous - beyond what normally is available to water right holders who seek alternative places of storage or diversion.

My seeking of an advantage is to achieve sensible resolution of long standing concerns to our community, preferably as contemplated years ago during the Project's initial discussion and planning. These concerns remain: protection of irrigators and others from downstream calls, subordination to limited junior development above the Unit, avoidance of transmountain diversion from the basin, and commitment of water resources originating within the Gunnison River Basin to serving needs of this basin above and below the Curecanti Unit. While I may be wrong, I don't expect that finding an advantage in the decrees will greatly reduce legal costs, but I do expect it to make development of the District's rights easier and to make their use less costly.

In their letter and memorandum of December 21st, our attorneys now seem to say "forget it" - an advantage does not exist and never has. In the past they seemed to say the opposite. However, such an advantage, if there is one, could facilitate and reduce costs for development of the District's decrees by storage of decreed water in Blue Mesa Reservoir for various decreed purposes - Alternative 1 (attorneys' memorandum of December 7th). It seems sensible that the District seeks out this advantage that appears to be in the capability of distributing decreed water within the Project as a whole to achieve the purposes set out in the decrees.

Our District's decrees appear very carefully worded: to enable a broad range of possibilities for beneficial use; to provide flexibility in achieving beneficial use of the full amount of the water; and to allow for uncertainties about the future. I believe the wording was for a purpose. Taken as a whole, this careful wording suggests to me possibilities beyond the currently narrow interpretation expressed by our attorneys in their letter and memorandum of December 21st.

My conclusions expressed at the Board's meeting do not seem new, startling, or unreasonable. They repeat past interpretations of possibilities - for example, the Bratton and Hill memorandum (May 5, 1993; 2). The scope of possibilities and the flexibility offered in the decrees were recognized several years ago as enabling transmountain diversion of water. Indeed this interpretation was considered reasonable enough to warrant extensive examination in the Phase 1 Study (1989; 15-31 - 15-58 and elsewhere). Transmountain diversion was to be from alternative storage located in either or both Taylor and Blue Mesa Reservoirs. Further, the recent draft of the East River Water Supply and Water Quality Study - Final Report notes the suggestion of using the decrees to meet anticipated needs in the East River Basin (Task Memo. 3; 7).

If such possibilities are now deemed unreasonable, our Board needs to understand why - particularly in regard to future negotiations with the Bureau of Reclamation. Also, I do not expect storage under these decrees in Blue Mesa Reservoir would necessarily be free of costs to the District. Any costs for storage in Blue Mesa Reservoir would appear to depend upon the particular use(s) made of the water and how exchanges, if any, are implemented.

The real issue before the District is not whether it can seek and obtain alternative storage - it can. The real issue is a determination of: (1) how much control over water will be lost or gained in achievement of this; (2) how call protection and subordination are enabled; (3) how much difference this will make in the District's future; (4) what costs will accompany storage in Blue Mesa Reservoir; and (5) how key concepts are defined - in particular "reasonably necessary" amounts to achieve a purpose and "most efficient and economical use" of water - in the determination of any water "surplus" to needs at a particular feature of the Project.

Summarized below are my comments, the response of our attorneys in their memorandum of December 21th, and my counter response. Also below is an outline with page references of what led me to the conclusions I expressed.

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CONCEPTS

A. My Comments

What might be advantageous to the District about the wording of the decrees? They define the Upper Gunnison Basin Project (Project) as a single project with interrelated units and features. They note uncertainty at the time about where water will be used and how much will be needed for what purposes. The decrees encourage, and indeed require, that distribution of water decreed to the project to effect the most economical and efficient use thereof. The amounts permitted to be used are limited to only what is demonstrated as being reasonably necessary for the purpose(s) to which it is applied.

Achieving such a distribution implies moving decreed water and determining surpluses within the Project. What is surplus to reasonable needs at project feature A is allowed to flow downstream and be put to decreed purposes at project feature B. The downstream "B" specifically mentioned is the Curecanti Unit. The decrees anticipate changing needs and uses for water before and after construction of particular features. The allowance, and indeed requirement, in the decrees to distribute water within the Project contemplates both downward flow and exchanges. To address uncertainties, the Court specified the demonstration of the amount reasonably necessary for the purpose(s), its application in an efficient and economical manner, and the Court placed upper limits on possible quantities of storage and of flow.

All the above assumes, as the decrees require, returning to the Water Court to show: (1) what can or has been done is correct with respect to the decree and law; (2) that it does not injure other vested water rights, and (3) that the amounts of water requested to be made absolute are reasonably necessary and needed for the decreed purposes.

B. Response by Attorneys

In summary, the letter and memorandum of December 21th from our District's attorneys make four points:

1. No specific alternative place of storage was given in the decrees.
2. Determination of any surplus requires that a feature, a dam or ditch, should first be constructed and used before determining a surplus to the intended purpose(s) - their example was from the Ohio Creek Unit.
3. The law of the time did not permit the Court to decree alternative places of storage

unless specifically claimed.

4. Determination of any surplus is limited to consideration of requirements for a stated "primary" purpose.

C. A Counter Response

My reading suggests the following:

1. While specific alternative place(s) of storage are not given for each feature with the Project, all units and features are clearly considered to be parts of a single whole. The attorney's memorandum implies no inter-relatedness - a concept they have argued for previously. The Court pointed out the uncertainties about how much water would be used for what purposes and where. The decree emphasizes inter-relatedness and flexibility within the Project as a whole. Moreover, the Curecanti Unit is specifically named as a destination for water surplus to needs served by particular features, and to that extent an alternative was specified.

2. Interpreting the decrees to require that first a feature must be built, such as Castleton Reservoir, before determining a surplus makes little practical sense, or no sense at all, and appears contrary to the Court's repeated emphasis upon achieving reasonable, economic, and efficient use of water. Such an interpretation was not used in examining possibilities for transmountain diversions using water from these decreed rights in the Phase 1 Study.

3. The Court makes clear that the Project should be regarded as a whole with many inter-related parts, one being the Curecanti Unit. There seems no need to exhaustively specify alternatives for each feature if water uses occur within the decreed scope of the project. To do so would amount, at a lesser scale, to the Court specifying how water will be distributed on a field by timing and placement of irrigation sets. Such specificity would curtail the opportunity and obligation emphasized by the Court to distribute water within the Project so as to achieve its most reasonable, economic, and efficient use for the decreed purposes. Moreover, the Curecanti Unit is specifically mentioned in C.A. 5590 and implied in C.A. 5591 as being the lower feature unit downstream.

4. While a "primary" purpose for certain features of the Project was indicated in the decree, this appears to be not limiting but merely an indication of a future expectation. In the discussions of the features is reference to the list of purposes set out in the preamble for the Project as a whole.

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OUTLINE

I encourage Board members to read the decrees. For convenience, I have given page references. Most specific examples refer to the Ohio Creek Unit since this responds to the attorneys' memorandum.

1. The Curecanti, Ohio Creek, East River, Tomichi, and Cochetopa Units are defined as parts of a single project named the Upper Gunnison Basin Project, hereafter the Project (C.A. 5590; 100 - 101, 107, appended pages A - C and C.A. 5591; 110 -112). The various units and the features of each unit are interrelated and allowed various purposes and degrees of relationship within each unit and within the whole (C.A. 5590; 100 and C.A. 5591; 110). For example, the Castleton Reservoir is an integral part of the Ohio Creek Unit, as are the Ohio Creek Canal and Taylor River Canal (C.A. 5590; 128 - 130). The Ohio Creek Unit is to be coordinated in its distribution with use of other reservoirs and direct flows under the Project as a whole (C.A. 5590; 129). The various features are to be completely correlated and coordinated for integrated administration and distribution (for example see the Cochetopa Unit's preamble, C. A. 5591; 111).

2. Water is to be distributed within the Project as desired and needed among its units and features for decreed purposes. Different and successive priority numbers are given to individual

features of the Project, but each and all are of equal right in the distribution of available water and the claimant is permitted to distribute water between priorities in such a manner as to effect the most economical and efficient use thereof - provided such distribution does not adversely effect vested (C.A. 5590; 101 -102 and C.A. 5591; 111 - 112).

3. The claimant for the decrees is the Colorado River Water Conservation District acting in the nature of trustee for the Bureau of Reclamation and the water users of the Gunnison River Basin (C.A. 5590; 102 - 103). The claimant then divided and assigned its conditional decree between the Bureau of Reclamation and our District but did not appear to further specify how the recipients would achieve the most economical and efficient use of water within the Project (see Assignment of Water Rights, 1962).

4. Many decreed purposes are given for beneficially using the decreed water but none is given supremacy over others. Decreed inbasin purposes to be served by beneficial use of the Project's water, below and above the Curecanti Reservoirs, are: domestic and municipal; irrigation and stockwatering; industrial; electrical energy production; flood control; piscatorial, wildlife protection and preservation, and recreation (C.A. 5590; 103 - 106 and C.A. 5591; 114-116). For certain features, for example the Castleton Reservoir, a particular purpose was indicated as being "primary." This word appears not to be limiting but indicates an expectation at the time of the decree. The Ohio Creek Unit has the potential of serving all the beneficial uses set out in the preamble for the Project as a whole (C.A. 5590; 129 - 130). Similar wording is given for other features.

5. Specific amounts of water needed, the geographic acreage to be irrigated, and the extent - if any - of exchanges for serving the expected primary need of irrigation are not given for some features such as in the Ohio Creek and Cochetopa Units (C.A. 5590; 129 - 130, 132 and C. A. 5591; 127). This uncertainty is addressed by expecting the claimant to distribute this water for the most efficient and economical use provided this distribution does not adversely affect vested rights (C.A. 5590; 5 - 6, 102). In various places the Court emphasizes the requirement of demonstrating a reasonable necessity for the amount of water used for irrigation and that this be done independently of its use in an exchange system, if any (for Castleton Reservoir see C.A. 5590; 130). To address uncertainties, the Court also set upper limits for storage or flows in the reservoirs or canals but again emphasizes coordinated distribution and use of the water (C.A. 5590; 129).

6. Water stored in Blue Mesa Reservoir can be held and used to accomplish all decreed purposes. In a manner similar to the discussion of other features such as the Ohio Creek Unit, the decree provides that water stored in the Blue Mesa Reservoir feature of the Project will be used for accomplishment of all purposes mentioned in the Project's preamble and primarily will be held and released as a supplement to the direct flow of the Gunnison River in a manner that maintains the constant flow required by the turbines for production of electrical energy (C.A. 5590; 109 - 110).

Similar language is used in the discussion of Morrow Point Reservoir (C.A. 5590; 115 - 116). The Crystal Reservoir and Power Plant were adjudicated in a separate proceeding.

7. A common provision for the features is that any surplus will be released and carried eventually to the Curecanti Unit, or lower units, to be used for the purposes set out for the Project as a whole in its preamble (for example Castleton Reservoir, C. A. 5590; 129). In several instances the Court said that submitted evidence indicates a necessity for full capacity of a reservoir or canal, but if more water would be developed than is reasonably necessary to properly serve irrigation and other beneficial purposes, this surplus shall be permitted to flow down to the Curecanti Unit, or lower units, for the various purposes described (for example C.A. 5590; 135).

BRATTON & McCLOW LLC

Attorneys at Law
232 West Tomichi Avenue, Suite 202
Post Office Box 669
Gunnison, Colorado 81230
Telephone (970) 641-1903
Telecopier (970) 641-1943

Richard Bratton
John H. McCLOW

Brent A. Waite
Kathleen L. Jacob

John R. Hill, Jr.
Of Counsel

In Denver:
Telephone (303) 770-6155
Telecopier (303) 694-4479

December 21, 1995

Board of Directors
Upper Gunnison Water Conservancy District
275 South Spruce
Gunnison, Colorado 81230

Dear Ladies and Gentlemen:

At the December 11th Board Meeting, Butch Clarke revealed his theory that the decrees for the Upper Gunnison Project provided that Blue Mesa Reservoir is an alternate point of storage for the Upper Gunnison Project reservoirs. Following that meeting, we discussed the matter in our office and determined that, although none of us recalled any such provision in our prior readings of the decrees, because of the certainty in Butch's statement and the fact the matter was of such consequence to our work related to diligence, the decrees should be reviewed again in order to clarify the issue. Our resulting investigation indicates our initial recollection was correct that an alternate place of storage was not decreed for any of the Upper Gunnison Project reservoirs. A Memorandum, prepared by John Hill based on this investigation, is enclosed.

Very truly yours,



L. Richard Bratton

LRB/dst

Enclosure

cc: Tyler Martineau

MEMORANDUM

To: Board of Directors, Upper Gunnison River Water Conservancy District
From: John Hill
Subject: Blue Mesa as alternate place of storage
Date: December 21, 1995

At the December 11 meeting of the Board of Directors, Butch Clark stated that the decrees for the Upper Gunnison Project provided for Blue Mesa Reservoir as an alternate point of storage for some of the reservoirs in the Upper Gunnison Project. I reviewed the decrees for the Upper Gunnison Project in Civil Actions Nos. 5590 and 5591 to determine whether Blue Mesa is an alternate place of storage for any of the Upper Gunnison Project reservoirs. I also reviewed the relevant portions with Dick and John. Our conclusion is that neither decree provides for Blue Mesa as an alternate place of storage.

The decree in Civil Action No. 5590 (Water District No. 59) contains the following language at page 129 with respect to Castleton Reservoir:

That when said reservoir is constructed, its primary purpose will be to supply water to the Ohio Creek Canal, a feature of said Unit, for the irrigation of the land thereunder; and thereafter, if any surplus exists it is to be released unto Ohio Creek and carried to the Gunnison River, thence into the reservoirs of the Curecanti Unit of said project for use therein or therethrough for the several purposes hereinbefore set out."
(Emphasis added).

This language does not authorize Blue Mesa as an alternate point of storage for the 9,000 acre feet decreed to Castleton Reservoir. It clearly applies only to water that becomes surplus after it has been stored in Castleton Reservoir. Furthermore, the amended statement of claim does not include a claim to the Aspinall Unit reservoirs as an alternate place of storage. Under the law applicable at the time of the adjudication and decree, the court had no jurisdiction to decree an alternate place of storage unless a specific claim was made for an alternate place of storage.

The decree in Civil Action No. 5591 (Water District No. 28) contains similar language pertaining to Ohio City Reservoir, Banana Ranch Reservoir, Flying M Reservoir and Upper Cochetopa Reservoir. The language pertaining to each of the reservoirs is as follows:

[W]hen such [primary] purpose is properly served the surplus, if any, and if needed, can and will be when said system of exchange and correlation is instituted, diverted back into the stream and carried to the lower features and units of said Project for use therein.

This language cannot be read as a decree to the Aspinall Unit as an alternate place of storage for the Upper Gunnison Project reservoirs. The court refers again to surplus and observes that the water will flow downstream into the lower features of the "Project." Also, as mentioned above, in the decree in Water District No. 59, the statement of claim makes no claim for any alternate place of storage and, therefore, the court had no jurisdiction to decree such alternate point of storage.

We have also reviewed the decrees for Blue Mesa Reservoir, Morrow Point Reservoir and Crystal Reservoir. There is no mention of any kind in the decrees for these other reservoirs to any of them being utilized as an alternate point of storage.

Thus, a review of the decrees and statements of claim indicates that there is no alternate place of storage decreed in any of the Aspinall Unit reservoirs.

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: January 22, 1996

SUBJECT: Agenda Item 4, February 12, 1996, Board Meeting --
Report on the January, 1996 Aspinall Operations
Meeting.

On January 18 the Bureau of Reclamation held its first 1996 Aspinall Unit operations meeting. The purpose of these meetings is to review past reservoir operations and to plan the upcoming release schedule from the Aspinall Unit.

At the meeting the Bureau of Reclamation presented its plan for 1996 operations based upon the snowpack present at the time above the Aspinall Unit (66% of average as of January 11). The Bureau of Reclamation is planning to maintain a minimum of 300 cfs below the Redlands Power Canal for endangered fish in 1996. They are also planning to make a 7-day release of 4000 cfs from Crystal Reservoir in the late spring to provide a peak flow for the endangered fish in the lower Gunnison River. Between now and April the releases from Crystal will be maintained at between 600 and 1,300 cfs. The Bureau of Reclamation expects that under most probable water supply conditions (based upon the January 11 snowpack) Blue Mesa Reservoir will fall 13 vertical feet short of filling in July, 1996.

The following came up at the meeting:

- * The National Park Service said that by the end of the year they will complete river modelling that will indicate the range of flows that they would like to see in the Black Canyon. After the range of flows is determined, the NPS suggested that work could begin again on the USBR-NPS delivery contract for water from the Aspinall Unit.
- * The USBR has developed a set of general operation guidelines for the Aspinall Unit a copy of which is attached. We have been asked to provide comments prior to the April Aspinall operations meeting. I am concerned

275 South Spruce Street • Gunnison, Colorado 81230
Telephone (303) 641-6065 • Fax (303) 641-6727

that the guidelines do not adequately emphasize the need to maintain conservation storage in Blue Mesa Reservoir so that a supply of water will be available to meet all the downstream water needs in a time of drought.

*Scwater is
fully
committed
whose
compact?*

- * It is agreed by almost all the agencies that the current computation method for the delivery of water from the Aspinall Unit to the National Park Service needs major revisions. The USBR, NPS, U. S. Fish & Wildlife Service, and Colorado Water Conservation Board agreed at the meeting to begin development of a new accounting spreadsheet for the deliveries. Such a spreadsheet could play a significant role in determining when administration of water rights on the Gunnison River might occur in the future.

- * The next Aspinall operations meeting is scheduled for April 18, 1996 at 12:30 p.m. in Grand Junction.

When

DRAFT OPERATION GUIDELINES

for

WAYNE N. ASPINALL UNIT COLORADO

Based on Matrix Studies and
Presented at Aspinall Unit Operations Meeting
January 18, 1996
Montrose, Colorado

Attached for your review and comments are the subject guidelines. Please pay special note to the priority descriptions and values. Some type of priority system is needed for the complex Aspinall Unit system and yet was not specifically addressed in the original requests for matrix data.

Responses received by the end of March, 1996 will be available for discussion at the April Aspinall Unit Operation meeting. Please send your responses by mail to:

Bureau of Reclamation
Western Colorado Area Office - North
P.O. Box 60340
Grand Junction, CO 81506
(attn: Mike Steves)

or by EMAIL to: msteves@uc.usbr.gov

PRELIMINARY OPERATION GUIDELINES FOR WAYNE N. ASPINALL UNIT

| USE/ACTIVITY | PRIORITY | KEY WATER MEASURE | | | | KEY WATER MEASURE | MINIMUM | MAXIMUM | DESC | ASPINALL CONTROLLED | COMMENTS |
|---|----------|-------------------|---------|---------|---------|-------------------|------------|------------|-------|------------------------------------|----------|
| | | SPRING | SUMMER | FALL | WINTER | | | | | MEASURE | |
| ENVIRONMENTAL - BROWN SPAWN IN FALL | 2 | N/A | N/A | PRIMARY | N/A | BCFLOW | 300 cfs | | | | |
| ENVIRONMENTAL - ENDANGERED FISH REDLANDS | 4 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | BCFLOW | 300 cfs | | | Flow less in fall than winter | |
| ENVIRONMENTAL - MINIMUM FISHERY | 4 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | BCFLOW | 300 cfs | | | | |
| ENVIRONMENTAL - SPRING PEAK | 3 | PRIMARY | N/A | N/A | N/A | BCFLOW | | | | | |
| ENVIRONMENTAL - SPRING PEAK TIMING | 2 | PRIMARY | N/A | N/A | N/A | BCFLOW | | 9,000 cfs | SPPK | (use ramping criteria) | |
| FLOODING - COLORADO RIVER SYSTEM | 2 | PRIMARY | PRIMARY | N/A | N/A | BCFLOW | | | SPPK | Peak between mid May and mid June | |
| FLOODING - PREVENT ICE JAM | 4 | N/A | N/A | PREP | PRIMARY | WHFLOW | | 20,000 cfs | | | |
| FLOODING - AT DELTA | 4 | PRIMARY | PRIMARY | N/A | N/A | BMELEV | 7,490 ft | | | ice problems at Blue Mesa inlet | |
| POWER - BLUE MESA RELEASE | 2 | PRIMARY | N/A | N/A | N/A | DLFLOW | 15,000 cfs | | | | |
| POWER - BLUE MESA RESERVOIR | 4 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | BMFLOW | | | NOSPL | | |
| POWER - CRYSTAL RELEASE | 2 | PRIMARY | N/A | N/A | N/A | BMELEV | 7,393 ft | 7,513 ft | | | |
| POWER - CRYSTAL RESERVOIR | 4 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | CRFLOW | | | NOSPL | 126 | |
| POWER - MORROW POINT RELEASE | 2 | PRIMARY | N/A | N/A | N/A | CRELEV | 6,700 ft | 6,755 ft | | | |
| POWER - MORROW POINT RESERVOIR | 4 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | MPELEV | | | NOSPL | | |
| RECREATION - BLUE MESA RESERVOIR, BOATING | 3 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | BMELEV | 7,100 ft | 7,160 ft | | | |
| RECREATION - BLUE MESA RESERVOIR, CAMPING | 3 | PREP | PRIMARY | N/A | N/A | BMELEV | 7,450 ft | | | | |
| RECREATION - CRYSTAL RESERVOIR | 2 | N/A | PRIMARY | PRIMARY | N/A | CRELEV | 6,741 ft | | FULL | | |
| RECREATION - MORROW POINT RESERVOIR, DOCK | 3 | PRIMARY | PRIMARY | PRIMARY | N/A | CRELEV | 7,047 ft | | | | |
| RECREATION - MORROW POINT RES, TOUR BOAT | 3 | N/A | PRIMARY | N/A | N/A | MPELEV | 7,053 ft | | | | |
| RECREATION - RAFTING BLACK CANYON | 2 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | BCFLOW | 800 cfs | 1,200 cfs | | min res elev required by tour boat | |
| WATER RIGHTS - DOWNSTREAM SENIOR | 5 | PRIMARY | PRIMARY | PRIMARY | PRIMARY | BCFLOW | | | | | |
| WATER RIGHTS - UNCOMPAGRE | 5 | PRIMARY | PRIMARY | PRIMARY | N/A | CRFLOW | | | | | |

*head n
considerations
storage water level*

↑ AB lateral

*1,000 cfs
1100
1200*

Power release

- PRIORITY LEVEL**
- 5 - Mandated by law (Authorization Legislation, Colorado water law, etc.)
 - 4 - Standard Operating Procedure with slight sensitivity to hydrologic conditions
 - 3 - Normal procedure but sensitive to hydrologic conditions
 - 2 - Adhered to under average conditions but not possible in certain conditions
 - 1 - low priority and/or not an annually required event

- SEASON**
- Spring - Mar, Apr, May
 - Summer - Jun, Jul, Aug
 - Fall - Sep, Oct, Nov
 - Winter - Dec, Jan, Feb

- SEASONAL NEED**
- PRIMARY - flow or water elevation criteria to be met
 - PREP - Operation required to meet next season criteria
 - N/A - Criteria not applicable to this season

- WATER MEASURE**
- BM - BLUE MESA
 - MP - MORROW POINT
 - CR - CRYSTAL
 - BC - BLACK CANYON
 - WW - WHITEWATER
 - DL - Delta
 - FLOW - CUBIC FEET PER SECOND
 - ELEV - FEET ABOVE SEA LEVEL

PRELIMINARY

get dir after

Upper Gunnison River Water Conservancy District

- major issue credit for construction
- and we still have agreement in
- conflict

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau

DATE: January 17, 1996

SUBJECT: Agenda Item 6, February 12, 1996, Board Meeting --
Review Process for Water Rights Applications.

B.M.H.
10) Edmundson
12) Miller
15) Sand Brown

p14 950193
Shepard
William T.
1,700 pop
p18 (23) Wilson
Dyke
(24) Farjick
p29 Hill.
(25) Caloger
Brattin
(26) Joe Hilde
57 (46) Meridian
Taha ?

The following is a written summary of the process used by the UGRWCD for the review of water rights applications filed in the Division 4 Water Court. I am providing this description to make sure that the board understands the process being currently used.

Before the UGRWCD had a manager the monthly resume of water rights applications was reviewed by the district's attorney, Dick Bratton. In general the attorney would only bring two types of applications to the board for their consideration:

- 1) Those applications which would pose a threat to the District as a whole such as the applications for water rights of Arapahoe County and the City of Aurora.
- 2) Those applications which would specifically injure the water rights of the UGRWCD.

The district's attorney and the board historically did not get involved in the review of water rights applications for individual in-basin projects of others, nor did it get involved in disputes between individual water rights owners.

The historic approach has been continued more or less since the District has had a manager on staff. As manager I briefly read the resume published each month. Dick Bratton also continues to read the resume. Our reading of the resume does not currently involve a technical engineering or legal review. Our reading is intended to identify applications

which raise policy questions (such as the two types of applications listed above) that should be brought to the board for consideration. We have generally continued to not bring issues involving applications for individual water rights within the basin to the board of directors, unless it involves some specific area of interest to the District. A recent example of an in-basin water right application brought to the board is the plan for augmentation for the proposed Hidden River Ranch subdivision in the East River basin that would involve developing a water service contract with the Bureau of Reclamation. Since the District is the local government agency that generally represents local water users in dealings with the Bureau of Reclamation this application was brought to the board for their consideration. Other plans for augmentation for proposed subdivisions described in the resume have not been brought to the board in recent months because they would be based upon private sources of stored water.

Until such time as the board directs that other procedures should be implemented, Dick and I will continue to review the resume as in the past.

8

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: February 5, 1996

SUBJECT: Agenda Item 8, February 12, 1996, Board Meeting --
1996 Legislative Session.

In January I sent the board a copy of Senator Linda Powers bill SB 96-44 concerning exempt well permits for tracts of land of 35 acres or more. The District has been asked by the Senator to submit any comments or suggestions concerning the bill. Steve Glazer, on behalf of High County Citizens' Alliance, has requested that the District support the bill.

Attached is a summary of bills prepared by Chris Treese, lobbyist for the Colorado River Water Conservation District, which provides information on the status of this year's legislative activities.

Attached also is a copy of a ballot initiative concerning election of conservancy district boards of directors which is proposed to be on the ballot this coming November.

2-5-96

COLORADO RIVER WATER
CONSERVATION DISTRICT

MEMORANDUM

January 31, 1996

TO: River District Board of Directors

FROM: Chris

SUBJECT: LEGISLATIVE UPDATE

Attached is a revised deadline calendar for the 1996 session of the Colorado General Assembly. Generally, all previous deadlines have been advanced two days in this new schedule.

As in past years, I will highlight the new and updated information in the 'status of bills' section of these reports to ease speed reading by Board members.

Unrelated to the revised calendar, the pace of this year's session is unprecedented. This is not just for water bills, and is not just the whinnings of your lobbyist. Everyone confirms this. It is typical that the leadership will open the session with admonitions about the need to begin quickly and maintain a diligent pace; however, that is rarely heeded and is never sustained beyond the first week or so. Not so this year. Apparently, leadership has quietly set a goal of having 80% of the bills disposed of (passed or killed) by the 60th day (half way). This is, in part, to leave ample time to address the uncertainties surrounding the budget bill ("the long bill") created by the federal budget impasse.

Senate Bill 96-64, Senator Norton's bill addressing instream flows and the Snowmass Creek decision, passed the Senate with only 9 "no" votes. It will be heard in the House Ag Committee next Wednesday (2/7). Representative George will also

have a bill concerning instream flows which will also be heard that day (no number yet). Representative George's bill will be similar to Norton's but will require a *de novo* hearing before the water court for any decreases in instream flow rights. Representative George represents the Snowmass Creek area and has made certain promises to his constituents. The committee will hear testimony on both bills on Wednesday and will take action on both on Thursday (2/8).

Senator Linda Powers also has a bill, **SB 96-136**, concerning instream flows which was just introduced Friday (1/26). It adds "wetlands, riparian habitat, water quality, as well as recreational uses" to the purposes for which the CWCB can appropriate instream flows. It also allows existing water rights to be converted to instream flows by non-CWCB water rights owners; such converted instream flow rights would continue to be held by the original appropriator. As written, it would allow for conversion of conditional rights to instream flows.

Senator Norton's bill regarding local governments' 1041 powers, **SB 48**, passed the Local Government Committee 4-3, as previously reported. I have a soft vote count of 19 against the bill. It would only take 18 to kill it. Apparently, Senator Norton has the same count, as he has laid the bill over on second reading for over a week now. The west slope (including south and north slopes) are a solid block against the bill. Also as previously indicated, I have been lobbying the House in the unfortunate circumstance that the bill passes the Senate.

Senator Dennis has introduced **SB 96-145** to further define a water right as for beneficial use within the state of Colorado and allow public entities to assert a claim of takings. She has agreed to a River District amendment to include an explicit mention of conditional water rights in the bill.

SB 96-44 (Senator Linda Powers), which removes the presumption of non-injury for wells on 35 acre or greater subdivisions, was heard in the Senate Ag. Committee. We were successful in forming a broad alliance with the Farm Bureau, Denver, Northern, the state engineer and others to support the bill. Although the committee did not take action on the bill, it appears it will pass the Ag Committee unanimously next week.

SENATE BILLS

SB 96-04 **CONCERNING LIMITATION ON THE AUTHORITY OF SPECIAL DISTRICTS TO CONDEMN PROPERTY OF OTHER GOVERNMENTAL ENTITIES**

SPONSORS: Blickensderfer

SUMMARY: Prohibits sanitation and water districts from condemning property owed by other governmental entities. Does not include the River District in the definition of "water districts."

STATUS: ~~Passed Senate Local Government. Passed second reading.~~

POSITION: Monitor

Dead

SB 96-44 **CONCERNING REMOVAL OF A PRESUMPTION OF NON-INJURY TO SENIOR WATER RIGHTS FOR CERTAIN WELL PERMITS**

SPONSORS: Linda Powers

SUMMARY: Deletes current provisions of an assumption of non-injury for well permit applications for 35 acre (or larger) land parcels.

STATUS: Assigned Senate Ag. ~~Will be calendared "for action only" next week.~~

POSITION: Support.

SB 96-48 **CONCERNING LAND USE, AND IN CONNECTION THEREWITH
MODIFYING PROVISIONS GOVERNING AREAS AND ACTIVITIES OF
STATEWIDE INTEREST**

SPONSORS: Norton
 McElhany

SUMMARY: Makes significant amendments to counties' 1041 land use authority. Defines municipal water utilities as public utilities without subjecting them to PUC regulation. Removes counties' authority to deny a permit application to public utility applicants. Prohibits counties from requiring evaluations of project alternatives if the project is subject to NEPA requirements. Prohibits any county-imposed condition to a permit if such condition would reduce the applicant's water right even one drop.

STATUS: Passed Senate Local Government (4-3). To Senate floor.

POSITION: Oppose.

SB 96-64 **CONCERNING INSTREAM FLOW APPROPRIATIONS OF THE CWCB**

SPONSORS: Norton
 Jerke

SUMMARY: Addresses Colorado Supreme Court decision concerning Snowmass Creek. Clarifies that the CWCB can reduce an existing instream flow decree if the reduced amount still protects the natural environment to a reasonable degree. Provides for judicial review based on the record established in public meetings before the CWCB. Clarifies that the CWCB can hold decrees for the endangered fishes of the upper Colorado River with provisions for modification.

STATUS: Passed Senate 26-8. Assigned House Ag.

POSITION: Support

Bad

*Treat CWCB
rights just like any other*

SB 96-69 CONCERNING REGULATORY IMPAIRMENT OF PROPERTY RIGHTS

SPONSORS: Norton
 Anderson

SUMMARY: Prohibits local governments from adopting regulations that burden the use of private property unless: 1) There is an essential nexus between the burden and local interest; 2) There is an established threat to public safety; 3) The burden is proportional to the proposed use of the private property.

STATUS: Assigned to Senate Local Government

POSITION: Monitor.

SB 96-108 CONCERNING THE RECOVERY OF THOSE SPECIES THAT HAVE BEEN ADVERSELY IMPACTED, AND IN CONNECTION THEREWITH, PLANNING FOR THE RECOVERY OF THREATENED AND ENDANGERED SPECIES

SPONSORS: Rupert and L. Powers
 Reeves

SUMMARY: Requires DOW and DNR to develop conservation programs to reduce or eliminate threats to species that can become threatened or endangered. Requires recovery agreements be developed which are based on sound science and are cost-effective. Authorizes State to designate additional critical habitat.

STATUS: Assigned Senate Ag.

RECOMMENDED

POSITION: Oppose expansion and/or duplication of State-Federal authorities, (bill unlikely to go far).

SB 96-124 CONCERNING ADMINISTRATIVE ACTIVITIES RELATED TO REGULATION OF GROUND WATER DIVERSIONS AND AUTHORIZES CWCB LOAN FOR WATER AUGMENTATION IN THE ARKANSAS RIVER BASIN AND FOR ADMINISTRATIVE SUPPORT IN THE STATE ENGINEERS OFFICE

SPONSORS: Rizzuto, Lacy, Blickensderfer, others
Owen, Grampsas, and Romero

SUMMARY: Addresses need for new regulations and water compensation for Kansas resulting from the Kansas v Colorado case. Allows for loans from the CWCB to ground water management districts for the purchase of water rights which will be discontinued in order to prevent future in-state Arkansas River use in violation of the Arkansas River Compact.

STATUS: ~~Passed Senate To House Ag.~~

POSITION: Support.

SB 96-136 CONCERNING PRESERVATION OF THE ENVIRONMENT TO A REASONABLE DEGREE THROUGH DEDICATION OF EXISTING WATER RIGHTS

SPONSORS: Linda Powers

SUMMARY: Expands to purposes for which the CWCB can hold instream flow rights to include wetlands, riparian habitat, and recreational purposes. Allows a change of water right by an individual to an instream flow right (including conditional rights) without requirement that the right be accepted by or held by the CWCB. Appears to allow for a full instream flow appropriation of the remaining flows on all streams. *wrong*

STATUS: Assigned Senate Ag.

RECOMMENDED POSITION: Oppose as too broad and precluding development of compact entitlements.

?
1
only applies to decreased rights but screaming about property rights and limit allows to do what they want are leaning YES to oppose

SB 96-145 CLARIFYING THE DEFINITION OF "WATER RIGHT" AND PROVIDING PUBLIC ENTITIES WITH STANDING TO ASSERT A WATER RIGHTS TAKINGS CLAIM

SPONSORS: Dennis
Entz

SUMMARY: Further defines a water right as being for beneficial use within the state and in accordance with all Compacts. Also grants standing to public entities to claim a takings of water rights.

STATUS: Assigned Senate Ag. Scheduled for hearing 2/1.

POSITION: Support and amend to include conditional water rights.

97 Hurt on Union Park

(V)
By para present

HOUSE BILLS

HB 96-1044 CONCERNING USE OF GROUND WATER AND EXEMPTING WELLS IN THE DAKOTA AQUIFER FROM CERTAIN REQUIREMENTS AND ALLOWING APPLICANTS FOR CERTAIN WATER RIGHTS TO PROCEED IN WATER COURT WITHOUT THE PREREQUISITE OF APPLYING FOR A WELL PERMIT

SPONSOR: George

SUMMARY: Exempts wells in the Dakota aquifer from Senate Bill 5 requirements. Allows a water rights applicant to proceed in water court without first obtaining a well permit or having the well permit denied. The State Engineers Office will prepare a report on the well, such report to be given presumptive weight by the water court.

STATUS: ~~Passed House Ag. To floor for second reading.~~

POSITION: Support

HB 96-1079 CONCERNING INCIDENTAL CONTACT WITH STREAM CHANNELS BY PERSONS FLOATING IN CERTAIN TYPES OF WATER CRAFT

SPONSOR: Foster, Kerns, Lamm

SUMMARY: Allows persons in rafts, canoes, or kayaks to cross private lands without permission if such portage is required for the safety of the recreationist. Expressly exempts irrigation canals and ditches and only applies to streams with more than 50 cfs flow. It is not clear when the 50 cfs is measured (e.g., at the time of the portage, or at any time of the year).

STATUS: Passed House Ag. (7-6). To House floor.

POSITION: Monitor

HB 96-1124 CONCERNING THE RESOLUTION OF DISPUTES ARISING FROM THE IMPOSITION OF LAND USE RESTRICTIONS

SPONSOR: Hagedorn
Rizzuto

SUMMARY: Declares a state policy to encourage consistency and uniformity in the resolution of disputes involving land use restrictions imposed by local governments. Establishes a procedure for the appointment of a fact-finder to facilitate settlement of such disputes.

STATUS: Assigned House State Affairs

POSITION: Monitor.

**DEADLINE SCHEDULE
1996 COLORADO GENERAL ASSEMBLY**

- | | |
|----------------|--|
| Friday 1/5/96 | Deadline for filing one of each member's bills. |
| Wed. 1/10/96 | Deadline for the introduction of the bills required to be filed 5 days prior to the 1st day. |
| Friday 1/12/96 | Deadline for the introduction of the remaining bills. |
| Monday 1/15/96 | Deadline for bill draft requests to the Office of Legislative Legal Services. |
| Friday 1/26/96 | Final deadline for introduction of Senate bills, except the long appropriation bill. |
| Wed. 1/31/96 | Final deadline for introduction of House bills, except the long appropriation bill. |
| Friday 2/9/96 | Deadline for Senate committees of reference to report Senate bills.* |
| Friday 2/16/96 | Deadline for House committees of reference to report House bills.* |
| Monday 2/19/96 | Deadline for final passage of Senate bills in the Senate.* |
| Monday 2/26/96 | Deadline for final passage of house bills in the House of Representatives.* |
| Friday 3/15/96 | Deadline for committees of reference to report bills originating in the other house.* |
| Monday 3/25/96 | Deadline for introduction of the long appropriation bill in the House of Representatives; and Deadline for final passage in the House of Representatives of all bills originating in the Senate.* |
| Friday 3/29/96 | Deadline for final passage of the long appropriation bill in the house of origin. |



Gunnison Soil Conservation District
216 N. Colorado, Gunnison, Colorado 81230

January 22, 1996

Bill Trampe, Chairman
Upper Gunnison Water Conservancy District
275 South Spruce
Gunnison, CO 81230

Dear Bill,

The Gunnison Soil Conservation District (SCD) is looking for help to develop Best Management Practices (BMP's) to address water quality in the Upper Gunnison Watershed. We figured that your District would have an interest in being involved with this process.

Our District has been involved in reviewing and commenting on the development of BMP's by the Shavano SCD in Montrose (attached), and now that they are almost completed with the process, the Gunnison SCD would like to develop BMP's for our Basin. Our goal is to be able to develop localized BMP's that are more representative of our area and it's agriculture, rather than use something generically developed by the State. These BMP's would be put together in one easy to read publication that would be available to the public.

We are planning to form a Committee to work toward this goal and hope that we can utilize work that has been completed as an outline to start our process. Then create a document that will educate landowners and the public about BMP's that will help to preserve and improve the high level of water quality that we have today.

Please let us know if you are interested in participating in this effort and who you would like to involve in this process.

Sincerely,

Judy Buffington Sammons

Judy Buffington Sammons, President

*for a
for other*

*particular
Michael*

*Info - Family
City of Gunn*

The Shavano Soil Conservation District, in keeping with its mission, has a strong desire to conserve resources, protect water quality, and sustain agriculture, while still maintaining a high quality way of life in the Valley. Water is the Uncompahgre Valley's lifeblood, and preserving its quality is imperative to maintaining a viable agricultural program and producing such diverse crops as corn, alfalfa, beans, peppers, onions, broccoli, potatoes, melons, grapes, peaches, apples, pears, cherries, apricots and pasture forages. Wildlife diversity and habitat, fisheries, and public health are likewise dependent upon a high level of water quality, both within the Valley and downstream.

The Uncompahgre Valley "Best Management Practices" (BMPs) Decision Committee and workgroups were formed in May of 1995 after several public meetings in which participating citizens voted unanimously for the District to organize such a group.

The BMP Decision Committee and workgroups met several times over an eight month period in preparing these guidelines on nutrient and irrigation water management. These guidelines were developed in hopes of providing land and water managers in the Uncompahgre Valley with options in preventing both point and nonpoint source pollution to the waters of Colorado.

You are encouraged to review these guidelines and incorporate them into your current and future agricultural management practices. It is hoped that these guidelines can help you to improve the efficiency of your business and practices, while concurrently helping to maintain sustainable agriculture within the Valley.

Voluntary adoption of Best Management Practices is desirable to maintain a high quality way of life in the Uncompahgre Valley. The BMP Decision Committee and corresponding workgroups have worked long and hard to develop this set of guidelines that will be effective, feasible, cost effective, and protect and conserve the resources of the Uncompahgre Valley, while still maintaining a sustainable agricultural program. Please feel free to direct any comments or suggestions directly to the Board of Directors of the Shavano Soil Conservation District.

Program Coordinator
Fred Miller, President
Shavano Soil Conservation District

Project Coordinators:
Richard (Dick) Antonio, Extension Agent (Irrigation)
Colorado State University Cooperative Extension

Dr. Mahbub Alam, Extension Agent (Irrigation)
Colorado State University Cooperative Extension

Published By:
The Shavano Soil Conservation District
in cooperation with
Colorado State University Cooperative Extension.
January, 1996

Developed by a grassroots approach by members of the Uncompahgre Valley BMP Decision Committee and BMP workgroups. This work is dedicated to all agricultural producers and general public of the Uncompahgre Valley.

BMP PROGRAM DIRECTORS

Lanny Denham - Chairman
(Rancher & Farmer)

Tom Grett - Vice Chairman
(Dairyman & Farmer)

Mary Jo Mills - Secretary
(Manager, Shavano Soil Conservation District)

BMP DECISION COMMITTEE MEMBERS & WORKGROUP LEADERS

David Bowman
(Rancher)

Steve Mosher
(Agrichemical Fieldman)

John Hawks
(Rancher & BLM Range Technician)

Larry & Danna Knox
(Small Acreage Managers)

Earl Seymour
(Feedlot Operator & Farmer)

James Webb
(Dairyman & Farmer)

With technical assistance from the following United States Department of Agriculture, Natural Resources Conservation Service (NRCS), Bureau of Land Management (BLM), and Colorado State University Cooperative Extension (CSUCE), and private industry personnel:

Wayne Cooley, Area Extension Agent (Agronomy), CSUCE - Montrose

Robbie Baird-LeValley, Area Extension Agent (Livestock), CSUCE - Delta

Steve Aagard, Extension Agent (Agriculture/4-H Youth/Consumer & Family Education), CSUCE - San Miguel

Robert (Bob) Winchester, Irrigation Specialist, NRCS - Montrose

William (Bill) Self, Resource Conservationist, NRCS - Montrose

John Murray, Range Conservationist, NRCS - Montrose

Jim Sazma, Range Conservationist, BLM - Montrose

Dennis Murphy, Hydrologist, BLM - Montrose

John Hawks, Range Technician, BLM - Montrose

John M. Scott, Resource Conservationist, NRCS - Gunnison

Jack W. Warren, Soil Conservationist, NRCS - Delta

Leonard Felix, Olathe Spray Service, Inc.

Steve Puntney, Foster Farms

Ryan Whitfield, Dairy Farmer, Montrose

Don LaBarr, Dairy Farmer, Montrose

APPROVED BY THE STATE EXECUTIVE COMMITTEE

Mitchell D. Yergert
State of Colorado Department of Agriculture

Jim Miller
United States Department of Agriculture

Lloyd Walker
Colorado State University Cooperative Extension

Reagan Waskom
Colorado State University Cooperative Extension

Produced in cooperation with the Gunnison Basin Watershed Soil Conservation Districts:

Richard (Dick) Veo, President
Gunnison Basin Watershed

Fred Miller, President
Shavano Soil Conservation District

Judy Buffington Sammons
Ted Bemis, President
Gunnison Soil Conservation District

David Andrews, President
San Miguel Soil Conservation District

Rolf Sanburg, President
Delta Soil Conservation District

EDITOR

Christine Knight, Administrative Assistant
Colorado State University Cooperative Extension

Publication of these BMPs were made possible by a USDA Water Quality "Initiative Grant" and a "319 Grant" from the Colorado Water Quality Control Division, Department of Public Health and Environment.

**Shavano Soil Conservation District is concerned for
water quality, sustainable agriculture and a
quality way of life in the Uncompahgre Valley.**

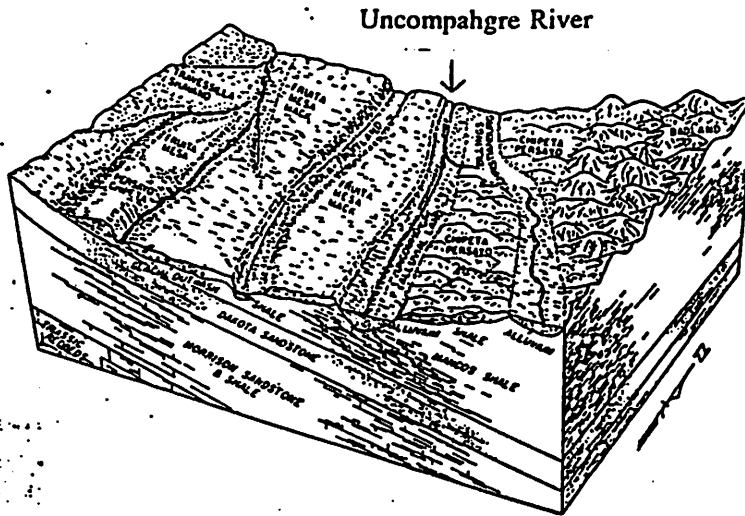
Shavano Soil Conservation District
102 Par Place, Suite 4
Montrose, Colorado 81401
(970) 249-8407



BEST MANAGEMENT PRACTICES FOR NUTRIENT AND IRRIGATION WATER MANAGEMENT IN THE UNCOMPAGRE VALLEY

SOIL SURVEY

DELTA-MONTROSE AREA Colorado



MANCOS SHALE, a marine deposit that underlays much of the Uncompahgre Valley, contains naturally occurring, high concentrations of salts and selenium. Irrigation water and natural precipitation percolating through the soil causes the mobilization of these and other naturally occurring elements into drainages and waterways. Best Management Practices are designed to address these issues.

Pesticides and fertilizers are used because growing crops require intensive management. The diverse cropping opportunities in the Valley increase the need for nutrient management. Money can be saved and the environment maintained by proper crop management and timely application of pesticides.

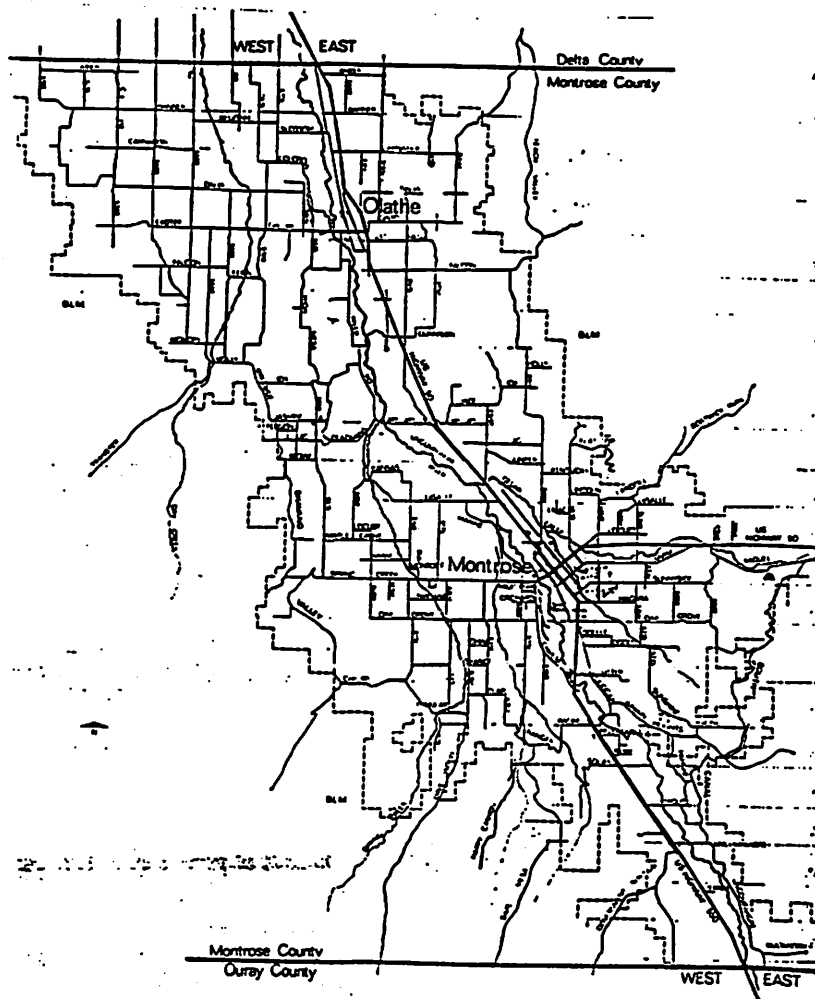
Manure storage and utilization, if properly managed, can be a major resource that helps reduce the need for commercial fertilizers. Properly applied, manure can help maximize most crops' yield potential, providing other growth requirements have been met. Nonpoint source pollution can be avoided by using Best Management Practices.

Best Management Practices

The following Best Management Practices have been designed to maintain water quality, while still recognizing the producer's need to make a profit. These practices are **voluntary**, and the success of this approach is dependent on their actual use and promotion by agricultural communities and the general public.

The BMPs that follow have been developed specifically for the Uncompahgre Valley in order to minimize the nonpoint source pollution impact on waters of the State. The individual BMPs contained herein include:

1. Confined Animal Feeding
2. Irrigation Water Management
3. Manure and Organic Waste Utilization and Storage
4. Nitrogen Fertilization
5. Pasture Management
6. Pesticide Use
7. Phosphorus Fertilization



1.0 - BEST MANAGEMENT PRACTICES FOR CONFINED ANIMAL FEEDING

Introduction: The Colorado Water Quality Control Commission has determined that confined animal feeding operations must prevent the discharge of manure or processed wastewater into waters of the State. They recommend that these materials be used beneficially on agricultural land. The mere presence of livestock manure and/or processed wastewater in a given location does not necessarily indicate a pollution problem. However, pollution can be the result if these materials are improperly stored, transported, or disposed of. The following BMPs will help prevent potential point and nonpoint source pollution resulting from manure or processed wastewater.

Guidance Principle: Confined animal feeding is regulated in Colorado under two separate categories when addressing potential impacts to waters of the State: **animal feeding operations** and **concentrated animal feeding operations**. Therefore, determining the appropriate classification is the first step to understanding the correct management practices of a confined animal feeding operation.

Concentrated Animal Feeding Operation:

1.1 Factors used in classifying a "Concentrated Animal Feeding" facility:

- * The number of animals confined at any given time meets or exceeds 1000 "animal units" or more (see Table 1 below);

TABLE 1: 1000 Animal Units is equal to:

| Number of animals | Type of Animals |
|-------------------|-----------------|
| 1000 | Beef Cattle |
| 1000 | Horses |
| 700 | Dairy Cattle |
| 5000 | Swine |
| 5000 | Lambs |
| 50,000 | Turkeys |
| 100,000 | Chicken |

Young stock, less than 50 percent of adult weight, reduces the above animal units by one half.

- * If pollutants can enter the waters of the State, either directly, when confined animals are in direct contact with water; or indirectly, through manmade conveyance systems (ditches, etc.).

- * If the facility is in a location which could be reasonably expected to adversely affect "hydrologically sensitive areas."

Animal Feeding Operation:

1.2 An "Animal Feeding" operation is defined as a confined facility in which livestock are fed 45 days or longer in any twelve month period and vegetative cover is not maintained. Additionally, the facility must not meet or exceed:

- * 1000 animal units or more in confinement
- * "Concentrated animal feeding" operation criteria.

BMPs for Animal Feeding Operations:

1.3 Requirements for animal feeding operations prescribe that Best Management Practices shall be utilized, as appropriate, based upon existing physical conditions and site constraints. These BMPs provide guidance for minimizing runoff, wastewater, and manure discharge to watercourses, as well as general practices to protect ground water. No plan or permit is required.

Non-source pollution from small (less than 1000 animals units) confined livestock operations can be minimized by:

- * Locating the feeding facility away from streams or drainage channels.
- * Diverting outside runoff away from the feedlot surface using diversion terraces and roof gutters.
- * Collecting solids carried off the feedlot surface by runoff water; solids should be settled out in channels, debris basins, or grass waterways where they can be removed and disposed of properly on land.
- * Where a feeding site is located near a body of water, installing a grassed waterway filter strip at least twice as large as the feedlot to improve runoff quality before it enters the water body.
- * Where the water quality risk is high, and the location of the feedlot prevents the use of a vegetative filter, installing a runoff holding pond. The collected runoff can be disposed of by irrigation onto nearby crop or pasture land.
- * Making the best use of nutrients in the manure and improving the soil's physical properties by applying manure to cropland.

1.4 Feedlot surfaces generally develop a compacted manure/soil interfacial layer, usually 1 to 1½ inches thick, which provides an excellent moisture seal. This compacted manure/soil layer reduces the water infiltration rate to less than 0.002 inches per hour, or as little as three percent of the infiltration rate of the underlying soil (Mielke, et.al., 1974; Mielke and Mazurak, 1976). This zone of low infiltration restricts leaching of salts, nitrates and ammonium into the subsoil and underlying groundwater.

When cleaning pens, avoid disrupting the surface seal provided by the manure/soil interfacial layer by leaving an undisturbed "manure pack." However, feedlots that have been abandoned without manure removal may offer greater potential for groundwater pollution than active feedlots.

2.0 - BEST MANAGEMENT PRACTICES FOR IRRIGATION WATER MANAGEMENT

Introduction: Proper irrigation water management is an important strategy in preventing nonpoint source pollution, both on and off the farm. Poorly managed irrigation water can result in deep percolation of water into the subsurface where salinity and selenium are mobilized and transported along with the water into drainage areas, causing toxic nutrient accumulation. In addition, pesticides, herbicides, and nitrogen and phosphorus fertilizer all can be transported off-site by poorly managed irrigation water.

Guidance Principle: Manage irrigation to minimize transport of chemicals, nutrients, or sediment to protect water quality. Select the BMP items listed below that are most feasible for your operation to achieve this guidance principle.

BMPs for Irrigation Water Management:

- 2.1 Schedule irrigations according to soil water depletion and crop evapotranspiration (ET). Evapotranspiration is a combination of two words - evaporation and transpiration - and refers to the water loss from the crops due to these two factors combined. Apply only enough irrigation water to meet the growing crop's needs.
- 2.2 Monitor soil moisture by the feel and appearance method, and/or tensiometers, resistance blocks, moisture probes, or other acceptable methods before irrigation.
- 2.3 Check irrigations frequently to ensure uniform application of irrigation water (through use of a ball probe, visual inspection, etc.).
- 2.4 Maximize efficiency and uniformity on surface irrigated fields. Upgrade the irrigation system or equipment as feasible to improve delivery and application efficiency:
 - * Install surge flow irrigation
 - * Install gated pipe
 - * Decrease set time
 - * Level fields
 - * Use tail water recovery systems
- 2.5 Line irrigation water delivery ditches to reduce seepage losses. Install surface or underground pipelines to convey irrigation water where feasible.
- 2.6 Use fertigation to apply nitrogen (N) fertilizer with high efficiency irrigation systems. Application of fertilizer in water is discouraged except in high efficiency systems.
- 2.7 If assistance is needed, contact a qualified crop consultant or irrigation technician to help schedule irrigations and determine the application efficiency of the system.
- 2.8 Always read and follow the chemical label prior to chemigation. Chemigation with

fertilizer or pesticide must be performed in accordance with the rules of the Colorado Chemigation Act. For more information, contact your local chemigation office or Colorado State University Cooperative Extension. Chemigation is not recommended with any low efficiency systems and is discouraged with conventional flood or furrow systems.

- 2.9** Minimize deep percolation on sprinkler irrigated fields by applying only the amount of water required to replace that used by crop ET.
- 2.10** Minimize surface runoff on sprinkler irrigated fields by adjusting depth of application, increasing surface residue, or changing nozzle configuration, height, and droplet size as appropriate.
- 2.11** Periodically calibrate sprinklers for depth of application, gallonage, pressure, uniformity and timer accuracy.

3.0 - BEST MANAGEMENT PRACTICES FOR MANURE & ORGANIC WASTE UTILIZATION AND STORAGE

Introduction: Livestock manure contains significant quantities of nitrogen (N), phosphorus (P), and potassium (K), as well as lesser amounts of nutrients such as calcium, magnesium, manganese, zinc, copper, and sulfur. When manure is properly utilized, it can greatly increase soil fertility, improve soil properties, and reduce commercial fertilizer costs. However, improper handling, storage and application of manure presents multiple opportunities for both ground and surface water contamination. Water moving across the land surface or through the soil profile can transport salts, pathogenic organisms, nitrates, and organic solids, all of which can degrade water quality, both on the surface and underground. Livestock manure, manure stockpiles, and storage lagoons all represent potential sources of pollution.

Guidance Principle: Collect, store and apply animal manures to land at agronomic rates to ensure maximum crop growth and economic return while eliminating any potential for point or nonpoint source pollution in order to protect water quality.

BMPs for Manure Utilization:

- 3.1 Livestock producers should ensure that the land available for manure application is sufficient for the amount of manure generated by the animal feeding operation.
- 3.2 When calculating long term manure loading rates, a reasonable estimate is that 50 percent of total nitrogen from applied manure is available in the first cropping season; 25 percent in the second; and 12.5 percent in the third. Use soil test and manure test data to help determine available nutrients.
- 3.3 Manure application rates should be based upon a site specific nutrient management plan that includes:
 - * Consideration of all plant-available nutrients from manure, irrigation water, crop residues, residual soil nutrients, and soil organic matter. These factors should be based upon laboratory analyses of soil, water and manure.
 - * The appropriate manure loading rates are calculated from all plant-available nutrients based on the crop yield goal. Additional commercial fertilizer should only be applied when soil-available nitrogen and phosphorous, plus nutrients from manure application, do not satisfy crop needs.

TABLE 1: Approximate Nutrient Composition of Various Types of Animal Manure at Time Applied to the Land

| Type of Manure | Dry Matter | Total ^a Nitrogen(N) | Ammonium NH ₄ | Phosphorus P ₂ O ₅ | Potash K ₂ O |
|--------------------------------------|-------------|--------------------------------|--------------------------|--|-------------------------|
| Solid Handling Systems | Percent % | lb/ton | lb/ton | lb/ton | lb/ton |
| Swine (w/o bedding) | 18 | 10 | 6 | 9 | 8 |
| Swine (with bedding) | 18 | 8 | 5 | 7 | 7 |
| Beef (w/o bedding) | 52 | 21 | 7 | 14 | 23 |
| Beef (with bedding) | 50 | 21 | 8 | 18 | 26 |
| Dairy Cattle (w/o) | 18 | 9 | 4 | 4 | 10 |
| Dairy Cattle (with) | 21 | 9 | 5 | 4 | 10 |
| Sheep (w/o bedding) | 28 | 18 | 5 | 11 | 26 |
| Sheep (with bedding) | 28 | 14 | 5 | 9 | 25 |
| Poultry (w/o litter) | 45 | 33 | 26 | 48 | 34 |
| Poultry (with litter) | 75 | 56 | 36 | 45 | 34 |
| Deep pit (compost) | 76 | 68 | 44 | 64 | 45 |
| Turkeys (w/o litter) | 22 | 27 | 17 | 20 | 17 |
| Turkeys (with litter) | 29 | 20 | 13 | 16 | 13 |
| Horses (with bedding) | 46 | 14 | 4 | 4 | 14 |
| Liquid Handling Systems ^b | lb/1000 gal | lb/1000 gal | lb/1000 gal | lb/1000 gal | lb/1000 gal |
| Swine (liquid pit) | 4 | 36 | 26 | 27 | 22 |
| Swine (lagoon) ^c | 1 | 4 | 3 | 2 | 7 |
| Beef (liquid pit) | 11 | 40 | 24 | 27 | 23 |
| Beef (lagoon) ^c | 1 | 4 | 2 | 9 | 5 |
| Dairy Cattle (liq.pit) | 8 | 24 | 12 | 18 | 29 |
| Dairy Cattle (lagoon) ^c | 1 | 4 | 2.5 | 4 | 10 |
| Poultry (liquid pit) | 13 | 80 | 64 | 36 | 96 |

a - Ammonium N plus organic N, which is slow releasing

b - Application conversion factors: 1000 gal = about 4 tons; 27,154 gal = 1 acre inch

c - Includes feedlot runoff water

Source: Colorado State University Cooperative Extension Bulletin 552A, Utilization of Animal Manure as Fertilizer, 1992.

TABLE 2: Approximate Fraction of Organic N Mineralized in the First Year After Application

| Manure Source | Fraction of Organic N Mineralized in First Year |
|---|---|
| Beef & Dairy Cattle: solid (without bedding) | .35 |
| liquid (anaerobic) | .30 |
| Swine solid | .50 |
| liquid (anaerobic) | .35 |
| Sheep solid | .25 |
| Horse solid (with bedding) | .20 |
| Poultry solid (without litter) | .35 |

Adapted from Nebraska Cooperative Extension Bulletin EC 89-117, Fertilizing Crops with Animal Manures, 1989

- * Manure application rates are usually about ten tons per acre for corn, grain, sorghum, wheat, vegetables and hay crops, and about five to six tons for dryland crops. Application rates are best determined by actual soil samples and manure nutrient analysis.
 - * Surface applied manure should be incorporated as soon as possible to reduce odor and nutrient loss by volatilization, runoff or wind. If fresh manure is not incorporated within 72 hours after application, more than 30% of the ammonium nitrate may be lost to volatilization. The rate of volatilization increases in warm, dry, windy conditions.
 - * Management factors such as handling, application method, tillage, irrigation regime, cropping and grazing pattern, and site factors such as soil texture and slope should be used in the site specific nutrient management plan to modify the prescribed manure application rates.
 - * For further details, consult an agronomist.
- 3.4 If liquid manure is applied on coarse textured soils, apply near planting time to enhance crop uptake and minimize nitrate leaching. Multiple applications are better than a single heavy application.

- 3.5 Application of manure to frozen or saturated ground should be limited to lands not subject to excessive surface runoff.
- 3.6 Plant vegetative strips to filter nutrients and sediments from surface runoff.

BMPs for Manure Storage:

- 3.7 Manure storage sites should be located where minimal pollution of surface or ground water will occur.

**Typical Manure & Nutrient Production by Livestock
Calculated on an "as excreted" Basis per
1000 pounds Raw Manure/1000 lb. animal**

| Animal | lb/day | tons/yr | gal/yr |
|----------------|--------|---------|--------|
| Beef Cow | 60 | 11.5 | 2,880 |
| Dairy Cow | 82 | 15.0 | 3,610 |
| Broilers | 80 | 14.5 | 3,500 |
| Horse | 50 | 9.0 | 2,160 |
| Lamb | 40 | 7.0 | 1,680 |
| Swine (grower) | 63 | 11.5 | 2,800 |
| Turkey | 43 | 8.0 | 1,880 |

Source: USDA, Agricultural Waste Management Field Handbook, 1992.
Actual amount and content may vary significantly with age, feed ration, breed and handling.

- 3.8 Operators of animal feeding operations (as defined by Colorado law) should establish adequate manure storage capacity based upon manure and waste water production. Calculating long term manure disposal and land base area needs can be easily determined:

Example: A beef feedlot with 150 steers at 1,000 pounds each.
 Total manure produced = 11.5 tons/yr./1,000 lb. animal (from table above)
 11.5 ton X 150 animals = 1,725 tons/year
 Yield Goal = 180 bushels (bu) corn/acre
 (crop X 1.0 available lbs. N/bu) = 180 lbs. of available N/ac.
 Total N in manure = 11.9 lbs/ton
180 lbs. N/ac.
 11.9 lbs. N/ton = 15 tons manure/ac.
1,725 tons/year
 15 tons/ac. = 115 acres, minimum land base needed for long term manure disposal,
 using this example.

- 3.9 Avoid mechanical disturbance of the manure-soil seal when cleaning active feedlots.
- 3.10 Permanently abandoned feedlots or manure storage sites should be scraped down to bare earth and revegetated. This is to avoid ground water pollution and invasion of noxious weeds.
- 3.11 On-farm composting transforms waste materials into stable, easily handled products that can be applied to cropland or sold as a soil conditioner.

Composting is a process of nature, but in practice, it does not happen by itself. The process has certain requirements for it to proceed rapidly and without problems. Farmers considering composting for their farm should understand the process and be familiar with the various composting requirements and composting methods.

- * Microorganisms (bacteria and fungi) are required to convert "active" organic materials like manure, leaves, straw or shavings into a more stable and useable form.
- * A desired carbon/nitrogen ratio for microbial decomposition for composting is between 26 and 35 parts carbon to 1 part nitrogen.
- * Composting is an aerobic (oxygen requiring) process.
- * Temperature near the compost pile's center must range between 80 to 130 degrees Fahrenheit.

The length of time required to transform raw materials into compost depends upon many factors including the materials used, temperature, moisture, frequency of aeration, and the ultimate use of the material. A composting period typically lasts from three to eight weeks, followed by a month long curing period.

Individuals wishing to incorporate on-farm composting with other agricultural management strategies should contact their local Cooperative Extension office for composting information and management criteria.

4.0 - BEST MANAGEMENT PRACTICES FOR NITROGEN FERTILIZATION

Introduction: Nitrogen (N) is an essential plant element that most often limits irrigated crop production in the Uncompahgre Valley. Commercial fertilizer and manure can be cost effective means of supplementing low amounts of N in the soil and are necessary for sustaining high crop yields. However, it has been documented that improper or excess use of N fertilizer can lead to nitrate pollution of ground and/or surface water. Both urban and rural fertilizer applicators can minimize the problem by implementing the following N fertilization management BMPs.

Guidance Principle: Manage N applications to maximize crop growth and economic return while protecting water quality.

BMPs for Nitrogen Fertilization:

- 4.1 A yearly N management plan should be developed for each field and crop. At a minimum, the plan should take into consideration:
- * The previous crop, variety and yield.
 - * The current crop, variety and yield.
 - * Current soil test analysis data showing the amount of available N in the soil.
 - * An estimate of the amount of N available from soil organic matter, manures, and from previous legume crops that will become available during the crop growth period.
 - * The amount of supplemental N to be applied to meet expected crop yield. This includes N from chemical fertilizers, manures, irrigation water and other sources.
 - * Special management practices needed to reduce N leaching, including: timing of application, multiple applications, side dressing, banding, foliar feeding, fertigation, or needed changes in crops or crop sequence.
- 4.2 Base N fertilizer rates on results from soil analyses when appropriate, using environmentally and economically sound guidelines.
- 4.3 Time application of N fertilizers to coincide as closely as possible to the period of maximum crop uptake.
- 4.4 N fertilization should be split into at least two applications on irrigated crops requiring greater than 100 pounds of N per acre.
- 4.5 Avoid fall application of commercial N fertilizer for spring planted crops on fields

with severe leaching potential.

4.6 Apply N fertilizers where they can be most efficiently taken up by the crop.

- * Use alternate furrow irrigation and N fertilizer placement on soils with severe leaching potential.
- * Use fertigation to apply in-season N fertilizer with high efficiency irrigation systems only.
- * Multiple, small applications of N through sprinkler irrigation systems can increase fertilizer efficiency and reduce total N fertilizer applications.

4.7 The following recommendations apply to crops and fields where the leaching potential is moderate to severe.

- * Follow alfalfa or other legumes with high N using crops (such as small grains or corn).
- * Follow shallow-rooted crops (such as onions) in the rotation with a deep-rooted crop which scavenges excess N (such as corn).
- * Use fall planted cover crops such as rye or triticale to scavenge excess N in areas where fall growth is possible.

5.0 BEST MANAGEMENT PRACTICES FOR PASTURE MANAGEMENT

Introduction:

Guidance Principle: Pastures will be managed to maintain soil stability along with a vigorous, reproducing, diverse plant community. It will have the ability to withstand any manmade or natural disturbances. This principle is intended to sustain healthy pasture conditions over the long-term.

BMPs for Pasture Management:

- 5.1** Develop a site specific grazing management plan that addresses the soil, plant and water relationships.
- * Control the frequency and intensity of grazing by livestock.
 - * Provide grazed plants the opportunity to regrow with the presence of adequate temperature and moisture.
 - * Grazing season needs to take into consideration the plant life cycle.
 - * Utilize a variety of vegetation, including both cool and warm season plant species where appropriate, to capture and cycle energy and nutrients through the system more efficiently.
 - * Utilize a variety of livestock to accomplish more efficient and even utilization of vegetation.
 - * On irrigated pastures, coordinate grazing and irrigation to minimize soil compaction and physical disturbance to plants.
 - * On irrigated pastures, fertilizing should be coordinated with irrigation, growing season, and grazing.
 - * Livestock numbers and distribution should take into consideration water availability, quantity and location.
 - * Season-long grazing is not a recommended practice; a rotation system that takes plant, soil, and animal needs into consideration is preferred.
- 5.2** Decisions regarding pasture improvements and practices should take the following into consideration:
- * Permanent and/or electric fences should be used to distribute livestock and control the frequency and timing of grazing.

- * Herding and salting may be used to control livestock distribution and frequency of grazing.
- * Develop water to protect riparian and wetland areas by placing water in containers and locating away from sensitive areas.
- * An assessment should be made prior to vegetation treatment that ensures the site is capable of producing and sustaining the desired plant community.
- * Short duration, high intensity grazing may be used to control weeds and improve plant community.

6.0 BEST MANAGEMENT PRACTICES FOR PESTICIDE USE

Introduction: Crop pests, including insects, weeds, nematodes and plant diseases, can become a threat to growing crops in the Uncompahgre Valley. Uncontrolled pests can compete with crops for water, nutrients, and sunlight, causing significant reduction in crop yields or crop loss. Pesticides often are used as a first line of defense. However, an Integrated Pest Management (IPM) approach combines chemical control when necessary with cultural and biological practices to form a comprehensive program for managing pests. The IPM approach maximizes control, while minimizing the amount of chemical needed. Pesticides have the potential of creating environmental problems such as groundwater contamination and pest resistance. Farmers and other land managers can protect water resources by implementing the following BMPs that can reduce excessive pesticide use, while still controlling pest damage.

Guidance Principle: Implement an IPM approach to select the most appropriate combination of pest control options, including cultural, biological, mechanical and chemical methods. Through continued development of site-specific IPM and implementing the following Best Management Practices, we can reduce the risk of nonpoint source pesticide pollution to waters of our state.

BMPs for Pesticide Use

- 6.1 To ensure protection of local water supplies, agricultural producers and all property owners and operators should develop site-specific pest management programs which include the integration of control methods to prevent pest introduction. Practice systematic "pest awareness":
 - * Early detection provides the opportunity to take action and eradicate pioneer invasive plants while they are seedlings, or young vegetative plants without established root systems.
 - * Suppress pest populations below the level at which they are economically damaging to your property.
 - * Protect ecological balance and water quality.
- 6.2 Practice soil tillage and planting practices that compliment pesticide application; combine band application with tillage and reduce tillage to increase surface residues. Use releases of beneficial insects when appropriate.
- 6.3 Honor the use label that the chemical industry, EPA, and Colorado State Department of Agriculture have developed. When using or supervising the use of restricted-use pesticides, comply with the required training that is available and acquire a private applicator's certification. Use only licensed commercial applicators, and when working with neighbors on cooperative programs, be certain that training, certification, or licensing obligations are met.

6.4 Evaluate site-specific, long term cultural, mechanical, and biological practices used to control pests and determine how chemical control best fits into the program. Use chemicals in a manner which will minimize off-target effects and diminish the risk of persistence and mobility of pesticides in soil, water and air.

6.5 Be familiar with SB 90-126 Storage and Containment Regulations. The rules and regulations may not apply to all operators, but the principles apply to every applicator.

- * Purchase only what is needed.
- * Minimize carry-over and storage.
- * Mix only the volume of spray required, keeping spray concentrates in their original containers.
- * Store, handle and mix pesticides at least 100 feet away from well heads.
- * Mix chemicals at the application site, using water transported for mixing, or equip faucets with a backflow prevention device and situate hoses to ensure there is an air gap between the end of the hose and the contained water level.
- * Calibrate sprayer before each application.
- * Apply the lowest effective labeled rate.
- * Triple rinse all pesticide containers and dispose of properly.
- * **READ AND FOLLOW THE MANUFACTURER'S LABEL!**

6.6 Keep a comprehensive, historical pesticide application record, including date, location, time, prevailing conditions, chemical trade name and pesticide family, rate of application, specific site observations and the applicator's certification number. Refine pesticide application over time, and strive for management efficiency.

BMPs for Invasive or Undesirable Weeds:

6.7 Federal and State weed laws, County regulated weed lists, certified seed, forage and straw standards, as well as agricultural ethics, define **Prevention and Containment** goals and practices. The concepts extend beyond the boundaries of private lands and it is important that partnerships and coalitions develop which will allow weed management on a watershed or landscape basis.

- * Recognize, inventory and target the Federal and State mandated weeds

(Leafy Spurge, Russian, Spotted and Diffuse Knapweed), and weeds listed as "noxious or invasive" that are on the County wide weed list.

- * Land uses throughout the watershed affect weed control activities on a large scale. Survey existing weed populations, describing site characteristics. Consider the effect of land use outside the immediate zone of influence; mined lands, gravel pits, recreation areas, transportation systems, irrigation systems, and open waterways. Prevent the movement of noxious and undesirable weeds:
 - * Wash equipment that is leaving a contaminated field.
 - * Hold livestock long enough for invasive plant seeds to pass (i.e., contaminated forage).
 - * Wash recreational vehicles.
 - * Utilize weed-free forage prior to and during recreational use.
- * Select the appropriate herbicide. Know the site characteristics and evaluate herbicide suitability and compatibility, using short lived or rapidly bound herbicides with low water solubility. Use low pressure application systems and coarse spray nozzles to prevent drift onto non-target plants or water resources.

BMPs for Crop Pests & Plant Diseases:

- 6.8** Manage agricultural pests to maintain pests below the economic threshold and apply the minimal amount of chemical necessary to achieve control. Optimize alternate control strategies that maximize control.
- 6.9** Eliminate intermediate host plant or agent to interrupt life cycles.
- 6.10** Prevent the movement of infested material to uninfected sites:
 - * Utilize equipment cleaning stations.
 - * Hold and/or limit the entry of livestock.
- 6.11** Work closely with university extension agents, plant pathologists, and other qualified experts to design specialized control programs.

7.0 - BEST MANAGEMENT PRACTICES FOR PHOSPHORUS FERTILIZER MANAGEMENT

Introduction: Phosphorus (P) is an essential nutrient for plant growth. Phosphorus in most Colorado soils is tightly held to soil particles and does not leach; therefore, P from agricultural sources generally does not pose a threat to the Uncompahgre Valley water resources. However, the P held in organic phases from residues such as manure can dissolve in water and be lost if improperly managed. Absorbed P on soil particles can cause surface water contamination as P containing sediments move off the land in agricultural runoff. When large amounts of nutrients enter lakes and streams, they enhance the growth of algae and other aquatic weeds, thus killing more desirable species.

When added to soil, P fertilizer undergoes several different reactions, including adsorption on soil particles and precipitation. A number of factors determine the speed and fate of the reactions. They include soil pH, moisture, and texture; chemical properties of the soil; and the form of fertilizer used. The net result in most Colorado soils is fixation of P by calcium in relatively insoluble and unavailable forms. For this reason, recommendations for soils low in available P often exceed actual crop removal. Producers can obtain maximum P benefits, while minimizing adverse environmental impacts, by adopting the appropriate components of the following BMPs.

Guidance Principle: Manage phosphorus application to maximize crop growth and economic return while protecting water quality.

BMPs for Phosphorus Fertilization:

- 7.1 Soil testing is the first step in a sound P management program and should be done a minimum of once during each crop rotation cycle. It is important to account for the P available from the soil and from outside sources such as manures and sewage sludge biosolids. Surface soil samples should normally be taken from the top six to eight inches of the soil or to the depth of the tillage layer.
- 7.2 Broadcast applications of P should be incorporated into the soil (except on perennial forages) following application. Band applications of P should be done on as many crops as feasible because it places the P where it is readily available to the plant, reduces input costs, and minimizes chances of surface runoff.
- 7.3 Manure is an excellent source of P for crop production; however, manure applications need to be incorporated when applied to soil to prevent potential runoff of both soluble and sediment-associated nutrients to surface waters.
- 7.4 Conservation practices to minimize soil erosion will also minimize potential losses of P to off-target sites.

Best Management Practices for Irrigation Management

Guidance Principle: Manage irrigation to minimize transport of chemicals, nutrients, or sediment from the soil surface or root zone to protect water quality.

Select the irrigation BMPs most feasible for your operation to achieve the above guidance principle.

General BMPs

- 2.1 Determine the relative leaching potential of your particular soil and site. Employ all appropriate BMPs on fields with severe leaching potential.
- 2.2 Monitor soil moisture by the feel method, tensiometers, resistance blocks, or other acceptable methods before and after each irrigation.
- 2.3 Schedule irrigation according to crop needs, soil water depletion, and water availability, accounting for precipitation and chemigation. Apply only enough irrigation water to fill the effective crop root zone.
- 2.4 Evaluate the efficiency of the total irrigation system from the pump or diversion to return flow or tailwater. Upgrade irrigation equipment to improve delivery and application efficiency where feasible.
- 2.5 Monitor irrigation application and uniformity of water applied.
- 2.6 Time irrigations to individual crop needs to eliminate unnecessary applications. Calculate the date of the final irrigation of the season to ensure the soil profile is largely depleted by crop harvest. Post harvest irrigation should be limited to meet the needs of specific operations only.
- 2.7 Analyze irrigation water quality periodically, and credit $\text{NO}_3\text{-N}$ in water to crop requirements.
- 2.8 Avoid intentionally applying excess irrigation to leach salts until the growing crop has taken up fertilizer N. When leaching of soluble salts is necessary to maintain productivity, time leaching to coincide with periods of low residual soil nitrate.
- 2.9 Contact a qualified professional to help schedule irrigation and determine the application efficiency of your system, if necessary.

Flood or Furrow Irrigation BMPs

- 2.10 Maximize efficiency and uniformity on surface irrigated fields by installing surge flow irrigation, decreasing set time, leveling fields, or using tailwater recovery systems as appropriate. Producers currently using flood or furrow irrigation on coarse-textured soils should install sprinkler systems when feasible.
- 2.11 Use alternate furrow irrigation and N fertilizer placement on soils with severe leaching potential to reduce nitrate leaching to groundwater (see Figure 5).
- 2.12 Use fertigation to apply in-season N fertilizer with high efficiency irrigation systems only. Fertigation is strongly discouraged with conventional flood or furrow systems unless tailwater recovery systems are employed.
- 2.13 Line irrigation water delivery ditches to reduce seepage losses. Install pipelines to convey irrigation water where feasible.

Sprinkler Irrigation BMPs

- 2.14 Minimize deep percolation below the crop root zone on sprinkler irrigated fields by applying water according to crop evapotranspiration and soil moisture status.
- 2.15 Minimize surface runoff and increase uniformity on sprinkler irrigated fields by decreasing application depth or by changing nozzle and pressure configuration, height, or droplet size as appropriate.
- 2.16 Maintain sufficient surface residue to reduce overland water flow and increase moisture intake rate. Where practical, follow soil conservation practices such as minimum tillage or contour planting to reduce erosion of soil sediments containing nutrients or pesticides. Plant grass filter strips on the downhill side of any highly erodible fields to filter nutrients or other chemicals from runoff. Utilize basin tillage on sprinkler irrigated fields with slopes of 3 to 5% to reduce surface runoff.
- 7 Test systems periodically for depth of application, pressure, and uniformity.

Chemigation and Fertigation BMPs

- 2.18 Read the chemical label prior to application. Follow all label instructions and take careful note of the specific chemigation instructions. Chemigators also must follow the rules of the Colorado Chemigation Act.
- 2.19 Reduce water application rate to ensure no runoff or deep percolation occurs during chemigation sets. Avoid chemigation when additional water is not needed by the crop. Adjust irrigation schedule to account for water applied during chemigation
- 2.20 Monitor and inspect chemigation equipment and safety devices regularly to determine proper function. Replace all worn or nonfunctional components immediately.
- 2.21 Upgrade well condition to reduce the possibility of point source contamination at the wellhead. Handle chemicals carefully around the wellhead and chemigation site. Clean up any fertilizer or pesticide spill immediately to avoid well contamination.

H8

Upper Gunnison River Water Conservancy District

MEMORANDUM

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: January 17, 1996

SUBJECT: Senate Bill 96-44 by Senator Linda Powers

Senator Powers contacted the Upper Gunnison District this week to ask for our consideration of her proposed bill, SB 96-44, a copy of which is attached.

The bill would result in the state engineer being required to make a determination as to whether or not the exercise of a requested permit for an exempt well which will be the only well on a tract of land of 35 acres or more (and be used for the purposes described in paragraph (b) of subsection (1) of Section 37-92-602, C.R.S., i.e., wells not exceeding fifteen gallons per minute of production and used for ordinary household purposes, fire protection, the watering of poultry, domestic animals, and livestock on farms, and ranches, and the irrigation of not over one acre of home gardens and lawns, but not used for more than three single-family dwellings) will materially injure the vested water rights of others or any other existing well prior to issuance of the well permit.

Senator Powers has asked for any feedback or suggestions that the board members would like to provide. She can be reached in Denver at (303) 866-4865.

We will schedule a discussion of the bill by the District as a whole at our next board meeting on February 12, 1996.

Sixtieth General Assembly

LLS NO. 96-0487.01 DRG

SENATE BILL 96-

044

STATE OF COLORADO

AGRICULTURE, NATURAL
RESOURCES & ENERGY

BY SENATOR L. Powers

A BILL FOR AN ACT

101 CONCERNING REMOVAL OF THE PRESUMPTION OF NONINJURY TO SENIOR
102 WATER RIGHTS IN CERTAIN APPLICATIONS FOR WATER WELL
103 PERMITS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Deletes current provisions creating a presumption that, where a permit is sought for a water well serving a residential site of 35 acres or more and meeting certain other requirements, there will be no material injury to the vested water rights of others or to any other existing well.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-92-602 (3) (b) (II) (A), Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended to read:

37-92-602. Exemptions - presumptions - legislative declaration. (3) (b) (II) (A) If a permit is sought by a user for a well exempted under paragraph (b) of subsection (1) of this section which will be the only well on a residential site, which well will be used solely for ordinary household purposes inside a single-family dwelling and will not be used for irrigation, ~~or will be the only well on a tract of land of thirty-five acres or more and will be used solely for the~~

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 ~~purposes specified in paragraph (b) of subsection (1) of this~~
2 ~~section,~~ and the return flow from such uses shall be returned
3 to the same stream system in which the well is located, there
4 shall be a presumption that there will not be material injury
5 to the vested water rights of others or to any other existing
6 well resulting from such well, which presumption may be rebutted
7 by evidence sufficient to show such material injury.

8 **SECTION 2. Safety clause.** The general assembly hereby
9 finds, determines, and declares that this act is necessary for
10 the immediate preservation of the public peace, health, and
11 safety.

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: February 5, 1996

SUBJECT: Agenda Item 10, February 12, 1996, Board Meeting --
Manager's Contract for 1996.

Attached is a revised version of the draft employment agreement for the manager for 1996 which I am ready to execute with the board. As you will notice the retirement provisions have been deleted. Salary has been increased to compensate for the removal of the 3% retirement benefit. I am suggesting this change because I have not located a retirement plan which I could set up for myself which would be an improvement on the individual retirement account (IRA) that I already have.

I have investigated the Simplified Employee Pension (SEP) recommended by Ramon Reed and Lee Spann at the January board meeting. The district could set up such a plan for its employees. Unfortunately, local government employees are not allowed to contribute any part of their salary towards a SEP. Therefore, the only contribution to the SEP would be the employer's payment which at a 3% level is less of a tax deferral benefit than someone at my salary level would receive under their own IRA.

*What is
cost of
paying
to District*

I think it would be worthwhile for the District in the future to reconsider joining the Colorado County Officials and Employees Retirement Association (or other similar program) because the program would allow your employees to contribute a significant part of their salary to the plan (in addition to the employer's 3% contribution) and thus be able to defer taxes on a larger amount of income at minimal cost and administrative burden to the District.

EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into on February 12, 1996 between the **UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT** (District) and **TYLER MARTINEAU** (Manager).

1. **Employment.** The District employs the Manager and the Manager accepts employment upon the terms and conditions contained in this Agreement.

2. **Term.** The term of this Agreement shall begin on January 1, 1996, and shall terminate on December 31, 1996.

3. **Compensation.** The District shall pay the Manager for all services rendered a salary of \$4,270.00 per month, payable on 15th day of the month following the month in which the services are rendered. Salary payments shall be subject to withholding and other applicable taxes. 51,240

4. **Duties.** The District hereby employs the Manager as General Manager of the District, with such precise powers and duties in that capacity as may be determined from time to time by the Board of Directors (Board). Notwithstanding the ability of the Board to expand or curtail the powers and duties of the Manager, the Manager's duties shall generally include, without limitation, the following:

- a. Administration of the day-to-day business affairs of the District;
- b. Preparation of an agenda and appropriate background information regarding substantive issues to be addressed by the Board for use at meetings of the Board, and attendance at all regular and special meetings of the Board;
- c. Representation of the District, as directed by the Board, in its dealings with governmental and non-governmental agencies, commissions and authorities (excluding legal representation) and with the general public, including attendance on behalf of the District at such meetings and conferences as the Board shall authorize and direct;
- d. Management of engineering services relating to the maintenance of the conditional water rights held by the District, support of any plan for augmentation approved by the Board, water studies and similar engineering services.

5. **Extent of Services.** The Manager shall devote his full time and attention to the District's business during the term of this Agreement and shall work such hours and such times as are reasonably necessary to accomplish his job duties.

6. **Other Business Activity.** The Manager shall not engage in the performance of engineering services or other business activity, regardless of whether it is pursued for gain or profit, which unreasonably affects his ability to perform the duties described in this Agreement.

7. **Expenses.** The Manager may incur reasonable expenses while performing the District's business, including mileage and expenses for travel, and similar items. The District will reimburse the Manager for all such expenses. To obtain reimbursement for such expenses, the Manager shall prepare monthly an itemized account of such expenditures which shall be subject to review and approval by the Board.

8. **Health Insurance.** Apart from the compensation provided for in this Agreement, the District shall as a separate benefit pay, in an amount approved by the board, the premiums for health insurance which the Manager has provided for himself. The limit of such health insurance benefit shall be an amount equal to the premium for Manager's basic hospital-surgical policy with the State Farm Insurance Company, Policy Number H4463639 0606. The provisions of this paragraph shall not be construed to require the District to provide a health insurance policy or program for the Manager.

9. **Vacation and Unpaid Leave.** The Manager shall earn vacation for each full month of service at a rate of 13-1/3 hours per month. The Manager shall be entitled to accumulate up to 240 hours paid vacation. Accumulation in excess of the maximum accrual shall be subject to forfeit. The Manager shall be paid for all accumulated vacation at the time of termination of employment. In addition to the vacation described in this paragraph, the Manager shall be permitted, upon reasonable notice to the Board, to be absent from his duties without compensation, provided that the activities of the District will not be adversely affected thereby.

10. **Sick Leave.** The Manager shall earn sick leave for each full month of service at a rate of 6-2/3 hours per month. The Manager shall be entitled to accumulate up to 240 hours of paid sick leave. Upon separation from employment by permanent disability (or death), the Manager (or Manager's estate) shall be paid 100% of all accrued sick leave up to a maximum of 240 hours at the Manager's then current rate of pay. Upon separation from employment for any other reason the manager shall receive payment at the then current rate of pay for accrued sick leave based upon the following formula: Number of sick leave hours accrued (up to 240 hours), divided by 3, equals sick leave payment.

11. **Termination of Agreement.**

a. Either party may, without cause, terminate this Agreement at any time by giving thirty days' written notice. In that event, the Manager, if requested by the District,

159 hours
or 1 month
at 40 hours
a week
\$4,270

79 hours
a year
\$2,135
per week
1/2 of this

shall continue to render his services, and shall be paid his regular compensation up to the date of termination.

b. Either party may, with cause, terminate this Agreement at any time by delivery of written notice of termination.

c. Upon effective date of termination of this Agreement, all documents, records, files, and any other property of the District in the custody or control of the Manager shall be immediately surrendered to the District, and the Manager expressly waives any claim to such material by virtue of it being work product.

12. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

13. Notices. Any notice required or desired to be given under this agreement shall be given in writing and delivered by personal service or sent by certified mail, return receipt requested, to the Manager's residence or to the District's business office, with a copy by first-class mail to the President of the Board.

14. Waiver. The District's waiver of a breach of any provision of this Agreement by the Manager shall not operate or be construed as a waiver of any subsequent breach by the Manager. No waiver shall be valid unless in writing and signed by an authorized representative of the District.

15. Entire Agreement. This Agreement contains the entire understanding of the parties except as supplemented by the District's employee leave and benefits policy. To the extent that the terms of this Agreement are different than the guidelines and practices adopted by the board in its employee leave and benefits policy the terms of this Agreement shall prevail. This Agreement may not be changed orally but only by an agreement in writing signed by each of the parties to the Agreement.

16. Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

17. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on February 12, 1996.

UPPER GUNNISON RIVER
WATER CONSERVANCY DISTRICT

ATTEST:

Mark Schumacher, Secretary

By: _____
William S. Trampe, President

MANAGER

Tyler Martineau

2-5-96

GUNNISON COUNTRY ASSOCIATION OF REALTORS®

WATER RIGHTS CLASS

REALTORS® in Colorado need to be knowledgeable about issues of water rights. This course covers listing considerations, field investigation of property, ownership, value and changes of water rights. 8 hours of continuing education.

Ray D. Walker, P.E., Instructor

Date: February 22, 1996
LOCATION: Holiday Inn Express, 400 East Tomichi Ave, Gunnison
TIME: 8:00 am - 5:00 pm, class begins at 8:00 sharp!
COST: Members: \$55.00 Non-members: \$75.00

REGISTRATION DEADLINE: February 15, 1996, class size limited.

PAYMENT IS PRE-PAID AND NON-REFUNDABLE!!

Questions, call Lisa @ GCAR 970-641-0895 or Faye Olson @ Prudential
Becky Hamlin Realty 970-349-6691.

.....

REGISTRATION FORM, GCAR WATER RIGHTS

NAME: _____

OFFICE: _____

WORK PHONE: _____ HOME PHONE: _____

SOCIAL SECURITY # _____

RE LICENSE # _____

AMOUNT ENCLOSED \$ _____ PAID BY ___ CHECK ___ CASH ___ CHARGE

Please print your credit card number clearly

VISA# _____ EXPIRATION _____

MASTER CARD# _____ EXPIRATION _____

SIGNATURE _____

MAKE CHECKS PAYABLE TO: GUNNISON COUNTRY ASSN. OF REALTORS AND RETURN WITH
THIS REGISTRATION FORM TO GCAR, PO BOX 369, GUNNISON CO 81230 OR FAX 970-641-
0895.

ADA: PLEASE INDICATE HERE IF YOU HAVE ANY DISABILITIES WHICH REQUIRE SPECIAL
ACCOMMODATIONS, INCLUDING THE PROVISION OF AUXILIARY AIDS AND
SERVICES _____

UGRWCD BUDGET SUMMARY-1995

February 12, 1996 Meeting

| | DECEMBER | YEAR TO DATE AS OF 12/31/95 | 1995 BUDGET | % Received or Expended |
|--|--------------------|--------------------------------|---------------------|---------------------------|
| REVENUE | | | | |
| General Property Tax-all counties | \$916.19 | \$210,078.37 | \$210,778.00 | 99.67% |
| General Property Tax-prior tax | (\$4.82) | \$241.43 | \$0.00 | |
| Specific Ownership | \$1,418.38 | \$19,272.66 | \$17,000.00 | 113.37% |
| Interest & Penalties-tax | \$73.57 | \$1,215.85 | \$0.00 | |
| Interest on Investments | \$2,038.38 | \$12,131.43 | \$11,300.00 | 107.36% |
| Miscellaneous | \$0.00 | \$7,149.06 | \$7,149.00 | 100.00% |
| Total Revenue | \$4,441.70 | \$250,088.80 | \$246,227.00 | 101.57% |
| EXPENSES | | | | |
| Administrative Salary | \$3,958.33 | \$47,499.96 | \$47,500.00 | 100.00% |
| Secretary Salary | \$697.00 | \$8,050.26 | \$8,700.00 | 92.53% |
| Data Entry Salary | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Payroll Taxes & Benefits | \$374.75 | \$6,301.95 | \$7,300.00 | 86.33% |
| Staff Conference & Training | \$0.00 | \$0.00 | \$200.00 | 0.00% |
| Legal Expenses | \$5,063.58 | \$72,904.52 | \$73,000.00 | 99.87% |
| Audit and Accounting | \$211.75 | \$3,616.50 | \$4,400.00 | 82.19% |
| Engineering Services | \$0.00 | \$3,001.41 | \$10,000.00 | 30.01% |
| Rent & Utilities | \$0.00 | \$1,500.00 | \$1,500.00 | 100.00% |
| Stream Gauges O&M | \$19,435.00 | \$19,435.00 | \$19,500.00 | 99.67% |
| Stream Gauges Construction | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Bonding | \$0.00 | \$150.00 | \$150.00 | 100.00% |
| Insurance/Premises | \$0.00 | \$250.00 | \$250.00 | 100.00% |
| Office Telephone | \$136.06 | \$1,789.42 | \$2,000.00 | 89.47% |
| Legal Printing | \$70.80 | \$1,068.32 | \$1,300.00 | 82.18% |
| Administrative Travel | \$32.50 | \$2,250.69 | \$3,000.00 | 75.02% |
| Board of Directors Travel | \$0.00 | \$0.00 | \$200.00 | 0.00% |
| Office Supplies | \$79.95 | \$1,014.08 | \$1,200.00 | 84.51% |
| Postage | \$0.00 | \$1,177.80 | \$1,000.00 | 117.78% |
| Copying | \$0.00 | \$1,236.50 | \$1,400.00 | 88.32% |
| Publications Acquisition | \$12.00 | \$149.80 | \$300.00 | 49.93% |
| Office Equipment | \$88.99 | \$1,808.72 | \$2,200.00 | 82.21% |
| Board of Directors Fees | \$275.00 | \$3,225.00 | \$4,400.00 | 73.30% |
| Board of Directors Mileage | \$86.00 | \$995.40 | \$1,400.00 | 71.10% |
| Uncompahgre Water Users | \$0.00 | \$11,538.20 | \$12,000.00 | 96.15% |
| Taylor Park Water Management | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| CWC Membership | \$0.00 | \$545.00 | \$550.00 | 99.09% |
| WSC Water Workshop | \$0.00 | \$1,500.00 | \$1,500.00 | 100.00% |
| Water Resources Study | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Promotion & Guest Expense | \$0.00 | \$740.60 | \$1,000.00 | 74.06% |
| Country Treasurer's Fees | \$44.00 | \$6,742.06 | \$7,000.00 | 96.32% |
| Water Rights Development | \$1,661.00 | \$4,698.50 | \$5,500.00 | 85.43% |
| Augmentation Plan Development | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Conversion of Records | \$4,950.00 | \$4,950.00 | \$5,000.00 | 99.00% |
| Subtotals: | \$37,176.71 | \$208,139.69 | \$223,450.00 | 93.15% |
| Contingency | | \$6,500.00 | \$6,500.00 | 100.00% |
| Emergency Reserves | | \$2,700.00 | \$2,700.00 | 100.00% |
| Water Resource Protection & Development Reserves | | \$6,677.00 | \$6,677.00 | 0.00% |
| Designated Funds | | \$6,900.00 | \$6,900.00 | 0.00% |
| TOTALS: | \$37,176.71 | \$230,916.69 | \$246,227.00 | 93.78% |

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT

Report for the scheduled meeting on February 12, 1996

OPERATIONAL EXPENSES PAID

| DATE | PAYEE | AMOUNT |
|----------|---|-----------------|
| 1/8/96 | First National Summit Bank-941 deposit/payroll taxes | 1484.27 |
| | Tyler Martineau-December admin salary | 2757.02 |
| | Tyler Martineau-December admin travel | 32.50 |
| | Colorado State Treasurer-4th qtr unemployment insurance/payroll taxes | 55.50 |
| | The Paper Clip-office supplies | 79.95 |
| | Colorado Dept of Revenue-4th qtr withholding | 598.08 |
| | CDW Computer Centers-office supplies | 88.99 |
| | Water Clerk-Montrose-Division 4/publications acquisition | 12.00 |
| | Chronicle & Pilot-legal printing | 70.80 |
| | U.S. West-office telephone | 136.06 |
| | Jill Steele-December secretarial salary | 570.98 |
| | TOTAL EXPENSES PAID FOR APPROVAL | 5886.15 |
| 12/11/95 | Other Expenses Payable from previous month | 5768.00 |
| | Williams, Turner & Holmes-legal | 1776.13 |
| | Bratton & McClow-legal | 2681.20 |
| | Bratton & McClow-water rights development | 1661.00 |
| | TOTAL EXPENSES PAID | 17772.48 |

OTHER EXPENSES PAYABLE
meeting attendance-\$25.00 per meeting plus reimb
for mileage at \$.25 per mile

| DATE | PAYEE | AMOUNT |
|--------|--|---------------|
| 1/8/96 | REGULAR SCHEDULED MEETING | |
| | Ralph Clark III-attendance | 25.00 |
| | Diane Lothamer-attendance | 25.00 |
| | Ramon Reed-attendance plus 58 miles | 39.50 |
| | Susan Allen Lohr-attendance plus 72 miles | 43.00 |
| | William Trampe-attendance plus 14 miles | 28.50 |
| | Dennis Steckel-attendance | 25.00 |
| | Mark Schumacher-attendance plus 20 miles | 30.00 |
| | Peter Smith-attendance | 25.00 |
| | Carol Drake-attendance plus 110 miles | 52.50 |
| | Doyle Templeton-attendance plus 64 miles | 41.00 |
| | Lee Spann-attendance plus 6 miles | 26.50 |
| | Total Attendance plus mileage (payable quarterly) | 361.00 |

OTHER PAYABLES

| | | |
|--------|-----------------------------------|----------|
| 1/8/96 | Ayraud Accounting-audit & acctg | 251.25 |
| | Colorado Water Congress-dues | 420.00 |
| | Bratton & McClow-legal | 465.07 |
| | USGS-Stream gauges O & M for 1995 | 19435.00 |

OTHER EXPENSES PAYABLE FOR APPROVAL: **20571.32**

Balance on Hand-Dec 31, 1995

| | UNRESTRICTED |
|-------------------------------------|--------------|
| FNSB Gunnison-Checking Account | \$47,228.45 |
| Petty Cash | \$100.00 |
| FNSB Gunnison-Passbook Savings | \$40,274.02 |
| FNSB Gunnison-Time CD | \$2,887.66 |
| FNSB Gunnison-Time CD Wetlands | \$1,016.81 |
| GS&L Passbook appl fees | \$0.00 |
| GS&L - Money Market | \$76,440.36 |
| GS&L-Time CD | \$20,997.74 |
| FNB Lake City-Time CD | \$45,273.65 |
| FNB Lake City-Time CD | \$42,461.30 |
| FNSB Crested Butte-Passbook Savings | \$42,986.06 |
| <hr/> | |
| TOTAL FUNDS 12/31/95 | \$319,666.05 |

Net Dec Tax Receipts Collection

| | |
|---------------------------------|------------|
| Paid in January | |
| Gen Property-Real Estate | \$916.19 |
| Gen Property-Prior Tax | (\$4.82) |
| Specific Ownership | \$1,418.38 |
| Interest & Penalties | \$73.57 |
| <hr/> | |
| TOTAL JANUARY COLLECTIONS | \$2,403.32 |
| Less: Treasurer's Fees deducted | \$44.00 |

Interest on Investments received in January

| | |
|-------|------------|
| | \$2,006.53 |
| <hr/> | |

TOTAL FUNDS AVAILABLE \$324,031.90

Less: Total Disbursements thru 1/31/96

| | |
|-------|-------------|
| | \$17,772.48 |
| <hr/> | |

TOTAL FUNDS 1/31/96 \$306,259.42

Balances as of 1/31/96

| | UNRESTRICTED | INTEREST RATES | MATURITY DATES |
|-------------------------------------|--------------|----------------|----------------|
| FNSB Gunnison-Checking Account | \$31,968.88 | 3.00% | |
| Petty Cash | \$100.00 | | |
| FNSB Gunnison-Passbook Savings | \$40,629.31 | 3.50% | |
| FNSB Gunnison-Time CD | \$2,953.53 | 3.50% | 1/18/96 |
| FNSB Gunnison-Time CD Wetlands | \$1,021.78 | 3.50% | 8/16/96 |
| GS&L - Money Market | \$76,682.31 | 3.75% | |
| GS&L - Time CD | \$21,237.25 | 4.50% | 1/26/96 |
| FNB Lake City-Time CD | \$45,476.67 | 5.28% | 4/01/96 |
| FNB Lake City-Time CD | \$42,824.40 | 5.37% | 1/23/96 |
| FNSB Crested Butte-Passbook Savings | \$43,365.29 | 3.50% | |
| <hr/> | | | |
| TOTAL FUNDS 1/31/96 | \$306,259.42 | | |
| <hr/> | | | |

AYRAUD ACCOUNTING

INVOICE

To:
UPPER GUNNISON RIVER WATER
CONSERVANCY DISTRICT
DATE: 1/31/96

| Description | Hours | Amount |
|---|-------|----------|
| January posting, bank recs 941 deposit, financials W2's, year end tax returns | 16.75 | \$251.25 |

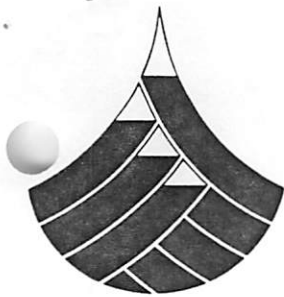
2-6-96
Ayraud Accounting

TOTAL DUE:

\$251.25
=====

Please remit to: P.O. Box 311, Crested Butte, CO 81224

4



Date Recd. 2-20-97 Addn. Ckd. A
 Inv. Appr. TM Amt. Appr. 420.00
 Pd. Date _____ Acct. # C.W.C. Dues
 Bd. Mbr. Appr. Date _____
 Board Member Initials OKJ

Colorado Water Congress

1390 Logan Street, Suite 312, Denver, CO 80203 (303) 837-0812 FAX (303) 837-1607

Richard D. MacRavey, Executive Director

December 12, 1995

**OFFICERS
1995-96**

President:
JIM HOKIT
Montrose, CO
 Vice President:
NEIL JAQUET
Golden, CO
 Treasurer:
DOUGLAS KEMPER
Aurora, CO
 Assistant Treasurer:
ED POKORNEY
Denver, CO
 Secretary:
RICHARD D. MacRAVEY
Denver, CO
 Immediate Past President:
DOUGLAS KEMPER
Aurora, CO

**BOARD OF
DIRECTORS**

ROBERT O. BURR
Walden, CO
 KENNETH CRANDALL
Sterling, CO
 RALPH CURTIS
Alamosa, CO
 JOHN R. FETCHER
Steamboat Springs, CO
 MIKE GROSS
Silt, CO
 W. ALD A. HELLBUSCH
Minster, CO
 JIM HOKIT
Montrose, CO
 NEIL JAQUET
Golden, CO
 DOUGLAS KEMPER
Aurora, CO
 KIT KIMBALL
Denver, CO
 DOUGLAS LOCKHART
Grand Junction, CO
 JIM MANIRE
Denver, CO
 WAYNE MILLER
Windsor, CO
 HAROLD E. MISKEL
Colorado Springs, CO
 PETER NICHOLS
Carbondale, CO
 R.L. "BUD" O'HARA
Pueblo, CO
 ED POKORNEY
Denver, CO
 DAVID ROBBINS
Denver, CO
 PAUL TESTWUIDE
Vail, CO
 REFORD THEOBOLD
Grand Junction, CO
 ED TONER
Pagosa Springs, CO
 W.H. "BILL" WEBSTER
Greeley, CO
 ERIC WILKINSON
Loveland, CO
 BART WOODWARD
Snyder, CO
 NWRA Director:
HAROLD MISKEL
Colorado Springs, CO
 NWRA First Alternate:
ED POKORNEY
Denver, CO
 NWRA Resolutions Member:
MARK PIFHER
Colorado Springs, CO
 NWRA First Resolutions
Alternate:
SARA DUNCAN
Denver, CO

TO: Mr. Tyler Martineau
 Upper Gunnison River W.C.D.
 275 South Spruce Street
 Gunnison, CO 81230

CWC DUES STATEMENT

Your January 1996 thru December 1996 CWC Dues are :
 \$462.00*.

I AM SUBMITTING OUR JANUARY 1996 thru DECEMBER 1996 CWC
 SUSTAINING MEMBERSHIP DUES IN THE AMOUNT OF \$ 420⁰⁰.

Voting Division 4 (Review the Voting Designation
 on reverse side of mailing list form to
 determine your geographical or business-
 related division.)

NOTE: "CONTRIBUTIONS OR GIFTS TO COLORADO WATER CONGRESS
 ARE NOT TAX DEDUCTIBLE AS CHARITABLE CONTRIBUTIONS.
 HOWEVER, THEY MAY BE TAX DEDUCTIBLE AS ORDINARY AND
 NECESSARY BUSINESS EXPENSES." IF APPLICABLE, CWC
 ESTIMATES THAT 38% OF CWC DUES ARE "LOBBYING" EXPENSE AS
 DEFINED UNDER THE FEDERAL REVENUE RECONCILIATION ACT OF
 1993.

IMPORTANT

TO ENSURE THAT YOUR SPONSORED INDIVIDUALS ARE RECEIVING
 PUBLICATIONS TO WHICH THEY ARE ENTITLED, PLEASE COMPLETE
 AND RETURN THE ATTACHED UPDATED MAILING LIST FORM.

***PLEASE RETURN A COPY OF THIS INVOICE WITH YOUR DUES
 PAYMENT ***

COLORADO WATER CONGRESS MAILING LIST FORM

Sustaining member: Upper Gunnison River Water Conservancy District
 Designated Voting Division Gunnison River
 (If sponsored individuals are not all within the same division, please attach a separate sheet.)

Please provide complete address for each individual (if different than the sustaining organization's business address).

| <u>VOTING PRIVILEGE</u> (One vote/\$35 paid - not to exceed 30 votes) | <u>COLORADO WATER RIGHTS</u> (One issue for each \$35 paid.) | <u>WATER INTELLIGENCE REPORT</u> (One issue for each \$100 paid.) | <u>WATER LEGAL NEWS</u> (One issue for each \$200 paid.) |
|--|---|--|---|
| 1. <u>See Attached List of Board Members</u> | <u>See Attached List of Board Members</u> | <u>Tyler Martineau</u> | <u>Tyler Martineau</u> |
| 2. <u>Tyler Martineau manager</u> | <u>Tyler Martineau, Manager</u> | <u>William S. Trampe 397 County Rd. 8 Gunnison, CO 81230</u> | <u>William S. Trampe</u> |
| 3. _____ | _____ | _____ | _____ |
| 4. _____ | _____ | _____ | _____ |
| 5. _____ | _____ | _____ | _____ |

| <u>ENVIRONMENTAL NEWS</u> (One issue for each \$300 paid.) | <u>WATER LEGISLATIVE REPORT</u> (One issue for each \$300 paid.) | <u>NATIONAL WATER LINE</u> (One issue for each \$400 paid.) | <u>WATER RESEARCH NEWS</u> (One issue for each \$500 paid.) |
|---|---|--|--|
| 1. <u>Tyler Martineau</u> | <u>Tyler Martineau</u> | <u>Tyler Martineau</u> | _____ |
| 2. _____ | _____ | _____ | _____ |
| 3. _____ | _____ | _____ | _____ |
| 4. _____ | _____ | _____ | _____ |
| 5. _____ | _____ | _____ | _____ |

| <u>WATER SPECIAL REPORT</u> (One issue for each \$500 paid.) | | | |
|---|----------|----------|----------|
| 1. _____ | 2. _____ | 3. _____ | 4. _____ |
| _____ | _____ | _____ | _____ |
| 5. _____ | _____ | _____ | _____ |

BILL FOR COLLECTION

DI-1040 Revised (Aug. 1973)

Bill No. 6-4608-4028

Remittance Payable To: Department of the Interior, USGS

Date February 7, 1996

Mail Payment To: U.S. Geological Survey, WRD, P.O. Box 25046, MS 415, Denver, CO 80225, Attn: Denise Dennett

(Bureau or Office)

PAYER: _____ (Address)

Please detach top portion of this bill and return with remittance.

Upper Gunnison River Water Conservancy District
275 S Spruce Street
Gunnison, CO 81230

Amount of Payment \$ _____

| Date | DESCRIPTION | Quantity | Unit Price | | Amount |
|-------------------------|--|----------|-----------------------|-----|-------------|
| | | | Cost | Per | |
| | For operation and maintenance of streamgaging stations: Slate Rvr nr Crested Butte, Castle Cr abv mouth nr Baldwin, Tornichi Cr at Sargents, Cochetopa Cr blw Rock C nr Parlin, and East Rvr Water Quality Monitoring Plan at 15 sites, in accordance with Joint Funding Agreement CO9508700, during the period 10/1/94 through 9/30/95. | | | | \$19,435.00 |
| | AGREEMENT TOTAL: \$19,435.00 | | | | |
| | Prepared based on program. | | | | |
| | Federal Regulations require a 5.0 % annual percentage rate (\$.0042 /month) be assessed from the date of this bill. No interest will be charged if payment is made by the due date. | | | | |
| | Please return the Bill for Collection copy with your remittance. | | | | |
| | I certify that this bill is correct and that payment has not been received. | | | | |
| | <i>Denise Dennett</i> Sharon S. Kuhnlein, Admin Officer, Phone (303) 236-4882 ext. 259 | | | | |
| DUE DATE: April 8, 1996 | | | AMOUNT DUE THIS BILL, | | \$19,435.00 |


NOTE: A receipt will be issued for all cash remittances and for all other remittances when required by applicable procedures. Failure to receive a receipt for cash payment should be promptly reported to the bureau or office shown above.

Approved 2-7-96 *[Signature]*
Investor _____
Date _____
Ad. for Agreement Stream Gaging O&M - 1995
Board Member Initials _____

Upper Gunnison River Water Conservancy District

MEMORANDUM

TO: UGRWCD Board of Directors

FROM: Jill Steele 

DATE: February 2, 1996

SUBJECT: Agenda Item 17, February 12, 1996 Meeting, Selection Process for Auditor for 1995 Audit

As you may know, Kimberly Temple has sold her firm to Kennedy & Coe, an out-of-state firm. Bev Tezak will no longer be doing work in this field.

We are sending out requests for proposals to perform the annual audit of the District's financial records for 1995. Enclosed for your information is a copy of the request for proposal and the schedule which is being used in the selection process.

Upper Gunnison River Water Conservancy District

SCHEDULE FOR SELECTION PROCESS FOR AUDITOR FOR 1995 AUDIT

| | |
|--|-----------------------------|
| Mail notices to newspapers | Friday, 2/2/96 |
| Mail out letters soliciting bids, including request for proposal: | Tuesday, 2/6/96 |
| Date for return of proposals: | Friday, 3/1/96 at 5:00 p.m. |
| Mail copies of proposals to Board: | Wednesday, 3/6/96 |
| Approval of auditor by Board: | Monday, 3/11/96 |

Upper Gunnison River Water Conservancy District

February 6, 1996

REQUEST FOR PROPOSAL

ANNUAL AUDIT

INTRODUCTION

Purpose - The purpose of this request is to solicit proposals from qualified firms to conduct an annual audit of the general purpose financial statements of the District for 1995.

Proposal Due Date - Three copies of proposals are due in the offices of the District, at 275 South Spruce Street, Gunnison, Colorado, 81230, by no later than 5:00 p.m. on Friday, March 1, 1996.

Background - The Upper Gunnison River Water Conservancy District is a local government agency with responsibility for meeting water needs for agricultural, domestic, recreational, environmental and other water users in the upper Gunnison basin. The District currently has an annual budget of \$253,078.00 and has one full-time and one part-time employee.

PROPOSED AUDITING SERVICES

The annual audit for which the District is soliciting proposals shall be performed in accordance with generally accepted auditing standards including tests of the accounting records of the District and such other procedures that the auditing firm considers necessary in order to express an opinion as to whether the financial statements are fairly presented in conformity with generally accepted accounting principles.

MANAGEMENT OF SERVICES

Administration - The services provided by the auditing firm will be carried out following receipt of authorization from the board of directors.

Contract - A letter of agreement will be negotiated between the auditing firm and the District which will describe the services to be provided, and the method of payment for services.

Payment for Services - Services will normally be paid for on a monthly billing. The auditing firm will submit a request for payment to the District offices. Billings will be submitted to the board of directors for approval.

275 South Spruce Street · Gunnison, Colorado 81230
Telephone (970) 641-6065 · Fax (970) 641-6727

February 6, 1996

CONTENT OF PROPOSAL

Qualifications - Include a discussion of the firm's relevant background, and experience. Provide a list of clients or other references that may be contacted by the District.

Personnel Qualifications - Provide brief resumes for personnel proposed to provide services to the District.

Conflicts of Interest - The proposal shall disclose all potential conflicts of interest that the firm or any of its personnel may have.

Auditor's Work Plan - The auditor should identify the personnel that will carry out the principal tasks for the District, and briefly state how the auditor plans to accomplish the work to be performed for the District.

Rate Schedule - A schedule of the hourly rates of the auditor's personnel and the amount proposed for an annual audit together with any other proposed charges should be included.

AUDITOR SELECTION PROCESS AND EVALUATION CRITERIA

Consultant Selection - Proposals should be submitted in writing. Proposals received by the due date will be evaluated by management and submitted to the board of directors. The auditor selected by the board of directors will be contacted to begin negotiation of a letter of agreement.

Evaluation Criteria - The board of directors will consider the relevant qualifications and experience of the firm and project personnel, references received from clients of the firm, conflicts of interest, proposed project management, and proposed rate schedule in the evaluation of statements of qualifications.

Upper Gunnison River Water Conservancy District

Congratulations

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: January 17, 1996

SUBJECT: Andy Williams' and Duane Helton's Fees

Yesterday the Board of Directors of the Colorado River Water Conservation District approved payment of the following legal and engineering expenditures in the Arapahoe/Union Park case on a 50-50 cost sharing basis with the Upper Gunnison District:

- 1) \$3,271.15 to pay Williams, Turner & Holmes invoices for the remainder of 1995.
- 2) Up to \$10,000.00 for work to be performed by Williams, Turner & Holmes in 1996.
- 3) Up to \$5,000.00 to pay for work to be performed by Duane Helton in 1996.

The total amount of this funding is \$18,271.15 which will come out of the Colorado River District's 1996 budget. The funds will come from a \$60,000.00 line item in the Colorado River District's budget which is intended to provide for legal and engineering expenses for special activities throughout the Western Slope.

Bill Trampe and Lee Spann both spoke in favor of Upper Gunnison's request for the cost sharing of expenses. Bill Trampe discussed the cost overrun for Andy Williams fees in 1995 and also described the Upper Gunnison District's Water Resources Protection & Development Reserve Fund to the Colorado River District directors.

The entire Colorado River District board voted in favor of Upper Gunnison's request with the exception of the director from Eagle County who abstained from voting.

Upper Gunnison River Water Conservancy District

January 9, 1996

Mr. Roland C. Fischer
Secretary-Engineer
Colorado River Water Conservation District
P. O. Box 1120
Glenwood Springs, CO 81602

SUBJECT: Legal Expenses for Williams, Turner & Holmes

Dear Rolly:

Thank you for your letter of December 15, 1995 indicating that the River District has completed its contribution of \$10,000.00 towards the legal fees of Williams, Turner & Holmes as offered by the River District Board last April. The Upper Gunnison River Water Conservancy District greatly appreciates the support of the River District in the ongoing litigation with Arapahoe County.

As you are probably aware the total amount of billings from Williams, Turner, & Holmes for 1995 totalled \$26,542.31 as shown below:

| Andy Williams | Invoice Date | Amount |
|--------------------------|-------------------------|--------------------|
| February | 2/28/95 | \$1,455.40 |
| March | 3/31/95 | \$2,439.66 |
| April | 4/30/95 | \$1,199.60 |
| May | 5/31/95 | \$2,504.55 |
| June | 6/30/95 | \$3,462.90 |
| July | 7/31/95 | \$1,123.40 |
| August | 8/31/95 | \$4,738.50 |
| September | 10/11/95 | \$1,756.50 |
| October | 11/8/95 | \$3,087.05 |
| November | 11/26/95 | \$1,212.50 |
| December | 12/29/95 | <u>\$3,552.25</u> |
| Total | | \$26,542.31 |

In 1996 we are anticipating that activity in the Union Park case will continue, requiring additional expenditures for these legal services.

Page 2

Mr. Roland C. Fischer

January 9, 1996

The Board of Directors of the Upper Gunnison River Water Conservancy District requests the River District to continue the existing 50-50 cost sharing arrangement with Upper Gunnison of the fees for Williams, Turner & Holmes as follows:

- 1) Cost sharing for the amount of Williams, Turner & Holmes invoices which exceeds \$10,000.00 each for the remainder of 1995 (\$ 3,271.16 for Upper Gunnison, and \$ 3,271.15 for the River District).
- 2) Cost sharing to match \$10,000.00 currently budgeted by Upper Gunnison for work to be performed by Williams, Turner & Holmes in 1996.

The Upper Gunnison District believes it would be beneficial to also continue to share the cost of Duane Helton's services with the River District in 1996. The Upper Gunnison Board has approved \$5,000.00 for cost sharing of Duane Helton's expenses in 1996.

Upper Gunnison Board Chairman, Bill Trampe and I are planning to be present at the River District's quarterly meeting on January 16, 1996 to be available to answer any questions that you or the River District board might have concerning our request.

Very truly yours,



Tyler Martineau,
Manager

cc: Board Members, UGRWCD

BRATTON & McCLOW LLC
 232 West Tomichi Ave., Suite 202
 P.O. Box 669
 Gunnison, Colorado 81230
 (970) 641-1903

Upper Gunnison River Water
 Conservancy District
 275 South Spruce Street
 Gunnison, Colorado 81230

Statement for legal services for period ending January 26, 1996

Professional services:

Hrs/Rate Amount

Administrative

| | | | | |
|--------|-----|--|-------------------|--------|
| 1/8/96 | LRB | Review agenda material for monthly board meeting; attend meeting | 3.00 125.00/hr | 375.00 |
|--------|-----|--|-------------------|--------|

| | | |
|------------------------------------|------|----------|
| For professional services rendered | 3.00 | \$375.00 |
|------------------------------------|------|----------|

Itemization of costs

| | |
|--|-------|
| - Westlaw legal research charges | 59.67 |
| - <u>Call Record for the month of December</u> | 25.60 |
| - Photocopier expense | 4.80 |

| | |
|-------------|---------|
| Total costs | \$90.07 |
|-------------|---------|

*What is
 can we go back
 to 50's*

| | |
|---------------------------|----------|
| Total amount of this bill | \$465.07 |
|---------------------------|----------|

| | |
|------------------|------------|
| Previous balance | \$4,342.20 |
|------------------|------------|

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE
 OF 1½% PER MONTH WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED

Amount

1/10/96- Payment - thank you

(\$4,342.20)

Balance due

\$465.07

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE
OF 1½% PER MONTH WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT

SCHEDULED BOARD MEETING MINUTES

January 8, 1996

The Board of Directors of the Upper Gunnison River Water Conservancy District conducted a regularly scheduled meeting on January 8, 1996 at 1:00 p.m. at the Gunnison County Fairgrounds, Gunnison, Colorado.

Board members present were: Ralph E. Clark, III, Carol Drake, Susan Lohr, Diane Lothamer, Ramón Reed, Mark Schumacher, Peter Smith, Lee Spann, Dennis Steckel, Doyle Templeton, and William S. Trampe.

Others present were:

- Dick Bratton, Board Attorney
- Ken Knox, Colorado Division of Water Resources
- Laura Martineau, Crested Butte Chronicle & Pilot
- Tyler Martineau, Manager
- Wayne Schieldt, Colorado Division of Water Resources
- Jill Steele, Office Secretary
- Mary Vader, Gunnison Country Times
- George Wear, Colorado Division of Water Resources

1. CALL TO ORDER

Board President Bill Trampe called the meeting to order at 1:08 p.m.

2. LEGAL MATTERS

2a. ARAPAHOE/UNION PARK LITIGATION

Board Attorney Dick Bratton addressed the Board, saying that the oral arguments in this case took place in Montrose and that the team for the opposition did an excellent job making their presentation. He said that the judge has scheduled a hearing for mid-February and will issue a written opinion before that as to whether he will make a decision from the information existing in the record of if he will open the trial for presentation of additional evidence.

2b. OTHER LEGAL MATTERS

There was no discussion of other legal matters.

3. UPPER GUNNISON PROJECT

The manager said that he has contacted the Bureau of Reclamation to set up a meeting to discuss how the Upper Gunnison Project water rights could be integrated into the Aspinall Unit. He added that Carol DeAngelis, of the Bureau of Reclamation, is working on setting up a date for the meeting.

4. BLUE MESA RESERVOIR WATER SERVICE CONTRACT

The manager discussed his January 3, 1996 memorandum which was circulated to the Board. He said that he thinks the Bureau would be enthusiastic about the District playing a middle role in facilitating water service contracts between the Bureau and individuals. He said it is unclear exactly what the District's obligations and reporting requirements would be were the District to play this role.

There was some discussion regarding what benefit the District would derive from playing this role. No decision was reached on the matter.

5. REVIEW PROCESS FOR WATER RIGHTS APPLICATIONS

The manager called attention to his January 5, 1996 memorandum which was circulated to the Board in their meeting folders. He suggested that the Board members may wish to read the information it contains and discuss it at the next meeting. He reviewed the conclusion at the end of the memorandum which identified the gaps in the water rights application review process as being: Review of the individual and cumulative impacts of exempt wells, review of cumulative impacts of anticipated changes in water rights that will take place in the future, and comprehensive review of impacts on the environment of proposed water rights.

The consensus of the Board was to continue the discussion of this matter at the February, 1996 Board meeting.

6. WATER MEASUREMENT WORKSHOP

Lee Spann addressed the Board saying that the water measurement workshop will be held on February 22, 1996 at 1:00 p.m., with the participation of Ken Knox and John Scott.

There was discussion regarding how to notify interested parties of the workshop. It was decided that Ken Knox will write a letter to the Editor of local newspapers, and that the District will send out letters announcing the workshop to Ken Knox's list of water rights holders.

7. JOB DESCRIPTION AND PERFORMANCE EVALUATION PROCEDURE FOR

MANAGER

Board members discussed whether the manager's job description should be part of the manager's contract and whether the list of duties in the job description should be specific or general.

A three-person committee consisting of Susan Lohr, Diane Lothamer, and Mark Schumacher was appointed to continue development of the job description for the manager.

8. MANAGER'S CONTRACT FOR 1996

Ramón Reed said that a SEP (Simplified Employee Pension) is a retirement plan whereby an individual can set up an Individual Retirement Account to which the District can contribute. Board consensus was that the manager investigate this type of retirement plan.

Lee Spann moved and Dennis Steckel seconded that the District honor the verbal commitment made to the manager for a salary increase of 4.8% (to \$49,800.00), District contribution of 3% of the 1996 salary to a retirement plan, and four weeks of vacation as per the manager's memorandum of October 27, 1995, and that the District hold in abeyance the 3% District salary contribution to a retirement plan while the manager investigates setting up a retirement program. The motion carried.

9. MISCELLANEOUS MATTERS

Ken Knox, Division Engineer, told the Board that the Taylor Park Reservoir accounting spreadsheet is now completed and that a copy has been given to the manager. He said the spreadsheet includes water storage amounts in Taylor Park Reservoir and the Aspinall Unit, evaporation, river flow gages, and that it assigns credits for first and second fills and exchanges with Blue Mesa Reservoir. He thanked Wayne Schieldt for his work on the development of the spreadsheet.

The manager addressed the board, saying that the 1995 bills from Andy Williams would exceed the \$10,000.00 outlined in the cost-sharing agreement with the River District by \$3,271.15. He asked for the Board's consideration of his January 9, 1996 draft letter to Roland Fischer of the River District requesting an additional amount of \$3,271.15 to continue the fifty-fifty cost sharing of Andy Williams' bills for 1995, \$10,000.00 of cost sharing toward the 1996 Williams, Turner & Holmes bills, and \$5,000.00 towards Duane Helton's bills for 1996.

There was discussion among the Board members about the tracking and reporting of the overrun of legal expenses incurred by Andy Williams in 1995.

Diane Lothamer moved and Susan Lohr seconded approval of the draft letter to Roland Fischer including a revision to the letter requesting that the River District match the

\$10,000.00 currently budgeted by the Upper Gunnison District for work to be performed by Williams, Turner & Holmes in 1996, and that the manager and Board President attend the January 16, 1996 River District meeting. The motion carried.

10. UNSCHEDULED CITIZENS

Pam Ayers, Director of the Western State College Water Workshop, said that she is trying to gather information on policies concerning instream flows. She handed out a survey on the subject to Board members, requesting their return within three weeks.

11. APPROVAL OF DECEMBER 11, 1995 MEETING MINUTES

Butch Clark moved and Susan Lohr seconded approval of the December 11, 1995 meeting minutes. The motion carried.

12. CONSIDERATION OF OPERATIONAL EXPENSES PAID

Dennis Steckel moved and Diane Lothamer seconded approval of Operational Expenses Paid. The motion carried.

13. CONSIDERATION OF OTHER EXPENSES PAYABLE

Board Treasurer Diane Lothamer said that there are two additions to the Other Expenses Payable: The Andy Williams bill in the amount of \$1,776.13, and the Bratton & McCLOW bill in the amount of \$4,342.20, which were circulated to Board members in their meeting folders.

Diane Lothamer moved and Carol Drake seconded approval of Other Expenses Payable with the two additions of Williams, Turner & Holmes, \$1,776.13 and Bratton & McCLOW, \$4,342.20.

Ramón Reed moved and Dennis Steckel seconded to amend the motion to approve Other Expenses Payable with the exception of the Williams, Turner & Holmes bill in the amount of \$1,776.13, and to vote separately on approval of that bill. The motion to amend carried.

The amended motion carried.

The motion to pay the December Williams, Turner & Holmes bill in the amount of \$1,776.13 carried.

14. MONTHLY BUDGET REPORT

Board Treasurer Diane Lothamer asked for questions or comments from Board members.

There were none.

15. CONSIDERATION OF RESOLUTION DESIGNATING COMMUNITY BANKS OF COLORADO GUNNISON AS A DEPOSITORY OF THE DISTRICT

Diane Lothamer moved and Ramón Reed seconded adoption of Resolution 96-1, A Resolution to Designate Community Banks of Colorado Gunnison as a Depository of The District. The motion carried.

16. FUTURE MEETINGS

The next meeting of the Board of Directors of the Upper Gunnison River Water Conservancy District will be February 12, 1996 at the Gunnison County Courthouse, at 1:00 p.m.

17. ADJOURNMENT

Board President Bill Trampe adjourned the January 8, 1996 meeting at 3:35 p.m.

Respectfully submitted,

Mark Schumacher, Secretary

APPROVED:

William S. Trampe, President

Upper Gunnison River Water Conservancy District

BOARD OF DIRECTORS

Monday, January 8, 1996

Gunnison County Community Building
County Fairgrounds
Gunnison, Colorado

A G E N D A

REGULARLY SCHEDULED MEETING

- | | |
|-----------|--|
| 1:00 p.m. | 1. Call to Order |
| 1:10 p.m. | 2. Legal Matters |
| | a. Arapahoe/Union Park Litigation |
| | b. Other Legal Matters |
| 1:20 p.m. | 3. Upper Gunnison Project |
| 1:30 p.m. | 4. Blue Mesa Reservoir Water Service Contract |
| 1:40 p.m. | 5. Review Process for Water Rights Applications |
| 1:50 p.m. | 6. Water Measurement Workshop |
| 2:00 p.m. | 7. Job Description and Performance Evaluation Procedure for Manager |
| 2:30 p.m. | 8. Manager's Contract for 1996 |
| 3:00 p.m. | 9. Miscellaneous Matters |
| 3:15 p.m. | 10. Unscheduled Citizens |
| 3:20 p.m. | 11. Approval of December 11, 1995 Meeting Minutes |
| 3:25 p.m. | 12. Consideration of Operational Expenses Paid |
| 3:30 p.m. | 13. Consideration of Other Expenses Payable |
| 3:35 p.m. | 14. Monthly Budget Report |
| 3:40 p.m. | 15. Consideration of Resolution Designating Community Banks of Colorado Gunnison as a Depository of the District |
| 3:45 p.m. | 16. Future Meetings |
| 3:50 p.m. | 17. Adjournment |

Persons with special needs due to a disability are requested to call the district at 641-6065 at least 24 hours prior to the meeting.

275 South Spruce Street * Gunnison, Colorado 81230
Telephone (970) 641-6065 * Fax (970) 641-6727

Upper Gunnison River Water Conservancy District

MEMORANDUM

*Rec
Contract
and policy*

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: January 3, 1996

SUBJECT: Agenda Item 4, January 8, 1996, Board Meeting --
Blue Mesa Reservoir Water Service Contract.

I have continued to obtain information from the Bureau of Reclamation concerning a Blue Mesa Reservoir water service contract for domestic augmentation purposes in the Upper Gunnison Basin. In a discussion with Ed Warner, Dave Roberts, and Steve McCall of the USBR's Grand Junction office on December 18, I learned the following:

- 1) The Hidden River Ranch water service contract would be the first contract that the Bureau of Reclamation has entered into for sale of Blue Mesa water since 1991.
- 2) The application process for Hidden River Ranch with the Bureau of Reclamation will be relatively simple:
 - a) Hidden River Ranch has paid its application fee to the USBR of \$300.00.
 - b) The USBR will obtain a "Basis of Negotiation" for the contract from Washington, D.C. For a small contract this will be a quick process.
 - c) For such a small contract an environmental assessment will probably not be needed. The USBR will probably treat the contract as a categorical exclusion. A Section 7 consultation on the effects of the contract on endangered fish would be required. The Section 7 consultation requires a lot of paperwork but would probably not prevent the contract from taking place.
 - d) A simple standardized contract will be developed and sent to Hidden River Ranch for execution. My impression is that the process will be completed in about three months.

3) If the Upper Gunnison River Water Conservancy District was to apply for a water service contract the process would involve the following:

- a) It is possible that the District could acquire up to as much as 50 acre-feet without an environmental assessment being required.
- b) A Section 7 consultation on the effects of the contract on endangered fish would be required, but would probably not prevent the contract from being completed. Payment of the one-time depletion charge would not be required, since Blue Mesa Reservoir is an existing project covered by the Bureau of Reclamation's involvement in the Recovery Program.
- c) If there was not a lot of local controversy surrounding the contract, it could probably be completed in about three months.

I have asked the Bureau of Reclamation to look into whether the District could enter into a contract for a variable amount of water or develop a contract that could be readily amended. This would enable the District to avoid contracting for more water than it is able to sell at the present time. As of today I have not received an answer to this question.

*Why
can't they not
buy water
now? why
not?*

- Do we have any one that
wants water
- are we in a position to perform
small amount of land subsidence
- Do we want to under cut value of
water of people in area
Bear Creek
- 1977 - or also later

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: December 26, 1995

SUBJECT: Agenda Item 7, January 8, 1996, Board Meeting --
Job Description and Performance Evaluation Procedure
for Manager.

ON JANUARY 8 PLEASE BRING THE FOLLOWING DOCUMENTS PREVIOUSLY
PROVIDED TO THE BOARD UNDER AGENDA ITEM 7 OF THE NOVEMBER 13,
1995 MEETING AGENDA:

PROPOSED PERFORMANCE EVALUATION PROCESS FOR THE MANAGER
DRAFT POSITION DESCRIPTION
DRAFT PERFORMANCE EVALUATION
DRAFT EMPLOYMENT AGREEMENT

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: December 26, 1995

SUBJECT: Agenda Item 8, January 8, 1996, Board Meeting --
Manager's Contract for 1996.

There are several matters that remain to be resolved with respect to my contract for 1996. The first is whether the board should make the manager's job description a part of the manager's contract. A discussion of the job description has been scheduled under Agenda Item 7 for the January 8 board meeting.

The second matter relates to the manager's compensation. Last fall the Board's committee and I agreed that there would be a benefit to both the manager and the district if part of the manager's compensation could be paid as a retirement benefit instead of as salary. The District receives a minor benefit because it does not have to pay FICA on an employee benefit but it does have to pay it on salary. The manager receives a significant benefit in that income taxes would be deferred on the part of the manager's compensation that went towards a retirement plan. The committee and I agreed that I would see if there was a retirement plan that I could set up for myself instead of the District having to get into the business of administering a retirement program. The board approved the manager's contract for 1996 which provides for the board to contribute 3% of gross salary towards a retirement program that I have set up for myself. The 3% retirement contribution was included in the Employee Benefits line item in the 1996 Budget.

I have since learned the following:

- 1) Individuals may set up an Individual Retirement Account (IRA) for themselves and defer taxes on the contributions that they make directly to the plan. Earnings that an individual deposits into the IRA must, however, be paid to him/her as salary, not as an

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employee benefit. Such earnings are subject to FICA payments from both the employee and employer. The funds would have to be paid from the Administrative Salary line item in the budget.

- 2) The District can not pay funds from the employee benefits line item into a retirement plan that an employee has set up for him/herself.
- 3) There are a number of retirement associations that manage retirement plans for local government agencies. The association carries out nearly all of the administration and paperwork necessary for the local government. In this case the District rather than the employee would be providing the plan. Funding for the plan would come from an employee benefits type of line item. An example of such an association is the Colorado County Officials and Employees Retirement Association (See attached information).
- 4) The District could set up its own retirement plan. The administrative burden and cost of doing this for a small number of employees would probably make this option unattractive.

As things currently stand the manager's proposed contract and the District's 1996 budget do not mesh with one another. The funds that the District has budgeted under the employee benefits line item for retirement can not be paid towards the retirement plan described in the contract.

Probably the quickest solution for the District is for the manager's contract to be revised so as to delete the retirement provisions, and for the retirement compensation to be paid as salary instead. During the year the board would need to make a line item transfer of funds in the 1996 budget from Employee Benefits to Administrative Salary in order to reflect the change.

In the long run I think it would be worthwhile for the board to consider adopting a retirement plan through a retirement organization because of the opportunity it will provide your employees to defer taxes beyond what they can achieve through an IRA.

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: December 26, 1995

SUBJECT: Colorado County Officials and Employees Retirement Association.

The following information has been obtained from the Colorado County Officials and Employees Retirement Association:

In 1966 the State Legislature authorized counties to establish and maintain a retirement association. The Colorado County Officials and Employees Retirement Association (CCOERA) was formed and a retirement plan was developed which became effective July 1, 1968.

In 1969 the Colorado statutes were amended to extend retirement coverage to employees of special districts and in 1973 to employees of municipalities. In recent years the CCOERA has grown rapidly. It now includes 51 of Colorado's 52 counties, 33 municipalities and 59 special districts. The retirement plan provides benefits for more than 8,500 employees and protection for their dependents. Gunnison area local governments that belong to the plan include: City of Gunnison, Crested Butte Fire Protection District, Crested Butte South Metropolitan District, Gunnison County, Hinsdale County, Mt. Crested Butte Water and Sanitation District, Town of Crested Butte, and Town of Mt. Crested Butte.

The retirement plan is a formal pension plan adopted by the CCOERA to provide income after retirement for eligible officials and employees of member entities. Retirement benefits through the plan are in addition to those provided under Federal Social Security.

Each Colorado county, special district or municipality may choose to adopt the retirement plan. Both employer and employee make contributions to the fund. The investment of these contributions provide plan benefits.

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Participation in the retirement plan is optional for employees of record on the effective date of plan adoption. Thereafter, all new employees are required to participate upon eligibility as a condition of employment.

The employer has the option of covering all employees under the program or just those employees who are employed regularly for a minimum of 20 hours per week or 5 months a year. Employees must complete a waiting period in order to enter the Retirement Plan. The waiting period is selected by the employer and may vary from zero to twelve months of continuous service.

The employer contribution to the plan may be set by the employer at between 3% and 6% of the employee's compensation. Employees are required to contribute an amount to the plan equal to the contribution made by the employer.

Employees may contribute up to an additional ten percent of their compensation (after taxes) through a voluntary contribution. CCOERA also offers a deferred compensation plan.

The employer determines the time at which its employees will vest in the retirement plan. Vesting is the period of time after which an employee becomes eligible to receive 100% of the employer's contribution to the plan if he/she leaves the service of the employer. The employer may select a variety of vesting schedules ranging from ten year vesting to immediate vesting. Employees always receive the portion of the contributions that they have paid into the plan when they leave the service of the employer regardless of whether they have become vested or not.

Memorandum:

To: Board Members of the Upper Gunnison River Water Conservancy District

From: Bill Trampe *WST*

Date: November 7, 1995

Subject: Committee Report on Manager 's Contract for 1996

The Officers Committee of Diane Lothamer, Mark Schumacher, and Bill Trampe recently met with Tyler Martineau and discussed several issues in regard to Tyler's contract for 1996 and also how the District should proceed to establish longer term procedures for Manager evaluation and compensation consideration as it relates to that evaluation.
Conclusions of that discussion:

The committee recommends to the District Board Members that a written evaluation of the manager's performance be done by all Board Members during the annual evaluation process. The evaluation should be done in a fashion to allow for a simple scoring system, for example scoring could be done on a 1-5 basis. That scoring system should then be tied to a merit raise compensation system that allows for a justifiable and meaningful compensation package.

There was not clear consensus on how to establish policy in regard to increases in compensation based on cost of living.

There was, however, agreement among all present that as annual compensation increases add on year after year it very possibly can become overly burdensome to the District. When the District Board reaches the conclusion that the job it wants done is no longer worth more than what it is willing to pay then the Manager is going to have to decide if he or she can perform for the compensation offered.

There was limited discussion about alternative hiring scenarios to accomplish the desired functions of the District.

The committee recommends that an annual review of the job description of the Manager's position be accomplished.

In discussion specific to the Manager's 1996 Contract, the Committee recommends that the Manager receive a 10% increase in compensation. The committee urged Tyler to consider various ways of receiving that compensation increase, and to communicate his desires to the committee. You will find attached to this memo a memorandum, from the Manager, listing his suggestion.

DRAFT

*Do more reports
50+ work week*

EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into on December 11, 1995 between the **UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT** (District) and **TYLER MARTINEAU** (Manager).

1. **Employment.** The District employs the Manager and the Manager accepts employment upon the terms and conditions contained in this Agreement.

2. **Term.** The term of this Agreement shall begin on January 1, 1996, and shall terminate on December 31, 1996.

3. **Compensation.** The District shall pay the Manager for all services rendered a salary of \$4,150.00 per month, payable on 15th day of the month following the month in which the services are rendered. Salary payments shall be subject to withholding and other applicable taxes.

*17,500
\$48,800
up from 42,000*

4. **Duties.** The District hereby employs the Manager as General Manager of the District, with such precise powers and duties in that capacity as may be determined from time to time by the Board of Directors (Board). Notwithstanding the ability of the Board to expand or curtail the powers and duties of the Manager, the Manager's duties shall generally include, without limitation, the following:

- a. Administration of the day-to-day business affairs of the District;
- b. Preparation of an agenda and appropriate background information regarding substantive issues to be addressed by the Board for use at meetings of the Board, and attendance at all regular and special meetings of the Board;
- c. Representation of the District, as directed by the Board, in its dealings with governmental and non-governmental agencies, commissions and authorities (excluding legal representation) and with the general public, including attendance on behalf of the District at such meetings and conferences as the Board shall authorize and direct;
- d. Management of engineering services relating to the maintenance of the conditional water rights held by the District, support of any plan for augmentation approved by the Board, water studies and similar engineering services.

*and
conferences*

5. **Extent of Services.** The Manager shall devote his full time and attention to the District's business during the term of this Agreement and shall work such hours and such times as are reasonably necessary to accomplish his job duties.

6. **Other Business Activity.** The Manager shall not engage in the performance of engineering services or other business activity, regardless of whether it is pursued for gain or profit, which unreasonably affects his ability to perform the duties described in this Agreement.

7. **Expenses.** The Manager may incur reasonable expenses while performing the District's business, including mileage and expenses for travel, and similar items. The District will reimburse the Manager for all such expenses. To obtain reimbursement for such expenses, the Manager shall prepare monthly an itemized account of such expenditures which shall be subject to review and approval by the Board.

8. **Health Insurance.** Apart from the compensation provided for in this Agreement, the District shall as a separate benefit pay, in an amount approved by the board, the premiums for health insurance which the Manager has provided for himself. The limit of such health insurance benefit shall be an amount equal to the premium for Manager's basic hospital-surgical policy with the State Farm Insurance Company, Policy Number H4463639 0606. The provisions of this paragraph shall not be construed to require the District to provide a health insurance policy or program for the Manager.

9. **Vacation and Unpaid Leave.** The Manager shall earn vacation for each full month of service at a rate of 13-1/3 hours per month. The Manager shall be entitled to accumulate up to 240 hours paid vacation. Accumulation in excess of the maximum accrual shall be subject to forfeit. The Manager shall be paid for all accumulated vacation at the time of termination of employment. In addition to the vacation described in this paragraph, the Manager shall be permitted, upon reasonable notice to the Board, to be absent from his duties without compensation, provided that the activities of the District will not be adversely affected thereby.

10. **Sick Leave.** The Manager shall earn sick leave for each full month of service at a rate of 6-2/3 hours per month. The Manager shall be entitled to accumulate up to 240 hours of paid sick leave. Upon separation from employment by permanent disability (or death), the Manager (or Manager's estate) shall be paid 100% of all accrued sick leave up to a maximum of 240 hours at the Manager's then current rate of pay. Upon separation from employment for any other reason the manager shall receive payment at the then current rate of pay for accrued sick leave based upon the following formula: Number of sick leave hours accrued (up to 240 hours), divided by 3, equals sick leave payment.

11. **Retirement.** In addition to the compensation provided for in paragraph 3, and in addition to any FICA payments, the District shall each month contribute an amount equal to 3% of Manager's monthly salary to a retirement plan which the Manager

was 15 hrs 20 day

a little over 3 weeks vacation

60 + 1 1/2 week 5 week

P. Ben 1,494 retirement

has provided for himself. The provisions of this paragraph shall not be construed to require the District to provide a retirement plan or program for the Manager.

12. Termination of Agreement.

a. Either party may, without cause, terminate this Agreement at any time by giving thirty days' written notice. In that event, the Manager, if requested by the District, shall continue to render his services, and shall be paid his regular compensation up to the date of termination.

b. Either party may, with cause, terminate this Agreement at any time by delivery of written notice of termination.

c. Upon effective date of termination of this Agreement, all documents, records, files, and any other property of the District in the custody or control of the Manager shall be immediately surrendered to the District, and the Manager expressly waives any claim to such material by virtue of it being work product.

13. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

14. Notices. Any notice required or desired to be given under this agreement shall be given in writing and delivered by personal service or sent by certified mail, return receipt requested, to the Manager's residence or to the District's business office, with a copy by first-class mail to the President of the Board.

15. Waiver. The District's waiver of a breach of any provision of this Agreement by the Manager shall not operate or be construed as a waiver of any subsequent breach by the Manager. No waiver shall be valid unless in writing and signed by an authorized representative of the District.

16. Entire Agreement. This Agreement contains the entire understanding of the parties except as supplemented by the District's employee leave and benefits policy. To the extent that the terms of this Agreement are different than the guidelines and practices adopted by the board in its employee leave and benefits policy the terms of this Agreement shall prevail. This Agreement may not be changed orally but only by an agreement in writing signed by each of the parties to the Agreement.

17. Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

18. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on December 11, 1995.

UPPER GUNNISON RIVER
WATER CONSERVANCY DISTRICT

ATTEST:

Mark Schumacher, Secretary

By: _____
William S. Trampe, President

MANAGER

Tyler Martineau

Memorandum:

To: Board Members of the Upper Gunnison River Water Conservancy District

From: Bill Trampe

Date: November 7, 1995

Subject: Committee Report on Manager 's Contract for 1996

The Officers Committee of Diane Lothamer, Mark Schumacher, and Bill Trampe recently met with Tyler Martineau and discussed several issues in regard to Tyler's contract for 1996 and also how the District should proceed to establish longer term procedures for Manager evaluation and compensation consideration as it relates to that evaluation.

Conclusions of that discussion:

The committee recommends to the District Board Members that a written evaluation of the manager's performance be done by all Board Members during the annual evaluation process. The evaluation should be done in a fashion to allow for a simple scoring system, for example scoring could be done on a 1-5 basis. That scoring system should then be tied to a merit raise compensation system that allows for a justifiable and meaningful compensation package.

There was not clear consensus on how to establish policy in regard to increases in compensation based on cost of living.

There was, however, agreement among all present that as annual compensation increases add on year after year it very possibly can become overly burdensome to the District. When the District Board reaches the conclusion that the job it wants done is no longer worth more than what it is willing to pay then the Manager is going to have to decide if he or she can perform for the compensation offered.

There was limited discussion about alternative hiring scenarios to accomplish the desired functions of the District.

The committee recommends that an annual review of the job description of the Manager's position be accomplished.

In discussion specific to the Manager's 1996 Contract, the Committee recommends that the Manager receive a 10% increase in compensation. The committee urged Tyler to consider various ways of receiving that compensation increase, and to communicate his desires to the committee. You will find attached to this memo a memorandum, from the Manager, listing his suggestion.

Upper Gunnison River Water Conservancy District

M E M O R A N D U M

TO: Diane Lothamer, Mark Schumacher, and Bill Trampe
FROM: Tyler Martineau *TM*
DATE: October 27, 1995
SUBJECT: Manager's Contract for 1996

The following is my suggestion as to how the increase in my compensation that we discussed on October 23 could be allocated:

- * 4.8% increase in salary to \$49,800.00
- * District contributes 3% of salary to retirement plan
- * Manager receives one week of additional vacation, increasing the total vacation to 4 weeks per year

Here is a breakdown of the increase:

| | | |
|-----------------|---------------|-------------|
| Salary Increase | \$47,500.00 | |
| | <u>X 4.8%</u> | \$ 2,300.00 |
| Retirement | \$49,800.00 | |
| | <u>X 3.0%</u> | \$ 1,494.00 |
| Vacation | \$49,800.00 | |
| | <u>/ 52</u> | \$ 958.00 |
| Total Increase | | \$ 4,752.00 |

Upper Gunnison River Water Conservancy District

MEMORANDUM

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: November 13, 1995

SUBJECT: Agenda Item 7, November 13, 1995, Board Meeting --
Preliminary Draft of Contract for Manager for 1996.

Based upon the experience of the past several years I would recommend that the District follow a more formal process in the future for carrying out the manager's annual performance evaluation. The following is a suggested approach for providing structure to the board's review of the manager's contract, job description, performance evaluation, and compensation:

- 1) The manager's job description should be updated annually. A copy of a draft job description for 1996 is attached.
- 2) The manager's job description should be attached to the manager's contract, so that it is clear to all parties what the responsibilities of the manager will be over the upcoming year.
- 3) A written performance evaluation for the manager should be completed by the board of directors each year. The manager's performance evaluation should be based directly on the manager's job description so that the evaluation will be consistent with what the manager was asked to do at the beginning of the year. A copy of a suggested performance evaluation for 1996 is attached.
- 4) A stepwise process for proceeding from performance evaluation, to review of compensation, to development of a new contract and job description for the upcoming year should be established and followed consistently. The process should include written documentation. Attached is a suggested performance evaluation process to address this issue.

PROPOSED PERFORMANCE EVALUATION PROCESS FOR MANAGER

AUGUST BOARD MEETING:

- Directors are provided with copies of preliminary performance evaluation to fill out for manager.
- Directors consider district activities and priorities for the upcoming year.
- Manager has the option of filling out as much of the preliminary performance evaluation as he/she wishes. It will be his/hers to keep. No record will be kept in the file.
- After the board meeting directors fill out preliminary performance evaluations. Manager and directors individually consider changes to the managers position description based upon the activities of the district for the upcoming year. Manager is asked to consider short and long-term goals related to his/her career.

SEPTEMBER BOARD MEETING

- Directors finalize district activities and priorities for the upcoming year.
- Directors review staffing needs for the upcoming year.
- Directors and manager discuss ideas for revision of position description for next year.
- Directors and manager review preliminary performance evaluations.
- Directors and manager discuss employee's progress in meeting last year's specific goals.
- Directors and manager discuss specific goals for next year.
- Directors and manager discuss any new areas of responsibility for upcoming year.

BOARD COMMITTEE MEETING

- After the September board meeting board committee completes manager's performance evaluation, considers revisions to the manager's position description if needed for upcoming year, and discusses manager's compensation.

BOARD COMMITTEE MEETING WITH MANAGER

- After the board committee meeting the committee meets with the manager and provides him/her with a copy of completed performance evaluation to review and initial.
- Board committee and manager firm up plans and goals for the future.
- Board committee and manager agree to job description for upcoming year.
- Board committee and manager discuss compensation for the upcoming year.

OCTOBER BOARD MEETING:

- Directors are provided with a completed copy of manager's performance evaluation.
- Directors consider approval of manager's job description for the upcoming year.
- Directors consider approval of manager's compensation for the upcoming year.
- After the October board meeting the Board President places a copy of final performance evaluation, and updated job description into managers personnel file, and manager prepares draft of contract for review by the board at the November board meeting.

POSITION DESCRIPTION FOR 1996

MANAGER

any change

Job Summary:

The manager serves in the sole management position for the District and reports directly to the Board of Directors. The manager provides the Board of Directors with information and recommendations to assist the board in carrying out its responsibilities. The manager is responsible for delivery of District services to District users and for coordination of District functions with local, state, and federal agencies. The position requires that the manager work closely with other government agencies with water responsibilities in order to seek the optimum management and utilization of water resources for the benefit of the District. The manager is responsible for management of District budgeting and financial affairs, supervision of District staff, and for the efficient carrying out of day to day activities in the District offices.

Job Responsibilities:

- * Assists the Board of Directors in carrying out priorities of the District including:
 - Arapahoe/Union Park litigation.
 - Development of Upper Gunnison Project water rights.
 - Development of Taylor Park Reservoir/Gunnison River accounting procedures.
 - Other priorities as determined by the Board.
- * Assists the Board of Directors in carrying out other on-going activities of the District including:
 - Preparation for water rights administration in the Upper Gunnison Basin.
 - Taylor Park Reservoir operations.
 - Development of Taylor Park Reservoir water rights.
 - Aspinall Unit operations.
 - Participation in endangered fish recovery activities.
 - Stream monitoring programs.
- * Reports to the Board of Directors on issues of importance to the District. Provides studies, recommendations, and other information to the Board of Directors to assist the board in determining District policy or other appropriate action.
- * Works closely with staff of local, state, and federal agencies in representing the interests of the District in

aspects of water management and water policy that may affect the District.

- * Administers contracts and agreements including those between the District and the federal government.
- * Provides administrative and technical support to the District's attorneys in water rights litigation and other water matters.
- * Ensures that the board of directors, and the public are provided with meeting agendas, meeting minutes, memoranda on District activities, financial reports, and all other information needed at each meeting so that the board can carry out its responsibilities.
- * Prepares the District's annual budget for consideration and adoption by the Board of Directors. Assists the Board of Directors in complying with the requirements of the Local Budget Law of Colorado, and the Tabor Amendment.
- * Administers the annual budget, ensuring that incoming revenues are properly recorded and deposited, District expenditures are properly approved and paid, and necessary bookkeeping and other financial records are maintained.
- * Ensures that an annual audit is prepared for approval by the Board of Directors, and submitted to the State Auditor.
- * Assists the Board of Directors in complying with the requirements of the Water Conservancy Act, the District's organizational decrees, the District's bylaws, and the Open Meetings law.
- * Assists the Board of Directors in carrying out activities related to state and federal legislation that may affect the interests of the District.
- * Ensures that the public is kept informed of activities of the District by working cooperatively with the media, through public newspaper notices, and through other public information efforts such as a newsletter.
- * Communicates on behalf of the Board of Directors through correspondence or other means with other agencies, organizations, and individuals as requested by the board.
- * Supervises other District employees.
- * Ensures that the district maintains comprehensive and well organized files and records.

- * Provides the Board of Directors with a quarterly report on the Manager's activities.

Performance Criteria:

- * Effectively and efficiently carries out the job responsibilities listed above on a timely basis.
- * Effectively sets priorities and stays organized under pressure.
- * Reacts resourcefully to problems as they occur and exercises sound judgment. Exercises discretion within limits established by the Board of Directors.
- * Handles confidential information professionally.
- * Gets along well with the Board of Directors, other workers, and the public.
- * Carries out policies and procedures established by the Board of Directors.

Education, Training, and Experience Requirements

- * Any combination of education and experience equivalent to a bachelor's degree in civil engineering, hydrology, or related field. A minimum of three years experience in water resource engineering, hydrology, water rights, and/or public administration required.
- * Knowledge of Colorado water rights law and administration.
- * Proficiency in operation of computers especially for water rights administration and hydrologic modelling.
- * Knowledge of water use practices in Colorado for agricultural, domestic, recreational, and environmental purposes.
- * Knowledge of reservoir operations, and reservoir storage accounting methodologies.
- * Knowledge of public administration including budgeting, financial management, personnel management, and working effectively with boards/commissions and the public.
- * Ability to express ideas effectively, orally and in writing.

- * Ability to establish and maintain effective working relationships with a variety of local, state, and federal organizations.
- * Proficiency in analyzing complex issues and offering productive solutions.
- * Knowledge of state and federal water management agencies such as the Bureau of Reclamation, National Park Service, U. S. Fish & Wildlife Service, Colorado Water Conservation Board, State Engineers Office, and the Colorado River Water Conservation District; their resource management practices, policies, and personnel.
- * Knowledge of federal statutes affecting water management in the Gunnison Basin such as the Endangered Species Act, the Colorado River Storage Project Act, other laws of the Colorado River, the Clean Water Act, the Wild & Scenic Rivers Act, etc.
- * Knowledge of the politics of water in Colorado, including the major players in the state legislative process such as Colorado Water Congress, Sierra Club, Environmental Defense Fund, Front Range Cities, and Conservancy Districts.
- * Colorado Drivers License.

PERFORMANCE EVALUATION FOR 1996

MANAGER

Rate each item on a scale of 1 to 5:

- 1 = Unsatisfactory
- 2 = Needs some improvement
- 3 = Satisfactory
- 4 = Very Good
- 5 = Excellent

Job Responsibilities

Rating

Comment

- * Assists the Board of Directors in carrying out priorities of the District including:
 - Arapahoe/Union Park litigation.
 - Development of Upper Gunnison Project water rights.
 - Development of Taylor Park Reservoir/Gunnison River accounting procedures.
 - Other
- * Assists the Board of Directors in carrying out other on-going activities of the District including:
 - Preparation for water rights administration in the Upper Gunnison Basin.
 - Taylor Park Reservoir operations.
 - Development of Taylor Park Reservoir water rights.
 - Aspinall Unit operations.
 - Participation in endangered fish recovery activities.
 - Stream monitoring programs.
- * Reports to the Board of Directors on issues of importance to the District. Provides studies, recommendations, and other information to the Board of Directors to assist the board in determining District policy or other appropriate action.

PERFORMANCE EVALUATION FOR 1996

- * Works closely with staff of local, state, and federal agencies in representing the interests of the District in aspects of water management and water policy that may affect the District.
- * Administers contracts and agreements including those between the District and the federal government.
- * Provides administrative and technical support to the District's attorneys in water rights litigation and other water matters.
- * Ensures that the board of directors, and the public are provided with meeting agendas, meeting minutes, memoranda on District activities, financial reports, and all other information needed at each meeting so that the board can carry out its responsibilities.
- * Prepares the District's annual budget for consideration and adoption by the Board of Directors. Assists the Board of Directors in complying with the requirements of the Local Budget Law of Colorado, and the Tabor Amendment.
- * Administers the annual budget, ensuring that incoming revenues are properly recorded and deposited, District expenditures are properly approved and paid, and necessary bookkeeping and other financial records are maintained.
- * Ensures that an annual audit is prepared for approval by the Board of Directors, and submitted to the State Auditor.
- * Assists the Board of Directors in complying with the requirements of the Water

PERFORMANCE EVALUATION FOR 1996

Conservancy Act, the District's organizational decrees, the District's bylaws, and the Open Meetings law.

- * Assists the Board of Directors in carrying out activities related to state and federal legislation that may affect the interests of the District.
- * Ensures that the public is kept informed of activities of the District by working cooperatively with the media, through public newspaper notices, and through other public information efforts such as a newsletter.
- * Communicates on behalf of the Board of Directors through correspondence or other means with other agencies, organizations, and individuals as requested by the board.
- Supervises other District employees.
- * Ensures that the district maintains comprehensive and well organized files and records.
- * Provides the Board of Directors with a quarterly report on the Manager's activities.

Performance Criteria:

- * Effectively and efficiently carries out the job responsibilities listed above on a timely basis.
- * Effectively sets priorities and stays organized under pressure.
- * Reacts resourcefully to problems as they occur and exercises sound judgment. Exercises discretion within limits

PERFORMANCE EVALUATION FOR 1996

established by the Board of Directors.

- * Handles confidential information professionally.
- * Gets along well with the Board of Directors, other workers, and the public.
- * Carries out the policies and procedures established by the Board of Directors.

General Evaluation:

Description of any general issues or concerns:

Suggested Solutions:

Manager's performance in achieving specific goals established at previous evaluation:

Manager's specific goals for upcoming year:

PERFORMANCE EVALUATION FOR 1996

Plans for new areas of
responsibility for the Manager for
the upcoming year:

Overall rating of Manager's job
performance:

Comments:

Prepared by (Board President's
Signature):
Date:

Reviewed by (Manager's Signature):
Date:

Agenda Item 9
January 8, 1996

12-26-95

P.O. DRAWER D, MT. CRESTED BUTTE, COLORADO 81225



Mt. Crested Butte

PHONE: (970) 349-6632

December 21, 1995
Letter #95-120

Tyler Martineau
Upper Gunnison Water Conservancy District
275 South Spruce Street
Gunnison, CO 81230


Dear Tyler:

As you know, the Town of Mt. Crested Butte is investigating the possibility of forming a tax increment district pursuant to Colorado law. This district would most likely be a Downtown Development Authority (DDA) established pursuant to Section 31-25-801 C.R.S. et seq.

We have promised to keep all of the taxing jurisdictions that could be affected by the formation of a tax increment district informed as to our process and progress. The next step in our investigation is that we are having a two person "assessment team" from the Colorado Community Revitalization Association (CCRA) come to Mt. Crested Butte to offer advice on our situation and have another workshop with the Town Council. The CCRA officials will be here from January 8 - 9, 1996 and a copy of the tentative itinerary is enclosed with this letter. You are welcome to attend the work session which will be held at 4:00 PM on January 8th.

The two officials from CCRA are former or current practitioners of tax increment financing. One person, Chip Steiner, formerly ran the Fort Collins DDA and the other person, Paul Debenedetti was the attorney for the Denver Urban Renewal Authority for twenty years. We are looking forward to the expertise and experience that they will bring to our situation. Please call me if you have any questions about this project.

Sincerely,


Chuck Stearns
Town Manager

enclosures

TENTATIVE ITINERARY FOR CCRA TAX INCREMENT ASSESSMENT TEAM VISIT
January 8-9, 1996

January 8, 1996

- Noon to 2:00 PM - Arrive at Mt. Crested Butte. Check in at lodging at Nordic Inn, 14 Treasury Road, Mt. Crested Butte, (970) 349-5542.**
- 2:00 PM - Tour Town Center and town with Chuck Stearns, Town Manager and Bill Racek, Planner/Inspector.**
- 4:00 PM - Work session on tax increment financing and Downtown Development Authorities with Town Council and Planning Commission.**
- 6:00 PM + Dinner - with one or two staff members.**

January 9, 1996

- 9:00 AM Breakfast - arrangements TBA**
- Noon Departure for home.**

Questions can be directed to Chuck Stearns, Town Manager, P.O. Drawer D, Mt. Crested Butte, CO 81225. Telephone (970) 349-6632; fax (970) 349-6326; email cstearns@rmii.com.

DRAFT

RESOLUTION 96-___

Agenda Item 15
January 8, 1996

I HEREBY CERTIFY that I am the duly elected and qualified Secretary of the Upper Gunnison River Water Conservancy District and the keeper of the records and seal of said District and that the following is a true and correct copy of a resolution duly adopted at a regular meeting of the Board of Directors of said District held in accordance with the By-Laws of said District on the 8th day of January, 1996.

"Be It Resolved, that Community Banks of Colorado - Gunnison be, and it is hereby, designated a depository of this District and that funds so deposited may be withdrawn upon a check, draft, note or order of the District.

"Be It Further Resolved, that all checks, drafts, notes or orders drawn against said account be signed by any one of the following:

| NAME | TITLE |
|-------------------|----------------|
| William S. Trampe | President |
| Dennis Steckel | Vice President |

and countersigned by any one of the following:

| | |
|-----------------|-----------|
| Diane Lothamer | Treasurer |
| Tyler Martineau | Manager |

whose signatures shall be duly certified to said Bank, and that no checks, drafts, notes or orders drawn against said Bank shall be valid unless so signed.

"Be It Further Resolved, that said Bank is hereby authorized and directed to honor and pay any checks, drafts, notes or orders so drawn, whether such checks, drafts, notes or orders be payable to the order of any such person signing and/or countersigning said checks, drafts, notes or orders, or any of such persons in their individual capacities or not, and whether such checks, drafts, notes or orders are deposited to the individual credit of the person so signing and/or countersigning said checks, drafts, notes or orders, or to the individual credit of any of the other officers or not. This resolution shall continue in force until further written notification to said Bank.

In Witness Whereof, I have hereunto affixed my name as Mark Schumacher, Secretary and have caused the seal of said District to be hereto affixed this 8th day of January, 1996.

Secretary

UGRWCD BUDGET SUMMARY-1995

January 8, 1996 Meeting

| | NOVEMBER | YEAR TO DATE AS OF 11/30/95 | 1995 BUDGET | % Received or Expended |
|--|--------------------|--------------------------------|---------------------|---------------------------|
| REVENUE | | | | |
| General Property Tax-all counties | \$498.79 | \$209,162.18 | \$210,778.00 | 99.23% |
| General Property Tax-prior tax | (\$2.24) | \$246.25 | \$0.00 | |
| Specific Ownership | \$1,314.85 | \$17,854.28 | \$17,000.00 | 105.03% |
| Interest & Penalties-tax | \$35.24 | \$1,142.28 | \$0.00 | |
| Interest on Investments | \$1,026.96 | \$10,093.05 | \$11,300.00 | 89.32% |
| Miscellaneous | \$7,000.00 | \$7,149.06 | \$7,149.00 | 100.00% |
| Total Revenue | \$9,873.60 | \$245,647.10 | \$246,227.00 | 99.76% |
| EXPENSES | | | | |
| Administrative Salary | \$3,958.33 | \$43,541.63 | \$47,500.00 | 91.67% |
| Secretary Salary | \$656.63 | \$7,353.26 | \$8,700.00 | 84.52% |
| Data Entry Salary | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Payroll Taxes & Benefits | \$1,657.33 | \$5,927.20 | \$7,300.00 | 81.19% |
| Staff Conference & Training | \$0.00 | \$0.00 | \$200.00 | 0.00% |
| Legal Expenses | \$5,695.28 | \$67,840.94 | \$73,000.00 | 92.93% |
| Audit and Accounting | \$161.25 | \$3,404.75 | \$4,400.00 | 77.38% |
| Engineering Services | \$0.00 | \$3,001.41 | \$10,000.00 | 30.01% |
| Rent & Utilities | \$0.00 | \$1,500.00 | \$1,500.00 | 100.00% |
| Stream Gages O&M | \$0.00 | \$0.00 | \$19,500.00 | 0.00% |
| Stream Gages Construction | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Bonding | \$0.00 | \$150.00 | \$150.00 | 100.00% |
| Insurance/Premises | \$0.00 | \$250.00 | \$250.00 | 100.00% |
| Office Telephone | \$112.94 | \$1,653.36 | \$2,000.00 | 82.67% |
| Legal Printing | \$185.01 | \$1,107.56 | \$1,300.00 | 85.20% |
| Administrative Travel | \$184.00 | \$2,218.19 | \$3,000.00 | 73.94% |
| Board of Directors Travel | \$0.00 | \$0.00 | \$200.00 | 0.00% |
| Office Supplies | \$0.00 | \$934.13 | \$1,200.00 | 77.84% |
| Postage | \$0.00 | \$1,177.80 | \$1,000.00 | 117.78% |
| Copying | \$0.00 | \$1,236.50 | \$1,400.00 | 88.32% |
| Publications Acquisition | \$0.00 | \$137.80 | \$300.00 | 45.93% |
| Office Equipment | \$70.56 | \$1,719.73 | \$2,200.00 | 78.17% |
| Board of Directors Fees | \$275.00 | \$2,950.00 | \$4,400.00 | 67.05% |
| Board of Directors Mileage | \$86.00 | \$909.40 | \$1,400.00 | 64.96% |
| Uncompahgre Water Users | \$8,538.20 | \$11,538.20 | \$12,000.00 | 96.15% |
| Taylor Park Water Management | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| CWC Membership | \$0.00 | \$545.00 | \$550.00 | 99.09% |
| WSC Water Workshop | \$0.00 | \$1,500.00 | \$1,500.00 | 100.00% |
| Water Resources Study | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Promotion & Guest Expense | \$0.00 | \$740.60 | \$1,000.00 | 74.06% |
| Country Treasurer's Fees | \$23.52 | \$6,698.06 | \$7,000.00 | 95.69% |
| Water Rights Development | \$724.50 | \$3,037.50 | \$5,500.00 | 55.23% |
| Augmentation Plan Development | \$0.00 | \$0.00 | \$0.00 | 0.00% |
| Conversion of Records | \$0.00 | \$0.00 | \$5,000.00 | 0.00% |
| Subtotals: | \$22,328.55 | \$171,073.02 | \$223,450.00 | 76.56% |
| Contingency | | | \$6,500.00 | 0.00% |
| Emergency Reserves | | | \$2,700.00 | 0.00% |
| Water Resource Protection & Development Reserves | | | \$6,677.00 | 0.00% |
| Designated Funds | | | \$6,900.00 | 0.00% |
| TOTALS: | \$22,328.55 | \$171,073.02 | \$246,227.00 | 69.48% |

UGRWCD-FINANCIAL DATA 1995

January 8, 1996 Meeting

| | | |
|------------------------------|-------------------------------------|--------------|
| Balance on Hand-Nov 30, 1995 | | UNRESTRICTED |
| | FNSB Gunnison-Checking Account | \$60,903.10 |
| | Petty Cash | \$100.00 |
| | FNSB Gunnison-Passbook Savings | \$40,274.02 |
| | FNSB Gunnison-Time CD | \$2,887.66 |
| | FNSB Gunnison-Time CD Wetlands | \$1,012.03 |
| | GS&L Passbook appl fees | \$1,397.73 |
| | GS&L - Money Market | \$74,801.78 |
| | GS&L-Time CD | \$20,997.74 |
| | FNB Lake City-Time CD | \$45,273.65 |
| | FNB Lake City-Time CD | \$42,461.30 |
| | FNSB Crested Butte-Passbook Savings | \$42,986.06 |
| | | ----- |
| | TOTAL FUNDS 11/30/95 | \$333,095.07 |

| | | |
|---------------------------------|--------------------------|------------|
| Net Nov Tax Receipts Collection | Paid in December | |
| | Gen Property-Real Estate | \$498.79 |
| | Gen Property-Prior Tax | (\$2.24) |
| | Specific Ownership | \$1,314.85 |
| | Interest & Penalties | \$35.24 |
| | | ----- |

| | |
|---------------------------------|------------|
| TOTAL DECEMBER COLLECTIONS | \$1,846.64 |
| Less: Treasurer's Fees deducted | \$23.52 |

| | | |
|----------------------------------|---|------------|
| Interest on Investments received | in December | \$420.79 |
| | Deposit-State of Colorado/emergency funds | \$7,000.00 |
| | | ----- |

| | |
|-----------------------|--------------|
| TOTAL FUNDS AVAILABLE | \$342,338.98 |
|-----------------------|--------------|

| | | |
|--------------------------------|----------|-------------|
| Less: Total Disbursements thru | 12/31/95 | \$22,672.93 |
| | | ----- |

| | |
|----------------------|--------------|
| TOTAL FUNDS 12/31/95 | \$319,666.05 |
| | ===== |

| Balances as of 12/31/95 | UNRESTRICTED | INTEREST RATES | MATURITY DATES |
|-------------------------------------|--------------|----------------|----------------|
| FNSB Gunnison-Checking Account | \$47,228.45 | 3.00% | |
| Petty Cash | \$100.00 | | |
| FNSB Gunnison-Passbook Savings | \$40,274.02 | 3.50% | |
| FNSB Gunnison-Time CD | \$2,887.66 | 3.50% | 1/18/96 |
| FNSB Gunnison-Time CD Wetlands | \$1,016.81 | 3.50% | 8/16/96 |
| GS&L Passbook-water rental deposit | \$0.00 | | |
| GS&L Passbook-appl fees | \$0.00 | 3.50% | |
| GS&L - Money Market | \$76,440.36 | 3.75% | |
| GS&L - Time CD | \$20,997.74 | 4.50% | 1/26/96 |
| FNB Lake City-Time CD | \$45,273.65 | 5.28% | 4/01/96 |
| FNB Lake City-Time CD | \$42,461.30 | 5.37% | 1/23/96 |
| FNSB Crested Butte-Passbook Savings | \$42,986.06 | 3.50% | |
| | ----- | | |
| TOTAL FUNDS 12/31/95 | \$319,666.05 | | |
| | ===== | | |

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT

Report for the scheduled meeting on January 8, 1995

OPERATIONAL EXPENSES PAID

DATE
12/11

| | PAYEE | AMOUNT |
|--|--|---------|
| | Silverworld Publishing-legal printing | 15.80 |
| | Colorado Compensation Insurance Authority-payroll taxes & benefits | 657.00 |
| | The Saguache Crescent-legal printing | 15.48 |
| | U.S. West-office telephone | 112.94 |
| | First National Summit Bank-941 deposit/payroll taxes | 1499.08 |
| | Tyler Martineau-Nov admin travel | 184.00 |
| | Tyler Martineau-Nov admin salary | 2729.42 |
| | Tyler Martineau-medical ins reimb 9/1/payroll taxes & benefits | 314.41 |
| | Tyler Martineau-medical ins reimb 12/1/payroll taxes & benefits | 314.41 |
| | Varco-office equipment | 70.56 |
| | Chronicle & Pilot-legal printing | 24.20 |
| | Jill Steele-Nov secretarial salary | 540.40 |
| | Ventana Publishing-legal printing | 19.50 |

TOTAL EXPENSES PAID FOR APPROVAL 6497.20

12/11/95

| | |
|--|----------|
| Other Expenses Payable from previous month | 15119.23 |
| Board of Directors fees and mileage paid | 1056.50 |

TOTAL EXPENSES PAID 22672.93

OTHER EXPENSES PAYABLE

meeting attendance-\$25.00 per meeting plus reimb
for mileage at \$.25 per mile

DATE
12/11/95

| | PAYEE | AMOUNT |
|---------------------------|---|--------|
| REGULAR SCHEDULED MEETING | | |
| | Ralph Clark III-attendance | 25.00 |
| | Diane Lothamer-attendance | 25.00 |
| | Ramon Reed-attendance plus 58 miles | 39.50 |
| | Susan Allen Lohr-attendance plus 72 miles | 43.00 |
| | William Trampe-attendance plus 14 miles | 28.50 |
| | Dennis Steckel-attendance | 25.00 |
| | Mark Schumacher-attendance plus 20 miles | 30.00 |
| | Peter Smith-attendance | 25.00 |
| | Carol Drake-attendance plus 110 miles | 52.50 |
| | Doyle Templeton-attendance plus 64 miles | 41.00 |
| | Lee Spann-attendance plus 6 miles | 26.50 |

Total Attendance plus mileage (payable quarterly) 361.00

OTHER PAYABLES

12/31/95

| | |
|---|---------|
| Ayraud Accounting-audit & acctg | 198.75 |
| Williams, Turner & Holmes-legal | 606.25 |
| Kimberly Temple, CPA-audit & acctg | 13.00 |
| Western State College-conversion of records | 4950.00 |

OTHER EXPENSES PAYABLE FOR APPROVAL: 5768.00

L- Dec

AYRAUD ACCOUNTING

INVOICE

Date Recd. 12-29-95 Addn. Ckd. A
 Inv. Appr. _____ Amt. Appr. _____
 Pd. Date _____ Acct. aych. r accounting
 Ed. Initials _____ CK# _____
 Reard. Initials _____

To:
 UPPER GUNNISON RIVER WATER
 CONSERVANCY DISTRICT
 DATE: 12/31/95

| Description | Hours | Amount |
|---|-------|----------|
| December posting, bank recs 941 deposit, financials quarterly payroll tax returns | 13.25 | \$198.75 |

TOTAL DUE:

\$198.75
 =====

Please remit to: P.O. Box 311, Crested Butte, CO 81224

1-42
Date Rec'd 12-22-95 Addn. Ckd. 1
Inv. Appr. Am Amt. Appr. 4950.00
Pd. Date _____ Acct. # 101042
Ed. Mbr. Appr. Date _____
Board Member Initials CJA

December 21, 1995

Upper Gunnison Water Conservancy District
Attn: Ramon Reed

Please remit \$4,950.00 to Western State College, Department
of Economics, Account 101042, for our proposal.

We look forward to working with you.

Sincerely,



Dr. David J. Axelson
Professor of Economics

L- Acc

Kimberly S. Temple, P.C., CPAs
243 N. Main St.
P.O. Box 1228
Gunnison CO 81230

Date Rec _____ Addn. Chg. _____
Inv. Appr. pm Amt. Appr. 13.00
Pd. Date _____ Acct. # _____
Ed. Mbr. Appr. Date _____
Board Member Initials _____

Invoice submitted to:
Upper Gunn. River Conserv. District
275 S. Spruce St.
Gunnison CO 81230

December 16, 1995

Invoice #11636

Professional services

| | <u>Hrs/Rate</u> | <u>Amount</u> |
|---|------------------|----------------|
| 12/8/95 Phone w/ Tyler re: pension plan | 0.20 65.00/hr | 13.00 |
| | <hr/> | <hr/> |
| For professional services rendered | 0.20 | \$13.00 |
| Previous balance | | \$32.50 |
| 11/17/95 Payment - thank you | | (\$32.50) |
| | | <hr/> |
| Balance due | | <u>\$13.00</u> |

Williams, Turner & Holmes, P.C.
 200 North 6th Street
 P.O. Box 338
 Grand Junction, CO 81502-0338
 (970) 242-6262

Date Rec 12-11-95 Admn. Ckd. [Signature]
 Inv. Appr. _____ Amt. Appr. _____
 Pd. Date _____ Acct. # 1097/Service
 Bd. Mbr. Appr. Date _____ CK# _____
 Board Member Initials _____

UPPER GUNNISON RIVER WATER CON
275 SOUTH SPRUCE STREET
Gunnison, CO 81230

Page 1

Customer Id <UGRWCD> AWW
 Account 3494-1552
 Invoice Number: 12-000-040
 Invoice Date: 11/30/1995

Re: ARAPAHOE CASE

| | | | | |
|---|------|----------|----|--------|
| 11/13/1995 AWW Work on citations for when issue of available water was first introduced in case | 1.50 | \$125.00 | \$ | 187.50 |
| 11/14/1995 AWW Dictate memo with ideas for brief | 0.70 | \$125.00 | \$ | 87.50 |
| 11/15/1995 AWW Time re brief | 0.40 | \$125.00 | \$ | 50.00 |
| 11/17/1995 AWW Conference telephone call | 1.10 | \$125.00 | \$ | 137.50 |
| 11/21/1995 AWW Conference call, review drafts before call and Beaton second draft | 2.00 | \$125.00 | \$ | 250.00 |
| 11/22/1995 AWW Telephone Conference with Mr. Bratton re WRC scenarios B and F | 0.40 | \$125.00 | \$ | 50.00 |
| 11/27/1995 AWW Read reply brief and comment to Mr. McClow; read briefs filed by Araphoe and Mr. White and filed by Mr. Beaton | 3.30 | \$125.00 | \$ | 412.50 |
| 11/30/1995 AWW Review CCHA reply brief | 0.30 | \$125.00 | \$ | 37.50 |

| | | |
|------------------------------------|-------------|--------------------|
| TOTAL PROFESSIONAL SERVICES | 9.70 | \$ 1,212.50 |
| TOTAL DISBURSEMENTS | | \$ 0.00 |
| TOTAL CURRENT CHARGES | | \$ 1,212.50 |

| | |
|--|-------------------|
| Balance Forward: | \$4,853.55 |
| Less Payments Received: | (2,426.78) |
| Plus Current Charges: | \$1,212.50 |
| Total Balance Due as of statement date: | \$3,639.27 |

606.25 = 1/2 upper Gunnison
 606.25 = 1/2 River District

UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT - LEGAL AND ENGINEERING SERVICES EXPENDITURES

1995 BUDGET YEAR

| Legal Expenses Breakdown | | | | | | | | | | | | | | | Total Legal Expenses | Aug. Plan Development | Water Rights Development | Engineering Services | |
|---|--------------|----------------|-----------|-----------------|------------------------|-----------------|-----------------|------------------------|------------------|---------------|---------------------|-----------------|---------------------|----------------|----------------------|-----------------------|--------------------------|----------------------|---------------|
| Month Services Performed | Invoice Date | Invoice Amount | Date Paid | Admin. & Office | Availability Union Pk. | FERC/ Union Pk. | FERC/ Rocky Pt. | Taylor Res. Operations | Private Instream | CWCB Instream | Dominguez Reservoir | Endang. Species | Aspinall Operations | Misc. Services | | | | | Service Costs |
| <u>January, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 1/31/95 | \$1,184.80 | 2/13/95 | \$612.50 | | \$162.50 | | | | | \$62.50 | \$156.25 | | | \$191.05 | \$1,184.80 | | | |
| <u>February, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 3/1/95 | \$2,088.73 | 3/13/95 | \$656.25 | | \$531.25 | | | | \$156.25 | | \$600.00 | | | \$144.98 | \$2,088.73 | | | |
| Andy Williams | 2/28/95 | \$727.70 | 5/8/95 | | \$725.00 | | | | | | | | | | \$2.70 | \$727.70 | | | |
| <u>March, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 3/30/95 | \$5,694.07 | 4/10/95 | \$625.00 | \$4,356.25 | | | \$250.00 | | \$93.75 | \$93.75 | | | | \$275.32 | \$5,694.07 | | | |
| Andy Williams | 3/31/95 | \$1,219.83 | 5/8/95 | | \$1,025.00 | | | | | | | | | | \$194.83 | \$1,219.83 | | | |
| Duane Helton | 4/7/95 | \$1,088.62 | 5/8/95 | | | | | | | | | | | | | | | \$1,088.62 | |
| <u>April, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 4/26/95 | \$1,876.90 | 5/8/95 | \$500.00 | \$362.50 | | | \$156.25 | \$31.25 | \$443.75 | \$125.00 | | | | \$258.15 | \$1,876.90 | | | |
| Andy Williams | 4/30/95 | \$599.80 | 5/8/95 | | \$593.75 | | | | | | | | | | \$6.05 | \$599.80 | | | |
| <u>May, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 5/31/95 | \$4,842.62 | 6/12/95 | \$625.00 | \$3,843.75 | \$62.50 | | \$31.25 | | \$93.75 | | | | | \$186.37 | \$4,842.62 | | | |
| Andy Williams | 5/31/95 | \$1,252.28 | 6/12/95 | | \$1,019.88 | | | | | | | | | | \$232.40 | \$1,252.28 | | | |
| Duane Helton | 6/12/95 | \$1,912.79 | 7/10/95 | | | | | | | | | | | | | | | \$1,912.79 | |
| <u>June, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 6/30/95 | \$5,974.75 | 7/10/95 | \$762.50 | \$4,856.25 | | | | | | | | | | | \$5,974.75 | | | |
| Andy Williams | 6/30/95 | \$1,731.45 | 7/10/95 | | \$1,581.25 | | | | | | | | | \$62.50 | \$293.50 | \$1,731.45 | | | |
| <u>July, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 7/24/95 | \$3,932.32 | 8/14/95 | \$1,241.25 | \$1,677.50 | | | | | | | | | | \$1,013.57 | \$3,932.32 | | | |
| Andy Williams | 7/31/95 | \$561.70 | 8/14/95 | | \$327.00 | | | | | | | | | | \$234.70 | \$561.70 | | | |
| <u>August, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 8/24/95 | \$11,257.65 | 9/11/95 | \$718.75 | \$10,475.00 | | | | | | | | | | \$63.90 | \$11,257.65 | | | |
| Andy Williams | 8/31/95 | \$2,369.25 | 9/11/95 | | \$2,262.75 | | | | | | | | | | \$106.50 | \$2,369.25 | | | |
| <u>September, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 9/25/95 | \$5,103.33 | 10/9/95 | \$812.50 | \$2,742.50 | | | | | | \$40.00 | | | | \$936.83 | \$4,531.83 | | \$571.50 | |
| Andy Williams | 10/11/95 | \$883.25 | 11/10/95 | | \$880.00 | | | | | | | | | | \$3.25 | \$883.25 | | | |
| <u>October, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 10/27/95 | \$11,614.70 | 11/10/95 | \$625.00 | \$8,143.75 | | | | | | \$837.50 | | | | \$266.95 | \$9,873.20 | | \$1,741.50 | |
| Andy Williams | 11/8/95 | \$1,543.53 | 11/10/95 | | \$1,400.00 | | | | | | | | | | \$143.53 | \$1,543.53 | | | |
| <u>November, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 11/26/95 | \$6,419.78 | 12/11/95 | \$593.75 | \$4,675.00 | | | | | | | | | | \$426.53 | \$5,695.28 | | \$724.50 | |
| Andy Williams | 11/30/95 | \$606.25 | pending | | \$606.25 | | | | | | | | | | | \$606.25 | | | |
| <u>December, 1995</u> | | | | | | | | | | | | | | | | | | | |
| Bratton & McClov | 12/29/95 | \$4,342.20 | pending | \$500.00 | \$1,962.50 | | | | | | \$31.25 | | | | \$187.45 | \$2,681.20 | | \$1,661.00 | |
| Andy Williams | 12/29/95 | \$1,776.13 | pending | | \$1,750.00 | | | | | | | | | | \$26.13 | \$1,776.13 | | | |
| <u>Total Expended Under 1995 Budget</u> | | | | | | | | | | | | | | | | | | | |
| | | \$80,604.43 | | \$8,272.50 | \$55,265.88 | \$756.25 | \$0.00 | \$437.50 | \$31.25 | \$787.50 | \$1,190.00 | \$756.25 | \$0.00 | \$62.50 | \$5,344.89 | \$72,904.52 | \$0.00 | \$4,698.50 | \$3,001.41 |

Upper Gunnison River Water Conservancy District

Frustration

MEMORANDUM

TO: Board Members,
Upper Gunnison River Water Conservancy District

FROM: Tyler Martineau *TM*

DATE: December 20, 1995

SUBJECT: Legal Expenses for Andy Williams.

Attached is a letter from the Colorado River Water Conservation District indicating that they have reached the limit authorized by their board to pay legal expenses for Andy Williams in the Union Park remand. As you know last spring the Colorado River District and the Upper Gunnison District each authorized the expenditure of up to \$10,000.00 for sharing on a 50-50 basis the cost of Andy's legal services in the Arapahoe litigation.

As of the end of November a 50% share of Andy Williams' bills for 1995 totalled the amount shown below:

| Andy Williams | Invoice Date | Invoice Amount |
|----------------------|--------------|--------------------|
| February | 2/28/95 | \$727.70 |
| March | 3/31/95 | \$1,219.83 |
| April | 4/30/95 | \$599.80 |
| May | 5/31/95 | \$1,252.28 |
| June | 6/30/95 | \$1,731.45 |
| July | 7/31/95 | \$561.70 |
| August | 8/31/95 | \$2,369.25 |
| September | 10/11/95 | \$883.25 |
| October | 11/8/95 | \$1,543.53 |
| November | 11/26/95 | \$606.25 |
| December | | |
| Total | | \$11,495.04 |

*- More client involvement
- stick to budgets
- agree on fixed price
up to \$10,000 to control costs
- do everything in a cost
effective way
Is this a surprise - if so why avoid
throughout had policy*

*Reserve Union Park
being held hostage
Vote for management
and it is ignored*

The Upper Gunnison District has paid Andy \$10,888.79. With the receipt of Rolly Fischer's letter the Colorado River District has paid \$10,000.00.

There will probably be a significant additional billing from Andy for December covering the cost of his preparation and presentation of oral arguments in front of Judge Brown on December 14.

On December 15 I spoke with David Hallford, staff attorney for the Colorado River District. He suggested that the Upper Gunnison District consider at its January 8, 1996 meeting requesting a continued 50-50 cost sharing arrangement with the Colorado River District which would address the following:

- 1) Cost sharing for the amount of Andy Williams bills which exceeds \$10,000.00 for the remainder of 1995.
- 2) Cost sharing for Andy Williams services in 1996.
- 3) Cost sharing for Duane Helton's services in 1996.

He suggested presenting such a request to the Colorado River District board of directors at their quarterly meeting on January 16. He was hopeful that by the 16th we would have a ruling from Judge Brown as to the additional evidence, if any, that the judge would allow to be presented at trial, so that an estimate could be made of Andy Williams' and Duane Helton's expenses for 1996.

Received
12-15-95

COLORADO RIVER WATER CONSERVATION DISTRICT

December 15, 1995

Mr. Tyler Martineau, Manager
Upper Gunnison River Water Conservancy District
275 South Spruce Street
Gunnison, CO 81230

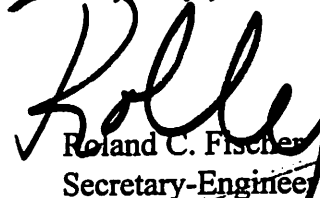
RE: INVOICES FOR WILLIAMS, TURNER & HOLMES

Dear Tyler:

We are in receipt of the copies you sent of the September and October 1995 invoices for Williams, Turner and Holmes, P.C. The total balance due is \$4,853.55 of which half (\$2,426.77) is identified as the River District's share. Per my letter of April 27, 1995, the River District will contribute up to \$10,000 toward the payment of legal fees and costs of Williams, Turner & Holmes, P.C. According to our accounting records, the River District has already paid \$8,462.00 in 1995. Towards this end, please find enclosed a check in the amount of \$1,538.00 to Williams, Turner & Holmes, P.C. thereby discharging our \$10,000 contribution towards legal fees to that firm. Please forward this check to Williams, Turner & Holmes, P.C.

If you need further information, please feel free to contact me.

Very truly yours,


Roland C. Fischer
Secretary-Engineer

RCF:wjw
Enclosures
c: Board of Directors, CRWCD
Andy Williams
David Hallford

BRATTON & McCLOW LLC
 232 West Tomichi Ave., Suite 202
 P.O. Box 669
 Gunnison, Colorado 81230
 (970) 641-1903

Upper Gunnison River Water
 Conservancy District
 275 South Spruce Street
 Gunnison, Colorado 81230

Statement for legal services for period ending December 29, 1995

Professional services:

| | | | <u>Hrs/Rate</u> | | <u>Amount</u> |
|------------------|----|--|-------------------|-----------|---------------|
| <u>Diligence</u> | | | | | |
| 12/5/95 | jh | Draft memorandum on status. Telephone conferences with Tyler Martineau, Coll Stanton and Scott Loveless. | 6.00 150.00/hr | | 900.00 |
| 12/7/95 | DB | Review/revise memo re: diligence/development of Upper Gunnison decrees | 0.50 125.00/hr | | 62.50 |
| 12/11/95 | DB | Attend Board Meeting to discuss diligence/use of decrees | 1.50 125.00/hr | NO CHARGE | |
| | jh | Attend Board Meeting to discuss diligence, use of decrees | 1.50 150.00/hr | | 225.00 |
| 12/12/95 | jh | Review decrees to attempt to confirm Butch Clark's interpretation of Upper Gunnison decrees with respect to Blue Mesa Reservoir as alternate point of diversion. | 2.74 150.00/hr | | 411.00 |
| 12/20/95 | DB | Draft letter to Board re: alternate points of diversion; review Tyler's letter to Bureau of Reclamation | 0.50 125.00/hr | | 62.50 |

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE
 OF 1½% PER MONTH WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED.

| <u>Hours</u> | <u>Amount</u> |
|--------------|---------------|
| [12.74 | 1,661.00] |

SUBTOTAL:

Administrative

| | | | | |
|----------|-----|--|------------------------|--------|
| 11/28/95 | DB | Review/revise minutes of 11/13 meeting | 0.50 125.00/hr | 62.50 |
| 12/11/95 | jmc | Attend regular monthly Board Meeting | 3.50 125.00/hr | 437.50 |
| | jmc | Attend Executive Session | NO CHARGE 125.00/hr | |

| | | |
|-----------|--------|---------|
| SUBTOTAL: | [4.00 | 500.00] |
|-----------|--------|---------|

Dominguez Reservoir

| | | | | |
|----------|----|---------------------------------------|-------------------|--------|
| 12/11/95 | DB | Telephone conference with Lori Patten | 0.25 125.00/hr | 31.25 |
| | | | [0.25 | 31.25] |

SUBTOTAL:

Availability Remand

| | | | | |
|----------|-----|--|-------------------|--------|
| 11/27/95 | DB | Work on revisions to brief | 0.75 125.00/hr | 93.75 |
| | DB | Review Crystal Creek brief; review Arapahoe and Gunnison briefs | 0.75 125.00/hr | 93.75 |
| | jmc | Telephone conference with A. Williams, Bruce Driver re: comments on Opposers' Reply Brief; review draft CCHA supplemental brief and telephone conferences with Wayne Foremen; review Replies from Arapahoe, City of Gunnison | 2.20 125.00/hr | 275.00 |

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE OF 1½% PER MONTH WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED.

| | | | <u>Hrs/Rate</u> | <u>Amount</u> |
|------------------------------------|----|--|-------------------|---------------|
| 12/4/95 | DB | Telephone conference with Andy Williams re: oral argument on Motion (issues and persons to argue) | 0.50 125.00/hr | 62.50 |
| 12/5/95 | DB | Telephone conference with Wayne Foreman re: oral argument | 0.25 125.00/hr | 31.25 |
| 12/7/95 | DB | Conference call with opposers' attorneys re: oral argument before Judge Brown on motions | 1.25 125.00/hr | 156.25 |
| 12/8/95 | DB | Telephone conference with Andy, Paul Zilis re: oral argument | 0.75 125.00/hr | 93.75 |
| 12/11/95 | DB | Conference call with Andy, Paul Zilis and John Henderson re: procedure for oral argument | 0.50 125.00/hr | 62.50 |
| 12/12/95 | DB | Telephone conference with Andy; check Black Canyon right; telephone conference with Andy re: decree and with Wayne Foreman re: decree and U.S. oral argument; review transcript of Spronk testimony re: Black Canyon decree and call Andy | 1.50 125.00/hr | 187.50 |
| 12/13/95 | DB | Review Andy's outline of oral argument; telephone conference with Andy to discuss; telephone conference with Bruce Driver re: oral argument; call Andy to discuss issues raised | 1.25 125.00/hr | 156.25 |
| 12/14/95 | DB | Attend oral arguments in Montrose | 6.00 125.00/hr | 750.00 |
| SUBTOTAL: | | | [15.70 | 1,962.50] |
| For professional services rendered | | | 32.69 | \$4,154.75 |

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE
OF 1½% PER MONTH WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED.

Itemization of costs

| | <u>Amount</u> |
|-----------------------------------|---------------|
| - Westlaw legal research charges | 19.08 |
| - Postage expense | 17.91 |
| - Photocopier expense | 46.65 |
| - Long distance telephone expense | 31.81 |
| - Telecopier expense | 72.00 |
| | <hr/> |
| Total costs | \$187.45 |
| | <hr/> |
| Total amount of this bill | \$4,342.20 |
| Previous balance | \$6,419.78 |
| 12/15/95- Payment - thank you | (\$6,419.78) |
| | <hr/> |
| Balance due | \$4,342.20 |
| | <hr/> <hr/> |

PAYMENT IN FULL IS DUE ON RECEIPT OF STATEMENT. A LATE CHARGE
OF 1½% PER MONTH WILL BE ASSESSED ON BALANCES NOT RECEIVED WITHIN 30 DAYS.

THIS STATEMENT DOES NOT INCLUDE DISBURSEMENTS FOR WHICH WE HAVE NOT YET BEEN BILLED.

L Der

Williams, Turner & Holmes,
Work In Process Report through 12/31/95

Client: <UGRWCD> UPPER GUNNISON RIVER WATER CON
Matter: ARAPAHOE CASE

Responsible Attorney
Anthony W. Williams

275 SOUTH SPRUCE STREET

Client Since 08/21/1995
Billing Status Active

Gunnison, CO 81230

Last Statement on 11/30/1995

| | |
|---|------------|
| Balance Forward | \$3,639.27 |
| Less Payments by CO River Water Con. Dist | (1,538.00) |
| Plus Current Activity: | |

| | | | | |
|--|------|----------|----|----------|
| 12/04/1995 AWW Telephone Conference with Mr. Bratton re oral arguments | 0.50 | \$125.00 | \$ | 62.50 |
| 12/07/1995 AWW Telephone Conference with Mr. Bratton and conference call | 1.60 | \$125.00 | \$ | 200.00 |
| 12/08/1995 AWW Telephone Conference with Bratton and McClew re oral arguments | 0.50 | \$125.00 | \$ | 62.50 |
| 12/11/1995 AWW Work on oral argument; phone with Bratton and Zilis and Henderson | 6.50 | \$125.00 | \$ | 812.50 |
| 12/12/1995 AWW Work on oral argument | 6.70 | \$125.00 | \$ | 837.50 |
| 12/13/1995 AWW Work on oral argument | 3.10 | \$125.00 | \$ | 387.50 |
| 12/13/1995 AWW Telephone Conference with Mr. Bratton re outline and with Mr. White | 0.60 | \$125.00 | \$ | 75.00 |
| 12/14/1995 AWW Attend oral arguments | 8.50 | \$125.00 | \$ | 1,062.50 |

| | | | |
|-----------------------------|-------|----|----------|
| TOTAL PROFESSIONAL SERVICES | 28.00 | \$ | 3,500.00 |
|-----------------------------|-------|----|----------|

DISBURSEMENTS:

| | | |
|--------------------------------|----|-------|
| 12/07/1995 long distance | \$ | 3.45 |
| 12/13/1995 long distance | \$ | 4.50 |
| 12/13/1995 Fax to Barney White | \$ | 6.80 |
| 12/20/1995 Travel to Montrose | \$ | 37.50 |

| | | |
|-----------------------|----|----------|
| TOTAL DISBURSEMENTS | \$ | 52.25 |
| TOTAL CURRENT CHARGES | \$ | 3,552.25 |
| PLUS UNPAID BALANCE | | 2,101.27 |
| TOTAL BALANCE DUE | \$ | 5,653.77 |

1-8-96
 Inv. Appr. _____
 Pd. Date _____
 Bd. Member initials _____
 Acc. # Legal Services
 JWC

1/2 upper Gunnison = 1776.13

1/2 River District = 1776.12

DRAFT

January 9, 1996

Mr. Roland C. Fischer
Secretary-Engineer
Colorado River Water Conservation District
P. O. Box 1120
Glenwood Springs, CO 81602

SUBJECT: Legal Expenses for Williams, Turner & Holmes

Dear Rolly:

Thank you for your letter of December 15, 1995 indicating that the River District has completed its contribution of \$10,000.00 towards the legal fees of Williams, Turner & Holmes as offered by the River District Board last April. The Upper Gunnison River Water Conservancy District greatly appreciates the support of the River District in the ongoing litigation with Arapahoe County.

As you are probably aware the total amount of billings from Williams, Turner, & Holmes for 1995 totalled \$26,542.31 as shown below:

| <u>Andy</u> <u>Williams</u> | <u>Invoice</u> <u>Date</u> | <u>Amount</u> |
|--------------------------------|-------------------------------|-------------------|
| February | 2/28/95 | \$1,455.40 |
| March | 3/31/95 | \$2,439.66 |
| April | 4/30/95 | \$1,199.60 |
| May | 5/31/95 | \$2,504.55 |
| June | 6/30/95 | \$3,462.90 |
| July | 7/31/95 | \$1,123.40 |
| August | 8/31/95 | \$4,738.50 |
| September | 10/11/95 | \$1,766.50 |
| October | 11/8/95 | \$3,087.05 |
| November | 11/26/95 | \$1,212.50 |
| December | 12/29/95 | <u>\$3,552.25</u> |
| Total | | \$26,542.31 |

In 1996 we are anticipating that activity in the Union Park case will continue, requiring additional expenditures for these legal services.

DRAFT

Page 2
Mr. Roland C. Fischer
January 9, 1996

The Board of Directors of the Upper Gunnison River Water Conservancy District requests the River District to continue the existing 50-50 cost sharing arrangement with Upper Gunnison of the fees for Williams, Turner & Holmes as follows:

- 1) Cost sharing for the amount of Williams, Turner & Holmes invoices which exceeds \$10,000.00 each for the remainder of 1995 (\$ 3,271.16 for Upper Gunnison, and \$ 3,271.15 for the River District).
- 2) Cost sharing for up to \$10,000 each towards payment of Williams, Turner & Holmes invoices in 1996.

The Upper Gunnison District believes it would be beneficial to also continue to share the cost of Duane Helton's services with the River District in 1996. The Upper Gunnison Board has approved \$5,000.00 for cost sharing of Duane Helton's expenses in 1996.

Upper Gunnison Board Chairman, Bill Trampe and I are planning to be present at the River District's quarterly meeting on January 16, 1996 to be available to answer any questions that you or the River District board might have concerning our request.

Very truly yours,

Tyler Martineau,
Manager

cc: Board Members, UGRWCD