001104

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
REGIONAL OFFICE, REGION 7
Building 46, Denver Federal Center
Denver, Colorado 80225

BACKGROUND MATERIAL

DAMS ON THE SOUTH PLATTE RIVER

The Bureau of Reclamation's Answer to Flood Control and Augumented Water Supplies on Colorado's South Platte River

The shocking floods of June 1965 on the South Platte River have provided a sudden and costly lesson. The answer is clear. Dams must be built to capture the phenomenal flood flows generated by cloudburst rains and sent plunging down tributaries to the main streams to wreak damage for hundreds of miles downstream. But, wherever possible, multiple-purpose dams should be built -- not simply to control floods, but also, and more important, to provide continuing supplies of water year-after-year for municipal, industrial, and irrigation uses.

The Bureau of Reclamation dams proposed for construction at the TWO FORKS and NARROWS sites on the South Platte River are truly multiple-purpose. Not the least of these purposes is the flood control insurance they would provide when Nature goes on a rampage.

Devasting floods will always be a possibility in the South Platte area. Unless, and until they can be blocked by dams, the cities, the industries, the farms, and the people of the South Platte are as vulnerable as sitting ducks.

There is no way to know when the next flood will come to the South Platte River. Probably not tomorrow. Possibly not next year. Maybe not for five, ten, or more years. No one knows for sure. So the people of the South Platte sit on a powder keg with no way to know when it will explode -- when the floods will come next. But, the June 1965 floods are a shocking reminder that floods will come -- that the powder keg will explode.

Only construction of well-planned, multiple-purpose dams, such as the Bureau of Reclamation's TWO FORKS and NARROWS Dams, along with Corps of Engineers' flood control dams, such as Chatfield Dam, will succeed in defusing the powder keg.

Why is Colorado's South Platte River Basin so flood prone? The South Platte Basin stands with its back to the Rocky Mountains, which stretch from north to south as a 10,000-foot high wall. From the south and southeast, moisture-laden, unstable, tropical air from the Gulf of Mexico can sweep far inland to the South Platte River and impinge on the wall of the Rockies. At the same time, the relatively cooler, drier, stable air can sweep down from the northern plains. When these air masses with totally different characteristics meet in the South Platte area in head-on impact, deflected and hemmed in by the Rockies on the west, the instability of the moist air from the south is triggered into unbelievable violent downpours. The puny, silt-clogged tributaries to the South Platte River suddenly become raging, out-of-bank, monsters spreading devastation.

The floods will come again to the South Platte Basin and bring damage measured in hundreds of millions of dollars. As memory of

previous floods fades and with future urban and industrial developments proceeding in vulnerable areas, dollar damages will be ever greater in the future unless something is done. Dams are an essential part of the answer -- multiple-purpose dams where possible -- to assure not only adequate flood control, but also the annual benefits of developed water supplies to meet the needs of continued urban, industrial, and agricultural growth throughout the South Platte River Basin.

The flood danger is ever present. The need for augumented water supplies is here now -- will be even greater in the immediate future. The dams which can meet both of these needs can never be built at less cost than now.

Now is the time to plan and then to build the dams needed. Hence, the Bureau of Reclamation urges support for the proposed TWO FORKS and NARROWS Dams. TWO FORKS Dam would stand at the South Platte River gateway into the Denver metropolitan area. The Bureau of Reclamation's TWO FORKS Dam would be planned in conjunction with the Chatfield Dam proposed by the Corps of Engineers. The plans for the Two Forks and Chatfield Dams would size those reservoirs so that their functions to supply both the needed development of water supplies and the needed flood protection functions would be fully integrated.

The proposed NARROWS Dam on the South Platte River, about seven miles upstream from Ft. Morgan, has long been needed to supply supplemental irrigation water to lands along the South Platte downstream from the dam. As such, it is a necessary and a worthy undertaking. However, it can be made more worthwhile by designing and building it to provide the flood control demonstrated as most urgently needed by this June 1965 flood.

NARROWS Dam site is located where it could capture all water of the South Platte tributaries, from the Denver area downstream to the unpredictable Bijou Creek, which enters the South Platte River near Ft. Morgan. Most of the tributaries which head in the high Rocky Mountains, are studded with small and large irrigation reservoirs which usually succeed in skimming the crest of flood waters from those areas. The problem, as vividly illustrated by this June 1965 flood, is the far-flung, deceptively dangerous streams which originate almost as far south as Colorado Springs and then flow north to enter the South Platte River between Greeley and Ft. Morgan. These are the Box Elder, Kiowa, and Bijou Creeks. Together, these three streams drain 2,500 square miles of area, which is too-frequently wracked by cloudburst rains.

The NARROWS and TWO FORKS Dams, along with the Chatfield Dam, are much needed and should be planned and built as soon as possible. They would solve most of Colorado's South Platte flood problems, on the mainstream, and more significantly, TWO FORKS and NARROWS Dams would develop usable water supplies essential to continued economic growth in this portion of the semi-arid West.

001103

REPORT OF KELLY AND CLAYTON, ATTORNEYS FOR NORTHERN COLORADO WATER CONSERVANCY DISTRICT, TO THE BOARD OF DIRECTORS FOR THE DISTRICT ON LEGAL MATTERS FOR THE YEAR 1953

O U T L I N E

001109

To:
The Board of Directors
Northern Colorado Water Conservancy District

December 31, 1953

Gentlemen:

GENERAL

This year is the first time the attorneys for the District have made the annual report of its legal matters in writing.

Some extended review is needed to portray its water right situation. They are subjects of proceedings in several courts, some of longer pending, some just approaching the decisive stage. A review seems called for at this year's end, the twentieth since our project was begun. With it, some answer to publicity adverse to our position on water rights adjudication seems advisable at the same time in the interest of those who depend on our District water. We hope it will serve to clarify what is involved in their scope.

We shall review also the Boulder inclusion proceedings, bring to date rights-of-way matters, legislation, and the contracts for bringing water to the Coal Ridge and Platte Valley farms. Such other work of our office, the transfers of allotments, their liens and benefits, examination of titles, and current usual activities will be passed over here because we find we want to give considerable space to what is involved in the District's several water adjudication suits. The daily current legal matters have been shown on our monthly itemized statements, oral reports, and letter reports from time to time at District Board meetings.

The District's water rights have been concerned during the year in water adjudications pending in Boulder, Grand, Larimer, and Summit County District Courts, in the Colorado Supreme Court and in the U. S. District Court for the District of Colorado. We shall refer to these adjudications, beginning with those on the west slope streams.

I. WEST SLOPE WATER ADJUDICATIONS

A. Denver and Colorado Springs vs. Northern Colorado Water Conservancy District

Well built tunnels, ditches and reservoirs lose their effectiveness when water is scarce and needed, if dry because their priority is inferior.

Of prime importance to district water users is the relative priority out of the Colorado River supplies to be awarded by the Court. Our chief opponents, Denver and Colorado Springs, are trying to get priorities ahead of our project. Denver seeks all the water of the Blue River at Dillon for a 788 second foot tunnel and for a 685,484 acre foot reservoir which it would build there to feed the tunnel. The proceedings pending in Colorado Supreme Court and in the United States District Court will decide whether Denver is to be put superior to our District's use. It becomes of greater importance than before, since the last decade of water flows shows that there are substantially less acre feet available at Granby Dam than the 320,000 acre feet average which was estimated for our project in 1937.

Denver's claimed undertaking is a proposed twenty-three mile tunnel. This it began to bore in 1946. Its work has been with a one-shift crew so that, in 1952, 26 years after its claimed 1921 date, it had not yet built one full mile. The date June 26, 1946 was awarded Denver's appropriation, conditionally. This is by the Summit County District Court decree. Denver has appealed and asks it be awarded a priority back to 1921. It is now under consideration by the Colorado Supreme Court. Denver asks to have it dated back to 1921. Denver claims that it was, from 1921, building other diversion works to-wit: the Moffat and Jones pass tunnels. These are in eastern Grand County on the Fraser and Williams Rivers. By way of highway, these works are 100 miles remote from the Blue River to Platte proposed tunnel. Denver, twenty-five years

ago, chose those as more promising than the Blue River works and its twenty-three mile tunnel. Denver began diversions from the Fraser River in 1936. It has not fully developed its diversions there.

Our project priorities on the Colorado River and its tributaries are claimed to September 14, 1933, which was the date of the first Stimson survey. Denver is attacking this and attempting to get a superior priority. The Colorado-Big Thompson appropriators followed the 1933 initiation with construction surveys in the following years, and by actual dirt moving in 1938. In 1936 in the Summit County District Court water adjudication of the Blue, Denver had set up a claim for a conditional priority. The court there, in 1936, adjudged that Denver had not done other than investigation or exploratory activity or shown diligence in construction and prosecution of its enterprise. Denver was then denied a conditional decree sought for priority of appropriation out of the Blue.

Colorado Springs began its Blue River tunnel construction May 13, 1948. It attempts, by quit claim deeds, to date back to 1907 on 40 year old surveys by promoters who, by 1948, had done no substantial construction on the tunnel which Colorado Springs found it could, and did, build in three years. We deny that such construction was continuity of effort such as to relate the priority back through forty years of omitted prosecution of physical work. The Summit County District Court gave the Colorado Springs project a May 13, 1948 priority, which it is now contesting in Colorado Supreme Court.

Denver and Colorado Springs do not contest each other's claims.

In that interval of Denver's inaction and of inaction of those from whom Colorado Springs took quit claim deeds, our project had its inception. The appearance when we went on the river in 1933 and 1936 was, as decreed in 1936 in the local state court that Denver had done nothing in construction on the Blue River,

diversion. Denver was adjudged not to have been diligent on a Blue River claim for appropriation. Our right intervened in that period of lack of diligence. Diligent construction followed.

For the Colorado-Big Thompson project we expect the federal court trial to demonstrate that Denver had not done any construction on the Blue River, nor anything other than exploratory work, until December, 1946; that Denver, (which does not now need the water but claims it will need some of it twenty years hence), should not be allowed to have a priority to date back to 1921, which would be fifty years before it would need the water. Our District needed the water in 1933 and needs it now. Green Mountain Reservoir use began in May, 1943; our project will have been using it for thirty years before Denver will have need for any of it. We don't want it then taken away from us.

We rely on the long established Colorado water law principle that, when a claimant for an appropriation has failed to use diligence in construction, it is not entitled to relate back to its first survey, as against another appropriator which has initiated its diversion works during inaction of such other claimant, where such diligent appropriator has carried on the construction of those works with continuity of purpose and of effort to application of water to beneficial use.

B. Summit County Court Water Adjudication

In this adjudication are being determined the water rights of the Green Mountain Reservoir on the Blue River and those of Denver which is proposing to build a twenty-three mile tunnel from the Blue River to the South Platte which it seeks to date back to 1921. Its appropriation would take all the water out of the Blue River at Dillon, upstream from our Green Mountain Reservoir. Green Mountain Reservoir supplements Granby Reservoir and is of great

importance to the district because by its manner of operation it is the means for supplying, by its one-third, replacement for appropriations antedating Granby Reservoir and our Alva B. Adams Tunnel, which are upstream on the main Colorado River. To that purpose the reservoir serves as an additional arm or part of Granby Reservoir and a guaranty to our tunnel diversions.

The remaining two-thirds of the reservoir are primarily for power purposes but are also, quoting Senate Document 80, (p3) "to supply future use for domestic purposes and for the irrigation of lands thereafter to be brought under cultivation in western Colorado. Water not required for the above purposes shall also be available for disposal to agencies for the development of oil, shale or other industries."

The government power plant at Green Mountain Reservoir, by water begun in 1943 to be run through the reservoir and under its turbines, is a large producer of money to repay the cost of the entire project. For that power plant the government is claiming the right of continuous flow of its capacity of 1760 cu. ft. per sec. Such continuous flow helps our transmountain diversion. It acts as a buffer to supply appropriators down stream who otherwise might claim the right to compel Granby Reservoir and the tunnel to stop diverting. Should Denver be adjudged the right to antedate the Green Mountain Reservoir, then in case of shortages downstream, the District and not Denver would have to stop diverting.

C. <u>The Supreme Court Case</u>

The United States, as owner, joined by the District, before any evidence was taken, withdrew its claim in the Blue River adjudication in the Summit County Court. In Federal District Court was begun, June 10, 1949, a suit by the United States for declaratory judgment to adjudicate the project Western Slope water

rights and the effect of Senate Document 80 upon the obligations of the Colorado-Big Thompson Project. The state court adjudication in Summit County went on without the participation of the District or the United States in taking of testimony. The Summit County District Court, by decree entered March 10, 1952, adjudged that Denver priority shall relate only to 1946 work, and that the Colorado Springs priority should relate only to 1948 work. These cities' writs of error from that case have been pending since in the Colorado Supreme Court. It was argued orally in September, 1953. The district, a year ago, filed its fifty-six page brief, by the many parties concerned. There are many hundred pages of briefs and appendices.

Denver, not satisfied to rely on its City Attorneys and water board legal department, has hired two of the largest and best known Denver law firms as additional attorneys. They sign seven attorneys names in this case and in the federal court case.

D. The Case in United States Court

The federal court adjudication, now pending more than four and one-half years, is stubbornly contested by Denver, with many motions which have caused delay. Colorado Springs likewise has special and eminent counsel opposing us there. As does the government, we maintain that city is in a like position with Denver on lack of activity in construction to entitled it to date back to antedate our project for water priority from the Colorado and the Blue. Colorado Springs diversion is high up on Hoosier Pass, hence of more limited watershed area than the 685,000 acre feet which Denver claims. In frequent recent newspaper publicity, Denver says it will annually take from the Blue a less amount, 177,000 acre feet.

The same arguments apply to both. Colorado Springs, in November, 1947, bought an old mining ditch and tunnel works at

Hoosier Pass with decreed priorities antedating ours and completed it through to the South Platte side above Alma, got a change of point of diversion decree, and thereby, in 1953, began diverting water out of the Blue. This is not the diversion for which Summit County District Court gave Colorado Springs' new project a priority dating from March 13, 1948. This is additional to the 1927 priority which Colorado Springs seeks to antedate ours.

In the federal court proceeding, there are so many defendants and intervenors that eighteen law offices are represented, including that of the Assistant to the Attorney General of the United States. Motions, Answers and Statements of Claim are volumninous. The drafts of pretrial order alone, concisely stating issues and agreed facts are over 250 typewritten sheets of which the most recent draft was received December 23, 1953.

Public Service Company Increased Claims

A moving consideration in 1937 on which the Northern Colorado and Western Slope water users associations accord in Senate Document 80 was made, was that, it was accepted, then that 1250 acre feet was the full amount required to satisfy the prior decreed appropriation of the Public Service Company's Shoshoni power plant at Glenwood Springs. This assumption has always been basic. This 200 foot increase allowed to stand, could mean a very serious interference with our diversion at Granby Reservoir, a downstream claim of priority not known and not anticipated when our project was set up.

The Public Service Company of Colorado originally claimed a 1250 second foot constant flow final priority at its Shoshoni hydro electric plant at Glenwood Springs of 1902, to antedate the Colorado-Big Thompson appropriations.

By an amendment offered in the federal court case on September 30, 1953 it asks to add a further 200 second foot constant flow to this plant which it says the Eagle County District Court decreed it this September in a statutory adjudication after the federal court adjudication suit was filed, and to date from 1930--three years ahead of us. The date and amount of this claim will be relitigated in the federal court suit. It is contrary to former calculations for our transmountain diversions.

The Moffat Tunnel Water and Development Company Claim

This is a conflict with our water rights. It seeks in federal court to antedate our Colorado River water rights. It claims a 125 second foot priority for a ditch and for a large amount for reservoirs out of the Fraser River and Ranch Creek, its tributary, to date from July 15, 1932. It was awarded a conditional decree of that date by the Grand County District Court in an adjudication. Our project was not a claimant, did not participate in that proceeding. It ended early in 1937 before our district was organized. We claim that because our appropriators were not served with notice, we are not barred by this conditional decree. The Supreme Court on review, said that, at the time of its entry, there was no evidence in the case of conflicting claims and the reasonable diligence is subject to later reconsideration when at subsequent hearings effort is made to get a final decree. These matters can be tried in federal court; we deny a sufficient showing of diligence in construction to support a priority to that company of that amount for that date.

Denver's Fraser River and Williams River Conditional Decrees

The Grand County District Court, by a decree entered in early 1937 gave Denver a priority, in part final, in part conditional for its work from the Fraser and Williams Fork, relating

those two appropriations to 1921. But this was not construction or notice by any construction on the Blue River. From them, Denver has yet 65,000 acre feet of "earmarked" water supply capable of development--enough for a quarter million more people, by Denver's present consumption rate.

We are maintaining in federal court that Denver should not make District water users subordinate, by dating back to 1921, Denver's claimed project for water, the use of which it will not begin to need until fifty years after 1921.

The decision of the Colorado Supreme Court in the Blue River pending case, where Denver has made the District a defendant, is being awaited by the federal court. Trial there is now set to begin February 25, 1954. Various preliminaries are to precede the trial, to put together a pretrial order to define what matters are admitted and what are contested. More than fifty pleadings are on file.

The federal court case will determine the relative priority dates of appropriation as between Denver and the water users of our District. A junior priority for Denver would relieve the Denver threat to our Colorado River water supply.

District Burden from Colorado River Compact

The priority decree matter becomes increasingly important because, instead of there being 16 million acre feet of water available at Lee Ferry for supplying the Lower Basin and Upper Basin of the Colorado River under the 1922 compact, in the last ten year period, by the recent report of the engineers, shows less than three-fourths that average amount of acre feet were there available. Under the 1937 Senate Document 80 agreement between Western and Eastern Slope associations, it is provided that in case of occurence of water shortages down the Colorado River to satisfy the provisions of said compact, the diversion

for the benefit of the Eastern Slope shall be discontinued in advance of any Western Slope appropriations.

The contract between the District and the United States obligates the District to observe the Colorado River Compact and the Boulder Canyon Project Act. This fact of a less supply in the river than was the basis of water supply at the time of the 1937 Senate Document 80 Agreement, imperils the ability of the district to obtain its 310,000 acre feet counted upon out of Granby Reservoir and the tunnel. The construction of Green Mountain Reservoir was to meet those downstream claims. Hence, the matter of relative priority dates between Denver and the District on the Blue River is of great importance.

E. Propaganda and Denver Attacks

Letters during the year and recently a series of articles in "The Eaton Herald" by E. S. Toelle, the executive-secretary of an association of water users have attacked the court proceedings of our project and its claims to water, particularly the legal matter of handling the adjudications of its water rights in court and the temporary, as well as permanent, plan of operation of its water rights. Their author had copies sent to our Senators and Congressmen. The District counsel has not been favored with those letters, but we have seen some mailed to ditch companies. His attacks seem to be due mainly to their author's lack of understanding of the nature of Colorado statutory and other court adjudications of water rights and of our project, now over twenty years in development. He, himself, aided by some in pay of our opponents, organized the association and have a large voice in the activities for which he is paid. Denver papers have carried also, by a columnist and news stories, like one-sided accounts, prejudicial to our project while our rights are under consideration by the courts.

Those assailants attack the suit pending in federal court. For the benefit of our water users the suit is to have judicially declared questions concerning the use of those water rights and incidentally, to have the Denver, Colorado Springs, Moffat Tunnel Development Company and Public Service Company priorities determined. Denver and Colorado Springs and those companies seek to subordinate the water rights of our project to those they propose out of the Blue River. The effort of the assailant may help Denver. It certainly is not to the benefit of our own water users.

Another attack by that secretary says control of administering the water priorities will be taken by the federal government away from the state authorities. Another says the United States is not recognizing the doctrine of appropriation. This is not so, as the record of federal court pretrial statements and drafts of pretrial orders clearly show.

In the federal court case Denver and Colorado Springs have asserted and argued that the federal government, though it has title to the works and appropriations under our construction contract with it, has no right to make appropriations of water from West Slope streams. The association directed by that executive secretary hired the same Denver lawyers to argue just the opposite in state court at Fort Collins. There they objected that our district had no right to make an appropriation from state streams.

The same spokesman asserts, as inimical to our water users, our District's answer in federal court, in which we ask decreed to District benefit the return flow from the Colorado River water so brought into East Slope streams from that independent source. He asserts that the United States will take the return flow. Just the contrary is true. Anyone will see that, if he will read

Article 19 of our construction contract with the United States. The claim of the District there will reserve the water for our ditches existing when our appropriations were initiated, for introduction from the Colorado River of this new source of water supply into the South Platte tributaries. And it is there contracted that the use of this water by our East Slope decreed appropriators will be without additional charge to them.

Our claims for water from the sources of East Slope streams are in no way included in this return flow claim. It relates only to water introduced from a new source, the Colorado River. It confirms our claim on that behalf as against any claim the government otherwise might make.

F. Return Flow

The Colorado Supreme Court has more than once declared the law that water introduced into a stream from an extraneous source which would not have reached the stream without the appropriators construction, including return flow from such imported water, may be reclaimed by the one so adding it to the stream, independent of appropriations on that stream.

In drafting our construction of contract with the United States, at the outset, that purpose was in mind of the District's representatives and was included as Article 19. In the District's answer in the federal court case, we have set up that article and claimed the return flow for the benefit of the District.

Some misrepresentation of this has been made in the South Platte Valley, in articles emanating from the secretary of the Association of Water Users for State Control, wherein the assertion has been made that it is the government which is to take this return flow. It is true that, until paid for, legal title of all irrigation and domestic water rights of our project will

be in the United States. This is our contract. However, instead of the return flow being claimed for the benefit of the government, it is expressly for the benefit of the landowners, according to their decreed rights out of the South Platte River and its tributaries, and, "without other or additional consideration or payments".

Anyone who will read Article 19 can see that in writing.

This has been brought to the attention of that association. Some of its former directors have seen the point, but the secretary, in his recent articles, is still assailing what, in fact, is a government agreement expressly for the benefit of lands under ditches whose decreed priorities antedate July 5, 1938. It contracts the return flow away from the government and to the decreed ditches instead of reserving it for government benefit.

G. Administration of District Water in Streams Is By the State

Notwithstanding propaganda asserting otherwise, the administration of priorities of appropriation of water decreed to the Colorado Big-Thompson Project from the natural streams will be by state water administrative authorities. This was declared by the assistants to the Attorney General in the pretrial hearings in U. S. Court, April 17, 1952. It is, again, in writing, incorporated in the latest draft of Department of Justice attorneys just received by us under date December 26, 1953, wherein it is declared "releases of water to fill such (decreed) rights will be made upon demand of the authorized irrigation division engineer or other state authority having charge of the waters involved". This is no different than administration of other priority decrees of state and federal courts. Such decrees are generally in statutory water adjudi-

cation, but in many instances are in forms of court decrees in other suits.

Some animosity has been stirred up against our District by opponents' representations to the contrary in this regard. The Toelle speeches and letters have spread this detrimental misrepresentation. Such cannot help, and can only hurt our water interests.

H. Why Are We in Federal Court in the Contest Over Rights from the Colorado River?

The title to all of the works and water rights of our project is in the United States--quite naturally so, by our construction contract and since the U. S. furnished all the $150,000,000 for the construction. What the District water users have is the right to a water supply from that project, but the legal property title is in the United States. There are, in this owner and water-user relationship, similarities to that of right purchasers to canal owners of early day water projects in northeastern Colorado--Larimer and Weld, Greeley and Loveland, Evans No. 2, Riverside Reservoir, for example.

Important questions to be determined in that matter are those arising out of the 1937 East Slope-West Slope Agreement in "Senate Document 80". These involved problems, not of priorities to be decreed by courts, but of agreed manner of operation of water to be diverted, that in the Colorado River watershed, and that by transmountain diversion through our Granby Reservoir and the tunnel from Grand Lake to the East Slope.

These matters can be adjudged in one proceeding in federal court.

Beside that, the United States government cannot be compelled to submit its property rights to be adjudged in state courts. The Colorado Supreme Court so held in dismissing the

United States from Denver's writ of error. Furthermore is the fact that the whole Colorado River is an interstate stream now being brought into United States Supreme Court allocation. A federal court adjudication will be of more value than adjudications would have been from the various state courts, which are of more limited jurisdiction both as to area, and as to what questions may be determined--such as the effect of Senate Document 80.

These are some of the legal incidents which have, after mature consideration, caused the attorneys for the District to conclude that an adjudication of the many Colorado River water questions involved is of greater value in federal court than to have had such adjudications piece-meal, in state courts of the Western Slope. It does not embrace East Slope stream adjudications.

Northern Colorado Water Conservancy District policy on the legal effect of Senate Document 80 has been to regard it in good faith as a treaty of contractual nature to be adhered to in manner of construction and to be performed in manner of operation. Denver, in stating its contentions in the Colorado Supreme Court and in the federal court case, asserts that Senate Document 80 is nothing more than a mere report of the Bureau of Reclamation to Congress on the economic feasibility of our project and that it is not binding on Denver.

For the District water users our interests are paired with those of the United States in having decrees for priorities of the project on the Blue and on the main Colorado, not junior to those of Denver and Colorado Springs and the Moffat Company, nor to the enlarged Shoshoni power plant claim. We differ with government interests in some matters of manner of operation under Senate Document 80, but not on cooperating for senior

priorities based on construction.

I. Federal Court Suit is Not Over East Slope Streams

East Slope stream adjudications are to be distinguished from the federal court case. The federal court case will determine the water rights of the United States, and hence of the District as its beneficiary from the West Slope works. That proceeding relates only to waters being diverted out of the Colorado River and its tributaries. There are involved in that suit the water rights on that interstate stream which is the subject already of United States Supreme Court litigation between Arizona and California. Colorado River larger claims for priorities will be considered by that court.

The federal court proceeding does not involve the appropriations of the project from East Slope streams. In the federal court proceeding, there are drawn in the water rights, not of just one water district, but of eleven water districts of the Colorado River and its tributaries. There, also, to be adjudged are the numerous provisions for operation under what is known as Senate Document 80. That 1937 Congressional document was a basis of federal funds to construct the Colorado-Big Thompson works on the Colorado River. These works, from where our water association surveys left off, were constructed under the July 5, 1938 contract voted by the taxpaying electors. Therein we contracted to have the government build the works, retain title to all electrical plants and power generated, to retain title as well to all of the works for domestic use and irrigation, until the government shall have been repaid the District's agreed share of the large construction costs.

For interpreting Senate Document 80 obligations, as well as relative priorities of appropriation on the Colorado, it was important to all interested in the Conservancy District,

both ours and that of the West Slope, that the federal court be selected, which could have wider powers of decision of water priorities and manner of operation than are possible in the limited proceedings known as statutory water adjudication proceedings. These, by decisions, can adjudge only the date and amount of priorities in one particular water district, and not manner of operation.

J. Some Elementary Water Law on Priorities. What We Defend.

Courts do not create water rights. They determine the relative priority of diversion works among each other.

The water rights of the United States in the Colorado-Big Thompson project are claimed by it as an appropriator under the same Colorado law which applies to all appropriators. Appropriations are created in Colorado by construction of works with intent to divert the water and by doing so with continuity of effort to completion by application of water to the beneficial use intended. If the construction and prosecution of the enterprise has been diligent throughout, so that others can see it going on, then, by doctrine of relation, the priority of the appropriation can be related back to the first substantial step of the appropriator. Whether or not the prosecution of the work is being carried on diligently is the way by which the states intending appropriators have notice that claims of others may be ahead of them on the stream. They may rely upon what they see going on openly by physical acts of construction or upon the absence of it. Filing of maps does not create appropriations. Building of works and diversion of water to use thereby are what create the appropriation.

But to determine among conflicting claimants on a stream which one is first and the relative priorities of each to divert water in times of scarcity, court proceedings must be had.

These court proceedings do not create the appropriation. But they do determine in the nature of quiet title, the relative rank of the several contending appropriators based upon proof of facts, showing diligence or lack of it.

Colorado courts say a "dog in the manger policy" will not be countenanced.

Distinction between making appropriation of water and court wherein its relative priority may be determined

It is to be borne in mind (which some do not realize) that there is a distinction between creation of an appropriation of water and the designation of the tribunal or court in which its relative priority will be determined. This priority of right is naturally a valuable property right in the appropriator. And while in the final analysis it is for the benefit of the actual user of the water under the Colorado system for orderly procedure to avoid multiplicity of litigants, it is the ditch company, not the stockholder or user, the city, not the householder, and here, the United States, not every user in the seven counties of the district, which present the claim in court for adjudication of this valuable property right of relative priority. It is not unnatural that United States law requires trial of its property rights, here, its priority in a federal court, rather than in the state, or "local" courts, of so many West Slope water districts.

In 1952 an act was being pressed in Congress, chiefly by Denver and Nevada interests, to make the United States water rights subject to being tried in local courts. It is known as the McCarran Act. It did not meet favor separately, but in the last few days of the session, its advocates got it tacked on to the omnibus appropriation bill, hence its veto was practically impossible. Chairman Harry Polk, of the National Reclamation

Association legislative committee, referring to this act, reported at the Long Beach convention:

> "Hearings were held before the Irrigation Sub-Committee in the house, at which, Glenn E. Saunders, attorney for the City of Denver, and William E. Welsh, our secretary-manager, presented testimony."

Attorney Saunders at the October, 1953 Colorado Bar Association water section stated that this act does not apply to the pending federal court to determine Colorado-Big Thompson water rights.

K. We Defend Against Denver's Efforts to Outdate Us, Not to Get U. S. Money.

Our rivals for West Slope water priorities, chiefly Denver, fathered and have inspired the activities of that association, in opposing our efforts and those of the United States to establish in court the priorities of our project water rights. We are not opposing Denver's efforts to get interest-free government money to build its proposed Blue River project. We are defending in courts against Denver and Colorado Springs much-lawyered effort to obtain, for their more recent works, priorities which would make inferior our rights to Colorado River water. We cannot be indifferent to their effort if it results in their gain at the deprivation of the users of water of our project. We urge that those cities are asking too much in seeking to subordinate our water rights to their projects in the light of their lack of diligence to the time when our project was undertaken. If Denver would have the prior right to take 177,000 acre feet, and Colorado Springs the amount they claim, from the Blue, the Colorado River will have that much less water to supply claimants down stream who might be so deprived and hence have our diversions stopped at critical times, though those events might be twenty-five years hence.

II. EAST SLOPE WATER ADJUDICATIONS

A. Cache la Poudre River

This adjudication went to decree of Larimer County District Court, entered by Judge Claude C. Coffin, September 10, 1953. The adjudication was entered by the District by statements of claims for its works receiving water from Cache la Poudre supplies. The chief one of these is Horsetooth Reservoir, which receives water from intermittent small creeks that its eastern dams intercept, Spring Creek, Dixon Creek and Soldier Creek. There will sometimes be interceptions of sudden and violent floods by these dams. Its appropriations were decreed to date from survey of October 15, 1935.

The United States, as construction and repayment contractor, with the district, after our testimony given, finished construction of North Poudre Supply Canal, begun by survey of January 12, 1943, to tap the main Poudre River and lead water thence by gravity northeasterly. North Poudre Canal thus connects with the main river to make available by our ditch, the Cache la Poudre River. The cost to the District will be large. The District presented its claims for appropriations by North Poudre Supply Canal. Several days were occupied in testimony and in the arguments, and in watching that of other claimants having possibility of claims adverse to District interests.

The District's claims for appropriations were contested by the North Poudre Irrigation Company, by the Sherwood Irrigation Company, the Mail Creek Ditch Company, the Larimer County Canal #2 Irrigating Company, and the New Mercer Ditch Company. All these contesting ditch companies were represented by the same counsel as North Poudre Irrigation Company.

The other objecting companies were claiming that they had, by enlargements, made appropriations through their ditches and reservoirs which antedate and are prior to those appropriations of the District through Horsetooth Reservoir and through North Poudre Supply Canal.

Refilling priorities awarded to many reservoirs dating back to 1923 or earlier, place the District's priorities from the Poudre far down the line, but they may, in flood seasons, be of value.

The North Poudre Irrigation Company claimed to be owner of the appropriations of the just completed North Poudre Gravity Canal.

The Court decree for North Poudre Supply Canal recites the fact that both the District and North Poudre Irrigation Company are claimants of that canal. In statutory water adjudication proceedings, there is no power to adjudge the legal ownership of the canal or its appropriations, and Judge Coffin so held.

The District was further opposed by Water Users Association for State Control which had hired one of these firms of Denver attorneys which is employed by Denver in its opposition, in federal and state Supreme Court, to the District water rights from the Blue River and from the main Colorado River. This association protested the District had no right, either in State Court or other Court, to claim or receive decrees for priorities of water rights out of the Poudre by appropriation. This is a contention just contrary to what the same attorneys are asserting in the Federal Court suit over our project water rights in the Colorado River. It is notable that the Poudre River irrigation companies, which contribute to the association, had their names excluded from this protest.

The District Court declined to enter the limitations on operation and injunctions sought by those other ditch companies to compel the turning down of Horsetooth water appropriated from those creeks in advance of showing present deprivation. Such matters are foreign to the jurisdiction of a statutory water adjudication proceeding.

Because the United States had failed to file claims in the Larimer County District Court in the pending Cache la Poudre adjudication, the District had a right to present the claims for Horsetooth and the Gravity Canal, as beneficiary of the appropriations made by construction of these works by the U. S. under contract with the District.

The witnesses for the District in the Poudre proceedings were directors Charles A. Lory and Ed F. Munroe, Secretary-Manager Dille, Engineer J. R. Barkely and Bureau of Reclamation Engineers Phil J. Denton, V. R. Morgan and John A. Radcliff. It developed that fourteen of the prime movers of our project, including our President, Charles Hansen, then in his last illness, were by physical disability or death, no longer available to speak as witnesses. The Fort Collins history served to make a record of important facts.

B. St. Vrain River

A St. Vrain water adjudication in Boulder County District Court went to decree for many works July 23, 1951. The adjudications there which concern the District were largely those for second fillings of reservoirs. For these many claims were made and many decrees were entered to date from 1929. These antedate the Colorado-Big Thompson appropriations. The District has claims for water rights by appropriations out of the St. Vrain by Boulder conduit, which intercepts St. Vrain Creek just below Lyons in Boulder County. The District will, at the next adjudication, present its claims

in that District Court based on construction work now begun on that twelve-mile canal, which leads from St. Vrain Creek to Boulder Creek, and thence forty miles east to the South Platte River. From the South Platte River water is so made available to that part of the District above Farmers Independent Ditch.

C. Thompson River

The Thompson River water adjudication proceedings, also in Boulder County District Court, were entered by the District in 1938. Each two years steps have there been taken to preserve adjudication of priorities for the water rights of the District. We have obtained decrees conditional in main, final so far as applications to beneficial use by the completed works are concerned. Such decrees for the works being constructed were entered April 4, 1952 and will be up for further testimony at the March 1954 term in Boulder County. The decrees and dates awarded by the County relate the District works out of the Thompson River to 1933, and affect the appropriations of Carter Lake Reservoir, Horsetooth Reservoir, Flat Iron Reservoir and the conduits leading from Lake Estes through the various tunnels to Flat Iron Reservoir, and thence northerly to the Thompson River and to the Cache la Poudre River, and, southerly from Flat Iron Reservoir, to Carter Lake and St. Vrain River and to Boulder Creek and thence onward to the South Platte. The District has also a direct appropriation out of the Thompson River by what is known as Dille Tunnel through the mountain from a point just below Montrose in Thompson River Canyon to the Horsetooth Feeder Canal, near the mouth of Thompson Canyon, whence waters are delivered to and through Horsetooth Reservoir to the Poudre River.

Boulder Creek

An adjudication was held and a Final Decree was entered in 1953 in Boulder County District Court as to the water rights of ditches and reservoirs taking their supply from Boulder

Creek, South Boulder Creek, and its other tributaries. The proceedings were watched but the District had no claims for appropriations from those streams which at this time were ready to present. They have an indirect bearing on St. Vrain Creek.

III. COLORADO RIVER WATER SUPPLIES

A. Leeds, Hill and Jewett Report on Colorado River Supplies

This report, to the Colorado Water Conservation Board, is dated October 31, 1953. It was of a study which this eminent firm of water supply engineers was employed to make of the water resources available from surface supplies of the West Slope of Colorado, and of the present and potential uses thereof in Colorado, under the law, including compacts affecting the use of said water. Trans-mountain diversions to the extent capable without injury to the potential economic development of the natural watershed were analyzed.

These engineers point out some factors realized since the Colorado River Compact of 1922. These are that the dependable average annual flow at Lee Ferry, instead of the 15,900,000 acre feet then assumed, was only 11,700,000 acre feet in the 10 years just ended, and was as low as 4,400,000 acre feet in one year. They point out that the Upper Basin States, in the compact guarantee that the Upper division will not deplete the flow at Lee Ferry below 75,000,000 acre feet in a 10 year period. This compels a reduction in estimate of the supplies available to the Upper Basin users, of which Colorado, by the Upper Basin Compact, gets 51%.

Therein the engineers compute (a) the total amount annually available for use in Colorado as 3,100,000 acre feet; (b) present depletions aggregate 1,450,000 acre feet; (c) assuming the Colorado-Big Thompson diversions, including evaporation losses, as 388,200 acre feet yearly; (d) there are other committed supplies of about 200,000 acre feet, which

includes Denver's Fraser and Williams Forks conditional priorities 115,000 acre feet, and the Frying Pan Arkansas Project, as 72,000 acre feet. (e) They put the amount Colorado Springs already takes from the Blue as 17,000 acre feet; (f) they conclude that "it would be physically possible for Denver to divert from the Blue the 177,000 acre feet which Denver proposes." They do not comment on the effect on us of a Denver superior priority.

We here quote from the report, Sections 7, 8, 9, 12:

THEIR CONCLUSIONS:

"We conclude from review of all available data and from independent analyses that:

1. All of the 7,500,000 acre feet of water per annum apportioned to the Upper Basin by the Colorado River Compact, may not actually be available for use because of the requirment that 75,000,000 acre feet be delivered at Lee Ferry during each consecutive ten-year period.

2. Compliance with this provision and limiting the carry-over in cyclic storage to the 22 years from 1930 to 1952 would have required that reservoirs of 21,000,000 acre feet capacity had been available in 1927 for cyclic regulation and that the aggregate depletion in the Upper Basin be no more than 6,200,000 acre feet per year.

3. The total of all depletions at sites of use in Colorado of the flow of Colorado River and its tributaries may thus be limited to 3,100,000 acre feet per year.

4. Depletions in Colorado under present conditions aggregate practically 1,450,000 acre feet per year.

5. Commitments for extension of existing projects and for other projects authorized would increase present depletions almost 200,000 acre feet per year.

6. The present uncommitted surplus which can be relied

upon for use in Colorado is thus 1,450,000 acre feet per year.

7. Development of the oil, shale reserves in Western Colorado should be anticipated and the consumption of water for industrial, municipal, and other purposes resulting therefrom may reach 300,000 acre feet per year.

8. Consumptive uses by expansion of irrigation on the Western Slope will depend upon the degree to which projects are subsidized. Should the subsidy be limited to $200 per acre, the resulting depletion would be no more than 100,000 acre feet per year. Should subsidies as great as $600 per acre be permitted, the resulting stream depletion at sites of use might reach 800,000 acre feet per year.

9. Depletions by new trans-mountain deversions will likewise depend upon the degree to which irrigation agriculture may be subsidized. Some diversions could be financed by municipalities without subsidies, but these would be limited to about 200,000 acre feet. Additional trans-mountain diversions for agricultural purposes in any substantial amount would require subsidies in excess of $400 per acre. Even if subsidies as great as $600 per acre were permitted, the total of all new trans-mountain deversions for all purposes would be more than 300,000 acre feet per year.

10. If subsidies to agriculture at any point in Colorado be limited to $600 per acre, future depletions caused by expanded irrigation on the Western Slope and by trans-mountain diversions would amount to 1,100,000 acre feet per year.

11. If any greater subsidies were to be allowed, the potential depletion caused by consumptive uses in agriculture and industry and by trans-mountain diversions would be in excess of the supply of water available to Colorado.

12. Increased diversions of water for use be agriculture and industry on the Western Slope and for trans-

mountain diversions will depend upon the provision of sufficient storage capacity in reservoirs for conservation of flood flows and some cyclic regulation; in order that Colorado may make full use of the water allocated to it by the compacts, cyclic regulation of Colorado River over periods longer than twenty years will also be necessary."

B. Reclamation Report on Water Available to our Project

The report of H. P. Dugan of the Hydrology branch of the Bureau of Reclamation dated October 8, 1953, shows that the amount of water available at Granby Reservoir for transport through the tunnel to the Eastern Slope, based on the last 10 years, is the average of 278,100 acre feet annually, instead of the assumed 320,000 acre feet.

Even this would be diminished if we would have to stop diverting water at Granby Dam on the Colorado River, due to earlier downstream priorities. We maintain that if there has to be such a cessation of diversion from the Colorado from trans-mountain use, Denver should not be relieved by being given a priority ahead of the district users.

The Denver effort calls all the more for District defence since, by Senate Document 80, on which the first Congressional construction appropriation for the Colorado-Big Thompson project was obtained in 1937, it is provided that "if an obligation is created under the Colorado River Compact to augment the supply of water from the State of Colorado to satisfy the provisions of said compact, the diversions for the benefit of the Eastern Slope shall be discontinued in advance of any Western Slope appropriations."

Senate Document 80 makes the promise "No releases from Granby Dam for any reason" Blue River Supplies are its buffer.

It is demonstrated that the water supply for the Lower Basin is substantially less than that counted on at the compact.

IV. BOULDER INCLUSION

The Boulder inclusion into the District had its inception in 1951. We cooperated in the drafting and passage of a 1951 legislative amendment Water Conservancy Act to enable Boulder to avail itself of joining the District. It made a thick file in 1953. Petitions were drawn for the inclusion proposed., Boulder organizations circulated them, and got a requisite number of landowners to sign for inclusion. Prerequisite to a court hearing thereon was that verified consent of the Board of Directors of the District shall be filed with the Court setting forth the terms and conditions upon which the area shall be included, which terms may include the price per acre foot of water to be allotted for use within the included area.

Negotiations between officers and attorneys and the Boards of the District and of Boulder to settle upon terms were nearing mutual acceptability at the end of 1952. On January 10, 1953, the District Board adopted a general resolution of tentative terms and conditions for such inclusion. Conferences to settle area, elements and legal agenda followed until the Boulder petitions to the Weld County District Court were ready to file. The petitions of 750 taxpayers were filed on July 1, 1953. Judge Coffin set August 31, 1953, as the hearing date. Various necessary authorizing acts of the two bodies in resolutions, ordinances, notices, petitions, agreements for back taxes amounts to be paid, allotment amount rate, and petitions, construction of a Twinlake Reservoir, place of water measurement were drafted and adopted.

The extended complete contract embracing these terms and conditions, and the contingencies upon which they would depend and become effective, were drawn up. It was signed

by Mayor John D. Gillaspie and Clerk Leonard R. Jones for Boulder, and by President Jacob S. Schey and Secretary J. M. Dille, for the District, on August 24, 1953. Its terms were embodied in the decree.

The District Court hearing began on August 31 at Greeley. After proof of sufficiency of the petitions and the benefit to be obtained, Judge Coffin recessed to September 8, 1953, to give opportunity to the District Board to act on Boulder's petition for allotment of 12,700 acre feet of water. The Board ordered the allotment at its regular meeting of September 4, 1953. The hearing was completed with this showing at District Court at Ft. Collins on September 8, 1953. Consent of the Secretary of Interior was necessary to the inclusion. To expedite it by a September 8 telegram required efforts of both parties in Denver and Washington, and had the assistance of our United States Senator Millikin.

Among other terms of the inclusion so decreed are: repayment by Boulder, in 10 annual installments with 2% interest, of general tax levies for District purposes from 1937, the petition and allotment of 12,700 acre feet of water to Boulder, at a price of $2.00 per acre foot, the construction by Boulder of an 11,700 acre foot reservoir for equalization and storage, to be utilized 2/3 by Boulder, 1/3 by the District, each to have reciprocal rights on unused capacity of the other, the District to repay 1/3 the cost with interest at Boulder's debt financing rate, over a period of 40 years, out of revenues from the Boulder area water.

The 11 page decree was filed with the City and the District and with the 7 counties of the District, and so became effective in time for October 1, the determinative date on inclusions of land for purpose of levies of 1953 general taxes for District purposes.

Some close application with District and Boulder authorities and City Attornity John M. Sayre accomplished the drafting of the many antecedent legal papers of resolution, petitions, contracts, orders, notices, hearings and drafting the 11 page decree accomplished a timely result.

A. Other Municipal Allotments

A water allotment to the town of Johnstown by an ordinance and District Board action for 600 acre feet, also required our services, and an additional one of 2000 acre feet for Fort Collins.

These bring the total allotments for domestic uses of cities to 44,950 acre feet. Thereby the public nature of the District as a state agency is extended. Boulder inclusion brings to the District a capital repayment of $72,587.50 and an added valuation for general taxes, which, when the one mill rate levy goes into effect, will produce $26,000.00 or more per year to share the burden of repayment to United States for construction costs. Beside that, it serves as a step on the South Platte Conduit to further the original project purpose to make water available to water users in areas the Ft. Lupton, Platteville, Gilcrest and Kersey under ditches from Boulder Creek and from the main South Platte River. It offers limited possibilities of like benefits by exchange, up the river to additional areas.

B. District Units Set Up

The statute empowers division of the District into units and for different charges for water in different units. An incident to this extra cost of Boulder water delivery, beyond that of taxpayers and allottees in other parts of the District, was the adoption by the District Board of a resolution or ordinance setting up the District into two units. This fixed the rate of second unit pay

at $2.00 per acre foot of water allotted for use on lands served by delivery of District water. The resolution and the Boulder decree provide that:

FIRST: The first unit shall consist of all lands now in the District except those lands served by ditches having their headgates on Boulder Creek or its tributaries or on the South Platte River above the mouth of St. Vrain Creek, all of which excepted lands are supplied with project water by releases through Twin Lakes Reservoir on Dry Creek.

The acre-foot charge for water under said first unit shall be $1.50 per acre foot.

SECOND: The second unit shall consist of all lands in the District served by ditches having their headgates on Boulder Creek or its tributaries or on the South Platte River above the mouth of St. Vrain Creek and all of which lands are supplies with project water by releases through Twin Lakes Reservoir on Dry Creek.

The acre-foot charge for water under said second unit shall be $2.00 per acre-foot.

V. RIGHTS OF WAY

St. Vrain Supply Canal

The latest condemnation suit, being that on the McConnell tract at Lyons, for St. Vrain Supply Canal, was concluded December 12, 1953 by agreed Decree of the Boulder District Court. As a result of considerable negotiations, reduction was made in amount of land permanently taken, with compromise in amount of damages paid. No condemnation suits have been necessary on the canal from the St. Vrain down to Boulder Creek.

North Poudre Gravity Canal, "Ed F. Munroe Canal"

For North Poudre Gravity Canal rights of way obtained have been in cooperation with Thomas J. Warren, attorney for the North Poudre Irrigation Company. It has involved many owners and parcels of land in meandering courses, and many abstract examinations for that twelve miles of canal. The last easements were those over state lands. This took considerable time with the State Land Board and has been recently concluded. All these rights of way are recorded in the name of the District. The canal will cost the district over $800,000.00. It is subject to contractual rights of the North Poudre Irrigation Company to carry, by exchange, its water from the District under its special contract of water allotment, and its duty to maintain this canal. It puts the North Poudre water users for the first time into the main Poudre diverting ability. We were surprised to have that company file in Court statement of claim to the Poudre appropriations of water made possible by that construction.

Lower Boulder, Coal Ridge and Platte Valley Carriage Contracts and Rights of Way

Numerous meetings with boards and attorneys for the companies owning these irrigation systems and with reclamation bureau attorneys

and officials have been had on this District activity, which will bring water to Coal Ridge west of Fort Lupton and Platteville, and to the lands under the "Evans No. 2" system, east of the Platte River. It is still in a formative stage. A four party contract of over twenty provisions as to operating agreements, reservoir and canal enlargement and costs-sharing has been drafted in provisions fairly, but not completely, agreed upon. The matter has had especial attention all year and to the end of December. It departs in some respects from the District's usual water delivery into streams. A contract seems well on the way to submit to final action of District and the companies.

For the carriage rights from Boulder Creek to the South Platte River and to serve the lands under Lower Boulder Ditch, Coal Ridge Ditch and other lands beyond Coal Ridge Ditch, and those under Platte Valley Canal, negotiation and drafting of contracts have been incident, in dealings with The Consolidated Lower Boulder Ditch and Reservoir Company, The Coal Ridge Ditch Company, The Platte Valley Irrigation Company and Reclamation regional counsel.

It has seemed desirable to take the course of enlargement of these canals to make water available for lands in the District under them as well as under other canals from the South Platte River directly or, by exchange, to canals out of the South Platte River, above Platte Valley or Milton Lake inlet.

Tentative drafts of contracts between the four parties are comprehensive. The covenants of the several parties have to be contingent on signatures by all parties and upon the allotment to users under Platte Valley canals. All of these have to be made conditional and are yet depending upon accord of the irrigation companies and the District and the enlargement construction work to be arranged with the Bureau of Reclamation. Rights of way for agreements for widening across lands of many crossed by the enlarged

canals will be entailed for getting government work begun.

VI. LEGISLATION

The senior member had a hurried Washington trip on Department of Justice and Interior business for the District in late November to avert a rumored danger of delay in the federal court trial. This was his first trip there on Northern Colorado Water Conservancy business since his 1935 to 1937 mission there on efforts at the national legislature for the initial appropriations.

The writer is appointed by the president of the Colorado Bar Association to represent the South Platte Watershed on the 1953-54 water section council. Board Director Hatfield Chilson is chairman of that section. Each river water shed ordinarily gets one council member. Denver, of this watershed, as an innovation, gets two special representatives this year.

Reclamation Legislation

Mr. Clayton of our firm has been given exceptional recognition in his appointment as one of the 1954 seven-member legislative committee of the National Reclamation Association. They will begin sessions January 25, 1954 at Washington, D. C. It is the first appointment of an attorney for this District to an important committee of NRA.

Eminent Domain Legislation

The senior member of our firm was on a state-wide 1952-53 committee of the Colorado Bar which spent much time in a bill to revise and modernize our eminent domain statutes. The bill got side tracked in the 1953 legislature closing days. Mr. Clayton will be on this committee for 1954.

On legislation, we have tried to keep abreast of state and national measures, in process and proposed. None of special importance passed in 1953. We have kept in touch, currently, with the departments, state and federal, affecting our water rights, and

all matters of conservancy Districts, whether by legislation or Court decisions, including the Colorado River case now in the United States Supreme Court, and activities of the Upper Colorado River Commission.

CONCLUSION

This writer's activities in advancing our project began on July 29, 1923. Its water rights, now in process of Court determination, will still be important to the water users of the South Platte Valley for ours and many generations. They are perpetual in nature. Their volume will depend on whether Green Mountain rights are adequate to assure that we will not have to stop diverting at Granby Dam.

Respectfully,

KELLY AND CLAYTON

William R. Kelly

WRK/wa