

CHAPTER 5: Everything comes together – for the moment
From “Water Wranglers: The 75 Year History of the Colorado River District”
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This is the “1937” chapter draft of the history of the Colorado River Water Conservation District, the final chapter of the first part of that history, covering the events, background contexts and historical forces that made the creation of not only the River District, but also the Colorado Water Conservation Board and the Colorado Conservancy Act necessary and somewhat inevitable in the further development of water in Colorado.

Acronyms used in the chapter:

WCPA: The Western Colorado Protective Association, organized in 1933 in the upper Colorado and Gunnison Basins, to address the growing pressure for transmountain diversions from the Upper Colorado River Basin.

NCWUA: The Northern Colorado Water Users Association, an organization of irrigation districts, ditch companies, other irrigators and communities in the lower South Platte valley, below the Denver-Boulder urban area.

CSPC: The Colorado State Planning Commission, created by Governor Ed Johnson in 1934 to coordinate Colorado’s response and requests to the federal government’s Public Works Program and other “New Deal” programs.

Late in the summer of 1936, United States Bureau of Reclamation engineers Porter Preston and Mills Bunger completed the Bureau’s study and survey for what they called “the Colorado-Big Thompson Project.” Their conclusions about the project were a mix of good news and bad news for everyone. They found the project to be quite feasible, with as much as 335,000 acre feet dependably available for diversion at Grand Lake. They recommended building the project for 310,000 af.

The Project, as envisioned by the Bureau engineers, was huge and complex – not as huge as the Boulder Canyon Project on the Lower Colorado, but probably more complex. The water to be diverted through the Great Divide was to be collected in three

new reservoirs to be constructed below the existing Grand Lake. Shadow Mountain Lake would be created by a low dam, just below and at the same elevation as Grand Lake (and like Grand Lake, would be kept at a “nearly constant level” to support an existing resort community). Below that, a larger reservoir would be created near the town of Granby, a fluctuating reservoir pumping water up to Shadow Mountain and Grand Lakes via a 4.5 mile canal. Another smaller reservoir would eventually be built on Willow Creek, a small Colorado River tributary, with a pumping plant to supply more water to Shadow Mountain Lake.

From Grand Lake, the water would enter a 13.1-mile concrete-lined tunnel leading to Mary’s Lake on the Wind River near Estes Park on the East Slope. From there a 5.3-mile conduit – partly buried through an area authorized for future inclusion in Rocky Mountain National Park – would take the water to a power plant on the Big Thompson River. The water would pass through five power plants on its way downstream to a diversion weir that would channel the water toward Carter Lake Reservoir, northwest of Berthoud between the Big Thompson and St. Vrain Rivers; the purpose of that reservoir would be to store water moved through the Divide between irrigating seasons. Many miles of conduits made up of open ditches, tunnels and piped siphons would then carry the water along the hogback where the High Plains end abruptly to Horsetooth Reservoir up in the Poudre valley at the north end of the project, and the St. Vrain valley on the south end. (Eventually the project would extend into the Boulder Creek valley, and out to the South Platte near Fort Lupton, but that was not part of the original Project.)

Previous estimates that had placed the price for a more vaguely conceived project at around \$16 million were literal pipe-dreams; the Bureau engineers estimated the whole project would cost at least \$30 million at late-1930s prices.

That bad news for the NCWUA was mitigated by the substantial power generation built into the project, in return for revenues from which the Bureau would take on a large portion of the project cost.

The study also acknowledged and addressed the West Slope concerns. Preston and Bunger agreed with the WCPA that the 75,000 acre foot reservoir on the Williams Fork the NCWUA had proposed in 1934 would be insufficient – by a factor of two (even

if Denver's water rights and emerging plans for the Williams Fork had actually left that much water available there).

Their analysis of "present and future needs" along the Colorado River in Colorado focused on two critical water rights. The most senior major water right on that stretch of the river is for the Grand Valley Canal, with 1888 and 1908 irrigation-season decrees totaling 1,800 cfs (although their usual usage had leveled out in the 1930s to an average of around 1,000 cfs).

The other major right is a 1902 year-round decree for the Shoshone Power Plant in the canyon above Glenwood Springs, for 1,250 cfs. Since power production is a non-consumptive use, a flow that fulfills this decree, together with the Roaring Fork flow below Glenwood Springs, also meets the Grand Valley demand and other smaller demands along the way downstream. Thus, in the words of Justice Gregory Hobbs (Colorado Supreme Court), the Shoshone right was "the year-round door through which the demands of upstream junior rights must pass or be shut out." (Upstream junior rights that would eventually include, Hobbs points out, most of the East Slope to one degree or another.)¹

After examining the historic record of flows through that "door," the Bureau engineers estimated that, if the full 310,000 acre-feet were diverted to the South Platte basin through the irrigation season, the West Slope would need at least 52,000 acre feet of "replacement" water in storage for gradual release during the post-runoff irrigation season (July-September) and through the winter, to maintain the flow of 1,250 cfs at the Shoshone Power Plant.

So what they proposed was a reservoir for the West Slope that would reliably store 152,000 acre feet. 52,000 af of that would be the "replacement" storage. The other 100,000 af would be a hydropower pool initially, but would ultimately be for the future needs of the West Slope. The study showed that the Colorado River basin down to the junction with the Gunnison River had 256,300 irrigated acres, with 123,000 additional

¹ "Green Mountain Reservoir: Lock or Key?" Paper presented at the 1984 Colorado Water Congress Convention by Gregory J. Hobbs, Jr., then of Davis, Graham & Stubbs and retained by the Northern Colorado Water Conservancy District. This paper has been invaluable in understanding the ever-compounding complexity of water distribution from the upper Colorado River and its tributaries. (Water Archives, Morgan Library, Colorado State University)

acres of unirrigated but arable land that might be irrigated in the future.² In the meantime, the designated use for the 100,000 af would be a “power pool” for generating electricity that would help pay back the costs of the project.

Congressman Taylor thought that was a serious under-estimate of the valley’s potential irrigable land, and Frank Delaney raised questions – basically still unanswerable today – about the potential needs for coal and shale oil development. But overall, the WCPA was very happy to see how seriously the Bureau had taken their issue.

Preston and Bunger recommended a “Green Mountain site” on the Blue River for the dam and powerplant, with an estimated cost of \$3.8 million, of which the Bureau would assume almost two-thirds – \$2.3 million – in return for the power revenues. The NCWUA would pay the rest.

With the Bureau’s report out, and a good description of the whole project in hand, the fall and winter of 1936-37 involved a certain amount of positioning and sparring across the Divide in Colorado, and across the country in Washington. Hansen, Nixon, Dille and other representatives of the NCWUA spent a lot of time in the capitol seeking support for a Colorado project, and when they weren’t in Washington, they were in Colorado trying to negotiate the best deal they could with the WCPA.

The 1936 election sent two men to the state General Assembly who would be key to what was shaping up as the year when everything would come together.

One was a young lawyer from Palisade, Wayne N. Aspinall. He was re-elected (after a term off) as a Democrat to the State House from Mesa County. Aspinall had grown up in the orchard country near Palisade in the early 1900s, during the years when the Bureau of Reclamation was building the Grand Valley Project – a formative experience for the boy and young man, watching the greening of the Grand Valley. He went to the University of Denver law school, and returned to Palisade after passing the

² The Bureau was not just “guessing” at the possible “future need” for irrigation water. They had criteria for “certifying” irrigable land, based on the slope of the land, its drainage, temperature and growing-season records. The amount of already irrigated land was everything “under ditch,” whether it consistently got water or not.

bar in 1925, where he opened a practice, got himself appointed town attorney, and also began teaching school – and driving the school bus.

He also found time to get active in Democrat politics in the late 1920s, and in 1930 he was elected to the State House and re-elected in 1932. In 1934 he opted to not run, in order to work in a New Deal Home Owners Loan Corporation, which unfortunately closed shortly after the election. But he was easily re-elected to the Assembly in 1936, and immediately after the election, he began seeking Democratic support to be Speaker of the House; he was duly appointed when the session began in January. His political role model was, of course, Congressman Taylor, and he would eventually come close to filling Taylor's shoes in the Third District, with a ten-term run in Congress beginning in 1948 that eventually led to the chairmanship of the House Interior and Insular Affairs committee, making him a key figure in all the big water decisions of the post-war era.

The other key person elected to the State House from the West Slope in 1936 was Judge Clifford Stone from Gunnison. A Gunnison County native, Stone had practiced law in Gunnison and served as county judge there for eight years, into the early 1930s. He did not become active in the WCPA until 1935, but quickly made up for lost time with strong and creative participation. He only served in the General Assembly for one-term – but it may have been the most focused and productive term any legislator anywhere has ever served.³ He ran with the intention of getting water development in Colorado better organized, especially with respect to achieving cooperation between state and federal agencies, and also between the geographic regions of the state. In his four-month legislative session, he did more to move those goals along than had been done in the previous forty years. No single person did more to change “the way Colorado does water” in that critical period than “Judge Stone,” as everyone called him. His name will emerge again and again as this history moves forward.

³ At that time, the General Assembly only meets in odd-numbered years – 1937 for Stone's service.

In mid-December 1936 – with Congressman Taylor still bedridden in Glenwood Springs, recovering from his latest bout of illness – Hansen, Nixon and Kelly of the NCWUA tried one last time to come up with a solution that would address West Slope concerns without requiring an expensive dam. Following an early December Denver meeting involving the two parties, they sent a letter to Frank Delaney proposing that the Shoshone Power Plant point of diversion be used as a control point for Colorado-Big Thompson diversions:

“We propose that whenever the natural flow of the river at said control point shall fall below 1250 feet per second of time, the natural flow of said river shall not be detained or diverted by or for said Colorado-Big Thompson Project unless an amount equal to the amount of water detained or diverted from the natural flow be replaced in said river above said control point from other sources so that the river at said control point shall always have the natural flow the same as though no water were being detained or diverted for said project.”⁴

This vague promise of replacement flows only, with no promise of actual storage, got a quick and concise response from Delaney: “The proposal you set forth is not an acceptable basis of settlement. It seems to me it does no more than to commit you to refrain from interfering with the rights we have already perfected to the use of water on this side of the Divide.”⁵

But Delaney followed that firm rejection with a more conciliatory note: “After our conference in Denver the other day [a statewide meeting with new Governor Teller Ammons]... it was the consensus of opinion of all [West Slope participants] present that we would like to work out some amicable and satisfactory compromise upon which we can proceed with some degree of assurance as to the future use of the waters of the Colorado River.” He recommended that the two parties meet again in Denver, at the

⁴ Letter from Hansen et al to Frank Delaney, Dec. 16, 1936. (Attachment 2, “Green Mountain Reservoir: Lock or Key?” by Gregory Hobbs, above cited. Note that the letter was addressed to Delaney and not to Aupperle at WCPA.

⁵ Letter from Delaney to Thomas Nixon, NCWUA attorney, Dec. 24, 1936. (Attachment 1, “Green Mountain Reservoir: Lock or Key?” by Gregory Hobbs, above cited.

Shirley-Savoy Hotel⁶, January 3-4, 1937, “to see if we can formulate a plan along the lines indicated.”

Hansen, Dille, Nixon and Kelly came to that meeting from the NCWUA; Silmon Smith, Judge Stone, Dan Hughes, Judge Clyde Stewart and Delaney were there for the WCPA. Also participating were Porter Preston and Mills Bunger, principal authors of the Bureau’s study of the Colorado-Big Thompson Project.

Over those two January days, with the Bureau men serving as more than just secretaries, the main points were hammered out for what was eventually titled “Senate Document 80.” Senate Document 80 was basically the Bureau study report with three pages added, on “Manner of Operation of Project Facilities and Auxiliary Features” – focused primarily on the operation of the compensatory part of the project. Much of that “Manner of Operation” was hashed out in broad strokes at that meeting in Denver, and finished up in another meeting in Washington later in the year. Senate Document 80 became the key piece of political and legal infrastructure for almost everything that happened (and some things that didn’t happen) for the rest of the century on the upper Colorado River and its tributaries.

That 1937 early January meeting in Denver, laying out the basic agreement between the East and West Slopes, opened the way for hugely productive legislative sessions in both Denver and Washington.

A second challenge addressed relatively quickly that year was the NCWUA’s need for an organization with the taxing authority to raise the amount of money necessary to repay the Bureau of Reclamation for a very major project over a 40-year period. The existing 1935 “conservancy district” law permitted only an assessment on direct water users within a designated district, but the estimated costs of the project in the Bureau study made it clear that water users alone would not be able to pay off a project as big as the Colorado-Big Thompson; there would have to be an organization that could levy a tax on the entire population of the designated district.

⁶ Denver’s Shirley-Savoy, two upscale hostelries under joint operation side by side at 17th and Broadway in Denver, was the site of many important water-related meetings over the years, until its razing around 1970.

NCWUA attorneys Nixon and Kelly drafted up a bill, with Weld County representative Moses Smith, based in part on the state's existing 1901 "irrigation district" law, permitting the formation of irrigation districts with some taxing powers; their bill enabled the district to tax its entire population for water development projects or programs, as need presented itself and was approved by the taxpayers.⁷

It is important to note that the 1937 Conservancy District bill was drafted with input from both slopes. Correspondence between Judge Stone and Frank Delaney indicated that Moses Smith and Judge Stone passed the bill drafts back and forth frequently – a sign of the East Slope's new awareness of the importance of including the West Slope in any water planning that might involve West Slope water. That should not suggest that Stone and Delaney necessarily shaped the legislation; twenty years later Delaney observed in a River District board meeting that "when drafting the Conservancy District Law an attempt had been made to limit extent of transmountain diversions, but it had failed."⁸

The final bill called for the organization of "conservancy districts" anywhere in the state, to be created by filing a petition with the district court signed by at least 1,500 owners of irrigated lands and another 500 landowners not involved in irrigation; the proposed district had to have at least \$20 million assessed value in irrigated land. The conservancy districts were to be considered "quasi-municipal" organizations in that they had taxing power but no direct governing responsibilities. Each district would be governed by a board of directors – appointed from geographical sub-districts by the divisional water judge rather than elected, since it was considered to be a task requiring relatively specialized knowledge beyond the political sphere. There are provisions, however, for election by petition if the people of a district began to feel that the board was not sufficiently representative of the district and its water issues.

An important inclusion in the bill, from the West Slope perspective, was a requirement for water conservancy districts to mitigate the consequences in a basin of

⁷ Section on the conservancy district legislation summarized from Tyler, pp. 58-62, unless otherwise noted.

⁸ CRWCD special meeting minutes, March 21, 1957, p. 6. (CRWCD Archives.)

origin for a transmountain diversion – replacement water, if not necessarily the compensatory storage for future development called for in the Delaney Resolution.⁹

With vigorous lobbying from both East and West Slope legislators, this bill was passed by the state legislature and signed into law by the governor May 13, 1937, as Article 37-45 in the Colorado Revised Statutes.

John Dille – by then the director of the NCWUA – went to work on the massive task of getting 2,000 signatures from ranchers, farmers and general citizens for the petition. He was aided in this by manpower from the erstwhile Great Western Sugar Company. This was finally accomplished in mid-July, and the NCWUA filed its petition to create the Northern Colorado Water Conservancy District.

Meanwhile, CSPC Director Edward Foster was continuing to push to make an organization like the *ad hoc* Committee of Seventeen a more permanent fixture in the state – a “Water Resources Advisory Committee” for planning the water infrastructure that had to underlie just about any kind of development in the state.

Governor Teller Ammons became interested in the idea, and decided to go it one better. He summoned water leaders from around the state in December 1936, before he even officially assumed office, to consider the creation of a statewide “water conservation” board, to do the kind of planning, prioritizing and coordinating with federal resources that the State Planning Commission had been doing with the Public Works Administration. It would also be a clearing house for the kinds of ideas that tended to spring up on the East Slope that West Slope people first heard about in the newspapers.

Frank Delaney, Dan Hughes, Clifford Stone and Silmon Smith attended the Governor’s meeting as WCPA West Slope representatives. The Governor envisioned – probably with Foster’s urging – a 12-person board whose members would include the governor, the attorney general, the state engineer, the director of the CSPC, and a board director to be appointed. The other seven members would be appointed by the governor from water leaders and experts from around the state.

⁹ In 1943, the General Assembly would amend the Conservancy Act to include compensatory storage.

There was, of course, substantial discussion about how those seven should be chosen. The representatives from Denver and the South Platte wanted, as one might expect, the representation to be based on population, which would have meant six from the East Slope, one from the West Slope. As one might also expect, the men from the WCPA vigorously opposed that – with some help from the Rio Grande and North Platte who often felt left out in the East-West debate. Five to two was discussed, but still opposed by the West Slope delegates. Finally the West Slope men managed to negotiate it to one representative for the San Luis valley (Rio Grande), one for the North Platte, two for the South Platte and Arkansas, and three for the West Slope.¹⁰ The shadow of Edward Taylor probably lay over that negotiation too.

Four state house members who had participated in the Governor's meeting – Stone from the Upper Gunnison counties, James Graham Jr. from Boulder County, Moses Smith from Weld County and Marion Strain from Prowers County – carried House Bill 6 to the General Assembly in 1937 with the short title "Appropriation for Waters of Colorado providing control, protection and development thereof"; it passed both houses and was signed by the Governor on June 1 of that year, with an appropriation of \$205,000.

When this "Colorado Water Conservation Board" was constituted the next year, Judge Clifford Stone applied for its directorship, and was selected (although he did not assume the title of director for almost a year due to his House seat). But Stone's "trifecta" in the legislature was not yet complete; he played a major role in the creation of yet another water organization in 1937.

The WCPA leadership on the West Slope understood why the NCWUA needed the water conservancy district law, but realized that, if the East Slope water users were going to create legally-constituted conservancy districts to advance their transmountain projects, the West Slope might need something more formal and legally constituted in

¹⁰ Today the regional representatives on the Colorado Water Conservation Board are selected by basins: South Platte, North Platte, Arkansas, Rio Grande, Southwestern Colorado River tributaries (San Juan, Dolores and San Miguel), Gunnison/Uncompahgre, Colorado Mainstem, Yampa/White, and the City and County of Denver.

order to negotiate the West Slope's perspective on an equal status with those districts. They were also very aware of needing an organization with funding authority so they wouldn't have to always be begging funds from county commissioners. Frank Delaney had been for some time pointing out the need for engineering services beyond what could be gotten more or less *pro bono*.

So Delaney drafted a bill that was vetted and edited by Silmon Smith, Dan Hughes and Judge Stone. Then Stone carried it to the General Assembly as House Bill 504, for "An Act to provide for the creation of a Water Conservation District, to be called 'Colorado River Water Conservation District,' for the construction of reservoirs and irrigation works and the maintenance of a constant stream flow for recreation and other purposes; to provide for officers of said district and to provide for the creation of special assessment districts for any of said purposes within said principal district" – the district being, at that point in time, most of the counties lying within the Upper Colorado and Gunnison basins.

With all of this relatively sudden forward motion, the WCPA leaders decided it was high time to call a public meeting to let people know what was beginning to happen – maybe a little past time, with the January NCWUA agreement already sketched out, and the River District bill in the legislative hopper.

The open meeting to bring the public up to date on all this was held March 27, 1937, in Grand Junction. More than 100 people showed up, from Mesa, Delta, Gunnison, Garfield, Eagle, Grand and Moffat Counties. Ten irrigation districts were represented. The only major WCPA player not present was Clifford Stone, who was taking care of business at the General Assembly.

WCPA President Aupperle led off with a quick overview of the WCPA's efforts to make sure that, in the East Slope's drought-driven rush to develop West Slope water, the present and future needs of the West Slope would be protected. He spoke briefly on the Colorado-Big Thompson Project, and also on Denver's increasing encroachment on West Slope water in the Williams Fork, Fraser and Blue River valleys – noting that Denver was beginning to file on water for purposes well beyond the "domestic water for

our capitol city” Congressman Taylor had ceded them with no need for compensatory storage.¹¹

He then turned to Frank Delaney, who laid out in some detail the constitutional and legal provisions that permitted transmountain diversions, and the pending bill creating water conservancies, which he believed would pass and enable the people of the South Platte – the richest area of the state – to build a transmountain diversion “even though the Federal Government never participated at all. They have the wealth, they have the population, and undoubtedly they will have the machinery under which to work.” His clear purpose was to remind the people that “not one drop” was not an option, in and of itself.

Delaney moved next to a description of the bill he had drafted to create a similarly constituted legal organization for the West Slope. As the “conservation district” bill title indicated, Delaney was thinking of an organization well beyond a “protective association”; he knew that the best way to keep other entities from developing Colorado’s share of the Colorado River for use outside of Western Colorado was to develop it first for use in Western Colorado. The bill would create an organization that could “cooperate with the Bureau of Reclamation in the actual construction of [West Slope] projects,” as well as “coordinate the activities of all the counties over here – a line of work that has been done by the organization headed by Mr. Aupperle, but done imperfectly because of the fact that we have been handicapped by the want of funds.” The district so created would have taxing authority, but would not directly be taking on the construction of projects; that would be done through project-specific conservancy districts which the “conservation district” would help organize.

Delaney then went into some detail on what was proposed for the West Slope as a result of the Bureau’s study of the proposed Grand Lake project and its impact on the Colorado River, laying out the details of the proposed compensatory storage reservoir at a “Green Mountain site.” He was upfront with the assembled about the fact that their

¹¹ From “Minutes of Meeting of Directors of the Western Colorado Protective Association, County Commissioners of Western Colorado, and Other Interested Water Users and Citizens of Western Colorado, held in Grand Junction, Colorado, on March 24th, 1937. This appears to be a transcript of the meeting. All quotes, paraphrase and summaries in the account of said meeting are from this document. (CRWCD Archives)

revered Congressman Taylor was “not too favorably disposed to this thing” since it was not an acre foot for an acre foot; but he reiterated, even more emphatically, that the deal on the table with the NCWUA was probably as good as they were going to be able to get – and they could get that *only* so long as Congressman Taylor was alive and well and in his position of power.

“Mr. Taylor in Washington might possibly overlook the possibility that I have mentioned to you,” he said, “that while Edward T. Taylor might stop it indefinitely, no other man can do so. Sometimes people do not want to take such a personal view of a matter.”

He concluded his presentation with a list of three questions that the WCPA needed for those there assembled to answer that very day:

“Do you want to make a deal with Northern Colorado along the lines indicated?

Do you want to recommend to Congressman Taylor that, according to the lights as you see them, it is the proper thing to do?

Do you want to go into this district [so that] we may have some sort of central organization to look after our interests in the future?”

The remainder of the meeting was primarily public discussion, with extended comments from Silmon Smith, Judge Clyde Stewart of Delta County (who had replaced Judge Welch, recently deceased, on the WCPA board), and Henry Lake Jr. from Gunnison.

Lake passionately presented the idea that, contrary to what Governor Ammons had recently said, “the biggest resource of Colorado is not water; it is not agriculture; ... the greatest element is the tourist business in dollars and cents.” He presciently saw it in the future “going to several hundred million dollars,” and suggested that protecting the resources that supported tourism – “climate, scenery and water” – should be their primary focus.

But the WCPA leaders were somewhat taken by surprise by a strong negative response to their efforts from a large Grand County contingent – the county most directly impacted by the Colorado-Big Thompson system. Carl Breeze, a Kremmling banker, and WCPA board member Frank Huntington were the principal spokesmen for Grand County’s lament. Noting that Denver was already preparing to take ever-larger

quantities of water from the Williams Fork and Fraser Rivers, and that the reservoirs proposed above and below Grand Lake would take a large amount of valuable land off the tax rolls, and that the reservoirs would eliminate a number of excellent fishing streams and the resort and summer home economy the fishing supported, they wanted to know what the negotiators were going to do to mitigate their losses. Some relatively angry words were aired, and the Grand County delegation stated that it felt “double-crossed.”

That lit Delaney’s fire. After noting that one of his assailants had refused to provide some essential engineering advice for the WCPA – being “too busy” – and that an effort to have Grand County host a WCPA meeting had failed, he concluded that he could “make a living without this water business. I am telling you,” he said, “when I step out of here tonight, my hands are washed of the whole thing, and I don’t mean maybe.... Do you think any set of men are going to keep sticking out their necks to have their heads cut off? Especially when you haven’t any cooperation and you can’t get cooperation?”

That unloaded, he suggested that Grand County help the WCPA afford an engineer “to go up there and investigate the facts,” with an eye to determining if “it is possible by putting the reservoir somewhere else”; only that way would the Grand County people “get as much as you could get.”

The discussion cooled a bit after that, but while sympathy for the Grand County situation was expressed by other representatives, it was clear that the others wanted the negotiations to proceed as they had been going. The Grand County delegates left the meeting feeling that they would have to do their own negotiating with the East Slope and the Bureau; and from that point forward, they dissociated themselves from the WCPA, and until 1955, from the River District.

The WCPA leaders tried to pull the discussion back to Delaney’s three questions, and “what you want us to say to those people”; but it was a little like trying to gather water with a sieve. In the end the assembly passed a resolution drafted by Henry Lake that directly answered none of Delaney’s three questions, but instead just expressed “confidence in their good judgment and request[ed] them to continue their efforts to protect the future of the Western Slope.”

What to tell Taylor about the will of the group? “We again endorse and praise [the Congressman’s] splendid work at Washington in protecting Western Colorado and extending to him our unqualified support in such future measures as he may consider wise and necessary in regard to transmountain diversion bills in Congress.”

These mushy responses were not what the WCPA leadership was looking for; but Delaney felt that the negotiating committee – Judges Stone and Stewart, Dan Hughes, Silmon Smith and himself – could construe it as a mandate to do whatever they felt best, and perhaps to tell Taylor whatever they felt best and call it the will of the people of his district.

In early June, two months after that public meeting, the Colorado General Assembly passed HB 504, creating the Colorado River Water Conservation District. The main change from Delaney’s draft was to strike Grand County from the list of participating counties; banker Carl Breeze and some other angry citizens decided to do their own negotiating with the NCWUA. The governor signed the “Water Conservation District” bill into law on June 7, 1937.

The passage of the three bills in 1937, in essence creating in one burst of activity an overall statewide structure for water development, has led to speculation that there must have been some kind of an all-or-nothing “package deal” among the organizers of each bill. There is no record of any such deal, but it is clear – mostly from correspondence in February and March of that year between Judge Stone and Frank Delaney – that there was a great deal of collaborative effort, with Stone, Delaney and Moses Smith of Weld County all trading drafts for the three bills (and others that were submitted but killed).¹²

¹² Letters between Stone and Delaney dated Feb. 13, Feb. 16, Feb. 28 and March 9, 1937. (Frank Delaney Papers, Norlin Library Archives, University of Colorado at Boulder.) In the March 9 letter, Stone notes that Rep. Moses Smith had informed him that the Northern Colorado group would be also submitting “a special Bill for their District” as well as the more general bill for creating conservancy districts anywhere in the state. They actually introduced half a dozen such bills, all of which were postponed and eventually killed when the general conservancy bill passed. Delaney also drafted a general and a specific bill, but he and Stone decided to only submit the specific bill for the “Colorado River Water Conservation District.” Subsequent water conservation districts, as a result, have had also seek special legislation.

The fact that the bills did not move through the House and Senate in a tight grouping also mitigates against the idea of “package deal.” A more accurate hypothesis about this “confluence” of seemingly coordinated actions would be to suggest that it was a genuine meeting of minds, of former protagonists who had come to understand each other’s problems and decided to work together not just on a specific solution, but on a more enduring statewide structure for resolving similar problems. That was what Victor Hugo called “an idea whose time had come.”

During that two month interval, Congressman Taylor fell ill again in Washington, this time so seriously that he was placed in a sanatorium to recover, and was thus more or less isolated from the action through this very active period in the history of Colorado water development.

After passage of both the Water Conservancy District Act and the Water Conservation District Act, Governor Ammons invited representatives from both slopes to go to Washington, to put the finishing touches on the Bureau study report, augmented by the “Manner of Operation” agreement, so Senator Adams could introduce it for Senate acceptance as “Senate Document 80.”

In the end, the “Manner of Operation” agreement was almost entirely stipulations about the operation of the replacement and compensatory storage reservoir on the West Slope, which Senate Document 80 elsewhere decreed would be built before any construction on the actual C-BT Project began. It stipulated that, in the event of a Colorado River Compact curtailment, deliveries to the East Slope would be cut in order to meet the downstream Compact obligation.¹³

It also included three stipulations to make Grand County feel better about being reluctant host to the project facilities – including a payment of \$100,000 over ten years to compensate for lost tax revenues, and a promise to operate the project in such a way that remaining segments of the Colorado, Fraser and Williams Fork streams would be maintained as “a live stream ... for the preservation of scenic attractions, and for the preservation of fish life.” That went well beyond Colorado water law, and anticipated the

¹³ The “Manner of Operation” section of Senate Document 80 is reprinted as Appendix _ at the end of the book.

instream flow law that would come 36 years later – but would cause problems for the intervening decades.

This process was completed on June 15, and three days later, Senator Adams introduced Senate Bill 2681, “A bill to authorize construction of the Grand Lake-Big Thompson transmountain water diversion project as a Federal reclamation project.” The bill went to the Senate Committee on Irrigation and Reclamation, which reported it out favorably with only the suggestion to change the name to “Colorado-Big Thompson” (C-BT) Project. It sped along to the Senate Subcommittee on Appropriations, where Bureau Commissioner John Page spoke glowingly of it. It went next to the House Committee on Irrigation and Reclamation, which recommended its approval by the whole House.¹⁴

Meanwhile, the Interior Department had added a line in its appropriation bill, to allocate \$900,000 for the C-BT; that had passed the Senate and arrived June 30 in the House for a conference committee to resolve differences.

Things slowed to a near stop at that point, and the Colorado delegation got nervous. The Senate, where western states constituted almost a third of the body, had performed like a trained seal for Senator Adams, but the population-based House was more difficult. Eastern Congressmen challenged the idea of a big new reclamation project at a time when the government was trying to reduce agricultural production. Other Representatives argued that the government needed to move into a period of economic austerity, to reduce the deficit. And the preservationists were out in full force, arguing against the potential damage to Rocky Mountain National Park by a tunnel underneath it.

The Colorado Congressmen ran out their full battery of arguments: the national importance of Colorado agriculture; the fact that the project just provided supplemental water for existing ag land rather than bringing new land into production; the unique climatic features of Colorado causing what Congressman Martin called the need for human effort to get “landless water to waterless land”; the fact that if Colorado didn’t develop its share of the water, it would go to Mexico to raise cheap cotton that would

¹⁴ Most of this section on the passage of the C-BT Project is summarized from Tyler, pp. 81-85.

come back to the United States as cheap clothing undercutting American producers. They also pled for good sense in evaluating the remote likelihood of a tunnel hundreds of feet underground damaging a National Park.

The one voice that could tip the balance either way – Congressman Taylor – came down, in a secondhand way, *for* the Project. Taylor was still too ill to attend the debate in person, but his fellow Congressman, Lawrence Lewis from Denver, reported to the House of Representatives that Taylor, “who had opposed [the Colorado-Big Thompson Project] ‘for good and sufficient reasons,’ had expressed his hope that ‘the House would concur in the Senate amendment to the Interior Department appropriation bill which provides \$900,000 for beginning construction of this project.’”¹⁵

What had brought the Congressman around? Had the WCPA negotiators had a serious heart-to-heart with him, to the effect of “not letting the perfect get in the way of the good”? What had they told him about the March 27 meeting? Had one or more of his fellows in the Congressional delegation met with him? Or had Taylor himself, exhausted and ill, realized that that particular fight was over, with at least a partial victory assured for his beloved West Slope?

Whatever the reason for his concession, it undoubtedly helped as the House narrowly passed the Interior appropriation bill, 174-154, with 103 not voting; and on August 9, the Colorado-Big Thompson appropriation became part of Public Law 249 with the President’s signature. Ironically, the project received its initial funding but was never officially authorized; the House never got around to voting on Senate Bill 2681.

Nonetheless, Hansen and the NCWUA had their tiger by the tail. They had submitted their petition for creating the “Northern Colorado Water Conservancy District” in July just before Congress debated the appropriation for the project, and now they had to figure out, first, how to get the rest of the money for the project, and second, how to pay it back.

And on the West Slope, there was no reason for any sense of defeat – even in Grand County, which got some good concessions from the Bureau in Senate Document 80. A major transmountain diversion would happen, but a substantial reservoir would not only keep the diversion from hurting them, its storage would probably make “late

¹⁵ Tyler, p. 85, citing the Congressional Record.

season water” for irrigators and the Shoshone power plant more dependable than it had ever been.

But perhaps the most important accomplishment from the four long and often frustrating years had been the establishment – still a little tenuous, but there – of an infrastructure for communication and negotiation across the Continental Divide. The conservancy and conservation district laws, and the creation of the Colorado Water Conservation Board, were a framework for a more positive future.

D.W. Aupperle’s slightly dour 1935 prediction, as the Committee of Seventeen was approving the Delaney Resolution – “We know that when the transmountain diversion begins it is just the beginning of our trouble” – was prescient; there would be plenty of trouble in the future. But the Colorado River District existed to deal with that, and more: the River District would not be just a passive defender of West Slope water but an active player in developing it.

Perhaps the lesson for the ages, though, was the slow building of trust among men who started out in 1933 with an abstract disrespect for each other, but who started trying to talk together anyway. D.W. Aupperle, Frank Delaney, Silmon Smith and Judge Stone from the West Slope, and Charles Hansen, John Dille and Thomas Nixon from the East Slope, with a little help from two Bureau men, set a standard for overcoming a couple generations of distrust, coming to an understanding of each other’s problems, and working through to a creative resolution.

They would, however, all soon enough face a much less understanding protagonist across the Great Divide, in a situation that threatened to undo that creative resolution, a nexus of conflict that would drag on in ever-changing forms for much of the 20th century.
