

CAP Oral History

Pam Stevenson (Q):

Start off by Identifying the tape, today is Tuesday, August the 1st of 2006 and we're in Gunnison, Colorado, doing an interview for the Colorado River Water Users Association. I'm Pam Stevenson doing the interview, and the videographer is Bill Stevenson. Let me let you introduce yourself.

Dick Bratton (A):

OK, I'm Dick Bratton. I'm a water attorney living in Gunnison, Colorado.

Q: Tell me when you were born and where you were born.

A: I was born April 12, 1932 in Salida, Colorado, which is about 65 miles east of here.

Q: So, you're still close to home.

A: Still close to home.

Q: OK, I don't have to ask you why you came here. Tell me what was it like growing up in Salida.

A: Well, it was a mining and agricultural town. I lived near the Arkansas River. I guess I had an interest in that, though actually I was raised the first seven years of my life on Monarch Pass. My father was a miner, which was part way between here and Salida, and then we moved to Salida in the depression to attend school in Salida basically, but I lived on the Arkansas River about a hundred yards away, spent a lot of time there in the south Arkansas River. Worked on ranches, summer jobs. We did that in those days getting us stronger

for sports. They now have weight lifting, but that's what we did, poor kids back in the depression, we lifted hay bales and things like that to get stronger.

So I became familiar with water. Frankly, at that time working on ranches, and I happened to work for a man who was on the southeast district shortly after it was formed. And he would talk about the water issues. And then I worked on a ranch when I was, just before I went to law school actually in the Gunnison Valley. The ranch manager's father was a water commissioner, and it was in a drought year and there was a lot of discussion about that so I kind of learned it, not anticipating it'd be my life work, but I kind of had the background for it, so I really had a true understanding, primarily from an agricultural standpoint, so I got interested in it.

Q: So you grew up in the depression, you say your father was a miner? Did he continue mining?

A: No, after the war started in early 1942, then he went to work for the railroad, worked for D & RG Railroad. He was a brakeman for the railroad, and then stayed there 'til he retired. My mother was a country school teacher, came to the mining community of Monarch, which is where the quarry was, met my dad who was the miner, then she later ended up in public welfare, she was head of public welfare for Salida. They now call it social services, but in those days it was called welfare.

Q: So she must've come in the '20's?

A: She came I think 1930. She got out of college then and moved there in 1930.

Q: Where was she from originally?

A: Well, she was actually born in Cripple Creek. Her parents came down from Canada, they were miners, and my mother, my grandmother ran a boarding house, my grandfather was a miner, so then after the mines dropped down, then they moved, they were older people by then. They moved into Englewood, a suburb of Denver.

Q: I talked to some women who became, who were school teachers when they would bring in the single women to teach school, but then once they married they couldn't teach any more. Was she of that period?

A: You know I don't remember that that was the case, no that wasn't the case because she actually was, married my father in the spring, I guess she came in '29 actually 'cause they got married in April of '31, I was born in April of '32. But she kept on teaching as long as they lived in Garfield, then when we moved to Salida, then she became a country school teacher there. But, no, she wasn't of that, she still kept teaching after she was married, and as I only remember the stories, I was too young to remember, but apparently had registered warrants, and sometimes the quarry wouldn't work. Times were tough financially, so we ate venison year round, and raised potatoes and vegetables. I don't remember it being poor, to me everybody was having a good time, and playing with the kids, so I don't remember being poor.

Q: Do you come from a big family of kids?

A: I'm an only child.

Q: That's unusual for that period.

A: Yeah, right, it was, yeah.

Q: Well, going to school as a boy, you were probably a good student if your mom was a teacher.

A: I was expected to get good grades. But we also had a good time.

Q: Did you think then about what your career was going to be?

A: I was one of those that life was a smorgasbord, and I considered almost everything under the sun growing up, you know. As a kid I worked on ranches, as a kid I thought, you know that sounded like a good lifestyle. At one time I looked at being a pharmacist and that was interesting because the only C I've ever got in high school was in chemistry and I was lucky to get that. So I wasn't very thoughtful on that. I came to school, actually I told my kids I'd shoot 'em if they did what I did, but I came to Western to walk on play football at 150 pounds, and thought I was going to be a coach. I had one coach for three sports, and I decided that I didn't want that lifestyle and so I got an accounting degree and decided I wanted to be an accountant so I went to law school with the idea I'd go into business. See I'd read some of the Moody's and Standard & Poore's reports, and the top executive officers were either lawyers or CPA's or both, and I thought well the combination of accounting and law, and it would've prepared me well for business but then I got interested in the law and so I never did even think about going into the business world after I graduated from law school.

Q: And where did you go to school?

A: University of Colorado, I went to Western State here in Gunnison and undergraduate school, got all the sports out of my system, and then went on to University of Colorado law school. It changed my life. I mean a guy that was a miner's and a railroader's son, opened doors that couldn't be opened, I guess only in America you can do that. But really you can do about anything

that you set your mind to do, and I have a good friend, shortened version, that he met the dean of the law school, he had a very tough childhood growing up, and he interviewed the dean of the law school when he was doing his tax return, he later went on to accounting school, and the dean said you should become a lawyer, and he said I can't afford it. And the dean said you come to me, I'll see you get a scholarship. And he got the scholarship, changed his life, and he gave a half a million in his memory a couple years ago when they built the new law school.

Q: Well that paid off well for the law school.

A: Yeah, right, right.

Q: That's a great story. So you went to law school then, not really with a career in mind.

A: No, I really, I had more interest in business at that time, and I thought I would be interested in going into business because I had the background in accounting, major in business and minor in econ, so I really thought I would lean in that direction. But then when I got into the law, I thought I would be, I wanted try it for a few years and see.

Q: So what was your first job then out of college?

A: My first job out of college was a soldier at Fort Leonard Wood.

Q: Oh, you didn't tell me about that part of your career.

A: Well, I didn't set the world on fire. I don't know if the country was any safer while I was there or not. I ended up, a little trivia, that a friend a mine, he later became, a fellow named Dale Tooley, became Denver D.A., ran for mayor

three times, and when he finally was able to beat Mayor McNichols but then he, in the runoff, he was up against Federico Pena who went on to become Mayor and then Secretary of Transportation he said, but he and I joined the Army together and went to Fort Leonard Wood, and he was a little bit ahead of me, two months ahead of me there, 'cause I had to, I was doing some legal research before I went, and he got me then in at the Jag section after he got out of clerk typist school, and so I worked for two months. I guess my first legal job really was two months in Jag at Fort Leonard Wood.

Then I came back after I got out of the service, practicing in Denver, and an older lawyer that I knew as a student at Western State, he knew my wife's family, had broken up with his partners and wanted to know if I wanted to come to Gunnison, so my thought at the time was well, I'll come to Gunnison a couple years and then go do something important when I left, get that experience, he was a great trial lawyer and a great water lawyer. I thought well that'd be something I'd like to do. And two years later he left, became a judge. At age 28, I took over his practice. And as part of that process, they had just created the Upper Gunnison River Water Conservancy District in June of '59, he left in January of '61, and so he encouraged the board to hire me even though I was young to take over the district, so I represented it starting in January of 1961.

Q: Just to divert back, what made you decide to join the Army?

A: Well, back in those days there was a draft and things like that, and, in fact I, a long story but I tried to get in the Marines in '51, and my eyes wouldn't pass. Probably lucky 'cause that was during Korean War, and if you wanted to get in a Marine platoon leader group, and they had the highest mortality of any military of the United States of any time, but you had to have 20/20 vision for Front Range, you can't, but I had bad eyes, still do, and couldn't pass. I tried in '53 and '54 to get in the reserves, I thought I'd get the longevity out of the way

while I was in school but I had a bad back and it wouldn't get me in so at the same time went to try to get in, '54, I enrolled at the law school, and since my back wouldn't pass I went ahead, so it actually turned out when I got, on the way out of the Army at Fort Leonard Wood they said you were supposed to come back for some tests a long time ago, and I said nobody called me. And so I said rather than make me do that it, you have to do it in Fort Leonard Wood, just let me go to Fitzsimmons in Denver, and they said ok, so I head to Fitzsimmons, and they said you should've never been in the Army in the first place. So I got a medical discharge which meant I didn't have to go to summer camp and the monthly meetings

Q: You had a short career.

A: I had a very short career, six-month career. And I'm glad that I did, you know. I was raised, you know, I was a little kid, the end of grade school, beginning of junior high, in World War II, and all my cousins go in the service, so you were raised in the area where patriotism to your country, and you'd go to war, you wouldn't be with the draft dodgers and that type of thing, so that was part of our culture at that time. So I didn't have any problem going, and I'm glad I had a better understanding. I wouldn't want to spend a career. I remember this captain when we were in Jag said, you know, "You'll be back." I even got out and came back, and I said, "Captain, when I'm out of this man's army, you're not going to see me again." But I didn't know it was going to be because of medical discharge. I can't say I disliked it, but I was 25 and married and wanted to get on with my career, so I didn't have an interest of...but I think everybody, frankly I think every man should be in the Army to have that experience to see what makes the Army tick.

Q: Think we should have a draft again?

A: I wouldn't be adverse to it. I really, I really wouldn't.

Q: More diverse?

A: Yeah. You can see. One of the things you do with that. You kind of get away when you go to college, it separates you one group, when go to law school it's even another group in terms of the intellect. When you get into the Army, you know, it's every walk of life, every level, and you're reminded again, even though you're raised that way, you're reminded what the mixture of people in the United States is, and I think it reminds you, and just seeing what the military is. We have a strong country. We sometimes take it for granted, and I'm not into political philosophy, but, you know, you need to have a strong military I think for peace and for all the rights that we have. And I don't want to get too carried away with it, but you know there is a certain 'bout patriotism and strong country 'cause our rights can't be taken for granted.

Q: Getting back to your career then. So your first job outside of the Army was here in Gunnison...

A: No, my first job was six months in Denver. I was practicing in a, with a one-man office in Denver, and the man, the older lawyer from Gunnison while I was there, called, said he had broken up with his partners, wanted to know if I wanted to come back to Gunnison. And so after six months in Denver, then I came here, then I spent the rest of my career here.

Q: That was what year?

A: October 1st, 1958.

Q: What was Gunnison like then?

A: Well, the college was just a little under 1,000 students. The town hasn't changed that much, it was smaller then. The college has tripled in, tripled in

size in the meantime, but it was just a gradual increase, there's no major, of course. Since the Gunnison River, it's now covered by Blue Mesa Reservoir, but it was supposedly the second best trout stream in United States, and people came from all around to fish that stretch of river from the east, or west of the city limits down to where the Blue Mesa Dam is now, it's fantastic fishing down there, large rainbow trout, so that, and it was pretty much a ranching community. Ranching and the college were clearly the dominant economic and social forces in the valley, and so there are only like sixty percent of the cattle in the valley that existed at that time, and there are three times the college students that there were at that time so they make a difference. In the meantime, the ski area at Crested Butte came in 1962 and they have, you know, a little under half a million, they've had over half a million, they'll probably build back up with the new owners. So recreation plays a much stronger role than it did, it was strong before but not the extent that it is. There are a million visitor days at Blue Mesa and a half a million visitor days then at the ski area, which didn't exist in those days.

Q: Well it must've been a big change when Blue Mesa Reservoir was built, and you were involved by then with the water?

A: Yes, I was.

Q: Could you talk about, you were mentioning, who was the lawyer that you came to work with?

A: A fellow named Ed Dutcher, and he had a strong background, he had been on the Colorado Water Conservation Board and he'd been on the Upper Colorado River Commission, he was Colorado's representative on the Upper Colorado River Commission. He represented a man named Dan Thornton who was a rancher out of Texas, came to Colorado, came to Gunnison and bought a ranch north of town in the mid-forties I think it was or early forties. The

candidate for Governor in 1950 died unexpectedly thirty days before the election, and they drafted Dan Thornton to run for Governor in the Republican Party. Nobody thought he could win by giving it, but he was a charming, good looking, articulate guy and he became governor and Ed represented him, he was his lawyer and guided him through the campaign. He was very politically active and so Dan appointed him to be Colorado's representative in the Upper Colorado River Commission and to the State Water Board, and so I came in with the man then. In addition, he represented a lot of ranchers in water matters, he had that background anyway. And so I then came in with Ed and he got me launched into the water practice, it wasn't in those areas; it was really just basically representing ranchers and more traditional types of things.

Q: So when you came here, that's what you thought you were going to be doing primarily was representing ranchers.

A: Primarily, yeah, a lot of real estate. I wanted to get involved in litigation, he did a lot of litigation, and we did that too.

Q: What kind of litigation issues were you doing?

A: Back in those days, a lot of personal injury cases. I did criminal cases back in those, had a very high profile case years ago, we were young and we were successful, and that helped our career 'cause people thought, you know, they were only 28 years of age, we can try a lawsuit, didn't make any difference what kind of lawsuit. We did a lot of real estate, course the dollars were much smaller. The big ranch west of town owned by a prominent rancher friend of ours, he was older, decided to sell it to some developers out of Kansas, and I remember this older lawyer came in and said, "Have you ever seen that much money?" It was a check for the cash; it was \$250,000. You know, they get \$250,000 for a lot now, he bought several thousand acre ranch with the

Gunnison River running through the middle of it. So times have changed. That's one of the major changes is just the valuations of everything and land, just unbelievable. Recreation is so important and stream frontage is so important that, I'm representing some people now, that they purchased fifty-five acres for \$4.7 million, had a half a mile of river running through it. Then, by comparison, when I just mentioned \$250,000 for several thousand acres and a mile and a half of Gunnison River running through it.

Q: You mentioned one of the water boards that...

A: The Upper Gunnison River Water Conservancy District. When the Colorado River Storage Project Act was passed in 1956, and that was the legislation that created Glen Canyon Dam, Navajo Dam, Flaming Gorge, and then the Aspinall Unit here in Gunnison, created, that was the act that created those. As a part of that then, there's what they call participating projects, and they'd build smaller projects or irrigators all around the West that were, and the power revenues generated by primarily Glen Canyon but the others all have power generators, and that was really the cash register to pay for these and so they would then subsidize the agriculture project. So as part of that they would have local organizations created to deal with the United States and these contracts, and so the Upper Gunnison Water Conservancy District was created in order to deal with the United States. That's why it was created, it was a companion, so it was, the act passed in '56 and this was created in June of 1958 to deal with them, and we looked over a long period of time at trying to get feasible projects, but we could never get a project that met the feasibility standards of the act. And so we spent a lot of money studying projects large and small, but never could quite qualify for a participating project to get the subsidy to build the project. But a lot of our activities in those days were dealing with the United States, so that was why the agency was created, which exists to this day.

Q: Have you ever built a major project?

A: No, we haven't. We have fairly substantial water rights. We had 110,000 acre feet of storage rights around the valley. We were in some litigation a few years ago and lost so it's down to around 90,000 acre feet now. And then a number of, I can't remember the amount of second feet of decrees that they also still have, lost some of those, but still have. And they're still available and still looking. Primarily they need the funding, and without the federal subsidy as a participating project, they can't come up with the funding. They did create a project that wasn't related to that to buy a little reservoir up by Crested Butte to augment the supply for building projects, domestic water supply, and that's the only significant project. They've done a number of other things, but in terms of having a participating project, they haven't. Still looking.

Q: So who belongs to that?

A: It's an eleven person board appointed by the district judge, or if they want to go around that process, then there's a process by which they can petition and be elected. We've had a couple of elections, but in general they accept the appointment of the judge. And they're by districts, have one person for each district, I can't remember there's several, I think four from the City of Gunnison but the rest, it's geographic representation around the district. There are three counties, primarily it's Gunnison, but it's a little bit of Saguache County in the southeast and a little bit of Hinsdale County in the southwest.

Q: In 1959, when they were formed, were they primarily ranchers that were on it?

A: High percentage, yes, and that's changed. It doesn't have the same representation. It was not only rancher representation on the board, but rancher-driven, trying to get irrigation water primarily. Now their activities relate to a lot of other things.

Q: They don't have a major project.

A: No, no.

Q: So what did you do as the attorney representing...

A: I'm not sure I can remember all of them, but.

Q: Do you still represent them or?

A: Well, as a matter of fact, as of July 1st of this year, my partner left to go full time in-house attorney for the Upper Gunnison Water Conservancy, so that's the first time since January '61 I haven't been involved in the office of representing the District, 46, 45 years I represented them, so. In the initial years, we spent a lot of time working and trying to find a project that would work, and so we participated jointly with the United States and the Colorado River District to help us fund these studies to look for projects. We did that. We also, because the, when the Aspinall unit came in, it filed major water rights. They, they got a water right for 943,000 acre foot of storage, and the runoff is just over, a little over a million acre feet, anyway, so that was the 800 pound gorilla, so it basically affected, and then they got a power right on top of that, so it basically took all the water, so we knew that, for future development upstream, we had to work for the United States. So we negotiated small contracts in the early years so that they would subordinate their water rights and not call to allow development upstream. It ultimately resulted many years later, just a few years ago. We started in the early '60's and it culminated in, I can't remember if it was in the late '90's or early this century, that they ended up in a formal agreement where they agreed to subordinate 60,000 acre feet upstream above the, to allow upstream development. That's one of the things we did. We were involved starting in, I thought I'd remember, but they filed a lawsuit April 26, 1986 for major trans-mountain diversion project, so we went to

Colorado Supreme Court twice; two trials and two appeals, Colorado Supreme Court, and then the same group trying to get water rights challenged our water rights, cause they thought if they could terminate our water rights, that makes their water rights look better, which it would have, we were successful mostly in that. And then we also, we started experimenting in the late '60's with US Fish and Wildlife Service and the Colorado Division of Wildlife for experimental flows in Taylor River and in Taylor Dam, there's a water right for 110,000 acre feet that the United States owns in Taylor River which is a tributary upstream above Gunnison, and river runs in, all the Gunnison creeks, the Gunnison River runs into Blue Mesa. So they experimented with flows to enhance recreation, two things, one is a flow that could be used for floating because the reservoir was created in the '30's to store water for irrigation use in the Uncompahgre Valley down by Montrose, so when they needed water for irrigation downstream, they'd open the head gates, and the water would come rushing out of there, and you basically had a flood in the Taylor Canyon, which was not great for fishermen. When they didn't need the water, they shut it off tight, and there was very little water coming down Taylor, and that wasn't very good for fish. So, if it wasn't good for fish, it wasn't good for fishermen, one way or the other. And so we came in and negotiated with the idea that they would release the water, once Blue Mesa was built, they would release the water out of Blue Mesa, which was downstream below us, and much closer to the Uncompahgres, so they would get a more immediate response. And in consideration for that, then we would get the use of Taylor Park for upstream uses. And there were four uses. One was irrigation, one was flood control, one was fishing, and one was boating. And so we experimented that, and then in 1975, in August, we were able to get an agreement between the United States, us, the Uncompahgre Valley Water Users that were the users, the water users, and Colorado River District, and that agreement allowed us to control the releases with the nominal amount that we would pay for that right to that use, and then when they filed for that water right in 1986 for trans-mountain

diversion, we then filed in December of that year because we had an earlier use date, so we ended up and that was the first time that type of right had ever been obtained, for just storage of water for release downstream between Taylor Dam on the upper end and Blue Mesa on the Lower end for recreation use within the stream, and we were successful, went to the Supreme Court and the Supreme Court agreed with us and you'd interviewed Bill Trampe earlier. He was President of the Board and I was the attorney. And we ended up both becoming prime witnesses because I was the only one that was involved in the '60's when this took place. Most of the board members were much older people, and they were either dead or one was having health problems. So Bill and I had to become witnesses in the case, and we were successful. The Supreme Court approved it, so we now have that water right, which confirms the contract. Then we had to get the agreement. It was the United States' reservoir and we were getting a right in the reservoir, so we had to get their permission, and so they agreed, we had to sign the water right to them after it was over, but it's continued for those purposes. That's the type of things that we were involved in historically.

Q: So you have a water right to the water in the reservoir as opposed to...

A: We have water right, the second fill. The first fill is for agriculture, for the Uncompahgre Valley Water Users. They release the water out of Taylor Reservoir and it goes down and flows into Blue Mesa. They then store it in Blue Mesa where they can release it for agriculture purposes. Then we refill it for these other uses. So we got a refill right, but with different uses.

Q: It's amazing how these...so does that have a year connected to what year your water right would've been...

A: We, our, we got the water right in the calendar year...the way Colorado Water Law is that your priority is on a calendar year basis. So everybody that filed, for

example, in that particular year, 1986, then within that '86 filing, of those who filed, the one with the earliest appropriation date prevails, and so since we went back to actual uses within the '60's, we were way ahead of what was at that time the city of Aurora, we went, we were way prior to them, and so that was the issue. We wanted to make sure we got in ahead of them and so we were able to do that. But each year it's calendar basis. Anybody who filed after 1986 would have a junior right to ours, anybody who filed prior to 1986 would be prior to us. So that's where that priority date became important within the 1986.

Q: So this was a case of you versus Aurora?

A: It started as Aurora and what they call the Collegiate Range Project. There's another water right filed in December of '86 by another private group. They came in, and now I can't think of the name, I'll think of it in just a minute. They then assigned their right to Arapahoe County and Arapahoe County negotiated with Aurora to get them out. And so the litigation actually ended up ultimately against Aurora, I'm sorry, against Arapahoe County.

Q: Oh, and this is the case that went to the Supreme Court?

A: It's the case that went to the Supreme Court twice.

Q: What would it be listed as if you wanted to look it up?

A: It would be Arapahoe County versus Upper Gunnison River and others, along list of people opposing it.

Q: Yeah, there always is...and you represented the Upper Gunnison...

A: The Upper Gunnison, right.

Q: And you say you were a witness...

A: Not on that case. There were four cases. Two with Arapahoe County, it was Arapahoe County first case and Arapahoe County second case. So in both of those cases, I represented the Upper Gunnison all through it, and then my partner who just left with them, he and I both worked on it then, after again, we also had, I was for a while, I was a solo practitioner, we had an attorney from Grand Junction worked with us on that.

A third case was we had to prove diligence on our own water rights, the ones that I mentioned we had 110 acre feet, and Arapahoe was trying to knock those off, and so I represented them and did the work for the Upper Gunnison on that one. The third case was the, where it was also Arapahoe County opposing our right to get the water right for the use of Taylor Park Reservoir. And in that case, I started out and represented the district through the district court hearing process on motions and we got the court to agree that we could get a water right if we could prove the facts to support it, it was just a strictly legal issue, can we get that right, and I represented the district in that case. Then, when I had to become a witness, I had to get out and Andy Williams, an attorney from Grand Junction, represented the district as the lawyer in that case. I helped him obviously, but I couldn't officially represent the district in either the trial or in the appeal.

Q: ...interview...cross examine yourself...

A: Can't do it. Right. No, can't do it, and I didn't. It was very difficult for a lawyer to handle a lawyer as a witness.

Q: Especially a lawyer that knew so much about the case.

A: Right. And he did a good job, we were successful.

Q: Good advice. So on the case that went to the Supreme Court then, did you actually argue before the Supreme Court?

A: I only argued in the Supreme Court in the case to prove the diligence, out of our cases. In the refill right I couldn't, because I was out. In the other two, we decided from a strategy standpoint, because it was just a basic trans-mountain diversion case, which is Front Range against western Colorado. We didn't want it to appear that it was just a provincial "keep the people out of here," we wanted it to be more that this is we have a legal right to do that, so we decided in strategy that we would have the United States and the State of Colorado, the Attorney General's Office and Department of Justice, do the oral argument. We felt it would give more credibility in that case. And I don't know whether it did or not, but we won.

Q: But you didn't get to do the oral argument.

A: No. We did a lot in the preparation, the background, and participated in the strategy, but we didn't do the oral argument. I did in the, protect us on our own water rights; I did do the oral argument in that case.

Q: Did that go to the Supreme Court then?

A: All four went to the Colorado Supreme Court.

Q: Oh, the Colorado Supreme Court.

A: Yeah, none to the United States Supreme Court. No they stopped there.

Q: A big deal to go to the US Supreme Court and do the oral arguments, that's a big deal.

A: Right, right. Yeah, it is, never done that.

Q: Sounds like those cases would keep you pretty busy, what other sorts of cases?

A: Well, at just about every level that you want. There was another major, major in the terms of the amount of water, a major trans-mountain diversion case. A man named Miles, Mills Bunger** had been an engineer with the Bureau of Reclamation in the late '30's, and early '40's, when they were looking at a project called the Gunnison Arkansas, and they had anticipated taking water out of the Gunnison Basin and taking it over to the Arkansas River and he was aware of all this, so he came in on his own as an individual to file to get a water right, and he was asking for about a million acre feet to take out of the basin, I can't remember what the exact amount, but it was, because the Union Park case was under 200,000 maybe a little over 100,000 acre feet so his was major, but he didn't get a lawyer to represent him until he went to the Supreme Court, and although I argued that one, but it was a fairly easy case, we got him on a procedural issue, didn't have anything to do with water law. He was a nice old man, and his lawyer didn't have much of a chance by the time he got involved, and he got a procedural issue and he couldn't get around it, and so we got him on that. Other...

Q: As an individual he filed for a million acre feet?

A: Uh huh. Yeah. And he had a major problem. If it ever got to the water issue, he had a question, because that then becomes speculation, and he probably would've lost on that. But we got him on just a procedural issue, he didn't file the right briefs on time, and so we got him out. We filed a seven page brief in Supreme Court, which is unheard of and, but we hit it right on that issue, and

that's all we went after, and so were successful on that. Other matters I've been involved in, that's just about everything you can think of, we filed. Years ago, the, what I'd say the more progressive ranchers, when we weren't getting these big projects, they would build small reservoirs, less than a thousand acre feet, in the tributaries to get just storage for their individual ranch or a group of ranchers. We represented a number of those, we got the water rights for them, we'd help them get financing through various agencies that would finance water projects, maintained the diligence on their water rights, that type of thing, and that was small reservoirs all around the basin, we did a number of those, and we filed literally hundreds over the years of just small water rights, for ranchers to get a ditch right, or get an additional ditch right, or another one you'd get is a change of water right. And it was fairly simple in the old days to change a water right upstream or downstream, it wasn't that difficult. Now it's way more sophisticated for a couple reasons. One is just that there's more pressure on the stream, but the second is, I think that 1973, that Colorado passed an in-stream flow law which allows the state to come in and get a minimum flow which is, I can't remember the exact words, described protect the environment to a minimal amount, to a reasonable degree, and so they've got flow so you wouldn't dewater a stream. And so once you got ready to change your water right, you not only had other irrigators that you couldn't injure, you had this in-stream flow law, so you couldn't go in and impact that in-stream flow, so it made it more difficult, and so we've had a number of those. And many of them are litigated, none of them got on the Supreme Court, many of them are litigated. We've had water rights, where people, one rancher versus another one, one would try to take more water than we thought he was entitled to, so you have that type, that's a more traditional matter. Most of them, you negotiate a settlement. It ends up the battle of the engineering experts on most of them; it ends up a question of amounts. Most of those you can work out but not all of them. Sometimes you have to, have to end up going to the referee, he makes a

decision, many times you'll settle after the referee makes a decision, and if not then you go to the judge and he makes the decision.

Q: I would think it would be difficult to prove how much water somebody took...

A: Well, it used to be but it's not. The engineers, they're pretty sophisticated anymore. They really can...yeah...uh huh.

Q: I'm more familiar with water users associations like the Salt River Valley Water Users and the Uncompahgre Water Users; it's kind of a model where Bill Trampe was talking about. Everybody here just does their own.

A: They each have their own individual right.

Q: Really complicated I would think.

A: Yeah. See, we think the other is complicated.

Q: Well, maybe, once it's set up though, you know, they're not suing each other.

A: Yeah. Other areas...we've...right. We represent people in other areas too, like one of my partners represents the Upper Arkansas Ditch Association, which is just across the hill over in Salida, but that whole upper reach of the Arkansas. And then he represents the Lower Arkansas Valley Ditch Association, which is a ditch association, and that's more like what you're thinking. They have a ditch association; they have their bylaws and rules. They just not have had that in Gunnison, they've been small ditches and they've been either one rancher primarily, and sometimes just two or three ranchers own a ditch, and so you don't, they just haven't gone that way. I actually own an interest in a ditch now; it's called the Gunnison, Gunnison Tomichi Valley Ditch Association. It takes water out of the Gunnison River around the hill and up in to the lower

end of Tomichi Creek, it's a different drainage, and they'll have meetings but even they don't have formal bylaws at all. But not that sophisticated.

Q: So it doesn't end up with legal cases that often, I mean is that unusual for it to go to court?

A: No, the litigation comes from just between the users. The fact that they're an association or not, doesn't make any difference. It's more of water rights, a legal issue, and factual issue.

Q: The fact that they're not joined together in any kind of an association would mean that they would be battling each other.

A: Yeah.

Q: With the development that's going on here and the ranches being subdivided into ranchettes or...

A: Right.

Q: How does that work out with the water rights and...?

A: Well, it creates a lot of impacts because the change. What's occurring in this, more in this generation are the change proceedings. We just finished a water workshop at the college last week and it had to do is managing a developed resource. You're not getting new water rights, you're taking the water rights that you have and what do you do with them. One of the things that we do a lot of now is get plans of augmentation, so you get ready to take, for example, a ranch water right which is the irrigation system, which is probably at best middle of April, that's probably the earliest, more likely first of May when you start irrigating, and you shut it off, probably the latest, early part of October but

you want to use the water now in a subdivision which is twenty-four, or twelve months out of the year. And so what you have to do then since you don't have the water right for the winter, you have to provide water for the winter, and you end up having to augment that supply in some manner 'cause you have to get a new water right which is a junior water right, and that becomes more difficult, and then you have to quantify, in the summer use you have to quantify the amount of water that you've historically used in irrigation to determine how much water you then have available to use for this domestic or industrial type use. It really then, it becomes really very important to have good engineers to try go, and that's where the battle occurs now in determining which expert is right. And the water becomes very valuable. We represent a client right now that is paying \$1 million for fifteen gallons per minute water right, senior water right for real estate development. Well, the water right that he purchased just happened to be at the right location. If he, absolutely without that water right, he couldn't do the development, so it's worth it. If you were in a, forty miles away in one of the undeveloped areas, you know, a million dollars would buy an awful lot of water by comparison, so it's a question of where it's located, but those augmentation and whether, in your change proceeding, the magic word is, are you injuring somebody else, and to determine injury, you're entitled to the conditions existed at the time you got your water right, that's the basic the determination whether there's injuries. You change the impact from what they had originally. So that's what the issue is. That's where you have to quantify the historic. And all you're entitled to change the use of or move the use of is your historic, consumptive use. So if you're diverting, for example, ten second feet, you can't change you can't change ten second feet somewhere else. If you go out and irrigate a hundred acres with that and you're only consuming say, what the amount would be, but let's just say it's 10,000 acre feet that you consume in a year's time, that's the amount that you can change to another location.

Q: Now does all that have to be decided before the development starts construction?

A: In Gunnison County, if you do a development, you get a land use change approved by Gunnison County, they will not allow you to get a county approval to develop the subdivision until your water rights are established, and they're taken care of. The answer is yes. You either have to get a well permit, and many times you'll get, you'll apply for a well permit, and because of the over appropriation streams or other water rights, you have to come in and do this plan of augmentation, court approved, before they'll give you a well permit. And that's where this issue comes in, is there injury and do you have adequate water to get it, and that's where the process takes. Totally different than when I came in here forty some years ago. We didn't get involved in that to speak of at all.

Q: So they are using groundwater from wells too?

A: Yeah, they're changing the water right from this direct flow ditch to a well head.

Q: So then those subdivisions, they have to form some sort of a water company that then actually delivers the water to the homes?

A: There's a variety of ways, that's one of the ways that they'll, that the entity that creates the subdivision will create a corporation, and they'll get the water right, and then as part of your building lot that you buy, you'll get the right to use. They'll do it a couple ways. One is that they'll get them, they'll actually go and get this water right change from the ditch and get a well permit to individual wells in the subdivision, and that's particularly in the larger lot in the subdivision, that's what they do. In the more dense ones, they'll actually, and there are that many but a few, they get a well permit to be used in all the

houses, and they all take it out of the same source, though that's not as much used now as the other way.

Q: So then there are a lot of small water companies.

A: Not so much companies, they just assign them to the individuals. Yeah, it's much like the ditch thing we were talking about, a similar thing, but you do have both.

Q: That might work if I guess you have 40 acres or something that you have the rights assigned to your...It's a question of the exact amount of your use. You have to get your plan of augmentation. Its quantification, you have to determine what's the quantity for each, and they have some rules of thumb as to how much water you need, and generally fifteen gallons a minute is enough for a family of four, so they quantify it from that side, and generally ninety percent runs back in. But, one of the problems you have, for example, north of Gunnison where development goes in, and they'll use water within the house but then they hook into a sewer system, and the sewer system will go downstream four or five miles where it goes in to the water treatment plant and then runs into the river, so you have to actually protect for the injury between the place they take it out in their well, and downstream, whereas if you had individual septic systems, the water runs back in and so you don't have quite the impact, so you have to figure that you're actually impacting that whole stretch of river downstream and that creates greater problems than if you have individual septic systems.

Q: For the delivery of water to homes and the water treatment of the water, do you have municipal water treatment plants or who's treating...?

A: There is a, there's the city, of course has their water treatment plant but mostly what you have are individual wells, then there's also a county one that serves

a much smaller area down there, so it's basically wells is what you're running into in this county. And the north end of the valley, around the ski area then there's a, they have the whole water system for that, and they've tried to encompass some other areas too, and one by the golf course, they have a separate one.

Q: A lot of change going on.

A: Yeah. One of the reasons why they do water treatment, the sewage treatment I was just thinking of the water treatment, is that if you do the water, the sewage treatment then you have clean water, and you're not polluting the wells. If you have a well and a septic tank, you have to be very careful where you put it, pretty soon you're going to pollute the whole water, underground water, so that's why they're more likely to put in the sewage treatment so they don't pollute the wells.

Q: As the population grows...

A: Yeah. And then you're not required then to actually have the whole water system for the water that you use. You can do the wells for that if you keep the, if you don't pollute the underground water.

Q: I've heard some persons talk about, you know, everybody having individual wells, it's like all these straws sucking out the groundwater, don't know if you're worried about the groundwater depletion here like you are in Arizona.

A: Technically they're concerned about it, but where you have the large lot subdivision, it's not that big a problem, but it is a problem then when you get in the more dense ones, because obviously it does, it's like the straw that sucks them out, and if you have too many in one area, it will, and there are a few examples in this valley where that's occurred, in general, that hasn't been the

case, but there absolutely are some, and there's some pretty strict regulations through the Colorado Division Engineers Office that you have to do to accommodate. You can get, by law, one well permit for each thirty five acre parcel or for a subdivision approved before I think it's 1969, you could do that, but after that, then you have to go in and show there's no injury, and that's where you have to deal with the State Engineer's Office to show there's no injury.

Q: So has that groundwater law changed over the years too?

A: Yes it has, yeah. It's a much stronger presence than it ever was before, yeah. We didn't think much about it before.

Q: Does your groundwater get replenished naturally...?

A: Yes it does, uh huh. Yeah. Like the City of Gunnison, they get their water from a well field, and they bought a ranch so they could keep irrigating it so it would replenish their underground water field. They were looking ahead when they did that.

Q: Some of the other big water things, were you involved at all with the Blue Mesa Reservoir construction project or water issues with that?

A: Now they actually, the answer is yes and no. The act was created in 1956 and I didn't move here until '58. Then the Colorado River District filed for all the water rights for the United States and then assigned the water rights. They also filed for the water rights for the Upper Gunnison River Water Conservancy District before it was created, so they created, they filed the water rights, and they did that and they were anticipating preventing trans-mountain diversion, they wanted to get those water rights. There's, the United States probably didn't have to get a water right, now under the McNaren** they did, which was later but, so there was some question whether the United States even

needed to get the water rights, but they felt as a western Colorado entity, they wanted the United States to have the water rights. When I got involved then, I was in the office when the district was created in '59, but then actually represented them starting January '61. And one of the issues I was involved in is when they assigned those water rights from the Colorado River District to the Upper Gunnison District for our water rights, those were assigned to us, and then what the Union Park case was about was whether the United States had the right to assign, no whether the, not assign, whether the United States had the right to call out their hydropower rights against the Union Park Project which was primarily for domestic use. If you read Section Seven of the Colorado River Storage Project Act, which is very, very confusing language, there's language that would make you think the United States could not call the water rights against domestic rights, and there's language to make you think they could. And that decision was. The District Court judge, local district that handled that case, handled that decision four times, he rendered a decision on that same issue four times, two times for us and two times against. Such a complex close call. We were able ultimately to convince him, based on the legislative research, the legislative history of that case, that they had intended the United States to get those rights, and that was why when the River District filed for them, the Colorado River District, when they filed for those water rights, they had that in mind, the United States could call the right, and that's why they got water rights, the United States could call. It's a combination of law and politics to convince the United States to take that position. And one of the things I was involved in was the Union Park case was in convincing the United States that they could and should call those water rights. The number two person at the Bureau of Reclamation in Salt Lake City didn't think the United States could or should call their water rights. We then got involved in the litigation and went to Department of Justice, gave them this legislative history and the law and our legal analysis, and convinced them that we were right and that they should make it, so they then, Justice went to

the regional director and had a discussion with him then decided they could call. If we lose that decision, we lose the case. It was that critical, that issue, that single issue was very important. We were very heavily involved in terms of what do you do, you know. I was down here at 11:00 at night and something like 1100 exhibits, and some exhibits were over a thousand pages so, trying to look for the needle in the haystack, and we found a few. There was some legislative history back when then Governor Johnson who had been a United States senator, tried to get Congress to include a provision in the Colorado Storage Project Act, which would have been in line with Arapaho County's position and Congress rejected it and we thought that that was a conscious decision not to adopt that position, therefore Section Seven didn't mean what Arapaho said it did, and what this number two person at the Bureau of Reclamation, and we were able then to convince them, and so the United States stayed with that position, and ultimately the Supreme Court adopted that position, and that's the reason why we wanted Department of Justice to argue that issue before the Colorado Supreme Court. It all goes together.

Q: Okay. So the building of the reservoir...

A: Yes.

Q: You were here at that time?

A: Oh yeah. Yeah. They had a groundbreaking. Ed Dutcher, that I mentioned left in January of 1961, and he was very actively involved, he had been on the Upper Colorado River Commission, so was involved with that and the State Water Board, of course its local attorney, and so he came. I remember that he came back in September of '61, they had the groundbreaking ceremony, and so the construction started I think in '62 as I remember, I think it was completed in '65, I think they started storing water in 1965 or thereabouts, so yes, I was here and saw the Gunnison River, which I had fished down there, saw it filled

up and covered. US Fish and Wildlife Service filed a report objecting to the construction, the building of Blue Mesa Reservoir because of what it, because it inundated this great fishery so there was not even agreement within the United States of all the agencies whether it should be built or not.

Q: One agency suing another one.

A: Yeah, they didn't sue them, but they...one of the reasons probably it was built was also political. Wayne Aspinall, who was elected to Congress 1948, was Chairman of the Interior and Insular Affairs Committee in Congress, and he was a very powerful chairman of a federal agency. And it was probably built as a tribute to Wayne Aspinall, who was a Colorado... What can he do for western Colorado? Well, here's this reservoir, it brought flood control, it brought water downstream that could be used for irrigation purposes and the power generation to build participating projects, not just above us but in other parts, it was funding that. It was probably a tribute to him 'cause in the overall system like the Glen Canyon itself is like 27 million acre feet, this is less than a million, and so it's, you know, that many times bigger, and so didn't really need it in terms of actually water for the Colorado Storage Project, but it was probably a tribute to Wayne as much as anything, but they've created gold medal fisheries also below the Aspinall Unit in the canyon because they can store the water and release it, which is what we did. The way we created the gold medal fishery in Taylor River below Taylor Dam when we took over control with the '75 agreement, you stabilize the level around October 1st of each year when the brown trout are laying their eggs, you leave that flow the same. So if you increase the flow, it washes the eggs away and few of them hatch, if you drop it down, they're high and dry and freeze, fewer eggs, so you leave the same level through the winter, you get a much higher reproduction rate. They then ratchet it up slowly in the spring starting in March and ratchet it up as these little fry are developing instead of just flushing them out, so you ended up and we increased the brown trout ninety percent because of that, so there

was a scientific cause and effect, and so they did, they didn't do exactly the same thing under the Aspinall Unit, but it has produced because of that stabilized flow, it increased the fisheries down there too.

Q: Almost like a fish hatchery it sounds like.

A: In a way, scientifically controlled.

Q: Wayne Aspinall, 'cause mainly where I've heard his name is talking about his opposition to the Central Arizona Project.

A: Oh yeah, he was a powerful man at that time, 1968.

Q: I've heard his name mentioned a lot in interviews.

A: Oh yeah. I'm sure, yeah. See, we named a conference center here after Wayne, the Aspinall Wilson Center's here at the college, named it after him. He had a son was in college at Western State when I was, and we called him and said Wayne, we would like to use you and honor you if you don't mind, and we'd like to honor you by naming the, it's you know, had a son went to Western, you're prominent in western Colorado with the Aspinall Unit right here in our county, and we'd like to use you to help, use your name to help us raise funds, to raise funds, and he helped us, he actually went to people himself that he knew, wealthy individuals that he'd worked with that gave money to honor him. The Coors Foundation for example, he worked with the Coors family, so he's a strong presence in Gunnison.

Q: So you were here in '61, and you said the groundbreaking was already going on.

A: Yeah, it was in September of '61 right at the site.

Q: So by then was the controversy over whether or not to build it over?

A: Oh it was all over by then. No, that was established I think in, probably in '56 when they passed the legislation. But that was in the record if you go back and look at the legislative history for this act, that was all in there opposing it.

Q: Were people here, people here in Gunnison opposed to it?

A: It was extremely controversial. When I was a college student in '52, well I was a college student in '50 to '54, but particularly in the '52 to '54 time, I remember taking a sociology course in either '52 or '53, and we were interviewing people, we'd go door to door interviewing people, what do you think about the Blue Mesa Reservoir coming in. Well their very strong opposition in some circles, the opposition came from two or three things. One is the Gunnison River, the fisheries, the recreation, they were opposed to that. A second was probably not substantiated by fact, but when that reservoir came in and covered up the river it's going to make it much colder than it ever was before. Then, on the other hand, you had the people that said we're going to have all these tourists that are coming in, you'll have millions of visitors coming to Blue Mesa Reservoir, and then some were opposing it, saying we're not going to get any wet water benefits for it, that the wet water benefits were downstream where this controlled river. And then a major opposition which resulted in a change, it was initially, was going to come right out to Gunnison City limits, the reservoir, and it was over two million acre feet then, you know, then, it's the last ten feet is where you get the big, is the volume, the surface area, so many people who said it's going to be nothing but a mud flats, it's going to be dusty in that area between the City of Gunnison and where it goes into the canyon, and they were able because of that to oppose that, so they came just up to the end of the canyon where you wouldn't have this big mud flats, and so that was part of the controversy, but I can remember I was president of the student body my senior year and as such I went to the Rotary Club meetings,

they...and so I listened to these people, it was a very controversial time in '53, '54, and there were people that were very good friends that were really angry with each other over this, they were for or against Blue Mesa, extremely controversial for the reasons I just mentioned there was no consensus whether to do it or not, you know. Some of them were emotional, this idea of changing the weather was probably an emotional decision. I guess I can't prove it one way or the other, but it was cold then, it's cold now.

Q: Okay, I think it's a good place to stop and change tapes. In Gunnison, and we're talking about Blue Mesa and all the controversy over building it.

A: Yes.

Q: Once it was built, how do people feel about it?

A: It's still a mixed bag. I think that just from the, from two big areas, one is just for the economic interest. I think they think is a positive effect because there's, based on the way the United States does their calculations, they have about a million visitor days. If you divide a million visitor days by 365 days out of the year, we don't think that there are that many people here, but anyway however they count, they say... But there's a big impact to the economy from the economic, and also in terms of a recreational amenity, it provides fishing and boating, and it's aesthetically very pretty when it's full like it is now. There's the controversy that was the mud flats outside of Gunnison and mud flats down at lola that you get when the reservoir is down low, then there is in fact, becomes dry and the wind blow and you get dirt and dust comes out and some people, that's controversial. I think it's now accepted because the reservoir has been filled now for 40 years, and there are not that many people still alive that remember how great the fishing was in the Gunnison River, so they probably lost that one, it's more an intellectual thing not an emotional thing, like some of the rest of us who were around here and watched it, so

that's probably a thing of the past. They can intellectualize it but don't really, don't really have the sensitivity. But, those who are knowledgeable know that it's 'cause of Blue Mesa that we were able to get the use of Taylor Park. Without Blue Mesa being there to be able to provide the wet water to the Uncompahgre water users, we wouldn't have had the right to use Taylor Park Reservoir, and that's been just a tremendous asset. There's nobody opposed to that. It in fact has helped us for flood control, it has in fact increased the brown trout population, has in fact providing a boat, a boating industry that could rely on the flows, it stabilized those, and it's much better fishing conditions, in addition to more trout, there are better fishing conditions, they're predictable, and has provided some irrigation water, so that's a plus. Without that, without the Aspinall Unit, that wouldn't be available, so everybody agrees that that's a tremendous asset.

Q: I've got some more recent water issues. I don't know if you've been involved, or how much you've been involved in the Black Canyon National Park?

A: I was involved in the beginning of that right, and you know I've got a strong bias on that one. In the bigger picture, the environmental community has strongly pushed to get a much larger Black Canyon flow. The problem with that is locally. They'll say well we need to stop trans-mountain diversion. We get that big flow and they can come in. We got the water right to stop the trans-mountain diversion there. They say that could be eroded because they could make a political deal with the Bureau of Reclamation to buy water, and if you had the park service right, then they couldn't get around it. The problem with that is that, if they get that right, they have to administer it, and that's also an eight hundred pound gorilla, just like the Aspinall Unit was. And the way they got water rights in this basin, in 1906, in Water District 59 which is a mainstem Gunnison, one of the tributaries of the Gunnison, and in Water District 62 which is Hinsdale County, and Water District 28 which is a bigger one in, it's Tomichi Creek and it's drainages, they got one second foot of water, in

the old, way old senior water, they got one second foot of water for forty acres. A division engineer named Enus Hotchkiss came in in the late '30's and said that's not enough water to adequately irrigate this gravelly, sandy soil, so he suggested they get four second feet for forty acres, which is one second foot for ten acres. And so they came in then in 1941 in District 59 and in 1943 decree in Water District 28 and got the additional three second feet for forty acres. Those water rights would be junior to this Black Canyon right, and they then could call out and have a dramatic impact on agriculture, and so they can't afford it, so the remedy is worse, you know, than the problem there, and so you've got the battle of the traditional water rights, and primarily agriculture versus the environmentalists who don't own the water rights. They want to come in and control it and impose it, so that's the philosophical balance, and it. I was very actively involved in opposing the election of Tom Strickland when he ran for US Senate two years ago... the US Attorney's Office, he was basically inside the environmental community, and we thought opposed to the local interest, so we made a major push, and it had some impact on the outcome of that election, so I was involved in that. I was involved also in getting the state to take a position in line with what we want. We've been able to negotiate an agreement with the United States that, by them getting the water right in the Black Canyon but a lesser amount, they will then subordinate to the uses upstream, and so we've gotten the, we think it's the best of all worlds. And so, since I, in the last few years, my partner's been doing the work, so I haven't been personally, I've been involved, obviously I've been discussing with him all the time, I just haven't been the front guy, so he's actually been handling that, so I haven't been involved directly in the last two or three years.

Q: So when you say we, you're talking about the Upper Gunnison.

A: The Upper Gunnison, yes.

Q: So do you think, that's not still resolved, it's still ongoing.

A: It's still, they're waiting for a court ruling on that decision, and it's going to be a court ruling.

Q: Any predictions?

A: I guess probably not. It'd be biased by my, what I think the outcome ought to be.

Q: I was talking with Uncompahgre about a hydroelectric power project that they proposed a few years back. Were you involved in that?

A: We only observed it and our district in general probably wasn't a big supporter of that project, but because we want to get along with them, they've been people that we've worked with over the years, it didn't directly affect us, we stayed out of it. We pulled to the side, you know, we're not going to support you, we're not going to oppose you.

Q: It seems like there's a lot of water flowing through here that isn't being used to generate power that could be when we're talking about trying to get away from coal and oil as power sources.

A: Well, no it's all going through, there's very little that doesn't go through the turbines out of this basin.

Q: But couldn't it be used again somewhere else, I mean?

A: It could and that's where the Uncompahgre is wanting to use it for, for their project, yeah, uh huh.

Q: There's a lot of water.

A: Yeah, see I thought what you were going to say is there's water going down and not being used, 'cause some of the more traditional community of which I've historically been in that camp, they're saying that these, those water rights we've got like the storage of water in Taylor Dam for the recreation, they say that's not a real water right, well we think it is a real water right and we show economic use of it and traditionally, what's been a beneficial use of water, technical beneficial use has changed, you know it started with mining and then domestic, and the traditional ones, domestic, mining, irrigation and the industrial use are the four basic ones, it's increased, changed over a period of time to whatever is an economic use is a beneficial use, and we show statistically where there was, you know, hundreds of thousands of dollars of beneficial use in recreation resulting from these things, so we've been able to satisfy that requirement too, but there's a philosophy for those who oppose it and say that's not a real water right. Well, we think it is and the Supreme Court thought so.

Q: When you hear people talk about a dam being a cash register, they're generally talking about power.

A: Right, they are, yeah, yeah.

Q: But you're saying you're a cash register producing...

A: Yeah, we can show you a statistic like the, just the rafting issue. That's about a million dollar a year business in Gunnison Valley. It's like thirty or forty million dollars a year in the Arkansas, but just in our valley as a result of what we were able to do by stabilizing the flow so it's predictable, that the rafters know they could have that, they've built up several rafting companies, and it's about a million dollar a year industry, so yeah. And then also the fishing on Taylor River,

the fisherman days, there's a lot of data that both the Division of Wildlife and the US Fish and Wildlife Service have to show that there's a direct impact to the economy by having a quality fishery which we now have on Taylor River, didn't used to. It was a good fishery before, not even close to the level it is now.

Q: I guess the increase would be...

A: Yeah, yeah.

Q: Not to mention never buying food.

A: That's right. The catch and release sure don't provide much, but everybody doesn't do catch and release.

Q: Any other major water issues that you'd like to talk about, legal issues...

A: The one issue that's a major issue in this valley is the right to float, it's extremely controversial. The question is does a rafter has the right to go across private property on his raft. And in most states other than Colorado, for a variety of reasons, constitutional or otherwise, they have the right, but they don't have that right in Colorado. Very controversial. Some people think there is the right. Our office has been, my partner John Hill has taken the lead, and we've all been involved in it, whether there is a right to raft in streams. The simplistic approach is well, the water belongs to the public and therefore you can't stop them from floating. Well, that's not true. The constitution says the water belongs to the public subject to the right of appropriation which will never be denied, and it's under the mining and agricultural section, and in order to get the right to use that water, you have to appropriate it. The very essence of appropriation is control. You build a reservoir; you divert it through a ditch or a pipe or sump pump, something like that. That's different than having the right

to cross somebody's property. Totally different issue, that if this is the person's, this table is the person's land, and for somebody to say 'cause a stream runs across it they have the right to trespass. It's what you call break the close. And so if that piece of property is the land, and the boat is going across this way, there's an imaginary wall going up the outside boundaries of the landowner, so once he breaks that close, breaks that imaginary wall, he then goes into what's part of the property rights. The property rights are the center of the earth to the highest heavens above subject to the right of aviation. And so that is, in fact, a property right. You wouldn't for example think that, if you say ok, I have the right to float across it, then you also have the right to shoot across it don't you? You could fire a gun, what's the difference? Well, there isn't any difference. And so we filed two motions, and they filed a lawsuit against us. No, I guess we...

Q: They?

A: No, a rafting company was rafting across a ranch property, down on the lake, toward the Gunnison River, and that wasn't just a ranch property, but it was also property that they had, they leased property to some fishermen for, generate more income. And fishing historically goes way back a hundred years on the lake...for recreation, for the economy, both private use and commercial use, renting fishing rights. The rafting is a very recent vintage, probably 25 at most, and so if you're a landowner, and you're a rancher, or you're a fishing club or you're a resort that has fishing, you get your economy that is based a large percentage on that. The rafting companies have taken this position that they have the right. So we filed a lawsuit against the rafter that said that he had the right. And the first motion we filed was this one where they said well, the water belongs to the public. The judge ruled in our favor, said no, you're right. That the water belongs to the public is a separate issue, doesn't relate to the right to raft. The second one was there was a case in Supreme Court called the State versus Emerett, and it was a setup case, a test

case. Emerett floated, the sheriff arrested him and it was a criminal trespass. Emerett incidentally was in my class in law school, it had nothing to do with it. I didn't know anything about it, never talked to him about it, but it just happened to be. That's the landmark case, and that case determined that there wasn't any right to float, it was a criminal trespass. They subsequently changed the law. It's no longer criminal trespass to float, against somebody's...they said because of that, it changed the civil law. We filed a motion, the judge said no, it affected only the criminal law; it didn't change the civil law.

Q: Now how is that law written? Is that only for rafters that it's not criminal trespass, or how did you change that law?

A: Yeah, yeah, it just related, it said, what it did, it changed the definition of premises. It said, it said for the definition of premises, it eliminated, specifically eliminated on a river as a premises. In other words, if this is your premise, this is your land, if somebody walks on your property; it's described as trespass, as trespassing on somebody's premises. The river is no longer a premise for purpose of criminal trespass, and so they tried to take the analogy and the court said no, that's not true. So they then decided to get out of the case and we negotiated a settlement, so it never got up to the Supreme Court. In my personal opinion, we've been involved also politically, rafting is an industry that's very important to Colorado, and we think there ought to be a compromise to get it resolved. You have the examples that I gave, and I'll give them very briefly again. You have the rancher, who has this piece of property, and he has a fence across the river, small streams are the issue, not the big rivers. Smallest ones are the problem. You have to have a fence across there to keep the cattle in or out as the case may be. The rafter comes in and says well, you can't keep me out. Well, what are you going to do, lift the fence and so the rafter can go through? I don't think so. The rancher is there long before, he pays the taxes, he has the investment. You're a resort, you make your

money from that, same thing, small stream. Do you think that rafter's going to stop fishing? Or he's going to stop and wait and you're a fisherman out in the middle of the stream, the rafter comes by, he was there first, he's standing on the bottom of the property, he owns the property, that resort has been making money for all those years and you're going to just let the rafter come in interfere with that, and so there's the harm. I'm giving you the philosophic rather than the legal issues right now. I gave you the legal issues. The third one is a fishing club. You buy a stretch of river, you build houses along the side, that's the primary use of your property is fishing, the same thing applies. You bought the property with that in mind, you're using it for that purpose, the rafter who has no investment, comes in, and that fishing club may have been there 100 years ago. The rafter, just a new entity, has come in. The legal issue involved is it used for commercial purposes or capable of commercial purposes at the time of statehood. Colorado's 1876, that's the issue. Each case is going to be factually dependent on the circumstances existed. And then on the Lake Fork, we had done the legal research and found there had been no commercial use. We thought it might've been used for floating logs for purposes of building railroad ties, but we found out in the legal research that the way they built the railroad into Lake City was they got the logs downstream where the Gunnison and the Lake Fork came together, and as the train track was being built upstream, they hauled the logs upstream. So they didn't float them down for that. So that's the only...although there's a case on the Rio Grande River which said that floating logs is not commercial use for purposes of navigation anyway, so there's no commercial use of the river. So each stream, for example the Platte probably, if you look at Centennial where the, the trappers floated down, so maybe that was commercial navigation. We think there ought to be a compromise. Take a stretch of river let's say you have twenty miles and fifteen of it is, is public land, forest or state land, or BLM or something like that, and five miles. Pay reasonable compensation to the landowner or give the state the right to

condemn and make it clear in these little bitty streams where they're really causing an imposition to landowner who was clearly there first and has most of the equitable rights to it, get a compromise to allow the industry to progress and still protect the private property rights. Combination of legal and political there.

Q: Pretty complicated.

A: It is.

Q: And so you're saying to let state condemn, would just the streambed be the part that they would condemn on someone's private property?

A: Yeah, they, you just condemn; I don't think you'd condemn the streambed. I don't think we want them to walk on the bottom. That would give you the right. The old, the famous case out of Colorado was Hartman versus Tresise...was actually in the, in Gunnison area just south of town on Tomichi Creek, and that was the issue, and they said in Hartman versus Tresise you're not allowed to walk on the bottom, that's all. They said well, it's publicly stocked stream, and therefore you ought to be able to walk on the bottom, said no, that's private property, you clearly can't do that. Rafting came in later. That was the...

Q: You could go through on a boat, but not walk on it?

A: No, no. You can't do either. No, that was just, that was the only issue, is could you walk on the bottom, said no. What we think that you ought to do is have the right to condemn a right to float, and maybe even regulate it, give the state the right to regulate it maybe, and say you can float but you can't fish. So you have this private property, it's a resort, so you say it's a big enough stream, that you ought to have the right. So let me come in, condemn, and

say no fishing. So you can't fish. So, accommodate. You've got competing uses. That's the issue, you've got competing uses and the rafters say, "We trump." Well we don't think so. We think private property rights, by law, trump. And you also ought to take into consideration the fishing clubs and the resorts. They have just as much interest and they have an investment. Have a...why do you give it to what I call the freeloader?

Q: They're just passing through.

A: Yeah, yeah, and they, they're out of it. The water belongs to the public, you can't stop me. Well, that's a nice phrase, but it isn't the law. And we've got at least one judge ruled in our favor on that issue. The only time it was real, they ruled in our favor.

Q: Any idea how many places that is an issue?

A: No concept, but it's a lot. The average person, if you ask the average person, even the average lawyer, not a water lawyer, they would say that we're wrong, that you have the right to float as long as you don't touch the bottom. But that really, the only time it was ever decided was that case we had on the Lake Fork and the judge ruled in our favor for the reason I gave you, so I don't think that's the law.

Q: So you think there's going to be more cases like that?

A: I don't know. There...

Q: Could it go all the way to the US Supreme Court?

A: Could, yeah. Yeah, there's a federal, probably a federal issue on it. There's different types of navigability, and it may well be that that's just strictly a state

issue, but probably not, there's probably a Supreme Court. There hasn't been, other than this Lake Fork case we had, there hasn't been anybody had the will to take it on, either to have a major lawsuit all the way through. My partner's been involved as a consultant in several cases, and they probably decided the cost of a mile of river or something, it's more that they want to pay, It really needs some organization like Colorado Cattlemen's or RAFT or somebody needs to get together and see it. But we think it ought to be some legislation. We've talked to Director of Natural Resources and some others, and they agree with us, but nobody has picked it up very, very controversial because the average person doesn't, you almost need a lawsuit to determine the law to get the attention of the legislature.

Q: I know public, private property rights versus public condemnation of properties have gone to the Supreme Court on an Arizona case.

A: Is that right?

Q: Yeah, and they ruled that they couldn't condemn...the city wanted to condemn the property to build a shopping center.

A: See that's that recent case that their, and I'm one of the strong believers say you shouldn't be able to condemn, the public shouldn't condemn it for private use, and we're talking about public use.

Q: Right, right, so it sounds like it's sort of similar.

A: It's kind of; it's not quite the same. Yeah, this would be for public use, not private use.

Q: That's why I thought it could go clear to the Supreme Court. It's sort of similar but different.

A: Yeah, we think that they ought to get together. We have pretty good credibility even in the rafting industry, in spite of the fact we beat up on them. We're not trying to be unreasonable we think there's a balancing of values, and somebody needs to address them for the benefit of everybody.

Q: Well, that's a whole different kind of a water rights issue.

A: Yeah, it is.

Q: Looking over all of the water rights projects and things that you've been involved with, what do you see as the biggest issues today in Colorado...in terms of water rights or water issues?

A: Yeah, probably the issue, and I, last Thursday I represented Bob Beauprez, the Republican candidate for governor, in a debate with Bill Ritter, who's the Democratic candidate because Congressman Beauprez couldn't come to Gunnison, he was in Congress then, so I...and I think that probably Bill Ritter and I both agreed, that the issue is, because of the development in Front Range Colorado, the only source, not the only, but the easiest way to get the water for development is drying up agriculture, and that's unfortunate, because there's some ramifications to that. For example, when they go out to basins like Aurora has gone to Arkansas River Valley, that's why we feel unfortunate that we were able to beat up on them, and win against, started as Aurora but ended up, same issue and same general area 'cause a lot of Aurora is in Arapaho County. I personally believe that we should, we should emphasize more conservation and reuse instead of just taking the easy, the low hanging fruit of drying up agriculture. I'm chairman of the Upper Colorado River Commission, and I'm chairman because I'm the federal representative and by statute, he is the chairman of it, and the one thing that opened my eyes since I've been on the commission is the fact that Nevada for example, Las Vegas specifically, they don't have agriculture they can dry up. As a

consequence, they've really gotten into conservation and reuse and all those things they're paying a dollar a square foot to dry up lawns, and they're now serving more people with less water because of that. I think there's something like two-thirds of the water in the Front Range, there's something like two-thirds of the water and 50% around Denver and two-thirds in Colorado Springs of the water is grass, water use is for grass. I don't know that, which we ought to be drying up agriculture lands for lawns. And, you know, I'm coming from the traditional, conservative approach. What I'm talking about now is more traditionally from the environmental, but I'm there. I think that, in my opinion, you do more good for the state in the long run if we really start focusing on less use. For example, I read something the other day, in one of the articles out of one of the Lower Basin states, I can't remember what state it was, that was saying maybe there ought to be a rule that you can't take a hose to clean off your driveway, take a broom. Little things, you know, wash your car, easily. Why don't we get more conscious of that? I guess I'd say that, in my opinion, that's probably the biggest, biggest problem.

Q: Use less water.

A: We need to consciously use less. There's the ripple effect, there's two or three ripple effects. One is they go into total basins like the Arkansas, Well think what happens when you buy agriculture rights, you not only do away with this agricultural farmland and all the associated beneficial values that go with that, you're, it's an impact on the economy. The machinery dealership and the feed store, and on they go. You change the economy, you, it's a tremendous impact. The same thing occurs if you go in the areas, which you dry it up, there's an impact on wildlife, because the agriculture, and you have the open spaces. So there are some ramifications. I think we ought to be a little more sensitive to those values as we go forward.

Q: Where are we going to get our food?

A: That's right.

Q: Are we going to start importing it all from Mexico or Chile?

A: Yeah, that's a direct impact, all those things.

Q: Then we'd become dependent on outside sources for food.

A: Bingo. Yeah, and it's there. I mean, we're not even close to doing what they are in Nevada, there's the, but either California or Arizona, I mean, all the Lower Basin States all are being forced to do it, although you drive around Phoenix it doesn't look like it with all the golf courses

Q: Tucson has...most of the golf courses use recycled water.

A: Yeah, yeah they do. That's right.

Q: Tucson has done a lot more. You don't see lawns in Tucson.

A: Is that right?

Q: Very little lawns in Tucson, and they've done that for 25 years.

A: We all need to do it, yeah.

Q: Because they were so dependent on groundwater.

A: See, we're doing a study now, the Seven Basin States are being led by Las Vegas, but a study for augmenting the flow in the Colorado River. We're looking at desalinization and weather modification. They're just barely talking about importing out of another basin. They'll get there. You mark my words.

Q: What other basin?

A: I think that they look at the Mississippi as the most logical because they have more water to supply. Whatever you look at, there are political and environmental impacts, but overall, taken as a whole, there are three hundred million acre feet in the Mississippi, one million acre feet they wouldn't even miss.

Q: How would you get it here?

A: Probably along interstate highways, it's probable. But, what they ought to do is do a study to answer all those questions. Maybe once you do the study, you'd find out. Now Snake River, you'd never get the water out of. That's the easiest. That's a very short canal, take it out of the Snake, and drop it in the Upper Colorado River, I think it's agreed, and away you go. I don't think you have, and you may remember the 1968 act that created the Central Arizona Project, there was specific provision there for impact, importation of the Columbia, and Scoop Jackson got it stopped for all these years and you'd probably never get it again, but why did they put it in there? And that's, see Arizona's taken the position that that was part of the deal, and now we don't get it. We think we shouldn't be subordinate to California in our water rights because of that, because we didn't get what we bargained for.

Q: I know there's been talk of why doesn't California just desalt the ocean?

A: Well, they're looking at it. That's part of the study that we're into; they're literally looking at that. What do you do with the salt brine when you get done? Nothing is easy. The point is there's no easy solution. The easiest is conservation and reuse.

Q: And some people have said, you know maybe water should be the same price as gasoline, and people wouldn't use as much of it.

A: One of the things, when I drafted my notes for this debate last week, and I gave it to my now ex-partner who's, gave it to him, and he said, "Why don't you put it in about pricing as a vehicle to stop the use?" And so I did, I put it in as one of the issues in there. I agree.

Q: It's such a bargain that...people to conserve...run down the drain.

A: It is, that's right. We could all use less water easily if we were forced to.

Q: What do you see as your role in finding solutions to all these issues?

A: I don't know that I've thought about it. I've been more involved in the local issues as they arise one at a time. I don't know if I've looked at it globally. I have one of the things I was involved in, I was president of the Colorado Water Congress thirty years ago, and at that time I got them started in water education. So I'm going to, basically I'm going to say education is maybe one of the roles. And we started at that time, as an experiment, the water workshop at the college, which has now just finished the 31st, and so I think one of the things is educating people, I think. And I've played, already played and probably continue to play a role in educating people about things that we're talking about. Because the topic of this last conference, as I mentioned earlier, was managing a developed resource, and I think that, that one of the things I can do, I think, and have done, would be educate people there. One of the things that I've, and I gave a talk some years ago on the politics of water, and it's not Republican-Democrat. And it's interesting, because I came up with the idea, we were going over to Salida with my partner and we were going to talk about water at the Arkansas River Forum, but a branch of it, just a small meeting in Salida. My partner was going to talk about basic water law; I said I

don't know what I'm going to talk about. So I was talking to him, and said, "Well let me just talk about politics of water." So I jotted some notes and gave a brief presentation. Well, when I got done, he said, "You know, we're going to have the whole basin-wide thing in a few months. Would you give that talk again but expand on it?"

And so I got to thinking about it. And the politics, everything involves politics, for example, when we got the United States to join us, I mentioned to you on the, in Union Park litigation on that single issue of can they call out the Blue Mesa rights, the Aspinall Unit rights. That was politics to the extent I was able to get Department of Justice, and hopefully the whole region to join us on that. That was political, political meaning how do you get people to do what you want to do, and sometimes it's Republican or Democrat. We got the Department of Justice and the state to argue that. So I think one of the things I've been very active in including Republican politics as part of that trying to get what I believe are congressmen or governors or whatever elected, I think probably my role is probably in a political, political activity, political involvement in the bigger sense political. I have voted for Democrats, sometimes publicly. We voted for Ken Salazar, ran for Attorney General. My Republican friends got irritated at me, but I knew that he really understood water issues and would be a real asset, so we voted for him, publicly. Got in trouble with my friends, Republicans, and supported, but that's probably two of the things. Educating people, whether it's a bigger thing or just one on one and being politically active try to get people to do that are probably the two things I can do.

Q: What accomplishment relating to water issues in Colorado are you proudest of?

A: Probably the refill right on Taylor Park Reservoir. That was one that, it really had to fulfill a need here. My old conservative friends thought I was crazy, I was

doing what the environmentalists do, and they've always been our enemy, so how could you do that, and so I really had to take my conservative friends on and say I think you're wrong, and the environmental people were always suspect of anything I'd be involved in, and I think being able to see it through probably to the end. And probably getting the United States to join us in that litigation. Probably creating the water workshop. It's been, really been something to be proud of. I haven't had much to do with it other than just kind of monitor it in recent years. The bare premise on which the foundation, the foundation for that water workshop was every responsible position must be adequately represented. Don't take every kook position. We wanted responsible positions. And there'd be somebody who would say, "Well, I have a right." No you don't, we're going to pick, and I'll give you back to how we get there, and then, must be adequately represented. If you have, let's say I have something, and I have a position and I want to advocate that position. It wouldn't be fair for me to get somebody that's really not qualified to argue against it, and I get somebody really well qualified to argue my side. We've insisted on that, and we've had two run-ins over the years of...the Colorado River District who's been one of our biggest supporters for 30 years financially, in speakers, and every other way. Their director one time thought they were too environmental, and so he withdrew their support, cut it in half, went from \$3,000 to \$1500 a year, and I told the director at the time, just happened to be in front of a reporter from the Rocky Mountain news, I'd give them the \$1500 back, I wouldn't take anything. You can't allow them to influence the outcome, it has to be, it has to have credibility. She put it in the paper. So I had to call the guy up the next day and say, "I read the story, I want you to know I wasn't misquoted." However, so we've got that... Another time it was the other way. An environmental director was trying to present a position, and we stepped in, I wasn't the one who did it, but somebody else did, and say we can't have that. If you're going to have that, then you get somebody adequate to come in and represent it, so that's been, that conference has

really had a lot of respectability, and because of that, so I guess that's probably the things I'm probably the most proud of.

Q: Looking back on the different things you've been involved in, is there anything you would've done differently?

A: Yeah, I'm sure, I don't know what it is, but I guarantee you that I would go back and spend more time with my kids. No, I could give you a lot of things outside the water world. You know, I'm not sure in the, hmmm. I'd have to think about it. I really don't, there's nothing comes up that say would you, I know there would be if I could think of something in particular, there probably would be, I'm not, I can't think of anything right now.

Q: Stuart Udall said that he didn't think he would have approved building Glen Canyon Dam. Thought that was an interesting...

A: Bill Trampy said that?

Q: No, Stuart Udall.

A: Oh, Stuart Udall, yeah. Yeah, yeah right.

Q: Stuart Udall, who was responsible for getting it approved, said he didn't think he would have...

A: I suppose I probably would have. The one area where, I guess if I would have been a little more knowledgeable in funding these water projects, I think if I'd have started earlier, there's a great resource to develop our water resources. And we even did a study some years ago with the fellow that later ended up

becoming the first manager of our district, that combined the recreational environmental benefits with the agricultural benefits, and I think there's money available to build those projects because we did a study showed the recreational use of water in the Gunnison basin, and there's a lot of, for example, just take for example take the area between here and the bottom of Monarch Pass, about thirty miles, and I suppose with meander, probably fifty miles of stream. There's two or three reservoir sites up there that if we could develop say five to ten thousand acre feet in three of them, and release the water downstream, you could really improve the fisheries, like they have in the Gold Medal Fishery, it wouldn't be a Gold Medal Fishery, but it would be way improved, and also provide water for agriculture at the same time, and flood control at the same time. Probably if we would've focused on that recreational aspect, and maybe it's still not too late, maybe still go back in and do it, I think maybe that's the one area, asleep at the switch, didn't think in those days, we're thinking. You got to remember, you go back, that we were created to take care of the Colorado River Storage Project and those participating projects, and they were agriculture projects, we didn't think about it. I should've got involved in the recreational environmental aspects earlier. We did the, its multiple use is what we're talking about. We did the multiple use on Taylor Park Reservoir. We should've expand that thought to all the basins, we could've really made, and in that turn that then makes more recreational use of the property, environmental sensitivity and flood control. And it's still not too late but I probably would've started that way earlier, and there was sensitivity in the United States for recreational benefit, they were included. There were recreational benefits that they looked at the benefits, that the United States looked at, and we probably should've done that. We were representing ranchers, it never crossed our mind.

Q: What has been the biggest surprise for you regarding Colorado and the water?

A: A little bit like the other one, I'd probably have to think a bit, a little bit about it. I guess the surprise is that, I don't know if this is a surprise, but it's a major change. When I first started practicing law, and learned water law, you took the assumption the water belongs to the public, which is part of the constitution, and if the Front Range water interests want to come in and get a water right, they generally could do it. They changed the law some years ago to what they call can and will. You have to show that you can build the project and that you will put the water to a beneficial use. That stopped a lot of projects to show that. And I think that maybe I'm surprised that maybe we didn't come to grips sooner with the fact that dewatering the streams in western Colorado has a tremendous impact on the local communities, which it's a statewide impact. It may look like it's an impact in the Gunnison Valley if they take water, but it really affects Denver and Colorado Springs. They, they use this for recreational purposes, and I think I'm surprised they haven't come to grips with that sooner. It really has been, the traditional development community, has been totally insensitive to that. They're just now coming around, I'm surprised it didn't occur earlier. However it didn't occur to me either, so I'm not any better than they are.

Q: Did you ever think that you'd see the kind of growth we have all over Colorado?

A: Probably didn't think about it, but if I would have, I would not have anticipated it. That's huge growth. You know, my grandparents, you know lived in Englewood, which is, my mother graduated from Englewood High School, whatever year it was, '27 I think. Well, you would go from my grandparents' house down to Littleton, driving through farms. There are no farms there now, it's wall to wall commercial and houses, and so it really. No, you wouldn't have thought that. It's too bad it's this is statewide. They're using too much land, in my opinion, for, for residential development. The thirty-five acre law is a disaster. You can build a house on thirty-five acres, it's a, the law

allows you to build, very little impacts you'd have to address to build a house on thirty-five acres. That then churns out land. And I had an example. I had a client out in New York City, bought property between here and Crested Butte. And I tried to get him to cluster them along the river, leave all the rest of the land open. And he said, "Dick, it's too hard to go through the county process. I can get this as a matter of right, I'm going to do it." Poorly designed law, and I guess, that uses up way more land, just because of that, it's very unfortunate. I think we need to change the values, 'cause that's really chewing up a lot of land, and the things we just talked about earlier. They're drying up land for, to get the water, but they're also drying it up for, for development. You could put the houses closer together, and frankly, you know, I was raised in a small town, I didn't mind the houses next door. My quality of life I thought was pretty good, and I didn't have to have a two-acre building site to live to be happy, even though I live on several hundred acres, nobody close to me.

Q: How do you think that the water issues that face the whole southwest region, the seven states, impact Colorado and the water resources here?

A: Because of the way the compact is worded, it's going to ultimately reduce the amount of water that the Upper Basin States can develop, because it didn't just divide it in half, it divided it so the Lower Basin has to get their share and it's calculated the amount, so.

Q: You're talking the 1922 compact?

A: Yes, yeah. I think that will, ultimately will restrict the amount of water that we can, we can develop, even though we haven't been coming up with projects to develop it anyway, but it will ultimately impact, there's no way you can avoid it.

Q: What about the growth you see...?

A: I saw a talk at the Colorado River Water Users, I think it was two years ago this fall, and they gave some projections on the millions of, of increases that are going to happen just in the next ten years, it's dramatic. And it's what we were just talking about. You don't have to be a rocket scientist to know that where you have increased growth, the supply is static. Whatever the flow, whether we're in a drought or not a drought, the flow's the same. Whatever it is, it is. The growth is going. We have to come to grips with that. It's dramatic impact. That is the impact, that's the, that's the problem in the western United States, in the Colorado River drainage.

Q: Nevada has really underestimated their growth.

A: Oh, well you know, they easily could've gotten six hundred rather than three hundred thousand acre feet out of the compact if they ever contemplated that, and they don't have agricultural dry up to rely on. They're in a horrible situation. They've been pretty creative.

Q: What do you see as the most critical issue facing Colorado itself in water resources today?

A: I think what I mentioned earlier. I think it's the fact that you have so much growth, and how they're going to manage the water in a way that you really still keep the quality of life in Colorado. Just drying up agriculture, I think that's an issue, we really need to come to grips with that, I think that's the biggest problem we have.

Q: What is your advice for people that are operating the Colorado water resources today?

A: You're talking generically the Colorado resources?

Q: Yes.

A: Conservation, reuse. Conservation, reuse. We've go to. The other thing I think they really need to focus on, there's not much focus on that, they've done it, but they haven't really focused. They need to focus more on the recreation environmental use of water 'cause the streams are a resource. It affects your quality of life, it affects your recreation use, and unfortunately they weren't at the table to get water rights a hundred years ago. You didn't think anything about it. And so they're starting in a hole, and I think we need...they've done things, they did that in stream flow law. We've done things like we did in the Taylor Dam. There's a lot of blue river, Gold Medal Fisheries below the rivers now, but I think we really need to focus on the rafting that I mentioned, although I represent landowners on it, I think it's a resource that we need to figure out a way to provide water for the rafters too.

Q: Maybe the rafters need to hire you.

A: (Laughs.)

Q: I've covered pretty much the questions that I had. Is there anything that you wanted to talk about that I didn't bring up?

A: Pam, probably will be about an hour from now, but not now.

--- End of Interview ---