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Nos. 16881-16888

IN THE
SUPREME COURT
OF THE
STATE OF COLORADO

CITY AND COUNTY OF DENVER, CITY OF
COLORADO SPRINGS, AND SOUTH
PLATTE WATER USERS ASSOCIATION,
Plaintiffs in Error,

vs.

UNITED STATES OF AMERICA, NORTHERN
COLORADO WATER CONSERVANCY DIS-
TRICT COLORADO RIVER WATER CON-
SERVATION DISTRICT, F. E. YUST, CLAY-
TON HILL, GRAND VALLEY IRRIGATION
CO., GRAND VALLEY WATER USERS AS-
SOCIATION,

Defendants in Error.

Error to the
District Court
of the
County of Summit.

Honorable
Wm. H. Luby,
Judge.

BRIEF OF PLAINTIFF IN ERROR,
THE SOUTH PLATTE WATER USERS ASSOCIATION

FILED IN THE
SUPREME COURT
OF THE STATE OF COLORADO

OCT 31 1952

CLERK

WILLIAM W. GAUNT,
25 South Fourth Avenue,
Brighton, Colorado,

Counsel for Plaintiff in Error,
The South Platte Water
Users Association.

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STATEMENT OF THE CASE

A general water adjudication was started in the District Court of Summit County at Breckenridge and The South Platte Water Users Association filed its claim in said Court in 1942.

The South Platte Water Users Association is a Mutual Irrigation Company comprised of water users

who divert water from the South Platte River and its tributaries in the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, Jefferson, Morgan, and Weld. The corporation was organized in January, 1941, by individuals from the Counties named to acquire, appropriate and own water from natural streams in the State of Colorado. The principal object of the corporation has been the creation of a trans-mountain project to collect and divert the waters of the Blue River and its tributaries in such a manner that they could be transported through a tunnel from the Blue River to the headwaters of the South Platte River. These waters would provide, out of the abundance flowing in the Blue River, a supplemental supply to the desperately short South Platte River basin.

Because Denver had already initiated and instituted a project to divert waters from the Blue to the South Platte at the time of incorporation of the South Platte Water Users Association it became necessary for the incorporators to work closely with Denver to the end that the project initiated by Denver and that initiated by the South Platte Water Users Association might proceed with all due diligence and eliminate costly and unnecessary duplicating facilities, the South Platte Water Users Association and the City of Denver entered into an agreement (Protestants' Exhibit 12, fol. 3243, Appendix B) for the joint use of project facilities when constructed. (Protestants' Exhibit 12 may not be quickly available to the Court. A copy is attached as Appendix B.)

The two projects had one common point of diversion where all water claimed was to be diverted into a tunnel to originate near the town of Dillon on the Blue River. In effect, a part of the claim of the South Platte Water Users was for the same water claimed by Denver but the claim of the South Platte Water Users Association was, and would be junior in point of time to that

claimed by Denver in so far as such water originated in the Blue River and its tributaries above the town of Dillon. The Association, however, actually claimed three initial points of diversion and numerous intervening points to intercept tributary drainage. These were incorporated into the over-all plan to enable the diversion project to fit in to a general overall plan being studied by the Bureau of Reclamation.

To understand this situation please refer to Association's Exhibit B (fol. 3056). Attention is directed to "Williams Fork Canal" planned to intercept the waters of the Williams Fork and its tributaries which could then be diverted through a tunnel named Ute Peak Tunnel to the drainage area of the Blue River. From thence the Williams Fork Canal would be constructed in a southeasterly direction to intercept the water of Quaken Asp Creek, Pioneer Creek, Bushee Creek, and Straight Creek so that all of such waters after being so intercepted would be delivered to the common point of diversion into the transmountain tunnel near the town of Dillon.

Attention is next directed to the Black Creek Canal on Association's Exhibit B. This canal is planned to intercept the waters of Black Creek, Brush Creek, Slate Creek, Harrigan Creek, Boulder Creek, Pebble Creek, North Rock Creek, South Rock Creek, Maryland Creek and North, South and Middle Willow Creek in such manner that such waters when so intercepted could be transported in a southeasterly direction to a common point of diversion into the transmountain tunnel near the town of Dillon.

The third initial point of diversion is to be located near the town of Dillon ("at a point whence the East Quarter corner of Section 18, Township 5 South, Range 77 West of the 6th P. M. bears South 70, 30' East, 6600 feet) at which point all waters of the Blue River and its tributaries including Snake River and its tributaries and

Ten Mile Creek and its tributaries will be controlled.

All of the waters claimed by the Association, after being diverted through a transmountain tunnel which would be constructed jointly with Denver, would be used beneficially to irrigate more than 500,000 acres of land in the South Platte River basin. In addition such waters would be put to beneficial use in supplying the domestic needs of individuals in incorporated and unincorporated areas of Central, Northeastern and Eastern Colorado. In transit while on its way to its ultimate and most beneficial use for domestic and agricultural uses, the water can be used to generate electrical energy by means of hydro-electric power plants.

The Association asked the Trial Court to award a decree based on the date construction started on the project, namely on October 27, 1942. Construction work started by survey on that date.

The association claims the right to divert 3300 cubic feet of water per second of time, viz. 700 cubic feet per second by means of the Williams Fork Canal, 1000 cubic feet per second by means of Black Creek Canal and 1600 cubic feet per second out of the Blue River near the town of Dillon where the waters of the Blue River, the Snake River and Ten Mile Creek and their tributaries are gathered together in the Blue River.

DILIGENCE

The Association has proceeded with all due diligence, not only in the planning and filing for the project, but also in efforts to construct the project. It is a project of great magnitude.

Greater in size than the Colorado Big Thompson project (designed to divert 310,000 acre feet of water annually from the Colorado River through a seven mile tunnel to the headwaters of the Big Thompson River),

the Association's project contemplates a 22 mile tunnel to divert more than 600,000 acre feet of water.

Such a project cannot be built with local funds and is of such magnitude as to require careful planning with every available governmental agency for such cooperative construction and financing.

The Association's evidence established that it had diligently worked with the Bureau of Reclamation, one of the governmental agencies presently assisting in such projects in Colorado, to obtain the cooperation and assistance of that agency and its engineers looking toward the construction of a project with the City of Denver, the United States Government and the Association co-operating (fols. 3048 to 3050; 3133 to 3139; 3166 to 3168; 3196 to 3199; 3208 to 3215). The same steps were taken and the same procedure was followed as that adopted and followed by the water users in Northern Colorado in establishing the Colorado-Big Thompson project, but so far our association has been unable to secure a favorable report by the U. S. Bureau of Reclamation recommending the construction of the project to Congress.

This is the type and kind of a project that requires millions of dollars to complete and years of construction. It is a project which cannot procure money for construction unless there is some assurance that the available water for use in the project will be decreed to the project and given a priority date early enough to guarantee a supply of water for use in the facilities to be constructed.

It appears, too, that the Trial Court overlooked the effect of World War II and the ensuing military policing actions on efforts to achieve tangible results. Even the U. S. Bureau of Reclamation finds itself faced with a rule of "no new start". The Blue-South Platte is obviously a "new start" for the Bureau and may account for the inability of the Association to secure financing for

the project until more stable world conditions prevail. Yet everything reasonably possible toward creation of the new water development has been done.

The evidence of George M. Bull, Engineer for the Association, R. P. Culverwell, Secretary-Manager of the Henrylyn Irrigation District who is Treasurer of the Association, and of Glenn G. Saunders, Secretary of the Association shows the following steps:

1. George Bull's own surveys and those made under his direction were the basis for the filing and the claim (fol. 3056).

2. These surveys were supplemented by surveys made by the Bureau of Reclamation. Mills Bunger, an engineer stationed in Denver and working for the Bureau has surveyed the area, and he and persons under his direction had data which was incorporated in the Bull surveys and filings (fol. 3048).

3. The maps were filed and the claim made (Exhibit B, fol. 3056).

4. Rights of way and rights to use existing and proposed storage and diversion facilities were acquired by contract dated 1943, with the City and County of Denver (Protestants' Exhibit 12, fol. 3243, Appendix B).

5. The Association joined with the City of Denver, the Bureau of Reclamation, and the Colorado Water Conservation Board at the suggestion of E. B. Debler, who was then Regional Director of the Bureau of Reclamation in establishing an Engineering Board of Review to study and report on the entire Blue-South Platte diversion plan. (See Engineering Board of Review report, Denver's Exhibit T, fol. 3137, Appendix A.)

6. Frequent meetings of Association officers with officials of the Bureau of Reclamation were held, with a view to obtaining planning, engineering and financial

aid to build the diversion project (fols. 3048 to 3050; 3133 to 3139; 3166 to 3168; 3196 to 3199; 3208 to 3215).

FINDING OF TRIAL COURT

At the conclusion of the hearing in Summit County, the Trial Court found that:

“The Court finds that the evidence submitted herein with respect to the claim of the South Platte Water Users’ Association is and was insufficient to justify the Court in entering any decree herein in favor thereof, or assigning any ditch, reservoir, canal, structure or priority number, either absolute or conditional, and no findings or determination whatsoever are herein made with respect to the claim statement herein filed by said South Platte Water Users’ Association, except to deny the claim and application made thereunder for any adjudication of any right or rights to the appropriation, use and diversion of water therein or thereby in this proceeding.”

ARGUMENT

The Association contends that the trial court erred in not awarding a conditional decree to the Association to date from October 27, 1942. The statutes authorize the awarding of such conditional decrees.

Sections 195, 196, and 197 of Chapter 90 of the 1935 Colorado Statutes Annotated provide that each claimant for appropriation of water within the water district, whether said appropriation shall have been wholly or partially completed and though no filing shall have been made in the office of the state engineer, shall appear at the general adjudication and file his statement of claim and offer proof in support thereof.

The Association complied with the statute and filed its claim with the state engineer.

The statute, at section 195, further provides that the Court shall receive and consider all claims and proofs and if it shall appear that the claimant has prosecuted his claims of appropriation and the financing and construction of his enterprise with reasonable diligence *under all the facts and circumstances* surrounding and bearing upon the claim, the Court shall enter an order fixing and determining the priority of right.

The trial court erred in not taking into consideration all of the facts and circumstances. In the first place, the United States was at war when the claim was filed. And, for all practical purposes the United States has been at war even since the claim was filed. In a project of such great magnitude which requires such a tremendous amount of money to build, the Association obviously could not proceed with the uninterrupted progress that a small user of water might experience. Then, too, critical materials were often not available for large projects which were already partially or almost completed. We apprehend that the trial court did not consider such facts and circumstances.

The evidence presented to the trial court was not contradicted. It is true, that at almost every step in the trial, opponents of the Association sought to defeat its claim by advancing all manner of objections. No evidence was presented in opposition, however.

Had the Court awarded a priority to the Association it would have been almost the most junior priority, affecting no one of the "in-basin" ranchers who sought priorities. Under the explicit denial of any priority, the project will find hard going before Congress, even if it succeeds in securing a favorable report by the Bureau of Reclamation, and an almost certain refusal of private financing.

This Court in *Taussig v. Moffat Tunnel Co.*, 106 Colo. 384, has had occasion to construe Section 195 of Chapter 90 of the 1935 Colorado Statutes Annotated.

The *Taussig* case is quite similar to the case at bar except that in the *Taussig* case the trial court had awarded a conditional decree. This Court affirmed the decision of the trial court and stated at page 390 of the decisions:

“(3, 4) It is clear that section 195 applies only to ‘claims and proofs with respect to partially completed or perfected appropriations.’ The requirements are that the claims and proofs, and the financing and construction, be prosecuted with reasonable diligence, ‘under all the facts and circumstances surrounding and bearing upon such claim of appropriation.’ All the facts and circumstances surrounding these claims indicate an enterprise of considerable magnitude. Only under the circumstances before us would it be possible for private enterprise to bring water from the Western Slope to the South Platte basin on the Eastern Slope. Until there is a reasonable assurance culminating in conditional decrees, such as are before us, it would not be possible for any private enterprise to risk such a large amount of capital as is necessary to complete the same. In effect, to require the water company to complete its project before granting it any decree, as objectors contend is necessary, would constitute a denial of the constitutional right to divert unappropriated waters to a beneficial use. We are asked to state the first and last steps necessary to obtain a valid conditional decree. That would require the statement of a legal absolute, based upon varying facts. This we hesitate to do. There might be circumstances under which there

should be a beneficial use before the granting of a conditional decree, but this is not such a case. The first step taken in the instant case toward acquiring decrees was the making of a survey of the project, which is not an unusual practice. The conclusion is inescapable that to require an appropriator first to divert and apply water to a beneficial use, before the granting of a conditional decree, as objectors contend is necessary, would thwart any attempt by private parties to initiate and complete any enterprise to bring water to the Eastern Slope. Courts will not require the performance of the impossible."

During the trial the opponents tried in every way possible to defeat the Association's claim by objecting to evidence offered as to the place of beneficial use. This was particularly true of our efforts to show the need for a supplemental water supply for the smaller towns adjoining Denver on the west, north and east (fols. 3074 to 3098; 3123 to 3129; 3145 to 3154; 3156; 3228 to 3241). The Association showed the great need for a supplemental supply of water for irrigation needs in the South Platte Valley and the vast number of acres of land in the entire South Platte Valley which could be irrigated if water was available.

Touching upon this subject in the *Taussig* case this Court said at Page 393:

"(7) It next is contended that an appropriation must be for specific water and for a designated and definite purpose. That is true as to final decrees, but here we are concerned solely with conditional decrees. As already stated, such a requisite under the circumstances, would deny to the water company its right to apply water to a beneficial use. No such statutory requirement exists as to conditional decrees, except the fixing of the maximum amount of water

to be diverted, which was done in the instant case. So long as no water has been applied to beneficial use, we are concerned only with an inchoate and an unperfected right. When the water is beneficially applied to a designated use, it becomes a property right and the decree then must take on the elements of definiteness and certainty. Such a situation is not now before us. Some of the problems raised may properly be determined when the question of entering a final decree is before the trial court or when they are specifically presented here for consideration.”

Finally, the evidence of the Association showed the need for water for irrigation, domestic and municipal uses. Some evidence was introduced to show that the water on the way to its ultimate beneficial use could be routed through power plants to manufacture power which could be sold to defray a part of the cost of construction (fol. 3069 and fol. 3220).

In touching upon this subject in the *Taussig* case, this Court said at Page 394:

“(8) It is contended that the evidence must show a definite proposed use. As related to irrigation, domestic and municipal uses, the evidence is sufficient in that respect. Counsel for objectors indicate that we may almost take judicial notice of the need of water for such purposes in the South Platte basin. The same cannot be said as to power, piscatorial or resort uses. There is nothing in the record to indicate a need of water for hydroelectric purposes. Nor do we consider it good practice to predicate a conditional or final decree on uses ‘for beneficial purposes other than irrigation.’ That language is too indefinite. Some uses have preferences over others, and should be specifically stated,

even in a conditional decree. In that respect the decrees before us should be modified to show that they relate only to irrigation, domestic and municipal uses.”

CONCLUSION

The decree of the trial court blasted the hopes of the water users in the South Platte Valley. The Association members did not seek to deprive any rancher along the Blue River and its tributaries of the supply of water needed to make those lands productive. We sought only to take a small part of the great surplus of water not being used for agricultural, domestic or municipal supply in that vast area we call the Colorado River water shed in Colorado. We sought a decree junior in point of time to almost every claimant in that adjudication proceeding.

If the trial court had granted the conditional decree we could be well on our way towards the development of a greater project than that being constructed by the Northern Colorado Water Conservancy District with the aid of the Bureau of Reclamation. A definite date would have been established. Engineers could determine with great accuracy the quantity of water available to the Association on the decree dated October 27, 1942.

Now the hope of our Association lies with this Court.

The transcript of the testimony is short as it applies to the Association. It contains about 210 folios and less than 75 pages. The actual reading time is very short (fols. 3035-3248).

We respectfully ask that the Court read the transcript. Based on the testimony of the diligence therein shown, we contend that the trial court should have granted a conditional decree. The testimony is undisputed. The only question for the court to decide is

whether the efforts of the Association and its members authorizes and justifies the trial court to award a conditional decree.

We ask that the Court modify the decision of the trial court and remand this case with directions that the decision of the trial court be modified to award a conditional decree to the Association as claimed in the Statement of Claim.

Respectfully,

WILLIAM W. GAUNT,
25 So. 4th Ave.,
Brighton, Colorado,

*Attorney for South Platte Water
Users Association.*

Appendix A

Denver Exhibit T

DENVER, COLORADO

February 16, 1946

Report of the Engineering	Subject: Selection of Route
Board of Review	for Blue River-South
Blue River-South Platte	Platte Transmountain
River Project	Diversion Project

To: Director, Region 7, U. S. Bureau of Reclamation

Director, Colorado Water Conservation Board

President, Board of Water Commissioners,
City and County of Denver

President, South Platte Water Users Association

Gentlemen:

This Board was provided, by the Bureau of Reclamation, with copies of preliminary draft of proposed report on the Blue River-South Platte Project, Colorado, Ap-

pendix D, dated January 17, 1946. This report deals with alternate routes for the diversion of Western Slope water, i. e.: (1) The Moffat; (2) the Empire; and (3) the Montezuma. Previously the Board was provided with one copy of Chapters I, II and III, Appendix B (Water Supplies) of a report on the proposed Blue River South Platte Diversion Project.

The general over-all results that would be accomplished by the three routes are similar. Cost data shown for each route were prepared on a comparative basis. Practically the same water will be diverted from the Western Slope by each route with the exception that Fraser River water, decreed to the City and County of Denver, can be included for diversion through the Moffat route for power purposes only.

The construction costs, operating costs and annual revenues of the three routes under consideration result in a ratio of annual returns to total construction costs so nearly the same that they provide no clear cut basis for a selection of route. Furthermore, the project benefited area will be essentially unaffected by the choice of diversion route.

The Board finds that there are very definite engineering, construction, operation and administration advantages in the Montezuma route which far outweigh similar features occurring in either of the other two routes, and for these reasons, the more pertinent of which are enumerated below, recommends the adoption of the Montezuma route;

- 1) It is the most direct route and water from the Montezuma tunnel discharges into a natural water course. After the tunnel is completed, the further development of the project can be made on a step-by step program under which, as various units of the plant are completed, they can be put to beneficial use in advance of the completion of the whole project,

All power plants are supplied by individual conduits, independent of the system as a whole, and neither conduit or power plant need be constructed until required; and they can be operated independent of all the other power plants within the project.

2) Since all power plants are supplied by individual conduits, independent of the system as a whole, the failure of a power conduit will cause an outage of only the plant supplied by it; while with either of the other two routes the failure of a power conduit would cause an outage of the entire system.

3) The failure of a power conduit would cause little or no property damage by flooding, while with either of the other two routes considerable property damage might result from a power conduit failure.

4) It requires less mileage of diversion conduits which in this mountainous area are attended by hazards and high operation and maintenance costs.

5) On this route better utilization can be made of the reservoir sites.

6) The project water can be controlled by a reservoir at the entrance portal of the Montezuma tunnel and after passing through the tunnel can either flow down the North Fork of the South Platte River or be diverted through conduit lines supplying power plants, but in any event all imported water passes through and is controlled by the Two Forks and Waterton reservoirs.

7) The administration of the operation of the Montezuma route will be less difficult than the Moffat tunnel route, since the Fraser River water will not be mixed in with project water.

IT IS RECOMMENDED:

1. That a detailed project report of the Montezuma route be prepared.

2. That project water supply determination be based on the equated supply that will be made possible by the proposed reservoirs during the critical water supply period 1931-1940, and in other respects be in full accord with the Benson-Erickson-Honnold memorandum of November 29, 1945.

3. That the operation of the proposed Eastern Slope reservoirs, over the period 1911-1944 be further studied in order to determine the capacity and type of operation necessary to bring the imported water supply into phase with Eastern Slope water requirements.

4. That co-operation of the Denver Municipal Water Board be sought to fully study the possibility for exchanging Fraser Basin water for project water in order that Fraser water may be used for irrigation purposes in the Boulder and South Boulder Creek areas, thereby eliminating the long Boulder supply canal otherwise required by the Montezuma route.

Respectfully submitted,

ENGINEERING BOARD OF REVIEW,

J. R. KNIGHTS,
U. S. Bureau of Reclamation

C. L. PATTERSON,
*Colorado Water Conserva-
tion Board*

D. D. GROSS,
*Board of Water Commis-
sioners, City and County
of Denver*

R. J. TIPTON,
*South Platte Water Users
Association.*

Appendix B

Protestants' Exhibit 12

AGREEMENT

This agreement made and entered into as of the 29th day of October, 1942, by and between the South Platte Water Users Association, a non profit corporation of the state of Colorado, hereinafter sometimes called Association, party of the first part, and the City and County of Denver, a municipal corporation of the state of Colorado, acting by and through its Board of Water Commissioners, hereinafter sometimes called Board, party of the second part, witnesseth:

Whereas, the City and County of Denver owns a water works system to supply its inhabitants and others with water for domestic, irrigation and mechanical purposes; and to meet growing demands on the system has constantly increased its raw water resources, part of which resources include water to be diverted from the Blue River into the South Platte River watershed by means of a trans-mountain tunnel or tunnels;

Whereas, the valley of the Platte River immediately below the place where the Platte River emerges from the mountains is a fertile broad valley in need of large supplies of additional water for all purposes, and the only potential source of unclaimed additional water for such area is the Blue River;

Whereas, the Association is a trustee through which Colorado Springs, the City and County of Denver, and the Counties of Douglas, Arapahoe, Adams, Jefferson, Boulder and Weld have chosen to expend the funds to be made available for the development of additional water resources for the areas served by said instrumentalities, said Association being principally an instrument of liaison between said counties and cities as among themselves, its funds retaining their character as county or city funds while in the custody of the trustee; and,

Whereas, the Association has made filings on the waters of the Blue River, whose development is so parallel with the development of the Blue River unit of the Denver water system that the two can be prosecuted jointly under the terms of this agreement, NOW THEREFORE:

For and in consideration of the premises, and in further consideration of the promises and agreements herein contained, the parties hereto hereby agree as follows:

1. The facilities which are the subject matter of this contract comprise all the right or rights of both parties hereto to use physical structures acquired or constructed on or after September 27, 1942, for the diversion or storage of waters of the Blue River, and the legal title to which structures stands or will stand in the name of either of the parties to this agreement, and also the right or rights (without regard to date of initiation) of the parties to divert or use such Blue River water, which rights of diversion shall be in proportion to the respective ownerships of the parties as defined in paragraph 2 hereof.

2. Ownership of the facilities shall be proportional to the financial contributions of the parties to this agreement to the construction or creation of the facilities made on or after September 27, 1942, the division to be based on actual cash expenditures or cash contributions on or after that date, and not upon any accrual basis.

3. Within its lawful powers, the Board will make any water which it owns or controls available for exchange for the benefit of the Association, its member counties and cities, and the areas represented by them, and the Association will do likewise for the Board. Nothing in this paragraph shall be construed as a limitation on the full and unimpaired right of either the Board or the Association to exchange its own water

as it may desire for the use of those dependent upon the system under its control.

4. Each party to this agreement may develop facilities as defined in paragraph number 1 hereof, owned by it, as rapidly as it may desire, but upon request by either party to the other the requested party shall make available information as to proposed progress on development of the facilities. In event either party shall prosecute such development, the other party shall have the right, if exercised within five years of the expenditure, to contribute not to exceed fifty per cent of any amount expended by the other party on account of the construction, or acquisition, of any unit of the facilities, or the facilities as a whole, at the choice of the electing party. Cost of construction or acquisition shall include interest at the rate of 2% per annum except as to construction or acquisition accomplished with borrowed money, in which event the included interest shall be at the actual borrowing rate.

5. All joint construction shall be done by the Board until the condition set forth in paragraph 6 shall occur. If the Association shall make money available for joint work on the facilities when equipment, material and personnel are available, and the Board shall fail to use such money to prosecute the work on the joint facilities with reasonable speed, the Association may succeed to the Board's position fixed by the first sentence of this paragraph if the Board shall not have provided for prosecution of said work, with reasonable speed, within 30 days of written notice to the Board by the Association of its desire to take over the work. Either party may succeed to a present right to prosecute joint construction upon the same terms and in the same manner as set out in the sentence next above.

6. This agreement is a declaration of cooperative principles between the Board and the Association and the Board shall take the lead in joint construction until

the members of the Association become more effectively organized and financed for the development of the water resources mentioned herein, at which time the joint construction shall be done by such agency and in such manner as the parties to this agreement shall determine.

7. Any rights created hereby shall be subject to assignment to a governmental or quasi-governmental agency without the approval of any agency a party to or interested in this agreement, but shall not otherwise be assigned except with the consent of all agencies affected.

In witness whereof, the parties hereto have executed the within agreement as of the 18th day of March, 1943.

THE SOUTH PLATTE WATER USERS ASSN.,
By WILLIAM W. GAUNT, *President*.

Attest: EDGAR JENKINS, *Secretary*.

CITY AND COUNTY OF DENVER acting by
through its Board of Water Commis-
sioners,

By H. S. SANDS, *President*.

Attest: GEO. F. HUGHES, *Secretary*.

Countersigned and registered:

W. H. McNICHOLS, *Auditor*.

Form Approved:

MALCOLM LINDSEY, *City and County Attorney*.

By GLENN G. SAUNDERS, *Assistant*.