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Water ...at any Price

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From the incorporation of the town of Grand Junction in 1882 until 1911, the prospect of a firm water supply for Grand Junction citizens was in doubt. For almost thirty years, numerous recall elections, battles between the town and private water purveyors, and municipal expeditions to find mountain “water at any price” took up most of the official business of Grand Junction aldermen.

See-sawing back and forth between municipal ownership of the town water system and franchises to private companies to operate the system, the source of the town water supply also see-sawed between locations on the Colorado River at 5th Street and the Gunnison River near the Redlands Water and Power Company Diversion. In Spring, supply was up, but so was sediment and mud. In late summer and fall, flow was down and ability to keep pipes full of water for fire protection suffered.

In 1894 the citizens voted 88% to build and operate a municipal water system but it took thirteen years for the Town to finally file for a water right in Kannah Creek, twenty miles to the southeast. The town was desperate: could they afford a municipal system, who would buy bonds to pay for a system, where were there year-round supplies of water?

After having looked at mountain water supplies on Pinon Mesa near Glade Park, Krusen Springs above Palisade, Whitewater Creek (later acquired by the City in 1989), the City settled on Kannah Creek. Ironically with the help of engineers from the Denver Union Water Company (later to become the Denver Water Department), the City filed

a petition in eminent domain in Mesa County District Court for the first 7.81 cubic feet per second of flow from Kannah Creek.

As owners of all of the direct flow water rights on Kannah Creek, ranchers and farmers in Kannah Creek were not long in joining together in their opposition to the City's actions. Their water was in the cross hairs of the City. An action in eminent domain is not the same as a filing for a water right in Water Court. In the latter case, a filing is made for water and proof is presented to the Court that shows the water being put to beneficial use. The Water Court then establishes a priority date for use of the water, insuring that no other water user with a more senior water right is damaged. On the contrary, the City's action in condemnation allowed the City to act under its powers of eminent domain and secure ("take") water for the use of its citizens, provided, however, that the City make full compensation or satisfaction for all damages incurred by the taking.

In 1911, four years later, a jury awarded \$182,940 to all parties from whom the City had acquired the water. The District Court also decreed that the City to be the owner of "a first, superior and paramount right to a continuous flow of 7.81 cfs over and above all other water rights claimed in Kannah Creek." The City had the water, now it needed a way to get the water from Kannah Creek to Reservoir Hill above the City cemeteries, near 5th Street. After years of offerings, Colorado Fuel and Iron Company (Pueblo steel mills), purchased the water bonds which allowed Grand Junction to build a state-of-the-art wood stave water line from Kannah Creek to the water plant.

To this day, the City's pre-1922, "paramount" water right is the backbone of the City's water supply system. Since 1911, the City has continued to acquire additional water rights and ranch properties to insure that mountain water is available to its citizens.

These actions between 1907 and 1911 colored all relationships between the City of Grand Junction and the landowners in Kannah Creek. Storage of Kannah Creek water, easements and rights of way, water for livestock, treated water for safe drinking, reservoir ownership and maintenance, and administration of the Grand Mesa

“Pool,” were continuous issues that festered during the entire 20th century. Yes, the landowners in Kannah Creek have long memories.

Today, the efforts to affect a State Water Plan include ideas to *share* water between agriculture and municipal users. It is unlikely that municipal condemnation would be the first idea implemented, but rather a series of purchase options, water banking, water rentals, or payments for fallowing would be considered. However, when circumstances cause a municipal water provider to feel it has exhausted all methods to secure a safe and reliable water supply, condemnation remains as a tool that, at the direction of a water policy board, could be employed to acquire water “at any price.”

Note: Material for this article comes from “City of Grand Junction v. Kannah Creek Water Users Association, No. 27047, Supreme Court of Colorado, En Banc. December 20, 1976.

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