

## Towns need water protection rights; passage of HB1271 casts doubt on legislators' representation

RECENT AND HISTORIC events in Gunnison County and elsewhere soundly demonstrate the need for municipalities' authority to prevent pollution in their drinking watersheds; and they belie the arguments of Amax and those supporting Colorado House Bill 1271, which would take away that authority.

One argument by the bill's proponents is that a permit system is unnecessary because developers can provide adequate advance notice of their activities. But, in 1975 when the Keystone Mine slime pit failed and slumped into Coal Creek, which supplies Crested Butte's drinking water, the accident was discovered fortuitously, just in time for town staff to take emergency measures to protect the water supply by closing the intake; the company, U.S. Energy, finally gave notification on the spill four days later. Just last month, defense contractor Martin Marietta spilled toxic chemicals into a drainage that leads directly to a Denver water treatment plant. The company told the city about the problem several days later. Slow underground leakage from that factory continues to threaten that drinking water.

The current bill would allow for a redress of grievances after an actual pollution situation exists and harm can be shown. That's a small recompense to a person who has contracted cancer 30 years after drinking polluted water. Usually a cause and effect is difficult or impossible to prove after such a long time.

After the Keystone spill, the

Colorado Department of Health rushed in to check the water quality. But they had been powerless to prevent the spill or to take the emergency action that prevented drinking water contamination. They were 200 miles away!

County officials are similarly unable to bear the burden of protecting water quality. In September, 1979, the Town of Crested Butte complained to the Gunnison County Commissioners about a road built across Coal Creek that could quickly become an unsafe dam. The commissioners debated, but took no action other than to defer the matter to the next meeting. Shortly thereafter, before that next meeting, the culvert plugged, the dam failed, and the town's water intake was damaged.

About that time the town requested that the U.S. Department of Agriculture temporarily withdraw the watershed from mining claims because those claims necessitated activities that could threaten drinking water. Amax retorted this was dirty pool and the feds never did anything.

Political ballgames at the state and national level inevitably distort priorities for pollution prevention.

Prevention is the key because pollution can occur almost immediately. A toxic spill above the town's water intake could get into the drinking water within an hour. Because the town tests its water only twice a month for bacteria and once a year for other substances, a pollution which is odorless, colorless and invisible could be consumed by residents for months

before detection.

Heavy metals pollution is often that undetectable. The prime cause of heavy metals pollution in Colorado is mining. An aquatic toxicologist/chemist for the Colorado Division of Wildlife reported in Gunnison last summer, "Approximately 450 miles of streams in 25 different areas of the state have been adversely affected by metal-mine drainage."

The mining industry's legacy of corporate irresponsibility is at this very moment promising to harm a major tributary of the Colorado River. Water is filling the abandoned Eagle Mine at Gilman (near Minturn and Vail) at a rate of 200 gallons per minute and will soon pollute the Eagle River, possibly harming several downstream communities. The river already exceeds state metal standards and its zinc has harmed fish. Three separate companies are now fighting to deny their ownership, and thus responsibility, of the mine and its problems.

In 1977 Amax representatives told Crested Butte that they would respect the town's wishes and not push the mine if the town didn't want it. In 1979 their public relations machine argued that their water treatment plant (which they were forced to build by lawsuits) was a great contribution to the community. They discussed moving the town's water supply to Oh-Be-Joyful. But then they pushed the mine, fought wilderness (and thus water quality) protection in Oh-Be-Joyful, and now want to take away the town's only strong power of self-protection.

So much for caring about people.

Now the mine is defunct and Amax is out \$100 million, a situation entirely unrelated to water quality. This company is willing to sacrifice the town's drinking water just to make their Mt. Emmons Project more saleable so they can recoup a whole \$5 million of their costs. To benefit this company's abstract and single-minded need for profit, water quality could be sacrificed throughout the state. It has changed a local issue into one which now affects people who drink water throughout the state.

Instead of trying to change a law and thereby affect almost all Coloradoans, Amax should be pursuing its local problem in court. If Crested Butte's watershed protection ordinance is so onerous, the company should demonstrate this by applying for a permit and obtaining town action on it. Then it can sue. That's what the state Supreme Court said when it denied Amax's plea for judgment prior to any such action.

Rather than respecting the court's guidance, Amax chose to exercise its political muscle.

When state legislators ignore constituents' pleas for power to protect themselves, as many did this week, citizens have an obligation to ask, "Who do you really represent?"

Gary Sprung

*(Editor's note: Gary Sprung is a Chronicle reporter who admits a bias due to drinking Crested Butte water.)*