

43. LIVERMORE WATER RIGHTS

“You can steal a man’s wife, you can kick his dog but you’d better not mess with his water.”... “It’s better to be upstream with a shovel than downstream with a water right.”... “Water doesn’t run downhill, it runs toward money.”

These homely sayings form an appropriate backdrop for the history of water rights and irrigation development in the Livermore area.

Farming and real estate interests east of the foothills controlled most of the water flowing down the North Fork of the Cache la Poudre River and its tributaries almost from the beginning of settlement, and for Livermore irrigators it went downhill from there (pun intended).

The water rights concept expressed as *first in time, first in right* to divert water for beneficial use is known as the *Prior Appropriation Doctrine*. The concept, a Colorado ‘original’, was enshrined in the state constitution when Colorado was admitted to the Union in 1876 and enabling legislation established a state *water court* system to determine the legality, priority and amount of each water right, and the Office of the State Engineer was charged with administration, the details of which are accomplished by the various *River Commissioners* on a daily basis.

In effect, when the first water right on the Poudre River was established in Bellvue in 1860, it was a potential claim on the water flowing in the North Fork through the Livermore Valley. Settlement of the Livermore Valley had barely gotten under way by 1874 while real estate speculation and irrigation development were in full swing in the greater Poudre Valley between Laporte and Greeley. When settlement of the Livermore Valley was just beginning, more water rights had already been appropriated on the Cache la Poudre River and its tributaries than there was water available.

Today, water rights with appropriation/adjudication dates later than 1874/1882 on the Poudre River

system are considered “junior” water rights, typically subject to “call” (complete or partial shut-off when the river gets low).

As ditches dependent upon junior water rights went dry in mid to late summer, moneyed interests turned to neighboring drainages to augment the Poudre River’s flows. The Grand Ditch intercepted Colorado River water along the east face of the Never Summer Range in what is now Rocky Mountain National Park.¹ The Michigan Ditch and Cameron Pass Ditch deliver Michigan River water formerly destined for the North Platte River. The Skyline Ditch and Laramie-Poudre Tunnel takes water from the Laramie River, another tributary of the North Platte. In the North Fork watershed, cross-divide diversions were made from Sand Creek via the Eaton and Wilson ditches (Chapter 42).

The promoters of diverting water from the North Fork to irrigate their speculative land holdings in the Waverly and Wellington areas were a day late and a dollar behind, scrambling to build a diversion and wooden flume system in what we now know as Phantom Canyon to divert water at a high enough elevation to take it east out of the Livermore Valley.²

The first and most colorful of these promoters, an Englishman named Francis Carter-Cotton, excusing himself from a meeting of his creditors³ in Fort Collins (one story goes), to mail an important letter, locked the door behind him and disappeared for good, leaving a smallish creditor to attempt passage through the transom (unsuccessfully, another story goes).⁴

Also, the money men turned to building reservoirs to store excess spring runoff and winter flows. Scores of reservoirs were built up and down the Poudre system, mostly between 1890 and 1910. The *storage rights* associated with reservoirs are subject to the same legal and administrative requirements as *direct flow* rights. The Red Feather Lakes at the upper end of the Lone Pine drainage, Eaton Reservoir on upper

Sheep Creek, Halligan Reservoir and, later, Seaman Reservoir were the North Fork’s contribution.⁵

Behind the eight-ball from the get-go, some early ranchers⁶ filed for water rights, but most in the Livermore area relied as much or more on the “*upstream with a shovel...*” doctrine reinforced by “*don’t mess with my water*” belligerence.

Because of the relatively small amount of water involved, throughout the 20th Century, River Commissioners generally adopted a hands-off policy to ranchers’ water use in the Livermore area – that is, unless one rancher raised a stink about his neighbor’s water use, and got his ‘knuckles rapped’ by a River Commissioner. The Livermore valley ditches that are administered today bear witness to such disciplinary action in the past.

Thanks to Tom Moore, long-time Fort Collins businessman and A.C.Kluver’s great-grandson, and Warren Andrews, Jimmy Andrews’ son, for their help with this chapter.

¹ A.C. Kluver (Chapter 27) was a pioneer of the Water Supply and Storage Co., one of the ‘Big Four’ ditch companies of the Poudre Valley (opposite), which constructed the Grand Ditch. Jimmy Andrews (Chapters 25-27) did much of the surveying.

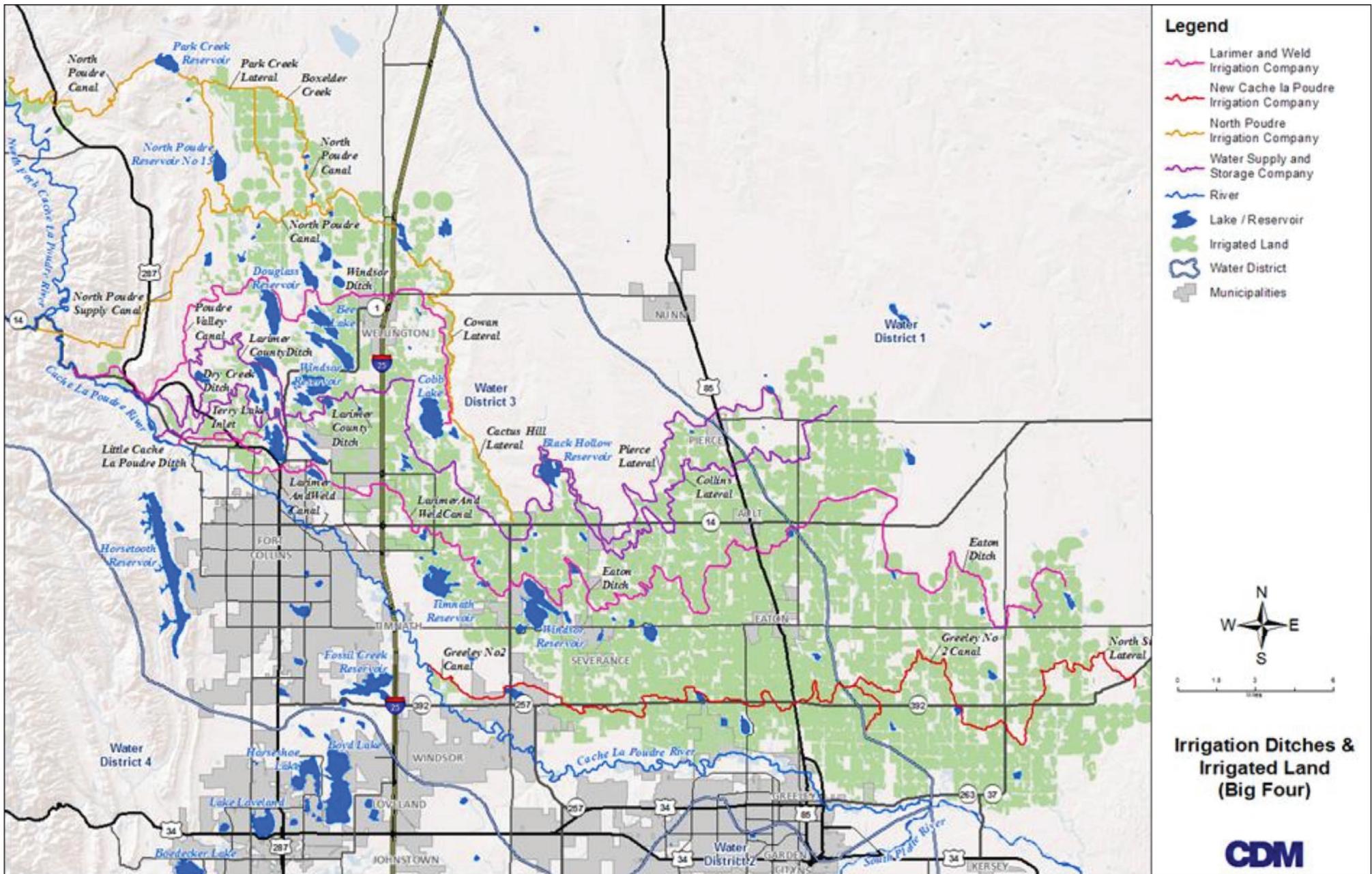
² (more about this later)

³ The largest of Mr. Carter-Cotton’s creditors was The Traveler’s Insurance Company. Over a hundred years later, Traveler’s was a major lender to Phantom Canyon Ranch Co.

⁴ From this inauspicious beginning – insolvent, with junior water rights not yet flowing into a precarious diversion in a sheer canyon – this failed venture was improbably resurrected, slowly and painfully, to become the North Poudre Irrigation Company, one of the ‘Big Four’ (opposite).

⁵ The only other flood on the Poudre River to rival the 1904 flood (chapter 3) was occasioned by the failure of the new Chambers Lake dam in 1891.

⁶ Some names associated with ditches adjudicated in the Livermore Valley before 1900 were: Calloway, Chase, Emerson, Fisk, Morgan (Chapter 5), Roberts and Weymouth.



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