

## **United States District Court Finds Reserved Water Rights In Federal Wilderness Areas**

**By Thomas W. Lucke**

In *Sierra Club v. Block*, No. 84-K-2 (D. Colo. 1985), the United States District of Colorado held that Congress, in passing the Wilderness Act of 1965, impliedly reserved to the U.S. Government a right to previously unappropriated water in Colorado Wilderness Areas managed by the U.S. Forest Service. In addition, the court held that the Wilderness Act created an affirmative duty for the Secretary of Agriculture to protect the government's right to water in designated wilderness areas.

The court, however, declined to rule that the Secretary of Agriculture acted arbitrarily or capriciously in not asserting a water right to fulfill the purposes behind wilderness areas. Instead, the District Court ordered the Secretary of Agriculture and the U.S. Forest Service to submit to it a memorandum explaining what they will do in the future to comply with the Wilderness Act's requirements that they protect water resources in wilderness areas.

The District Court, in its opinion, referred to *Winters v. United States* (1908), a U.S. Supreme Court case which first enunciated the principal that Congress' reservation of lands for a specific purpose impliedly reserves a sufficient amount of water to fulfill that purpose. This rationale developed by the court would indicate that a similar ruling would have been made if the wilderness areas involved were managed by any other Federal agency such as the Fish and Wild-

life Service or the Bureau of Land Management.

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