

At its recent meeting, the Upper Arkansas Water Conservancy District board of directors honored Ken Baker by naming its headquarters the Ken Baker Water Enterprise Building.

Baker – along with George Everett, Denzel Goodwin and Jim McCormick – was one of the founders of the District and also served as its first general counsel, water attorney and general manager.

During the dedication ceremony, District General Manager Terry Scanga provided an overview of the critical role Baker played in creating the Upper Ark District and ensuring its success.

As Scanga noted, “The idea of creating a water conservancy district was formulated in 1977” in response to Upper Arkansas Valley water shortages caused by excess well development in the Lower Arkansas Valley.

Contrary to the 1969 Water Rights Determination and Administration Act, these high-capacity commercial wells were allowed to pump water that was tributary to the Arkansas River pursuant to the administrative Interim Rules and Regulations on Groundwater Pumping in the Arkansas Basin.

Baker, Everett, Goodwin, McCormick and others dedicated time and energy to creating the Upper Ark District to protect water rights in the Upper Arkansas Basin.

Their efforts included meeting with local community leaders and landowners, gathering signatures for their petition and obtaining approval of the petition for the formation of the District.

The Upper Arkansas Water Conservancy District became a reality in 1979 thanks in large part to Baker’s legal work in support of their case filed in District Court in Fremont County.

The Upper Ark District originally included Chaffee County and western Fremont County and had limited financial resources generated by a small property tax mill levy. Given the District’s limited resources in those early days, much of Baker’s work was done pro bono or at a discounted rate.

As Scanga recounted, "When asked about the District's headquarters, Ken would respond, 'All the District's operations and files are in my briefcase.'"

As general manager, Baker obtained water storage rights for three Chaffee County reservoirs that the County transferred to the District in 1982 – Boss Lake, North Fork and O'Haver reservoirs.

Also in 1982, Baker secured the inclusion of Custer County in the Upper Ark District at the request of the Custer County Commissioners.

In other early work for the District, Baker negotiated the purchase of shares in the Twin Lakes Reservoir and Canal Company and some small water rights.

"The most masterful achievement for the District," Scanga said, "was Ken's work in developing an umbrella augmentation plan, with the Water Court awarding a decree for this one-of-a-kind plan in 1994," making it one of the first umbrella plans in Colorado. Additionally, Ken organized one of the earliest water activity enterprises in Colorado.

The water activity enterprise concept was developed by the late Justice Gregory Hobbs, widely recognized as one of the most knowledgeable justices regarding Colorado water law, in response to the Taxpayer Bill of Rights Amendment to the Colorado Constitution.

Hobbs developed this concept to allow public entities like the Upper Ark District to operate a quasi-business enterprise separately from their taxpayer-funded functions.

Building on Justice Hobbs' work, Baker created the Upper Arkansas Water Activity Enterprise, which became critical to the success of the new umbrella augmentation plan.

At about the same time, a Kansas lawsuit filed against Colorado led to a federal order requiring Colorado to amend its groundwater pumping regulations and manage tributary groundwater in the Arkansas Basin under the same priority system as surface water.

The ruling meant that the vast majority of groundwater use would be halted unless water users could replace that water through an augmentation plan and thereby avoid injuring senior water rights.

Baker's prescient development of the District's umbrella augmentation plan provided a cost-effective option for Upper Ark groundwater users to avoid having their wells shut down.

These examples highlight how Baker's work laid the foundation upon which the success of the District and its Water Activity Enterprise were built.

Baker retired as the District's general manager in 2001 after serving in that capacity for 22 years. Following his retirement, Baker continued to serve the district as a consultant for another 22 years, until Dec. 31, 2023.

Baker's decades of time and energy devoted to the District were instrumental to ensuring its success as a protector of water rights in the Upper Arkansas Basin.

The dedication of the District's Ken Baker Water Enterprise Building recognizes Baker's crucial role in establishing and nurturing the District – from its humble beginnings headquartered in Baker's briefcase to its current status as a respected conservancy district headquartered in the building that now bears Baker's name.

As Scanga suggested in his closing remarks, we all owe a debt of gratitude to Baker for his work to ensure that local water resources are available for the benefit of Upper Arkansas Valley residents and businesses.

Photo: Terry Scanga (left) and Greg Felt (right) join Ken Baker to dedicate the Ken Baker Water Enterprise Building in Baker's honor. Baker served as the Upper Arkansas Water Conservancy District's first general manager, followed by Scanga. Felt will become the District's third general manager Jan. 1, 2025, following Scanga's retirement (photo by Joe Stone).