

\$263,772 in assets spent without OK

Clayton Trust depletion detailed

By KAREN BAILEY and LOUIS KILZER
Special Staff

The City Hall supervisors of Denver's Clayton College for Boys admit they spent \$263,772 in trust assets without court permission to meet operating expenses during the five years ending in 1980, court documents showed Friday.

During the same five years, trust officials led by Denver Mayor William H. McNichols Jr. allowed the operator of the trust's Park Hill Golf Course, Bel Wallen, to fall increasingly behind in his rent to the trust, according to an audit of the trust filed in Denver Probate Court.

During that five-year period, about \$800,000 in trust funds, which pioneer Denver millionaire George Washington Clayton left in 1899 to operate a home and school for poor orphans under city supervision,

was spent by city officials to demolish the golf course's clubhouse and replace it with another.

Wallen also received a \$200,000 "interruption of business" payment from the city during that five-year period. The money reimbursed Wallen for lost business while eight of the golf course holes were moved to make way for a new federal mint, which never was built.

The ballooning Park Hill rent arrearage is one reason trust officials were forced to use the trust assets to meet operating expenses, according to the audit.

Wallen was \$1,700 behind in rent by the end of 1976, \$1,900 behind by the end of 1977, \$16,500 behind by the end of 1978, \$42,100 behind by the end of 1979 and \$88,600 behind by the end of 1980, according to the audit.

Neither Wallen nor McNichols, who as Denver mayor automatically is the chief supervisor of the trust, could be reached for comment Friday.

In June, the mayor said the trust might negotiate a less stringent lease agreement with Wallen because he was having trouble making his rent payments.

Assistant City Attorney Gerald Himmelgrin said Friday the city is "in the process of negotiating a settlement" with Wallen.

The Rocky Mountain News reported in June that the use of assets to meet operating expenses apparently violated the 1892 will creating the Clayton Trust and also may have violated state laws governing trusts.

Attorney General J.D. MacFarlane launched an investigation of the Clayton Trust, which still is in progress, following the News reports.

The documents filed in court this week admitted that the trust assets were spent without the permission of the Denver Probate Court, which is supposed to approve all such expenditures.

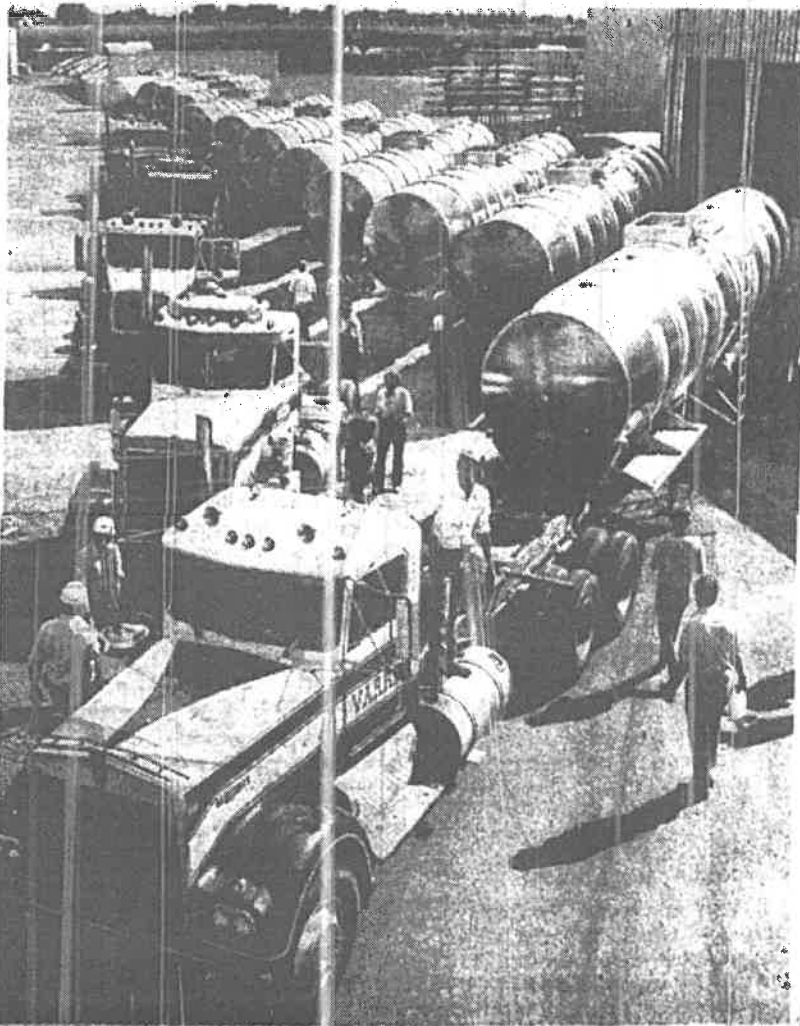
In May, an official of the First National Bank of Denver, which manages the Clayton Trust on a day-to-day basis, said city officials would have to explain the unauthorized use of assets to Denver Probate Judge James Wade and submit a plan for repaying the money.

However, the audit refers to a legal opinion written by Himmelgrin which concluded that the expenditures of assets "were, under the special circumstances of the case, allowable and legal transactions" under both the will and state laws. Himmelgrin wouldn't disclose how he reached that

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Tanks provided to Trinidad

Twelve tank trailers are lined up for a trip to Trinidad, where they are being used to haul water from the main water plant north of the city to five distribution stations. Trinidad has faced a water shortage since its principal water main broke earlier this week. The trailers, provided by tank manufacturer Tympte-Beall in Denver, left the factory yard late Friday afternoon, pulled by truck cabs owned by Safeway Stores and the Varra Enterprises construction firm of Louisville. **STORY ON PAGE 7.**



PATCO President Robert Poli

Decertification of controllers' union advised

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Medfly found in California farm valley

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FAA probes false flight commands

By MAGGIE ERICKSON
News Staff

Authorities are investigating the possibility that two attempts were made this week to give pilots false instructions by radio as they flew over the Denver area, Federal Aviation Administration spokesmen said Friday.

An investigation is being conducted into the source of the "ghost" transmissions, which were so weak as to be unintelligible.

"We know of two occurrences in the Rocky Mountain region — one on Aug. 12, and we don't have the date on the other one," FAA spokesman Paul Kari said. One transmission was reported by a pilot. The other was picked up by air controllers on the ground.

Kari said the FAA has heard conflicting stories regarding the phantom transmissions in

'We know of two occurrences'

Colorado. Similar bogus transmissions have been reported in other parts of the country including Florida, New York, Tennessee, Massachusetts and Texas, the FAA in Washington announced Friday.

Kari said one of the local calls involved a plane being controlled by the Denver Air Route Traffic Control Center in Longmont, and "the other one could either be the center or Stapleton. We just don't know yet."

Kari said FAA officials are listening to tape recordings of transmissions from both locations.

He said if a plane was west of Denver, the false transmission might not show up on tapes at either the Longmont center or Stapleton.

"Taking a hypothetical situation, if a plane was 30 miles due west of Denver, and if the call came from directly under him, neither control facility would hear it because the mountains would be in between them," he said. "If the call came from the metro area, there's a good chance it would be on the tapes."

Ralph Kiss, chief of the Longmont center, referred all questions to the FAA.

"The only thing I can tell you is that there have been some (phantom calls) in the system," Kiss said. "I can confirm that that has happened here."

FAA personnel refused to accuse striking air traffic controllers of being responsible for the incidents.

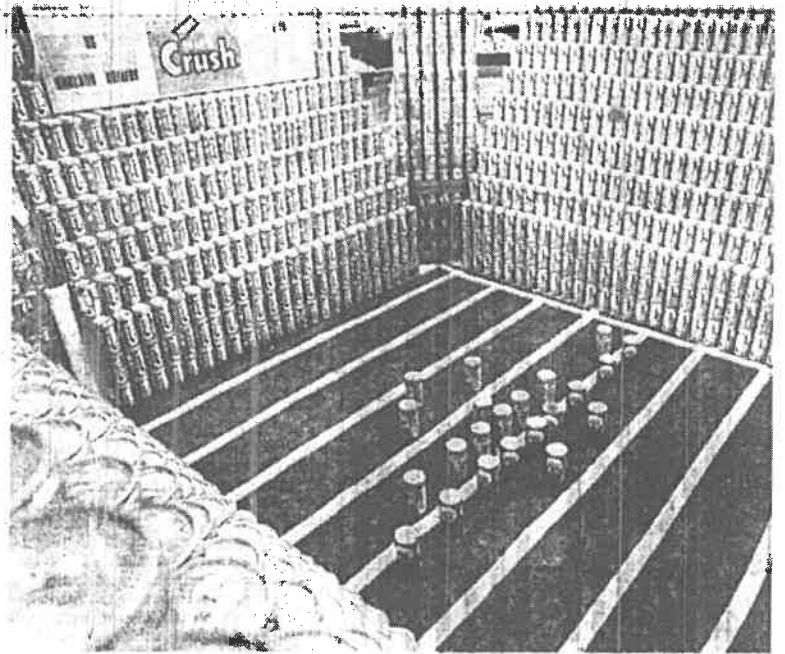
"There's enough people out there with ham equipment and radio knowledge, that it could be anybody," an FAA spokesman said.



Mayor William H. McNichols Jr.
Chief supervisor of Clayton trust

Can they pop heads, or will they fizzle?

Zealous football fans left their mark on a Denver foodstore where 400 cases of soft drinks were used in an imaginative display. The aluminum cans form both teams, the spectators and the stadium at the Albertson's Food Center at East Sixth Avenue and Chambers Road.



NEWS PHOTO BY DAVID L. COE

Completion of 2 I-70 segments urged

By JERRY BROWN
News Staff

Increased traffic from energy development and tourism will combine to create monumental traffic jams and more accidents in western Colorado unless two unfinished segments of Interstate 70 are completed, State Highway Director Jack Kinslinger said Friday.

The two highway segments, totaling 2 miles, will cost almost as much as the \$99 million of interstate highways already built in Colorado, Kinslinger added.

Testifying before a U.S. Senate transportation subcommittee meeting in Denver, Kinslinger said a 12-mile stretch in Glenwood Canyon and the 17 miles between Rifle and Plateau Creek are "critical gaps" in Colorado's interstate highway system.

"If these highways are not upgraded to four lanes by the year 2000, highway speeds could be reduced at some points to less than 15 miles per hour, with queues up to four miles long," Kinslinger said.

"Without four-laning," he added, "accidents will be over twice as likely and injuries will increase by as much as four times."

The two segments represent more than half of the 52 miles of interstate highway remaining to be completed in Colorado.

"These two segments are scheduled to be totally under contract by 1989," Kinslinger said. "Using an annual inflation rate of 12.2 percent, the total cost to complete these segments is estimated to be \$786 million."

That is almost as much as the roughly \$1 billion the Highway Department says was spent on the \$99 million of interstate highways already completed in Colorado.

The first phase in upgrading the highway through Glenwood Canyon to four lanes is scheduled to begin later this month.

Peter Kiewit Sons' Co. was awarded a \$3.2 million contract Aug. 5 to build 0.7 miles of eastbound lanes at the west end of the canyon. Work on that project is scheduled to begin Aug. 24.

Kinslinger testified at a meeting of the Senate Environment and Public Works Committee's transportation subcommittee. Sen. Steven Symms, R-Idaho, the subcommittee's chairman, was the only senator present.

Symms said he held the meeting to get a feel for Western highway needs. Representatives from at least five Western states, including Colorado, testified.

Kinslinger said continued federal funding for Colorado 470, also known as the Centennial Parkway, is essential.

The parkway, a substitute for the non-functional Interstate 470 project killed a few years ago, will provide a link between I-70 and state 25 in the southwestern metropolitan area.

"I cannot overemphasize how important that this project receive its fair share of funding and proceed expeditiously," Kinslinger said. "Not only are all of the existing arterials in this area overburdened, but right-of-way are escalating at a monthly rate of 2 to 3 percent, adding \$600,000 per month to the cost of the Colorado 470 project."

The state also will have to begin work on replacing the Colfax Avenue-Larimer viaduct west of downtown Denver, Kinslinger said.

"Built in 1917, this viaduct is in very poor condition," he said. "The concrete pier columns, the hinges, girders, reinforcement, and railing are all severely deteriorated."

According to a federal bridge inventory, Kinslinger said, "this viaduct has a 5 out of a possible 100. In the next few years we will have to ban buses and trucks from the structure."

The viaduct ultimately will have to be replaced at a cost of \$35 million to \$40 million, he said.

Trust officers report spending assets

(Continued from page 1)
conclusion, saying it was a "confidential" matter between him and the city officials who supervise the trust.

Himelgrin said the city officials who supervise the Clayton Trust probably won't take any action to further explain the use of assets unless Wade requests an explanation.

Wade couldn't be reached. Through a clerk, he declined to comment.

The court documents disclosed that Wallen was supposed to pay for part of a \$73,250 maintenance building erected on the Park Hill Golf Course in 1975, but failed to do so. In 1977, his lease for the golf course was changed to provide larger rent payments to cover his share of the maintenance building cost and other capital improvements at the golf course, according to the court documents.

The audit reports on the Clayton Trust accounts for the five years ending in 1980. It was prepared by the accounting firm of Arthur Young & Co.

In May, the News found that Denver Probate Court files contained no audit reports on the trust for the past five years, although they had

been filed annually for many years previously. Wade informally asked the city officials who operate the trust to file them by June 4.

By last week, the documents still hadn't been filed, and Wade formally ordered the trust officials to appear in court on Aug. 25 to file the reports or explain why they shouldn't be filed. That court appearance won't be necessary, because the documents were filed Thursday.

Besides the rent arrearages, the bookkeeping method used for the Clayton Trust contributed to the use of assets to meet operating expenses, according to the audit report.

"The accounts of the Trust are kept on the basis of cash receipts and disbursements," the report said. "Revenues and the related assets are recorded when received rather than when earned and expenses are recognized when paid rather than when the obligation is incurred."

The report said the financial statements filed with it in court don't include accounts receivable or accounts payable, either of which "could represent material amounts not recognized" in the financial statements.

The audit report didn't address allegations that the trustees have breached their legal duty

to the youngsters who live at Clayton College or those who could live there if the trust more revenue — by failing to invest trust assets more productively.

Among other things, the trust's main asset, the land now used for the Park Hill Golf Course — earns nothing for the benefit of the youngsters, according to trust documents. The golf course revenue to the trust is the rent it supposedly to be paid by Wallen for the use of clubhouse.

Today, 32 youngsters live at Clayton College for Boys at Martin Luther King and Colfax boulevards. They attend public schools.

Last year, the trust spent \$362,000 open Clayton College, according to the court documents filed this week.

In addition to McNichols, Denver Mayor of Revenue Jerry Kempf and City Council member William Roberts supervise the Clayton Trust. Kempf couldn't be reached Friday, but he said he had read the audit report and wasn't in with its contents.