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INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE
EIGHTY-THIRD CONGRESS
SECOND SESSION
ON
S. 1555
A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR
TO CONSTRUCT, OPERATE, AND MAINTAIN THE COLORADO
RIVER STORAGE PROJECT AND PARTICIPATING
PROJECTS, AND FOR OTHER PURPOSES
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STATEMENT OF NORTHCUTT ELY, SPECIAL COUNSEL, THE COLORADO RIVER BOARD OF CALIFORNIA

Senator Watkins. May I inquire how long you will take, Mr. Ely?
Mr. Ely. My statement will take perhaps three-quarters of an hour to present; short of questions, that is.
COLORADO RIVER STORAGE PROJECT

I am accompanied by Mr. Raymond Matthew, the chief engineer of the Colorado River board. His statement will take about the same time.

I also have a statement to present for Mr. Morris, who is unable to be here, and that will take less time.

Senator Watkins. The reason I am inquiring is because I must consider, unfortunately, a personal matter affecting me. The session lasted until 12 o'clock last night, and I did not get home until 1 o'clock so I could retire. I have had a long day.

If it is going to take that length of time, I think in the interest of everybody we should recess until tomorrow. Did you want to read it?

Mr. Ely. I will prefer to read it.

Senator Watkins. It looks like we will have to go until tomorrow. I have taken just about everything that I can take today.

Mr. Ely. Whatever suits you, Mr. Chairman.

Senator Kuchel. Could we run an hour, Mr. Chairman, and perhaps hear Mr. Ely?

Senator Watkins. Well, I will do that.

Mr. Ely. Whatever suits you, Senator.

Senator Watkins. You may proceed, Mr. Ely.

Mr. Ely. Mr. Chairman, my name is Northcutt Ely. I am an attorney, with offices in the Tower Building, Washington, D. C., and appear here as special counsel to the Colorado River Board of California, a branch of the State government.

California, as a party to the Colorado River compact, is affected by this bill in the respects which I shall outline. California is also a party to the pending suit in the Supreme Court entitled "Arizona v. California et al., No. 10 Original, October Term, 1953," as are Nevada, Arizona, and the United States.

I have the honor to represent California in that action as an assistant attorney general, under the direction of Attorney General Edmund G. Brown, of California. Certain of the issues in that suit are directly involved in the assumptions made by the Bureau of Reclamation in planning the project now before you. These will be identified during the course of my statement.

I. The pending project:

The legislation now before the committee, as modified by the explanations given by the Interior Department, would accomplish four general objectives:

First: It would authorize in section 1, page 2, line 19, the construction of 15 reclamation projects—reduced to 11 as recommended to this committee by Under Secretary Tudor. The aggregate consumptive use of these 11 irrigation projects is said to be about 400,000 acre-feet. The evaporation loss on the storage reservoirs, referred to below, is another 600,000 to 700,000 acre-feet. These quantities, added to about 2,500,000 acre-feet, said to be required by projects already constructed or authorized, would represent a total of about 3,500,000 acre-feet in the upper basin.

This total is well within the quantity of 7,500,000 acre-feet per annum, the use of which is apportioned to the upper basin by article III (a) of the Colorado River compact.

Moreover, the engineering studies indicate that this total could be put permanently to use without the construction of any new holdover
storage whatever, and that no holdover storage would be required for about 50 years, even if other projects were added.

Second: The bill nevertheless authorizes, in section 1, page 2, line 12, the construction of 5 storage reservoirs: Echo Park, Flaming Gorge, Glen Canyon, Navaho, and Curecanti—reduced to 3, Glen Canyon, Echo Park, and Curecanti, in Under Secretary Tudor's statement here. The ultimate storage program amounts to over 48 million acre-feet, and these 3 dams account for about 33 million. The purpose of authorizing construction of these reservoirs now, instead of many years from now, is twofold:

(a) Electric energy would be generated and sold and the proceeds pooled to pay out the cost of the storage dams, and thereafter, starting 44 years from completion of Glen Canyon, to subsidize the construction of the power and reclamation projections previously referred to in section 1.

(b) And the proponents of the measure say, if built now the reservoirs could accumulate water with less interference with consumptive uses in both the lower and upper basins than if their construction were delayed until a later time when consumptive uses will be larger.

Third: The bill authorizes, in section 5, page 8, line 1, the construction of other projects, unnamed, provided they meet certain criteria. These are not designated in the bill, but the Department has inventoried over 100 projects in various publications, particularly House Document 419, 80th Congress.

It is not clear from section 5 whether these projects must be brought back to Congress for further authorization, or whether the Secretary is authorized by section 5 to build them.

The House bill, H. R. 4449, in section 1, page 17, line 2, provides that the Secretary need not submit his reports on these projects to the affected States for comment.

In any event, when they are built, the new power projects and the new reclamation projects covered in section 5, commencing some 45 to 50 or more years in the future, will share in the subsidies afforded by the sale of power to be generated at Glen Canyon; and, in addition, and for the first time, a fourth function of the great holdover storage reservoirs will then come into existence. Thus:

Fourth: When, as, and if the additional projects referred to in section 5 are built, it will be necessary to store water in these reservoirs, not for use by these projects—Glen Canyon Reservoir, for example, is so far downstream that no water stored there can ever be used for irrigation or domestic purposes in the upper basin—but for quite a different reason: to enable these section 5 projects to increase the consumptive use in the upper basin above the 3,500,000 acre-feet required by existing projects plus the section 1 projects, without violating the provisions of article III (d) of the Colorado River compact.

That article of the compact stipulates that the States of the upper division—Colorado, Utah, New Mexico, Wyoming—will not cause the flow of the river at Lees Ferry to be depleted below an aggregate of 75 million acre-feet for any period of 10 consecutive years.

In the driest decade so far, the flow at Lees Ferry was well over 100 million acre-feet, during a time when the upper basin projects were using about 2 million acre-feet per year; and engineers tell us
that the upper basin uses can rise to about 4,300,000 acre-feet, which is more than the total of existing uses plus the uses of all the section 1 projects, plus all the projects that the Interior Department testimony has eliminated, before this 100 million total would shrink to 75 million.

Thus the ultimate purpose of Glen Canyon Reservoir, and the other holdover storage reservoirs, is to enable the section 5 projects to be built in the upper basin without violating article III (d) of the compact, and the immediate reason for constructing Glen Canyon Dam now instead of waiting until the section 5 projects are built is (according to proponents of the measure) first, to start paying out the cost of the big reservoirs, then to subsidize the section 1 projects and, second, to fill Glen Canyon and other reservoirs during a time when the filling is easier, presumably, than it will be later on.

The bill, and the testimony here, make clear that this measure is intended to commit Congress to a program for the full utilization of all the water which the upper basin claims under the Colorado River compact. Otherwise, the storage reservoirs are not needed for any water conservation purpose, and are strictly power dams.

As all of the foregoing involves the Colorado River compact, and as California is a party to that compact, California is directly concerned by the interpretations of the compact implicit in the Interior Department's reports which this bill would effectuate, and in the interpretations of the compact which will control the administration of these reservoirs.

This is apparent when it is realized that the total storage capacity planned is enough to intercept the whole flow of the river for several years, and that it is planned to hold over storage in these reservoirs, for more than 20 years, or 5 presidential administrations, in order, for example, to deliver water to the lower basin under article III (d) in the year A. D. 2000 which, in fact, flows into the reservoir in 1980.

During the 50 years that these reservoirs will serve no function except to generate power, they will evaporate some 30 million acre-feet of water.

Some rather firm understandings as to the meaning of the compact are required, especially as the bill now makes no provision for enforcement of the compact by any State against the United States, which will accumulate and hold this water in its reservoirs and release it subject to the decision of a long succession of Secretaries of the Interior as to what the document means.

The meaning of the document is now in controversy in the Supreme Court, in respects which affect the measure now before you. To these issues I now turn.

II. Interpretations of the Colorado River compact involved in the upper storage project legislation and the pending litigation:

1. The method of measurement of consumptive use:

Article III (a) of the Colorado River compact, in a single sentence, apports from the Colorado River system in perpetuity to the upper basin and to the lower basin, respectively, the exclusive beneficial consumptive use of 7,500,000 acre-feet per annum, which it states shall include all water necessary for the supply of any rights which may now exist.

Manifestly this one sentence must have the same meaning in both the basins to which it refers.
Senator ANDERSON. Do I understand by that that you mean the upper basin has just as much right to 7,500,000 acre-feet as the lower basin has?

Mr. ELY. To 7,500,000 acre-feet, yes, sir.

But there is sharp controversy over the meaning of the term "beneficial consumptive use." The question is whether it means the quantity in fact used, measured at the place of use, or whether it means the effect of that use measured in terms of stream depletion at some point hundreds of miles downstream, in this case Lees Ferry.

The same question arises under the Mexican water treaty’s so-called escape clause. This question of interpretation of the Colorado River compact and the Mexican water treaty is directly at issue in the present Supreme Court case. The quantity involved in this dispute, so far as the planning of the upper basin storage project is concerned, is 300,000 to 500,000 acre-feet, according to engineers’ estimates.

The Reclamation Bureau assumes that the measurement is to be in terms of downstream depletion in the case of the upper basin project and the central Arizona project, but in terms of diversion minus return flow, measured at the place of use, with respect to California. The Boulder Canyon Project Act defines it in the latter terms, and the Mexican water treaty says (article I (j)):

"Consumptive use" means the use of water by evaporation, plant transpiration, or other manner whereby the water is consumed and does not return to its source of supply. In general it is measured by the amount of water diverted less the part thereof which returns to the stream.

That corresponds with California’s allegation of the meaning of the term in Arizona v. California (answer to Arizona, par. 8). Arizona denies that this definition applies to her uses (reply, par. 8), and the Reclamation Bureau, in the project before you, assumes that it does not apply to the upper basin, although in section 2, page 4, line 21, the projects to be built under the bill are recognized as being subject to the terms of the Mexican Water Treaty.

Another problem arises if the depletion theory prevails. One of its postulates is that when water is stored in a reservoir the stream below is depleted, and therefore that the consumptive use takes place then and there, in the year when the water is put in storage, not when it is taken out and used.

On that premise, to what years is the 48 million acre-feet of holdover storage, i.e., of stream depletion, to be charged? And in future operations, how is the storage of more than 7,500,000 acre-feet in any one year to be charged? Is the same principle, whatever it may be, applicable to the lower basin reservoirs?

Senator ANDERSON. How are they done now?

Mr. ELY. Our uses are charged on a per annum basis in the year in which the water is taken out and used, and not the year in which it is put in storage.

In further answer to your question of a moment ago, as to the right of each basin to the use of 7,500,000 acre-feet, Senator Anderson, I should have qualified it to say that I will come to the provisions of article III (d), which contains the 75-million-acre-foot provision, and will comment then, if I may, in answer to the questions you asked me earlier.

2. The meaning of “per annum” in article III.
Article III (a): Does the apportionment of the use of 7,500,000 acre-feet “per annum” mean an average of that amount over a period of years, or a maximum in any one year? Manifestly, as in the interpretation of “consumptive use,” the compact must be given the same interpretation in both basins.

The Reclamation Bureau, in submitting this upper basin storage project, makes the assumption that the apportionment means an average over an extended period, apparently 35 years or more. The effect of this theory is that the upper basin may use, say, 9 million acre-feet or more of water in 1 year, and consider it as apportioned under article III (a), if it uses, say, 6 million or less in some other year, to average 7,500,000 acre-feet.

California alleges in the pending lawsuit that the apportionment means a maximum, like a speed limit on a highway, not an average. If the speed limit says 50 miles per hour, that doesn’t mean an average of 50.

We allege (answer to Arizona, par. 8) that the words “per annum” in the compact mean “each year,” and not an average of uses over a period of years, whether they are our uses or anyone else’s.

Senator Anderson. Why didn’t they set it that the lower basin would get 7,500,000 acre-feet each year and if the maximum fell below that, well and good? The effect of what you are saying is that California’s 7,500,000 feet per year is fixed, and definite, but that 7,500,000 feet for the upper basin States is a maximum, and that deficiencies in dry years must be theirs and not the lower basin’s.

Mr. Ely. What I am saying is that identically the same rule must apply to both basins.

Senator Anderson. Yes, but because there is a difference of guarantees, they don’t apply to both basins if you carry them out. Isn’t that right?

Mr. Ely. I will come to the guaranty in a moment.

I am talking about III (a), which, in our opinion, has no relation to the guaranty in III (d).

Senator Anderson. You think not?

Mr. Ely. I think not.

Senator Anderson. Quite obviously, it has to, if you are guaranteeing 7,500,000 to the lower basin States, and the others must deliver 75 million in 10 years, and they may never use more than the 7 million and a half in their big years and must make up the deficits in the small years, then the treatment is not the same and the guaranty does make some difference; doesn’t it?

Mr. Ely. May I postpone comment on that until I come to article III (d)? I will try to answer you then.

Senator Anderson. Yes.

Arizona admits that “per annum” means “each year,” not “average,” but says that the issue is not yet material in the lower basin (reply, par. 8). The effect, if California is right, is that if the upper basin should use in a given year any quantity in excess of 7,500,000 acre-feet, it is using that excess out of unapportioned surplus, in competition with the appropriations of unapportioned excess or surplus waters which may have been made in the lower basin, and subject to the Mexican Treaty burden, which, under article III (c) of the compact, is to be first supplied out of surplus.
The amount involved in this particular issue is very large, of the order of 1,250,000 acre-feet per year. That is, if the compact means what we think it means, the Reclamation Bureau is in error that much in its assumptions as to the quantity of water which the upper basin can lawfully claim under article III (a), and, by the same token, that much more water must be let down to satisfy the Mexican Water Treaty and prior appropriations of surplus in the lower basin.

The same problem arises in the lower basin, but there the Reclamation Bureau has assumed that the limitation imposed upon California's uses by the Boulder Canyon Project Act is a maximum, not an average; so also with its assumptions as to the deliveries to be made under the Mexican Water Treaty and the amounts to be delivered under its water contracts with Arizona, California, and Nevada.

Both assumptions cannot be correct.

This problem of whether the apportionment under article III (a) is of an annual amount, or of an average available over a 20- to 35-year period, has no relation at all to the guaranty in article III (d), that the States of the upper division will not deplete the flow at Lees Ferry below 75 million in each 10 years. That problem is discussed below, in connection with the Mexican Treaty burden.

3. "Rights which may now exist"—

Senator Watkins. Excuse me, sir. At this moment, Senator Anderson will take over, and we will conclude with the other witnesses tomorrow morning.

I regret having to leave.

Senator Anderson. You may proceed.

Mr. Ely. Article III (a): Does the statement in article III (a) that the apportionment of the use of 7,500,000 acre-feet per annum "shall include all water necessary for the supply of any rights which may now exist" include 2 categories of uses in dispute in Arizona v. California: (1) the uses on the lower basin tributaries, particularly those of Arizona on the Gila River, which she says are not to be charged against the lower basin's apportionment of III (a) water, and (2) Indian uses in both basins?

The significance of the Gila appears in connection with the upper basin's obligations under articles III (c) and III (d) of the compact, and that of the Indian uses in connection with article VII, and will be outlined when those articles are reached in numerical order.

4. The Mexican burden:

Articles III (c) and III (d): Article III (c) provides that the Mexican burden, which is a minimum of 1,500,000 acre-feet per annum measured at the border (and more than that, measured at Lees Ferry), shall be borne first out of surplus, over amounts specified in articles III (a) and III (b) and, if that is insufficient, that the burden of the deficiency shall be equally borne by the upper basin and the lower basin, and whenever necessary the States of the upper division shall deliver at Lees Ferry water to supply one-half of the deficiency, in addition to that provided in article III (d).

Article III (d) provides that the States of the upper division, that is, Colorado, Utah, Wyoming, and New Mexico, will not cause the flow of the Colorado River at Lees Ferry to be depleted below an aggregate of 75 million acre-feet for any period of 10 consecutive years.

The interpretation of these two clauses is at issue in Arizona v. California and is involved in the present bill. The Reclamation
Bureau apparently assumes in its presentation here that there will be available at Lees Ferry, after the section 5 projects are built, only about 75 million acre-feet every 10 years.

Arizona says (reply, pars. 8, 11) that all this 75 million is III (a) water, that is, that this figure is merely 10 times the quantity apportioned to the lower basin by article III (a) of the compact, and that all of the lower basin's III (a) uses can be made from the main stream. California (answers to Arizona, pars. 8, 11) and Nevada (petition, par. XIV) deny this, and say that Arizona's uses on the Gila, and the uses of Nevada and Utah on the Virgin River, are "rights which may now exist," in the language of article III (a), hence chargeable to (and protected by) article III (a).

Arizona retorts that her uses on the Gila are covered by article III (b) of the compact, an article which says that, in addition to the apportionment in article III (a), the lower basin is given the right to increase its beneficial consumptive use by 1 million acre-feet per annum.

If Arizona is sustained by the court in this position, there is no water for Mexico in the 75 million acre-feet at Lees Ferry referred to in article III (d), and the upper basin, under article III (c), must, in addition, release water to supply one-half of any deficiency in meeting the Mexican burden.

When the Reclamation Bureau reported favorably on the central Arizona project, it was on the assumption that Arizona's interpretations were correct, without, however, indorsing them.

If California and Nevada are correct, a portion of the 75 million acre-feet at Lees Ferry referred to in III (d), equal to the total of the water supply available and used on the Gila, Virgin, and other tributaries under III (a), is excess or surplus water unapportioned by the compact, available in part for the service of the Mexican water treaty and in part for appropriation, contract and use in the lower basin.

We view the 75 million as a minimum of "wet water," unclassified and unrelated to article III (a), and to be met whether or not there remains available to the upper basin, after meeting that obligation, water to sustain a maximum use of 7,500,000 acre-feet per annum of water apportioned by article III (a).

Senator Anderson. Isn't that what I was saying a minute ago? That you view this as an obligation whether or not it means any water to the upper basin? If they had to cut off every irrigation project that has prior appropriation, you still think it has to be done to deliver to the lower basin, don't you?

Mr. Ely. The lower basin and Mexico; yes, sir.

Article III (d) takes precedence over III (a); yes, sir.

Senator Anderson. In other words, the rights of California to 75 million feet are superior to any of the allocation to the States of Colorado, New Mexico, and Utah?

Mr. Ely. No, sir.

A lot of the water apportioned by III (a) never passes Lees Ferry at all. It appears in the Gila River and other tributaries that enter below Lees Ferry.

Senator Anderson. How much is in the Gila?

Mr. Ely. By our reckoning, in excess of 2 million acre-feet, and on the Virgin River in Utah and Nevada, approximately 300,000, and
the Little Colorado, and other tributaries entering below Lees Ferry, perhaps another 300,000.

Senator ANDERSON. Out of the Little Colorado?

Mr. ELY. Yes, sir.

Senator ANDERSON. Have you seen the Little Colorado?

Mr. ELY. Yes.

Senator ANDERSON. How much was in it when you saw it? Was it absolutely dry?

Mr. ELY. It is a highly variable stream, obviously, but it is one of the resources of the lower basin, with whose use we are charged, Senator.

My point is that not all of the lower basin's 7 1/2 million acre-feet per annum is found at Lees Ferry. That is Nevada's position, that is California's position. Arizona says to the contrary, that all of the lower basin's III (a) water is found at Lees Ferry.

If Arizona is right, the upper basin must deliver not only 75 million, but half of the Mexican deficiency. If we are right, the 75 million includes some water for Mexico.

Senator ANDERSON. In either event, the 75 million comes first before any water in the upper basin?

Mr. ELY. Yes, sir.

The upper division's guaranty under article III (d) comes ahead of the upper division's right under III (a) according to our view.

On the other hand, the Under Secretary of the Interior, in response to a question by a Senator in these hearings, appeared to agree that the compact means that if the upper basin lets down 75 million acre-feet in each 10-year period, it is entitled to keep and use what is left. This, in our view, illustrates the erroneous interpretations of the Colorado River compact built into the planning of the Colorado River storage project.

Senator ANDERSON. Are you raising that question to the Supreme Court? Will that question come squarely before the Supreme Court?

Mr. ELY. It will come before the Court, yes, sir. Not directed squarely to the position of the upper basin, as I have stated in answer to your question, but it is involved. The problem is what are the excess and surplus waters of the Colorado River system and what are the rights to appropriate them. That does involve the question of whether the waters above uses of 15 million of apportioned water are subject to appropriation.

Senator ANDERSON. This question of whether or not the compact means if the upper basin lets down 75 million acre-feet each 10-year period it fulfills its obligation is a very important question.

Mr. ELY. Very important, yes, sir.

Senator ANDERSON. Up to the next 75 million acre-feet, the upper Basin States surely do believe that it belongs to them, but no more is guaranteed because there is a provision for the distribution of surplus waters beyond that. But in recent years there certainly have been no surplus waters beyond that, and as far as we can tell from looking at charts now, there probably will never be.

Don't you think this is a very important thing to consider?

Mr. ELY. It is indeed, sir.

Senator ANDERSON. You don't think it will be settled by the current litigation?
Mr. Ely. We would like to have it settled. We hope it will be.

Senator Anderson. If California's position is right, then all of these other States that want water, might as well pack up and go home.

Mr. Ely. No, it develops to this, that in our view, to the degree that the upper basin or, for that matter, the lower basin, uses in any year water in excess of 7½ million acre-feet, it is using water which is not reserved by article III (a) as apportioned water, reserved against the law of appropriation, but is using excess or surplus waters to which it can claim a right only by appropriation.

And consequently if in any year the upper Basin States use more than 7½ million acre-feet, which is all that the compact reserved as against the law of competitive appropriation, it is competing for that water as against appropriations in the lower basin.

Senator Anderson. I hope you get it to the Supreme Court.

Mr. Ely. I hope you are right, Senator. We would like to get all of these questions disposed of.

Senator Anderson. I thought when we had the central Arizona hearing, it was a pretty general understanding that before the matter got to Court we would settle this question. I am shocked to know that we have not settled it, because that means we will not know where we are for another 20 years.

Mr. Ely. I agree with you. It may be that in order to settle all of the questions in the compact that the States—all of them—are necessary and indispensable parties.

Senator Anderson. The other way would be to pass the Colorado upper basin bill and let the State of California come in and tackle it. I think I like that better.

Mr. Ely. I think I differ with you as to the route to be followed. I may say after reading Judge Briezenstein's testimony I am rather convinced that the four upper basin States are necessary and indispensable parties to the present litigation and it is probably to the interest of the entire basin that the upper basin States be included and brought into this suit.

Senator Anderson. There is nothing about that in the central Arizona bill. I thought we should all be in the suit in the beginning, and I still think so, but that doesn't matter.

Mr. Ely. Litigation is not a happy method of settling any controversy, but, if it is needed, one lawsuit is better than a series.

5. Reservoir losses:

Nowhere in the compact is specific provision made for accounting for reservoir losses. Arizona says that they are all chargeable against the apportionments made under article III (a). Nevada says that they are all chargeable to surplus. California says that, basin versus basin, they are to be charged with other uses to the basin in which they occur, in the order in which they accrue, whether to III (a), III (b), or other surplus, and that none are chargeable against present perfected rights existing in the lower basin before storage was provided. The upper basin compact (art. IV) charges them against apportionments under article III (a) of the Colorado River compact.

6. The right to demand or withhold water:

Article III (e) of the Colorado River compact provides that the States of the upper division shall not withhold water, and the States of the lower division shall not require the delivery of water, which
cannot reasonably be applied to domestic and agricultural use. Glen
Canyon Reservoir and certain other proposed upper basin main-
stream reservoirs will be so located physically that no water stored
therein can ever be applied to domestic or agricultural uses in the
upper basin. All of the water stored in such reservoirs will be re-
quired for domestic and agricultural use in the lower basin and Mexico.
The 1953 engineering report by Raymond A. Hill to the State of
Colorado implies that, if Hoover Dam's reservoir, Lake Mead, is not
filled on the day when the gates are closed at Glen Canyon, it may
never fill again.

Who is to determine how rapidly storage in these upper basin reser-
voirs is to be built up, or, putting it another way, to what extent water
which would otherwise flow into Lake Mead is to be intercepted and
withheld? Who is to determine how rapidly and on what terms
releases are to be made? Presumably the Secretary of the Interior.
Since the United States cannot be sued without its consent, manifestly
some controls are necessary here if the States, both upper and lower,
are not to abdicate the administration of their compact to the United
States.

Senator Anderson. Is this unusual?
What happened when the lower basin would appropriate it? Who
decides when water would flow into Lake Mead? I presume it would
be the Secretary of the Interior?
Mr. Ely. The inflow into Lake Mead at present is simply the natural
flow of the stream.

Senator Anderson. Would not the natural flow still flow in the
Grand Canyon, then?
Mr. Ely. Yes; at present, but that is the problem, Senator. It flows
into Glen Canyon, and when the dam is built, would stop there.

Senator Anderson. Isn't it stopped in Lake Mead?
Mr. Ely. Lake Mead is in the lower basin.

Senator Anderson. Do you mean it is all right to have rules on
stopping the water in the upper basin but no rules on stopping the
water in the lower basins?

Mr. Ely. No; I am speaking of a potential conflict, through the
Secretary's determination as to how much to let down from the upper
basin to the lower, out of Glen Canyon. I would like to avoid those
conflicts. If the Secretary of the Interior should decide, for example,
that the compact means what some witnesses here have said it means,
that if 75 million is let down, that is the end of the matter, and all
else can be retained upstream—

Senator Anderson. What about that?
Mr. Ely. We would have a very difficult time getting into court
to test that question. He is administering property of the United
States, the dam, and I think it is likely that the United States would
be a necessary party under the ruling in Arizona v. California (298
U. S.). Conversely, if the Secretary of the Interior decided that
he didn't want to accumulate water as rapidly in Green Canyon
as you would like to have him do, that the water ought to come down,
I think the upper basin States would have great difficulty getting
into court to test whether he was performing the compact or not,
for the reason that the United States is a necessary party, and without
the consent of Congress cannot be sued.
Senators KUCHEL. To that extent you disagree with the testimony of the Federal judge the other day?

Mr. ELY. Completely.

Senator ANDERSON. And with almost every lawyer who handled this.

Mr. ELY. No. The United States in Arizona v. California (298 U.S.) held that the United States was a necessary party in any suit in the lower basin involving Lake Mead.

Senator ANDERSON. Did they rule in that case with reference to the regulation of water where an officer was performing an administersial act, that he could not be brought into court without the consent of the United States Government?

Mr. ELY. It ruled that whatever was done was all subject to the rights of the United States.

Senator ANDERSON. This is a Cabinet officer, performing an administrative act, and it is your contention that nobody can question the performance without the consent of the United States?

Mr. ELY. I do not say it is an administrative act. If the Secretary of the Interior is managing Government property, that dam—

Senator ANDERSON. He is administering the compact between the States.

Mr. ELY. Yes; and if there is a conflict as to whether the compact requires him to let down 75 million or let down more, I would say that a suit to determine how the property of the United States should be administered is one that requires the presence of the United States in court.

Senator KUCHEL. In other words——

Mr. ELY. It is not a matter——

Senator ANDERSON. I think we differ completely as to whether the dam, the water in the dam, and everything connected with it would be the property of the United States. I would think the Secretary would be properly performing an administrative act. If I remember my own personal interest, I found one occasion at that time where a Cabinet officer can be brought into court.

Mr. ELY. The recent decisions with respect to the control of property of the United States, to my mind, confirm the intervals to be drawn from the decision in Arizona v. California (298 U.S.) that the United States would be a necessary party.

Senator KUCHEL. Let me make one more comment. If there were dispute on this point, and this constituted one of the questions for the committee to determine in its executive committee meetings on this bill, obviously, this would have to be cleared by an appropriate defense.

Mr. ELY. May I resume?

7. Appropriation of surplus:

Does the provision for a further apportionment, by unanimous consent after October 1, 1963, mean that no State may validly appropriate surplus until a new compact is made? California alleges, in the pending litigation, that any State, including the upper basin States, may appropriate surplus waters unapportioned by the compact, subject only to their being divested by a new compact to which such a State is party, or by court decree.

Senator ANDERSON. How about if they had not acquired them but put them to beneficial use?
Mr. Ely. The United States Supreme Court held in the Hinderliter case that a State may, by compact with another State, restrict the use of its own citizens even though they are valid under its laws.

To continue: That surplus waters are subject to appropriation has been the position maintained by representatives of some, at least, of the upper Basin States in previous hearings. Arizona and Nevada say that no State may acquire any right in surplus until a new compact is made. If they are sustained, then the upper basin can acquire the right in the waters it may use in any year in excess of 7,500,000 acre-feet. Actually, under the compact, the Boulder Canyon Project Act and the Mexican water treaty, all excess and surplus water of the Colorado River system has already been appropriated or obligated to uses in the lower basin and Mexico.

Senator Anderson. Does that mean that this provision for a further apportionment is void?

Mr. Ely. No; it is entirely permissive, Senator.

No State is required—

Senator Anderson. Would it require a unanimous consent among the States?

Mr. Ely. Yes, sir.

Senator Anderson. And since California wouldn't give it, it is a null provision?

Mr. Ely. It might be California or any other State. I can't imagine your State, for example, if you had appropriated and put to use certain waters, agreeing to give them up, any more than we would.

Senator Anderson. Certainly, when that provision was put in, it was understood that there would be another meeting, and if they figured out what would be done, the water would be divided again. You are not going to try to rewrite the history, are you?

Mr. Ely. No, quite the contrary. But the record is also clear that intervening appropriations would be valid although at the risk of a subsequent reapportionment.

Senator Anderson. If the subsequent reapportionment required the unanimous consent of California you know it could never be given in God's green earth.

Mr. Ely. And also if it is attempted to take from New Mexico water appropriated in New Mexico.

Senator Anderson. Does any State other than California contend that they all did not agree that in 1963 they would meet again to try to divide up the surplus?

Mr. Ely. What the ultimate position of the other States will be, I don't know. I have been asked at the witness table here at previous hearings whether I conceded the right of the upper basin States to appropriate surplus, and my answer was "Yes."

Senator Anderson. How could they appropriate surplus when they are not even starting to get any part of their 7,500,000. You would have to get up to that first, wouldn't you?

Mr. Ely. That is correct.

Senator Anderson. And, therefore, it is a foolish thing to talk about going beyond that.

Mr. Ely. My point is, Senator Anderson, that you are going beyond that, on the theory of the Reclamation Bureau's report underlying this bill, because if you use more than 7½ million in any 1 year,
You are using excess or surplus waters and establishing a right thereto
by appropriation, not by apportionment.

Senator Anderson. Well, they would never put to actual use more
than 7½ million. They certainly would have a right to store in
order to deliver in their compact.

Mr. Ely. There you put your finger on one of the points which
troubles us. We contend that our right in the lower basin to claim
apportioned water, water reserved against competitive appropriation,
as a right to use up to 7½ million acre-feet in any 1 year, not an
average of that quantity over a period of years. We can't claim in
the lower basin 9 million of apportioned water in 1 year, because in
the other year we used only 6 million. If we use only 6 million
in 1 year, that is too bad. If we use 9 million in some other, then a
million and a half of that is excess or surplus waters which we are
using at our own risk, acquiring the right by appropriation.

Senator Anderson. Let me see if I get that straight.

Mr. Ely. We say the same rule applies exactly in the upper basin.
If you use 9 million acre-feet in some year, you are using a million
and a half of excess or surplus waters; you are not using 9½ million
acre-feet of apportioned waters simply because in some other year
you happened to use less than 7½ million.

Senator Anderson. Let's see if I can say it another way. If for
10 straight years the upper basin States deliver 7½ million acre-
feet of water to you without fail every year, and in 1 of those years
they use, say, 6 million acre-feet of water and the next year they use
3 million acre-feet of water but they have a very heavy runoff, and
they store another 3 million acre-feet, you contend that that extra
million and a half acre-feet, then, is a use of a surplus water to which
they are not entitled.

Mr. Ely. No. There we fall apart on two differences, Senator
Anderson. First, the 75-million-acre-feet guaranty at Lees Ferry in
our mind has no relation whatever to article III (a) in either basin.
It includes some III (a) water for the lower basin, it may include
III (b) water, it includes water for Mexico, it may include some other
surplus. It is so much wet water. It is a floor. It has nothing to do with
the apportionment. The lower basin is charged in each of those years
with the waters it uses on the Gila River, for example, and whether
you measure the Gila at 1 million, 2 million, or some other figure,
that is III (a) water, and so also are the old uses on the Virgin River.
Consequently, the 75 million referred to in III (d) is just so much wet
water, that includes a part of the Mexican burden.

That has nothing to do with how the upper basin uses are to be
charged under article III (a). We say, as to article III (a): Charge
the uses in the upper basin and in the lower basin exactly alike. What-
ever rule you decide on for one applies to the other.

The rule already decided on for the lower basin, by statute, spelled
out in the Boulder Canyon Project Act, is the aggregate annual con-
sumptive use. If we use more than 7½ million in the lower basin, that
excess is excess or surplus. We say that rule applies in the upper
basin.

Senator Anderson. You recognize no difference between the two
areas, one supplying water and the other receiving it, and if they
supply you with 75 million they probably figure they are fulfilling
their contract with you.
And if they store in periods of good runoff in order to make water available to you, you think that would be wrong?

Mr. Ely. That is not the problem. There is no relation between III (a) and III (d) in that sense. The water delivered to us under article III (d), the 75 million acre-feet, is not identical with the III (a) water. But the point you raise illustrates the gravity of the problem of interpretation that I am trying to put before you. I am, of course, arguing my side.

Senator Anderson. I think what you are trying to say is that no matter how badly the upper basin needs this water, there ought to be some way of interpreting compacts so they can’t get it.

Mr. Ely. Not at all. We want to have the compact interpreted so you operate under exactly the same ground rules we do.

Senator Anderson. But you don’t have the ground rules when you are upper State.

Mr. Ely. We think the interpretation of the compact should be the same in both basins.

Senator Anderson. You can turn the world upside down and start pouring a little water in our direction, and we will show you that it doesn’t work very well.

Go ahead.

Mr. Ely. Thank you.

8. The impounding of water for power generation:

Article IV (b) of the Colorado River compact authorizes the impounding and use of water for generation of power, but stipulates that—

such impounding and use shall be subservient to the use and consumption of such water for agricultural and domestic purposes and shall not interfere with or prevent use for such dominant purposes.

As elsewhere noted, no water stored in Glen Canyon Dam and certain other main stream reservoirs can ever be used, physically, for agricultural or domestic purposes in the upper basin. Such water is the residue after the uses in the upper basin. It will be stored and used at such reservoirs to generate power to be sold to subsidize irrigation and power projects in the upper basin. The use of these reservoirs appears to be squarely controlled by articles IV (b) and III (e), previously referred to. The right of the Reclamation Bureau to so manipulate them as to maintain power generation, if the waters stored therein are in fact needed for agricultural and domestic use in the lower basin, is subject to challenge.

Senator Anderson. That is the first place I have agreed with you for a long time.

Mr. Ely. Thank you, sir.

The sole function of Glen Canyon Reservoir is as part of a hydroelectric project, unless and until the section 5 projects are built, and for a period of 50 years or more even if they are built. Only thereafter does it assume any function under article III (d) of the compact.

As elsewhere pointed out, during this 50-year period, when the sole function of the reservoir is to generate power, they will evaporate over 30 million acre-feet of water, at the cost of power generation and agricultural use in the lower basin. The notion that Glen Canyon is to be built to accommodate the lower basin, and that the lower basin should bear the evaporation losses there, is a little farfetched.
Senator Anderson. You say "as elsewhere pointed out, during this 50-year period when the sole function of the reservoir is to generate power." Can you imagine a stretch of 50 years when the sole function will be to generate power?

Mr. Ely. That appears to be the case, Senator, from a Reclamation Bureau study. They concede that for 25 years these dams would not be necessary for any conceivable development in the upper basin. They stop at that point. Our engineers say most likely the period is 50 years, even if all of the projects contemplated in both section 1 and section 5 were built. That is to say that without any regulation at all, the upper basin could deliver 75 million acre-feet every 10 years and retain something like 4,300,000 acre-feet for itself, without Glen Canyon or Echo at all.

Senator Anderson. And retain how much for itself?

Mr. Ely. Retain approximately 4,300,000. Beyond that point you need storage of the type contemplated here. The Reclamation Bureau's program of development apparently indicates it is about 25 to 50 years off before anyone would have to build Glen Canyon to perform the obligation of III (d).

Senator Anderson. But from the flow of the river, it doesn't look to be 50 years off, does it? That is, if you look at the flow for the last 15 or 20 years.

Mr. Ely. I am speaking of the hydrograph over the last thirty-odd years. If that were repeated again, you still could use 4,300,000 acre-feet, the engineers say, without holdover at all. That is more than existing uses plus all projects referred to in this bill. On these engineering questions, I am a layman and Mr. Matthew will follow me with the figures.

Senator Anderson. Along the line of Hoover Dam being useful for 200 years, would that be of any benefit to the lower basin?

Mr. Ely. I think unquestionably.

Senator Anderson. If it did prolong the life for Hoover Dam of 200 years, then would the opinions be different?

Mr. Ely. A benefit starting 200 years in the future, Senator, is a little hard to evaluate.

Senator Anderson. That is exactly the way I feel about your 50 years.

Mr. Ely. 9. Indian rights:

Article VII of the Colorado River compact provides that nothing in the compact shall be construed as affecting the obligations of the United States to Indian tribes. The upper basin compact provides that use by the United States or its wards shall be charged as a use by the State in which the use is made. California, in the pending suit, takes the same position. The United States denies this and says that—

the rights to use the water of the Indians and Indian tribes are in no way subject to or affected by the Colorado River compact.

The Government's petition tabulates 1,747,250 acre-feet of "diversion" claims of Indians in the lower basin of which 1,556,250 are in Arizona.

There are large Indian claims in the upper basin, but they have not been tabulated so far in this suit. Arizona says that—

the obligations of the United States to the Indians or Indian tribes are not material or relevant.
It is known that the Office of Indian Affairs construes article VII of the compact as meaning that (1) the Indian claims come ahead of the compact, are not chargeable to any State, and the compacting States simply divided the residue after the Indian claims; (2) Indian claims relate back to the date of establishment of the reservation, even though not put to use, and take priority over uses by non-Indians even though the uses by non-Indians may in fact long antedate the actual putting of water to use by the Indians.

The Government's pleadings leave it free to make both these assertions. As to the first, Arizona has refused, so far, to disagree with the Indian Bureau's position. Naturally, if Arizona can hope for 1,500,000 acre-feet for Indian diversions, outside the compact, in addition to the 3,800,000 acre-feet she demands under the compact, there is a temptation to try to get it. Just where the water would come from is not very clear. Arizona, at a meeting with the Attorney General of the United States on December 3, 1953, was invited to join the upper Basin States, California and Nevada, in a common statement of position that Indian uses are to be charged under the compact against the State in which they are situated, but declined to do so.

Senator Anderson. You would recognize that the State of New Mexico has agreed that the Navaho use, nearly all of our use, is properly chargeable against the State of New Mexico.

Mr. Ely. Yes; I think you are correct. Our uses of Indians in California, which are not large, are charged against our State and required to be so charged under the regulations of the Secretary of the Interior. The existence of the Indian claims, and uncertainty as to their accounting, raises serious questions as to the water supply for the projects in both the upper and lower basins. The United States, in this suit, also claims independent rights for the use of the Bureau of Land Management, the Forest Service, the Park Service, for fish and wildlife, et cetera, and denies that all of its rights are subject to the Colorado River compact. The magnitude of these additional claims is not stated. Those questions will not be resolved until this suit is decided.

10. Present perfected rights:

Article VIII provides that—

present perfected rights to the beneficial use of waters of the Colorado River system are unimpaired by this compact.

In the present suit California alleges that “unimpaired” as used in this article means unimpaired as to both the quantity and the quality of the waters to which these perfected rights relate. California alleges that as of the effective date of the compact, her present perfected rights were not less than 4,950,000 acre-feet.

Senator Anderson. What was the figure in the so-called Self Limitation Act?

Mr. Ely. 4,400,000 acre-feet of the waters apportioned by article III (a), plus not to exceed one-half of the excess of surplus waters unapportioned by the Colorado River compact.

The report of the Reclamation Bureau contains no data on the effect of large transmountain diversions coupled with other upper basin uses on the quality of water. Such a study should obviously be made. We know that when the compact was ratified, the Colorado Commissioner's formal report stated that—
natural limitations upon the use of the waters within each of the upper States will always afford ample assurance against undue encroachment upon the flow of Lees Ferry by any one of the four upper States. Colorado cannot divert 5 percent of its portion of the river flow to regions outside the river basin.

Elsewhere he testified that Colorado’s transmountain diversions could not exceed 300,000 acre-feet per annum. By contrast, the Colorado transmountain diversion projects inventoried in the Reclamation Bureau’s various reports aggregate 2 million acre-feet, or 42 percent of the water allocated to Colorado by the upper basin compact. There would be that much less water to absorb an increasing quantity of salts in passage to Lees Ferry. The effect on the lower basin is one which the lower basin States are entitled to have studied and reported upon, to the end that their present perfected rights, in the language of article VIII, shall remain unimpaired.

Senator Anderson. Did you feel that the discussion we had on that, in which we thought it would be interesting to have a study of this question of salinity on other projects was sufficiently broad compared to what you had in mind?

Mr. Ely. I don’t think I heard all of that discussion.

Senator Anderson. It wasn’t completely settled, but I think most of us agreed that it would be desirable to find out what the actual facts were.

Mr. Ely. The suggestion has been made that that study should go throughout the entire basin. I have no objection to that. We just want to know the facts.

III. CONCLUSION

California’s basic position is that our State is conforming to the Colorado River compact, the Boulder Canyon Project Act, and the other enactments which comprise the law of the river, and we must insist that the Reclamation Bureau and the upper basin States do likewise in the planning and administration of the Colorado River storage project. The Colorado River storage project, as now planned, is based upon interpretations of the compact which, in our view, are wrong and constitute encroachments upon the compact for the benefit of the upper basin to the extent of about 1,500,000 acre-feet per year. The fact that the initial stages of this project will not use all the water claimed by the upper basin is not important. Thirty-three to forty-eight million acre-feet of storage is to be built now only on the premise that all the water claimed will be ultimately used, and the bill proclaims that it will be so used.

Because the legislation before you encroaches upon the Colorado River compact and upon California’s water supply, the Colorado River Board of California has adopted the following resolution, which summarizes our position:

The Colorado River Board of California opposes the enactment of S. 1553 and H. R. 4449, 83d Congress, bills to authorize the Secretary of the Interior to construct, operate, and maintain initial units of the Colorado River storage project and participating projects, and for other purposes.

California favors the continuation of the development of the water resources of the Colorado River Basin on a sound economic basis, as the need for such development occurs. This State recognizes the right of the upper basin States to utilize the waters apportioned to that basin by the Colorado River compact as approved by the Boulder Canyon Project Act, but subject to the terms and
conditions of those documents as the Supreme Court may construe them in the case of Arizona v. California, now pending.

By the same token, California, in the protection of its investment of nearly $700 million in water-development projects which it has made in reliance upon the Colorado River compact and the Boulder Canyon Project Act, and the economy and population of more than 4 million people dependent upon these works, must resist legislation which would encroach upon the rights recognized in the lower basin States by those documents.

The proposed Colorado River storage project legislation adversely affects the lower basin States in much the same way as would the proposed central Arizona project legislation. Both are based upon interpretations of the Colorado River compact and the Boulder Canyon Project Act, with which California cannot agree and which are now at issue in the United States Supreme Court.

Each of them contemplates developments which would encroach upon the compact and project act, as interpreted at the time of enactment of those laws, to the extent of more than a million acre-feet per year. Both proposals are based upon unrealistic water-supply estimates. Each is in conflict with the presentation made to the Senate by the supporters of the Mexican Water Treaty. Each ignores the legal claims which are in conflict with it, and both ignore the damage which their construction would cause to the investments already made by their neighbors. Each of these proposals is dependent upon Federal subsidies for irrigation amounting to many times the value of the land when fully developed, and most of these subsidies are concealed. Both would commit the Congress to new feasibility standards and pay-out formulas with which this board and other California State agencies have officially expressed disapproval.

Senator ANDERSON. Do you think that is a valid objection to a project of this nature, where one State can get off by itself and say, "We don't approve of the basinwide pool, and, therefore, it is improper for the Federal Government to have that type of legislation"?

Mr. ELI. Aside from the right of any State to express its views, and I suppose we all have a right to do that, in this case our particular objection is that by the aid of these particular subsidies, the overdraft of the water is increased.

The Colorado River storage project would intercept the lower basin's water supply with giant reservoirs at Glen Canyon, Echo Park, and Curecanti, capable of storing several years' flow of the river. In the absence of statutory controls of the operation of such reservoirs designed to protect the output of firm power at Hoover Dam, upon which the United States and the power contractors relied, the use of such large storage could result in seriously curtailing the revenues at Hoover Dam and other dams on the lower river and upon which these lower projects depend for financing. It is against the best interest of both the power users in the lower basin and the Federal Treasury to so legislate.

Both Glen Canyon and Echo Park Reservoirs would be located downstream from any point of use by the proposed irrigation projects in the upper basin and their major purpose would be to provide revenues, commencing almost 50 years hence, to pay the capital cost without interest of the irrigation projects proposed for construction now. This postponement of nearly 50 years of the commencement of repayment of irrigation would result in a Federal subsidy amounting to over $2,500 per acre of irrigated land—an unwarranted and unjustified burden on the Nation's taxpayers.

California, as a major taxing State, is doubly affected, for the amount of the overdraft on the water supply of the Colorado River Basin is directly related to the amount of Federal subsidy to the irrigation projects creating the overdraft.

The bills delegate to the Secretary of the Interior power to resolve
feasibility standards are to be changed, that should be done by Congress, in general legislation after the Hoover Commission has had an opportunity to report upon this very matter, heretofore committed to their study.

The proposed legislation includes some, and foreshadows others, large transmountain diversion projects in the upper basin using several million acre-feet of water annually, thereby impairing the quality as well as the quantity of the water available to the lower basin and to which the lower basin is entitled under the Colorado River compact.

For all these reasons, the Colorado River Board of California respectfully requests the representatives of this State in the Senate and House of Representatives of the United States to oppose the enactment of legislation to authorize construction of the Colorado River storage project and participating projects as proposed in these bills—S. 1555 and H. R. 4449—or similar legislation, and instructs its officers and staff to make the appropriate presentation of the views of this board to the congressional committees and executive agencies concerned with such legislation.

Mr. Chairman, may I ask permission to have printed as a part of my statement (1) the document which comprises the views of the State of California on the proposed Colorado River storage project which was submitted under the provisions of the Flood Control Act of 1944, and (2) a document which is a summary of the controversy in Arizona v. California et al., comprising a portion of our pleadings in that case.

Senator Anderson. That will be made a part of the record.

Mr. Ely. And a number of resolutions by California cities and districts, and others, in opposition to this legislation.

Senator Anderson. They will be received.

(The documents referred to appear at the end of Mr. Ely's testimony.)

Senator Anderson. Senator Kuchel.

Senator Kuchel. Mr. Chairman, the record so far in the Senate subcommittee apparently lacks some important information about what is involved in irrigation costs. May I, therefore, Mr. Chairman, request that this committee request the Bureau of Reclamation to file for inclusion into the record the following information:

(a) For each participating project included in the bill the average cost per acre, regardless of who pays the cost, for land which would be newly irrigated, for land to be supplied with supplemental water, for the total of the two kinds of lands—

Senator Anderson. Do you mean that? The first part is all right, where you say the total for the two kinds of lands per acre. I do not know how can you add new land and supplemental water on the same piece of land.

Senator Kuchel. For land to be newly irrigated and lands to be supplied with supplemental water.

Senator Anderson. When you figure your per-acre cost, you can't figure the per-acre cost of new land and the per-acre cost of supplemental water on land that is not new and say that both go to the same acre, because they cannot be new and supplemental at the same time.

Mr. Ely. I think it would be useful to have the statistics on each type.

Senator Anderson. I don't object to that. He said the total of the per-acre cost of new and supplemental water, and they cannot be new and supplemental on the same piece of ground.
Mr. Elx. I think if that were shown for each class it would be the statistics required.

Senator Kuchel. May that request be made, Mr. Chairman?

Senator Anderson. Yes; for each. I am not trying to be critical; I am just saying that it is impossible the other way.

Senator Kuchel. Mr. Chairman, I would on that point like, with your assistance, to acquaint the representatives of the Bureau of Reclamation with just what is desired.

Senator Anderson. Let it be understood that Senator Kuchel will discuss it with Mr. Larson; and if it is possible to furnish the figures he has requested, even though I think they would be difficult to furnish, they will be furnished.

(The following was subsequently received for the record:)

### Estimated cost allocated to irrigation projected on an average acre basis for project total, supplemental, and new lands

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<th>Participating project</th>
<th>Project area (acres)</th>
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<th>Irrigation allocation total</th>
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1 Nevada not included in the Department's recommendation in report on the bill.
2 All new land.
3 All supplemental land.

Senator Kuchel. Now, Mr. Chairman, just 1 or 2 questions.

Can you inform the committee, Mr. Ely, of the status of the lawsuit in the Supreme Court? When might a decision be anticipated?

Mr. Ely. The status of the case is this: Arizona filed a bill of complaint against California and the water using agencies in California. She did not join the United States and did not join any other State as defendants. The State of California answered. The United States intervened. The State of Nevada was allowed permission by the court to intervene and is now a party. Arizona has not answered Nevada. Nevada has not answered the United States. A master has been appointed by the court and the case referred to the master. The
How the master will set the case up or how long it will take him to try it and render his report and thereafter for argument to be heard upon it, and an opinion of the court to be handed down is a matter of conjecture.

One of the problems involved, I may say, is as to just what parties are necessary to the determination of this controversy. The State of Nevada has raised the point that Utah and New Mexico are indispensable parties, as being in part within the lower basin. We think Nevada is right about that. From Judge Breitenstein’s testimony I draw the conclusion that all four States may very well be indispensable parties. His views and ours as to the interpretation of this document are obviously poles apart. It may consequently be necessary to implead all four of them.

Senator Kuchel. You are just in the preliminary stages so it would be futile, even, to try to estimate when a decision would be reached?

Mr. Ely. That is correct, sir.

Senator Anderson. I think, Mr. Ely, that in the central Arizona hearing, unless my memory is playing me a trick, I was one of those that kept insisting that all of the States had to come in. I desire that.

Mr. Ely. I think that is correct, Senator Anderson.

Senator Anderson. I certainly subscribe to that point of view. We might as well all get into court anyway.

Mr. Ely. We do not want a protracted lawsuit and then end up with a decree that we find does not settle the questions, and that sometime in the distant future there is to be another lawsuit involving the upper basin. Let's get it all settled at one time.

Senator Kuchel. Basically is it the position of the attorney general of California and the Colorado River Board of California that this legislation would violate the rights of California under the Colorado River compact?

Mr. Ely. That is the opinion and view of the Colorado River Board of California and of the State as expressed through the department of public works, which is delegated by the Governor as the responsible agency to render the State’s reports under the procedure of the Flood Control Act of 1944.

Attorney General Brown has direction of the lawsuit; and so far as possible, the legislation and the lawsuit have been kept in separate compartments. We have not desired to have the problems of the legislation affect the lawsuit or vice versa, any more than we can help. They converge here in my testimony, as I represent the State’s department of justice in our supreme court and represent another branch of the State, the Colorado River Board, with respect to this legislation.

Senator Kuchel. And it is also the position of the State government that there is no present avenue by which the people of our State could bring into court and have a judicial decision rendered on the alleged violations of the Colorado River project?

Mr. Ely. If this bill should be enacted, without provision for some way to get into court to test the questions I have mentioned, our view is that without an act of Congress granting the consent to join the United States, it is highly doubtful whether any of the seven States could get the matter before the court as to the proper operation of these giant reservoirs.

Senator Anderson. I noticed in the House hearings you submitted some amendments.
Mr. Ely. We did, Senator Anderson. I am not submitting them here because of the fact that the bill seems to have taken a considerably different course. It is a little difficult to see just what final form it will have. I don't think any useful service would be performed by my submitting amendments at this stage.

Senator Anderson. In the House hearings, you expressed your disapproval of transmountain diversions. When the Colorado-Big Thompson project was constructed, did California object to that in any way?

Mr. Ely. No.

Senator Anderson. Has California objected to any of the other transmountain diversions until the State of New Mexico wanted to have a little tiny one?

Mr. Ely. No, Senator. We have, with growing concern, watched the mounting list of transmountain diversions.

Senator Anderson. As long as you had a big State like Colorado doing it, you never raised a voice; did you?

Mr. Ely. That is not it. I think that we have taken on the big powerful State of Colorado in connection with the Fryingpan-Arkansas project. It was the first time in which we have seriously raised this question of the effect of transmountain diversions.

Senator Anderson. I went through the Fryingpan hearings in the Senate. Did you testify?

Mr. Ely. Yes, sir. I am not sure you were there that day, Senator.

Senator Anderson. I may have missed that day. Therefore, you are strongly opposed to the transmountain diversion in Colorado as you are to the one in New Mexico?

Mr. Ely. Yes. There is no distinction between one of the upper States and the others, Senator. We have been reluctant to object to any upper-basin State projects until we felt that this bill presented us with the necessity, whether we like it or not, of raising the issues I have now raised. I would like this opportunity to place in the record a memorandum that summarizes the bills for development in the upper basin and the lower basin that have gone through in the last several years with California's acquiescence. It is frequently said by uninformed people that California's position is to oppose development through the basin; that is not true.

Senator Anderson. I say that you pick out your opponents that only have two Congressmen and not very strong representation. We feel kind of sorry that you picked out on us.

Mr. Ely. If we were looking for easy opponents, I think the State of New Mexico would be the last that we would pick, so long as it is represented in the Senate with the representation it has, to say nothing of its representation in the House. I would go a long way to avoid a row with you, Senator.

Senator Anderson. I recognize it is a very difficult thing for a State to watch a trend and finally some day speak about it.

Mr. Ely. That is our feeling; yes.

Senator Anderson. Revert for us a minute to the House bill, because it will have to be before us some time, either as a document we will consider on the floor or as a matter that might go to conference.

Mr. Ely. Might I interrupt to ask if this could go into the record; this memorandum?
Senator Anderson. Yes. That could go into the record at this point.

(The data referred to follow:)

MEMORANDUM—CALIFORNIA AND UPPER BASIN PROJECTS

An idea has been implanted in the minds of some Members of Congress from the States in the upper basin of the Colorado River to the general effect that California has consistently obstructed or opposed the approval of reclamation projects in the upper basin.

California has not only failed to oppose upper basin development; it has in repeated instances supported such development. That fact can be demonstrated.

I. Boulder Project Adjustment Act (54 Stat. 744): In the year 1940 the Boulder Project Adjustment Act was adopted by Congress with the active support of California, and its delegation in both Houses. That act provides that for 15 years there shall be paid out for investigation and construction of projects located exclusively in the upper basin States (Colorado, New Mexico, Utah, and Wyoming) the sum of $500,000 per year, a total of $7,500,000. Further, for the next 35 years a like sum each year shall be equitably distributed for the same purposes among the 7 States of the Colorado River Basin. From this it will follow that at least another $8 or $9 million will fall to the share of the upper basin States. This money is being derived and will be derived from the rates paid for power produced at Hoover Dam. More than 90 percent of the money is being taken from the pockets of the household and commercial power users in California.

These provisions of the act were not only agreed to by California but vigorously supported in Congress by the California delegation. They confer a special benefit upon the upper basin States, which have these funds available in addition to their fair share of the funds appropriated to the Bureau of Reclamation in general for general investigation of projects throughout the West.

II. Furthermore, in each of the following named projects, the California representatives on the congressional committees voted for the projects and either supported and voted for them on the floor or permitted them to be adopted without objection by unanimous consent. In no case did California oppose any of these projects. The record so shows.
1. Provo (Deer Creek) project, Utah (62 Stat. 92).
2. Mancos project, Colorado (61 Stat. 176). (In this instance, the Colorado River Board of California affirmatively supported reauthorization of the project before congressional committees and with the California delegation.)
3. Paonia project, Colorado (61 Stat. 181). (In this instance California took the same affirmative position as in the case of the Mancos project.)
4. Eden project, Wyoming (Public Law 132, 81st Cong.).
5. Weber Basin project, Utah (Public Law 273, 81st Cong.).
6. Fort Sumner project, New Mexico (Public Law 192, 81st Cong.).
7. Vermejo project, New Mexico (H. R. 3788, 81st Cong.).
8. Big Thompson project, Colorado (H. R. 5134, 81st Cong.).

III. Upper Basin Compact Act (Public Law 37, 81st Cong.): California officially joined with representatives of other States in commending the efforts of the upper basin States to come to an agreement upon an upper basin compact and repeatedly expressed the hope that they would be able to harmonize their views and make such a compact. When the compact had been made and ratified by the legislatures of the upper basin States, it came here for the consent of the Congress. The bill sets up certain criteria for the measurement and administration of the waters of the upper basin States which are distinctly different from those which are applicable to all seven Colorado Basin States under the original Colorado River compact of 1922. In the hearings which were held on the upper basin compact bill before the House Committee on Public Lands representatives of California appeared and testified on one point only. They stated that California had no interest whatever in how the upper basin States proposed to handle their affairs among themselves, but they asked that it be made crystal clear that the action of Congress should not be taken so as to interpret or vary the terms of the original Colorado River Basin compact. It developed then that the official representatives of the upper basin States disclaimed having any such idea, and language was agreed upon between California and the upper basin States which appeared in the House committee report, and properly preserves all questions of interpretation of the Colorado River com-
This being settled, California approved the passage of the bill and it was passed on the Consent Calendar in both Houses.

Certainly no fair-minded person would consider that there was anything in the nature of obstruction or opposition on the part of California in these proceedings. The suggestion made by California was promptly and frankly accepted and agreed to by the upper basin States as being in proper order. The bill was not delayed nor was it jeopardized nor lost.

Senator Anderson. Can you show us where in the House bill as it was reported, the bill authorizes anything except the projects and units that are specifically listed?

Mr. Ely. Section 2 of the House bill, H. R. 4449, corresponds in general to section 5 of the Senate bill. It appears at page 17 of the House bill.

Senator Anderson. No; I am saying as reported.

Mr. Ely. This is as reported, sir.

Do you have it before you?

Senator Anderson. Yes; I do have it.

Mr. Ely. It reads:

In order to achieve such comprehensive development as will assure the consumptive use in the State of the upper Colorado River Basin of waters of the Colorado River system, the use of which is apportioned to the upper Colorado River Basin by the Colorado River compact, and to each State thereof, by the upper Colorado River Basin compact, it is the intent of the Congress in the future to authorize the construction, operation, and maintenance of further units of the Colorado River storage project, of additional phases of participating projects, authorized in this act, and of new participating projects as additional information becomes available and additional needs are indicated.

Thereafter, follow two criteria. There is also in the bill a provision—

Senator Anderson. Yes; but that does not authorize it.

Mr. Ely. It is a declaration of intent.

Senator Anderson. That is right. I can say that at some future time I intend to pay a certain amount of money to my bank, but unless I come forward with the money, the bank is never going to mark my note paid.

Mr. Ely. My point is there is no need for spending several hundred million dollars for Glen Canyon and Echo Park unless the section 2 projects are going to be built. The section 1 projects require only a half million feet of consumptive use and no storage.

Senator Anderson. We do want to get a point in there that we can use if we need to, to build additional projects. May I say, Mr. Ely, I don't know what is in the minds of anybody else, but as far as I am concerned, I do not desire to see the State of California deprived of one drop of water to which it is properly entitled, and I think if we had the cooperation instead of difficulties, I am not referring to the difficulties, it is in the testimony, it would be possible to construct the projects in the upper Colorado River Basin and provide sufficient storage so that when the river was well managed we would have all the water necessary to take care of the lower basin and all of the projects that the upper basin thus far, at least, can envision.

We would do it on the basis of us all being friends together, instead of on a basis where it will develop into a row between the upper and lower basins. I think it can be done. I have been trying during the days of this hearing, to assure other parts of the basins that my State does not have any designs on anybody, on the water of anybody, including either Arizona, California, or Nevada, and I think it might
be possible so to pass this bill and so to word it that those fears ought to be to some degree dissipated.

I do have some pretty strong convictions on what the Colorado compact means. I think anybody that was around at the time it was written can remember some of the history pretty clearly. I can't realize that was thirty-some-odd years ago. Maybe it was. I still like to think it was a short time ago.

I remember the enthusiasm with which Mr. Hoover and others announced the signing of that document.

Mr. Ely. Senator Anderson, I appreciate what you say, and I certainly accept at full value your assurance that you don't want to take water that belongs to California, and we don't want to take water that belongs to you, either. But unhappily we have a disagreement as to what the rights are. If I may make two additional comments—

Senator Anderson. Could I say, still with a smile on my face, that we believe in our State, that you don't want to take it away from us, but you certainly would enjoy delaying our getting it.

Mr. Ely. No, I would rather see you get it. I would like to see the meaning of the compact determined and have you, as well as us, get exactly the water we are entitled to. I might make these two comments, and I know it is late:

One is that the House bill on page 17, line 2, contains language that section 1 (c) of the Flood Control Act of 1944 shall not be applicable to such supplemental reports.

In other words, the Secretary does not have to submit to the affected States, including California, the reports on the proposed section 2 projects.

Senator Anderson. That is correct. And all that I can say is that so far as the Senate bill is concerned, as to the projects in New Mexico, he does have to submit them to the affected States and he does have to submit them back to the Congress.

Mr. Ely. The other comment I would like to make is that in closing, I think a great deal of the difficulties that we face are due to the Mexican Water Treaty. We said so in 1944. California and Nevada opposed that treaty. As a matter of fact, the water users throughout the Colorado Basin overwhelmingly opposed it, that is, the actual irrigation districts. It was unhappily supported by the State governments of five of the States at that time, in response to a plea of the State Department that they do so, recognizing the Mexican Water Treaty as a war-time agreement, and many considerations supposing to influence it.

To our mind it was the same unhappy breed as a number of wartime agreements: Yalta, on a small scale.

The results of the treaty are absolutely disastrous. They guarantee to Mexico twice what that country has ever used in the state of nature and as you pointed out, Senator, a guaranty on the Colorado River is a very difficult burden to undertake.

How we are going to solve that, I don't know.

Senator Anderson. I don't suppose there is any way to solve it. I have said that I think it is one of those most serious mistakes that has ever been made. I think it is the one thing that seems to make difficult the solution of the problems of the Colorado River. At one time, in discussing the Polish Corridor, I said that it wasn't very wide but so long as it was there it was wide enough to bar forever the peace
almost to destroy the hope for peace on the Colorado River as long as it is there. I think it would be well, even at this late date, to try to buy back some of the water bargained away. I think we would have to buy it back, but I would be happy to buy it back. It is worth millions and millions of dollars to us in buying back peace.

Mr. Ely. The treaty is a whole lot worse in operation than it is on its face. It guarantees a million and a half acre-feet and requires us to meet Mexico's nominations of the rate in cubic feet per second at which water shall reach the border, up to 3,500 second-feet. Actually, our Government has found it impossible to gage the releases from Hoover and Davis so as to even approximate the 3,500 second-foot figure. The water reaching the Mexican border, even at times when storage in Lake Mead is being drawn down, when it should not be drawn down, has far exceeded it. There has never been a time when the Mexicans have not received more water than the treaty entitled them to.

What will happen if Lake Mead continues to be drawn down, I cannot tell. I think that is a serious problem that deserves the attention of Congress.

Senator Anderson. I think that is one which the upper and lower division might well reach an agreement on.

Thank you.

We will recess now until 9 o'clock tomorrow morning.

Mr. Ely. Before I leave the stand, Senator Anderson, may I express my deep appreciation for the courtesy which I have received at the hands of yourself and the committee. While we may not agree, you have been most attentive and considerate of what I have had to say, and I appreciate it.

(The exhibits accompanying Mr. Ely's testimony are as follows:)

EXHIBIT A

IN THE SUPREME COURT OF THE UNITED STATES

October term, 1953

No. 10 Original

State of Arizona, Complainant, v. State of California, Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District, Metropolitan Water District of Southern California, City of Los Angeles, Calif., City of San Diego, Calif., and County of San Diego, Calif., Defendants

United States of America, Intervener

SUMMARY OF THE CONTROVERSY (EXHIBIT A)

(As appended to answer of California defendants to petition of intervention on behalf of the United States)

Edmund G. Brown, Attorney General of the State of California, 600 State Building, San Francisco, Calif.,
Northcutt Ely,
Robert L. McCarty, Assistant Attorney General, 1200 Tower Building, Washington 5, D. C.,
Prentiss Moore, Assistant Attorney General, 417 South Hill Street, Los Angeles 13, Calif.,
Gilbert Nelson, Deputy Attorney General,
Irving Jaffee, Deputy Attorney General,
The pleadings filed by Arizona, Nevada, the United States and California, to date, disclose complex questions of fact and law, many of which are interrelated. The summary of principal questions presented below is divided into four parts: (I) the quantities of water in controversy; (II) the ultimate issues, from the standpoint of the respective prayers; (III) a tabulation of factual issues; and (IV) the issues of interpretation of the basic documents involved. Under this division, certain questions reappear and to this extent reflect the interlocking nature of the problem.

1. THE QUANTITIES OF WATER IN CONTROVERSY

The United States seeks to quiet title to rights to the use of water, consumptive and otherwise, "as against the parties to this cause," for federal purposes, in unstated amounts.

Arizona seeks to quiet title to the beneficial consumptive use of 3,800,000 acre-feet per annum of the waters of the Colorado River System (measured by "man-made depletion of the virgin flow of the main stream") and to enjoin California's right to permanently use any water in excess of approximately 3,800,000 acre-feet per annum (measured by "diversions less returns to the river"), that being the effect of (1) reducing 4,400,000 acre-feet of III (a) water by reservoir losses, and (2) denying California any permanent right to use excess or surplus waters.

California asserts a right to the beneficial consumptive use in California of 5,362,000 acre-feet per annum of the waters of the Colorado River System (measured by "diversions less returns to the river") under contracts with the United States, comprising 4,400,000 acre-feet of the waters apportioned by Article III (a) of the Colorado River Compact and 962,000 acre-feet per annum of the excess or surplus waters unapportioned by the Compact, including in such excess or surplus the "increase of use" permitted to the Lower Basin by Article III (b) of the Compact.

Nevada seeks to quiet title to 539,100 acre-feet per annum (measured in part by both methods) of the beneficial consumptive uses apportioned by Article III (a) of the Colorado River Compact, and to not less than a total of 900,000 acre-feet from all classes of water.

As the States differ in their definition of "beneficial consumptive use," their claims require restatement in terms of a common denominator in order to evaluate their effects. Thus:
The quantity to which Arizona seeks to quiet title, 3,800,000 acre-feet per annum, measured by the method she urges, "depletion of the virgin flow of the main stream occasioned by the activities of man," is equivalent to more than 5,000,000 acre-feet measured by consumption at the site of use, or "diversions less returns to the river," the standard established by the Boulder Canyon Project Act and asserted by California. The difference is due primarily to the fact that under Arizona's interpretation, the Compact deals with the virgin flow in the main stream only and that the use of water "salvaged by man" is not charged as a beneficial consumptive use, whereas under California's interpretation the Compact deals with the waters of the entire river system and such salvage is so charged.

Conversely, the aggregate of the California contracts, 5,362,000 acre-feet per annum, measured by "diversions less returns to the river," is equivalent to only about 4,500,000 acre-feet measured by "man-made depletion" (without charge for salvaged water). If Arizona's prayer should be granted, California's rights would be reduced to about 3,800,000 acre-feet per annum, measured by "diversion less returns to the river," or to about 3,000,000 acre-feet measured in terms of "depletion of the virgin flow of the main stream."

The impact of Nevada's claims on those of the other states is not readily evaluated.

II. ULTIMATE ISSUES

The ultimate issues, in the sense of the results sought by each party, may be grouped as follows:

The United States

Does the United States have rights, "as against the parties to this cause, to the use of water in the Colorado River and its tributaries" in the following categories?

1. For consumptive use of all projects in the Lower Basin, which it asserts independently of any rights claimed by the States in which such projects are located;

2. To fulfill its obligations arising from international treaties and conventions; but this involves, with respect to the burden of the Mexican Water Treaty, the obligations as between the States of the Upper Division and the States of the Lower Division under Articles III (c) and III (d) of the Colorado River Compact, and involves also the effect of the so-called "escape clause" of Article 10 of that Treaty, which allows reduction in the guaranteed deliveries to Mexico, in the event of extraordinary drought, in the same proportion as consumptive uses in the United States are reduced, "consumptive uses" being defined in Article I of the Treaty;

3. To fulfill all its contracts for the delivery of water and electric power, i.e., with or in Arizona, California, and Nevada; but it alleges that the water available is not sufficient to satisfy all these obligations;

4. To fulfill the Government's obligations to Indians and Indian Tribes; but this involves not only the questions of the magnitude and priorities of these claims but the questions of whether or not they are chargeable under the Colorado River Compact to the Basin and State in which such uses are made, what the obligation of the Upper Division States may be to release water for use by Indians in the Lower Basin, and what rights the United States may have to withhold water in reservoirs in the Upper Basin for use by Indians in both Basins;

5. To protect its interests in fish and wildlife, flood control and navigation; but such rights as it may have for these purposes may require the impounding and release of water from reservoirs in both Basins, and not merely reservoirs bordering or within Arizona and California, and again involves the question of accounting under the Compact; and

6. For use of the National Park Service, Bureau of Land Management, and Forest Service; but if the United States has claims "as against the parties to this cause" for these functions, such claims apply to all the waters of the Colorado River System in both Basins.

The adjudication of these claims of the United States requires consideration and resolutions of: questions of fact, referred to later; the power of the United States to impound and dispose of water independently of rights derived from the States; the extent of its obligations under treaties and contracts; the impact and effect of its treaties upon rights of domestic water users; how its claims to the use of water shall be measured; the location, magnitude and priorities of In-
dian claims, and claims for other alleged federal purposes; the extent to which its rights and obligations are controlled by the Colorado River Compact; and the extent to which its claims may be exercised in futuro in derogation of intervening rights and uses.

Arizona

Is Arizona entitled to a decree:

(1) Quieting title to 2,800,000 acre-feet per annum of the beneficial consumptive uses apportioned to the Lower Basin by Article III (a) of the Colorado River Compact, substantially all to be taken from the main stream, and measured in terms of man-made depletion of the virgin flow of the main stream?

(2) Quieting title to all of the 1,000,000 acre-feet per annum by which the Lower Basin is permitted to "increase its use" by Article III (b) of the Colorado River Compact (notwithstanding the decision of this Court in Arizona v. California et al., 292 U.S. 341 (1934)), to the exclusion of the other States of the Lower Basin, all to be taken from the waters flowing in the Gila River, and to be measured in terms of man-made depletion of the virgin flow of the main stream?

(3) Reducing California's right to the uses apportioned by Article III (a) of the Colorado River Compact to approximately 3,500,000 acre-feet per annum, in consequence of reservoir losses?

(4) Enjoining California's right to receive and permanently use under its government contracts 962,000 acre-feet per annum, or any part thereof, in excess of 4,400,000 acre-feet per annum?

The determination of Arizona's claims involves: the questions of fact, later referred to; the standing of Arizona to seek a declaratory decree quieting title to a "block" of water for projects not yet constructed or authorized (about 1,600,000 acre-feet per annum of the 2,800,000 claimed from the main stream): the source of title to Arizona's claims to 2,500,000 acre-feet of III (a) water and 1,000,000 acre-feet of III (b) water; the status of the uses on the Gila; the measurement of uses thereof and of the main stream; whether Arizona's status is that of a party to the Colorado River Compact or that of a third party beneficiary of the Statutory Compact between the United States and California, and if so, whether Arizona is bound by the interpretations placed thereon by the principal parties thereto in its formulation and administration; and the validity and effect of Arizona's water delivery contract with the United States.

Most of the questions posed by Arizona's claims revolve around the issue of whether the Gila River shall be treated as a part of the Colorado River System for all purposes, or shall receive special treatment in respect of (1) the identification of uses thereon with the waters referred to in Article III (b); (2) the corollary exemption of "rights which may now exist" on the Gila from any charge under Article III (a); and (3) the devaluation of the charge for beneficial consumptive uses from the quantity which is in fact consumed on the Gila (alleged by California to be about 2,000,000 acre-feet per annum) to the lesser quantity represented by the resulting depletion in the virgin flow of the main stream (alleged by Arizona to be about 1,000,000 acre-feet per annum).

California

Are the contracts between the United States and the defendant public agencies of California for the storage and delivery of water valid and enforceable? Inasmuch as these contracts are, in terms, for permanent service but subject to the Colorado River Compact, the Boulder Canyon Project Act and the California Limitation Act, the issue is whether these enactments, considered together as a Statutory Compact established by reciprocal legislation, authorize and permit the Secretary of the Interior to presently contract for the storage and delivery for permanent beneficial consumptive use in California, of 4,400,000 acre-feet per annum of the waters apportioned by Article III (a) of the Colorado River Compact plus one-half of the excess or surplus waters unapportioned by the Compact, including in such excess or surplus the "increase of use" permitted to the Lower Basin by Article III (b) of the Compact. The aggregate of these contracted quantities, subject to physical availability of the amounts of excess or surplus waters, which vary from year to year, is 5,362,000 acre-feet per annum.

The determination of California's claims involves: the questions of fact, later referred to; the extent to which rights have vested in both the United States and California under the Statutory Compact; whether Arizona is estopped by her previous conduct from asserting her present position; whether the limitation is set of reservoir losses; how California's uses shall be measured; whether California is chargeable with the use of salvaged water; the effect of California's
appropriations, in their relation to the expressions "rights which may now exist" and "present perfected rights" in the Compact and Project Act; the definition of the Project Act term, "excess or surplus waters unapportioned by" the Colorado River Compact; the availability of such waters for permanent service; the intent of Congress with respect to the waters referred to in Article III (b); and the relation between California's contracts and the later agreements which the Secretary of the Interior has entered into with others.

Nevada

Is Nevada entitled to a decree:
(1) Quieting title to 539,100 acre-feet per annum of the beneficial consumptive uses apportioned to the Lower Basin by Article III (a) of the Colorado River Compact?
(2) Reserving for a future agreement the disposition of the use of the 1,000,000 acre-feet referred to in Article III (b) of the Colorado River Compact, and preserving to Nevada an equitable share thereof?
(3) Assuring Nevada the ultimate beneficial consumptive use of not less than 900,000 acre-feet per annum, from all classes of water?

The determination of Nevada's claims requires the consideration and resolution of: the questions of fact later referred to; the questions of interpretation previously mentioned; the question of whether Nevada's share of III (a) waters has been determined or limited to 300,000 acre-feet per annum; whether, as to stored waters, Nevada may claim any quantity in excess of her contracts with the United States; and the source of title to her claims to 539,100 acre-feet per annum of III (a) water and not less than 900,000 acre-feet per annum from all sources.

Interests of other States

There remains the question whether the claims of the United States, Arizona, California, and Nevada can be effectively determined without concurrently determining the rights and obligations of Utah and New Mexico with respect to the waters of the Lower Basin, and the rights and obligations of those states and Colorado and Wyoming with respect to other waters of the Colorado River System, to the extent that they are affected by the issues in controversy here.

In more detail, these "ultimate issues" depend upon the resolution of the following questions of fact and of the interpretation of the Colorado River Compact, the Boulder Canyon Project Act, the Statutory Compact between the United States and California, and the Mexican Water Treaty.

III. FACTUAL ISSUES

There are substantial issues of fact, raised by the pleadings to date. These include, but are not limited to, determination of:
(1) the investments and obligations undertaken by the parties in the construction of works and in the performance of their contracts with the United States, and the investments and obligations undertaken by the United States in reliance upon such contracts;
(2) the location, magnitude and priorities of the water rights necessary to enable the United States to perform its obligations to Indians and Indian tribes pursuant to Article VII of the Compact;
(3) the requirements of the United States for (a) flood control, (b) navigation, (c) fish and wildlife, and (d) the other claims which it makes;
(4) the quantities of water physically available for beneficial consumptive use in the Lower Basin, assuming full use by the Upper Basin of its Compact apportionment, full regulation of the supply available to the Lower Basin, and full performance of the Mexican Water Treaty;
(5) the uses, present and potential, on the main stream and on each tributary, determined as of the place of use, as California contends is the proper method, and the effect of those uses in terms of manmade depletion of the virgin flow of the main stream as Arizona contends is the proper method;
(6) the quantities of water "salvaged" by the activities of man, on the main stream and on the tributaries;
(7) reservoir losses, present and potential, gross and net;
(8) appropriative rights, priorities, and uses thereunder, on the main stream and tributaries;
(9) the extent and place of use of "rights which may now exist" and which, under Article III (a) of the Compact, are to be charged as uses of water appor-
tioned by Article III (a), and of "rights which may now exist" in California, within the meaning of Section 4 (a) of the Project Act; and
(10) the extent and place of use of "present perfected rights" protected by Article VIII of the Compact and directed by the Boulder Canyon Project Act to be satisfied in the operation and management of the Project.


Questions relating primarily to Article III (a) of the Colorado River Compact include the following: Whether the Colorado River Compact deals only with the main stream or treats with Colorado River System waters wherever they may be found; whether the uses apportioned by Article III (a) to the Lower Basin are to be taken only from "water present in the main stream and flowing at Lee Ferry," as Arizona contends, or from the tributaries as well, as California and Nevada contend; whether the 7,500,000 acre-feet referred to in Article III (a) is related to the 75,000,000 acre-feet referred to in Article III (d), as Arizona contends, or whether the latter figure includes excess or surplus waters unapportioned by the Compact, as California contends; by what process Arizona claims to have acquired an apportionment of 2,500,000 acre-feet of III (a) water, to be taken from the main stream; whether the apportionment of 7,500,000 acre-feet "per annum" is a statement of a maximum, or of an average, and, if the latter, over what period of years; the definition and measurement of "beneficial consumptive use"; the accounting for water added to and withdrawn from storage on the main stream and tributaries; whether the use of water salvaged by man on the main stream and tributaries is to be charged under the Compact; the definition of "rights which may now exist," which are to be included in charges to water apportioned by Article III (a) and their magnitude on the main stream and tributaries; the date to which this last expression refers; whether, in the absence of a compact among the Lower Basin States, the division of water among them is to be affected by appropriative rights, i.e., "rights which may now exist"; whether Indian rights, and other federal claims to consumptive use, are included within that expression and are to be charged under the Compact; whether reservoir losses are chargeable as beneficial consumptive uses, and if so, their classification under the Compact and their relation to other uses.

Questions relating primarily to Article III (b) of the Colorado River Compact include the following: The questions relating to the definition of "beneficial consumptive use" and "per annum" previously stated in connection with Article III (a); whether the "increase of use" permitted to the Lower Basin by Article III (b) is an apportionment in perpetuity as in Article III (a), as Arizona contends, or a license to acquire rights by appropriation and contracts under the Project Act in excess or surplus waters unapportioned by the Compact, as California contends; whether this right to increased use is identified solely with the water found flowing in the Gila River, as Arizona contends, or is identified with the first 1,000,000 acre-feet of increased use (above 7,500,000) per annum throughout the Lower Basin, as California and Nevada contend; whether this right is available to all five States of the Lower Basin, or to Arizona alone, as she contends (notwithstanding the decision of this court in Arizona v. California et al., 292 U. S. 341 (1934)); the status of uses in New Mexico on the Gila; the status of uses on other tributaries; and to what degree reservoir losses are chargeable to this increase of use. Reference to the relation of the Mexican Treaty burden to the uses under Article III (b) appears below in connection with Article III (c).

Questions relating primarily to Article III (c) of the Colorado River Compact include the following: Whether the waters to be supplied Mexico are "apportioned" thereby (this bears upon the determination of the meaning of the expression "excess or surplus waters unapportioned by" the Colorado River Compact, appearing in the Boulder Canyon Project Act, infra); whether, if the quantities in excess of those specified in Articles III (a) and III (b) are insufficient to supply the deliveries to Mexico, the burden, with respect to the Lower Basin, falls first upon the uses referred to in Article III (b), as California contends, or upon those referred to in Article III (a), as Arizona contends; and the relation of the "escape clause" in Article 10 of the Treaty, which permits reduction in deliveries to Mexico in case of extraordinary drought in proportion to the reduction in consumptive use in the United States. The relation of
Article III (c) to Articles III (d) and III (a), with respect to the obligations of the Upper Division States, is referred to below in connection with Article III (d).

Questions relating primarily to Article III (d) of the Colorado River Compact include the following: As a corollary to one of the questions stated with reference to Article III (a), whether the 75,000,000 acre-feet referred to in Article III (d) is related to the 7,500,000 acre-foot apportioned by Article III (a) to the Lower Basin, or whether the 75,000,000 acre-feet include excess or surplus waters available for delivery to Mexico or use in the Lower Basin: the resulting effect on the obligation of the States of the Upper Division stated in Article III (c) to furnish additional water to meet the deficiency if surplus above the quantities specified in Articles III (a) and III (b) is insufficient to supply Mexico; and whether the Lower Basin is entitled to demand release of this 75,000,000 acre-feet notwithstanding the consequent inability of the Upper Basin to make beneficial consumptive use of 7,500,000 acre-feet per annum.

Questions relating primarily to Article III (e) of the Colorado River Compact include the following: Whether, if excess or surplus waters are appropriated (or contracted for) in the Lower Basin, their release from storage in the Upper Basin may be required; whether, if Indians uses are not subject to the Colorado River Compact, the United States may require release of water from reservoirs in the Upper Basin to satisfy them, in addition to the water which the States of the Upper Division are required to release in performance of Articles III (c) and III (d) of the Compact; so also with respect to the other federal claims asserted by the United States "as against the parties to this cause," for use of water in the Lower Basin.

Questions relating primarily to Articles III (f) and III (g) of the Colorado River Compact include the following: Whether the provisions in these articles with reference to a compact to be made after October 1, 1963, are permissive or mandatory: whether, in the light of the Statutory Compact, these provisions preclude the acquisition of rights in excess or surplus waters by appropriation and by contract with the United States in the interim, subject only to further apportionment as between Basins by such a future compact; and whether, in the event of competing interstate claims to such excess or surplus waters, in the absence of a compact apportioning them, priority of appropriation, including contracts with the United States, controls.

Questions relating to Article VII of the Colorado River Compact include the following: Whether uses by Indians are subject to the Colorado River Compact; whether Indian uses are chargeable under the Compact to the Basin and the State in which they are situate; if not, whether they are prior and superior to the apportionments made by the Compact, or are in competition with appropriations of others which are subject to the Compact; the location, magnitude, and asserted priority of Indian claims; their effect upon the quantities available to non-Indian users under Articles III (a), III (b), etc.; their effect on the distribution of the Mexican Treaty burden; and their effect on the obligations of the States of the Upper Division under Articles III (c) and III (d).

Questions relating primarily to Article VIII of the Colorado River Compact include the following: The date to which the expression "present perfected rights" relates, i.e., 1922, 1929, or some other date; the definition of said term; whether such definition is to be determined under the law of the State under which the right arose; whether the assurance against impairment extends to quality as well as quantity; the extent of these rights in each State; their relation to the expression "rights which may now exist," as used in Article III (a) of the Compact and Section 4 (a) of the Project Act; and the impact of reservoir losses when present "perfected rights" attach to, and are satisfied from stored waters, pursuant to the direction in Article VIII.

Questions relating primarily to the Boulder Canyon Project Act and the resulting Statutory Compact between the United States and California include the following: Whether the alternative consent given in the Project Act to a Seven-State or Six-State Compact became final on June 25, 1929, in establishing the latter; whether Arizona could, or did, effectively ratify a Seven-State Compact thereafter; if so, whether the Statutory Compact authorized by the Project Act as a corollary to a Six-State Compact remains in effect; if it does, whether Arizona can claim the benefits of both: whether the Statutory Compact authorized contracts to be made with the California defendants for the permanent service (in addition to 4,400,000 acre-feet of III (a) waters) of one-half of the excess or surplus waters unapportioned by the Compact for use in California: whether it included therein the waters referred to in Article III (b), or precluded California from use of such waters; whether the "excess or surplus," of which
California may use one-half, is to be reckoned before or after deduction of the quantity required to be delivered to Mexico; the effect on California's right to "excess or surplus" of a future compact apportioning such waters; whether the limitation "for use in California" is net of reservoir losses, or is subject to further reduction in consequence of such losses; whether the definition of consumptive uses applicable to California is applicable to Arizona, and vice versa; whether California is free to make use of salvaged waters without charge under the Compact or the Limitation Act; the effect of California's "excess or surplus" of a future compact apportioning such waters; whether the limitation "for use in California" is net of reservoir losses, or is subject to further reduction in consequence of such losses; whether the definition of consumptive uses applicable to California is applicable to Arizona, and vice versa; whether California is free to make use of salvaged waters without charge under the Compact or the Limitation Act; the effect of California's appropriations; the meaning and effect of the reference to "rights which may now exist" in Section 4 (a) of the Project Act; the extent of California's "present perfected rights" as referred to in Section 6 of the Project Act; whether by the Project Act, or otherwise, the shares of Nevada or Arizona in the waters of the Colorado River System have been determined; and the construction and effect of the water delivery contracts held by those States.

GOODWIN J. KNIGHT, GOVERNOR, STATE OF CALIFORNIA


Ron. Douglas McKay, Secretary of the Interior, Department of the Interior, Washington, D. C.

Dear Sir: Your proposed supplemental report on the Colorado River storage project and participating projects, transmitted to the President on December 10, 1953, was received in this office on December 28, 1953, with letter of transmittal from the Acting Commissioner of Reclamation to Governor Goodwin J. Knight, and forwarded to the division of water resources of this department for study and review.

On February 2, 1954, a request was sent to you for additional detailed substantiating information in order to permit a thorough analysis and appraisal of the proposed developments.

Since it appears that the proposed developments are now under active consideration by the executive departments and the Congress, looking toward an early decision, it is understood that comments of all interested States are desired without delay. Accordingly, a report has been prepared by the division of water resources in collaboration with the Colorado River Board of California, setting forth the general views of the State of California; subject, however, to such modifications as are deemed necessary when and if detailed substantiating information has been received and the proposals have been given further consideration. This report has been received and is transmitted herewith.

I concur in the comments submitted and request that they be considered as expressing the views of the State of California on your proposed report. It is further respectfully requested that the report, dated February 15, 1954, on this subject, be transmitted to the President of the United States and to the Congress along with the other material that may be so transmitted.

Very truly yours,

Frank B. Durkee, Director of Public Works.

STATEMENT OF THE STATE OF CALIFORNIA ON PROPOSED SUPPLEMENTAL REPORT OF THE SECRETARY OF THE INTERIOR ON COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS, DATED DECEMBER 10, 1953

INTRODUCTION

Reference is made to letter of December 15, 1953, by Acting Commissioner of Reclamation H. F. McPhail to Gov. Goodwin J. Knight of California, transmitting copies of a supplemental report of the Secretary of the Interior, dated December 10, 1953, on the Colorado River storage project and participating projects, and inviting comments. The project was originally reported upon by the Bureau of Reclamation in Project Planning Report No. 4-53, dated December 1950. That report is incorporated, with modifications, in the Secretary's supplemental report.

The 1950 report presented a plan of development of the upper Colorado River Basin comprising 10 major dams and reservoirs with hydroelectric plants on the Colorado River and principal tributaries above Lee Ferry, and an indefinite...
number of water-using projects designated "participating prospects." That report recommended approval of the overall plan and initial authorization and construction of 5 units of the storage project and 10 new participating projects, and inclusion as participating projects of 2 irrigation developments already authorized and under construction.

The supplemental report of December 1953 recommends approval of the overall plan, initial authorization and construction of the Glen Canyon and Echo Park units of the storage project, authorization for immediate construction of the same 10 new participating projects, inclusion of the same 2 previously authorized projects as participating projects and authorization of the Shiprock division of the Navaho project, including Navaho Dam and Reservoir, with actual construction of the Navaho project to be referred until a report thereon has been approved by the Congress.

Cost estimates for the storage units and the participating projects in the Secretary's supplemental report are revised upward as compared to the estimates in the 1950 report. There also appears to be some revision in the assumptions as to power output and revenues and allocation of costs of the storage project, although no explanation is given.

A proposed repayment program is recommended which would involve postponement of repayment of the irrigation costs beyond the ability of the water users to repay until after the power investment in the storage units is repaid with interest. It is estimated in the financial operation study attached to the report that it would take 56 years to pay off the power investment with interest.

This proposal differs from the repayment program proposed in the 1950 report, under which it was planned to divert and use the interest charged on power investment to repay the portion of the irrigation costs beyond the ability of the water users to repay.

PREVIOUS VIEWS AND RECOMMENDATIONS

Under date of June 14, 1951, the State of California submitted to former Secretary of the Interior Oscar L. Chapman its views and recommendations on the original project planning report dated December 1950. From those views and recommendations the following is quoted:

"Therefore, the State of California favors congressional authorization of the specific projects set forth in the proposed report of the Secretary of the Interior or as may be modified, and their construction with Federal funds consistent with national welfare if (a) such projects qualify under criteria, policies, and procedures of the Congress, and (b) the diversion and utilization of the waters of the Colorado River system by and through these projects will not impair the rights of the State of California or any of its agencies to the waters of that system as defined and set forth in the Colorado River compact and related laws and documents."

It was further stated that the phrase "criteria, policies, and procedures of the Congress" was intended to refer to "uniform criteria, policies, and procedures to be established by the Congress."

COMMENTS ON SUPPLEMENTAL REPORT

California agencies have rights established by prior appropriation and by contract with the Secretary of the Interior under the authority of the Boulder Canyon Project Act, providing for the use in California of 5,362,000 acre-feet annually of water from the Colorado River system. It is the duty of the State to protect and preserve those rights of its citizens. California is, therefore, rightfully concerned in proposals for the further development of the water resources of the Colorado River Basin wherever such developments may be. For this reason it is necessary for the State to analyze thoroughly any proposals for further development and take whatever steps appear required to insure that such developments would not impair the rights of California and its agencies in and to the waters of the Colorado River system.

The Colorado River storage project and participating projects as proposed in the report under review would obviously have substantial effect upon the available water supply and the operation of facilities in the lower basin and California. Furthermore, the plan of financial operation of the project as proposed by the Department of the Interior departs materially from existing reclamation law and is not in accordance with sound standards and policies.
The comments herein are directed, first, to the effects of the proposed project on California's rights to Colorado River water and, secondly, to basic questions of criteria, policies, and procedures involved in the proposals. These have been prepared by the division of water resources in collaboration with the Colorado River Board of California.

Because of the lack of supporting detail in the supplemental report under review, the comments are necessarily based largely on the substantiating material presented in the original 1950 report and the accompanying special reports on individual participating projects.

Effects on California's rights to Colorado River water

The engineering studies presented in the original 1950 report and the related special reports on participating projects and the supplemental report of the Secretary of the Interior are vague and uncertain with respect to the effects of proposed upper basin developments on the water supply available to the lower basin, the rights of California thereto, and the operation of facilities in the lower basin. The plans for construction and operation of the proposed developments, insofar as revealed in these reports, give no proper or adequate consideration to the interests of the lower basin States. Furthermore, the studies involve or imply what California considers to be erroneous interpretations of the Colorado River compact.

The erroneous interpretations of the compact include: (1) that article III (a) apportions to the upper basin a water use of 7,500,000 acre-feet a year in terms of depletion of the virgin flow at Lee Ferry instead of a beneficial consumptive use of 7,500,000 acre-feet a year at places of use; (2) that the upper basin would be entitled to the consumptive use of an average annual amount of 7,500,000 acre-feet instead of a maximum of 7,500,000 acre-feet in any one year. Because of these erroneous interpretations, the report is invalid as regards the showing of how soon and how much holdover storage will be needed and as regards the ultimate quantity and pattern of residual flow into the lower basin at Lee Ferry.

There are at least 10 serious questions of interpretation of the compact which would be involved in and affect the proposed storage project and related reclamation developments. (See statement of Northcutt Ely on behalf of Colorado River Board of California at hearings on H. R. 4449 before Subcommittee on Irrigation and Reclamation of Committee on Interior and Insular Affairs of House of Representatives, January 26, 1954.) All of these questions are at issue in the pending case of Arizona v. California, et al.; United States Supreme Court, October term, 1953, No. 10 original.

California's basic position is that this State is conforming to the Colorado River compact and must insist that the Bureau of Reclamation and the States of the upper basin do so in the planning and administration of the Colorado River storage project and participating projects.

As to annual variation in consumptive use requirements, there appears to be no justification for the assumption in the report that under full development, with a regulated water supply and with practically all the irrigated land receiving a full supply each year, the water requirement and use would be highest in wet years and lowest in dry years. This assumption cannot be reconciled with the results of the latest scientific investigations of the subject, and therefore is a probable source of further error in the findings in the reports on the storage project and participating projects.

It is evident that the building, filling and operation of the proposed main-stream reservoirs, with an ultimate total capacity of about 48 million acre-feet, would have substantial effect upon lower basin facilities and operations. Even the filling of the two reservoirs, Glen Canyon and Echo Park, now proposed for initial authorization with combined capacity of 32 million acre-feet, would have a material effect and would present serious problems.

Who is to have the final decision and control as to the operation of these holdover reservoirs, including storage and release of water? Article III (e) of the Colorado River compact provides that the States of the upper division shall not withhold water and the States of the lower division shall not require the delivery of water which cannot reasonably be applied to domestic and agricultural use. Glen Canyon Reservoir and certain other proposed upper basin main-stream reservoirs will be so located physically that no water stored therein can ever be applied to domestic or agricultural uses in the upper basin. All of the water stored in such reservoirs will be required for domestic and agricultural use in the lower basin and Mexico. Furthermore, consideration
must be given to the Government’s obligations to maintain the contracted firm power output at Hoover Dam.

No discussion of such problems, including the inevitable reduction in power output at lower basin plants and its economic effect from a national standpoint, is presented in the reports. Insofar as the original basic report or the 1953 supplement indicate, there is no evidence that the effects on operation of lower basin storage and power facilities have been given due consideration in planning the schedules of constructing, filling, and operating the proposed upper basin storage and power facilities.

Of equal concern to the problems of quantity and fluctuation of flow into the lower basin at Lee Ferry is the problem of quality of water. This problem concerns water users throughout the basin, but especially those in the upper basin States. Increased consumptive use of the waters of the Colorado River and its tributaries in the upper basin, particularly the relatively pure water of the headwater streams, will result in higher concentrations of mineral salts in the residual flow downstream.

The provisions in the Colorado River compact of water for the lower basin would be largely nullified if the supply were unsuited in quality for all beneficial purposes. Furthermore, article VIII of the compact provides: "Present perfected rights to the beneficial use of waters of the Colorado River system are unimpaired by this compact." Certainly, this means unimpaired in quality as well as quantity.

The reports are completely lacking of information that would provide answers to the questions concerning quality of water. It is California’s position that before development proceeds on any additional large nonreimbursable use projects in the upper basin, the entire problem of quality of water should be fully explored; that determination should be made as to the effects of increased upper basin uses up to full development, upon the quality of the flow at Lee Ferry; and that authorization of such additional projects, particularly transmountain diversion projects, in the upper basin should be deferred until satisfactory evidence is presented that such projects, in combination with existing projects and other projects contemplated under full development, would not have harmful effects on the quality of water remaining for use in the lower basin.

It is evident from the foregoing that there are a number of unknowns remaining to be determined as to water supply and use in the upper basin, and as to the amount of water that would be expected to be available to the lower basin passing Lee Ferry under conditions of ultimate development in the upper basin with full practicable utilization of the water supply apportioned to the upper basin under the Colorado River compact. This points up the need for a comprehensive system of gaging and sampling stations to measure both quantity and quality of water throughout the basin in order to determine the water supply available and the actual use of water. It is considered essential that more adequate measurements and records of water supply and use be obtained which will permit reliable studies to be made of the operation of existing and proposed developments in the upper and of the resulting available water supply, both as to quantity and quality, passing Lee Ferry for the lower basin.

Criteria, policies, and procedures

The laws governing Federal reclamation development are embodied in the original Reclamation Project Act of 1902 and the Reclamation Project Act of 1939, as amended. Therein are set forth the criteria, policies, and procedures of general application which may be collectively designated as existing reclamation law. For the purposes of this review, only certain features of the law will be referred to.

Existing reclamation law provides that the reimbursable construction costs of irrigation reclamation projects shall be repaid within a period of 40 years, without interest, in 40 equal annual installments. In the case of a project for irrigation of new lands, it permits a development period not to exceed 10 years, during which no repayment may be required.

Where a project includes facilities for municipal water supplies, the law provides that the reimbursable cost chargeable thereto shall be repaid in 40 years, with interest if deemed proper by the Secretary of the Interior.

Where a reclamation project includes hydroelectric power features, the law provides for reimbursable cost to be repaid with interest within a period of 40 to 50 years.

Present law permits nonreimbursable allocations of reclamation project costs for flood control, navigation, and fish and wildlife in the case of projects which include features to perform these purposes.
The repayment program recommended by the Secretary in the supplemental report constitutes a material departure from established criteria, policies, and procedures of general application in existing reclamation law. It appears to be similar to that authorized by the Congress specifically for the Colorado project, Colorado (Public Law 445, 82d Cong., approved July 3, 1952). The special repayment provisions in that act are set forth as exceptions to existing reclamation law. It was stated at recent hearings before the House Interior and Insular Affairs Committee that at the time the committee passed upon the Colbran project bill, approval of the repayment formula therein was specifically for that project alone and was not to be considered as establishing a precedent for other reclamation projects.

The proposed repayment program, if adopted, would involve the postponement of the repayment of the costs allocated to irrigation on the storage units and on a major portion of the irrigation costs of the participating projects, for a period of about 50 years. These irrigation costs for which repayment would be deferred would comprise, according to the report, a minimum of about $268 million, plus an unknown amount for the Navajo project.

Studies of the original reports on the participating projects indicate that about 85 percent of the irrigation costs would be repaid without interest by power revenues. Considering the time value of money, the postponement for about 50 years of repayment of a large part of the construction cost of the proposed development would obviously require a subsidy from the Federal Treasury that would have to be paid out of Federal taxes. The interest charges on the funds borrowed by the Federal Government to defray the irrigation costs of the project would never be repaid from project revenues and would have to be paid out of taxes even if the capital investments were eventually repaid.

It is recognized that the provision, under existing law, of interest-free money for irrigation reclamation projects involves a substantial subsidy from the Federal Treasury which must be borne out of taxes, comprising the cost of interest on funds advanced, which in a period of 40 years would aggregate an amount almost equal to the original capital investment even though the principal be fully repaid in equal annual installments during the 40-year period.

It would appear that the Secretary's proposal in the report under review, for repayment would in effect extend the development period, during which no repayment would be made on a major portion of the investment, to about 50 years for both new land and old lands receiving a supplemental water supply. Such a postponement in repayment obviously would greatly multiply the amount of the Federal subsidy involved.

Owing to the lack of detailed information on the revised costs, no exact figure for the amount of the subsidy that would be involved in the proposed repayment program can be given. However, it could be readily calculated if detailed information on costs were available. In any case, the accumulated debt or total subsidy would amount to several times the original investment. Whether this would be in the national interest is for the Executive and the Congress to determine. However, it is believed that a report should be made as to the true cost of the Federal subsidy involved under the proposed repayment program, so that the Executive and the Congress will be fully informed before making a decision with respect thereto.

Under the proposed program and method of financing, it appears that justification of the initially proposed participating irrigation projects and future decisions to build additional participating irrigation projects would depend not so much upon the merits of the individual projects as upon the availability of revenues, 50 or more years in the future, from power projects generally unrelated thereto physically. None of the participating projects recommended for initial construction would be in themselves financially sound according to information in the basic storage project report and the reports of 1950 and 1951 on the individual participating projects.

On the average the water users would be able to pay only about 15 percent of the irrigation investment on the 12 participating projects. The balance of the cost would have to be subsidized—the capital investment by power revenue and the interest charges in even greater amount for an indefinite period by the Federal Treasury through taxes.

To the extent that high power rates could and would be maintained for the next 75 to 100 years or more to subsidize additional participating irrigation projects, authorization of upper basin development as proposed in the report, with such program and procedure would constitute an advance appropriation of funds for the construction of future projects of unknown engineering and financial feasibility.
The Colorado River storage project appears to be basically a hydroelectric power project. The only showing of economic justification in the report is based solely on power revenues. Considered in this light, the financial feasibility of the storage project appears open to question for several reasons. Repayment of the reimbursable construction costs within the periods and at the power rates proposed would depend entirely upon: (1) Allocation of a large portion of the construction cost to irrigation on an interest-free basis; (2) postponement of the starting of repayment of the irrigation allocation for about 50 years; and (3) subsidization of the more costly units with surplus power revenues earned by the less costly units.

No clear and adequate justification is shown in support of the allocation of a large part of the cost of the storage project to irrigation. Justification for the allocation to irrigation of several hundred million dollars (over $98 million for the initial 2 units) depends upon the future authorization of projects for consumptive use of water in the upper basin. Only minor use could be made of the regulatory reservoirs of the storage project directly for water-consuming projects. Future irrigation projects as a rule would require individual storage facilities.

The one reason given for the proposed allocation to irrigation on the storage project is that the storage units would provide holdover capacity so that the upper basin can proceed with the development and use of water without violating the Colorado River compact. Information in the basic report shows that at the present and anticipated future rate of upper basin development, Glen Canyon alone would suffice for this purpose for 40 to 50 years hence. Furthermore, it appears that the additional consumptive use estimated for the participating reclamation projects proposed for initial authorization in the Secretary's report could be made even without Glen Canyon Reservoir.

However, the early construction of Glen Canyon Reservoir would be justified from other considerations and advantages. Based upon the cost analyses in the report, the Glen Canyon Reservoir and power development could be constructed and operated on a sound financial basis and, therefore, merits authorization at this time.

Analyses indicate that the cost of power from most of the other proposed units of the storage project, considered individually and on the basis of either the total cost or the power allocations alone, would be greater than the proposed selling price, and that, in fact, power revenues from the Glen Canyon unit would have to subsidize most, if not all, of the other storage units in addition to subsidizing participating irrigation projects. It appears questionable, therefore, whether certain of the storage units would be justified or needed, from the standpoint of either the holdover storage requirements or the value of the power produced.

The original 1950 report indicates an intent to market the power output of the upper-basin storage and power units in the upper-basin States, with little regard to potential market and needs for electric power in the lower-basin States. This question of power disposal is referred to in the supplemental report as a matter of policy to be determined.

There appears to be some question in the report as to the ability of the power market in the upper-basin States to absorb all of the power output, even of the initial two storage and power units, for a number of years in the future. Glen Canyon power could be readily disposed of in the lower basin, where there is a great need for additional power. It is believed that the question of policy on disposal of power, particularly from Glen Canyon, merits the special consideration of the Executive and the Congress.

CONCLUDING COMMENTS

1. California agencies have established rights in and to the waters of the Colorado River system under the Colorado River compact and related documents. The State of California has the duty of protecting and preserving those rights. Obviously, construction and operation of the proposed Colorado River storage project and participating projects would have substantial effect upon the quantity and quality of the available water supply and the operation of facilities in the lower basin and in California. The State is concerned that such developments shall not impair the established rights of California and its agencies in and to Colorado River water.

2. There are at least 10 major questions of interpretation of the compact which would be involved in and affect the proposed storage project and related reclamation developments. With respect to several of these questions the report under review is based upon what California believes are erroneous inter-
pretations of the compact. All of the questions are at issue in the pending case of Arizona v. California et al., in the United States Supreme Court. California's basic position is that this State is conforming to the Colorado River compact and must insist that the Bureau of Reclamation and the States of the upper basin do so in the planning and administration of the Colorado River storage project and participating projects.

3. Revised analyses should be made and reported upon, based upon proper interpretation of the Colorado River compact, as to the need for holdover storage and as to the probable effects of its construction, filling, and operation upon the quantity and pattern of flow into the lower basin at Lee Ferry and upon the operation of lower-basin facilities.

4. Before development proceeds on any additional large-scale consumptive-use projects in the upper basin, a determination should be made as to the effects of increased upper-basin uses up to full development, upon the quality of the flow at Lee Ferry; and authorization of such additional projects, particularly transmountain diversion projects, in the upper basin should be deferred until satisfactory evidence is presented that such projects, in combination with existing projects and other projects contemplated under full development, would not have harmful effects on the quality of water remaining for use in the lower basin.

5. The plans for construction and operation of the upper-basin storage project and related reclamation projects, insofar as revealed in the original 1950 report and the Secretary's supplemental report under review, give no proper or adequate consideration to the effect of the proposals on the lower-basin developments and evidence little, if any, regard to the interests of the lower basin. Moreover, the engineering studies are vague and uncertain with respect to the effect of proposed upper-basin developments on the lower basin and additional studies are essential with respect thereto. The State of California desires full information as to what the effect of the proposed plan will be on existing and future developments below Lee Ferry and particularly on the quality and quantity of water available for use in California.

6. There are many problems that should and must be carefully studied and solved before authorizing or proceeding with any overall plan of development in the upper basin. In the meantime, some additional development could proceed if found justified for authorization by the Congress. However, it is the position of the State of California that the interests of the lower basin, and of California in particular, must be fully protected with proper safeguards in connection with any legislation for authorizing of additional development in the upper basin to the end that the construction and operation of the proposed projects shall fully conform with the Colorado River compact and related laws and documents.

7. The plan of financial operation of the project recommended by the Secretary departs materially from existing reclamation law and is not in accord with sound standards and policies. The proposed postponement for about 50 years of the repayment of a large part of the cost would result in a substantial increase in the national debt, constituting a subsidy to irrigation on the part of the Nation's taxpayers far beyond the subsidy contemplated under existing law. The magnitude of such subsidy should be clearly stated and explained in the report.

8. None of the participating reclamation projects recommended for initial authorization would be in themselves financially feasible. The water users could repay only small proportions of the reimbursable construction costs. The balance of the cost would have to be subsidized—the capital investment by power revenue and the interest charges in even greater amount for an indefinite period by the Federal Treasury through taxes.

9. No clear and adequate justification is shown in support of the allocation of a large part of the storage-project cost to irrigation on an interest-free basis. Only minor use could be made of the regulatory reservoirs of the storage project directly for water-consuming projects. The report indicates that the proposed allocation to irrigation on the storage project is based upon the need of holdover capacity to permit the upper basin to develop and use the water without violating the compact. However, it appears from the report that the additional consumptive use estimated for the reclamation projects proposed for initial authorization could be made without holdover storage, and that at the anticipated rate of development Glen Canyon Reservoir alone would suffice for this purpose for 40 to 50 years hence. Therefore, the justification for immediate construction of initial units of the storage project would be based upon other considerations and purposes to be served.
10. The early construction of Glen Canyon Reservoir would be justified from the standpoint of other immediate advantages. Based upon the cost analyses in the report, the Glen Canyon Reservoir and power development could be constructed and operated on a sound financial basis and therefore merits authorization at this time.

11. Glen Canyon power could be readily disposed of in the lower basin where there is a great need for additional power. The question of policy regarding its disposal merits the special consideration of the Executive and the Congress.

12. The cost of power for most of the proposed major storage and power units, other than Glen Canyon, would be greater than the proposed selling price for power, and interunit subsidies would be required principally from Glen Canyon power revenues to support the other units. It appears questionable, therefore, whether certain of the storage units would be justified or needed, from the standpoint of either the holdover storage requirements or the value of the power produced.

13. The proposal recommended by the Secretary for the Colorado River storage project and participating projects raises basic questions as to the proper criteria to determine the financial feasibility and economic justification of new reclamation developments, and particularly the criteria, policies, and procedures for repayment, and the amount of Federal subsidy that is justified. These basic questions are a matter of national policy which must and should be decided by the Executive and the Congress.

14. The State of California, in analyzing its own projects and in reviewing proposed Federal reclamation projects in California, has consistently stood for sound financial and economic standards upon which proposed developments should be evaluated and qualified for approval and authorization. It is the view of the State of California that all water-development projects, including the proposed projects under review herein, should qualify under sound criteria of feasibility and repayment as a matter of national policy in the best public interest.

Submitted by:

A. D. EDMONSTON,
State Engineer.

Approval recommended.

RAYMOND MATTHEW,
Chief Engineer, Colorado River Board of California.

Approved.

FRED W. SIMPSON,
Chairman, Colorado River Board of California.

SACRAMENTO, CALIF., February 15, 1954.

EXHIBIT C

(Accompanying testimony of Northcutt Ely)

Resolutions opposing S. 1555 and H. R. 4449, the Colorado River storage project bills in the 83d Congress, have been adopted by the following:

Colorado River Board of California
Imperial Irrigation District
Metropolitan Water District of Southern California
Los Angeles City Council
Central Labor Council of Los Angeles
Department of Water and Power of the City of Los Angeles
San Diego County Water Authority
San Diego City Council
Imperial County Board of Supervisors
Imperial County Farm Bureau
Holtville, Calif., Chamber of Commerce
Calexico, Calif., Chamber of Commerce
Calexico City Council
Coachella Valley County Water District
Rainbow Municipal Water District, San Diego County, Calif.
California State Chamber of Commerce, southern California council
Brawley, Calif., Chamber of Commerce
Brawley City Council
Calipatria, Calif., Chamber of Commerce
COLORADO RIVER STORAGE PROJECT

Westmorland, Calif., City Council
Council of the City of Burbank
Board of Supervisors of Orange County
Board of Directors of the City of Pasadena.

RESOLUTION OF COLORADO RIVER BOARD OF CALIFORNIA OPPOSING PENDING LEGISLATION AUTHORIZING COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS

The Colorado River Board of California opposes the enactment of S. 1555 and H. R. 4449, 83d Congress, bills to authorize the Secretary of the Interior to construct, operate, and maintain initial units of the Colorado River storage project and participating projects, and for other purposes.

California favors the continuation of the development of the water resources of the Colorado River Basin on a sound economic basis, so that for such development occurs. This State recognizes the right of the upper basin States to so utilize the waters apportioned to that basin by the Colorado River Compact as approved by the Boulder Canyon Project Act, but subject to the terms and conditions of those documents as the Supreme Court may construe them in the case of Arizona v. California now pending.

By the same token, California, in the protection of its investment of nearly $700 million in water-development projects which it has made in reliance upon the Colorado River Compact and the Boulder Canyon Project Act, and the economy and population of more than 4 million people dependent upon these works, must resist legislation which would encroach upon the rights recognized in the lower basin States by those documents.

The proposed Colorado River storage project legislation adversely affects the lower basin States in much the same way as would the proposed central Arizona project legislation. Both are based upon interpretations of the Colorado River Compact and the Boulder Canyon Project Act with which California cannot agree and which are now at issue in the United States Supreme Court. Each of them contemplates developments which would encroach upon the compact and project act, as interpreted at the time of enactment of those laws, to the extent of more than a million acre-feet per year. Both proposals are based upon unrealistic water supply estimates. Each is in conflict with the presentation made to the Senate by the supporters of the Mexican Water Treaty. Each ignores the legal claims which are in conflict with it, and both ignore the damage which their construction would cause to the investments already made by their neighbors. Each of these proposals is dependent upon Federal subsidies for irrigation amounting to many times the value of the land when fully developed, and most of these subsidies are concealed. Both would commit the Congress to new feasibility standards and payout formulas with which this board and other California State agencies have officially expressed disapproval.

The Colorado River storage project would intercept the lower basin's water supply with giant reservoirs at Glen Canyon, Echo Park, and Curecanti, capable of storing several years' flow of the river. In the absence of statutory controls of the operation of such reservoirs designed to protect the output of firm power at Hoover Dam, upon which the United States and the power contractors relied, the use of such large storage could result in seriously curtailing the revenues at Hoover Dam and other dams on the lower river and upon which these lower projects depend for financing. It is against the best interest of both the power users in the lower basin and the Federal Treasury to so legislate.

Both Glen Canyon and Echo Park Reservoirs would be located downstream from any point of use by the proposed irrigation projects in the upper basin, and their major purpose would be to provide revenues, commencing almost 50 years hence, to pay the capital cost without interest of the irrigation projects proposed for construction now. This postponement for nearly 50 years of the commencement of repayment of irrigation would result in a Federal subsidy amounting to over $2,500 per acre of irrigated land—an unwarranted and unjustified burden on the Nation's taxpayers.

California, as a major taxpaying State, is doubly affected, for the amount of the overdraft on the water supply of the Colorado River Basin is directly related to the amount of Federal subsidy to the irrigation projects creating the overdraft. The bills delegate to the Secretary of the Interior power to resolve the feasibility of the participating irrigation projects. If reclamation feasibility standards are to be changed, that should be done by Congress, in general legislation.
after the Hoover Commission has had an opportunity to report upon this very
matter, heretofore committed to their study.

The proposed legislation includes some, and foreshadows other, large trans-
mountain diversion projects in the upper basin using several million acre-feet of
water annually, thereby impairing the quality as well as the quantity of the water
available to the lower basin, and to which the lower basin is entitled under the
Colorado River compact.

For all these reasons, the Colorado River Board of California respectfully
requests the Representatives of this State in the Senate and House of Repre-
sentatives of the United States to oppose the enactment of legislation to authorize
construction of the Colorado River storage project and participating projects as
proposed in these bills, S. 1555 and H. R. 4449, or similar legislation, and instructs
its officers and staff to make the appropriate presentation of the views of this
board to the congressional committees and executive agencies concerned with
such legislation.

STATE OF CALIFORNIA,

County of Los Angeles, ss:

I, Harold F. Pellegrin, executive secretary of the Colorado River Board, do
hereby certify that the foregoing is a true copy of a resolution unanimously
adopted by said board at a regular meeting thereof, duly convened and held at
its office in Los Angeles on the 2d day of June 1954, at which a quorum of said
board was present and acting throughout.

Dated this 2d day of June 1954.

HAROLD F. PELLEGRIN,
Executive Secretary.

RESOLUTION OF IMPERIAL IRRIGATION DISTRICT, APPROVING TWO RESOLUTIONS OF
COLORADO RIVER BOARD OF CALIFORNIA, AND EXPRESSING CONFIDENCE IN SAID
BOARD AND ITS REPRESENTATIVES AND ADVISERS

RESOLUTION NO. 137-54

Whereas there has been called to the attention of the directors of Imperial
Irrigation District, an irrigation district organized and existing under the laws
of California, and serving in excess of one-half million acres of land in Imperial
County, Calif., two certain resolutions of Colorado River Board of California,
passed and adopted on June 2, 1954, which resolutions oppose S. 964 and
H. R. 236, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas Imperial Irrigation District is a member agency and represented
upon said Colorado River Board, and said Colorado River Board is an agency
created by the legislature of the State of California to protect the interests
of the State of California in and to the use and uses of waters of the Colorado
River system; and

Whereas said two resolutions opposing Senate bills 964 and 1555 and House
of Representative bills 236 and 4449, 83d Congress, which bills would authorize
that certain project in California designated as the Frying Pan-Arkansas project,
and would authorize a Colorado River storage project and participating project,
all as more particularly outlined in said bills; and

Whereas the State of California and the Colorado River Board, representing
the water users in California of the waters of the Colorado River system, have
a vital interest in the waters of the Colorado River system; and

Whereas it is the honest belief of the board of directors of Imperial Irriga-
tion District that said two resolutions of June 2, 1954, of the Colorado River
Board opposing said pending legislation for the reasons and to the extent in
said resolutions indicated are not only justified but are essential to the pro-
tection of the interests of the State of California and California's use of the
waters of the Colorado River system; and

Whereas the board of directors is fully familiar with the organization and
activities of said Colorado River Board, and has full confidence in this district's
representation upon said Colorado River Board and in the advisers and repre-
sentatives of this district, cooperating with and advising said Colorado River
Board; and

Now, therefore, on motion of Director Watton and seconded by Director
McFarland, be it hereby resolved as follows:
1. That this board of directors does hereby go on record as expressing its confidence in the sincerity and purpose and activities of said Colorado River Board of California.

2. That this board expressed its confidence in the sincerity and purpose and activities of its representatives and advisers on and to said Colorado River Board of California.

3. That this board expresses its approval of said two resolutions which are hereto attached as passed by said Colorado River Board, and does hereby authorize and direct the secretary of this board to give full distribution to this resolution, including the mailing of copies of said resolutions to all Members of Congress in the State of California.

Passed and adopted June 8, 1954, by unanimous vote of this body.

IMPERIAL IRRIGATION DISTRICT,
By EVAN T. HEWES, President.
By MAHLON I. MATHIS, Secretary.

IMPERIAL IRRIGATION DISTRICT,
Office of the Secretary, ss:

This is to certify that the foregoing is a full, true, and correct copy of resolution No. 137–54 passed by the board of directors of Imperial Irrigation District at its regular session on the 8th day of June 1954.

In witness whereof, I have hereunto set my hand and affixed my seal of said district this 8th day of June 1954.

MAHLON I. MATHIS, Secretary.

BOARD OF DIRECTORS, THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

RESOLUTION 443

Whereas the Metropolitan Water District of Southern California is one of the principal contractors, under the Boulder Canyon Project Act, for the storage and delivery of water from Lake Mead and for the delivery of electrical energy from the Hoover powerplant, and has a vital interest in the water available to the lower basin of the Colorado River under the Colorado River Compact, both as to quality and quantity, and also has a vital interest in the continued production of electrical energy from the Hoover powerplant in accord with estimates upon which the United States and California agencies relied in financing the project; and

Whereas there are pending in the Congress of the United States certain bills, to wit, S. 1555, H. R. 4449, S. 964, and H. R. 226, which, if enacted, would authorize large storage reservoirs and irrigation works in the upper basin of the Colorado River; and

Whereas the estimates of water available for the projects so sought to be authorized are based on erroneous interpretations of the Colorado River compact—these erroneous interpretations are adverse to the interests of millions of people in southern California whose lives and economies have been established upon the assurance that they would retain their share of Colorado River water; these erroneous interpretations are now under attack in the Supreme Court of the United States; and

Whereas said bills do not contain adequate provisions safeguarding the quality of water in the lower basin and do not contain adequate controls of the operation of the vast storage reservoirs proposed needed to protect the energy output from the Hoover power project; and

Whereas the Colorado River Board of California has adopted resolutions opposing the said bills and stating the reasons for its opposition: Now, therefore, be it

Resolved, That the enactment of said bills is against the interests of the Metropolitan Water District and other California agencies, and should be opposed; be it further

Resolved, That the Metropolitan Water District respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of the said bills or similar legislation, and further requests the municipalities and other agencies constituting the area of the Metropolitan Water District to join in requesting and urging such opposition.
COLORADO RIVER STORAGE PROJECT

I hereby certify, that the foregoing is a full, true, and correct copy of a resolution adopted by the board of directors of the Metropolitan Water District of Southern California, at its meeting held June 9, 1954.

A. L. Gram,
Executive Secretary,
The Metropolitan Water District of Southern California.

CITY OF LOS ANGELES
RESOLUTION

Whereas the city of Los Angeles and the more than 2 million persons who now reside here are dependent upon the Colorado River for vitally important quantities of water and power for civic needs, as well as for residential and industrial uses; and

Whereas the share of Colorado River water and power for which this city has contracted and which it must continue to have to sustain its economy is threatened under the provisions of bills S. 1555 and H. R. 4449 now pending in Congress, which bills would authorize the initial units of the Colorado River storage project and participating projects: Now, therefore, be it

Resolved, That the Los Angeles City Council, acting for the welfare of the city and its residents, expresses its strong opposition to bills S. 1555 and H. R. 4449 and urges the Senators and Representatives in Congress from the State of California to oppose the enactment of that legislation; be it further

Resolved, That a copy of this resolution be sent to Vice President Richard M. Nixon, Senators William F. Knowland, and Thomas H. Kuchel, all Members of Congress from the State of California, and all members of the Rules Committee of the House of Representatives.

Harold A. Henry,
Charles Navarro.

June 23, 1954.

RESOLUTION

Whereas the Central Labor Council has consistently opposed legislation injurious to the welfare of the citizens of this city and the Nation; and

Whereas the Colorado River storage project bill (H. R. 4449), now pending before the Congress, would inflict on all American taxpayers an unjustifiable new burden; and

Whereas the economy of this city, the State of California, and the Nation would be seriously impaired by this costly and unnecessary project: Now, therefore, be it

Resolved, That the Central Labor Council vigorously oppose passage of H. R. 4449 by the Congress.

Adopted in regular session of the Los Angeles Central Labor Council, June 21, 1954.

[Seal]

W. J. Bassett, Secretary.

RESOLUTION No. 1003

Whereas the Department of Water and Power of the City of Los Angeles has the obligation to provide for the water and power needs of the present population of this city, now numbering more than 2 million persons, and for the additional population that will have to be served as the city continues to grow; and

Whereas the Colorado River is depended upon as the sole source of water supply available now to meet that daily increasing need, all other sources of supply available to Los Angeles already being used to their limits; and

Whereas the Colorado River, through the Hoover Dam powerplant, is the largest single source of power supply for the city of Los Angeles and, in addition, generates hydroelectric power for other cities and utilities of this State, including the Metropolitan Water District, as well as for the States of Arizona and Nevada; and

Whereas the long-planned use by California of its fair share of the natural resources of the Colorado River is jeopardized by bills S. 1555 and H. R. 4449
now pending in Congress, which bills would "authorize the Secretary of the
interior to construct, operate, and maintain initial units of the Colorado River
storage project and participating projects, and for other purposes"; and

Whereas premature and hasty action on those bills, while the Hoover Com-
mission is still conducting its comprehensive studies on a national water re-
sources policy program, would make drastic and piecemeal changes in reclama-
tion law and would deprive the Congress of the benefit of a "yardstick" to
measure the true economic costs and values of the proposed projects; and

Whereas California is vitally concerned with the proper management of the
Colorado River so that all of the States entitled to share in its resources, under
the terms of the "law of the river," may do so with greatest possible benefits to
the respective States and to the United States: Now, therefore, be it

Resolved, That bills S. 1555 and H. R. 4449 in their present form be opposed
because further engineering, legal, and economic studies, including the findings
of the Hoover Commission, are essential for the guidance of all interests, local
and national, that have the responsibility of making sound decisions respecting
the future development of the resources of the Colorado River.

I hereby certify that the foregoing is a full, true, and correct copy of a reso-
lution adopted by the Board of Water and Power Commissioners of the City
of Los Angeles at its meeting held June 15, 1954.

JOSEPH L. WILLIAMS, Secretary.

A Resolution of Members of the Board of Directors of the San Diego County
Water Authority Opposing Colorado River Storage Project and Fryingpan-
Arkansas Project, and Endorsing Action of Colorado River Board of Cali-
ifornia in Respect Thereto

Resolution No. 315

The San Diego County Water Authority is the distributor of Colorado River
water to the city and county of San Diego, Calif. Its citizens and taxpayers
have obligated themselves for the payment of many millions of dollars the full
cost of the works constructed for that purpose. The economy of the area and
the water supply of its inhabitants depend upon the continued availability of
water from the Colorado River in the quantity and of the quality to which Cali-
fornia is entitled under the Colorado River compact and the Boulder Canyon
Project Act.

The citizens of San Diego County, and, in fact, all of California, pay a very
large proportion of taxes collected by the Federal Government, and consequently
have a serious concern that Federal funds be not expended on projects of ques-
tionable economic feasibility or which must be financed by heavily subsidized
formulas— with the result that California taxpayers are financing both their
own projects and those for other areas that may result in diminishing the quan-
tity and quality of the water upon which large sections of the State must depend.

The Colorado River Board of California opposes the enactment of the acts
authorizing the Colorado River storage project (S. 1555 and H. R. 4449, 83d Cong.)
and the Fryingpan-Arkansas project (S. 964 and H. R. 236, 83d Cong.) for the
reasons that the projects would adversely affect the quantity and quality of the
water to which this State is entitled, and could not be constructed without
unwarranted Federal subsidies and financed upon a formula lacking economic
feasibility.

The San Diego County Water Authority endorses and approves the position
taken by the Colorado River Board, and joins in respectfully urging the represen-
tatives of this State in the Senate and House of Representatives to stand
united in opposition to the enactment of legislation authorizing these projects—
and to exert every effort to protect the people of this State from improper inva-
sion of their water rights and unfair tax burdens to finance unsound projects.

STATE OF CALIFORNIA,
County of San Diego, ss:

I, Dorothy D. Miller, executive secretary of the San Diego County Water Au-
thority, hereby certify that the foregoing is a true copy of a resolution approved
by a majority of the members of the board of directors of said San Diego County
Water Authority this 9th day of June 1954.

Executive Secretary of the Board of Directors, San Diego County Water Authority.
Whereas the city of San Diego is a member of the San Diego County Water Authority and as such is a distributor of water to the city of San Diego, Calif. Its citizens and taxpayers have obligated themselves for the payment of many millions of dollars as the full cost of the works constructed for that purpose. The economy of the area and the water supply of its inhabitants depend upon the continued availability of water from the Colorado River in the quantity and of the quality to which California is entitled under the Colorado River compact and the Boulder Canyon Project Act.

Whereas the citizens of San Diego and, in fact, all of California, pay a very large proportion of taxes collected by the Federal Government, and consequently have a serious concern that Federal funds be not expended on projects of questionable economic feasibility or which must be financed by heavily subsidized formulas—with the result that California taxpayers are financing both their own projects and those for other areas that may result in diminishing the quantity and quality of the water upon which large sections of the State must depend.

Whereas the Colorado River Board of California opposes the enactment of the acts authorizing the Colorado River storage project (S. 1555 and H. R. 4449, 83d Cong.) and the Fryingpan-Arkansas project (S. 964 and H. R. 236, 83d Cong.) for the reasons that the projects would adversely affect the quantity and quality of the water to which this State is entitled, and could not be constructed without unwarranted Federal subsidies and financed upon a formula lacking economic feasibility: Now, therefore, be it

Resolved by the Council of the City of San Diego, as follows:

That the city of San Diego endorses and approves the position taken by the Colorado River Board, and joins in respectfully urging the representatives of this State in the Senate and House of Representatives to stand united in opposition to the enactment of legislation authorizing these projects—and to exert every effort to protect the people of this State from improper invasion of their water rights and unfair tax burdens to finance unsound projects.

Adopted June 10, 1954.

Presented ———.

Approved as to form by ———.

RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE TO COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the Board of Supervisors of the County of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555, and House of Representatives bills 236 and 4449, 83d Congress, which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to protect the interests of the State of California in and to the waters of the Colorado River system; and

Whereas as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said board opposes said pending legislation for the reasons and to the extent as in said resolution indicated, and this body feels that said Colorado River Board is justified in its position: Now, therefore, on motion of Supervisor Snyder, seconded by Supervisor Cavanah, there is hereby

Resolved as follows, on the affirmative rollcall vote of Supervisors Cavanah, Roley, Fifield, and Snyder, Supervisor Osborne being absent, 1. That we do
hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board, and authorize the county clerk to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 21st day of June 1954, by the unanimous action of this body.

BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA,
By THOMAS J. BOLEY, Chairman.
By HARRY M. FREE, County Clerk.

The foregoing is a correct copy of a resolution adopted by the board of supervisors, Imperial County, Calif., on June 21, 1954.

Dated June 22, 1954.

HARRY M. FREE,
Clerk of Said Board of Supervisors.
By E. W. DEMONEY, Deputy.

RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the Imperial County Farm Bureau, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 226, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555 and House of Representatives bills 226 and 4449, 83d Congress, which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River board was authorized and created and provided for by the Legislature of the State of California as an agency to protect the interests of the State of California in and to the waters of the Colorado River system; and

Whereas as evidenced by the said two resolutions of June 2, 1954, of the Colorado River board, said board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River board is justified in its position: Now, therefore,

On motion of Baxter Lowland, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.
2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River board, and authorize the secretary to mail copies of said resolution to all California Members of Congress.

Passed and adopted June 1954, by the unanimous action of this body.

IMPERIAL COUNTY FARM BUREAU,
By D. M. MIDDLETON, President.
By Vera PARKER, Acting Secretary.

RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the chamber of commerce of the city of Holtville, county of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River
Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555 and House of Representatives bills 236 and 4449, 83d Congress, which bills would authorize that a certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to protect the interests of the State of California in and to the waters of the Colorado River system; and

Whereas, as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River Board is justified in its position: Now, therefore,

On motion of Arthur Locke, seconded by C. L. Martin, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board, and authorize the secretary of this body to mail copies of said resolution to all California Members of Congress. Passed and adopted this 21st day of June 1954, by the unanimous action of this body.

Chamber of Commerce of the City of Holtville, County of Imperial, State of California, Paule J. Nick, Secretary.

I, Paule J. Nick, secretary of the Holtville Chamber of Commerce, do hereby certify that the foregoing resolution was unanimously passed and adopted by the board of directors of the Holtville Chamber of Commerce, at a regular meeting thereof, held the 21st day of June 1954, at which a quorum of said board was present and acting throughout.

Dated June 21, 1954.

Paule J. Nick, Secretary.

Resolution Approving the Colorado River Board of California and Its Position Opposing Pending Legislation Authorizing the Fryingpan-Arkansas Project in Colorado and Its Resolution Opposing Pending Legislation Relative to Colorado River Storage Projects

Whereas two resolutions have been called to the attention of the chamber of commerce of the city of Calexico, county of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555, and House of Representatives bills 236 and 4449, 83d Congress, which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to protect the interests of the State of California in and to the waters of the Colorado River system; and

Whereas, as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said board opposes said pending legislation for the
reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River Board is justified in its position: Now, therefore, On motion of Earl Cavanah, seconded by Dexter Wright, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board, and authorize the secretary of this body to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 17th day of June 1954, by the unanimous action of this body.

CHAMBER OF COMMERCE OF THE CITY OF CALExico, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, [seal]
By Hugh E. Jamison, President.
By Dan Klein, Secretary.

RESOLUTION NO. 1251, CITY OF CALExico, CALIF.

RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the city council of the city of Calexico, county of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1535 and H. R. 4449, 83d Congress, and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River System, and

Whereas said two resolutions oppose Senate bills 964 and 1535 and House of Representatives bills 236 and 4449, 83d Congress, which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills, and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River board was authorized and created and provided for by the Legislature of the State of California as an agency to protest the interests of the State of California in and to the waters of the Colorado River system, and

Whereas as evidenced by the said two resolutions of June 2, 1954, of the Colorado River board, said board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River board is justified in its position;

Now, therefore, on motion of Carrillo, seconded by Barnes, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River board, and authorize the city clerk to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 15th day of June 1954, by the unanimous action of this body.

CITY COUNCIL OF THE CITY OF CALIFORNIA, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, By Wm. J. Osborn, Mayor.
By Richard S. Emerson, City Clerk.
STATE OF CALIFORNIA,
County of Imperial, ss:

I, Richard S. Emerson, city clerk of the city of Calexico do hereby certify that the above and foregoing Resolution No. 1251 was duly passed and adopted by the city council of the city of Calexico in regular session on the 15th day of June 1954 by the following vote to wit:

Ayes: Osborn, Reed, Barnes, Carillo.
Noes: None.
Absent: Jackson.

[SEAL]

RICHARD S. EMERSON,
City Clerk, City of Calexico.

RESOLUTION NO. 54-29 OF THE BOARD OF DIRECTORS OF COACHELLA VALLEY COUNTY WATER DISTRICT

Be it resolved by the board of directors of the Coachella Valley County Water District, as a public agency of the State of California and a user of Colorado River water, in regular meeting assembled this 8th day of June 1954, That those two certain resolutions adopted by the Colorado River Board of the State of California on the 2d day of June 1954, entitled “Resolution of Colorado River Board of California Opposing Pending Legislation Authorizing Colorado River Storage Project and Participating Projects” and “Resolution of Colorado River Board of California Opposing Pending Legislation Authorizing Fryingpan-Arkansas Project in Colorado” be and the same are hereby approved and concurred in by this district with the same force and effect as if set out verbatim herein: Be it further

Resolved, That the secretary of this district be and she is hereby instructed to immediately forward to each Member of the United States Congress representing the State of California a certified copy of this resolution, together with a copy of each of the two resolutions of the Colorado River Board of the State of California, as hereinabove mentioned, attached hereto.

STATE OF CALIFORNIA,
County of Riverside, ss:

I, Barbara K. Schmid, secretary of the Coachella Valley County Water District, hereby certify that the foregoing is a true copy of a resolution unanimously adopted by the board of directors of said district at a regular meeting of said board of directors held on the 8th day of June 1954.

Dated this 10th day of June 1954.

[SEAL]

BARBARA K. SCHMID,
Secretary, Coachella Valley County Water District.

RESOLUTION OF THE RAINBOW MUNICIPAL WATER DISTRICT OPPOSING THE COLORADO RIVER STORAGE PROJECT AND FRYINGPAN-ARKANSAS PROJECT, AND ENDORSING THE ACTION OF THE COLORADO RIVER BOARD OF CALIFORNIA IN RESPECT THERETO

RESOLUTION NO. 8

Whereas the Rainbow Municipal Water District is a distributor of Colorado River water to the residents, citizens, and taxpayers located within the corporate area of the Rainbow Municipal Water District, and its citizens and taxpayers have obligated themselves for the payment of large sums of money used and to be used to defray the cost of works constructed for that purpose; and

Whereas the economy of its area and the water supply of its inhabitants depend upon the continued availability of water from the Colorado River in a quantity and of a quality to which California is entitled under the Colorado River compact and the Boulder Canyon Project Act; and

Whereas the citizens of the Rainbow Municipal Water District pay taxes collected by the Federal Government, and consequently have a serious concern that Federal funds be not expended on projects of questionable economic feasibility or which must be financed by heavily subsidized formulas with the result that its taxpayers are financing both their own projects and those of other areas, that may result in diminishing the quantity and quality of the water upon which this district and large sections of the county of San Diego and the State of
Whereas the Colorado River Board of California opposes the enactment of the acts authorizing the Colorado River storage project (S. 1555 and H. R. 4440, 83d Cong.) and the Fryingpan-Arkansas project (S. 964 and H. R. 236, 83d Cong.) for the reasons that the projects would adversely affect the quantity and quality of the water to which the State of California is entitled, and could not be constructed without unwarranted Federal subsidies and financed upon a formula lacking economic feasibility: Now, therefore, it is

Resolved, That the Rainbow Municipal Water District endorses and approves the position taken by the Colorado River Board of California, and joins in respectfully urging the representatives of this State in the Senate and House of Representatives to stand united in opposition to the enactment of legislation authorizing these projects, and to exert every effort to protect the people of this district, of the county of San Diego and of the State of California from improper invasion of their water rights and unfair tax burdens to finance unsound projects.

STATE OF CALIFORNIA,

County of San Diego, Rainbow Municipal Water District, ss:

I, Ben G. Martin, secretary of the Rainbow Municipal Water District, hereby certify that the foregoing is a true and correct copy of a resolution duly and regularly passed by unanimous vote of all of the directors of said district at a meeting held on the 11th day of June 1954.

BEN G. MARTIN,
Secretary of the Board of Directors and of the Rainbow Municipal Water District.

CALIFORNIA STATE CHAMBER OF COMMERCE,
Los Angeles, Calif., June 1954.

RECOMMENDATIONS OF THE SOUTHERN CALIFORNIA COUNCIL SEMIANNUAL MEETING AT LOS ANGELES, MAY 26, 1954

Twenty subjects of current concern to business were considered by seven committees of the Southern California Council meeting at the Statler Hotel, Los Angeles, on May 26, 1954. Following are recommendations of the council adopted at the general luncheon session, which are referred to the appropriate statewide committees and to the board of directors for approval and final implementation by the State chamber organization.

Background data respecting any of these recommendations or other items on the program sent to council members may be obtained by contacting the southern California regional office.

The agricultural committee, Donald A. Stevning, chairman, considered problems in the marketing of agricultural products and discussion of possible entry into the United States from northern Mexico of the Mexican fruitfly resulted in the following recommendation:

That the appropriate committees of Congress be fully advised of this situation with the request that funds be made available to carry on the work of the United States Department of Agriculture in attempting to prevent entry of this pest into California; and, further, that the United States Government urge the Government of Mexico to instigate adequate control measures against this pest in Mexico.

The natural resources committee, Frederick W. Simpson, chairman, heard comment on offshore oil development and the current thinking on best use of State tidelands funds. Regarding the threat to southern California's Colorado River water supply contained in two legislative bills now before Congress calling for almost complete development of the upper Colorado River Basin in Wyoming, Utah, and Colorado, and the proposed creation of a new State water department, the committee made the following recommendations:

That the State chamber of commerce support the position of the Colorado River Board of California and oppose the present upper Colorado River Basin projects as provided in H. R. 4449 and S. 1555 and the so-called Arkansas-Fryingpan project in H. R. 236 and S. 964.

That the State chamber of commerce support legislation in the next session of the legislature to create a new and independent State water department.

The highway committee, Frank G. Forward, chairman, was informed of State freeway location policies and studied assembly constitutional amendment 82, which proposes use of highway-tax funds for parking facilities, and problems
in connection with proposed bus turnouts on freeways, resulting in the following recommendations:

That the Southern California Council recommends that the California State Chamber of Commerce oppose assembly constitutional amendment No. 32, which will appear as a ballot proposition at the November 1954 general election.

That the Southern California Council recommends that the California State Chamber of Commerce set up a special study committee within the statewide highway committee for the purpose of studying all aspects of the proposal that bus turnouts be provided upon metropolitan freeways.

The tax committee, Clarence A. Rogers, vice chairman, regarded the State budget for 1954–55, separation of taxation from liquor administration (S. C. A. 4), and State finance of public-school construction (S. C. A. 3), adopting the following recommendations:

That the Southern Council approve senate constitutional amendment No. 4, which would establish a department of alcoholic-beverage control and an appeal board.

That the Southern Council approve the senate constitutional amendment No. 3 which will authorize the issuance of $100 million by the State for grants and loans to school districts for school construction.

The travel and recreation committee, H. H. (Bob) Roberts, chairman, received reports on the 1953–54 southern California winter-sports season, some proposals for development of beaches and parks with State tidelands funds, southern California's current roadside-cleanup and roadside-rests programs, and developed the following recommendations:

That the Southern California Council urge the State chamber to continue to give top priority to the roadside cleanup campaign.

That the Southern California Council urge the State chamber to take steps to get house action on bills now before the House Committee on Agriculture to provide funds for sanitation and improved recreation facilities in national forests.

The industrial and industrial insurance committees (in joint session), Edward Mills, chairman of latter group, presiding, reviewed pension plans and collective bargaining, legislative studies on unemployment insurance, and the future of workmen's compensation insurance, and discussed trends in Federal and State labor-management legislation. No recommendations were made.

An industrial survey workshop, George N. Hawley presiding, was held to provide chamber of commerce managers and local industrial development interests with practical aids and answers on the best procedures and methods to employ in compiling community industrial surveys.

**ATTENDANCE AT SOUTHERN CALIFORNIA COUNCIL MEETING, STATLER HOTEL, LOS ANGELES, MAY 26, 1954**

**IMPERIAL COUNTY**

Bill Duflock
Leonard McClintock

**INYO COUNTY**

Bertha Horine

**ORANGE COUNTY—CON.**

H. F. Kenny
Allen S. Koch
Stephen F. Michalec
H. G. Osborne
Walter Schmid
Ross A. Shafer
Donald S. Smiley
Willard Smith
H. Sprenger
Harry Welch
C. L. Young

**RIVERSIDE COUNTY—CON.**

G. R. Gough
A. C. Keith
Donald Stevning
Tyler Suess
Walter E. Vaughn, Jr.
R. H. Westbrook
A. Chesnaye Woodill

**SAN BERNARDINO COUNTY**

Donald DeMent
John H. Fairweather
J. Clay Garrison
Max H. Green
William F. Hauser
Horace P. Hinckley
C. V. Kane
George McCarthy
Frank H. Mogle
Frank E. Mosher
Mrs. Pearl Pettis
J. J. Prendergast
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<td>LeRoy E. Lyon, Sr.</td>
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**COLORADO RIVER STORAGE PROJECT**

**ATTENDANCE AT SOUTHERN CALIFORNIA COUNCIL MEETING, STATLER HOTEL, LOS ANGELES, MAY 26, 1954—Continued**
RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE TO COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the Chamber of Commerce of the City of Brawley, County of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555 and House of Representatives bills 236 and 4449, 83d Congress, which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to protect the interests of the State of California in and to the waters of the Colorado River system; and

Whereas as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River Board is justified in its position: Now, therefore,

On motion of William Dillard, seconded by Gene Bryant, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board, and authorize the secretary of this body to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 10th day of June 1954 by the unanimous action of this body.

CHAMBER OF COMMERCE OF THE CITY OF BRAWLEY, COUNTY OF IMPERIAL, STATE OF CALIFORNIA,
By D. E. WEBB, President,
By D. WAYNE ROBERTSON, Secretary.

RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the City Council of the city of Brawley, county of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 4449, 83d Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555 and House of Representatives bills 236 and 4449, 83d Congress, which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to
protect the interests of the State of California in and to the waters of the Colorado River system: and

Whereas as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said Board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River Board is justified in its position: Now, therefore,

On motion of W. L. Powell, seconded by Joe Rodriguez, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board, and authorize the city clerk to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 21st day of June 1954, by the unanimous action of this body.

CITY COUNCIL OF THE CITY OF BRAWLEY, COUNTY OF IMPERIAL, STATE OF CALIFORNIA,

By PAT WILLIAMS, Mayor.
By CHARLES A. WARREN, City Clerk.

RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-KANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE TO COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the chamber of commerce of the city of Calipatria, county of Imperial, State of California, copies of which are hereto attached and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 449, 83d Congress; and

Whereas this body is familiar with the organization, functions and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555 and House of Representatives bills 236 and 449, 83d Congress, which bills would authorize that certain project in Colorado designated at the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to protest the interests of the State of California in and to the waters of the Colorado River System; and

Whereas as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River Board is justified in its position.

Now, therefore, on motion of William H. Sorenson, seconded by Harry Momita, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board, and authorize the secretary of this body to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 16th day of June 1954, by the unanimous action of this body.

CHAMBER OF COMMERCE OF THE CITY OF CALIPATRIA,
COUNTY OF IMPERIAL, STATE OF CALIFORNIA,

By GORDON B. BARRINGTON, President.
By R. M. CHAPMAN, Secretary.
RESOLUTION APPROVING THE COLORADO RIVER BOARD OF CALIFORNIA AND ITS POSITION OPPOSING PENDING LEGISLATION AUTHORIZING THE FRYINGPAN-ARKANSAS PROJECT IN COLORADO AND ITS RESOLUTION OPPOSING PENDING LEGISLATION RELATIVE COLORADO RIVER STORAGE PROJECTS

Whereas two resolutions have been called to the attention of the City Council of the City of Westmorland, County of Imperial, State of California, copies of which are hereto attached, and which have been passed by the Colorado River Board of California on June 2, 1954, opposing S. 964 and H. R. 236, and S. 1555 and H. R. 4449, 83rd Congress; and

Whereas this body is familiar with the organization, functions, and activities of the Colorado River Board of California and its representation of California in connection with matters relating to the Colorado River system; and

Whereas said two resolutions oppose Senate bills 964 and 1555 and House of Representatives bills 236 and 4449, 83rd Congress; which bills would authorize that certain project in Colorado designated as the Fryingpan-Arkansas project and would authorize a Colorado River storage project and participating projects, more particularly set forth in said bills; and

Whereas the State of California has a vital interest in the waters of the Colorado River system and said Colorado River Board was authorized and created and provided for by the Legislature of the State of California as an agency to protect the interests of the State of California in and to the waters of the Colorado River system; and

Whereas, as evidenced by the said two resolutions of June 2, 1954, of the Colorado River Board, said board opposes said pending legislation for the reasons and to the extent as in said resolutions indicated, and this body feels that said Colorado River Board is justified in its position: Now, therefore, on motion of Councilman Stuart, seconded by Councilman Martin, there is hereby resolved as follows:

1. That we do hereby express our confidence in the Colorado River Board of California as representing the interests of California as to the Colorado River system and the waters thereof.

2. We do hereby expressly approve said two resolutions which are hereto attached as the action of said Colorado River Board and authorize the city clerk to mail copies of said resolution to all California Members of Congress.

Passed and adopted this 14th day of June 1954 by the unanimous action of this body.

CITY COUNCIL OF THE CITY OF WESTMORLAND,
COUNTY OF IMPERIAL, STATE OF CALIFORNIA.

By Beula A. Russell, Mayor.
By Elizabeth Huffiner, City Clerk.

RESOLUTION NO. 9780, OPPOSING SENATE BILL 1555; HOUSE BILL 4449; S. 964 AND H. R. 236 OR SIMILAR LEGISLATION PENDING IN THE CONGRESS OF THE UNITED STATES

Whereas the city of Burbank is vitally dependent upon a water supply obtained from the Colorado River; and

Whereas the Colorado River storage project as proposed in S. 1555 and H. R. 4449 and the Fryingpan-Arkansas project as proposed in S. 964 and H. R. 236, now pending in the Congress of the United States of America, would jeopardize the water rights and the water supply of the city of Burbank, Calif.; and

Whereas the aforementioned projects would inflict on the taxpayers of the city of Burbank and on the entire Nation an unjustifiable burden: Therefore be it

Resolved, That the enactment of these project bills is against the interest of the city of Burbank and should be opposed; and be it further

Resolved, That the city council of the city of Burbank, Calif., respectfully request the representatives of the State of California in the Congress of the United States to oppose the enactment of the above-mentioned bills or any similar legislation and that copies of this resolution be forwarded by the city clerk forthwith to the Hon. William F. Knowland and Hon. Thomas H. Kuchel, United
COLORADO RIVER STORAGE PROJECT

States Senators, and to all the California Representatives in the Congress of the United States.
Passed and adopted this 25th day of June 1954.

CARL M. KING,
President of the Council of the City of Burbank.

Attest:
NAOMI G. PUTNAM,
City Clerk.

STATE OF CALIFORNIA,
County of Los Angeles, City of Burbank, ss:

I, Naomi G. Putnam, city clerk of the city of Burbank, do hereby certify that the foregoing resolution was duly and regularly passed and adopted by the council of the city of Burbank at its regular adjourned meeting held on the 25th day of June 1954 by the following votes:
Ayes: Councilmen Bank, Blais, Hilton, and King.
Noes: None.
Absent: Councilman Jolley.

NAOMI G. PUTNAM,
City Clerk.

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIF.,
JUNE 15, 1954

On motion of supervisor Featherly, duly seconded and carried, the following resolution was adopted:

Whereas the county of Orange in the State of California is vitally dependent on a water supply obtained from the Colorado River;
Whereas the Colorado River storage project bill (H. R. 4449), now pending in the Congress, would jeopardize the water rights and the water supply of the county of Orange;
Whereas the Colorado River storage project would inflict on the taxpayers of this county and the Nation an unjustifiable burden: Therefore be it
Resolved by the Board of Supervisors of Orange County, That the enactment of the Colorado River storage project bill is against the interests of the county of Orange and should be opposed; be it further
Resolved. That the county of Orange respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of this bill or any similar legislation.
Noes: None.
Absent: None.

STATE OF CALIFORNIA,
County of Orange, ss:

I, B. J. Smith, county clerk and ex-officio clerk of the Board of Supervisors of Orange County, Calif., hereby certify that the above and foregoing resolution was duly and regularly adopted by the said board at a regular meeting thereof held on the 15th day of June 1954 and passed by a unanimous vote of said board.

In witness whereof, I have hereunto set my hand and seal this 15th day of June 1954.

B. J. SMITH,
County Clerk and ex-officio Clerk of the Board of Supervisors of Orange County, Calif.

A Resolution of the Board of Directors of the City of Pasadena Opposing Federal Legislation Authorizing Colorado River Storage Projects

Whereas the city of Pasadena is dependent on a water supply obtained from the Colorado River: and
Whereas the Colorado River storage project as proposed in S. 1555 and H. R. 4449 and the Fryingpan-Arkansas project as proposed in S. 964 and H. R. 236, now pending in the Congress, would jeopardize the water rights and the water supply of the city of Pasadena: and
Whereas the projects aforesaid would inflict on the taxpayers of this city and the Nation an unjustifiable burden: Therefore be it

Resolved, That the enactment of these project bills is against the interest of the city of Pasadena and should be opposed: be it further

Resolved, That the city of Pasadena respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of the bills aforesaid or any similar legislation.

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EXHIBIT D

RESOLUTIONS OF THE AMERICAN PUBLIC POWER ASSOCIATION, MAY 1954. OPPOSING THE USE OF THE COLLBRAN FORMULA AND EXCESSIVE SUBSIDIES TO IRRIGATION

RESOLUTION NO. 8.—INTEREST COMPONENT—COLLBRAN FORMULA

Whereas the American Public Power Association, composed of the principal locally owned public power systems of the United States, has a direct concern in the standard of financial operations established for Federal power projects, as any public discredit resulting from uneconomic Federal power policies reflects in a degree upon the locally owned public power systems; and

Whereas the American Public Power Association disapproves the Federal power practice of diverting from the Federal Treasury the interest component of revenues derived from the power investment portion of Bureau of Reclamation projects, and using the interest so collected for retirement of capital amounts invested in irrigation projects instead of for paying interest on the resulting national debt; and

Whereas the Collbran formula proposed by the Bureau of Reclamation indirectly effects the same result, by postponing the commencement of repayment of the irrigation investment until the power investment is first retired, and is equally unsound; and

Whereas in the aggregate the sums involved in diversion of the interest component and Collbran formula would require the replacement through added taxes of many billions of dollars for the numerous reclamation projects now proposed, and

Whereas this association has been on record since 1946 as not opposing a reasonable subsidy to irrigation from power revenues, but insists as a matter of principle and sound economics, that any irrigation subsidy believed to be in the public interest should be clearly set forth and be specifically recognized and approved as such in authorization of the project by the Congress; and

Whereas as stated in this association’s statement of power policy, total capital costs paid from power revenues shall not exceed the amount for which a comparable supply of power could have been developed had irrigation not been one of the purposes of the project: Now, therefore, be it

Resolved, That the American Public Power Association condemns these practices and recommends that they not be employed in future Reclamation Bureau projects. This recommendation is made in the best interests of the American taxpayer, of the public power industry, and of the public it serves. Adoption of such a reform would avoid a concealed subsidy, the benefits of which go to only a limited number of persons at the expense of the Federal Treasury.

RESOLUTION NO. 8 (A)—EXCESSIVE SUBSIDIES TO RECLAMATION

Be it resolved, The American Public Power Association is opposed to the increasing burden which is being placed upon the power users in order to subsidize irrigation projects. In some projects recently proposed by the Bureau of Reclamation the irrigators are required to pay less than 15 percent of the costs allocated to irrigation, and the power users are required to pay more than 85 percent thereof plus all the costs allocated to power. In other cases the subsidy to be exacted from the power users would amount to the equivalent of nearly $100,000 for each 160-acre farm. This practice is not in the public interest.

This association’s declaration of “Federal power policy” states that when irrigation is one of the joint purposes of a project, power revenues may be used to pay that portion of the capital costs properly chargeable to irrigation which is beyond the ability of the irrigators to pay, but that the total capital...
costs to be paid from power revenues shall never exceed the amount for which a comparable supply of power could have been developed had irrigation not been one of the purposes of the project. This formula concedes fair and adequate subsidies to irrigation from the power users. If a reclamation project is sufficiently meritorious to justify greater subsidies, they should be fully disclosed, and paid from the general treasury.

(Copied from Public Power, vol. 12, No. 6, dated June, 1954.)

**City of San Jacinto**

**Resolution No. 448—A Resolution of the City Council of the City of San Jacinto, Respecting Senate Bill 1555 and H. R. 4449 in Respect to Storage Water Projects in the Colorado River Basin**

Whereas the city of San Jacinto is vitally dependent on a water supply obtained from the Colorado River;

Whereas the Colorado River storage project as proposed in S. 1555 and H. R. 4449 and the Fryingpan-Arkansas project as proposed in S. 964 and H. R. 236, now pending in the Congress, would jeopardize the water rights and the water supply of the city of San Jacinto;

Whereas the aforementioned projects would inflict on the taxpayers of this city and the Nation an unjustifiable burden: Therefore be it

Resolved. That the enactment of these project bills is against the interest of the city of San Jacinto and should be opposed; and be it further

Resolved, That the city of San Jacinto respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of the above-mentioned bills or any similar legislation.

Moved, passed, and adopted at a special meeting of the City Council of the City of San Jacinto, a California municipality, duly called and held on June 30, 1954.

Dated June 30, 1954.

W. M. Kolb,
Mayor, City of San Jacinto.

Attest:

MARGARET D. BELTZNER,
City Clerk, City of San Jacinto.

**Resolution No. 54-91—Expressing Opposition to H. R. 4449**

Whereas the city of Santa Ana, Calif., is vitally dependent on a water supply obtained from the Colorado River:

Whereas the Colorado River storage project bill (H. R. 4449), now pending in the Congress, would jeopardize the water rights and the water supply of the city of Santa Ana;

Whereas the Colorado River storage project would inflict on the taxpayers of this city and the Nation an unjustifiable burden: Therefore be it

Resolved by the City Council of the City of Santa Ana, That the enactment of the Colorado River storage project bill is against the interests of of the city of Santa Ana and the county of Orange and should be opposed; be it further

Resolved, That the city of Santa Ana respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of this bill or any similar legislation.

Passed and adopted by the City Council of the City of Santa Ana at its regular meeting held on the 21st day of June 1954.

COURTNEY R. CHANDLER, Mayor.

Attest:

[Seal]

ERMA KEELER,
Clerk of the Council.

**Resolution No. 2595**

**Resolution of the City Council of the City of Torrance Opposing S. 1555 and H. R. 4449 and the Fryingpan-Arkansas Project as Proposed in S. 964 and H. R. 236, Now Pending in the Congress**

The City Council of the City of Torrance does resolve as follows:

Whereas the city of Torrance is vitally dependent on a water supply obtained from the Colorado River; and
Whereas the Colorado River storage project as proposed in S. 1555 and H. R. 4449 and the Fryingpan-Arkansas project as proposed in S. 964 and H. R. 236, now pending in the Congress, would jeopardize the water rights and the water supply of the city of Torrance; and

Whereas the aforementioned projects would inflict on the taxpayers of this city and the Nation an unjustifiable burden: Now, therefore, be it

Resolved by the City Council of the City of Torrance, That the enactment of these project bills is against the interest of the city of Torrance and should be opposed; be it further

Resolved, That the City Council of the City of Torrance respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of the above-mentioned bills or any similar legislation.

Introduced, approved, and adopted this 29th day of June 1954.

Nicholas O. Drake,
Mayor of the City of Torrance.

Attest:

A. H. Bartlett,
City Clerk of the City of Torrance.

RESOLUTION NO. 541—A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEMET, RESPECTING SENATE BILL 1555 AND H. R. 4449 IN RESPECT TO STORAGE WATER PROJECTS IN THE COLORADO RIVER BASIN

Whereas the city of Hemet is vitally dependent on a water supply obtained from the Colorado River;

Whereas the Colorado River storage project as proposed in S. 1555 and H. R. 4449 and the Fryingpan-Arkansas project as proposed in S. 964 and H. R. 236, now pending in the Congress, would jeopardize the water rights and the water supply of the city of Hemet;

Whereas the aforementioned projects would inflict on the taxpayers of this city and the Nation an unjustifiable burden: Therefore be it

Resolved, That the enactment of these project bills is against the interest of the city of Hemet and should be opposed; be it further

Resolved, That the city of Hemet respectfully requests the representatives of the State of California in the Congress of the United States to oppose the enactment of the above-mentioned bills or any similar legislation.

Moved, passed, and adopted at a special meeting of the City Council of the City of Hemet, a California municipality, duly called and held on July 2, 1954.

Dated July 2, 1954.

James S. Simpson,
Mayor, City of Hemet.

Attest:

Mary E. Henley,
City Clerk, City of Hemet.

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE OPPOSING PENDING LEGISLATION AUTHORIZING COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS

Whereas the city of Glendale is vitally dependent on a water supply obtained from the Colorado River; and

Whereas the Colorado River storage project as proposed in S. 1555 and H. R. 4449 and the Fryingpan-Arkansas project as proposed in S. 964 and H. R. 236, now pending in the Congress, would jeopardize the water rights and the water supply of the city of Glendale; and

Whereas the aforementioned projects would inflict on the taxpayers of this city and the Nation an unjustifiable burden: Now, therefore, be it

Resolved by the Council of the City of Glendale, That the enactment of these project bills is against the interest of the city of Glendale and should be opposed; and that the Council of the City of Glendale respectfully request the representatives of the State of California in the Congress of the United States to oppose the enactment of the above mentioned bills or any similar legislation; and be it further
Resolved, That the city clerk be and is hereby instructed to transmit copies of this resolution to the Senators and Representatives of the State of California in the Congress of the United States.

I, G. E. Chapman, city clerk of the city of Glendale, do hereby certify that the foregoing is a true and correct copy of resolution adopted by the Council of the City of Glendale, Calif., on the 24th day of June 1954.

G. E. CHAPMAN,
City Clerk of the City of Glendale.

THE RAILROAD BROTHERHOODS
JOINT LEGISLATIVE COUNCIL OF CALIFORNIA,
Los Angeles, Calif., June 21, 1954.

MY DEAR MR. CONGRESSMAN: The Railroad Brotherhoods Joint Legislative Council of California, after due consideration of the effects of the enactment of the Colorado River storage bill (H. R. 4449), feel that the enactment of this legislation would not be in the public interest, and I am therefore directed to advise you of the position of our membership as outlined in the following resolution setting forth our position on this matter:

Whereas the Railroad Brotherhoods Joint Legislative Council is vitally interested in any legislation affecting the welfare of the citizens of this country; and

Whereas the Colorado River storage project bill (H. R. 4449), now pending before the Congress, would impose upon all American taxpayers an enormous additional burden; and

Whereas the economy of the Nation would be seriously impaired by construction of this expensive and unjustifiable project; Now, therefore, be it

Resolved, That the Railroad Brotherhoods Joint Legislative Council vigorously opposes passage of H. R. 4449 by the Congress;

And we further urge that you do all possible to prevent this legislation from being enacted.

Adopted June 21, 1954, by the legislative representatives of the several organizations of the Railroad Brotherhoods Joint Legislative Council of California, upon behalf of the organizations and the membership thereof.

LEROY H. MORGAN,
Chairman, Railroad Brotherhoods Joint Legislative Council of California.

(Whereupon, at 6:35 p.m., the committee was recessed, to reconvene at 9 a.m. the following day, Saturday, July 3, 1954.)