“LAW OR NO LAW!” ELWOOD MEAD AND THE STRUGGLE OVER POWER PLANT REVENUES, SHOSHONE PROJECT, 1926-1953

Robert E. Bonner

Professor of History, Emeritus

Carleton College

Northfield, MN

On January 11,1912, the fledgling Water Users Association on the Shoshone Reclamation Project held its third annual meeting. Following an animated discussion and the passage of resolutions in support of such things as an extension of the repayment period and public accounting for Operation and Maintenance expenses, they offered their final resolution of the evening. Their outgoing president referred to the matter as their “birthright,” and urged them to look well to it. They resolved

> To the end that all water power rights, privileges and possibilities may be conserved to the people of this project we ask that no step in relation to same be taken which may have within it the possibility, however remote, of either loss or deterioration in respect to such property rights. That absolute ownership and control of all power sites, perquisites and privileges, within the limits of this Project, must ultimately repose in the aggregate body of land owners or water users. Our heritage in this connection must not in any wise or at any time be placed in jeopardy.[1]

Much of the discussion among historians of the water power developed by the Bureau of Reclamation at its damsites throughout the West has centered upon the big question of the relation of this publicly-produced power to the private power industry.[2] Indeed, the issue of public vs. private power was of concern to Reclamation leaders from the passing of the Water Power Act of 1920. Settlers on Reclamation projects, however, had a quite different view of the power question. The prospect of hydroelectric power development on a project meant a significant increase in the standard of living of the local farmers, and as such was advertised heavily in publications like *Reclamation Record.* But the Shoshone water users in January of 1912 were not thinking of electric lights in their houses. Since April of 1906 every person who bought a water right on a Reclamation project purchased at the same time a future interest in the profits of any power development on the project. Tacked on (section 5) to the act governing the withdrawal of townsites on Reclamation Projects was a provision directing that the money derived from the lease of power on a project be "placed to the credit of the project" in the Reclamation Fund.[3]

From 1906 to 1939, according to the official historian of the Bureau, Reclamation policy with respect to the distribution of profits from power plants was governed by that provision.[4] Power revenues on many projects were handled in this way. And it is true that the only general legislation on power revenues between 1906 and

1939 merely confirmed the 1906 law.[5] However, the policy was frequently a subject of controversy and required authoritative redetermination more than once.[6] Moreover, the official account ignores the facts that there were legislative interventions for a decade before 1939 designed to direct power revenues away from projects, in contravention of the Act of 1906, and a serious sustained effort to rewrite Reclamation law to separate water and power income in the early 1930s.

As it happened, the legal storm over power plant revenues broke on the Shoshone Project in northwestern Wyoming. The Project consists of four divisions. The first to open, in 1908, was the Garland division, approximately 35,000 acres divided into roughly 650 farms on the flat benchland around the town of Powell. A decade later the Frannie division, north and east of the Powell flat and less than half the size of Garland, was opened to homesteading. Settlers in both of these areas took land in full knowledge of the 1906 act. They were paying the costs of the dam in the canyon west of Cody, and they expected to benefit some day from the development of a power plant there. The Reclamation Service put off building the power plant until they needed a source of power to operate construction machinery on the third unit of the project, Willwood. The power plant was completed in 1922, as construction began on the Willwood diversion dam and canal system.[7]

The twenties were a difficult period for American agriculture, especially on Reclamation projects saddled with rising construction costs. The major effort of the Reclamation Service in the early 20s was the so-called Fact-Finders Commission, a kind of Domesday inquest into every facet of every project to find solid ground of agreement on costs and procedures between farmers and administrators. This was Interior Secretary Hubert Work's great effort to refound Reclamation. Out of it came a new name, the Bureau of Reclamation, a new leader (Elwood Mead, who had been prominent on the Commission), and comprehensive legislation known as the Fact Finders' Act, passed December 5, 1924. Many changes were embodied in the Act, but power policy remained unchanged. Sub-section I of the Act provided that whenever water users take over the operation of a project, the profits "as determined by the Secretary" of any power plant on the project will be credited annually to the construction charges of the water users, confirming thereby the Act of 1906.[8]

The same Act provided for a new and more generous method of repaying construction charges, limiting the payment per acre to five per cent of the average gross annual income over the past ten years. However, in order for settlers to take advantage of the provisions of this act they needed to form an irrigation district under state law. The farmers of the Garland division had generally resisted forming such a district, but the enticement of the 5% provision plus the confirmation of the power plant rights convinced them that it was

time to take on the responsibility. They formed the Shoshone Irrigation District November 28, 1925, and then entered upon lengthy negotiations with the Bureau for a contract. Almost a year later they completed those negotiations, and the Irrigation District took over the operation of the works for the Garland Division. Paragraph 31 of their contract, in language that directly repeated sub-section I of the Fact Finders' Act, guaranteed that any net profits realized by the power plant would be credited to the construction charges owed by the district.[9]

The Frannie Division of the Project also organized itself into an irrigation district, the Deaver Irrigation District (so-named for the major town in that part of the project) and worked out a contract with the Bureau in the fall of 1926. The contract with Deaver contained a significant new provision with respect to the power plant, whereby the Deaver district obligated itself to pay a proportionate share of the costs of the Shoshone power plant, "in order to receive its share of net profits of said plant." This provision was to be effective only if the Shoshone Irrigation District similarly agreed to accept a share of the power plant costs, which they had not done in their contract.[10] Commissioner Mead stated that the idea to include this provision arose from the district negotiators, although since similar provisions had been showing up in contracts with other districts, it seems likely that the government negotiators had some role in it.[11]

The Deaver contract caused some consternation among Shoshone unit-holders. Some felt their own contract language protected their rights in the power plant, believing that they were already being charged those costs as the plant was an integral part of the project, while others thought it best to amend the contract to accept specific obligation for the costs of the power plant. At the same time, officials of the Bureau were trying to sort out their own position. E. E. Roddis, District Counsel, offered his opinion that the law gave the Secretary no power to build a power plant without a repayment contract, and therefore the water users were implicitly understood to have contracted for it and could expect profits from it to be applied to their construction charges. This was not how Elwood Mead saw it. Whatever the legal theory of Reclamation might be, it was the policy of the Commissioner from December, 1927, that districts had to accept a specific obligation to repay the additional construction expenses of building a power plant before they could expect to benefit from power revenues.[12]

Among other developments, the impending construction of Boulder Dam made it imperative, in Mead’s mind, to separate power revenues from irrigation repayments; power was no longer simply incidental to irrigation construction. The power plant on the Salt River Project had shown for years the potential for commercial power sales.[13] Although the Shoshone power plant was smaller than, say, Minidoka, none of the power was required for pumping for irrigation, and the

potential commercial development was consequently larger. The Bureau was pursuing plans for expansion of the Shoshone power system, but found themselves ensnarled in legislation from an earlier time.

The news about power plant repayment was unwelcome to the Shoshone farmers, but they quickly overcame their disappointment and began to negotiate a new contract to assure their rights. Everyone knew that their power plant was now a profitable venture and was likely to become a cash cow very soon. Bureau officials in Powell, Billings, Denver, and Washington continued to grapple with the meaning of Subsection I of the Fact-Finders' Act. Some wanted to hold off payment to Deaver and Shoshone until all power project costs had been repaid. Since there were still three units of the project to be constructed, each of which presumably would incur a share in the power system expenses and profits, that position would mean the first two districts would have to wait decades to receive any benefits. Others said that the 1924 legislation clearly directed that surplus revenues be applied as soon as they became available, which would be very soon. This was the position of the Denver office, stated forcefully in a letter accompanying a draft contract dated March 5, 1928. Powell, Billings, and Washington officials were, however, increasingly uncomfortable with the prospect of so much money going to the credit of these unit-holders. They began to search for a means to hold it back.[14]

The District Counsel in Billings initially proposed that a repayment contract be made for 20 years or less, presumably to prevent it from being too generous a deal for the farmers. He based his position on the theory that power plant repayment was an entirely separate contract rather than an amendment to the 1926 contract, and therefore the repayment could not be made on the 5% of crop-return basis embedded in that contract. Congress had repealed the 5% crop-return repayment method in the Omnibus Adjustment Act of 1926. The Commissioner, in seeking clarification from the Interior Department, pointed out that if their current contract were applied to the power plant the unit holders would pay nothing for the power plant until 1986, when the plant would probably be obsolete, but they would collect at least five cents per acre immediately based on present prices. The Department solicitor ruled that while a contract could not be made on the basis of the 1924 repayment method, a new contract might go forward on the basis of a 40-year repayment period, according to the provisions of the 1926 act.[15]

Knowing the water-users' antipathy to increased assessments, the Bureau believed no contract would be acceptable to the Shoshone district that did not simply extend their 5% crop-return payment schedule to cover the new indebtedness. Moreover, when the Commissioner instructed the Denver office how to proceed with the contract he stipulated that any new contract include a provision for paying depreciation on the plant, estimated at five to seven per

cent, as a matter of operation and maintenance. He also interpreted the forty-year repayment provision as having begun when the first water-right contracts were taken out, in 1908 (more than a decade before the plant was even designed!), leaving a twenty-year period for the district to accomplish the repayment of power system costs. Acting Commissioner Dent suggested to the Chief Engineer in Denver that he remind the water users that the plant is not presently showing a profit if depreciation is figured in, as that “may make the district disinclined to go on with the purchase of an interest in the power plant."[16]

R. F. Walter, the Chief Engineer, seems to have been uncomfortable with his colleagues’ strategy of discouraging negotiation. He proposed terms more attractive to the water users and continued to deal with them in apparent good faith.[17] The Bureau sustained an appearance of serious negotiation throughout the spring and summer. In August Elwood Mead himself met with the Shoshone district board at the Burlington Inn in Cody, and in September Secretary Ray O. West visited the Project with Mead and discussed the contract. District negotiators worked to secure a 40-year repayment schedule that would begin in 1929, but the Bureau resisted. It seems clear that as the negotiations began both District and Bureau negotiators assumed that not only Shoshone and Deaver but the yet-to-be-built divisions of the project would share in the costs and benefits of operation of the power system. But as contract

negotiations stretched out, Elwood Mead developed other ideas. In the negotiations he was driving a hard bargain, apparently hoping to discourage the District. At the Cody conference, for instance, Mead took the position that the District must agree in 1928 to pay as much as it would have had to pay if they had agreed in 1926, meaning they would have to make up two years' payments when a new contract was signed and cover any operating losses during that same period of time.[18]

On November 16, 1928, Mead made public his new view, in his introductory message to the Subcommittee of the House Committee on Appropriations in charge of Interior Department appropriations for fiscal year 1930. He had previously circulated it within the department, particularly to those engaged in the Shoshone negotiations, as a confidential memo, in search of responses. The core of the matter, as Mead presented it, was that projects with power plants were deriving a subsidy from their power sales that gave them a striking advantage in repayment over water users on projects without power plants, and this problem could only be expected to grow worse as power revenues increased. He cited situations on the Newlands and Minidoka projects, and dwelt on the Shoshone negotiations at some length. He noted that expansion of the Shoshone power system was under consideration, the money for which would come from the Reclamation Fund, but that under current law the eventual profits would all go to the farmers, "and the revenue promises to be

large." He proposed a legislative remedy, in which power revenues would be applied first to power system expenses, then to construction debts of the project on which it is located, and finally back into the Fund to recover losses incurred in Reclamation development.[19]

It seems unlikely that Mead was as concerned with disparities among project repayment situations as he was horrified at the possibility of power revenue leaking away into the hands of so many farmers. Experience seemed to be showing him on every side that control of falling water was more important to the future of his Bureau than control of spreading water. The Chief Engineer and he had already initiated specific studies for doubling or tripling of the power to be generated from Shoshone Dam, all of which was to be sold commercially.[20] If he was to build a mighty Bureau, as indeed seems to have been his determination, he would need to seize control of power profits wherever they were not already contracted away. It was in this environment that the end-game of the Shoshone power plant negotiations was played out.

Mead's was truly a move to cut the Gordian knot. Power policy was ensnarled in old laws, arcane theories, and complicated interpretations of precedent. Reclamation officials were uncertain how to proceed. The superintendent in Powell, who had argued from the beginning for delaying power revenues until all construction costs had been repaid, nevertheless reminded Mead that power generation on the Shoshone project would have been impossible without

the dam and reservoir, the cost of which the farmers were already repaying. That common sense consideration was brushed aside at higher levels. Chief Engineer Walter recognized the importance of capturing the power revenues, but wrote of it as something to be considered when entering into further investments in power.[21] On the other hand, District Counsel Roddis encouraged Mead by referring to the law of trusts. The power plant had been built by the Reclamation Fund, which was a trust. Putting revenues from power directly into the Fund would result in faster repayment than would result from repayment contracts with the farmers, and as trustees of the Fund they were obligated "to use the trust estate to the best possible advantage."[22]

The Shoshone water users, however, surprised Washington by their determination to contract for power plant construction expenses. They were receiving active encouragement from the farmers on the Deaver district, whose own interest in the power plant depended upon a satisfactory contract being reached with the Shoshone people. The District submitted a contract proposal abandoning their stand on repayment on a crop-return basis, accepting the Bureau's insistence on a new, 40-year contract. As they in effect called the Bureau's bluff, Mead's solution seemed the only way out for a Bureau desperate to retain power revenues.

Late in November Assistant Secretary of the Interior E. C. Finney wrote to the District's attorney, Ernest Goppert of Cody, who had written him to try to move negotiations ahead,

> It is believed that at the next session of Congress legislation will be proposed which would affect the disposal of the unsold interest in the Shoshone power plant. Under the circumstances it is considered advisable to await the possible action of Congress at the next session before definite reply is made to your letter.[23]

In this manner Mead's sword descended upon the knot. He showed the House subcommittee overseeing Interior Department appropriations how power revenues could be redirected and they accepted his formulation before the end of 1928. The change in policy, while not general, affected other projects besides the Shoshone.[24]

The official Bureau history of these events crystallized within the year 1929. Ignoring the genuine attempts of the District to negotiate a contract, Bureau apologists—notably Elwood Mead himself—put the onus on the water users, claiming that they had never been willing to repay construction costs on the power system. He never mentioned the terms under which negotiations were terminated. The Bureau then treated the Interior Department Appropriation Bill passed March 4, 1929, as if it were a Congressional intervention rather than a clear result of Bureau policy. It is true that Congressman Cramton

had a record of watching carefully over the Bureau's handling of the Fund, and there can be little doubt that he genuinely supported the change, but it was obvious then and it is obvious now that the Bureau did not negotiate in good faith.

Mead's candor in the Interior Department appropriation hearing makes this perfectly clear. In his introductory presentation he expressed his dismay that the Newlands project received $16,000 a year from power while they only paid $8000 a year in assessments for the power plant. More shocking still, the South Side of the Minidoka project received an excess of more than $100,000 a year to apply to extension of their system, with no obligation to repay. Later in the hearing, when Rep. Cramton argued that the Bureau should never have entered into the contract they did with Deaver, Mead blurted out, "I am clear that, law or no law, we do not want to make any more contracts of that kind."[25] He went on to argue forcefully that the increased demand for power due to oil development near Powell made it likely that power would bring in more money than irrigation soon, and if it were developed in a business-like way it would be very large indeed, which he believed ought properly to belong to the Government.[26] In light of such statements, the letters water users received from Washington during the year after the Mead coup were arrogant as well as insulting to those who knew how things had gone.[27] Nevertheless, agents of the Shoshone Irrigation District continued to pursue the matter with the Department of the Interior.

During 1930 and 1931 the District sent members to Washington to talk with Interior department personnel, and set about preparing an elaborate legal appeal to the Solicitor. The success of water users on the North Platte Project in securing their own rights to the power plants there, which Mead had also attempted to terminate, gave them courage for this effort. Briefs from the District and the Bureau were presented and a hearing held before the Solicitor in the spring of 1931, and on July 29, 1931, Solicitor E. C. Finney handed down a decision supporting the Bureau, denying the District any share in the power revenues. The District's appeal argued that the Act of March 4, 1929, was unconstitutional, in that it deprived them of rights guaranteed by the Fact-Finders' Act and their contract, but since neither of those instruments specifically mentioned payment for the costs of power system construction the Bureau's defense was successful. Apparently the District realized they could not get any farther by claiming treachery on the part of the Commissioner, so they fell back upon this much shakier ground of constitutional argument.[28]

While pursuing administrative relief, the water users also turned to their Congressional delegation for help. Senator Robert Carey introduced a bill Dec. 11, 1930, that would have provided a legislative remedy to the situation created by the Act of March 4, 1929, compelling the Department of Interior to follow the provisions of the Fact-Finders' Act insofar as the Shoshone Project was

concerned. The Bureau believed that the process of appeal to the Solicitor had in fact been undertaken primarily to obtain the Bureau's brief so they could attempt to get favorable legislation passed. Mead's response to this legislation was swift and powerful. He drafted an 8-page memo for Secretary Wilbur to employ in response to the House Committee, detailing the write-offs and adjustments that had benefited the Shoshone settlers already amounting (in the always-suspect Bureau calculations) to over $2½ million, and underlining the extent of the subsidy they would receive if they got power revenues in addition. He developed in December, 1930, the strongest argument yet for separating power and irrigation, embracing fully the potential of commercial power development. This was the first blast of the full-scale legislative initiative that was to occupy the Bureau for the next three Congresses.[29]

Senator Carey tried to mediate some resolution between Mead and the water users toward the end of 1931, but found Mead inflexible.[30] Ernest Goppert, the District's attorney, in consultation with a Washington law firm, determined to file a writ of mandamus against the Secretary of the Interior, now Ray Lyman Wilbur, hoping to compel him to perform his duty to pay out proportionate power revenues to the District annually under the 1924 act. To make this case they had to argue that the 1929 act was unconstitutional, a violation of the Fifth Amendment provision against taking property without due process. The property in question, they alleged, was their right to

power plant revenues guaranteed them by the 1924 act and the 1926 contract. This was a far stretch, since the Bureau could argue in response, ironically, that the very efforts to negotiate for a share of the power plant costs that Mead had interrupted showed that the District knew it had no vested interest without agreeing to pay for the construction costs. Blandly brushing aside the complicated negotiations discussed above, the Bureau simply noted that the Congressional intervention of March 4, 1929, made it impossible for them to comply with the 1924 act. They did not need to argue that the 1929 legislation was constitutional.

The District tried to show, what District Counsel Roddis had seen at the outset, that there was no authority for the Bureau to build power plants except as part of irrigation projects: the construction charges, therefore, that they had been paying for two decades gave them those rights implicitly. They also produced considerable evidence that all conversations regarding power plant revenues held between the District and the Bureau until late in 1927 had regarded the power plant as part of the Shoshone Project upon which they were paying construction charges and to which they had clear legal rights. This should have been a strong argument, and might have been in another legal process, but not in this one. The attempt to enforce a writ of mandamus was a difficult legal stategy.[31]

The Bureau, perhaps stung by having lost the North Platte case, pulled out all stops to defend its position in this suit. Their

position here was stronger, of course, because of the Act of March 4, 1929, and a slightly different contractual history. They bombarded Judge Graves, the solicitor defending the Secretary of the Interior, with advice and documents, even offering to send office employees who were present at the 1926 contract negotiations to testify that the District had not then been interested in purchasing an interest in the plant. The most useful of these communications was probably the suggestion by Acting Commissioner Porter W. Dent that mandamus cannot be used to enforce a contract right, but only a duty imposed by law. The Shoshone case, he suggested, is a contract case, by their insistence that Article 31 of their 1926 contract is the ground for their property right in the power plant. Dent also reminded Graves that the District would not be without remedy if their petition were denied, since the Court of Claims exists to adjudicate contract disputes. After noting that Congress was well within its constitutional rights when they passed the 1929 act, Justice Atkins appropriated Dent's legal argument and rejected the District's petition for a writ of mandamus on June 13, 1933.[32]

The District and their lawyers immediately appealed to the Court of Appeals for the District of Columbia. They ignored the suggestion of contract adjudication in the Court of Claims and persisted in their pursuit of a mandamus ruling. This was clearly not a good idea. Justice Atkins had made it clear that he thought the merits of their case were worth considering, but not in this way, and they chose to

ignore him completely. The result should have been predictable. The appeal was argued February 5, 1934, and decided April 9, 1934. Associate Justice Van Orsdel reaffirmed every point of the Supreme Court's decision. He dwelt emphatically upon the fact that the Secretary of the Interior has discretion to determine the matters at issue, that mandamus does not extend to discretionary matters, and he reminded the District that the federal government cannot be sued without its own consent.[33] Even then the District did not give up the legal fight. In June they filed a petition in the Supreme Court of the U.S. for a writ of certiorari, but it was quickly denied and they turned instead to Congress.[34]

Congress was at that very moment engaged in the final stage of deciding the fate of Commissioner Mead's attempt to achieve a statutory basis for his new power policy. When the first attempt by the Wyoming delegation to overturn the Act of March 4, 1929, failed, Congressman Cramton introduced a bill written in concert with Mead to provide that power plant revenues on reclamation projects everywhere should be handled as they were after 1929 on the Shoshone Project. H.R. 16976 was introduced Feb. 9, 1931. It was sent to the Committee on Irrigation and Reclamation, from whence it returned two weeks later with a favorable report. Mead had drafted not only the bill but also Secretary Wilbur's letter in support of the bill. He argued that changing circumstances required this bill's adoption, noting in passing that the policy developed with respect to the Shoshone

Project had also been adopted on the Black Canyon power plant on the Boise Project and the Kennewick Highlands unit in Washington. Mead was walking a fine line, trying to convince the Congress that power on the projects should be developed in a business-like manner while at the same time attempting to pacify critics of government entry into the development of commercial power. He also needed to reassure his audience that contracts presently in force would be honored. Still, his goal was clear; as he told the committee, it was of "the utmost importance that a uniform law be adopted."[35]

The effects of the Depression and the continuing problems of Reclamation finances had combined to drive Mead to search for a solution through power income. There was an obvious financial crisis within Reclamation. They had been operating on loans from the general fund which stipulated returns to the Treasury of $1,000,000 per year, they faced demands from Western interests for maintaining and even extending construction, and crop values, the basis of returns to the Reclamation Fund, had fallen by $3,000,000 in the last year. Power revenue offered the possibility of meeting the loan obligations and funding continued development as nothing else could do. In fact, it was almost certainly the desire to expand power production and sales at the Shoshone plant that forced his hand in 1928; he needed to increase revenue but could not do it while the disposition of power revenues was uncertain.[36] Mead campaigned aggressively with members of Congress for his new law, showing them

the amounts of money now being generated by Reclamation power plants, detailing the losses of ordinary Reclamation revenue, and painting Reclamation settlers on projects with power plants as undeserving government debtors about to collect unearned dividends in perpetuity. It was a good case, and he made it outside Congress to such people as the editor of the *Saturday Evening Post* as well. It failed, however, to overcome political opposition in the Congress.[37]

The House, as will be seen below, carried a grudge against the Bureau for the manner in which earlier legislative maneuvers had been carried out. The Senate, it seems, was more circumspect. Senators seem to have been much less concerned with the details of Reclamation finance than Congressmen. Senator Thomas Walsh of Montana, for instance, expressed surprise in a letter to Mead in April, 1932, that the Bureau was building power plants to subsidize irrigation on some projects. When the Casper-Alcova project was authorized that month, Senators removed from the bill a provision that would have enacted Mead's policy of returning power revenues to the Reclamation Fund after construction charges had been met. They substituted an article stipulating that future profits "shall be disposed of as Congress may direct." Senator C. C. Dill of Washington, the author of that amendment, maintained that the Congress was not ready to decide Federal policy on this question.[38]

When the Roosevelt administration was fully settled in Mead tried again, this time in 1934. Administratively, the landscape had

changed dramatically, with Harold Ickes now running the Department of Interior. The bill that went to the 73rd Congress was a much more forthright assertion of a new order that the first bill had been, and Ickes clearly had a large role in preparing it. The core of the Secretary's position may be found in his letter to the Senate committee hearing the bill:

> Now that power development has become a more important feature of irrigation and community development, provision should be made for the full utilization of the latent and possible power developments created by the construction of irrigation projects. The Government should be the agency to determine the economic and social benefits that may result from the full utilization of these power possibilities, and to use these latent and possible power developments in the upbuilding of the project and surrounding communities. Operations of the past and present enable the Government to estimate the economic benefits and financial returns.
>
> Absence of some uniform legislation of the kind proposed by this bill has prevented the full utilization of possible power development at several large reservoirs. Under existing general legislation the repayment of this development must be underwritten or guaranteed. Repayment

> requirements of irrigation costs are such that agriculture will not carry the added burden of power development.[39]

This bill put power first in a wholly new way. Not only was he proposing to separate the power and irrigation functions of the Bureau of Reclamation, he was proposing to do it in the pursuit of an aggressive development of public power resources that subordinated the traditional irrigation mission of the Bureau. In retrospect, Ickes made Mead's 1931 bill look rather timid, more of a bureaucratic defensive ploy than a major policy initiative.

Not surprisingly, Ickes's bill met with virtually no resistance from the Senate. S. 3375 was introduced April 13. Ickes's letter to Senator Alva Adams, Chairman of the Committee on Irrigation and Reclamation, was sent May 10. On June 6, S. 3375 was read for the third time and passed by the Senate without a nay vote.[40] It was a different story entirely in the House. Introduced the same day, H. R. 9124 was sent to the House Committee on Irrigation and Reclamation, chaired by Rep. Dennis Chavez of New Mexico. Where the Senate Committee had seen no need for hearings, the House Committee scheduled full committee hearings starting in early June. Determined opponents of Elwood Mead like Reps. Vincent Carter of Wyoming and Terry Carpenter of Nebraska led the charge against the bill, supported frequently by other Western congressmen. Taking away the actual and potential assistance power revenues offered to struggling farmers on Reclamation projects did not set well with them. Others

were opposed to the idea of the Department of the Interior setting itself up in the power business. The spectre of large power companies taking cheap power from these projects and selling it back at exorbitant rates haunted the hearings. Things went so badly that Marshall Dana, president of the National Reclamation Association, a hand-picked mouthpiece of Mead's, offered the suggestion that the committee not proceed to a vote on the bill until they had had a chance to talk it over with their constituents. When the committee adjourned on June 14 H.R. 9124 was clearly dead.[41]

It could be that the House was more hostile than the Senate because it was more closely tied to local interests. It could also be because there was a palpable current of hostility to the Bureau of Reclamation among the members of the House Committee on Irrigation and Reclamation. At several points in the hearings on H. R. 9124, Rep. Carter referred with a nasty edge to the proceedings by which Mead had got his way on the Shoshone Project power plant. Within the first hour he had drawn the Committee's attention to the actions of Rep. Cramton back in 1928, slipping the Shoshone provision into the Interior Department appropriation bill "the night before Congress adjourned . . . with no committee having had a chance to have a hearing on it."[42] On the fifth day of hearings he interrupted the testimony of the Bureau's chief accountant to remind everyone that "the Cramton amendment" had never come before the Reclamation Committee, and that if a point of order had been raised against it

when it was attached to the Appropriations bill the point of order would have been sustained. He concluded, "I know that if the question of that policy had come before the Reclamation Committee it would never have been adopted."[43] Among the many reasons the bill died, this resentment surely bulked large.

As the Bureau effort ground to a halt, the District resumed its attempt to get the 1929 act overturned in Congress. In fact, they had never really abandoned this course. Senator John Kendrick took up the cause in 1932, when the Senate Committee on Irrigation and Reclamation held hearings on a bill to relieve the Shoshone District. In these hearings an alternative vision to that of the Bureau regarding the events of 1928-29 was developed, with Mead and Cramton as the villains. J. T. Whitehead, spokesman for the Shoshone Irrigation District, testified that Cramton and Mead worked together to produce the language for the 1930 appropriations bill. "Those hearings under Mr. Cramton were never open hearings. Judge Winter was the Congressman from Wyoming at the time. He did not know that that provision was in the appropriation bill."[44] The bill went through the House in four days and only ten days in the Senate. The provision for the Shoshone Project was not germane to the appropriation bill, i.e. there was no money being appropriated for power. Mead attempted the same thing with the North Platte project power revenues, but the Nebraska congressman saw it and insisted on having it removed. Senator Kendrick learned of it just before it

passed and notified the Shoshone people, but by the time they got back to him the bill had passed the Senate. In testifying to this view of the facts Whitehead was careful not to challenge the wisdom of the new policy with respect to power revenues, but to focus on the sanctity of contract and the deviousness of Mead and Cramton in pursuing the overthrow of valid contracts.[45]

These early efforts did not succeed, but they established the ground of a continuing attempt to get justice for the Shoshone District. In 1933 Rep. Carter introduced H.R. 17, identical to the Kendrick bill of the previous year. The following year was spent defeating the Interior Department bill, but 1935 saw a renewed offensive from Wyoming. Rep. Paul Greever introduced H.R. 6875 in March, and Senator Joseph O'Mahoney introduced S. 2286. These bills tried to meet the Bureau half way by providing that the power revenues on the project that were properly allocable to the unconstructed divisons be handled according to the terms of the 1929 act, but that the revenues allocable to the divisions that had contracted with the Bureau be handled according to the terms of the contracts. The House committee gave Greever's bill a full hearing in May. The Department of Interior, in opposing the bill, denied that existing contracts in fact gave any rights to the districts. They also insisted that it was bad policy, contrary to the principles set forth in H.R. 9124. Since that bill had failed to pass, it seems strange that the secretary would be relying upon it in this way, but

it is surely revealing of the mindset of the administration. They had, after all, been following the principles of Mead's Shoshone policy without legislative approval on other projects since 1930.[46]

The argument for the Shoshone District was carried by Ernest Goppert again. Their strategy this time was to insist that the 1926 contract was valid even without specific language regarding the power plant, and the 1929 act was an abuse of Congressional procedure and administrative power. Goppert repeated arguments developed in the court cases. The water users had actually been charged enough to cover the power plant costs in addition to the irrigation system, but Bureau accounting procedures had kept the money in a separate account. The Bureau had no authority to set up a separate power account. All features constructed on the project were covered by the public notices of original and supplementary construction costs, and that was the only way the Bureau could legally proceed. The District could find no remedy in court only because they were prevented from suing the government without its permission. In fact, Goppert testified that Justice Atkins stated from the bench "that if this was a suit against a private individual, he would have no difficulty in entering a decree in our favor."[47] Since the Department of Interior had relied upon the 1929 act to rule against Shoshone while they ruled in favor of North Platte water users on a similar case, Goppert appeared confident that removing the 1929 act would result in a decision favorable to the District.

On the second day of these hearings Goppert had the opportunity to question R. M. Patrick, of the Bureau legal division. It was a very hard-nosed examination, in which Goppert pursued the way the Bureau handled its accounts, hoping to show that the 1929 act was part of a change in procedure that was unauthorized by Congress and kept secret from the water users. Patrick admitted that original construction charges on the Shoshone Project did contemplate repaying the cost of the dam and reservoir, but since 1929 they were no longer charged against the irrigation districts. More significantly, he stated that the Bureau had had no objection to the provision in the Shoshone District contract (Section 31) for distribution of surplus power revenues, "because the amount was to be determined by the Secretary, and we felt perfectly safe that if a net profit came to the district from the operation of the power plant, no portion of the profit would be allowed to go to the Garland division."[48] He tried to place all the responsibility for the midnight legislation of the 1930 Appropriation bill on Rep. Cramton, exonerating Mead in particular. And he attempted to dodge Goppert's contention that the District had paid enough to cover expenses for the plant by saying that it was only money; if they were not charged for the power plant they could not have paid for it. This straightforward exposure of the way the Bureau did business did not help their case.[49]

The issues on both sides had by this time been finely distilled, and the questioning brought them out very clearly. The committee,

particularly Rep. Robinson, seemed determined to find the equity of the matter, inquiring into just what the water users themselves had been led to believe about power revenues. Both the Bureau's goal of using power for development when irrigation repayment could not manage it and the District's goal of re-establishing a right they felt was theirs by custom and contract got a full hearing. The testimony from both sides showed quite clearly how the Bureau had pursued its policy by manipulation of its own cost accounting procedures, and Goppert was much more persuasive than Patrick on the matter of the District's legal rights. The simple, eloquent letter from Herman Krueger of Deaver, detailing the 1928 negotiations and Mead's public promises in Powell and Deaver that their interests would be taken care of, carried considerable weight.[50] The committee unanimously agreed to provide the Shoshone District the relief they sought. In spite of that, and in spite of its having passed the Senate in June, the bill never came to a final vote in the House in that Congress. In the 75th Congress, however, Rep. Greever and Sen. O'Mahoney brought it back. The Bureau seemed resigned to its passage and put up little resistance, and without much ado in the way of hearings or debate the bill received President Roosevelt's signature on April 8, 1938.[51] After nearly a decade of combat in a variety of theaters, it seemed that the water users of the Shoshone Project had won their war.

Although there was great celebration in Powell in the spring of 1938, it soon dissipated. One-fourth of the unit-holders on the Shoshone Irrigation District held back the first installment of their 1937 construction payment in expectation of some help from the legislation. But the Bureau informed the District by telegram only a week after the bill was signed that they would do nothing without an opinion from the Interior Department solicitor, and concluded, "Believed very doubtful that it will result in any credits to water users at this time." They then passed the matter to the Interior Department.[52]

The Bureau asked for a solicitor's opinion, but Secretary Ickes took the matter upon himself to pronounce as a matter of policy, rather than simply a legal interpretation. He took a great deal of time to prepare it, while the Shoshone District wrote and cabled Page and Ickes repeatedly to learn where they stood. Page tried to be polite and helpful, but Ickes was not cut from the cloth of those early Interior Secretaries who had nurtured government settlements all over the west. He resisted the farmers and their political representatives, and it was not until September 1940, more than two years after the relief legislation had passed, that he communicated his determination to the Bureau and the District.[53]

The legislation of 1938 had in effect done away with the infamous appropriation bill rider of 1929, authorizing and directing the Secretary to apportion power revenues according to the contract

of 1926. Commissioner Page had warned the Committee on Irrigation and Reclamation that this was not likely to produce any result: "the bill in effect merely proposes to grant something, providing the contracts grant it. But according to the Department the contracts do not do so, while the districts contend that they do."[54] Ickes emphatically closed the door. No stranger to high-handed administrative action, he endorsed completely the Mead history of the contract negotiations. Ignoring the fact that the water users had understood themselves to be paying for the dam and reservoir for twenty years, he denied that they had paid anything for the power system and therefore they were not entitled to any of the profits. Power was a separate element of the Project, he said, conveniently overlooking the fact that there was no legislative authority to do that in 1929; the Government alone had taken the risk and to them belonged the profits. Point by point he rejected the District case, and brushed aside the clear intent of Congress.[55]

The door so emphatically slammed did not stay shut, but the details of negotiations over the next 14 years need not weigh us down here. In the end, by Act of Congress dated July 14, 1954, the Shoshone District was awarded a credit of $426,000 on their construction charges, an approximation of what they might have earned had the 1938 legislation been honored in spirit. Deaver also received their proportionate share. For their part, the Bureau cleared their claim on Shoshone power revenues and stengthened the

fence around them where the other districts of the Project were concerned. The Bureau resisted only feebly in the end, but the damage had been done long since.[56]

What are we left with, then, at the end of what one Interior staffer called “this long, bitter controversy?” Looking at the history from the local viewpoint, the settlement may be viewed as a testimony to the determination of the Shoshone settlers. Certainly, from start to finish, they never abandoned their conviction that the dam and its attendant power revenues were part of what they had bargained for when they took out water rights in that valley. It is interesting to note that one of the principal spokesmen in the 1954 hearings was one C. W. Fowler, then an attorney in Washington but also the owner of a farm near Powell that he homesteaded in 1910; he had been secretary of the water-users association at that January, 1912, meeting when power revenues were first formally discussed.[57] These farmers were more than ordinarily stubborn in defense of right as they saw it. They convinced three generations of Senators and Congressmen to carry their case in Washington, and ultimately achieved a good part of what they set out for. Perhaps we could say they won.

If they won, however, it was at a terrible cost. Twenty-six years of settled hostilities between the settlers and the Bureau left a residue of virulent anti-federal sentiment in the Shoshone valley that is a feature of life there to this day. The Shoshone Irrigation

District paid off its construction charges to the federal government in 1978. The water-users knew they were paying off sooner than they would have done without the settlement, but they could not forget that they would have paid off even sooner and still be enjoying income from the plant if the original contract as they understood it had been honored. There are people on the Project today who talk of legal action to restore those rights. It is perhaps no surprise that the Shoshone Irrigation District built its own low-head power plant on its main canal and subsidizes its irrigation operations today with power plant revenues.[58]

Looked at as a piece of the history of the Bureau of Reclamation, this story should be chastening. The staff of the Bureau seem to have groped their way through the matter of power plant revenues in general, and certainly fumbled the Shoshone case. They had to work out the law and policy of power revenues more or less by the seat of their pants; theirs was not the arrogance of power but the desperate bluff of people who know they are on shaky ground. Elwood Mead grasped an essential point about Reclamation finance but pursued it with such devious arrogance and defended it with such blind passion that he alienated not only Project settlers but a generation of powerful men in Congress. In terms of his drive to bureaucratic dominance, Mead would give nothing away to Floyd Dominy.[59] There were real obstacles to shifting the basis of Reclamation finance, but violating law and contract and exposing the

underside of Reclamation bureaucratic methods in Congress surely made things worse. It is quite possible that if he had acted in good faith with the people of the Shoshone Project, and with their elected representatives, Mead would have got his power revenue bill passed in 1935 or even earlier. The merits of the policy change, after all, were recognized by Congress with the passage of the Reclamation Projects Act of 1939, after they had dealt with the equities of the Shoshone matter.[60]

Because Mead and Ickes were in the business of building powerful bureaucratic entities to compete in the modern world, and because the issues at the center of this story were key to that growth, this story also reveals in passing the processes and consequences of developing big government. In 1928 Mead and Secretary West went to Powell and Deaver to meet with the people, as Secretaries and Commissioners had been doing for two decades. By 1940 no one would have thought of such a thing. Mead had been a very popular choice for Commissioner in 1925, but there was open enmity between him and Shoshone Project leaders from 1929 on. In 1933, S. A. Nelson, President of the First National Bank in Powell and a pioneer homesteader, published his own account of the negotiations; he had been present at every conversation affecting the Shoshone water users since 1909. It is perhaps enough to note the title, *The High-Water Mark of Bureaucratic Racketeering,* to catch the flavor of this pamphlet.[61] Both the pamphlet and this larger story seem to show that

people were moved out of the center of Reclamation during the New Deal; power, under a variety of descriptions, moved in.

---

[1] Powell, WY, *Tribune*, Jan. 19, 1912.

[2] See for instance, Donald C. Swain, *Federal Conservation Policy, 1921-1933* (Berkeley: University of California Press, 1963), or Donald Pisani, *Water and American Government: The Bureau of Reclamation and the American West, 1902-1935* (Berkeley: University of California Press, forthcoming 2002).

[3] Act April 16, 1906, chap. 1631, 34 Stat. 116, cited in *Federal Reclamation Laws Annotated* (Washington, D.C.: U. S. Government Printing Office, 1943), 94-96.

[4] William E. Warne, *The Bureau of Reclamation* (New York: Praeger Publishers, 1973), 89.

[5] The Fact-Finders' Act of 1924, subsection I. See below.

[6] Hearing before the House Committee on Irrigation of Arid Lands, 64th Cong., 2nd sess.; Subsection I of the Second Deficiency Act FY 1924 (Fact Finders' Act) and notes, *Federal Reclamation Laws Annotated,* 277-279.

[7] Shoshone Project History, 1922, Shoshone Irrigation District Archives, Powell, WY, cited hereafter as SID Archives. Homesteading on Willwood, the third division of the Project, began in 1926, but operated from the beginning on a water rental basis. The farmers there, not having formally undertaken to repay construction costs at that time, did not nurse the same expectations from the power plant. As they did not have a repayment contract until 1949, they remained

on the sidelines throughout the controversy with which this paper is concerned.

[8] *Federal Reclamation Laws Annotated*, 272-283. Brian Cannon has recently published a thorough study of the Fact Finders' Act, "'We Are Now Entering a New Era': Federal Reclamation and the Fact Finding Commission of 1923-1924," *Pacific Historical Review* 66 (May 1997): 185-211.

[9] Department of the Interior, Bureau of Reclamation, *Contract with the Shoshone Irrigation District. . . ,* November 4, 1926, in SID archives.

[10] Shoshone Project History, 1926, SID archives.

[11] Mead to Project Superintendent, Nov. 17, 1926, SID archives. Water users on the Yuma and Minidoka Projects had contracted to pay for power plants before this negotiation. See *Federal Reclamation Laws Annotated,* 268, 277-79.

[12] Shoshone ID to E. E. Roddis, Nov. 30, 1927; Roddis to Commissioner Elwood Mead, Dec. 2, 1927; Mead to Senator Francis E. Warren, Dec. 17, 1927; all in SID Archives. It should perhaps be noted here that a reader will search in vain through our only biography of Elwood Mead, James Kluger's *Turning on Water with a Shovel* (Albuquerque: University of New Mexico Press, 1992), for any mention of hydroelectric power income apart from Boulder Dam.

[13] Pisani, *Water and the American Government,* chap. 8.

[14] Records of power plant revenues are printed in the annual project histories. R. F. Walter, Chief Engineer (Denver), to Commissioner, March 5, 1928; District Counsel E. E. Roddis to Commissioner, March 12, 1928, in SID Archives.

[15] Acting Commissioner P.W. Dent to Secretary of Interior, March 13, 1928, and Solicitor E. O. Patterson to Secretary, March 24, 1928, in National Archives, RG 48, Department of the Interior, Office of the Secretary, Central Correspondence File (CCF) 1907-1936, 8-3 Shoshone; *Federal Reclamation Laws Annotated,* 318.

[16] Commissioner Dent to Chief Engineer, Apr. 2, 1928, SID Archives.

[17] Chief Engineer to Superintent, Apr. 26, 1928, SID Archives.

[18] District Counsel to Superintendent, Aug. 21, 1928; Acting Commissioner to Superintendent, Oct. 1, 1928; District Counsel to Chief Engineer, Oct. 20, 1928; in SID Archives. According to later testimony at a Congressional hearing, Mead assured the water users of the Deaver District on this trip who were concerned about their rights to the power plant, "you need have no fears in regard to that. Your rights will be fully protected;" *Hearings before the Committee on Irrigation and Reclamation, House of Representatives, 74th Cong., 1st Sess., on H. R. 6875, May 2 and 6, 1935* (Washington, D.C.: U.S. Government Printing Office, 1935), 26.

[19] *Hearing before the Subcommittee of the House Committee on Appropriations for FY 1930* (Washington, D.C.: U. S. Government Printing Office, 1929), Nov. 16, 1928, 387. See also memo from Project superintendent to Commissioner commenting on the confidential memorandum, Oct. 30, 1928, SID Archives.

[20] Chief Engineer to Commissioner, Oct. 27, 1928, marked Confidential, SID Archives.

[21] Superintendent Mitchell to Commissioner, Oct. 30, 1928, SID archives; Chief Engineer to Commissioner, Oct. 30, 1928, National Archives, Denver Regional Branch, Bureau of Reclamation, RG 115, E. 7, Central Administrative Records, 1919-1929, Box 106, folder 140.1.

[22] District Counsel Roddis to Commissioner, Nov. 5, 1928 (confidential), SID Archives.

[23] Finney to Goppert, Nov. 21, 1928, RG 48, Office of the Secretary, CCF 1907-1936, 8-3, Shoshone; Goppert to Mead, Dec. 20, 1930, RG 115, E. 7, Project Correspondence File 1930-1945, Box 1028, folder 201.1.

[24] District counsel Roddis to Superintendent Mitchell, Dec. 31, 1928 (confidential), SID archives. Roddis reported to Mitchell the language that would be included in the Act of March 4, 1929.

[25] *Hearing before the Subcommittee of the House Committee on Appropriations,* Nov. 16, 1928, 401.

[26] *Ibid.*, 402.

[27] See, e.g., Mead to George Hendricks, secretary of the irrigation district, Jan. 15, 1930, or Assistant Secretary Joseph Dixon to George Atkins, March 11, 1930, SID archives. Dixon's letter was particularly long and patronizing, frequently (as Atkins pointed out in an angry reply March 31) taking isolated statements out of context to make them mean something other than they had meant at the time.

[28] *Federal Reclamation Laws Annotated,* 277-278. Full text copies of the Interior Department Solicitor's decisions in favor of the North Platte water users, no. M. 25908, dated Oct. 17, 1930, and against the Shoshone water users, no. M. 26630, are filed in the SID archives.

[29] Elwood Mead, Memorandum for the Secretary of the Interior, Dec. 29, 1930; Ray Lyman Wilbur to Addison Smith, Chairman of the House Committee on Irrigation and Reclamation, Dec. 30, 1930; RG 115, E. 7, Central Administrative Correspondence 1930-1945, Box 239, folder 140.1. Mead felt supremely confident in late 1930 that the House of Representatives would not budge from the position he and Cramton had crafted; Mead to Superintendent Mitchell in Powell, Dec. 17, 1930, RG

115, E. 7, Project Correspondence File 1930-1945, Box 1028, folder 201.1.

[30] *Congressional Record,* 71st Cong., 3rd Sess., 549; Acting Commissioner M. A. Schnurr to Chief Engineer, April 14, 1931, SID archives; Carey to Mead, Dec. 22, 1931, and Mead to Carey, Dec. 24, 1931, RG 115, E. 7, Project Correspondence File 1930-45, Box 1037, Folder 225.07.

[31] Petition of Shoshone Irrigation District vs. Ray Lyman Wilbur, in the Supreme Court of the District of Columbia, June 24, 1932; Answer and Response of the Department of the Interior to the Rule to show cause, July 14, 1932; both in SID archives.

[32] Acting Commissioner Dent memorandum to Judge Graves, July 5, 8 and 11, 1932; Commissioner to District Counsel, June 30, 1932; District Counsel to Commissioner, July 5, 1932; Acting Superintendent to Commissioner, July 7, 1932; Document and Transcripts of court proceedings in Shoshone Irrigation District vs. Harold L. Ickes, in the Supreme Court of the District of Columbia,no. 81460, filed June 24, 1932; all in SID archives. In fact, the Court of Claims was not a practical remedy, since the District would have had to apply to the Court each year to have its share of the revenues determined.

[33] United States *ex rel.* Shoshone Irrigation District. V. Ickes, Secretary of the Interior, no. 6061, Court of Appeals of the District of Columbia, in *Federal Reporter, 2nd series,* vol. 70 (St. Paul: West Publishing Co., 1934), 771-773. Although Ray Lyman Wilbur was named as defendant when the case began, Harold Ickes was substituted as defendant before the initial judgment was handed down.

[34] Secretary of the Interior to Attorney General, July 2, 1934, SID archives; *Hearings before the Committee on Irrigation and Reclamation, House of Representatives, 74th Congress, 1st Session, on H.R. 6875,* 2.

[35] *House of Representatives Report no. 2865, to accompany H.R. 16976, 71st Congress, 3rd Session*; *Congressional Record,* 71st Cong., 3rd Sess., 549, 5805.

[36] Chief Engineer to Commissioner, Aug. 21, 1928, and Oct. 27, 1928, RG 115, E.7, Project Correspondence Files, 1919-1929, Box 1011, folder 320.

[37] Commissioner to Chief Engineer, Jan. 14, 1931, Mead to Addison Smith, Chair of House Committee on Irrigation and Reclamation, Feb. 24, 1931, Commissioner to Chief Engineer, Mar. 21, 1931, (with circular on Reclamation finances), Mead to Sen. Charles McNary, Mar. 21, 1931, and Mead to Sen. Hiram Johnson, Mar. 21, 1931, also enclosing circular on finances; RG 115, E. 7, Central Administrative Correspondence 1930-1945, Box 239, folder 140.1.

[38] Walsh to Mead, Apr 9, 1932; Mead to Walsh, Apr. 14, 1932; Extract from the *United States Daily,* Apr. 11, 1932; RG 115, E. 7, Central Administrative Files 1930-1945, Box 239, folder 140.1. Mead had apparently convinced Casper-Alcova's chief sponsor, Sen. John Kendrick of Wyoming, that his new policy should be written into the bill; see Mead to Kendrick, Mar. 15, 1932, ibid. Donald Pisani suggests that Congress was wary of Reclamation establishing with power revenues a second, independent Reclamation fund; see *Water and the American Government,* chap. 8.

[39] *Senate Report no. 1057, to accompany S. 3375, 73rd Congress, 2nd Session*.

[40] *Congressional Record,* 73rd Cong., 2nd Sess., 6532, 10576.

[41] *Hearings before the Committee on Irrigation and Reclamation, House of Representatives, 73rd Congress, 2nd Session, on H.R. 9124, A Bill to*

Provide for the Distribution of Power Revenues on Federal Reclamation Projects (Washington, D.C.: U.S. Government Printing Office, 1934).

[42] Ibid., 5.

[43] Ibid., 60. Of course there were hearings on Mead's new policy, as noted above. Carter seems to have meant that there were no hearings on the specific plan to deny power profits to the Shoshone water users.

[44] Library of Congress, Unpublished transcript of hearing of the Senate Committee on Irrigation and Reclamation, March 8, 1932, on S. 3390, a bill to provide for the distribution of power plant revenues on the Shoshone Project, Wyoming, 28.

[45] Ibid.

[46] Internal memo (Kubach) for Dr. Mead, Aug. 22, 1932, RG 115, E. 7, Central Administrative Correspondence 1930-1945, Box 239, Folder 140.1. Mead actually admitted in his 1932 annual report that the Bureau was following this policy without specific legislative authority; *Annual Report of the Commissioner of Reclamation . . . for the fiscal year ended June 30, 1932* (Washington: U.S. Govt. Printing Office, 1932), 14.

[47] *Hearings before the Committee on Irrigation and Reclamation, House of Representatives, 74th Cong., 1st Sess., on H. R. 6875, A Bill providing for the allocation of net revenues of the Shoshone Power Plant, May 2 and 6, 1935* (Washington, D.C., U.S. Government Printing Office, 1935), 7.

[48] Ibid., 22.

[49] Ibid., 15-24. Mead's own arrogant estimate of the committee proceedings may be found in a letter he wrote to Rep. Marion Zionscheck, a member of the committee, in which he characterized the repayments by the District as "driblets." He ended that letter saying, "The picture which the attorney for the irrigation district paints of

this community of Government debtors insisting upon paying a charge to the government although Congress has declared the charge not payable [in the 1929 act] is artistically appealing, but wholly lacking in verisimilitude." This is the man who earned a reputation in the twenties as a friend of the Reclamation settlers! Mead to Zionscheck, July 29, 1935, SID archives.

[50] *Hearings before the Committee on Irrigation and Reclamation, House of Representatives, 74th Cong., First sess., on H. R. 6875, May 6, 1935*, 25-27.

[51] *Congressional Record,* 75th Cong., 1st Sess., 503, 8348, 9003; 75th Cong., 3rd Sess., 1574, 1620, 3990, 4138, 5227. The Bureau, headed now by John C. Page, had made a serious effort to lobby against the bill in 1937, to no avail; Memorandum from Page to Rep. Greever, July 28, 1937, RG 48, Office of the Secretary CCF, 1937-1953, 8-3, Shoshone. Their 1938 state of mind is contained in a memo from Page to Ickes, Mar. 7, 1938, RG 115, E. 7, Project Correspondence File 1930-1945, Box 1028, folder 201.1.

[52] Acting Commissioner Williams to Secretary of the Interior, April 18, 1938, RG 48, Office of the Secretary CCF 1937-1953, 8-3, Shoshone.

[53] Shoshone Irrigation District to Page, July 20, 1938; same to Ickes, Oct. 20, 1938; Page to Harry Barrows, Shoshone Irrigation District, Nov. 1, 1938; Barrows to Page, Dec. 5, 1938; Sen. O'Mahoney to Page, Feb. 7, 1939; Congressman Frank Horton to Page, Feb. 9, 1939; Barrows to Page, June 7, 1939; Page to Shoshone Irrigation District, July 8, 1939; all in RG 115, E. 7, Project Correspondence File 1930-1945, Box 1028, folder 201.1.

[54] Memorandum from the Secretary to the Commissioner, Bureau of Reclamation, Sept. 16, 1940, RG 48, Office of the Secretary CCF, 1937-1953, 8-3, Shoshone.

[55] Ibid.

[56] Richard Pelz, ed., *Federal Reclamation and Related Laws Annotated,* (Washington, D. C.: U. S. Government Printing Office, 1972), vol. II, 985; *Congressional Record,* 83rd Cong., 2nd Sess., 20 (H.R. 6893) and 197 (S. 2683); Library of Congress, Unpublished U.S. House of Representatives Committee Hearings, 1953-54, Jan. 29, May 17, May 18, 1954; Unpublished U. S. Senate Committee Hearings, June 25, June 29, 1954; *Congressional Record*, 83rd Cong., 2nd Sess. 12023.

[57] See above, p. 1. Fowler testified at the January 27, 1954, meeting of the House Subcommittee on Irrigation and Reclamation; unpublished U. S. House of Representatives Committee Hearings, 1953-54, H. R. 6893, 2-17.

[58] Tudor Engineering Co., *Facts on the Construction of the Shoshone Irrigation District's Garland Canal Power Project,* n.p., n.d. [1983], in SID Archives.

[59] For estimates of Dominy's conduct as Commissioner of Reclamation in the 1960s and 70s, see Marc Reisner, *Cadillac Desert; The American West and its Disappearing Water* (New York: Penguin Books, 1986) and Donald Worster, *Rivers of Empire; Water, Aridity, and the Growth of the American West* (New York: Pantheon Books, 1985).

[60] *Federal Reclamation Laws Annotated,* 588-603.

[61] First published in the Powell *Tribune*, Mar. 2, 1933; subsequently printed and circulated separately.