



COLORADO RIVER STORAGE PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes. (Act of April 11, 1956, ch. 203, 70 Stat. 105)

[Sec. 1. Colorado River storage project.]—In order to initiate the comprehensive development of the water resources of the Upper Colorado River Basin, for the purposes, among others, of regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid land, for the control of floods, and for the generation of hydroelectric power, as an incident to the foregoing purposes, the Secretary of the Interior is hereby authorized:

(1) [Initial units.—Curecanti Dam capacity.—] Report to Congress and President.]—To construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, powerplants, transmission facilities and appurtenant works: Curecanti, Flaming Gorge, Navajo (dam and reservoir only), and Glen Canyon: *Provided*, That the Curecanti Dam shall be constructed to a height which will impound not less than nine hundred and forty thousand acre-feet of water or will create a reservoir of such greater capacity as can be obtained by a high waterline located at seven thousand five hundred and twenty feet above mean sea level, and that construction thereof shall not be undertaken until the Secretary has, on the basis of further engineering and economic investigations, reexamined the economic justification of such unit and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress and to the President that, in his judgment, the benefits of such unit will exceed its costs; and

(2) [Participating projects.—Protection of Rainbow Bridge National Monument.]—To construct, operate, and maintain the following additional reclamation projects (including power-generating and transmission facilities related thereto), hereinafter referred to as participating projects: Central Utah (initial phase), San Juan-Chama (initial stage), Emery County, Florida, Hammond, La Barge, Lyman, Navajo Indian, Paonia (including the Minnesota unit, a dam and reservoir on Muddy Creek just above its confluence with the North Fork of the Gunnison River, and other necessary works), Pine River Extension, Seedskadee, Savery-Pot Hook, Bostwick Park, Fruitland Mesa, Silt and Smith Fork: *Provided further*, That as part of the Glen Canyon Unit the Secretary of the Interior shall take adequate protective measures to preclude impairment of the Rainbow Bridge National Monument. (70 Stat. 105; Act of June 13, 1962, 76 Stat. 102; Act of September 2, 1964, 78 Stat. 852; 43 U.S.C. § 620)

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EXPLANATORY NOTES

1964 Amendment. The Act of September 2, 1964, 78 Stat. 852, amended section 1 by inserting the words "Savery-Pot Hook, Bostwick Park, Fruitland Mesa," between the words "Seedskadee" and "Silt." The Act appears herein in chronological order. 1962 Amendment. The Act of June 13, 1962, 76 Stat. 102, amended section 1 by inserting the words "San Juan-Chama (initial stage)" after "Central Utah (initial phase)", and by inserting the words "Navajo Indian," after the word "Lyman." The Act appears herein in chronological order. Supplementary Provision: Navajo Land Exchange. The Act of September 2, 1958, provided for the acquisition by the United States of 53,000 acres of land within the Navajo Indian Reservation in Arizona and Utah for the Glen Canyon unit and the addition of an equal acreage to the Reservation in San Juan County, Utah. The Act appears herein in chronological order. Reservation of Water. In late 1964 the Department announced a reservation of 5,000 acre-feet annually of stored water in the Green Mountain Reservoir of the Colorado-Big Thompson project for use of the Silt project, a participating project of the Colorado River Storage project, with replacement of any resulting power losses to be made from the Colorado River Storage project power. 29 F.R. 17852 (1964).

NOTES OF OPINIONS

Indian lands 2
Rainbow Bridge 1
Seedskadee project 3
1. Rainbow Bridge
By specifically denying funds for the construction or operation of facilities to prevent the waters of Lake Powell from entering any National Monument, Congress has effectively suspended the provisions of sections 1 and 3 of the Colorado River Storage Project Act designed to protect the Rainbow Bridge National Monument, and the Secretary therefore is without discretion to defer closure at Glen Canyon Dam. Solicitor Barry Opinion, 70 I.D. 200 (1963).

2. Indian lands
The Secretary has authority under the Act
Sec. 2. [Planning reports.—Priority.—] Reports to States, President, and Congress.]—In carrying out further investigations of projects under the Federal reclamation laws in the Upper Colorado River Basin, the Secretary shall give priority to completion of planning reports on the Gooseberry, Parshall, Trouble some, Rabbit Ear, Eagle Divide, San Miguel, West Divide, Bluestone, Battlement Mesa, Tomichi Creek, East River, Ohio Creek, Grand Mesa, Dallas Creek, Dolores, Fruit Growers Extension, Animas-La Plata, Yellow Jacket, and Sublette participating projects. Said reports shall be completed as expeditiously as funds are made available therefor and shall be submitted promptly to the affected States, which in the case of the San Juan-Chama project shall include the State of Texas, and thereafter to the President and the Congress: *Provided*, That with reference to the plans and specifications for the San Juan-Chama project the storage for control and regulation of water imported from the San Juan River shall (1) be limited to a single offstream dam and reservoir on a tributary of the Chama River, (2) be used solely for control and regulation and no power facilities shall be established, installed or operated thereat, and (3) be operated

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at all times by the Bureau of Reclamation of the Department of the Interior in strict compliance with the Rio Grande Compact as administered by the Rio Grande Compact Commission. The preparation of detailed designs and specifications for the works proposed to be constructed in connection with projects shall be carried as far forward as the investigations thereof indicate is reasonable in the circumstances.

[Juniper project.]—The Secretary, concurrently with the investigations directed by the preceding paragraph, shall also give priority to completion of a planning report on the Juniper project. (70 Stat. 106; Act of June 13, 1962, 76 Stat. 102; Act of September 2, 1964, 78 Stat. 852; 43 U.S.C. § 620a)

EXPLANATORY NOTES

1964 Amendment. The Act of September 2, 1964, 78 Stat. 852, amended section 2 by deleting the words "Savery-Pot Hook," "Bostwick Park," and "Fruitland Mesa." The Act appears herein in chronological order.

1962 Amendment. The Act of June 13, 1962, 76 Stat. 102, deleted the words "San Juan-Chama" and "Navajo" from section 2.

The 1962 Act appears herein in chronological order.

Reference in the Text. The Rio Grande Compact, referred to in the text, was approved by Congress by the Act of May 31, 1939. The Act, which includes the text of the compact, appears herein in chronological order.

Sec. 3. [Congressional intent.]—It is not the intention of Congress, in authorizing only those projects designated in section 1 of this Act, and in authorizing priority in planning only those additional projects designated in section 2 of this Act, to limit, restrict, or otherwise interfere with such comprehensive development as will provide for the consumptive use by States of the Upper Colorado River Basin of waters, 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, nor to preclude consideration and authorization by the Congress of additional projects under the allocations in the compacts as additional needs are indicated. It is the intention of Congress that no dam or reservoir constructed under the authorization of this Act shall be within any national park or monument. (70 Stat. 107; 43 U.S.C. § 620b)

NOTE OF OPINION

I. Rainbow Bridge

By specifically denying funds for the construction or operation of facilities to prevent the waters of Lake Powell from entering any National Monument, Congress has effectively suspended the provisions of sections 1 and 3 of the Colorado River

Storage Project Act designed to protect the Rainbow Bridge National Monument, and the Secretary therefore is without discretion to defer closure at Glen Canyon Dam. Solicitor Barry Opinion, 70 I.D. 200 (1963).

Sec. 4. [Reclamation laws govern except for 50-year repayment period, organization's taxing power required, municipal water supply contracts, and Indian lands—Surplus crops—Colorado River Compact, Upper Colorado River Basin Compact, and Mexican Treaty.]—Except as otherwise provided in this Act, in constructing, operating, and maintaining the units of the Colorado River storage project and the participating projects listed in section 1 of this Act, the Secretary shall be governed by the Federal reclamation laws (Act of June 17,

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1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto): *Provided*, That (a) irrigation repayment contracts shall be entered into which, except as otherwise provided for the Paonia and Eden projects, provide for repayment of the obligation assumed thereunder with respect to any project contract unit over a period of not more than fifty years exclusive of any development period authorized by law; (b) prior to construction of irrigation distribution facilities, repayment contracts shall be made with an "organization" as defined in paragraph 2(g) of the Reclamation Project Act of 1939 (53 Stat. 1187) which has the capacity to levy assessments upon all taxable real property located within its boundaries to assist in making repayments, except where a substantial proportion of the lands to be served are owned by the United States; (c) contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 9(c) of the Reclamation Project Act of 1939, and (d), as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to the Act of July 1, 1932 (47 Stat. 564): *Provided further*, That for a period of ten years from the date of enactment of this Act, no water from any participating project authorized by this Act shall be delivered to any water user for the production of newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b) (10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. All units and participating projects shall be subject to the apportionments of the use of water between the Upper and Lower Basins of the Colorado River and among the States of the Upper Basin fixed in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, and to the terms of the treaty with the United Mexican States (Treaty Series 994). (70 Stat. 107; 43 U.S.C. § 620c)

EXPLANATORY NOTES

Cross Reference. Section 4(d) is referred to in section 2 of the Act of June 13, 1962, 76 Stat. 96, authorizing the Navajo Indian irrigation project. The Act appears herein in chronological order.

Reference in the Text. The last sentence of subsection (c) of section 9 of the Reclamation Project Act of 1939 (enacted August 4, 1939), referred to in subsection (c) of the text, reads: "No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes." The Act appears herein in chronological order.

Reference in the Text. The Act of July 1, 1932 (47 Stat. 564), referred to in the text, is the so-called Leavitt Act, which provides

among other things that the collection of all construction costs against any Indian-owned lands within any Government irrigation project be deferred, and no assessments be made on behalf of such charges against such lands, until the Indian title thereto shall have been extinguished, and it further provides for the cancellation of certain construction assessments previously levied. The Act appears herein in chronological order.

Reference in the Text. The definition of "agricultural commodity" in the Agricultural Act of 1949, as amended, referred to in the text, is found at 63 Stat. 1056, 7 U.S.C. § 1428(c). The definition of "normal supply" in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, also referred to in the text, is found at 62 Stat. 1251, 7 U.S.C. § 1301 (b)(10). Neither Act appears herein.

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Reference in the Text, The Colorado River Compact, referred to in the text, appears herein following the Act of December 21, 1929. The Upper Colorado River Basin Compact was approved by the Act of April 6, 1919, which includes the text of the

NOTES OF INTEREST

Indian charges 1
Reclamation laws 2

1. Indian charges

Section 4(d) of the Colorado River Storage Project Act extends the Leavitt Act to all participating projects. The Leavitt Act therefore applies to Pueblo Indian lands in the Middle Rio Grande Conservancy District served by the San Juan-Chama project; and the fact that section 2 of the Act of June 13, 1962, 76 Stat. 96, specifically states that section 4(d) of the 1956 Act applies to the Navajo Indian Irrigation project does not preclude application of section 4(d) to the San Juan-Chama project. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.

The purpose of mentioning section 4(d) in respect to the Navajo Indian Irrigation project in section 2 of the Act of June 13,

1962, is to make clear that 4(d) is to apply in addition to section 6 of the Colorado River Storage Project Act which latter section makes nonreimbursable all Navajo project construction costs above the payable-amount-deducted 4(d) construction costs. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.

2. Reclamation laws

Since Public Law 87-483 makes the Navajo Indian Irrigation project a participating project in the Colorado River Storage project, it is governed by the Federal Reclamation Laws, as provided by section 4 of the Act of April 11, 1956. Memorandum of Associate Solicitor Hogan, October 6, 1966, in re payments and funds provisions in specifications for construction performed for other agencies.

Sec. 5. (a) [Basin fund]—There is hereby authorized a separate fund in the Treasury of the United States to be known as the Upper Colorado River Basin Fund (hereinafter referred to as the Basin Fund), which shall remain available until expended, as hereafter provided, for carrying out provisions of this Act other than section 8.

(b) [Appropriations to be credited to fund]—All appropriations made for the purpose of carrying out the provisions of this Act, other than section 8, shall be credited to the Basin Fund as advances from the general fund of the Treasury.

(c) [Availability of revenues]—All revenues collected in connection with the operation of the Colorado River storage project and participating projects shall be credited to the Basin Fund, and shall be available, without further appropriation, for (1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River storage project and participating projects, within such separate limitations as may be included in annual appropriation acts; *Provided*, That with respect to each participating project, such costs shall be paid from revenues received from each such project; (2) payment as required by subsection (d) of this section; and (3) payment as required by subsection (e) of this section. Revenues credited to the Basin Fund shall not be available for appropriation for construction of the units and participating projects authorized by or pursuant to this Act.

(d) [Returns to Treasury]—Revenues in the Basin Fund in excess of operating needs shall be paid annually to the general fund of the Treasury to return—

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(1) the costs of each unit, participating project, or any separable feature thereof which are allocated to power pursuant to section 6 of this Act, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(2) the costs of each unit, participating project, or any separable feature thereof which are allocated to municipal water supply pursuant to section 6 of this Act, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(3) interest on the unamortized balance of the investment (including interest during construction) in the power and municipal water supply features of each unit, participating project or any separable feature thereof, at a rate determined by the Secretary of the Treasury as provided in subsection (f), and interest due shall be a first charge; and

(4) the costs of each storage unit which are allocated to irrigation pursuant to section 6 of this Act within a period not exceeding fifty years.

(e) [Apportionment of revenues]—Revenues in the Basin Fund in excess of the amounts needed to meet the requirements of clause (1) of subsection (c) of this section and to return to the general fund of the Treasury the costs set out in subsection (d) of this section, shall be apportioned among the States of the Upper Division in the following percentages: Colorado, 46 per centum; Utah, 21.5 per centum; Wyoming, 15.5 per centum; and New Mexico, 17 per centum; *Provided*, That prior to the application of such percentages, all revenues remaining in the Basin Fund from each participating project (or part thereof), herein or hereafter authorized, after payments, where applicable, with respect to such projects, to the general fund of the Treasury under subparagraphs (1), (2), and (3) of subsection (d) of this section shall be apportioned to the State in which such participating project, or part thereof, is located.

Revenues so apportioned to each State shall be used only for the repayment of construction costs of participating projects or parts of such projects in the State to which such revenues are apportioned and shall not be used for such purpose in any other State without the consent, as expressed through its legally constituted authority, of the State to which such revenues are apportioned. Subject to such requirement, there shall be paid annually into the general fund of the Treasury from the revenues apportioned to each State (1) the costs of each participating project herein authorized (except Paonia) or any separable feature thereof, which are allocated to irrigation pursuant to section 6 of this Act, within a period not exceeding fifty years, in addition to any development period authorized by law, from the date of completion of such participating project or separable feature thereof, or, in the case of Indian lands, payment in accordance with section 4 of this Act; (2) costs of the Paonia project, which are beyond the ability of the water users to repay, within a period prescribed in the Act of June 25, 1947 (61 Stat. 181); and (3) costs in connection with the irrigation features of the Eden project as specified in the Act of June 28, 1919 (63 Stat. 277).

(f) [Interest rate]—The interest rate applicable to each unit of the storage project and each participating project for purposes of computing interest during

construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue.

(g) [Budget to Congress.]—Business-type budgets shall be submitted to the Congress annually for all operations financed by the Basin Fund. (70 Stat. 107; § 9, Act of June 27, 1960, 74 Stat. 227; § 18, Act of June 13, 1962, 76 Stat. 102; 43 U.S.C. § 620d)

EXPLANATORY NOTES

1962 Amendment. Section 18 of the Act of June 13, 1962, amended the proviso in subsection (c) by substituting the word "hereafter" for the word "hereinafter". The Act appears herein in chronological order.

1960 Amendment. Section 9 of the Act of June 27, 1960, 74 Stat. 227 (which authorized the Norman project, Oklahoma) amended the interest rate provision to read as shown. The Act appears herein in chronological order. As originally enacted, subsection (f) read as follows: "(f) The interest rate applicable to each unit of the storage project and each participating project shall be determined by the Secretary of the Treasury as of the time the first advance is made for initiating construction of said unit or project. Such interest rate shall be determined by calculating the average yield to maturity on the basis of daily closing market bid quotations during the month of

June next preceding the fiscal year in which said advance is made, on all interest-bearing marketable public debt obligations of the United States having a maturity date of fifteen or more years from the first day of said month, and by adjusting such average annual yield to the nearest one-eighth of 1 per centum".

Reference in the Text. The Act of June 25, 1947 (61 Stat. 181), referred to in section 5(e) of the text, authorized the construction, operation and maintenance of the Paonia project, Colorado. The Act appears herein in chronological order.

Reference in the Text. The Act of June 28, 1949 (63 Stat. 277), referred to in section 5(c) of the text, authorized the completion of construction and the development of the Eden project, Wyoming. The Act appears herein in chronological order.

NOTES OF OPINIONS

Emergency expenditures 1
Return of costs 2

1. Emergency expenditures

The proviso in section 5(c)(1) limiting the payment of "such costs" with respect to each participating project to the revenues received from the project, applies only to "operation, maintenance, and replacements," and does not apply to "emergency expenditures." Consequently, the authority granted for the use of revenues for emergencies without further appropriation is applicable to "all facilities of the Colorado River storage project and participating projects." Memorandum of Acting Commissioner Bennett, July 28, 1966, in re emergency repairs, Fontenelle Dam, Seedskadee project.

2. Return of costs

Although section 5(d) of the Colorado River Storage Project Act fixed an over-all

Sec. 6. [Cost allocations—Navajos—Report to Congress.]—Upon completion of each unit, participating project or separable feature thereof, the Secretary

shall allocate the total costs (excluding any expenditures authorized by section 8 of this Act) of constructing said unit, project or feature to power, irrigation, municipal water supply, flood control, navigation, or any other purposes authorized under reclamation law. Allocations of construction, operation and maintenance costs to authorized nonreimbursable purposes shall be nonreturnable under the provisions of this Act. In the event that the Navajo participating project is authorized, the costs allocated to irrigation of Indian-owned tribal or restricted lands within, under, or served by such project, and beyond the capability of such lands to repay, shall be determined, and, in recognition of the fact that assistance to the Navajo Indians is the responsibility of the entire nation, such costs shall be nonreimbursable. On January 1 of each year the Secretary shall report to the Congress for the previous fiscal year, beginning with the fiscal year 1957, upon the status of the revenues from, and the cost of, constructing, operating, and maintaining the Colorado River storage project and the participating projects. The Secretary's report shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment. (70 Stat. 109; 43 U.S.C. § 620e)

NOTES OF OPINIONS

Costs of filling reservoir 1
Indian charges 2

1. Costs of filling reservoir

Appropriations for the Colorado River Storage project are authorized to be expended to meet costs of deficiencies in the generation of energy at the Hoover Dam powerplant occasioned by the necessity to fill Colorado River Storage project reservoirs, if the Secretary of the Interior concludes that such a step is appropriate to maintaining a reasonable schedule in meeting the statutory payout requirements of both Hoover Dam and Glen Canyon Dam imposed by the Boulder Canyon Project

Act, the Boulder Canyon Project Adjustment Act, and the Colorado River Storage Project Act. Memorandum of Associate Solicitor Weinberg, July 17, 1962.

2. Indian charges

The purpose of mentioning section 4(d) in respect to the Navajo Indian Irrigation project in section 2 of the Act of June 13, 1962, is to make clear that 4(d) is to apply in addition to section 6 of the Colorado River Storage Project Act, which latter section makes nonreimbursable all Navajo project construction costs above the payable-but-deferred 4(d) construction costs. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.

Sec. 7. [Power plant operations.]—The hydroelectric powerplants and transmission lines authorized by this Act to be constructed, operated, and maintained by the Secretary shall be operated in conjunction with other Federal powerplants, present and potential, so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates, but in the exercise of the authority hereby granted he shall not affect or interfere with the operation of the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and any contract lawfully entered into under said Compacts and Acts. Subject to the provisions of the Colorado River Compact, neither the impounding nor the use of water for the generation of power and energy at the plants of the Colorado River storage project shall preclude or impair the appropriation of water for domestic or agricultural purposes pursuant to appli-

EXPLANATORY NOTES

1962 Amendment, Section 15 of the Act of June 13, 1962, substituted "into" for "under" in the ninth line. The Act appears herein in chronological order.

Reference in the Text, The Upper Colorado River Basin Compact, referred to in the text, was approved by Congress by the Act of April 6, 1949. The Act, which includes the text of the Compact, appears herein in chronological order.

NOTES OF OPINIONS

Power rates 1 Preference customers 2

1. Power rates

The provisions relating to power marketing and power rates in section 9(c) of the Reclamation Project Act of 1939, section 5 of the Flood Control Act of 1941, and section 6 of the Bonneville Power Act are *in pari materia*, and each may be examined to shed light on the Congressional intent with respect to the others. Indeed, as a practical matter, as illustrated by the Bonneville Power Administration, because a single system may be used to market power from three different sources, the three statutes have to be read together and interpreted as establishing identical criteria for power rates. Consequently, the mandate of the Flood Control Act of 1941 to market power from Army projects "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles," applies also to power marketed from reclamation projects under reclamation law. Letter of Secretary Udall to Representative Aspinall, May 15, 1965, in re basis for establishing power rates for the Colorado River Storage Project.

Although the principles stated in section 9(c) of the Reclamation Project Act of 1939 pertaining to power rates are stated in terms

Reference in the Text, The Colorado River Compact and the Boulder Canyon Project Act, both referred to in the text, appear herein under the date of approval of the Act, December 21, 1928.

Reference in the Text, The Boulder Canyon Project Adjustment Act, referred to in the text, is found herein under the date of approval of the Act, July 19, 1940.

of the minimum charge for power, they are also clearly intended to set the maximum charge. The Government of the United States markets power to serve the public interest, not to make a profit. We believe that the public interest is best served by marketing power at the lowest rate consistent with orderly repayment of all proper costs, and we believe that is what Congress intended. Letter of Secretary Udall to Representative Aspinall, May 15, 1965, in re basis for establishing power rates for the Colorado River Storage project.

2. Preference customers

The Navajo Indian Tribe qualifies as a preference customer for the purchase of power marketed by the Bureau of Reclamation under section 9(c) of the Reclamation Project Act of 1939. Memorandum of Associate Solicitor Weinberg, April 14, 1961.

The Bureau of Reclamation has authority to contract with the Arizona Power Pooling Association—a proposed nonprofit corporation formed by Arizona preference customers for the purpose of pooling their Colorado River Storage project allotments to obtain the maximum benefits of their respective diversities—as a preference customer. Memorandum of Acting Associate Solicitor Coulter to Commissioner of Reclamation, February 25, 1963.

Sec. 8. [Recreational and fish and wildlife facilities.]—In connection with the development of the Colorado River storage project and the participating projects, the Secretary is authorized and directed to investigate, plan, construct, operate, and maintain (1) public recreational facilities on lands withdrawn or acquired for the development of said project or of said participating projects, to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands; and to provide for public use and enjoyment of the same and of the water areas created by these projects by such means as are consistent with the primary purposes of said projects; and (2) facilities to mitigate losses of, and

improve conditions for, the propagation of fish and wildlife. The Secretary is authorized to acquire lands and to withdraw public lands from entry or other disposition under the public land laws necessary for the construction, operation, and maintenance of the facilities herein provided, and to dispose of them to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable. (70 Stat. 110; 43 U.S.C. § 620g)

EXPLANATORY NOTE

Cross Reference. See note under Act of September 30, 1961, 75 Stat. 726, for manner of handling appropriations for purposes of section 8.

Sec. 9. [Saving provision.]—Nothing contained in this Act shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), the Colorado River Compact, the Upper Colorado River Basin Compact, the Rio Grande Compact of 1938, or the Treaty with the United Mexican States (Treaty Series 994). (70 Stat. 110; 43 U.S.C. § 620h)

NOTE OF OPINION

1. Costs of investigation
Costs of investigations made with Colorado River Development Funds are not reimbursable by the water users even though a project investigated with such funds is authorized for construction; and section 9

of the Colorado River Storage Project Act manifests an interest on the part of Congress not to modify provisions of earlier acts. Letter of Administrative Assistant Secretary Beasley to Comptroller General, June 11, 1959.

Sec. 10. [Waiver of soil survey and land classifications.]—Expenditures for the Flaming Gorge, Glen Canyon, Curecanti, and Navajo initial units of the Colorado River storage project may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954. (70 Stat. 110; 43 U.S.C. § 620i)

EXPLANATORY NOTE

Reference in the Text, The Interior Department Appropriation Act, 1954, is the Act of July 31, 1953. The Act, including

the referenced provision, appears herein in chronological order.

Sec. 11. [Court decree approved and made immediately effective.]—The Final Judgment, Final Decree and stipulations incorporated therein in the consolidated cases of United States of America v. Northern Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, are approved, shall become effective immediately, and the proper agencies of the United States shall act in accordance therewith. (70 Stat. 110; 43 U.S.C. § 620j)

EXPLANATORY NOTE

Reference in the Text, The decree in the consolidated cases of United States of America v. Northern Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, referred

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to in the text, is unpublished. As passed by the Senate, section 11 "... contained language authorizing conveyance to the City of Denver of certain water rights used for the production of power at Green Mountain Dam on the Blue River in Colorado. The conference committee adopted substitute language. These water rights have been the subject of prolonged litigation between the United States, Denver, and water users on both the eastern and western slopes of Colo-

rado. . . . [A]greement has been reached between representatives of the eastern slope and western slope of Colorado, and a final decree has been filed by the United States district court in this matter." H.R. Rept. No. 1950 on S. 500 (conference report), 84th Cong., 2d Sess. The decree referred to above was later modified by the same Court by a consent decree entered April 16, 1964.

Sec. 12. [Appropriation.]—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this Act, but not to exceed ment thereof among such States. (70 Stat. 110; 43 U.S.C. § 620l)

EXPLANATORY NOTE

Appropriation Increases. The original appropriation authorization of \$760,000,000 was increased by \$85,828,000 under section 10 of the Act of June 13, 1962, 76 Stat. 99, for the San Juan-Chama project, and was further increased by \$47,000,-

000 under section 1 of the Act of September 2, 1964, 78 Stat. 852, for the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa projects. Both of these acts appear herein in chronological order.

Sec. 13. [Net power revenues.]—In planning the use of, and in using credits from, net power revenues available for the purpose of assisting in the pay-out of costs of participating projects herein and hereafter authorized in the States of Colorado, New Mexico, Utah, and Wyoming, the Secretary shall have regard for the achievement within each of said States of the fullest practicable use of the waters of the Upper Colorado River system, consistent with apportionment thereof among such States. (70 Stat. 110; 43 U.S.C. § 620l)

Sec. 14. [Operation and maintenance compliance.]—In the operation and maintenance of all facilities, authorized by Federal law and under the jurisdiction and supervision of the Secretary of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise. (70 Stat. 110; 43 U.S.C. § 620m)

Sec. 15. [Report to Congress.]—The Secretary of the Interior is directed to continue studies and to make a report to the Congress and to the States of the Colorado River Basin on the quality of water of the Colorado River. (70 Stat. 111; 43 U.S.C. § 620n)

Sec. 16. [Definitions.]—As used in this Act—

The terms "Colorado River Basin", "Colorado River Compact", "Colorado River System", "Lee Ferry", "States of the Upper Division", "Upper Basin", and

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"domestic use" shall have the meaning ascribed to them in article II of the Upper Colorado River Basin Compact;

The term "States of the Upper Colorado River Basin" shall mean the States of Arizona, Colorado, New Mexico, Utah, and Wyoming;

The term "Upper Colorado River Basin" shall have the same meaning as the term "Upper Basin";

The term "Upper Colorado River Basin Compact" shall mean that certain compact executed on October 11, 1948 by commissioners representing the States of Arizona, Colorado, New Mexico, Utah, and Wyoming, and consented to by the Congress of the United States of America by Act of April 6, 1949 (63 Stat. 31);

The term "Rio Grande Compact" shall mean that certain compact executed on March 18, 1938, by commissioners representing the States of Colorado, New Mexico, and Texas and consented to by the Congress of the United States of America by Act of May 31, 1939 (53 Stat. 785);

The term "Treaty with the United Mexican States" shall mean that certain treaty between the United States of America and the United Mexican States, signed at Washington, District of Columbia, February 3, 1944, relating to the utilization of the waters of the Colorado River and other rivers, as amended and supplemented by the protocol dated November 14, 1944, and the understandings recited in the Senate resolution of April 18, 1945, advising and consenting to ratification thereof. (70 Stat. 111; 43 U.S.C. § 620o)

EXPLANATORY NOTE

Legislative History. S. 500, Public Law Rept. No. 1332 (on H. Res. 311). H.R. 485 in the 84th Congress. S. Rept. No. 128. Rept. No. 1950 (conference report). H.R. Rept. No. 1087 (on H.R. 3383). H.R.