89TH CONGRESS
1ST SESSION

# S. 75

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1965

Mr. HAYDEN (for himself and Mr. FANNIN) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

# A BILL

To authorize the construction, operation, and maintenance of the Lower Colorado River Basin project, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—LOWER COLORADO RIVER BASIN PROJECT

SEC. 101. That (a) this Act may be cited as the "Lower Colorado River Basin Project Act".

(b) It is the object of this Act to provide a program for the further comprehensive development of the water resources of the Lower Colorado River Basin for the purposes, among others, of regulating the flow of the Colorado River, controlling floods, improving navigation, providing delivery of the stored waters of the Colorado River for

reclamation of lands, including supplemental water supplies, and for municipal and industrial purposes, providing for adequate water quality, providing for basic public outdoor recreation facilities, improvement of conditions for fish and wildlife and other beneficial uses, generation and sale of hydroelectric power as an incident of the foregoing purposes, conservation, and beneficial utilization of the limited water supplies of the Lower Colorado River Basin, and the eventual provision of additional water for use in the Lower Colorado River Basin. It is the policy of the Congress that the Secretary of the Interior (hereinafter referred to as the "Secretary") shall continue to develop, after consultation with affected States and appropriate Federal agencies, a regional water plan, consistent with the provisions of this Act and with future authorizations, to serve as the framework under which projects, whether heretofore constructed in the Lower Colorado River Basin or herein and hereafter authorized, may be coordinated and constructed with proper timing. The term, "the Lower Colorado River Basin", as used herein, shall mean the lower basin as defined in article II (g) of the Colorado River compact.

SEC. 102. (a) There is hereby authorized a separate fund in the Treasury of the United States, to be known as the Lower Colorado River Basin development fund (hereinafter called the "development fund"), which shall remain

available until expended, as hereafter provided, for carrying out the purposes of this Act.

(b) All appropriations made for the purpose of carrying out the provisions of section 104 of this Act shall be credited to the development fund as advances from the general fund of the Treasury.

(c) There shall also be credited to the development fund—

(1) all revenues collected in connection with the operation of facilities herein and hereafter authorized in furtherance of the purposes of this Act, except entrance, admission, and other recreation use fees or charges and proceeds received from recreation concessioners, and

(2) all revenues from the Boulder Canyon and Parker-Davis projects which, after completion of repayment requirements of the said Boulder Canyon and Parker-Davis projects, are: (A) surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of those projects; (B) not needed for the purposes of the Colorado River development fund, established under subsection (d) of section 2 of the Boulder Canyon Project Adjustment Act (54 Stat. 775); and (C) not needed to reimburse the Upper Colorado River Basin fund, established under section 5 of the Act of April 11, 1956 (Colorado River Storage

Project Act) (70 Stat. 107), as provided in the Glen Canyon filling criteria (27 Fed. Reg. 6851) for any expenditures made from that fund to meet deficiencies in generation at Hoover Dam during the filling period of reservoirs of storage units of the Colorado River storage project.

(d) All revenues collected and credited to the development fund pursuant to this Act 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 project, within such separate limitations as may be included in annual appropriation acts; and (2) payments as required by subsection (e) of this section. Revenues credited to the development fund shall not be available for appropriation for construction of the works comprised within any unit of the project herein and hereafter authorized in furtherance of the purposes of this Act.

(e) Revenues in the development fund in excess of the amount necessary to meet the requirements of clause (1) of subsection (d) of this section shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit of the project or separable feature thereof, herein authorized, which are allocated to irrigation, commercial power, or municipal and indus-

trial water supply, pursuant to this Act, within a period not exceeding fifty years from the date of completion of each such unit or separable feature, exclusive of any development period authorized by law; and

(2) interest (including interest during construction) on the unamortized balance of the investment in the commercial power and municipal and industrial water supply features of the project at a rate determined by the Secretary of the Treasury in accordance with the provisions of subsection (f) of this section; and interest due shall be a first charge; and

(3) to the extent that revenues are available in the development fund after making the payment required by clause (1) of subsection (d) and subparagraphs (1) and (2) of this subsection, costs incurred for units hereafter authorized to provide (in any years in which insufficient Colorado River main stream water is available for release, as determined by the Secretary, to satisfy consumptive uses in Arizona of two million eight hundred thousand acre-feet, in California of four million four hundred thousand acre-feet, and in Nevada of three hundred thousand acre-feet) water to make up such deficiencies at costs to the users that would have prevailed had main stream Colorado River water been available for consumptive uses in the aforesaid amounts,

such costs to be allocated among the purposes for which main stream Colorado River water is made available and to be returned within the period specified in subparagraph (1) of this subsection: *Provided, however,* That water made available by such units that is not needed to make up the foregoing deficiencies shall be disposed of by the Secretary at rates or for repayment determined in accordance with the provisions of law otherwise applicable to said units.

(f) The interest rate applicable to those portions of the reimbursable costs of each unit of the project which are properly allocated to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the first advance is made for initiating construction of such unit, 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) Business-type budgets shall be submitted to the Congress annually for all operations financed by the development fund.

SEC. 103. (a) The Secretary of the Interior is authorized and directed to—

(1) prepare estimates of the long-range water sup-

ply available for consumptive use in the Lower Colorado River Basin, of current water requirements in said basin, and of the rate of growth of water requirements therein to the year 2030;

(2) investigate alternative sources and various methods such as weather modification and desalinization of water as means of supplying water to meet the current and anticipated water requirements in the Lower Colorado River Basin, and prepare preliminary plans to accomplish such purpose. In planning any works to import water into the Lower Colorado River Basin from alternative sources, the Secretary shall give due consideration to existing and future needs within the areas of origin of the imported water and the means of offsetting the additional costs of future projects within said areas of origin caused by the preemption of the lower cost water sources that otherwise would have benefited said areas of origin, including the use of the development fund for this purpose;

(3) investigate projects within the Lower Colorado River Basin, including projects on tributaries of the Colorado River, where undeveloped water supplies are available or can be made available by replacement or exchange;

(4) (i) investigate means of providing for prudent

water conservation practices to permit maximum beneficial utilization of available water supplies.

(ii) The Secretary shall submit annually to the President and the Congress reports covering the investigations required by subsection (a) and, within five years from the effective date of this Act, the Secretary shall recommend to the President and the Congress projects and programs for authorization pursuant to paragraphs (2), (3), and (4) of subsection (a) and shall submit feasibility reports on such projects and programs. Said recommendation and feasibility reports shall include projects designed to provide water of an adequate quality for the Lower Colorado River Basin to assist in meeting that basin's long-range needs and, in any event, sufficient to meet deficiencies between the quantities required to supply water for the annual consumptive use of 2,800,000 acre-feet in Arizona, 4,400,000 acre-feet in California, and 300,000 acre-feet in Nevada and the quantities available in the main stream of the Colorado River for such uses as determined by the Secretary.

SEC. 104. In order to initiate the Lower Colorado River Basin project, herein referred to as the "project", and to further the comprehensive development of the water resources of the Lower Colorado River Basin the Secretary shall—

(a) construct, operate, and maintain the main stream reservoir unit consisting of the Bridge Canyon and Marble Canyon projects, including dams, reservoirs, powerplants, transmission facilities, and appurtenant works, and the Coconino and Paria River silt-detention reservoirs: *Provided,* That Bridge Canyon Dam shall be constructed so as to impound water at a normal surface elevation of one thousand eight hundred and sixty-six feet above mean sea level and that Marble Canyon Dam shall be constructed so as to impound water at a normal surface elevation of three thousand one hundred and forty feet above mean sea level. The Congress hereby declares that the construction of the Bridge Canyon Dam herein authorized is consistent with the Act of February 26, 1919 (40 Stat. 1175) ;

(b) construct, operate, and maintain the central Arizona unit consisting of the following principal works: (1) a system of main conduits and canals, including a main canal and pumping plants (Granite Reef aqueduct and pumping plants) for diverting and carrying Colorado River water from Lake Havasu to Orme Dam (McDowell Dam) on the Salt River above Granite Reef diversion dam; (2) Orme Dam (McDowell Dam) Reservoir, and power pumping plant; (3) Buttes Dam and

Reservoir; (4) Hooker Dam and Reservoir; (5) Charleston Dam and Reservoir; (6) Tucson aqueducts and pumping plants; (7) Salt-Gila aqueduct; (8) canals, powerplants, and electrical transmission facilities; (9) related water distribution and drainage works; and (10) appurtenant works: *Provided,* That for a period of twenty-five years from the effective date of this Act, or until such time as there shall have been constructed such project or projects for supplying water in quantities at least sufficient to avoid the deficiencies of main stream Colorado River water hereafter described, whichever first occurs, in any year in which, as determined by the Secretary, there will be insufficient main stream Colorado River water to satisfy the consumptive uses of two million eight hundred thousand, four million four hundred thousand, and three hundred thousand acre-feet in Arizona, California, and Nevada, respectively, diversions for the purposes of the central Arizona unit shall be so limited as to assure the availability of water in quantities sufficient to provide for the aggregate annual consumptive use of four million four hundred thousand acre-feet under water delivery contracts made with entities in the State of California. The terms "consumptive use" and "main stream" as used in this Act shall have the meanings assigned to those terms in the

decree in Arizona against California dated March 9, 1964 (376 U.S. 340) ;

(c) undertake comprehensive investigations, in cooperation with other concerned agencies to demonstrate the feasibility of proposed development plans in maintaining an adequate water quality throughout the basin;

(d) construct, operate, and maintain such additional works as shall from time to time be authorized by the Congress as units of the project; and

(e) investigate, plan, construct, operate, and maintain or otherwise provide for (1) basic public outdoor recreation facilities on lands withdrawn or acquired for the development of units of the project herein and hereafter authorized, conservation of the scenery, the natural, historic, and archeologic objects and the wildlife on said lands, and public use and enjoyment of the same and of the water areas created thereunder in a manner coordinated and consistent with the other purposes of such units, and (2) facilities, consistent with the primary purposes of such units for the conservation and development of fish and wildlife. In carrying out the provisions of this subsection the Secretary may enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and additional development of lands or facilities or to dispose of

such lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance, or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for purposes of this subsection.

SEC. 105. (a) Except as otherwise provided in this Act, in constructing, operating, and maintaining the units of the project herein and hereafter authorized, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388 and Acts amendatory thereof or supplementary thereto).

(b) Contracts for the delivery of main stream water, or water to meet the deficiencies in main stream supply referred to in subsection (e) (3) of section 102 of this Act, to such units shall conform to and be made in accordance with the requirements of the Boulder Canyon Project Act (45 Stat. 1057).

(1) may require that contracts for the delivery of water for irrigation purposes from the central Arizona unit provide for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits and from such other points of delivery as the Secretary may designate; shall require that water furnished

by or through such units shall not be used for the irrigation of lands not having a recent irrigation history, as determined by the Secretary; and shall require as a condition precedent to each contract that there be in effect measures adequate, in his judgment, to control expansion of irrigation from aquifers affected by irrigation in the contract service area; and the canals and distribution systems through which water is conveyed after its delivery by the United States to the contractor shall be provided and maintained with linings to the extent, adequate in his judgment, to prevent excessive conveyance losses; and contracts relating to irrigation water supply shall provide that water deliverable thereunder may be made available by the Secretary for municipal or miscellaneous purposes, if and to the extent that such water is not required by the contractor for irrigation purposes;

(2) may enter into contracts relating to municipal and industrial water supply from the Project without regard to the limitations of the last sentence of section 9(c) of the Reclamation Project Act of 1939 (53 Stat. 1194) and may provide for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits; and

(3) may require as a condition in any contract under which water is provided under the project that the contractor agree to accept main stream water in exchange for or in replacement of existing supplies from sources other than the main stream, but no such exchange or replacement shall require a contractor to bear any cost of said exchange or replacement water in excess of the costs that would have been incurred in connection with the continued use by the contractor of its existing supply, nor shall such exchange or replacement otherwise result in economic injury to the contractor.

SEC. 106. Upon completion of each unit of the project herein or hereafter authorized, or separate feature thereof, the Secretary shall allocate the total costs of constructing said unit or feature to commercial power, irrigation, municipal and industrial water supply, flood control, navigation, area redevelopment, recreation, fish and wildlife, or any other purposes authorized under the Federal reclamation laws. Costs of means and measures to prevent loss of and damage to fish and wildlife resources resulting from the construction of the project shall be considered as project costs and allocated as may be appropriate among the project functions. Costs of construction, operation, and maintenance allocated to area redevelopment, and other authorized nonreimbursable purposes shall be nonreturnable under the provisions of this

Act. Costs allocated to recreation and fish and wildlife enhancement shall be nonreimbursable within appropriate limits determined by the Secretary to be consistent with the provisions of law and policy applicable to other similar Federal projects and programs. On January 1 of each year the Secretary shall report to the Congress, beginning with the fiscal year ending June 30, 1966, upon the status of the revenues from and the cost of constructing, operating, and maintaining the project for the previous fiscal year. 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.

SEC. 107. The Secretary shall determine the repayment capability of Indian lands within, under, or served by any unit of the project. Construction costs allocated to irrigation of Indian lands (including provision of water for incidental domestic and stock water uses) and within the repayment capability of such lands shall be subject to the Act of July 1, 1932 (47 Stat. 564), and such costs as are beyond repayment capability of such lands shall be nonreimbursable.

SEC. 108. This Act shall be deemed a supplement to the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto).

Nothing contained in this Act shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Colorado River compact, the Upper Colorado River Basin compact, the Act of April 11, 1956 (Colorado River Storage Project Act) (70 Stat. 105), the treaty with the United Mexican States (Treaty Series 994), the opinion and any decree entered by the Supreme Court of the United States in Arizona against California (373 U.S. 456), or, except as otherwise provided herein, the Boulder Canyon Project Act (45 Stat. 1057) or the Boulder Canyon Project Adjustment Act (54 Stat. 774).

SEC. 109. (a) There is hereby created the Colorado-Pacific Regional Water Commission (hereinafter referred to as the "Commission") composed of members to be appointed as follows:

(1) A Chairman appoined by the President: *Provided,* That in the event the Chairman is the head of a Federal department or agency, such Chairman may appoint a deputy to act as Chairman in his stead during his absence: *And provided further,* That no State, Federal department, or agency which is represented by the Chairman shall be otherwise represented;

(2) One member representing each of the States of Arizona, California, Nevada, New Mexico, and Utah,

appointed by the Governor of the State, and one member representing each other State which the President may find to be affected, such member to be appointed by the Governor of such State; and

(3) One member appointed by and representing each of the Secretaries of the Interior, Agriculture, the Army, Health, Education, and Welfare, and State and one member representing each of such other departments and agencies as the President may designate.

(b) The compensation of each member shall be paid by the entity appointing him.

(c) The functions of the Commission shall be advisory only, and in its advisory capacity the Commission shall—

(1) assist in the coordination of further Federal, State, interstate, and local plans for the conservation, augmentation, and beneficial utilization of the water and related land resources of the Lower Colorado River Basin and affected areas;

(2) advise and consult with the Secretary of the Interior with respect to his responsibilities under section 3 of this Act;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) recommend to the appropriate Federal and

State agencies studies of water resources and related land resources in the region as the Commission believes are necessary in the preparation of the plans described in class (1) of this subsection.

(d) In carrying out the provisions of this Act, the Commission may—

(1) employ and compensate such personnel as it deems advisable;

(2) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(3) acquire, furnish, and equip such office space as is necessary;

(4) accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, facilities, and services, and receive, utilize, and dispose of the same; and

(5) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this section.

(e) The Commission shall determine the proportionate shares of its expenses which shall be borne by the Federal Government and each of the States. The Commission shall prepare a budget annually and transmit it to the Federal departments and the States. Estimates of proposed appro-

priations from the Federal Government shall be included in the budget estimates submitted by the Secretary of the Interior under the Budgeting and Accounting Act of 1921, as amended, and may include an amount for advance to the Commission against State appropriations for which delay is anticipated by reason of later legislative sessions.

## TITLE II—SOUTHERN NEVADA WATER SUPPLY UNIT

SEC. 201. The Secretary shall construct, operate, and maintain the southern Nevada water supply unit, the principal works of which shall consist of intake facilities, pumping plants, aqueduct and laterals, transmission lines, substations, storage and regulatory facilities, drainage facilities, and appurtenant works required to provide water from Lake Mead for distribution for municipal and industrial purposes in Clark County, Nevada. Construction of the project shall not commence until a repayment contract has been entered into and its execution by the contractor shall have been finally affirmed by a decree of a court of competent jurisdiction. The Secretary may enter into a contract with the State of Nevada, acting through the Colorado River Commission of Nevada or other duly authorized State agency, providing among other things, that—

(a) the contractor shall operate and maintain the project works;

(b) the construction costs allocable to municipal and industrial water supply shall be repaid by the contractor, with interest, in not more than fifty years (except such construction costs as are allocable to the furnishing of a water supply to Nellis Air Force Base and other Federal defense installations, which costs shall be nonreimbursable) ; and

(c) the contractor shall take delivery of water from Lake Mead at the intake works and shall sell and deliver such water at wholesale under contracts to be approved by the Secretary, which shall include an obligation on the part of each purchaser to exercise such powers as it may possess to levy and collect taxes or assessments for purposes of meeting the charges for service thereunder.

SEC. 301. There are hereby authorized to be appropriated such sums as are required to carry out the purposes of this Act.

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## A BILL

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By Mr. HAYDEN and Mr. FANNIN

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