

90TH CONGRESS
1ST SESSION

S. 1004

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 1967

MR. HAYDEN (for himself, Mr. FANNIN, Mr. CANNON, and Mr. JACKSON) 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 central Arizona project, Arizona-New Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. That this Act may be cited as the "Central
4 Arizona Project Act."

5 SEC. 2. (a) For the purposes of furnishing irrigation
6 water and municipal water supplies to the water deficient
7 areas of Arizona and western New Mexico through direct
8 diversion or exchange of water, generation of electric power
9 and energy, control of floods, conservation and development

1 of fish and wildlife resources, enhancement of recreation
2 opportunities, and for other purposes, the Secretary of the
3 Interior (hereinafter referred to as the "Secretary") shall
4 construct, operate, and maintain the central Arizona project,
5 consisting of the following principal works: (1) a system
6 of main conduits and canals, including a main canal and
7 pumping plants (Granite Reef aqueduct and pumping
8 plants), for diverting and carrying water from Lake Havasu
9 to Orme Dam or suitable alternative, which system shall
10 have a capacity of not less than three thousand cubic feet per
11 second; (2) Orme Dam and Reservoir and power-pumping
12 plant or suitable alternative; (3) Buttes Dam and Reservoir,
13 which shall be so operated as to not prejudice the rights of
14 any user in and to the waters of the Gila River as those
15 rights are set forth in the decree entered by the United
16 States District Court for the District of Arizona on June 29,
17 1935, in United States against Gila Valley Irrigation Dis-
18 trict and others (Globe Equity Number 59); (4) Hooker
19 Dam and Reservoir which shall be constructed to an initial
20 capacity of ninety-eight thousand acre-feet and in such a
21 manner as to permit subsequent enlargement of the structure
22 (to give effect to the provisions of subsection (i) of this
23 section; (5) Charleston Dam and Reservoir; (6) Tucson
24 aqueducts and pumping plants; (7) Salt-Gila aqueduct; (8)
25 canals, regulating facilities, hydroelectric powerplants, and

1 electrical transmission facilities; (9) related water distribu-
2 tion and drainage works; and (10) appurtenant works.

3 (b) (1) The Secretary may enter into an agreement
4 with non-Federal interests proposing to construct a thermal
5 generating powerplant whereby the United States shall
6 acquire the right to such portion of the capacity of such
7 plant, including delivery of power and energy over ap-
8 purtenant transmission facilities to mutually agreed upon
9 delivery points, as he determines is required in connection
10 with the central Arizona project. Power and energy ac-
11 quired thereunder may be disposed of intermittently by
12 the Secretary when not required in connection with the
13 central Arizona project. The agreement shall provide,
14 among other things, that—

15 (i) The United States shall pay not more
16 than that portion of the total construction cost, exclu-
17 sive of interest during construction, of the powerplant,
18 and of any switchyards and transmission facilities serv-
19 ing the United States, as is represented by the ratios
20 of the respective capacities to be provided for the United
21 States therein to the total capacities of such facilities.

22 The Secretary shall make the Federal portion of such
23 costs available to the non-Federal interests during the
24 construction period, including the period of prepara-

1 tion of designs and specifications, in such installments
2 as will facilitate a timely construction schedule;

3 (ii) Annual operation and maintenance costs, in-
4 cluding provision for depreciation (except as to depre-
5 ciation on the pro rata share of construction cost borne
6 by the United States in accordance with the foregoing
7 subdivision (i) shall be prorated between the United
8 States and the non-Federal interests on the basis of the
9 ratios determined in accordance with the foregoing sub-
10 division (i) ;

11 (iii) The United States shall be given appropriate
12 credit for any interests in Federal lands administered
13 by the Department of the Interior that are made avail-
14 able for the powerplant and appurtenances.

15 (c) Unless and until otherwise provided by Congress,
16 water from the central Arizona project shall not be made
17 available directly or indirectly for the irrigation of lands not
18 having a recent irrigation history as determined by the Sec-
19 retary, except in the case of Indian lands, national wildlife
20 refuges, and, with the approval of the Secretary, State-
21 administered wildlife management areas.

22 (d) (1) Irrigation and municipal and industrial water
23 supply under the central Arizona project within the State of
24 Arizona may, in the event the Secretary determines that it
25 is necessary to effect repayment, be pursuant to master con-

1 tracts with organizations which have power to levy assess-
2 ments against all taxable real property within their bound-
3 aries. The terms and conditions of contracts or other
4 arrangements whereby each such organization makes water
5 from the central Arizona project available to users within its
6 boundaries shall be subject to the Secretary's approval and
7 the United States shall, if the Secretary determines such
8 action is desirable to facilitate carrying out the provisions of
9 this Act, have the right to require that it be a party to such
10 contracts or that contracts subsidiary to the master contracts
11 be entered into between the United States and any user.
12 The provisions of this subparagraph (1) shall not apply to
13 the supplying of water to an Indian tribe for use within the
14 boundaries of an Indian reservation.

15 (2) Any obligation assumed pursuant to section 9 (d)
16 of the Reclamation Project Act of 1939 (43 U.S.C. 485h
17 (d)) with respect to any project contract unit or irrigation
18 block shall be repaid over a basic period of not more than
19 fifty years; any water service provided pursuant to section
20 9 (e) of the Reclamation Project Act of 1939 (43 U.S.C.
21 485h (e)) may be on the basis of delivery of water for a
22 period of fifty years and for the delivery of such water at an
23 identical price per acre-foot for water of the same class at
24 the several points of delivery from the main canals and

1 conduits and from such other points of delivery as the Secre-
2 tary may designate; and long-term contracts relating to irri-
3 gation water supply shall provide that water made available
4 thereunder may be made available by the Secretary for mu-
5 nicipal or industrial purposes if and to the extent that such
6 water is not required by the contractor for irrigation purposes.

7 (3) Contracts relating to municipal and industrial water
8 supply under the central Arizona project may be made with-
9 out regard to the limitations of the last sentence of section
10 9 (c) of the Reclamation Project Act of 1939 (43 U.S.C.
11 485h (c)) ; may provide for the delivery of such water at an
12 identical price per acre-foot for water of the same class at
13 the several points of delivery from the main canals and
14 conduits; and may provide for repayment over a period of
15 fifty years if made pursuant to clause (1) of said section and
16 for the delivery of water over a period of fifty years if made
17 pursuant to clause (2) thereof.

18 (e) Each contract under which water is provided under
19 the central Arizona project shall require that (1) there be
20 in effect measures, adequate in the judgment of the Secretary,
21 to control expansion of irrigation from aquifers affected by
22 irrigation in the contract service area; (2) the canals and
23 distribution systems through which water is conveyed after
24 its delivery by the United States to the contractors shall be
25 provided and maintained with linings, adequate in his judg-

1 ment to prevent excessive conveyance losses; (3) neither
 2 the contractor nor the Secretary shall pump or permit others
 3 to pump ground water from ~~lands~~ located within the exterior
 4 boundaries of any ~~Federal reclamation project or irrigation~~
 5 ~~district~~ *the service area of a* receiving water from the central Arizona project for
 6 any use outside such ~~Federal reclamation project or irrigation~~
 7 ~~district~~, *contractor's service area* unless the Secretary and the agency or organization
 8 operating and maintaining such Federal reclamation project
 9 or irrigation district shall agree or shall have previously
 10 agreed that a surplus of ground water exists and that drain-
 11 age is or was required; and (4) all agricultural, municipal
 12 and industrial waste water, return flow, seepage, sewage
 13 effluent, and ground water located in or flowing from con-
 14 tractor's service area originating or resulting from (i) waters
 15 contracted for from the central Arizona project ~~or (ii)~~
 16 ~~waters stored or developed by any Federal reclamation~~
 17 ~~project~~ *unused by the contractor within its* *service area* are reserved for the use and benefit of the United
 18 States as a source of supply for the service area of the central
 19 Arizona project or for the service area of the Federal rec-
 20 lamation project, as the case may be: *Provided*, That not-
 21 withstanding the provisions of clause (3) of this subsection,
 22 the agricultural, municipal and industrial waste water, return
 23 flow, seepage, sewage effluent, and ground water in or from
 24 any such ~~Federal reclamation project~~, *contractor's service area* may also be pumped
 25 or diverted for use and delivery by the United States else-

1 where in the service area of the central Arizona project, if
2 not needed for use or reuse in such ^{contractor's} Federal reclamation
3 ^{service area} project.

4 (f) The Secretary may require in any contract under
5 which water is provided from the central Arizona project that
6 the contractor agree to accept main stream water in exchange
7 for or in replacement of existing supplies from sources other
8 than the main stream. The Secretary shall so require in the
9 case of users in Arizona who also use water from the Gila
10 River system, to the extent necessary to make available to
11 users of water from the Gila River system in New Mexico
12 additional quantities of water as provided in and under the
13 conditions specified in subsection (i) of this section: *Pro-*
14 *vided*, That such exchanges and replacements shall be accom-
15 plished without economic injury or cost to such Arizona
16 contractors.

17 (g) In times of shortage or reduction of main stream
18 Colorado River water for the central Arizona project, as
19 determined by the Secretary, users which have yielded water
20 from other sources in exchange for main stream water sup-
21 plied by that project shall have a first priority to receive main
22 stream water, as against other users supplied by that unit
23 which have not so yielded water from other sources, but only
24 in quantities adequate to replace the water so yielded.

25 (h) In the operation of the central Arizona project,

1 the Secretary shall offer to contract with water users in
2 New Mexico for water from the Gila River, its tributaries
3 and underground water sources, in amounts that will permit
4 consumptive use of water in New Mexico not to exceed an
5 annual average in any period of ten consecutive years of
6 eighteen thousand acre-feet, including reservoir evaporation,
7 over and above the consumptive uses provided for by article
8 IV of the decree of the Supreme Court of the United States
9 in Arizona against California (376 U.S. 340). Such in-
10 creased consumptive uses shall not begin until and shall
11 continue only so long as delivery of Colorado River water
12 to downstream Gila River users in Arizona is being accom-
13 plished in accordance with this Act, in quantities sufficient
14 to replace any diminution of their supply resulting from such
15 diversions from the Gila River, its tributaries and under-
16 ground water sources. In determining the amount required
17 for this purpose full consideration shall be given to any
18 differences in the quality of the waters involved. All addi-
19 tional consumptive uses provided for in this subsection shall
20 be subject to all rights in New Mexico and Arizona as estab-
21 lished by the decree entered by the United States District
22 Court for the District of Arizona on June 29, 1935, in
23 United States against Gila Valley Irrigation District and
24 others (Globe Equity Numbered 59) and to all other rights

1 existing on the effective date of this Act in New Mexico and
2 Arizona to water from the Gila River, its tributaries and
3 underground water sources, and shall be junior thereto and
4 shall be made only to the extent possible without economic
5 injury or cost to the holders of such rights.

6 SEC. 3. The conservation and development of the fish
7 and wildlife resources and the enhancement of recreation
8 opportunities in connection with the central Arizona project
9 works authorized pursuant to this Act shall be in accordance
10 with the provisions of the Federal Water Project Recreation
11 Act (79 Stat. 213).

12 SEC. 4. The Secretary shall determine the repayment
13 capability of Indian lands within, under, or served by the
14 central Arizona project. Construction costs allocated to
15 irrigation of Indian lands (including provision of water for
16 incidental domestic and stock water uses) and within the
17 repayment capability of such lands shall be subject to the
18 Act of July 1, 1932 (47 Stat. 464), and such costs as are
19 beyond repayment capability of such lands shall be nonreim-
20 bursable.

21 SEC. 5. The interest rate applicable to those portions of
22 the reimbursable costs of the central Arizona project which
23 are properly allocated to commercial power development and
24 municipal and industrial water supply shall be determined by
25 the Secretary of the Treasury, as of the beginning of the

1 fiscal year in which the first advance is made for initiating
2 construction of such project, on the basis of the computed
3 average interest rate payable by the Treasury upon its out-
4 standing marketable public obligations which are neither
5 due nor callable for redemption for fifteen years from the
6 date of issue.

7 SEC. 6. The Secretary may undertake programs for
8 water salvage along and adjacent to the main stream of the
9 Colorado River and for ground water recovery. Such pro-
10 grams shall be consistent with maintenance of a reasonable
11 degree of undisturbed habitat for fish and wildlife in the
12 area, as determined by the Secretary.

13 SEC. 7. The Upper Colorado River Basin fund estab-
14 lished under section 5 of the Act of April 11, 1956 (70 Stat.
15 107), shall be reimbursed from the Colorado River develop-
16 ment fund established by section 2 of the Boulder Canyon
17 Project Adjustment Act (54 Stat. 755), for all expenditures
18 heretofore or hereafter made from the Upper Colorado River
19 Basin fund to meet deficiencies in generation at Hoover Dam
20 during the filling period of reservoirs of storage units of the
21 Colorado River storage project pursuant to the criteria for
22 the filling of Glen Canyon Reservoir (27 Fed. Reg. 6851,
23 July 19, 1962). For this purpose \$500,000 for each year
24 of operation of Hoover Dam and powerplant, commencing
25 with the enactment of this Act, shall be transferred from

1 the Colorado River development fund to the Upper Colorado
2 River Basin fund, in lieu of application of said amounts to
3 the purposes stated in section 2 (d) of the Boulder Canyon
4 Project Adjustment Act, until such reimbursement is accom-
5 plished. To the extent that any deficiency in such reim-
6 bursement remains as of June 1, 1987, the amount of
7 the remaining deficiency shall then be transferred to
8 the Upper Colorado River Basin fund from net revenues
9 derived from the sale of electric energy generated at Hoover
10 Dam.

11 SEC. 8. Nothing in this Act shall be construed to alter,
12 amend, repeal, modify, or be in conflict with the provisions of
13 the Colorado River Compact (45 Stat. 1057), the Upper
14 Colorado River Basin compact (63 Stat. 31), the water
15 treaty of 1944 with the United Mexican States (Treaty
16 Series 994), the decree entered by the Supreme Court of the
17 United States in Arizona against California, and others (376
18 U.S. 340), or, except as otherwise provided herein, the
19 Boulder Canyon Project Act (45 Stat. 1057), the Boulder
20 Canyon Project Adjustment Act (54 Stat. 774) or the Colo-
21 rado River Storage Project Act (70 Stat. 105).

22 SEC. 9. The Secretary is directed to—
23 (a) make reports as to the annual consumptive
24 uses and losses of water from the Colorado River system
25 after each successive five-year period, beginning with

1 the five-year period starting on October 1, 1965. Such
2 reports shall be prepared in consultation with the States
3 of the lower basin individually and with the Upper Colo-
4 rado River Commission, and shall be transmitted to the
5 President, the Congress, and to the Governors of each
6 State signatory to the Colorado River compact;

7 (b) condition all contracts for the delivery of water
8 originating in the drainage basin of the Colorado River
9 system upon the availability of water under the Colorado
10 River compact.

11 SEC. 10. (a) The Secretary shall propose criteria for
12 the coordinated long-range operation of the reservoirs con-
13 structed and operated under the authority of the Colorado
14 River Storage Project Act and the Boulder Canyon Project
15 Act, consistent with the provisions of those statutes, the
16 Boulder Canyon Project Adjustment Act, the Colorado River
17 compact, the Upper Colorado River compact and the Mexi-
18 can Water Treaty. To effect in part the purposes expressed
19 in this paragraph, the criteria shall make provision for the
20 storage of water in storage units of the Colorado River stor-
21 age project and releases of water from Lake Powell in the
22 following listed order of priority:

23 (1) Releases to supply one-half the deficiency described
24 in article III (c) of the Colorado River compact, if any such

1 deficiency exists and is chargeable to the States of the upper
2 division.

3 (2) Releases to comply with article III (d) of the Colo-
4 rado River compact.

5 (3) Storage of water not required for the releases speci-
6 fied in clauses (1) and (2) of this subsection to the extent
7 that the Secretary, after consultation with the Upper Colo-
8 rado River Commission and representatives of the three low-
9 er division States and taking into consideration all relevant
10 factors (including, but not limited to, historic streamflows,
11 the most critical period of record, and probabilities of water
12 supply), shall find to be reasonably necessary to assure de-
13 liveries under clauses (1) and (2) without impairment of
14 annual consumptive uses in the upper basin pursuant to the
15 Colorado River compact: *Provided*, That water not so re-
16 quired to be stored shall be released from Lake Powell: (i)
17 to the extent it can be reasonably applied in the States of the
18 lower division to the uses specified in article III (e) of the
19 Colorado River compact, but no such releases shall be made
20 when the active storage in Lake Powell is less than the ac-
21 tive storage in Lake Mead, (ii) to maintain, as nearly as
22 practicable, active storage in Lake Mead equal to the active
23 storage in Lake Powell, and (iii) to avoid anticipated spills
24 from Lake Powell.

25 (b) Not later than July 1, 1968, the criteria proposed

1 in accordance with the foregoing subsection (a) of this
2 section shall be submitted to the Governors of the seven
3 Colorado River Basin States and to such other parties and
4 agencies as the Secretary may deem appropriate for their
5 review and comment. After receipt of comments on the
6 proposed criteria, but not later than January 1, 1969, the
7 Secretary shall adopt appropriate criteria in accordance
8 with this section and publish the same in the Federal
9 Register. Beginning January 1, 1970, and yearly there-
10 after, the Secretary shall transmit to the Congress and to
11 the Governors of the Colorado River Basin States a report
12 describing the actual operation under the adopted criteria
13 for the preceding compact water year and the projected
14 operation for the current year. As a result of actual oper-
15 ating experience or unforeseen circumstances, the Secre-
16 tary may thereafter modify the criteria to better achieve
17 the purposes specified in subsection (a) of this section, but
18 only after correspondence with the Governors of the seven
19 Colorado River Basin States and appropriate consultation
20 with such State representatives as each Governor may
21 designate.

22 (c) Section 7 of the Colorado River Storage Project
23 Act shall be administered in accordance with the foregoing
24 criteria.

25 SEC. 11. (a) Rights of the upper basin to the con-

1 sumptive use of water apportioned to that basin from the
2 Colorado River system by the Colorado River compact
3 shall not be reduced or prejudiced by any use of such water
4 in the lower basin.

5 (b) Nothing in this Act shall be construed so as to
6 impair, conflict with, or otherwise change the duties and
7 powers of the Upper Colorado River Commission.

8 SEC. 12. Except as otherwise provided in this Act,
9 in constructing, operating, and maintaining the central
10 Arizona project, the Secretary shall be governed by the
11 Federal reclamation laws (Act of June 17, 1902; 32 Stat.
12 388 and Acts amendatory thereof or supplementary thereto)
13 to which laws this Act shall be deemed a supplement.

14 SEC. 13. (a) All terms used in this Act which are
15 defined in the Colorado River compact shall have the mean-
16 ings there defined.

17 (b) "Main stream" means the main stream of the Colo-
18 rado River downstream from Lee Ferry within the United
19 States, including the reservoirs thereon.

20 (c) "User" or "water user" in relation to main stream
21 water in the lower basin means the United States, or any
22 person or legal entity, entitled under the decree of the Su-
23 preme Court of the United States in Arizona against Cali-
24 fornia, and others (376 U.S. 340), to use main stream
25 water when available thereunder.

1 (d) "Active storage" means that amount of water in
2 reservoir storage, exclusive of bank storage, which can be
3 released through the existing reservoir outlet works.

4 (e) "Colorado River Basin States" means the States of
5 Arizona, California, Colorado, Nevada, New Mexico, Utah,
6 and Wyoming.

7 SEC. 14. There is hereby authorized to be appropriated,
8 out of any moneys in the Treasury not otherwise appropri-
9 ated, such sums as may be required to carry out the purposes
10 of this Act.

*add definition of
"municipal water supply"
"Contracted Service Area"*

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