COMMENTS OF IVAL V. GOSLIN ON UPPER BASIN RESERVOIR
FILLING CRITERIA

AT MEETING OF UTAH WATER & POWER BOARD

APRIL 13, 1961

The problem of filling Upper Basin reservoirs is not a new one, in fact by this time it is beginning to accumulate a long, gray beard. The question is still before us, but I can assure you that its resolution is getting closer and closer. Undoubtedly this summer will see the answer promulgated by the Secretary of the Interior. This problem actually originated when the Boulder Canyon Project Act authorized the construction of Hoover Dam. It remained latent in much the same manner a poison remains dormant in the blood stream until it erupts into a boil on the back of the neck or an ulcer in your stomach. The labor pains really commenced when Congress gave birth to the Colorado River Storage Project Act in April 1956.

During the hearings before Congressional Committees in 1954 and 1955, this problem was recognized, was given some consideration by the Committees, but was not answered. During 1956 and 1957 so much pressure was applied to the Secretary of the Interior, principally by representatives of California, to develop filling procedures that in October, 1957 the Secretary called a meeting of the seven Basin States' Governors in Washington, D. C. At this meeting the Secretary proposed a set of "Hydrologic Bases" as criteria for filling Glen Canyon reservoir. At this meeting the three Lower Basin States,
Arizona, California and Nevada, united to present a Tri-State Criteria. The Lower Basin thus rejected the Department of the Interior's "Hydrologic Bases". In order to let everybody know that we were in the game, the Upper Basin promptly rejected both the Department of the Interior's "Hydrologic Bases" and the Lower Basin's so called Tri-State Criteria.

The next meeting of the 7 Governors or their representatives was held in Las Vegas on December 4th and 5th, 1957. The principal development emanating from this meeting was the formation of a Lower Basin Engineering Group for the purpose of making studies of the effects of filling Upper Basin reservoirs. This group was composed of Engineers of the Lower Basin States and Engineers from the Bureau of Reclamation. Although the Upper Basin was invited to participate with this group; it did not do so. The Lower Basin Engineering Group held 5 two-day sessions during 1958 and 3 in 1959. Early in 1958 the Staff of the Upper Colorado River Commission began making independent studies of the same problem; namely, the problem of filling Glen Canyon Reservoir. By August of 1958 it was possible for the Engineering Committee of the Upper Colorado River Commission to request the Department of the Interior to appoint a group of Engineers to meet with it. The same Bureau of Reclamation Engineers that were meeting with the Lower Basin Engineers were appointed to meet with our Engineering Committee. One meeting with the Bureau Engineers was
held during 1958. Following this meeting, our Engineering Committee, working independently, made a large number of reservoir operating studies. In March, 1959 a joint meeting was held of the Lower Basin Engineering group and the Engineering Committee of the Upper Basin for the purpose of discussing the studies that had been made by the Lower Basin Engineering group. In August of 1959 a similar meeting was held for the purpose of discussing the studies that had been made by the Upper Basin Engineering Committee. Reports by the Lower Basin Engineering group and by the Engineering Committee of the Upper Colorado River Commission were transmitted late in 1959 to the Secretary of the Interior for his consideration.

In our office our Staff has made considerably more than 500 separate reservoir filling studies. Studies made by the Bureau of Reclamation Engineers, the Lower Basin Engineers, the Colorado Water Conservation Board and the Utah Water and Power Board amount to more than another 500 separate studies. Thus you can see that well over 1,000 studies have been compiled by the groups working on this problem. I am sure that it is safe to say that the studies made by all of these groups were prepared on a strictly objective basis for the purpose of preparing a sufficient number of studies to permit an appraisal of the effects of a wide variety of possible conditions on the filling of the Upper Basin reservoirs and the production of power and energy at Hoover Dam. I do not believe that at any time any one who has been closely associated with these studies suffered under the hallucination that
a set of criteria, satisfactory to everybody, could be obtained. Such a contemplation seems to me to be a Utopian condition that could exist only in the imagination.

In February of 1960 the Department of the Interior transmitted to interested parties in the Upper and Lower Basins of the Colorado River a document prepared by the Bureau of Reclamation entitled "Proposed General principals to Govern, and Operating Criteria for, Glen Canyon and Lake Mead During the Filling of Glen Canyon Reservoir".

During 1960 representatives of the Bureau of Reclamation met with representatives of the Upper and Lower Basins in March in Las Vegas, in May in Los Angeles and in June in Boulder City, Nevada. The Bureau Engineers and Upper Basin Engineering Committee also met on January 9, 1961. At this point I believe it would be appropriate to point out that after the Secretary had transmitted his proposed criteria to the interested parties, some of the most effective work that has been done on this problem has been done quietly behind-the-scenes. It would be absolutely impossible for me to even begin to tell you how many conferences and unofficial meetings on this subject have been held during the last year and one-half. I learned a long time ago that the real value of a large meeting lies in the fact that it constitutes a forum for the expounding of ideas, the dissemination of information, and, in general, a place where interested, energetic advocates can spout off. After more than 20 years of negotiating, arguing, creating and
solving water problems I have learned that the real work and the valuable accomplishments come from working quietly and sincerely behind-the-scenes with other interested people.

During 1960 our research into the effects of the Secretary's proposed general principles on the filling of the Upper Basin reservoirs continued. As these studies and research into documents constituting the "law of the river" progressed and, especially after studying the effects of the Bureau's proposed "general principles", it became apparent that the Upper Basin cannot agree to the Bureau's present proposal. This position was made known to the Bureau's engineers and the Lower Basin's representatives at a meeting on June 15, 1960 in Boulder City, Nevada at a time when representatives of the Bureau were seeking agreement from the Upper and Lower Basin Engineers on the method of computing reductions in energy generation at Hoover Powerplants that might be caused by the operation of Upper Basin Reservoirs.

On July 20, 1960 representatives of the four member states on the Upper Colorado River Commission, after being informed of developments on reservoir filling problems, wrote a letter to the Commissioner of Reclamation explaining that the Upper Basin was not in accord with the proposed principles and criteria which seemed to imply that Hoover Dam power contracts must be made whole at the expense of the development in the Upper Basin States.
Several attempts were made to schedule meetings with representatives of the Bureau of Reclamation during the summer and autumn of 1960. Due to the political campaigns, elections and other conditions beyond the control of those involved, a meeting could not be held until January 9th of this year. At this meeting the position of the Upper Basin and its objections to the Bureau's proposed "general principles" were described and several suggested changes in the "general principles" were discussed.

When I look around this room filled with political pot boilers, I tell myself that there is no need to remind you that last November we had an election and the Republicans lost as far as Washington, D. C. is concerned. Perhaps you do need to be reminded, however, that when our old friends went out, and our new friends took over the keys to the executive offices, there was a situation created under which new heads will be scratched to solve old problems. This condition causes a certain amount of confusion and delay. New executives have not had time to become intimately familiar with all of the details of the myriads of serious problems confronting them. In a transition period from one party administration to another there is always a tendency for the wheels that squeak first and loudest to have the grease applied first.

After waiting a reasonable time for the new men in the Interior Department to get their posterior appendages more firmly planted on terra firma, we squeaked.
I have had several discussions about reservoir filling criteria in recent weeks with officials in Washington. One afforded me the opportunity both orally and by means of a written memorandum to lay before him what I believe to be our position with respect to the February 1960 proposed reservoir filling criteria currently before us and to offer constructive suggestions.

Among others, the following 12 points of information have been brought to the attention of the new Secretary of the Interior.

1. The proposed general principles currently before us are based upon the proposition that an allowance, either in money or kilowatt hours should be made for computed deficiency in firm energy generated at Hoover which might be caused by Upper Basin reservoirs. Our fundamental objection is to this concept that would require the Secretary to reimburse Hoover power contractors for annual reductions in firm energy generated at Hoover Dam by using either Upper Basin fund revenues or kilowatt hours. We fail to see the equity of this philosophy; although we have been told in meetings with the Bureau Engineers that the formula for making up deficiencies is one of equity rather than of law, the idea being that the filling of Upper Basin reservoirs may be outside of the Colorado River Compact instead of within its provisions. Whether the Compact does or does not directly cover the filling of Upper Basin Reservoirs is a legal question of exceedingly broad scope that need not be resolved in a search for equity.
The fact that I may say the Compact does cover the filling process and others say it does not contributes nothing at this time to the solution of the problem facing us, the problem of getting the new powerplants into production as rapidly as possible.

2. The Colorado River Compact was adopted for the primary purpose of protecting the slower development of the water resources of the Upper Basin against the more rapid development downstream in order to provide equity or equality of opportunity to develop in both basins. This being the case, if the Secretary were to take either revenues or energy from the Upper Basin projects to subsidize reductions in energy generated at Hoover, that equity is destroyed. Upper Basin resources development is retarded in direct proportion to the amount of revenues that are prevented from accruing to the credit of the Upper Basin Fund.

3. There is nothing in the various compacts and other documents constituting the "law of the river" that requires or permits the diverting of either revenues or kilowatt hours from Upper Basin projects to make Hoover power contracts whole during the reservoir filling process or long-term reservoir operation. At the time of negotiating the Colorado River Compact, to which all other documents and contracts are subservient, the construction of Upper Basin reservoirs and the consumptive use of water were anticipated and were underlying reasons for negotiating the Compact.

4. There is nothing in P. L. 485 that empowers the Secretary
to use either Upper Basin project revenues or energy to guarantee the contracts for energy generated at Hoover Dam. It is also true that there is nothing in P. L. 485 that specifically says that the Secretary cannot use Upper Basin revenues for this purpose. However, P. L. 485 allocates all of the revenues, and with the Basin Account principle in the law, and with two separate Basins involved it seems that it is stretching a point to include paying allowances for power reductions at Hoover Dam as part of the O. & M. at Glen Canyon.

5. There is nothing in any of the contracts between the Secretary and the Hoover power allottees that requires the Secretary to, or authorizes the Secretary to, take energy or revenues from a subsequent federal powerplant (such as Glen Canyon) on the Colorado River to make whole the contracts for Hoover-generated power. In fact, these contracts contemplate a diminution of generation at Hoover as Upper Basin development proceeds. These contracts are between the Secretary of the Interior and the Hoover power contractors. If the Secretary now finds the contracts inconsistent with his judgment as to hydrology at the time they were signed, that inconsistency is a problem between the Secretary and the contractors. The operation of Upper Basin reservoirs will not adversely affect the repayment of costs of Hoover Dam. The Secretary under the present power contracts has the authority to adjust rates for the sale of Hoover power in order to repay the costs of the Boulder Canyon Project within the statutory period. Without specific Congressional authorization to do so, the Secretary should
not take either energy or dollars from the Upper Basin project for the benefit of the Lower Basin.

6. If the Secretary desires to, or if he feels compelled to make up the deficiencies in firm energy described in the Hoover power contracts, the Secretary should consider making the adjustments in rates and the amounts of costs to be amortized prior to 1987 under the Boulder Canyon Project Adjustment Act and his own regulations thereunder, and, if there are still deficiencies for which he feels adjustments cannot be made under said Act or regulations, he should look elsewhere than to the Upper Basin for a source of revenues or energy. The Secretary might explore the idea of finding under Article 14 (a) of his own regulations that due to a shortage of water caused by a more adverse hydrology than anticipated at the time the Hoover contracts were signed and by the filling of Upper Basin reservoirs the costs of the Boulder Canyon Project to be amortized by 1987 shall be reduced.

7. The Secretary might also explore the possibilities of extending the power contracts with the Hoover power allottees beyond 1987 for a new period beginning now. Section 5 (b) of the Boulder Canyon Project Act gives the present contractors the first right to renewals of their contracts. Congressional authority may be needed to accomplish this extension of contracts since Congress in Section 5 also reserved unto itself the right to determine how revenues in excess of repayments to the
United States shall be expended. (This is a legal question to which I do not pretend to know the answer.) New Hoover contracts should be of great value to Hoover power allottees as a hedge against inflation and in making plans for the future. The allottees might be willing to assume reductions in Hoover generation caused by Upper Basin reservoirs in exchange for new contracts. The inclusion of an irrigation component in the Hoover power rate after 1987 is a problem of the Lower Basin, but it might also be explored. Arizona, California, Utah, New Mexico and Nevada undoubtedly have potential places where irrigation assistance could be used, either in construction, or in rehabilitation and improvement programs.

8. It might be desirable to reach an agreement to seek Congressional authority to make the $25 million flood control allocation at Hoover Dam nonreimbursable as added inducement to the Lower Basin.

9. In the event the Secretary decides he must use revenues or energy from the Upper Basin projects to make up reductions in generation at Hoover during the reservoir filling period, the Secretary must also find a way to provide for reimbursement to the Upper Basin Fund from Hoover power revenues. It is suggested that this might be done under the Boulder Canyon Project Act by the Secretary issuing a regulation stating that the rate for Hoover power would include a component sufficient to return to the Upper Basin Fund the cost of the reductions in Hoover Power generation during the Glen Canyon filling period, or by an agreement between the Secretary and the Hoover power contractors.
10. If the effects of using Upper Basin project revenues for the purpose of "making up deficiencies" in power generation at Hoover could be eliminated, agreement could be quickly reached on other aspects of the filling criteria.

11. Because the filling criteria may set the pattern for long-term operating principles it is important that the "general principles" for reservoir filling be as nearly equitable in the first instance as possible.

12. It is also suggested that the Secretary explore the possibility of obtaining agreement among the interested parties of the Upper and Lower Basins to seek Congressional authority to change the use of the Colorado River Development Fund from the investigations of projects in the Colorado River Basin States to paying for energy to make up deficiencies in Hoover basic firm generation during the filling period of Upper Basin reservoirs. There is reason to believe that the Hoover power contractors might welcome the elimination of the Colorado River Development Fund. By changing its use there could be a first step made towards its elimination. The change of use of this fund from project investigations to making up contract deficiencies in generation at Hoover Dam would make very little difference to the Upper Basin States. This fund was created by the Boulder Dam Project Adjustment Act by earmarking Hoover power revenues for the investigations of projects in the Colorado River Basin. The fund, of course, is nonreimbursable and has been valuable in past
years to the Upper Basin in making project investigations leading to
the Colorado River Storage Projects. Now that our development program
is authorized our need for it has been reduced. This Fund has to be
appropriated each year by the Congress in any event, consequently, about
all the real change that would be necessary so far as we are concerned
would be to ask the Congress to appropriate funds to the General Investi-
gations item in the President's Budget. This approach may help to solve
the Upper Basin reservoir filling problem because it would permit the
using of Hoover revenues to make up deficiencies in Hoover generation
instead of using Glen Canyon revenues for the purpose. It is an idea
that certainly should be explored.