COLORADO RIVER STORAGE PROJECT ACT OF 1956, AND COLORADO RIVER BASIN PROJECT ACT OF 1968 - WHAT DO THEY MEAN FOR COLORADO?

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I. INTRODUCTION

Reference has often been made to the Colorado River Compact of 1922 as being the grandfather of interstate water resource development compacts. It was a prerequisite for enactment by the Congress of the Boulder Canyon Project Act of 1928 which authorized the construction of Hoover Dam and the All-American Canal.

Hoover Dam initiated the Big Dam Era in the United States - and the world. Hoover Dam was soon followed by Grand Coulee and others.

The Upper Colorado River Basin Compact of 1949 made possible the Colorado River Storage Project Act of 1956. The combination of the two compacts constituted the foundation for the Colorado River Basin Project Act of 1968.

A general knowledge of the background of the two laws in the title of this paper is necessary for an understanding of their basic concepts, the water developments under them, their failures, and an analysis of what they mean to Colorado.

II. HISTORICAL PERSPECTIVE

A. The Colorado River Compact of 1922 cleared political impediments previously precluding passage of legislation by the Congress to authorize construction of major water projects in the Lower Basin.

1. It was supposed to remove causes of controversy.

2. It was supposed to override the doctrine of prior appropriation; thus protecting consumptive uses of water by the Upper Basin that occurred many years later than water developments in the Lower Basin.
B. The Boulder Canyon Project Act (45 Stat.1057) was enacted by the Congress in 1928.

1. It authorized the construction of Hoover Dam and the All-American Canal.

2. It provided that no work could be done on these facilities until within six months all seven States had ratified the Colorado River Compact or, as an alternative, California and five of the other States had ratified the Compact, and California had agreed to limit its consumptive use of Colorado River water to not exceed 4,400,000 acre-feet plus not more than one-half of any excess or surplus water unapportioned by the Compact.

3. The Boulder Canyon Project Act created the Colorado River Dam Fund as a special fund to accomplish the provisions of the Act. The concept of a special fund was born.

4. It was not until after an inter-agency agreement had been reached by the Corps of Engineers and the Bureau of Reclamation that the Congress in Section 9 of the Flood Control Act of 1944 approved the basin account system of paying for irrigation costs from power revenues.

C. The Boulder Canyon Project Adjustment Act (54 Stat.774) was passed in 1940.

2. The Treaty allocated 1,500,000 acre-feet of water to Mexico.

3. The Treaty provided that if there is a deficiency in delivering 1.5 million acre-feet of water to Mexico the Upper Division and Lower Division States shall each make up one-half of any deficiency.

4. It authorized payments of $500,000 per year into a Colorado River Development Fund for investigations by the Bureau of Reclamation for formulation of a comprehensive plan for developing water projects in the Upper and Lower Colorado River Basin States.

D. The Mexican Water Treaty (Treaty Series 994; 59 Stat.1219) was approved in 1944.
4. Increased uses of Colorado River water by Mexico between 1935 and the date of the Mexican Water Treaty, 1944, were made possible because Lake Mead behind Hoover Dam could store the erratic flows of the river.

Water authorities in the Upper Basin were aware of the developments taking place in Arizona and California. They began to see the handwriting on the wall which said: ‘‘Get busy and put our share of the Colorado River to use, or we may lose forever, its Arizona and California civilizations dependent upon it —in spite of the Colorado River Compact.’’

III BASIN-WIDE COMPREHENSIVE PLANNING

During the 1940's, engineers, economists, and political leaders in the Upper Basin States, particularly in Colorado and Utah, began to realize that development of the water resources of the Colorado River was needed to relieve economic distress in local areas, stabilize highly developed agriculture, and create opportunities for agricultural and industrial growth and economic expansion. They advocated comprehensive, basin-wide planning designed to lead to the ultimate development of all water resources of the Basin. A similar movement was on foot in the Lower Basin, especially in California and Arizona. Before detailed planning could take place, it was necessary to have a basin-wide inventory of potential irrigation projects, power generating projects, and possible municipal and industrial uses of water. Emphasis was still on the development and utilization of water for irrigated agriculture. The realization that the cost of such developments would be beyond the capability of water users to repay, even under the liberal reclamation laws, because of the rugged terrain, short growing season in some areas, and other factors, including high cost of ponderous storage and diversion works, crystalized the support behind the concept of using excess revenues from the sale of hydroelectric power for paying portions of the costs of irrigation.
The advantages of having an abundant supply of low-cost electric energy were not overlooked by proponents of water projects. Such energy would stimulate industry in the entire power market area, create new taxable values, new opportunities, and increased purchasing power.

2. "Blue Book" of the Secretary of the Interior

Under the constant urging by the States, the Bureau of Reclamation in 1946 published a comprehensive departmental report on the development of the water resources of the Colorado River Basin called "The Colorado River" and often referred to as the "blue book" whose theme was "a natural menace becomes a national resource." This report was sent to the interested States and Federal agencies for comments, and in 1950, as a report of the Secretary of the Interior, was transmitted to the Congress where it became House Document 419 of the 80th Congress, 1st Session.

One of the far-reaching conclusions found in the Bureau of Reclamation's report was that there was not sufficient water available in the Colorado River system for full expansion of projects then existing and authorized for construction and for all potential projects studied. The report presented an array of 134 potential water use projects or units of projects, mostly multiple purpose in nature, within the Colorado River drainage basin. Possible diversions of water out of the Colorado River Basin to adjacent basins were also considered in the report. The potential estimated annual average depletion of those projects within the natural drainage basin, plus exports to other basins, was estimated to be about 20.2 million acre-feet, considerably more than the available supply.

3. Recommendation: States Determine Legal Rights

Probably the most pertinent recommendation in the report was "that the States of the Colorado River Basin determine their respective rights to deplete the flow of the Colorado River consistent with the Colorado River Compact." The Secretary of the Interior and the President refused to recommend authorization of any projects until such a determination had been made.
Early Litigation Attempts by State of Arizona

1. Three Lawsuits Filed

Although the Colorado River Compact had apportioned the use of waters of the river system between the Upper and Lower Basins, agreement among the States relative to how much Colorado River water each could consume consistent with the Compact appeared unattainable. In the Lower Basin, Arizona and California were constantly at odds over how much water each should have. California early in the game, starting in the early 1930's, obtained contracts for delivery of an aggregate quantity of 5,362,000 acre-feet annually. Arizona's exclusive use of the Gila River, without including it as a part of the Compact allotment was a point in dispute. In 1930, Arizona brought suit against the Secretary of the Interior and the other six States to enjoin enforcing or carrying out of the Boulder Canyon Project Act which was supposed to effectuate the Compact. In 1934 and 1936 Arizona instituted two more suits against California and the other five States seeking to perpetuate testimony of negotiators of the Colorado River Compact and seeking judicial apportionment of the unappropriated water. These two suits were initiated by Arizona after all of the California water storage and delivery contracts had been executed. None of the three lawsuits reached the hearing stage.

2. Early Attempts to Authorize Central Arizona Project

During the 79th, 80th, 81st, and 82d Congresses, Arizona sought Congressional authorization for construction of her vast Central Arizona Project under which 1,200,000 acre-feet of water would be diverted from the river. Some of the Bills were passed by the Senate. None were passed by the House of Representatives. In 1951 the House Committee on Interior and Insular Affairs adopted a resolution that consideration of Bills relating to the Central Arizona Project "be postponed until such time as use of the water in the Lower Colorado River Basin is either adjudicated or binding or mutual agreement as to the use of the water is reached by the States of the Lower Colorado River Basin."
V. Colorado River Storage Project Act (70 Stat. 105)

1. Premature Attempts by Utah to Authorize the Central Utah Project

The Bureau of Reclamation's "blue book" report "The Colorado River" that inventoried potential opportunities for river regulation, irrigated agriculture, and power generation in the basin was the catalyst that stimulated the technical and political leaders in the Upper Colorado River Basin to accept and aggressively promote the concept of comprehensive Upper Basin-wide development. The Upper Colorado River Basin Compact, signed in 1948, provided the vehicle for formulating the plan of development known as the Colorado River Storage Project and participating projects. As early as 1948 and 1949, members of Congress from the State of Utah introduced Bills to authorize the Federal government to construct the Central Utah Project which would use waters from the Colorado River system. These Bills could not be enacted into law because they lacked the support of the other Upper Basin States, and because they were introduced prior to approval of the Upper Colorado River Basin Compact which did not occur until April 6, 1949. In 1950 a Bill was introduced to authorize the Colorado River Storage Project—about six months prior to the publication of an interim report on such a project by the Bureau of Reclamation.

2. Support by Executive Branch of Federal Government

It was not until December of 1952 that the Department of the Interior finally submitted its report to the Congress proposing a basin-wide plan of development for the Upper Colorado River Basin to be known as the Colorado River Storage Project and participating projects. Numerous Bills were introduced in the House of Representatives and the Senate of the United States Congress. It was not until January of 1955 that any of these Bills received solid support of the Executive Branch of the Federal Government. This first occurred when President Eisenhower urged passage of a Colorado River Storage
Project Bill in his State of the Union Message in January, 1955, followed by a request for $5 million in his Budget Message to initiate construction, contingent upon favorable actions by the Congress. In spite of the bitter opposition of certain water and power interests in California, a group of vociferous conservation organizations, and anti-reclamation members of Congress from the eastern part of the United States, the Colorado River Storage Project Act became part of reclamation law in April, 1956. This Act was the result of many compromises between and among the member States of the Upper Colorado River Commission, and with conservation organizations with respect to a proposed dam at Echo Park on the Green River, which was withdrawn from the legislation, and with respect to the Rainbow Bridge National Monument in southern Utah on an arm of Lake Powell, behind Glen Canyon Dam.

3. Pertinent and Unique Terms of CRSP Act

The Colorado River Storage Project Act authorized the construction of four large storage units capable of holding 33,583,000 acre-feet of water for river regulation, power generation, and consumptive use by exchange with downstream water users. These storage units are Glen Canyon Dam and Lake Powell on the Colorado River in Arizona and Utah, Navajo Dam and Reservoir on the San Juan River in New Mexico and Colorado, Flaming Gorge Dam and Reservoir on the Green River in Utah and Wyoming, and the Storage Unit on the Gunnison River in Colorado consisting of three dams and reservoirs--Blue Mesa, Morrow Point, and Crystal.

The authorizing act also provided for the construction of 11 participating irrigation projects. Ten additional participating projects have been added by enactment of subsequent amendatory laws in 1962, 1964, and 1968.6/
Storage Project Act related to repayment, accounting, and funding requirements not found in previous reclamation law. Some of these innovations are having great influence on natural resource development in the Colorado River Basin.

This law provided; among other things:

(1) for the creation of an Upper Colorado River Basin Fund to which all appropriations from the General Fund of the U.S. Treasury shall be credited as advances, except those for recreational purposes which are nonreimbursable;

(2) that all revenues (power, municipal water, irrigation, or other) derived from storage units or water-using participating projects shall be credited to the Basin Fund and shall be available for paying operation, maintenance, and repair and emergency costs, and costs of power and municipal water features within 50 years with interest;

(3) that revenues in the Basin Fund in excess of amounts needed to defray costs of interest, operation and maintenance, and costs of power and municipal water facilities shall be apportioned within the Basin Fund to the credit of the four States, with Colorado's share being 46% for the purpose of returning the cost of irrigation allocations of participating projects within 50 years that are beyond the capacity of repayment by water users;

(8) that excess power revenues credited within the Basin Fund to each State may be used for repaying costs of irrigation projects only within that State and may not be used within another State unless appropriate consent is obtained.
c. Costs of Indian Project Nonreimbursable

Among other innovative features of this law, was the manner of treating costs of a project that benefits the Navajo Indians. In recognition of the fact that assistance to these Indians is the responsibility of the entire Nation and not of any one State or group of States, the law specified that when the Navajo Indian Irrigation Project was authorized the cost of irrigation allocation beyond the capability of the land to repay should be nonreimbursable. Another part of the law provides that payment of construction costs within the capability of the land to repay will be deferred for so long as the land remains in Indian ownership. In addition, the Navajo Dam and Reservoir, required for the irrigation of Indian lands, without hydropower generators and having limited value in river system regulation, was classified as a Storage Unit. By virtue of this classification, and because its cost has been allocated mostly to irrigation, the cost of this dam and reservoir will be almost entirely paid by power revenues from other Storage Units.

II. Last Arizona v. California lawsuit

In 1952 the State of Arizona initiated the last Arizona v. California lawsuit in the U.S. Supreme Court in compliance with the mandate of the House Committee in 1951 to obtain an adjudication of a water supply for the Central Arizona Project. The decision in this famous case did not come until 12 years later, in 1964. Arizona won the case in that she had her right confirmed for the delivery of water by the Secretary of the Interior from the lower mainstem of the Colorado River.

This suit was not decided under the Colorado River Compact, but under the Boulder Canyon Project Act. The four Upper Division States, as such, were not parties in the case. (The States of New Mexico and Utah were parties, but as Lower Basin States only.) The highlights of the Supreme Court's decree (376 U.S. 340) included:
1. Control of the river below Hoover Dam was given to the Secretary of the Interior who was authorized to deliver from the mainstem of the river 4.4 million acre-feet of water per year to California, 2.8 million acre-feet to Arizona, and 300,000 acre-feet per year to Nevada, when 7.5 million acre-feet available, with any surplus to be divided between Arizona and California.

2. The Federal reservation theory of reserved water rights for Indian lands and other Federal reservations, such as national forests, etc., was fully recognized.

The decision in the last Arizona v. California lawsuit was destined to have far-reaching effects, not only in the Colorado River Basin but in all river basins where there are Federal reserved or Indian-owned lands.

**Colorado River Basin Project Act (82 Stat. 885)**

Not until 1944 did the State of Arizona enact a statute which purported unconditionally to approve, ratify, and confirm the Colorado River Compact. By contract in that same year the United States agreed to deliver certain quantities of water from storage in Lake Mead for use in Arizona, subject to its availability for use in Arizona under the Compact and Project Act. As we have seen above, Arizona earlier made several attempts to persuade Congress to authorize the construction of a Central Arizona Project but without success because of strong opposition from California under whose interpretation of the "law of the river" there was not enough water available for such a development in Arizona.

2. Bills to Authorize Central Arizona Project

In 1963, preceding the United States Supreme Court's 1964 decision in Arizona v. California, members of Congress from Arizona introduced Bills which, if enacted, would have authorized the Secretary of the Interior to construct the Central Arizona Project.
a. California's Interest

California, having lost the lawsuit, immediately served notice that unless a priority were to be given to her consumptive use of 4.4 million acre-feet of water per annum over the uses by Arizona, she would again oppose authorizing legislation.

b. Upper Basin's Interest

The Upper Division States, Colorado, New Mexico, Utah, and Wyoming, too, had a vital interest in the Central Arizona Project Bills.

The trend in river flow for more than 40 years at the time the last Central Arizona Project legislation was pending in the Congress had been downward. For the total period since signing of the Compact, the annual average had been only 13.8 million acre-feet, and in two unrelated ten-year periods, 1931-1940 and 1954-1963, the annual average virgin flow for each ten-year period amounted to only 11.8 million acre-feet. The annual average for one 12-year period, 1953-1964, amounted to only 11.6 million acre-feet. It was obvious to the four Upper Division States that if the Compact-required delivery to the Lower Basin of 75 million acre-feet in each ten years was to be met, the annual average amount remaining for consumptive use in the Upper Basin was about 20% less than the 7.5 million acre-feet apportioned by the Colorado River Compact.

In addition, the Upper Division States had received more than their share of opposition and harrassment from both Arizona and California during the initial filling period of the storage units of the Colorado River Storage Project, especially during the filling of the dead storage space in Lake Powell behind Glen Canyon Dam.
The Upper Basin water users could also plainly see that if a full supply of water were to be given to the Central Arizona Project, a large proportion of that water, especially in low water years, would have to come from the Upper Basin, which had not yet put its allocation to beneficial consumptive use. Protection of the rights of the Upper Division States against excessive consumptive uses in the Lower Basin that would encroach further into their Colorado River Compact allotment was of vital concern. After Arizona agreed to give a priority to California's 4.4 million acre-feet per year the danger to the Upper Basin became even more critical. The Upper Division States feared that if their water were used by Arizona and California, they might forever be precluded from using their legal entitlement by superior political pressures from the Lower Basin States, in spite of the terms of the Compact. They also had learned from experience that the Secretary of the Interior could not be trusted to operate the river in their best interest if left to manipulate according to his own whims and desires or under the influence of political forces stronger than their own from the Lower Basin. The Upper Division States wanted the Secretary to be controlled in his river operations by definite guidelines.

3. Pertinent Terms of CRBP Act

After several years of negotiations between the States of the Upper and Lower Divisions, the Colorado River Basin Project Act became law on September 30, 1968. This Act accomplished the primary purpose of authorizing the construction of the Central Arizona Project. Among the other interesting facets of this Act are the following:

a. It gave a priority to California for the consumptive use of 4.4 million acre-feet per year of lower mainstream water over uses by the State of Arizona, thus requiring the Central Arizona Project to assume shortages when the annual supply of water for use downstream from Hoover Dam falls below 7.5 million acre-feet.
Arizona by agreeing to give this priority to California threw the burden of supplying any deficiency in Arizona's 2.8 million acre-ft per year on the Upper Basin. In effect California gained by legislation that which she had lost in Arizona v. California in 1964.

b. Five participating water-use projects were authorized to be constructed in Colorado.

c. The law described explicit guidelines for formulation of long-range operating criteria for Lake Powell and Lake Mead.

5. The Secretary of the Interior was directed to conduct reconnaissance investigations for developing a water plan for the Western United States.

6. Congress declared that satisfaction of the requirements of the Mexican Water Treaty constitutes a national obligation that will become the first obligation of any effective water augmentation project authorized by the Congress in the future.

Supporters of the legislation, due to opposition of the northwest States, failed to have included any kind of scheme to import water into the Colorado River Basin. In fact, Washington, Oregon, Idaho managed to have a provision included in the Act that prohibited the Secretary from even studying an importation of water for a period of ten years, or until after September 30, 1978, now 1988, under a subsequent amendment.
7. The Colorado River Development Fund that originally, under the Boulder Canyon Project Adjustment Act, was to be used for investigating water projects in the Basin, was designated to reimburse the Upper Colorado River Basin Fund ($500,000 per year) for the dollars extracted from the Upper Colorado River Basin Fund to pay for so-called deficiencies in power generation at Hoover Dam attributed to the filling of reservoirs of the Upper Basin's Colorado River Storage Project.

Note that the Colorado River Development Fund reimburses the Upper Basin Fund only on the dollars extracted from it for purchasing power to fill Hoover power contracts. The millions of dollars worth of power diverted from Glen Canyon to the Hoover power allottees will never be replaced. Charging the Upper Basin Fund for diminutions in power generation at Hoover Dam in the form of either dollars or energy attributed to the operation of Upper Basin reservoirs - a diminution that was expected from the time the Hoover power contracts were negotiated - was an unreasonable, unfair, objectionable, detestable act of piracy against the Upper Basin States. This action by the Secretary of the Interior was possible because of the superior political power of Arizona and California, and the reluctance of the Upper Basin States to go to court in the belief that court action might have precipitated a shut-off of appropriations for Upper Basin water projects.

VIII. COLORADO'S FUTURE UNDER THE CRSP AND CRBP ACTS

A. Colorado's future water resource development under the Colorado River Storage Project Act, so far as all-Federal construction of participating irrigation projects is concerned, appears rather dim.

1. Accomplishments under the CRSP Act in Colorado have not fulfilled expectations of the Act's sponsors, especially when compared with accomplishments in other Upper Division States. For example, as of the end of 1981 (in rounded numbers) $156.7 million had been spent in Colorado on seven participating projects of thirteen authorized with a total estimated cost when completed of $472 million. In contrast, in Utah almost $351 million had been spent on five units of the Central Utah Project and the
Emery County Project, and the total cost of these projects when completed is estimated to be over $1.7 billion. The costs of the Storage Units, Lake Powell, Wayne Aspinall, Navajo, and Flaming Gorge are not included in the above figures.

2. Federal priorities for the use of federal funds have changed along with changing economic and social conditions. Irrigation is no longer the "golden boy" needed to open up, populate, and exploit the resources of the West.

3. Prospective future revenues in the Upper Colorado River Basin Fund will be of no value to Colorado unless they can be used. We must find a way to have these funds used for their intended purposes.

4. Approximately 270,000 acre-feet of water in evaporation losses from the four Storage Units charged to Colorado's apportionment is a high price in water for eight Colorado projects (including the Fryingpan-Arkansas) that by themselves deplete the river by only 123,300 acre-feet.

B. The benefits from the Colorado River Basin Project Act for Colorado have not proved to be very substantial, either, to this point in history.

1. This Act authorized major actions that were expected to have great impacts on Colorado's water resource development.

   a. Five Colorado projects were expected to be constructed by the time the Central Arizona Project first delivered water. The impacts were supposed to be beneficial, i.e., that a block of Colorado's compact apportionment would be protected by putting it to use.

   b. The criteria for formulating long-range reservoir operating criteria were expected to protect the right to develop future water projects in the Upper Basin by guaranteeing that sufficient water would always be in storage in Upper Basin reservoirs to insure the Compact deliveries at Lee Ferry while Upper Basin stream depletions could be increased by new projects. The objective of Section 602 (a) of the Act was to implement Article III (e) of the Colorado River Basin Compact, which says that the States of the Upper Division shall not withhold water, and the States of the Lower Division shall not require the delivery of water, which cannot reasonably be applied to domestic and agricultural uses.

   c. The construction of the Central Arizona Project was authorized. The impacts on Colorado were supposed to be minimized, but they are anticipated to be adverse.
2. Colorado's future water resource development under the Colorado River Basin Project Act does not appear very promising.

a. Fourteen years after their authorization by the Congress only two of the five projects are in preliminary stages of construction. One has faint hopes of being constructed - but not under the original terms of the CRSP Act. The other two appear to be hopeless under present Federal criteria for water project funding.

b. The Federal government has not administered the long-range reservoir operating criteria to the benefit of the Upper Basin States. Lack of unity at the State level and interstate level, political pressures by the Lower Division States, and political pressures by the environmental organizations have resulted in deliberate misinterpretation, misconstruing and misuse of the long-range operating criteria to the point where their original intent is almost obliterated and to the detriment of the Upper Basin.

c. Adverse impacts of the Central Arizona Project on Colorado will become apparent soon after the CAP begins diverting water in 1985 or 1986.

(l) Arizona intends to use the full 3,000 cfs capacity of the Granite Reef Aqueduct.

An aqueduct of 1800 cfs would deliver 1.2 maf/yr, which was the original contemplated draft for the CAP. Of course, the law says that any capacity over 2500 cfs, which would deliver 1.7 maf/yr can only be used if Lake Powell is spilling, or to prevent it from spilling, or when releases are made pursuant to the proviso of Sec. 602(a)(3) of the Act. That is where the hangup occurs. Arizona has, and will maintain that the amounts of storage water that the Upper Basin wants in Lake Powell are not necessary because U.S. consumptive uses of water are limited to a figure far less than 7.5 maf/yr.
(2) Arizona's interpretation of the Colorado River Compact will be the foundation for diverting far in excess of her entitlement.

Under the interpretation of one of the top water officials of Arizona, the U. Division is required to deliver 7.5maf/yr plus \( \frac{5}{\text{all the Mex Treaty water plus all delivery losses}} \) to carry the water. The total would be around 9 maf/yr that the U. B. would have to cough up. In addition, of course, Arizona claims all of the Gila River; although it is clearly covered by the Compact.

(3) The long-range operating criteria will probably be called into play and further distorted under pressure from both Arizona and California.

The latest attempt at a distortion of these criteria is a proposal presented by the BUREC to the U. Division States and strongly advocated by environmental and boating interests, mostly from the Lower Basin, to change the pattern of releases of water from Lake Powell to favor boating. This would cost not only consumptive use of water by the U. Division, but would also cost millions of dollars in power revenues. Will this raid on the U. B. Fund be successful. I can cite a number of others that have been!

(5) Opposition to Upper Basin water projects will continue, either directly by Arizona and California water officials, or indirectly through environmental organizations with behind-the-scenes blessings of these water officials.
IX. COLORADO'S COURSE OF ACTION

A. It is assumed that the Federal government is not going to remove itself entirely from water resource development and management. There is undoubtedly going to be some kind of cost-sharing between the Federal government and the States, either on a percentage basis or on a block grant basis, as is proposed in the Bónelet-Logan Bill.

B. It is further assumed that the State of Colorado would find it impossible to fund large water projects alone.

1. The cost is too great for taxpayers to bear when there are other expensive State projects, such as highways and schools to be supported. A good example to illustrate this point lies in the five projects authorized fourteen years ago in the Colorado River Basin Project Act.

2. Federal regulations pertaining to federal lands, navigable streams, and environmental laws are constraints that preclude the making of final decisions at the State level.

3. Therefore, in a cost-sharing partnership with the Federal government Colorado by itself would not be permitted to make final decisions with respect to the selection of projects to be funded and the repayment terms, even if it wanted to. Will the ultimate authority be the Bónelet-Logan Bill?

C. Colorado has taken some action through its creation of the Water Resources and Power Development Authority.

1. This Authority cannot be expected to solve Colorado's water problems by itself. It must work in conjunction with and in cooperation with State and Federal agencies.
2. Its role should be one of leadership in working with State agencies and Federal agencies having jurisdiction over public lands and mineral resources, and in working with a number of Federal agencies and the U.S. Congress.

3. Its role must be one of leadership and coordination in putting together various sources of funding to pay for water projects.

4. Some of these sources of funding may be federal funds, appropriations by the State, perhaps a statewide tax under a law enacted by the General Assembly, a share of taxes levied by conservancy districts or municipalities, and investments by industries needing water.

5. The Authority might take the lead in seeking an amendment to the Colorado River Storage Project Act to have money made available through the Upper Colorado River Basin Fund for water projects. Such an action would entail political cooperation with power users who purchase CRSP power and agreements with other Upper Division States.

6. Although the Authority has been given the power to issue revenue bonds it must have revenues to back those bonds. This probably means that those bonds are going to have to be based upon the revenue-producing features of a water project, such as hydroelectric power, sales of municipal water, and sales of water for industries, such as those in energy development.

7. Because the Authority is also charged with developing irrigated agriculture, and agriculture cannot pay its way, the Authority is going to have to find a way to pay for those costs of irrigation that are beyond the repayability of the irrigators.

X. CONCLUSIONS AND RECOMMENDATIONS

A. Although Colorado's future under the Colorado River Storage Project Act and the Colorado River Basin Project Act may be less rosy than originally intended, there are some good features of these Acts. The Basin Fund of the Storage Project Act, for example, if used in conjunction with Federal cost sharing, private industry funding, State
appropriations, and other sources of funds may be modified to be of aid to Colorado's water program.

B. Colorado must continue to be more and more active in charting her own course in water resource development. In my opinion this is true through the judiciary, as well as in legislative circles.

A firm and aggressive legal stance by and on behalf of the water users of Colorado, present and future, should be taken immediately and pursued diligently.

How the Gila River question is ultimately settled may mean a lot to Colorado's water future.

Have the CRSP and the CRBP Acts amended the CR Compact? For example, the preamble to Sec. 602 of the CRBP Act, which is the most important section to the Upper Basin because it deals with reservoir operations, starts by saying, "In order to comply with and carry out the provisions of the CR, the UCRB Compact, and the Mexican Water Treaty the Secretary shall ... etc." This basic question is of great importance to Colorado. If these laws, which were intended to implement operations of the River, continue to be distorted by administrative regulations of the Federal level, the U.S. may find itself in a weak position in court. Federal judges, especially in Washington, sometimes have a tendency to give administrative decisions great weight — particularly if the regulations are not challenged as soon as possible after they are promulgated and found inadequate.

4. From a legal standpoint, Colorado's legal professionals who care about Colorado had better become and remain eternally vigilant in protection of Colorado's water future, or we are going to see Colorado's water start in 1985 and continue to flow in perpetuity down the Granite Reef Aqueduct to Central Arizona — aided and abetted by California.