The Secretary of the Interior

Sir:

On behalf of the State of Colorado, and pursuant to Section 1 of the Act of December 17, 1944 (58 Stat. 887), there are herewith transmitted the comments, views and recommendations of the State of Colorado concerning Project Planning Report No. 4-SA.81-1, Bureau of Reclamation, Department of the Interior, dated December, 1950, and entitled "Colorado River Storage Project and Participating Projects, Upper Colorado River Basin." These comments, views and recommendations are submitted by the Colorado Water Conservation Board under the authority granted to that Board by Chapter 265, Session Laws of Colorado of 1937, as amended, and in accordance with the designation of such Board by the Governor of the State of Colorado as the official state agency to act in such matters.

Preliminary Statement

The report is vitally important to Colorado because it deals with the only remaining unused major source of water in the state. It has been well said that the Colorado River is Colorado's "last water hole."

The need for water in Colorado is ever present. Many of the important cities and towns of the state need substantial additional quantities of water if they are to grow and prosper. Denver, Grand Junction, Pueblo, Colorado Springs, Boulder, and other communities all look to the Colorado River water to sustain their growing populations. In all areas of the state more water is needed for agricultural pursuits. The livestock growers demand more irrigated pasture and meadow land. Industrial needs are rapidly increasing. Vast oil shale and coal deposits are available for synthetic liquid fuel production. Enormous timber reserves await development under a sane conservation program. The industrialist, the farmer, and the city dweller demand more and more hydroelectric power. The satisfaction of these demands will enhance both state and national welfare. Colorado sees in the Colorado River Storage Project a means of expediting the attainment of the desired development.
Colorado greatly appreciates the expeditious manner in which the Secretary of the Interior and the Bureau of Reclamation have prepared and submitted the report now under consideration. It has quickly followed the consummation of the Upper Colorado River Basin Compact. The Bureau of Reclamation, in full compliance with the spirit and intent of the Flood Control Act of 1944, has kept the states directly affected fully informed during the course of its investigations. The Department of the Interior and its several agencies, particularly the Bureau of Reclamation, are to be commended for the manner in which this important undertaking has been handled.

General Comments

The general plan set forth in the report is acceptable to and approved by Colorado. Upper Basin hold-over storage must be provided to equate the Lee Ferry flows so that the Upper Basin may utilize the water apportioned to it by the 1922 Compact without the Upper Division States violating their obligation not to deplete the Lee Ferry flow below the quantity required by that Compact. The necessity for such storage was recognized by the negotiators of the 1922 Compact and from time to time has been recognized by all basin states. Reservoirs which provide such hold-over will also fill the important role of retaining silt so that the usefulness of the great Lower Basin reservoirs may be prolonged. It is indeed fortunate that the cost of these reservoirs may be financed through the generation and sale of hydroelectric power which is needed in ever increasing quantities.

Colorado wholeheartedly supports the plan to use a portion of the power revenue to support irrigation projects. In this regard Colorado approves the plan of the basin account and of the participating projects. Such plan will permit the construction of many desirable consumptive use projects which, without the aid from power revenues through the basin account, might not be possible of construction. It is gratifying that this aid may be obtained and at the same time a reasonable rate be set for the sale of power.

In connection with the participating projects Colorado gives general approval of the criteria established by the report for the determination of the right of a project to qualify for aid from the revenues made available by the project. In particular instances it may be found desirable to adjust these criteria to meet unusual situations.

Included among the participating projects in the State of Utah is a project, the Central Utah, which will utilize water exported from the natural basin of the Colorado River. No such exportation project in the State of Colorado is mentioned in the Report. Perhaps this results from the fact that Colorado exportation projects are located in an area outside of the jurisdiction of Region 4 which prepared the Report. It is suggested that there should be full and complete cooperation between Region 4 and Region 7 to determine what, if any, Colorado exportation projects should be approved as participating projects.

To conclude these general observations Colorado says that the development in the Upper Division States must, so far as is possible, move forward on an even basis. This should be possible because the plan contains a desirable flexibility which will permit the states, the Department of the Interior, and the Congress to consider from time to time the addition of worthy units and participating projects.
The Applicable Law

With reference to particular matters Colorado agrees that the project should be constructed by the Bureau of Reclamation. This construction and the subsequent operation of the Project, and of its various units and participating projects, should be in accord with the Federal Reclamation laws and acts amendatory thereof or supplementary thereto, the Colorado River Compact of 1922, the Upper Colorado River Basin Compact of 1948, and the applicable laws of the various states. Colorado directs particular attention to the following compact provisions:

(a) Article V (c) of the 1948 Compact which reads thus:

"In the event the Commission finds that a reservoir site is available both to assure deliveries at Lee Ferry and to store water for consumptive use in a State of the Upper Division, the storage of water for consumptive use shall be given preference. Any reservoir or reservoir capacity hereafter used to assure deliveries at Lee Ferry shall by order of the Commission be used to store water for consumptive use in a State, provided the Commission finds that such storage is reasonably necessary to permit such State to make the use of the water apportioned to it by this Compact."

The right to convert part of the storage capacity of the project reservoirs from hold-over use to storage use for consumptive purposes in an Upper Division State must be recognized and given full effect.

(b) Article IX (a) of the 1948 Compact provides:

"No State shall deny the right of the United States of America and, subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person, or entity of any signatory State to acquire rights to the use of water, or to construct or participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals and conduits in one State for the purpose of diverting, conveying, storing, regulating and releasing water to satisfy the provisions of the Colorado River Compact relating to the obligation of the States of the Upper Division to make deliveries of water at Lee Ferry, or for the purpose of diverting, conveying, storing or regulating water in an upper signatory State for consumptive use in a lower signatory State, when such use is within the apportionment to such lower State made by this Compact. Such rights shall be subject to the rights of water users, in a State in which such reservoir or works are located, to receive and use water, the use of which is within the apportionment to such State by this Compact."

It is plain under this provision that the rights of water users in a state in which a hold-over reservoir is located to receive and use water within the apportionment of the state must be recognized.

(c) Article IV (b) of the 1922 Compact states:

"Subject to the provisions of this Compact, water of the Colorado River System may be impounded and used for the
This provision must be considered in connection with its counterpart in the 1948 compact to which reference is next made.

(d) Article XV (a) of the 1948 compact reads as follows:

"Subject to the provisions of the Colorado River Compact and of this Compact, water of the Upper Colorado River System may be impounded and used for the generation of electrical power, but such impounding and use shall be subservient to the use and consumption of such water for agricultural and domestic purposes and shall not interfere with or prevent use for such dominant purposes."

The last two mentioned compact provisions must be given effect. They require that the use of project water for power generation purposes is subservient to domestic and agricultural uses and that no firm rights can be secured which will preclude the use within any Upper Basin state of that state's apportioned share even though such use develops after the power generation use has been perfected. It is entirely correct for the report to recognize a diminishing power use as consumptive use projects come into being.

(e) Article XV (b) says:

"The provisions of this Compact shall not apply to or interfere with the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, the consumptive use of which is apportioned and available to such State by this Compact."

This provision is tied into the comments under (c) and (d) above. Most obviously the hold-over storage reservoirs will not fulfill their primary function if they are so used as to prevent the authorization and construction of junior Upper Basin projects which use water within the apportioned share of any state. Due regard for this important matter must be made in all priorities awarded any of the units of the project.

Storage Project Units

With reference to the storage units proposed for immediate authorization and construction, Colorado has no comment as to the Flaming Gorge and Navajo units. Their positions in the over-all plan seem well established.

In regard to the Echo Park unit, Colorado emphasizes the need for immediate authorization and construction. The wise decision of the Secretary of the Interior approving this unit even though it is located within the Dinosaur National Monument is to be commended. The question of access roads to the Echo Park reservoir, and also to the Split Mountain unit, is a matter of great importance to Colorado. These roads should be of such a nature that they are useful not only during construction but also thereafter for recreational development in this remote region of unusual attractions which will be made available to
the public for the first time by the construction of the proposed reservoirs. Colorado firmly believes that access roads from Colorado points will satisfy all requirements, and requests that before any final decisions are made as to road locations full opportunity be afforded Colorado to be heard on this subject.

The proposed Glen Canyon unit is recognized as an important and essential feature of the project. Colorado does not object to its inclusion as a unit for initial authorization and construction. Its capabilities for hold-over storage, power generation, and silt retention are outstanding. Its location at the extreme lower end of the Upper Basin may possibly raise questions of inter-basin relations upon which Colorado may desire to be heard in connection with the authorizing legislation.

Colorado is most vitally interested in securing the development of the Gunnison River. The report contemplates three units, as a part of the storage plan, on this stream. The Bridgeport is recommended for initial authorization and construction. The Curecanti and Crystal are recommended for later action.

Colorado believes that full study has not been given to these Gunnison River potentials. Many local problems are presented. Colorado most respectfully requests that it be given opportunity at a later date to state its position with regard to the Gunnison River storage. To this end, it requests that the Bridgeport unit should not be included within the initial list and that further study and consideration should be given to the location of storage units on the Gunnison River which develop, as far as possible under all of the conditions, the full power potential of that stream, permit the early construction of participating irrigation projects, and provide hold-over storage, all with the least possible disruption of the local economy. Colorado desires that a unit of the storage plan located on the Gunnison River be included in the initial authorizing legislation. It is anticipated that the re-study herein urged and further comments of the State will be made in due time so as to accomplish this purpose. Colorado pledges its full cooperation with the Bureau of Reclamation in the formulation of an acceptable Gunnison River plan.

Participating Projects

The participating projects listed in paragraph (b) of the Commissioner's letter of December 22, 1950, are all approved by Colorado. The early construction of these projects is urged.

Colorado specifically requests that the La Plata Project, heretofore recommended by the State and not appearing in the list, should be included among the participating projects for initial authorization. This project is desperately needed to provide a dependable water supply for lands lying in the La Plata Valley and located in both Colorado and New Mexico. The limited and erratic water supply of the La Plata is apportioned between Colorado and New Mexico by the La Plata River Compact. This Compact was recognized and approved by the Upper Colorado River Basin Compact. The La Plata Project is of relatively small cost and does not materially or adversely affect other proposed developments, or materially disturb the economic feasibility of the entire basin development. At the request of the
States of Colorado and New Mexico, the Bureau of Reclamation commenced investigation of the La Plata Project many years ago. At least two reports have been issued by the Bureau. The Colorado land owners have organized a district under the Colorado Conservancy District Act. The La Plata water users have expended considerable money and put forth every effort to obtain a project only to be faced with years of delay and disappointment. Fair treatment of the La Plata farmers requires the inclusion of the La Plata Project for initial authorization as a participating project under the Colorado River Storage Project plan.

Attention is directed to the fact that the Paonia Project, which is included in the list of participating projects recommended for initial authorization, has twice been authorized by Congress. The increase in construction costs, the addition of certain acreage, and the relocation of the proposed storage reservoir have resulted in substantially increasing the project cost. This necessitates either reauthorization or amended authorization. The report on the revised project plan has been pending before the Bureau of the Budget for some time. A bill has been introduced in the Congress for amended authorization. This legislation provides that the Paonia Project shall become a participating project under the Colorado River Storage plan. Colorado expresses its intent to proceed with the legislation for amended authorization of the Paonia Project in advance of the approval of the Colorado River Storage Project in order that there may be no cessation of construction activities.

Paragraph (d) of the Commissioner's letter of December 22, 1950, makes reference to the Shiprock Indian Project. This is of vital concern to both Colorado and New Mexico in view of the provisions of Article XIV of the Upper Colorado River Basin Compact and particularly paragraph (c) thereof providing for curtailment of uses of San Juan River water in times of water shortages. Colorado has not been provided with a planning report on the proposed Shiprock Indian Project. It is not advised as to its cost, size, the water users' ability to return operation and maintenance costs, or any other essential data. The extent of the Indian land proposed to be irrigated under the project, the amount of water required for such irrigation, and the relationship of the use of such water to other proposed New Mexico projects are all matters of conjecture. While the project may be a desirable one and may well constitute an essential part of the plan for the development of the San Juan River, Colorado says that no appropriation for, or construction of, the project should be authorized or made until there has been made available to the affected States, and approved by the Congress, a report on the project comparable to the reports already prepared for the other participating projects.

Power Contracts

Hydroelectric power plants comprehend within the plan should be operated in conjunction with other federal power plants, present and potential, on the Colorado River and its tributaries so as to produce the greatest practical amount of power and energy that can be sold at firm power and energy rates. The Secretary of the Interior should, so far as practicable, make contracts for furnishing firm power and energy at firm power and energy rates from such plants and other federal power plants on the Colorado River operated conjointly. Provision should be made for the termination, upon a reasonable notice, of all contracts relating to the disposition for use, outside the Upper Division States and outside that portion of the State of Arizona within and from which waters naturally drain into the Colorado River.
System above Lee Ferry, of power and energy generated at such plants to the extent that the power and energy so contracted for is required to satisfy the need of consumers in the mentioned areas.

Investigation Funds

While Colorado approves the recommendation made in paragraph (j) of the Commissioner's letter of December 22, 1950, relating to the establishment of a fund from which money may be appropriated for studies and investigations relating to the development of the waters of the Upper Colorado River Basin, it points out that it will be a number of years before the necessary fund will be accumulated to finance needed investigations. During the interim period investigations on a large and expedited scale should be carried forward to provide information concerning prospective participating projects. The situation has particular significance to Colorado because it is desirous of determining at as early a date as possible the potential uses of water in the natural river basin in Colorado. At the present time the only money available for this purpose comes from the Colorado River Development Fund and the Upper Colorado River share of general investigation funds. These funds have proven inadequate to accomplish the desired purpose. If a well conceived program for the development of the Colorado River is to be realized in accordance with the recommendations of the report, then increased annual appropriations of money must be made to expedite investigations in the Upper Colorado River Basin. Colorado urges that the report be revised so as to include a recommendation that the Congress authorize the creation of a special fund as a basis for future appropriations to carry on investigations in the Upper Colorado River Basin in that period prior to the time when money will become available under the above mentioned paragraph (j) and that the funds so appropriated shall be nonreimbursable.

Acreage Limitations

Much of the area of the Upper Colorado River Basin is devoted to the raising of livestock at high altitude. Additional irrigated pasture and meadow land is needed by the ranchers if the basic meat supply of our country is to be maintained at adequate levels. In such ranching operations the 160 acre limitation of the Federal Reclamation laws is unrealistic. The practical development of the Upper Colorado River Basin will require water supplies for these livestock ranches. Consideration should be given to a revision of the present law relative to excess lands so that the principle of family operation may be retained in the mountain area.
Conclusion

The Colorado River Storage Project is of basic importance to the economy of the Upper Colorado River Basin. A development plan must of necessity be flexible so as to permit adjustments made desirable by investigations and new conditions. Colorado recommends that the interested states should be given opportunity to comment from time to time on these new developments so that there may be the most complete cooperation between the States and the Federal government to the end that a great national natural resource may be best developed.

Respectfully submitted,

/s/ Dan Thornton
Governor, State of Colorado, and Ex-Officio Chairman of the Colorado Water Conservation Board

/s/ Clifford H. Stone
Director, Colorado Water Conservation Board