SETTING THE RECORD STRAIGHT ON FALSE CHARGES OF "PARK INVASION" AT DINOSAUR NATIONAL MONUMENT, -- CHARGES WHICH SEEK TO DEPRIVE THREE MILLION PEOPLE IN A SEMI-DESERT LAND OF VITALLY NEEDED WATER FROM THE COLORADO RIVER STORAGE PROJECT.

Mr. President, I rise today to discuss a matter of great importance to the Intermountain West and all Americans who are interested in the development of our natural resources.

S. 500, which has for its purpose the authorization of the Colorado River Storage Project and Participating Projects, is now pending before the Interior and Insular Affairs Committee of the Senate. Hearings have been held and action by the full Committee is imminent.

A similar bill was before the Senate last year but was not acted upon although it was the pending business when the Senate took its recess last August.

A phase of this bill has been the subject of a great deal of discussion and debate. I am referring to the controversy over the so-called Echo Park Dam and Reservoir. The controversy also includes a much smaller storage project downstream from Echo known as Split Mountain. Both of these reservoir sites are on the Upper Colorado River and its tributaries.

Proponents of the proposed giant reclamation program declare that these storage reservoirs--two of nine of the comprehensive program--are absolutely necessary to the successful operation of the project.

Opponents, essentially a Southern California water lobby and a few vocal members of conservation and wildlife groups, deny this claim and assert that to permit the construction of the Echo Park and Split Mountain Reservoirs would be an invasion of a national park and would set a precedent which would endanger our national park system, of which the nation is justly proud.

The debate is approaching fever heat. Other units of the program and the merits of this great reclamation project are being lost in the confusion of charges and counter-charges. Members of Congress have been bombarded and now are being deluged with hundreds of pressure-type letters written, and in many cases mimeographed, by well-meaning people who honestly believe the national park system is in real danger.

It is my purpose in this discussion to throw some much needed light on this badly muddled situation.

I shall begin by clearing away some misconceptions.

The words "Echo Park" are themselves misleading. There is not now and never has been a national park named "Echo." This will not be denied.

It was an old custom in the West to designate small areas on streams, in canyons, and in the national forests as "parks." All that was required
to merit the local term "park" was a clearing, or a grassy plot of ground, or a meadow bordering on a stream, or a wider place in a narrow canyon, etc. Hence numerous small areas on the Upper Colorado River were named "parks" by the pioneers. Island Park, Brown's Park and Echo Park are outstanding examples.

It is hardly necessary to add that this practice has given rise to a mistaken belief among many people that "Echo Park" is really a national park.

In view of these circumstances, how does the controversy over "Echo Park" arise? Let me review the developments chronologically:

In 1915 President Woodrow Wilson, under the Antiquities Act, set aside an 80-acre tract of land in northeastern Utah, where some skeletons of Dinosaurs had been discovered, as a national monument.

This 80-acre tract was a part of the public domain. Many years later--on July 1, 1938 to be exact--President Franklin D. Roosevelt, by formal proclamation, added 203,885 acres of public land to the original 80 acres and declared it, subject to some significant exemptions, to be a part of the Dinosaur National Monument.

The new area extends roughly 10 miles upstream on the Colorado River and its tributaries. The monument extension embraced lands on both sides of the Green and Yampa rivers, and the area named "Echo Park" by the pioneers is included within its boundaries.

The opponents of Echo Park and Split Mountain Dams contend that this 1938 proclamation made all the area along those streams, including the Echo and Split Mountain Dam sites, a part of a national monument, and they challenge not only the propriety but also the legal right of public use of those reservoir and dam sites.

This claim is challenged by the sponsors of the Colorado River Project, who insist that valid existing rights to develop those water resources are specifically covered in the 1938 proclamation.

I am willing to go ever further, and now state categorically, after an extensive search of Interior Department and Federal Power Commission records, that the areas now in controversy are not now and never have been under the exclusive possession and jurisdiction of the National Park Administration. In fact, it is extremely doubtful that the National Park Service has now, or ever has had, jurisdiction over said areas, except in a subservient capacity.
These conclusions furthermore are sustained by irrefutable documentary evidence from the records of the Federal Power Commission—an independent Federal Agency set up by Congress—and the Department of the Interior.

Based on my examination of the record evidence which I shall lay before this body, I declare without fear of successful challenge that the opponents of the Echo Park and Split Mountain Reservoirs are attempting to invade areas which were withdrawn from the public domain and set aside for the specific purpose of water and power development and conservation, by duly constituted agencies of the United States many years before the extension of the Dinosaur National Monument was ever thought of. And these withdrawn areas enjoy the same status now as they did the day they were withdrawn.

This puts the shoe on the other foot. It is not a national monument that is being invaded—it is a matter of some mis-led or mis-informed conservationists who are trying to urge that Uncle Sam violate his integrity and treat as mere scraps of paper solemn reservations in the public interest in the Dinosaur Monument area that precede the limited monument proclamation by 17 to 34 years. It ill behoves honest conservationists to take such an untenable position, because we who love our parks and monuments should strive to preserve as honorable and legal commitments the reservations of public lands for such a noble and worthy use as parks and monuments. Therefore, how can we, in the same breath, ask that equally binding and legal reservations for water development, be invaded, especially when the monument proclamation itself recognizes and exempts from the Dinosaur Monument land reservation these previous withdrawals for water resource development?

Residents of the so-called "public land" states also have cause for concern lest the Congress accede to uninformed public pressure in this case, and, in effect, establish a precedent for violating reservations for power and water resource development. Most states in the western half of the country still have thousands of acres of public lands reserved under withdrawals similar to those now in effect in eastern Utah and Western Colorado, and they should be concerned lest a bonafide precedent be established that would endanger future development of public water resources in the semi-arid West where water conservation has prime priority over all other resources.

The record evidence I bring before you today is known, or should have been known, to the leaders among the opponents of the Echo Park and Split
Mountain projects. Even a casual research would have revealed this information to anyone, and it is a record which cannot be successfully challenged.

I charge, therefore, that these Echo Park opponents have consciously or unconsciously deceived and misled thousands of sincere and well-meaning American citizens into taking a position of opposition and hostility to a very meritorious and desperately needed water development program.

I shall now proceed to lay before you step-by-step the undisputed public record which governs the areas in dispute and determines their status:

1. The areas in controversy, originally a part of Mexico, became, at the time of the ratification of the Treaty of Peace with that country, a part of the public domain of the United States. These areas have been over since that time and now are in Federal ownership and control, subject to whatever legal actions that have been taken with respect to them since that time.

2. From October 17, 1904, through April 16, 1925, eleven withdrawals or reservations of large tracts within the areas in controversy, and including the Echo Park and Split Mountain Reservoir sites, were made either by the Secretary of Interior or the Federal Power Commission (an independent agency set up by Congress to have authority and jurisdiction in such matters), for the purposes of water and power development in the public interest.

These withdrawals for the purposes mentioned and in the order in which they took place, are as follows:

(1) Reclamation withdrawal of Oct. 17, 1904 - Brown's Park Reservoir Site

(2) Power Site Reserve No. 5, May 26, 1909

(3) Power Site Reserve No. 42, Aug. 27, 1909

(4) Power Site Reserve No. 121, Mar. 10, 1910

(5) Power Site Reserve No. 721, July 11, 1919

(6) Power Site Reserve No. 732, Dec. 27, 1919

(7) Power Site Classification No. 3, May 17, 1921

(8) Power Site Classification No. 60, Feb. 21, 1924

(9) F. P. C. Project No. 52h, Aug. 4, 1924

(10) Power Site Classification No. 87, Feb. 11, 1925

(11) Power Site Classification No. 93, April 16, 1925
Mr. President, I believe it would be helpful to the Members of the Congress and any others interested, to have a further breakdown of these withdrawals with particular reference to the authority under which they were issued. For that reason I ask unanimous consent that exhibit 62, which I have prepared listing these withdrawals in one column and authority under which they were issued in an opposite column, be inserted in the record immediately following my main statement.

Before proceeding with other actions listed in the records with respect to the area in controversy, I desire to make some pertinent comments on the withdrawals I have just mentioned:

The question may naturally arise, "Are all of these withdrawals still in effect?" In other words, are they still in good standing?

The answer is yes:

This question was presented to the Federal Power Commission by one of my staff members in my behalf. Mr. Jerome K. Kuykendall, Chairman of the Commission, answered the question in a letter which I received recently. I quote pertinent paragraphs from the letter, which I have made Exhibit 2:

"This is in furtherance to the telephone conversation of February 11 between Mr. McGuire of your office and Mr. Divine of the Commission's staff concerning the status of the lands withdrawn for power site purposes in and about the Dinosaur National Monument, Colorado and Utah.

"Mr. McGuire also requested that you be advised as to: What was the status of the power withdrawals on July 14, 1938, and what is their status at this time.

"In answer to that inquiry, the following power site withdrawals were in effect July 14, 1938, as to lands now within the monument boundaries and no appreciable change has been made in them since that date:

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"In response to the request for a sketch showing the extent of the power
site lands within the monument area, I am attaching a copy of the topographic map of the Dinosaur National Monument upon which there has been superimposed the limits of the lands covered by each of the above-cited power withdrawals."

The pertinent paragraphs of this letter show that the inquiry was about the status of lands withdrawn for power purposes within the present boundaries of Dinosaur National Monument, Colorado and Utah. The answer is also plain—the ten power site withdrawals were in effect July 14, 1938, and no appreciable change had been made in them since that date. The physical limits of these withdrawals are shown on a reduced reproduction of the FPC map, included with the documents on each Senator's desk.

In other words, their status as withdrawn lands is now the same as it was when they were withdrawn, and then the writer names the specific power withdrawals which I have already listed.

3. When the proposal to increase the 80-acre Dinosaur National Monument some 2500 times in size was under consideration, the National Park Service of the Department of the Interior wrote the Federal Power Commission a letter outlining the proposed program of the Service. The letter is relevant to the discussion, so I shall read it in full:

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Washington

"Federal Power Commission,
Washington, D. C.

Gentlemen:

"We are studying the possibility of setting aside certain lands in northwestern Colorado as a National Monument. The area considered is within the watershed shown on the map marked Exhibit H(a), which accompanied an application of January 30, 1932, of the Utah Power and Light Company for a preliminary permit, and which is on file in the Denver office of the Reclamation Bureau. The proposed monument would be affected by the Echo Park dam site and the Blue Canyon dam site, as indicated on the enclosed map of the proposed monument.

"Such an area would be established by Presidential Proclamation which would exempt all existing rights, and a power withdrawal is of course an existing right."
"However, we feel that we should call this to your attention. If it is possible to release the power withdrawals that you now have in the area, our monument will be placed in a much better position from the standpoint of administration.

"If you have any data or reports on this area we would appreciate very much receiving copies.

Very truly yours,

/s/ A. E. Demeray
Acting Director"

A map accompanied the letter showing the location of the Echo Park and Blue Canyon Dam sites to be within the areas of the proposed expansion of the monument.

It will be noted this letter was dated August 9, 1934--many years after the eleven water and power withdrawals had been made by the Department of the Interior and the Federal Power Commission.

The Echo Park Dam site was specifically mentioned by the Park Service's Acting Director, and then he made this significant statement:

"Such an area would be established by Presidential Proclamation which would exempt all existing rights, and a power withdrawal is of course an existing right.

"However, we feel that we should call this to your attention. If it is possible to release the power withdrawals that you now have in the area, our monument will be placed in a much better position from the standpoint of administration."

1. The Federal Power Commission, through its chairman, Mr. Frank R. McNinch, replied by letter under date of December 13, 1934, to the Park Service letter of inquiry. I shall read pertinent parts of the reply, reproduced in full as Exhibit 3:

"Dear Director Caemmerer:

"Reference is made to Acting Director Demeray's letter of August 9, 1934, in which the Commission was advised that you were studying the possibility of establishing a national monument along the Green and Yampa Rivers, in northwestern Colorado, which would embrace lands withdrawn for the proposed Echo Park and Blue Mountain power developments included in the application for preliminary permit of the Utah Power & Light Company, designated as project No. 279."
"Assurance was given in the letter that the Presidential proclamation establishing such a monument would exempt all existing rights, including power withdrawals, but a statement was added that if it were possible to release the power withdrawals the monument would be placed in a much better position from the standpoint of administration. This implied request for a vacation of the power withdrawal has called for careful consideration because of the magnitude of the power resources involved and the fact that the permit application is still in suspended status pending conclusion of the comprehensive investigation of irrigation and power possibilities on the Upper Colorado River and its tributaries by the Bureau of Reclamation, and a more definite determination of water allocations between the States of the upper basin. The power resources in this area are also covered by Power Site Reserves Nos. 121 and 721 and Power Site Classifications Nos. 87 and 93 of the Interior Department.

"In the application of the Utah Power & Light Company the primary power capacity of the Echo Park site is estimated at 130,000 horsepower. This is based on the development of a head of 310 feet at the dam and a regulated flow of 4,000 c.f.s. obtained by storage in the proposed Flaming Gorge Reservoir on Green River and Juniper Mountain Reservoir on Yampa River. At Blue Mountain the primary capacity is estimated at 19,000 horsepower based on the development of 210 feet of head and a regulated flow of 1,100 c.f.s.

"Ralf R. Woolley in his report on 'Green River and its Utilization' (Water Supply Paper No. 618, U. S. Geological Survey), proposes the development of 114,300 horsepower, primary capacity, at the Echo Park site, based on an average head of 290 feet and a stream-flow of 4,950 c.f.s. At Johnson's Draw, which is his designation for the Blue Mountain site, Mr. Woolley proposes a primary capacity of 43,200 horsepower based on a regulated flow of 1,800 c.f.s. and a head of 300 feet. Either of these estimates would justify installations of something like 300,000 horsepower at Echo Park and at least 50,000 horsepower at Blue Mountain.

"It is generally recognized that the Green and Yampa Rivers present one of the most attractive fields remaining open for comprehensive and economical power development on a large scale. Power possibilities on Green River between the proposed Flaming Gorge Reservoir and Green River, Utah, and on the Yampa River below the proposed Juniper Mountain Reservoir are estimated at more than 700,000 primary horsepower, which would normally correspond to 1,500,000 to
2,000,000 horsepower installed capacity. Excellent dam sites are available, and as the greater part of the lands remain in the public domain, a very small outlay would be required for flowage rights. The sites we are considering are important links in any general plan of development of these streams.

"Regardless of the disposition which may be made of the Utah Power & Light Company's application, and giving due consideration to the prospect that some time may elapse before this power is needed, the Commission believes that the public interest in this major power resource is too great to permit its impairment by voluntary relinquishment of two units in the center of the scheme. The Commission will not object, however, to the creation of the monument if the proclamation contains a specific provision that power development under the provisions of the Federal Water Power Act will be permitted."

I now proceed to comment on this letter. First I call attention to the fact that the "two units in the center of the scheme" were Echo Park and Blue Mountain dam sites.

It is clear that the Federal Power Commission clearly rejected the request for a vacation of the power site withdrawals, pointing out that the request had "called for careful consideration because of the magnitude of the power resources involved and the fact that the permit application (Utah Power & Light Company's application for a permit) is still in suspended status pending conclusion of the comprehensive investigation of irrigation and power possibilities on the Upper Colorado River and its tributaries by the Bureau of Reclamation and a more definite determination of water allocations between the States of the upper basin."

It is interesting and important to note that in this letter Mr. McNinch recognized and called attention to the fact that there was a comprehensive investigation of irrigation and power possibilities taking place on the Upper Colorado River and its tributaries by the Bureau of Reclamation. The truth is that this investigation had been going on for many years, a fact which was well-known not only to the Federal Power Commission but also to the National Park Service.

It was well known also that the states of the Upper Basin—to-wit, Colorado, New Mexico, Utah and Wyoming—had not yet entered into a compact for
the allocation of the water supply which each state would get out of that portion of the Colorado River awarded to the Upper Basin by the 1922 Colorado River Compact.

Mr. McNinch, for the Commission, further declared that this area was "one of the most attractive fields remaining open for comprehensive and economical power development on a large scale" and that sites under consideration "are important links in any general plan of development of these streams."

The reply also emphasized "that the public interest in this major power resource is too great to permit its impairment by voluntary relinquishment of two units (Echo Park and Blue Mountain Dam sites) in the center of the scheme."

I quoted the letter at this point in my discussion for the purpose of showing that the Federal Power Commission was insisting that its withdrawals in the public interest were still in good standing and that fact was recognized in December 1931 by the National Park Service. Furthermore, the validity of these withdrawals was not questioned by the National Park Service at that time, and to my knowledge has not been challenged since then. In fact, the validity was affirmed specifically in the 1938 proclamation itself. I shall discuss the proclamation and its meaning and effect later at length.

5. Another letter under date of November 6, 1935, written by the late Harold L. Ickes, Secretary of the Interior, to Chairman Frank R. McNinch, Federal Power Commission, was a 1935 follow-up along the lines taken by the National Park Service.

Mr. Ickes said, in part, in that letter (Exhibit No. 1):

"The Utah Power and Light Company filed an application in January 1932 for a preliminary permit for a power site reservation in the Yampa and Green River section. This application was on file in the Denver office of the Reclamation Bureau. Recently, however, the Utah Power and Light Company voluntarily withdrew their application. This suggests that the power resources of the section may not be as important as originally believed.

"I shall appreciate receiving your opinion as to the possibility of releasing the power withdrawals that exist in the area. By such action the proposed monument would be placed in a much better position from the standpoint of administration."

In this communication no less an authority than the Secretary of the
Interior recognizes that valid power site withdrawals existed in the area of
the proposed Dinosaur Monument extension. Secretary Ickes also recognized
that the Federal Power Commission had jurisdiction over those extensive
reserved areas by virtue of the Federal Water Power Act of 1920.

At this point I call attention to two maps, copies of which have been
placed on each Senator's desk.

Map "A" shows the location and the boundaries of the ten power withdrawals
to which I have already directed your attention. It also has indicated the
boundaries of the enlarged Dinosaur National Monument.

Map "B" was prepared, for illustrative purposes, from Map "A". The
withdrawals are colored black for emphasis.

The Brown's Park reclamation withdrawal--No. 1 in the list previously
offered--is not shown on this map. It started at a point about 6 1/2 miles south
of the monument's north boundary and extended for approximately 20 miles up
the Green River.

Interesting features of this map are the location and the relative size
of the original 1915 Dinosaur Monument withdrawal as compared with the enlarged
monument. The small original withdrawal of 80 acres is colored red on Map "B".

It will be seen that virtually the entire river area within the enlarged
Dinosaur Monument is covered by the prior water and power withdrawals. In fact,
the withdrawals also extend a considerable distance on either side of the river
at many points.

It also should be noted that the controversial Echo Park and Split
Mountain Dam sites are located on the map, both clearly within the withdrawn
areas. The number and date of the withdrawals also are printed on the map.
This map should be helpful in understanding the Proclamation issued by
President Roosevelt in 1938, increasing the size of the Dinosaur National
Monument from its original 80 acres some 2,500 times to its present area of
over 203,000 acres.

6. On January 6, 1936, Chairman McNinch of the Federal Power Commission,
replied to Secretary Ickes. The complete text of his reply is reproduced as
Exhibit 6.

In the letter Mr. McNinch rejected the Interior Secretary's request to
vacate the power withdrawals and quoted from his own 1934 letter the paragraph
which explains why the FPC could not, in the public interest, release the reservations preserving power resources of such magnitude.

7. Although chronologically out of place, the next document (Exhibit No. 5) which should be considered is the Proclamation issued by President Woodrow Wilson under date of October 4, 1915, creating the Dinosaur National Monument. From it I quote the "Whereas" paragraph:

"Whereas, in section twenty-six, township four south, range twenty-three east of the Salt Lake meridian, Utah, there is located an extraordinary deposit of Dinosaurian and other gigantic reptilian remains of the Jurassic period, which are of great scientific interest and value, and it appears that the public interest would be promoted by reserving these deposits as a National Monument, together with as much land as may be needed for the protection thereof."

After using the necessary language to set this area aside as a national monument, the President makes this statement:

"While it appears that the lands embraced within this proposed reserve have heretofore been withdrawn as coal and phosphate lands, the creation of this monument will prevent the use of the lands for the purposes for which said withdrawals were made."

You will note that this proclamation makes no reference to "valid existing rights," and to my knowledge no power or reclamation withdrawals ever applied to this 80-acre area. In fact, the above language effectively rescinds mineral reservations which previously had applied to these lands. This gave the original 1915 Monument a tight land reservation and no one has ever challenged it.

Back in 1915 President Wilson decided that the 80-acre land reservation was adequate to protect the "extraordinary deposits of Dinosaurian and other gigantic reptilian bones." Twenty-three years later President Roosevelt, under the prodding of Interior Secretary Ickes, decided that the protection of these bones required 203,685 acres in addition to the 80 acres originally set aside. This 2500-fold extension ultimately was ordered, in spite of the fact that practically all of the known deposits of bones in the original 80-acre site had been excavated and removed from the Monument. The 1938 action seemed to be a case of setting aside many more acres to protect a greatly reduced number of dinosaur bones.
In my opinion, President Wilson and his advisors, in issuing the 1915 monument order, were keeping strictly within the powers of the President under the Antiquities Act. On the other hand, it is extremely doubtful that the 1938 proclamation of President Roosevelt can be sustained as a matter of law. A casual reading of the Antiquities Law of June 8, 1906, and of this latter proclamation will be sufficient to point up what I am saying. However, I am not urging that this unjustified expansion of the Dinosaur Monument be upset, because it is my view that the area in controversy can be used both for reclamation and National Monument purposes, and those uses are both in the interests of the public.

8. We now come to the Dinosaur National Monument expansion proclamation issued by President Franklin D. Roosevelt in July, 1938, which I quote in full, except for the land description:

"PROCLAMATION--July 14, 1938 (53 Stat. 2454)

"Enlarging the Dinosaur National Monument, Colorado and Utah

"By the President of the United States of America

" A PROCLAMATION

"Whereas certain public lands contiguous to the Dinosaur National Monument, established by Proclamation of October 4, 1915, have situated thereon various objects of historic and scientific interest; and

"Whereas it appears that it would be in the public interest to reserve such lands as an addition to the said Dinosaur National Monument;

"Now, therefore, I, Franklin D. Roosevelt, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, chapter 3060, 34 Stat. 225 U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in Colorado and Utah are hereby reserved from all forms of appropriation under the public-land laws and added to and made a part of the Dinosaur National Monument:

***aggregating 203,885 acres.***

"Warning is hereby expressly given to any unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof."
"The reservation made by this proclamation supersedes as to any of the above-described lands affected thereby, the temporary withdrawal for classification and for other purposes made by Executive Order No. 5684 of August 12, 1931, and the Executive Order of April 17, 1926, and the Executive Order of September 8, 1933, creating Water Reserves No. 107 and No. 152.

"The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled 'An act to establish a National Park Service, and for other purposes', approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof, except that this reservation shall not affect the operation of the Federal Water Power Act of June 10, 1920 (41 Stat. 1063), as amended, and the administration of the monument shall be subject to the Reclamation Withdrawal of October 17, 1904, for the Brown's Park Reservoir Site in connection with the Green River project.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

"Done at the City of Washington this 14th day of July, in the year of our Lord nineteen hundred and thirty-eight, and of the Independence (Seal) of the United States of America the one hundred and sixty-third.

"Franklin D. Roosevelt.

"By the President: "Cordell Hull "The Secretary of State."

(Italics are added for emphasis)

First, it will be noted that this Proclamation was issued many years after the eleven reclamation and water and power withdrawals previously referred to were ordered by legally-constituted authorities.

In the first paragraph it will be noted how weak the case is for increasing the monument acreage some 2500 times in size, when the best the President can say is that the areas are contiguous to the Dinosaur National Monument and "have situated thereon various objects of historic and scientific interest." Contrast that statement with the specific description in the opening paragraph of the Wilson Proclamation heretofore cited.
In the third paragraph, President Roosevelt makes the Monument "subject to all valid existing rights." There is not the slightest doubt that officials in the Interior Department, Park Service and the Secretary of the Interior, had in mind the water and power withdrawals which I have listed and discussed previously. It will be remembered that Acting Director of the National Park Service, A. E. Demaray, made this statement in his letter of August 9, 1934, to the Federal Power Commission, in which he discussed the proposed extension of Dinosaur National Monument: "Such an area would be established by Presidential Proclamation which would exempt all existing rights, and a power withdrawal is of course an existing right."

The Park Service and Secretary Ickes did all they could to get the Federal Power Commission to cancel the power withdrawals, but failed, as the record shows. The proclamation accordingly was prepared for the signature of the President, who ordered that the expanded monument would be "subject to all valid existing rights." There is not the slightest doubt as to what rights were intended by that statement.

The President in the next to the last paragraph of the Proclamation directs that the National Park Service shall have the supervision, management and control of this Monument "except that this reservation shall not affect the operation of the Federal Water Power Act of June 10, 1920 as amended, and the administration of the Monument shall be subject to the reclamation withdrawal of October 17, 1904, of the Brown's Park Reservation site in connection with the Green River project."

Once again let me say that the National Park Service and the Secretary of the Interior's office, including those who drafted this Proclamation, clearly had in mind the listed withdrawals which had been made by the Federal Power Commission in the area of the proposed expansion of the Dinosaur National Monument. They doubtless also had in mind that these exempted reservations were for public use, to wit: The building of water power and reclamation projects, the latter including water and power developments in accordance with the Reclamation Act. The Reclamation Bureau is a part of the Department of Interior, and certainly no Secretary of the Interior who was on the job as vigorously as Mr. Ickes was, could have escaped knowing that the entire river area within the proposed expansion of the Dinosaur National Monument had been, and was at the time, under intense planning operations for Federal reclamation projects.
In fact, Mr. Ickes' Park Director was so advised in a letter from FPC Chairman McNinch, previously introduced as Exhibit No. 3.

By incorporating those specific exemptions for water and power reservations, therefore, the Interior Department and President Roosevelt must be given credit for attempting to protect the programs which were then being worked out for the benefit of the Upper Basin states in order that they might put to a beneficial use the water allotted to them under the Colorado River Compact of 1922.

Also it should be remembered that the United States was a party to that compact, and the responsible officials in the Interior Department at the time knew that in order to put that water to use the Upper Basin States would have to have projects built under the U. S. Reclamation Law. For that purpose, the Federal Government itself would be the responsible agent in building that project. This means that there would be no necessity for licensing of dams by the FPC in this particular area. It would be necessary for Congress to authorize the construction of such dams, which it has full authority to do, and all the talk about the restriction of FPC licensing authority under the 1921 and 1925 amendments to the Federal Water Power Act of 1920 has just been a legal smokescreen to obscure the facts.

Another phase of what would be "existing rights" in this particular instance is extremely interesting. It is no doubt well known by members of the Congress that withdrawals for reclamation projects, including water and reserve public lands power development, for the building of storage dams, reservoirs, conduits, power plants, transmission lines, canals and all incidental facilities required or used in connection with reclamation projects.

All of these needs, of course, are equally well known to the Department of the Interior, Bureau of Reclamation, and to the National Park Service, both agencies within the Department.

With such uses in mind, it would be physically impossible for the Park Service to have the dominant interest in the Dinosaur Monument area if this water development project should be built.

That doesn't mean, however, that a program for very effective recreational use of the areas which are not inundated by the water in the reservoirs—and this would be about nine-tenths of the monument area—cannot be successfully undertaken. The reverse is true, as many competent witnesses have reported to Congressional committees. In fact, plans have been made for expenditure of
some $21,000,000 to develop a great recreational area at Dinosaur Monument, which will be available for the use of all.

It is significant also that this 1938 proclamation is absolutely unique among the more than 100 National Monument proclamations which my staff and I have examined. Nowhere else in the proclamations and laws pertaining to national parks and monuments have I been able to find another order which contains specific exemptions of both power and reclamation withdrawals. A few monument proclamations contain reclamation exemptions—notably to protect water supplies of the Southwest Indians—but no other monument proclamation, to my knowledge, contains a specific exemption of power withdrawals as does the Dinosaur Monument extension order of 1938.

Our staff study also disclosed that at least 12 national parks are covered by provisos inserted in legislation pertaining to them, expressly stating that the terms of the 1920 Federal Water Power Act do not apply to the lands embraced then and "in the future" in those respective parks. Such a legislative proviso, incidentally, was written into an act of June 20, 1928 (52 Stat. 781), pertaining to Hawaii National Park, so it is apparent that the Congress in that year was familiar with the fact that valid existing public land reservations under the Federal Power Act may apply to park and monument land withdrawals, and that Congress may recognize one or the other.

9. Important and relevant to this discussion is an opinion written by Nathan R. Margold, Solicitor of the Interior Department. The opinion is dated December 5, 1939, a little over a year after President Roosevelt's proclamation expanding the Dinosaur National Monument. Mr. Margold was Solicitor during most of Harold L. Ickes' term of office as Secretary of the Interior, and, specifically, he was the Department Solicitor at the time of the 1938 Proclamation, enlarging the Dinosaur National Monument.

The opinion involves two questions. The first and most important is: "May a national monument be created subject to the reclamation withdrawals and power site classifications and thereby preserve and continue the effectiveness of the withdrawals and classifications?" Since the opinion itself will point up matters under consideration here and the reasons for the decision, I will quote it in full at this point:
My first comment on this opinion is to point up the fact that Mr. Margold was in full agreement with the procedure that had been carried out in the Dinosaur Monument Proclamation of 1938.

After quoting the statute under which the President of the United States would act in creating a national monument, Mr. Margold declares: "There is nothing in this statute nor in any other statute with which I am familiar that would prohibit lands, otherwise appropriate, from being included in a monument subject to prior reservations and classifications of the character here involved. The practice of establishing monuments in connection with lands subject to prior reservations for other purposes is one that has existed from the very inception of the national monument legislation."

Several instances are cited in support of the opinion.

The second question discussed by Mr. Margold was: "In the event that the national monument is created subject to the classifications, will the Federal Power Commission thereafter be authorized to grant licenses affecting the classified lands pursuant to the Federal Water Power Act (43 Stat. 1063), as amended?"

This question is not really material to the present controversy for the reason that in the case of the area under controversy the withdrawals were all made a long time prior to the expansion of the Dinosaur National Monument.

Furthermore, there is no reason why there should be any licenses issued by the Federal Power Commission in this case. When the Echo Park and Split Mountain dams are built, they will be constructed by the United States through the Bureau of Reclamation. No private individuals, corporations or entities are asking for FPC licenses to build these reservoirs and power facilities. The United States owns the lands; they have been reserved by proper authority.

It should be made clear that when the Federal Government is to build and operate reclamation works, including water facilities and power plants, it does so in its sovereign capacity and is not under the necessity of going to any of its own agencies, such as the FPC, for a license to perform those functions. A mere statement of the case makes it abundantly clear that this is the correct position.

The Act creating the Federal Power Commission, incidentally, not only gave the FPC power to issue permits and licenses for power resource development on public lands, but also gave it jurisdiction over public lands reserved for
potential power development. I have shown that the FPC and the Bureau of Reclamation retain such jurisdiction over reserved river lands of the Dinosaur Monument, and Mr. Margold's opinion bears out my conclusion. Licensing of projects by the FPC in this area is not proposed and is not an issue in this matter.

The conclusion that must be drawn from this documentary study is that the Dinosaur Monument canyon lands, which conservationists have been mistaken in believing were in the exclusive possession of the National Park Service, actually have never been so possessed. The scenic canyons of the Green and Yampa rivers which uninformed or misled conservationists have been praising in manifold and expensive propaganda brochures and national publications, actually have been reserved and protected all along by the Bureau of Reclamation and the Federal Power Commission and are under the jurisdiction of these agencies today.

The National Monument lands, reserved in that extremely limited monument proclamation of 1938, merely surround these canyons, which themselves have been reserved as a public trust for water resource development since the early 1900's.

Furthermore, it is obvious that if the Congress recognizes these older and well-established water resource development rights over the 17-year-old inferior monument rights of the 1938 proclamation, no precedent would be established to endanger the National Park system. This is obvious, because, as I have stated, no other park or monument act or proclamation contains similar exceptions to the double exemption found in the Dinosaur Monument proclamation of 1938. These exemptions clearly establish that the rights to water resource development in this desert area have both legal and historical precedence over the greatly restricted monument land reservation.

Former Secretary of the Interior Oscar L. Chapman also reached the conclusion that no precedent was involved, after a thorough study of this matter in 1950. Following a hearing on the proposed construction of the Echo Park and Split Mountain dams as part of the overall development of the upper Colorado River Basin, he made this significant statement in a memorandum dated July 27, 1950:

"Weighing all the evidence in thoughtful consideration, I am impelled in the interest of the greatest public good to approve the completion of the dams in question, because:

(a) I am convinced that the plan is the most economical of water in a desert river basin and therefore in the highest public interest; and
"(b) The order establishing the extension of the monument in the canyons in which the dams would be placed contemplated use of the monument for a water project, and my action, therefore, will not provide a precedent dangerous to other reserved areas."

Similar conclusions have also been reached by the present Secretary of the Interior, Douglas McKay, and by President Eisenhower, both of whom wholeheartedly endorse the Colorado River Storage project.

I hope that I have successfully dispelled the false "invasion" charges and myths that have been built up around the Dinosaur Monument area. It is also my sincere hope that honest conservationists and nature-lovers will study this documentary proof and conclude with me that the Federal Government's integrity in reserving desert areas for water resource development must be recognized and respected--especially when they are so recognized in a proclamation affecting a national monument.

If we do not respect such authority and such legally-correct precedents for including the Echo Park and Split Mountain dams in the eminently-sound and vitally-needed Colorado River Storage Project, then the structure of laws and precedents built up to protect the national parks and monuments, that I and most other Americans love and appreciate, may itself be placed in jeopardy.

In conclusion, let me remind you:

1. That the Echo Park Reservoir is second in efficiency, both in the storing and the conserving of water and in the production of electric energy, among the nine proposed storage reservoirs in the Colorado River Project.

2. That Echo Park is strategically located between Denver, Colorado, and Salt Lake City, Utah, the largest power consuming centers of the four-state area.

3. That Echo Park Reservoir is in the center of a group of lesser reservoirs--Flaming Gorge, Juniper, and Split Mountain--and by reason of its location and size, it improves the efficiency of these other reservoirs.

4. That the Echo Park Dam site will make deep storage of water possible, thereby cutting down drastically on evaporation losses. It is estimated that use of the Echo Park Dam site will save at least 120,000 acre feet of water over any of the so-called "alternate sites."
5. That 120,000 acre feet of water is sufficient to supply the needs of a city the size of Denver, with its population of over 1,000,000 people. The total population of Utah is only approximately 750,000.

6. That the Upper Colorado River states urgently need and could use beneficially at least twice the amount of water they are allocated under the Colorado Compact (7,500,000 acre feet a year).

7. That the four Upper Colorado states--Colorado, New Mexico, Utah, and Wyoming--now have within their borders reservations of public lands for parks, monuments, national forests, wilderness areas, etc., all for the enjoyment of the people of the United States, to the extent of over 13,000,000 acres. That is an area larger than the combined areas of all the New England states.

8. That the construction of the Upper Colorado River Storage Project with all its units--at least a 50-year job--will be a great regional and national investment that will provide a great increase in homes, jobs, national tax income, and individual contentment, as well as provide a second line of civil and military defense for the nation as a whole.

This list, while impressive, does not include all the benefits that will come from a full realization of all the possibilities of the Colorado River Storage Project, for which I solicit the support of all members of Congress.

Mr. President, I will conclude by requesting unanimous consent that the following exhibits be made a part of the record, following my remarks:

EXHIBITS

1. Authority for Withdrawals pertaining to Dinosaur National Monument area.


3. Letter of December 13, 1931, from F.P.C. Chairman Frank McNinch to Director Caesarmer of the National Park Service.

4. Letter of November 6, 1935, from Interior Secretary Harold I. Ickes to F.P.C. Chairman Frank R. McNinch.

5. Letter of January 9, 1936, from F.P.C. Chairman McNinch to Secretary Ickes.

6. Proclamations of 1915 and 1938 pertaining to Dinosaur National Monument.


Maps "A" and "B", showing areas on the Green and Yampa Rivers reserved for power development prior to the 1938 extension of the Dinosaur National Monument and in effect today.