RELATIONSHIP OF THE BUREAU OF RECLAMATION AND THE STATES IN WATER RESOURCE MANAGEMENT

I will introduce my remarks with the rather trite, but nevertheless true, observation that any organization's attitude on a particular matter is determined by the authority and policy governing that organization.

Thus one of the key concepts established by our charter, the Reclamation Act of 1902, is contained in Section 8 of the act, which reads in part:

"That nothing in this Act shall be construed as affecting or intended to affect or to, in any way, interfere with the laws of any State or Territory relating to the control, appropriation, use or distribution of water used in irrigation, or any vested right acquired thereunder. . ."

This provision, as it has been construed, establishes that the Bureau of Reclamation, governed by Federal law in the manner in which it obtains water for its projects, nonetheless must recognize existing water rights established under State law and when such rights are necessary for Federal development may be obtained only with payment of just compensation to the owner. The Reclamation Act of 1902 has been supplemented in many ways in succeeding years, but the basic concept of operating in comity with the States has not changed.

Consequently, the Bureau continues to carry out its program on the basis of being a cooperative participant in local and state affairs. We plan our projects in consultation with local and state interests, we deal with responsible local groups, water districts or conservancy districts, for the repayment of project costs, and we give due regard to state water laws in the development and operation of our projects.

It would appear that we will always be an organization with somewhat more provincial characteristics than many other Federal agencies. But we have no argument with this position. We think the situation is consistent with our responsibilities.
Most western States adhere to the doctrine of right by prior appropriation for beneficial use. This is applicable regardless of whether the use is adjacent to the water course involved or in a location far removed from such streams. In the case of interstate streams, compacts among the states are a useful device.

The Bureau of Reclamation, in past decades, has been criticized more for having insufficient interest in fish and wildlife resources as they relate to water management, than it has for too much participation or interest. This was no fault of the Bureau of Reclamation because our early authorizations limited us to irrigation and auxiliary power as project purposes. There was no consideration in our enabling legislation for other uses such as fish and wildlife mitigation and enhancement and recreation. The fact that our projects at that time were totally reimbursable by the water users left us no room to provide specific fish and wildlife benefits.

Thus, if a particular project activity was inimical to fish and even if we were fully aware of it, we could do little or nothing to alter the situation. We were subject to much criticism from State Fish and Game Departments and sportsmen for our seeming unresponsiveness to their needs. Nevertheless, some of our oldest reservoirs are among the best fishing holes in the West today.

Happily, this situation has changed. Under present Federal law and policy we are enabled to give full consideration to fish and wildlife values, both existing and potential, and to recreation benefits which might result from construction of a Reclamation project.

The Magna Carta for the sportsmen is the Fish and Wildlife Coordination Act, first passed in 1934, and significantly amended as far as our Reclamation projects are concerned in 1946, 1958 and 1965. This legislation calls for and in fact requires full consideration of fishery and wildlife resources in any water development or control program.

It calls for fish and wildlife conservation to be coordinated with other purposes and potential benefits. Thus, the Fish and Wildlife Service participates and, in fact, becomes a key agency in water planning. Needless to say, state fish and game agencies also have a role through their close liaison with the Fish and Wildlife Service. We also deal with the state fish and game agencies in our preliminary planning at the field level. The states are also accorded full opportunity to comment on any Reclamation project plan when it is submitted formally by the Secretary of the Interior.

The amounts of water which the Fish and Wildlife Service recommends for dedication to fish and wildlife purposes is a part of the overall plan for a water development project. Reservoir releases may require a specific storage allocation in a reservoir or a prescribed operational
plan to deliver varying amounts of water which may be needed throughout the year for downstream fisheries. Annual benefits of such control are estimated by the Fish and Wildlife Service and made a part of the record for valuation by the Congressional committees when the project is considered for authorization.

There is a problem, however, in connection with the requirements of Federal law that appropriate consideration be given to recreation and wildlife resources. As I have pointed out, we attempt as a matter of comity to pay due heed to State water laws but many States do not recognize the use of water for fish and wildlife purposes as a beneficial use or assign it low priority.

Even in those States which recognize water rights for fish and wildlife purposes such rights are predicated upon diversion of the water from the stream. It is sometimes difficult to obtain practical protection of water rights for water which is to be left in the stream for fish and wildlife purposes.

For example, we have worked out many agreements with the Fish and Wildlife Service for leaving water in streams for fish and wildlife purposes, but irrespective of such agreements downstream diversions are made by non-federal interests purporting to act within the scope of State water codes which do not recognize dedication for fish and wildlife purposes.

States sometimes get around this problem by refraining from granting any additional water rights which would infringe on these flows, but this is difficult if not impossible where the river is already over appropriated for other purposes. In such instances, we try to work out operational plans to maintain a minimum flow at all times while serving downstream water users.

Inevitably, though, particularly in years of shortage when every drop of water must be used to the greatest advantage, there are conflicts. Again, I emphasize that Reclamation management practices are governed by Federal laws and policy, taking into account state and local laws and interests.

An area of immediate local concern here in Arizona and in California, and also a good example of the problems we face, is the Lower Colorado River. The Bureau of Reclamation is responsible for administering the Lower Colorado River management program in which there is conflict and competition among many diversified groups as well as an extreme shortage of water to fulfill compact and contract commitments.

The stretch of the river from Hoover Dam downstream is better and more useful for fishery, wildlife and other purposes since it became a managed stream. Nevertheless, because it has been brought
under control and made a useful servant of the Pacific Southwest, there are many complex changes occurring which require continuing studies and resultant actions to encompass the integrated interests of contract water users, fish and wildlife, recreation, flood control, international commitments, and others.

At the instruction of Secretary Udall, we have postponed further dredging as a water conservation measure above and immediately below the Topock Gorge to study and see what happens without maintaining a manmade channel through this heavily silted stretch of the river. We had and have no intention of dredging within the Gorge itself except on the recommendation of the Fish and Wildlife Service and local agencies. However, our specialists advise that there is danger that unless some dredging is undertaken, the several inlets to marsh lands within the Gorge might silt up and the marshes dry out to the detriment of waterfowl in the Gorge. This is an area in which we definitely are waiting for the Arizona and California sportsmen and conservationists to decide with the Bureau of Sport Fisheries and Wildlife, what course of action they wish to recommend.

One example I want to mention of how recreation and fish and wildlife are being incorporated into new projects is our Garrison Diversion Unit of the Missouri River Basin Project in North Dakota. This project is the first large scale water use plan to enable North Dakota to take advantage of the Missouri and to some degree, provide recompense for the flooding out of bottom lands by the flood control reservoirs on the main stem of the river.

The Garrison Diversion Unit will provide for the irrigation of 250,000 acres of land. More importantly to you here, it also provides for the acquisition and development of 147,000 acres of land for waterfowl development and recreational use. I don't need to tell anyone here how important this is to the protection and enhancement of the Central flyway.

As far as management of wildlife and recreation benefits on Reclamation projects are concerned, we seek to turn these responsibilities over, as far as possible, to the agencies qualified in those fields rather than to expand our own operations.

The Bureau of Sport Fisheries and Wildlife works closely with fish and game departments in management of these resources on our projects. Personally, I think they have done a remarkably fine job. It is no accident that the reservoirs of the Upper Colorado River Storage project as well as those in the Lower Basin are outstanding. It is the result of careful planning and coordination.
However, I do want to take some little credit for the Bureau of Reclamation, if only because we have cleaned up the river. If I may trot out an old bromide, there are few places on the Colorado today which are too thick to drink or too thin to plow. Not only is there good fishing in the clear cold waters of the reservoirs, but in the many miles of downstream from them, which are kept supplied by regulated releases from the reservoirs.

I mention particularly the stretch of about 30 miles on the Green River in Utah between Flaming Gorge dam and Dinosaur National Monument. Part of this area is administered for recreation purposes by the Forest Service and part by the Bureau of Land Management. The Utah Fish and Game Department has been responsible for the stocking program. It is an extraordinary stretch of river through deep, forested canyons and public range. There is complete public access and I venture the prediction that it will become one of the most popular fishing streams in the Nation before long. But before Flaming Gorge dam was constructed, it was nothing but a sluiceway for the glacial silt washing down from the Wind River Mountains.

Another example of coordinated river management which is working out successfully was our control of the water levels in Lake Mead this spring and early summer to improve the bass spawning. Recent underwater and surface inspections indicate that the circumstance by which we were able to bring the level of the lake up slowly during the spawning seasons has meant a strong comeback in the Lake Mead bass population. This fishery, incidentally, is valued by fish and game experts in the millions of dollars as a recreation attraction.

I emphasize again, however, that favorable circumstances made this year's fishery management program possible. In other years and under different water circumstances, it may not be possible. Then, I suppose, we will simply have to take our lumps again because too many sportsmen, like too many water users or power users or other single-purpose beneficiaries of Reclamation projects will fail to look at the big picture of multipurpose development and management.

Still, all in all, our relationships have been improving and we want to keep them that way. Certainly, I again emphasize that it is our desire to work closely with both Federal and non-Federal entities in the development of the water resources of the West. We have no desire to usurp any state responsibilities for management of wildlife or recreation resources.

I caution, however, that the competition for the available water supplies becomes more intense every day. There must be coordination and cooperation if we are to achieve maximum benefits of the available supply by multiple-use.