

STATEMENT

Before the

Federal Power Commission

By the

Arizona-Colorado
River Conference Committee

Concerning the

Development and Utilization
of the Resources of the Colorado River

*Washington, D. C.
September 24, 1923*

THE ARIZONA PRINTERS, INC.

DEPARTMENT OF
LIBRARY AND ARCHIVES
ARIZONA
LIBRARY AND ARCHIVES

GV 1.21033/3

Arizona, Governor, 1923-1929 (George Wylie Paul Hunt)
Arizona-Colorado River Conference Committee.
Statement...

STATEMENT

Before the

Federal Power Commission

By the

Arizona-Colorado River Conference Committee

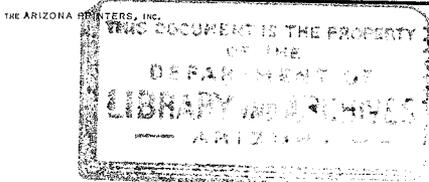
Concerning the

Development and Utilization of the Resources of the Colorado River

Arizona State Library
Archives & Public Records

*Washington, D. C.
September 24, 1923*

JUN 12 2006



NUMBER
64094
RECEIVED JAN 6 '53

Ariz.
621.3

A711a
copy 2

The Honorable Federal Power Commission,
Washington, D. C.

Gentlemen:

This Committee of nine, citizens of the State of Arizona, which has requested and been accorded a hearing before the Federal Power Commission derives whatever of authority and official standing, representative of the State of Arizona, it may possess, from appointment by the Governor for the purpose of drawing and recommending to the proper agencies of the State of Arizona, plans for expediting the development of the Colorado River within the State of Arizona. The appointment of this Committee was at the instance and direction of a convention held on the 8th and 9th of May, 1923, at the Capitol Building, in Phoenix, Arizona, of sixty-five citizens representing generally every business interest and locality in the State.

It was practically the unanimous sense of this convention of Arizona's representative citizens that the State of Arizona should retain her inherent natural rights in the Colorado River, either by the adoption and execution of a complete plan of State ownership—direct State ownership—or by reservation of complete right of acquisition of all privately owned projects—ultimate State ownership.

The need for such a Committee and the grave necessity for the careful performance of the work assigned to it, grew out of the fact that a well founded and patriotic objection was voiced in the State, to the ratification of the so-called Colorado River Compact, negotiated at Santa Fe, New Mexico, in the form presented to the legislatures of the signatory States, for the reason that this Compact was in its terms, intendments, and reasonable construction, so antagonistic to the future interests of our State and Nation as to outweigh properly every benefit which might be advanced as a justification of a surrender of purely and what may be termed by interested parties selfishly asserted, state rights; and from the further fact that this honorable Commission saw fit last winter to indicate in no uncertain terms that its policy then was to suspend all development on the Colorado until an agreement shall have been reached between the Colorado River Basin States, respecting utilization of the waters of the Colorado River.

This Committee says to this Commission that Arizona should not ratify the proposed Compact, and represents, well informed of the situation in the State of Arizona that this State will not as a matter of fact ratify the proposed Compact in the form presented.

Arizona desires and absolutely requires development of the Colorado River, but resents the attempted coercion which demands she as a sovereign State surrender unnecessarily rights she is entitled to preserve or acquire, to obtain a badly needed improvement—coercion dictated by political power, determined to prevent her betterment until such time as she shall make obeisance, and unnecessary and unpatriotic surrender and concession. In the galaxy of American States, the arrogance of one State, or of a few men in one State, has never yet dictated the suppression, embarrassment or despoilation of another State.

This Committee is prepared to justify Arizona's opposition to the Compact, to indicate terms and conditions satisfactory to the State of Arizona, in recognition of her rights and the rights of her sister States, to enter negotiations for a new or modified Compact, and to seek the speedy development of the River at the hands of whichever agency may most properly proceed.

This Committee has every confidence in this Commission, and feels that it has the fullest sympathy with our State in her conscientious assertion of a desire to protect her rights, and is assured of an absolute and competent fairness of dealing in attacking and solving the problem presented in the Colorado River situation.

We, as a Committee, are considering a recommendation to our conference that it, through the proper media, serve a declaration of intention on the part of the State of Arizona, to develop the waters of the Colorado River within or on the boundaries of Arizona, for flood control, water storage and hydro-electric power, as a state owned, operated and controlled enterprise, in co-operation with the United States of America, through this its Federal Power Commission.

Need for Development of Canyon of Colorado

The need for development of the Colorado is pressing and the people of Arizona feel they can not evade their responsibility much longer. We hear the cries for flood control to prevent the destruction of life and property in the Lower Basin daily. Our returned soldiers are asking

for the fertile land that will be available through reclamation when storage is provided for conserving the flood waters, and when cheap power is available for irrigation pumping. The cost of fuel is probably higher in Arizona than in any other State in the Union. We have a very pressing need for cheaper power for irrigation pumping and for our copper mining industry.

Power Must Pay the Bill

As important as flood control will be for preventing the destruction of present homes and valuable lands, and for making additional lands valuable through reclamation, we believe that power is the only agency that can bear the cost of the development now. We believe if power development can proceed unhampered in a business-like way, the benefits of flood control and more water for reclamation will be realized in a surprisingly short time as a by-product.

A start in this development means a start in one of the greatest conservation measures of our time. The energy now wasting in the rapids in the Canyon of the Colorado when harnessed will conserve the equivalent of a hundred million tons of coal annually. Water will be made available for tripling our present irrigated acres in the Basin, and the flood menace to life and property in the lower reaches of the River will be removed.

One Owner Project

We are not usually advocates of Government in business, but we must recognize certain fundamental reasons why development should be by the State of Arizona.

Eighty per cent of the 5,000,000 h.p. to be eventually developed in the Canyon will be developed entirely within the boundaries of Arizona. The other twenty per cent will be developed on our boundary.

While there will be eventually six or eight dams and power plants in the Canyon, there are a number of reasons why the entire Canyon development should be a one owner project. Very fortunately there happens to be a site for a great storage reservoir for the control of the floods at the head of the Canyon, where it can be of maximum benefit. The agency which constructs this reservoir will make subsequent power projects below less

expensive to develop, and will give such projects several times the power output during the long low water period each year that they would otherwise have.

The benefits conferred upon the subsequent developments below by the storage and flood control at the head of the Canyon will be so great that the agency providing such storage will have a very important equity in them. This equity will be difficult to appraise, and is a reason why the Canyon development should be a one owner project.

If the Canyon is thrown open to competing private corporations to develop, the securities of such corporations will be questionable and financing will be difficult. It will be impossible for a private corporation to undertake a development in the Canyon, without some assurance in the mind of the management at least that it will be able to protect itself by eventually gaining a monopoly of the Canyon power development. If the Canyon is to be developed by private capital, there are advantages in turning over the entire development to one corporation in the beginning. The financing will be much easier, and this will result in cheaper power. It is considered against public policy to surrender a monopoly of such a vast natural resource as the Canyon of the Colorado to a single private corporation. This is another important reason why the development should be undertaken by the State of Arizona.

Capital Charges Main Item in Cost of Colorado River Power. State of Arizona Will Have Decided Advantage Over Private Corporation

The operation of a large hydro-electric project on the Colorado will differ widely from the operation of a steam power plant, a railroad or a factory, where the cost of the service rendered or the cost of the article produced is made up largely of labor, fuel and other costs, and the charges for capital are relatively a small item. When power is sold from a large development on the Colorado, about ten per cent of the operating cost of delivering power will be represented in labor and supply costs, and about ninety per cent of the cost will be represented in capital charges. Herein lies the most important reason why the State of Arizona should undertake the development. On account of its decided advantage in capital charges, the State of Arizona, with

the same degree of efficiency in management, can market power for much less than a private corporation.

Proposed Arizona Plan

The work of this committee has been broad in scope and deeply intensive in its study of direct or ultimate State ownership in the Colorado River. The committee with the leading attorneys of this State is and for a considerable time has been, studying the form of the organic State law requisite to the government of the river which will be framed ultimately in an amendment to the State constitution together with supplementing administrative legislation. This work is being undertaken with appropriate care and with an assurance that our State will have an adequate plan of development, finance and operation with the greatest possibilities of the highest economic efficiency and grounded in the paramount legal or equitable right of Arizona in her natural resources in this great river.

We propose "The Arizona State Power Corporation" which will take over the power development of the Canyon of the Colorado within the State of Arizona. We propose a management that will be non-political and efficient; a management that will be actuated by the best interests of the power users and all concerned.

We believe Diamond Creek is the most commercially feasible site in the Canyon for making a start in the development of power. We would like the Diamond Creek license for the State of Arizona, but we are not now in a position to ask for it. We believe, however, Arizona's best interest demands that this Committee interpose no hindrance that will in any way delay the issuance of any license and the realization of the great benefits from development that are bound to result, not only to our State, but to adjoining States and to the Nation.

This committee asserts that there is no inconsistency in this attitude on immediate development of the River in the light of the primary purpose for which this Committee was constituted, viz., to devise a plan of State-owned development of the Colorado River, for the reason

that later, when the State of Arizona is prepared to take over the canyon development within the State of Arizona, it can acquire any project by negotiation or by condemnation proceedings as provided by Section 14 of the Federal Power Commission Act, or, by the assertion by Arizona in the courts of the land of her rights as a sovereign State against the claim of only a naked right of proprietorship in the Federal government. We believe that whenever the power sites on our boundary become commercially feasible, we will have no difficulty in arriving at a satisfactory understanding with the adjoining states.

We believe all the power available at Diamond Creek during the long low water period each year will be quickly contracted for and that a storage in Glen Canyon will soon be justified in order to increase the power output at Diamond Creek. Possibly the full storage capacity will not be justified at first. 5,000,000 acre feet will greatly increase the power output at Diamond Creek and more than double the water available for irrigation in the Basin. Before very long we believe the demand for power will justify a sufficient storage to bring the floods of the River completely under control and justify a power plant near Lee Ferry at the foot of Glen Canyon. We believe the Glen Canyon site will be required very soon after the Diamond Creek project goes into operation.

Under Arizona state operation we believe it can be worked out so that agencies of other states will construct the transmission lines and take over the distribution in such states.

We propose that our State Power Corporation charter will permit joint construction and ownership of any project or projects with another State or a municipality of another State if this seems feasible. We take the position that in case another State invests money in the Canyon development in the State of Arizona, the State of Arizona is entitled to the usual tax benefit upon such an investment. We also believe if Arizona furnishes the capital for developing power to be used in another State, Arizona is entitled to an equitable profit in addition to the usual tax benefit.

The more commercially feasible sites for power development are entirely within our State, and on account of

our urgent need for cheaper power, we feel the responsibility is mainly ours. We want only a square deal for all concerned.

The Pact Is Holding Up Development

In order to make a start in bringing about these benefits to our Nation, we of Arizona are being told by a few citizens of some of our other States that we must ratify a certain document that was drawn at Santa Fe, New Mexico. Certain gentlemen have been prevailing upon the members of the Power Commission to hold up a start in this great work until Arizona ratifies the proposed Pact.

We realize that existing laws might operate to the disadvantage of the Upper States, and contrary to the best interests of the Nation as a whole. We believe the best interest of the Nation as a whole is the only sound and just basis for any change from the operation of existing laws. Judged by this standard, we feel the remedy proposed at Santa Fe would prove much more harmful than the ill it would overcome. We seek no advantage.

Reasons for Pact

We wish to present very briefly and frankly our views of the reasons for the Pact and the interest of the several States in it.

When irrigation was first practiced along the streams of the West, the earliest diversions were usually made on the more fertile land along the lower reaches of the streams. Later, as the country developed, diversions were made higher up on the streams, often on to higher, less fertile bench lands. These higher diversions often caused a shortage of water to the injury of the prior users below. The users higher up on the streams contended that their rights were superior to the rights of the prior users below. Owners of upper lands claimed the right to make any use they saw fit of the water from streams passing through such lands. The farmer having the diversion furthest up on a stream claimed the preferred right to the use of the water of that stream. Extra expense was often incurred to make diversions on a stream higher than necessary from an engineering standpoint, in order to gain a supposed superior right. There

was much strife, and clashes between water users in many localities resulted in violence and bloodshed.

When the contentions between the upper and lower appropriators reached the State Courts, the utter unsoundness and injustice of allowing upper users to injure lower prior users by depriving them of the use of water on the lands previously developed, was quickly recognized. The doctrine of prior appropriation which makes him who is first in use first in right was promptly adopted as the only sound basis for the allocation of the waters of any stream, and all the Western States have since made this principle fundamental in their water laws.

While this doctrine was considered thoroughly just and fundamentally sound economically, and in harmony with the best interests of the Nation as a whole, certain able legal minds asserted it could not be made to apply as between appropriators in different States on the same stream, on account of the rights guaranteed to individual States under the Constitution.

Unfortunately we always have those among us who will not hesitate to benefit themselves at the expense of their neighbors so long as their action can be adjudged within the law. Certain interests proposed to divert water from the Laramie River on to their lands in Colorado. The Laramie has its source in Colorado and flows north into Wyoming. This proposed diversion, if carried out, would have injured prior appropriators lower down on the River in Wyoming by depriving them of the water necessary for the irrigation of their lands. In 1911 a suit was filed in the Supreme Court by the State of Wyoming against the State of Colorado and two Colorado corporations to prevent this proposed diversion.

Wyoming claimed that her citizens who had made their lands valuable through the use of the water from the Laramie River should not be injured by subsequent appropriations further up on the stream in Colorado. Wyoming contended that the doctrine of prior appropriation had long been the rule as between appropriators in the same State on any stream, and that the interposition of a state boundary line would not make it less sound and just as between appropriators in different States on the same stream. Colorado's attorney answered that it was Colorado's "right as a State to dispose as she might

choose of any part or of all the water flowing in the portion of the River within her borders, regardless of the injury to Wyoming and her citizens."

On account of its novelty and lack of precedent, this seemed a difficult case legally for the Court to decide. After a decision had been pending for eight years, it was pointed out at a Western Governors' conference that further developments of the Colorado were being planned, especially on the lower River, and that the issue involved on the Laramie would be raised with regard to the Colorado later.

Instead of waiting for a decision which it was then thought might be pending for many more years, it was suggested an agreement be reached between the interested States themselves, as to the use of the interstate waters of the Colorado. Plans were quickly made for carrying out this idea. A Commission was organized, consisting of a Commissioner from each of the several States, and a Commissioner representing the United States.

After the Commission had held several hearings during the first part of the year 1922, the Supreme Court rendered a decision in the Wyoming-Colorado case. Fortunately, as quite often happens, the Court was able to sweep aside the troublesome and pernicious technicalities which would be ruinous to our form of Government if allowed to prevail. The Court was able to render a decision fundamentally just and economically sound, and ruled June 5th, 1922, that the doctrine of prior appropriation applies as between appropriators in different States on the same stream, the same as between appropriators in the same State.

The final meeting of the Colorado River Commission was held at Santa Fe, New Mexico, a few months following this decision. A proposed pact was drafted which ignores entirely the principle laid down in this decision, and the principle underlying the water legislation of the Western States and instead it upholds the unsound and unjust contention of Colorado's corporations. Colorado's representative who had such an important part in drafting this proposed pact was none other than the able attorney who resolutely defended Colorado's corporations in their losing fight in this same Wyoming-Colorado case.

Provisions of Proposed Pact

This proposed pact is cleverly drawn and from a sup-

erficial reading may seem fair enough. Let us consider for a moment what it really means.

Article III, Paragraph (a) makes definite awards of water to the respective Upper and Lower Basins IN PERPETUITY—not for forty years—IN PERPETUITY. Provision is made in the pact for “further equitable apportionment” in forty years of the water then available or surplus above the amounts awarded IN PERPETUITY. The amount allocated to the Upper States in addition to what they are now using would deplete the flow of the River at Lee Ferry to 68 per cent of its present average flow.

Paragraph (d) of the same article provides in effect that in the case of a drought the Upper States would be permitted to deplete the flow at Lee Ferry down to nothing for several years, as long as the average flow over a ten-year period is not depleted to below 47 per cent of the present average flow. In other words, while definite awards are made to the Upper and Lower Basins of 7.5 and 8.5 million acre feet per year respectively, these awards are for the average years. In dry years, the Upper States are permitted to help themselves to all they can use, and the Lower States are to take what is left.

Article III, Paragraph (b) would make the use of water in the Canyon for power always subservient to the use for agricultural and domestic purposes in the Upper States.

Article VIII provides that when storage capacity amounting to less than one-third the average annual flow is constructed in the Lower River, the demands of present users in the Lower Basin must be satisfied from this storage.

The award made to the Upper Basin in perpetuity allows its present irrigated acreage to be tripled and it is generally agreed gives the Upper Basin all the water it can possibly ever use including the unnatural right to divert the water entirely out of the Colorado River Basin.

Interest of the Several States in the Pact

Perhaps the most potent popular argument advocated demanding the ratification of the Compact by Arizona is that six of the seven states of the Colorado River Basin have ratified the Compact. It is sophistry to contend that this Compact is just to Arizona for the reason that it is ac-

ceptable to the other States. Arizona appreciates the singleness of her position and the necessity of justification, but it is ultimately true that what properly actuated California, Colorado, Nevada, Utah, Wyoming and New Mexico in ratification are not proper motives for determination of our action. We do not suggest or suspicion ulterior motives on the part of these States, but their objects are not our objects; our situation, needs and rights are different from their situation, needs and rights. Every State has her right of self-determination on matters touching the weal of the commonwealth.

The Santa Fe Pact would permit the Upper States to help themselves to all the water of the Colorado they could possibly use, in the Basin or out of it, dry years or wet, regardless of injury to prior users in the States below. Naturally they ratified it. What more could they ask?

Nevada, designated as a State of the Lower Basin, was the first State of all to ratify the pact. We do not censure Nevada in the least for her action. Nevada has very little land in the Colorado River Basin that can be irrigated. According to Senate Document No. 142, Nevada had no land in the Colorado River Basin under cultivation in 1920 and has only a small acreage feasible for irrigation in the future, none of which will receive its water from the main river. Nevada's interest in the Colorado lies in her hope that a development will soon be undertaken in Boulder Canyon on the Arizona-Nevada boundary, the wrong end of the Canyon for flood control and storage and where, on account of the depth to bed rock, the foundations would be unprecedented and would be extremely difficult and expensive to construct. Nevada hopes to be benefitted by a railroad to the dam, the town-site and the large amount of money spent within her borders, and whatever tax benefits that may accrue. Why shouldn't Nevada be the first to sign the pact? Much to gain,—nothing whatever to lose.

In California most of the land to be reclaimed will likely be developed before the larger projects in Arizona are undertaken. Through the doctrine of priority of appropriation, rights may be perfected to about all the water California can use for irrigation, while there is still plenty available from the amount the pact would allocate to the Lower States in perpetuity.

California was slow to ratify the pact, however; strong opposition arose from those having land irrigated by the

waters of the Colorado. This was offset by those who are enthusiastically back of the Swing-Johnson bill and are seeking to have the River nationalized below the mouth of the Green River, primarily we believe in order to deprive Arizona from any jurisdiction over the power projects within her confines, and to deprive Arizona of the tax benefits from investments in the Canyon. We believe Arizona is entitled to the same benefits from the resources within her boundaries that all the other states of the Union derive from the resources that happen to lie within their confines. Certain California leaders thought it advisable to concede to the Upper States all they ask for in order to forestall their active opposition to the Swing-Johnson bill.

Effects of Pact on Arizona

While the Upper States are allocated sufficient water in dry years or wet to triple their present irrigated acreage, the Lower States are allocated only sufficient in average years to double their present irrigated acreage.

Ninety per cent of the area of Arizona is in the so-called Colorado River Basin. This area constitutes forty-two and one-half per cent of the Colorado Basin area in the U. S.

In Arizona we have vast stretches of level, fertile lands that need only the water now wasting from the Colorado to make them as productive as any in America. Reclamation of these lands on a large scale is not commercially feasible now on account of the cost of constructing proper diversion canals, but the value of such reclaimed land is constantly increasing and, due to new inventions and improvements, the cost of constructing proper diversion facilities will continue to decrease. When these large projects in the Lower Basin become commercially feasible, it is realized that all the dependable surplus waters of the Colorado will be quickly utilized. If the proposed pact is ratified, it could have but two effects: Either development of these Arizona lands would be restricted and a vast amount of water allowed to waste into the sea pending the time it could be used in the Upper States, possibly centuries hence, or development would proceed in the Lower Basin regardless of the possible future injustice of permitting homes and highly developed lands to be abandoned on account of a shortage of water caused by subsequent diversions on lands in the Upper States. Either effect would be wrong, and from the standpoint of the Nation's best in-

terest, allowing the water to waste into the sea unused would be the worse of the two evils.

The Pact, if ratified, would be a handicap to development in the Lower Basin; but, pact or no pact, eventually all the water available in the Lower Basin will be doubly utilized, first for power in the Canyon and then for irrigation of the highly productive lands below, and true enough this may be accomplished before the Upper States have progressed for in the use of the additional water the pact would allocate to them in perpetuity.

After the available water is fully utilized in the Lower Basin, the City of Denver, for instance, in the Mississippi River watershed, may require an additional supply of water. Among several alternatives, the City may divert water out of the Colorado River water shed for its use. If such a diversion happens to injure power or water users in the State of Colorado, Denver will certainly expect to render full compensation for such injury. If such a diversion happens to injure power or water users in Arizona, why shouldn't the City of Denver expect to render similar compensation for similar injury in Arizona?

The Supreme Court decision in the Wyoming-Colorado case would require from Denver full compensation for the injury regardless of the State in which the injury occurs. But in his zeal to benefit his City and his State, Colorado's representative with exceptional ability has attempted to set aside the future effects of this decision, and demands that a gross injustice to the Lower States be legalized by ratification of the proposed pact.

Is there any wonder the people of Arizona who understand the situation resent being told they must ratify the pact before they can make a beginning in utilizing the 80 per cent of the total water of the Colorado now wasting to the Gulf of California?

The proposed pact does not provide for specific awards as between the States of Colorado, Utah, Wyoming and New Mexico, or as between Arizona, California and Nevada. As between the Upper States themselves the doctrine of prior appropriation would without doubt determine the rights of their respective appropriators, and likewise there would be no better basis for this determination in the Lower States. To treat the individuals of these two groups as if belonging to separate nations, not on friendly terms, and not to be given equal opportunity in the development of our Nation's resources, was certainly not the intent of the Nation's founders.

Power Should Not Always Be Subservient to Irrigation

The pact would make the use of water in the Canyon for power forever subservient to the use for agricultural and domestic purposes in the Upper States. There is no question now that the use of water for agricultural and domestic purposes in the Upper States is more valuable than for power in the Canyon below, but the case of the Canyon of the Colorado is unique. When it is fully developed, the use of water will be more valuable for the generation of power alone in the Canyon than for many of the less profitable irrigation enterprises in the Upper States. The water consumed in irrigating an acre of land in the Upper States, (1.54 acre feet per annum), will generate seven-tenths of a horse power year in the Canyon, when it is fully developed. The power will be used for irrigation pumping in many of our fertile valleys where irrigation by direct diversion is impossible. It would be wrong now specifically to give power an inferior right for all time. Is it the agricultural development that has taken place in the last forty years that has so completely changed our living conditions and our demands of civilization, or is it our development in the use of power? Who can place a limit on what the next forty years may bring?

With what success would the owners of undeveloped lands on the upper reaches of a stream wholly within one of the Upper States meet, with the authorities of that State, if they asked for a definite allocation of water be made to them in perpetuity? They would be told:

“As fast as you develop your lands and make use of the surplus water available, you will perfect a right to it, and no faster.”

In the same way, this is the only sound and just answer to the possible future users of water of the Colorado River in the Upper States who are now seeking allocation in perpetuity before developing their lands and making use of the waters.

Reclamation at Standstill in Both Basins

As matters now stand, further reclamation in both Basins is at a standstill. In the Lower Basin because there is often not sufficient water available during the dry season to justify further development, and in the Upper Basin, because the doctrine of prior appropriation may be utilized by the users in the Lower States to prevent further diversions in the Upper States. Now, if an agency of the Lower

States brings about flood control and thereby a surplus of water is made available for further development in both Basins, surely the citizens of the Lower States conserving the flood waters and making such surplus possible should at least have an equal right with the Upper States in making use of such surplus.

Should not the citizens of the Lower States making the surplus available be on an equal footing with the citizens of the Upper States in putting such surplus to a useful purpose, or must part of the surplus waste into the sea until the time when the Upper States can make use of it?

Surely the citizens of the Lower States, making such surplus available, should not be restrained from making use of it. Surely they should not be restrained from perfecting permanent rights to the use of that portion of the surplus not being utilized by the Upper States.

Arizona Willing to Make Concessions in Harmony With Best Interests of Nation

We believe the principle of making definite awards of water to the so-called respective Upper and Lower Basins, without definite knowledge as to the relative feasibility of the various possible projects of the two basins, without definite knowledge as to the extent of possible future droughts, and without definite knowledge as to the relative future value of the use of water for irrigation in the Upper States and the use for both power and irrigation in the Lower States is unsound and could only serve as a future embarrassment to the best interests of the Nation.

In view of the decision in the Wyoming-Colorado case, the doctrine of prior appropriation now prevails. This doctrine has prevailed in every similar issue coming before the Courts, and we believe that its application is the only just and economically sound basis for the equitable distribution of the waters of the Colorado River system, dry years as well as years of plenty.

We believe, however, that the construction of a reservoir in the Lower Basin for flood control and power should not constitute a priority to prevent further diversions for agricultural and domestic purposes in the Upper States.

We are willing to concede that if storage reservoirs are constructed for flood control or power from which there is in effect a surplus of water available for irrigation in the Basin as a whole, that lands above such reservoirs should

have equal rights with lands below in perfecting permanent rights to the use of such surplus.

We believe diversions for agricultural or domestic use in the Upper States can safely continue to receive permanent superior rights over power developments in the Canyon below the present southern boundary of Utah, until the time when such developments utilize 2,000 feet or more of the fall in the River, and until such further time as a Federal tribunal properly provided for shall determine that the use of water for power in the Canyon is more beneficial to the best interests of the Nation as a whole than for a further increase in the use of agricultural and domestic purposes in the Upper Basin.

We believe the Santa Fe pact is wrong. We believe our refusal to endorse such a pact should not operate to prevent the starting of a work that will be so highly beneficial to both Basins and to the Nation.

There have been rumors that the Upper States would seek to restrain us from starting any work until the pact is ratified. We give no credence to these, but should such an action be started, we are perfectly willing to take our chances on this score in the Courts.

We believe the Upper States are entitled to certain concessions and in consideration of receiving a license for power development which will bring about all the other much desired benefits, we believe the State of Arizona can bind itself to several alternatives.

As one alternative, we believe the people of Arizona would willingly bind themselves to any concessions to the Upper States that a proper dis-interested tribunal would say are just.

We wish to point out that it is proposed to construct the first dam at Diamond Creek. This dam will not have enough dependable storage capacity to materially affect the water supply available for irrigation in the Basin one way or the other. It will be at least four years before it is completed and can have any effect whatever. We believe the State of Arizona can safely bind itself to waive any right or priority, existing laws might give this power dam over subsequent appropriations in the Upper States. We can't see how the Upper States can justly ask more.

It will likely be at least four or five years before any work on the storage dam in Glen Canyon will be started,

and probably eight or ten years before the dam will have any effect whatever on the water available for irrigation and domestic purposes in the Basin. In the meantime, surely an amicable adjustment of the present difficulty can be consummated.

We will make any equitable, reasonable and just concession that is in harmony with the best interests of our Nation as a whole, in order to make a start promptly in what will eventually prove one of the greatest conservation developments in the history of our Country.

Respectfully,

ARIZONA COLORADO RIVER
CONFERENCE COMMITTEE.

GEO. W. P. HUNT,
Governor, State of Arizona,

L. W. DOUGLAS,
Chairman,

GEO. F. WILSON,
Vice-Chairman,