

WATER POLITICS

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The Colorado River is one of the most controlled, one of the most controversial and the most litigated river in the world. Its limited water resources are the subject of intense competition for irrigation and municipal uses and soon that competition will increase as the energy resources of the Colorado River Basin are developed to help meet the energy challenges facing the United States. The competition for the waters of the Colorado River has been growing since before the turn of the century and shows no signs of decreasing. Historically, that competition has to a large extent been resolved in one political arena or another and like the competition, the politics surrounding Colorado River water show no signs of decreasing. Although a great deal has been written about the "Law of the River" which is generally thought of as meaning the two Congressionally-approved interstate compacts, (1922 and 1948); one international treaty (1944); and, the laws of the 7 states that comprise the Colorado River Basin, politics and to a fairly large degree emotion, have been a significant and often controlling means by which the waters have been allocated and applied to beneficial use. The 7 basin states are California, Arizona and Nevada in the Lower Basin (below Lee Ferry, Arizona) and Colorado, Wyoming, Utah and New Mexico in the Upper Basin (above Lee Ferry, Arizona). Arizona and Utah are hydrologically partly in the Upper & Lower basins.

The first of the landmark documents dealing with the division of the waters of the Colorado River and agreed to by the 7 states and the United States is the Colorado River Compact of 1922, which provides for the equitable division and apportionment of the use of the waters of the Colorado River system. Even then California was growing faster than the other basin states and politics played an important role in the way the compact was finally ratified. Today California waters approximately 11 million people with Colorado River water and has 45 members in both houses of the United States Congress; Colorado has 7. These numbers speak volumes politically.

The Upper Basin states recognized early on that they would have to agree to apportion their waters by a more specific formula and in 1948 entered into the Upper Colorado River Compact which apportions the water among the 4 Upper Basin states: Colorado, 51.75%; New Mexico, 11.25%; Utah, 23%; Wyoming, 14%. This compact establishes the Upper Colorado River Commission and the Upper Basin states fund it in the same ratio as their share of the water. However, when the Upper Colorado River Basin Fund was established by the Colorado River Storage Project Act in 1956 the states agreed to share the fund with 46% to Colorado; 21.5% to Utah; 15.5% to Wyoming and 17% to New Mexico. Politics was instrumental in the decision to share the water and the

money on different bases.

Interestingly, the Upper Colorado River Commission offices were moved in the 1950's from Grand Junction, Colorado to Salt Lake City, Utah for proximity to the Bureau of Reclamation (now the Water & Power Resources Service) office having responsibility for work in the Upper Colorado River Basin. Salt Lake City is not physically in the Colorado River Basin, but politics played a role in locating both offices outside the basin.

The river has been a source of disagreement between the United States and old Mexico for many years. The original Alamo canal to irrigate California's Imperial Valley ran for about 50 miles through old Mexico. The result was, of course, a great deal of water was stolen from the canal to irrigate lands in Mexico. Subsequently, the canal was reconstructed totally within the United States and now carries the name "The All American Canal". Mexico has long complained that its rights to use of Colorado River water were being ignored by its neighbor to the north. And in general this attitude with various modifications seems to have prevailed until World War II and in 1944 the United States entered into a treaty with Mexico providing for the delivery of 1½ million acre feet of Colorado River water per year to Mexico. Normally one would not expect that a relatively obscure water treaty would be negotiated during the height of a global war. However, when the treaty negotiations began in about 1942 the United States feared an invasion of southern California by way of the unprotected Mexican Baja California peninsula. The quid pro quo not mentioned in the water treaty was that the United States could send its forces to Mexico to repel the anticipated invasion.

The 1944 treaty did not address water quality in general or salinity in particular and Mexico complained that after the Welton, Mohawk project (near Yuma, Arizona) came on line the water delivered was too salty to use for irrigation. Finally in 1972 Presidents Echeverria & Nixon agreed to complex formula for reducing salinity concentration of the water delivered to Mexico. Certainly Mexico should receive usable water to support its agricultural economy which relies on Colorado River water but some knowledgeable experts believe that President Nixon wanted to establish himself as an international statesman (China, detente with Russia), and the Colorado River was a convenient political vehicle.

For the Upper Basin States to be physically able to comply with the terms of the 1922 Compact and delivery of water to the Lower Basin States at Lee Ferry (whatever that delivery is ultimately determined to be), a large reservoir was required and further the ability to generate revenue for the construction of additional irrigation and water conservation projects in the Upper Basin States was required. The political in-fighting that was generated resulted in some of the earliest victories for what is now called the environmental movement. The Congress and the states originally intended to build a large storage and hydroelectric facility at Echo Park on the Green River. In the political compromises that were eventually struck, the environmental groups agreed to the construction of Glen Canyon Dam (Lake Powell) to a capacity of approximately 26 million acre feet, just above Lee Ferry, and to legislative language instructing the Secretary of the Interior to give priority to completion of planning for Juniper Reservoir on the Yampa River. However some environmental groups filed a suit to prevent the closure of Lake Powell and subsequently participated in suit to try to prevent the filling of the reservoir because waters of Lake Powell would enter Bridge Creek under Rainbow Bridge in Rainbow Bridge National Monument.

In 1968 the Colorado River Basin Project Act authorized the construction of the Central Arizona Project and includes a provision that when water is delivered by the Central Arizona Project there will be simultaneous delivery of water on 5 western Colorado projects. The legislation anticipates that the Central Arizona Project can temporarily use surplus upper basin water until the upper basin states develop uses for the water and so the Central Arizona Project intake at Lake Havasu is oversized. Some interesting political questions will likely develop when the upper basin states utilize their "surplus" water. Even so, the very passage of the 1956 and 1968 Acts was possible at all because of political skill. For many years the western slope of Colorado was a unit as a congressional district (no. 4) and the state itself was unified in both Houses of Congress where water was concerned. Significantly the Western Slope member of the House of Representatives, Wayne N. Aspinall, was a long-time member (and for 12 years chairman) of the House Interior and Insular Affairs Committee. By 1978, however, Colorado's lack of unity in water matters rebounded to the detriment of the Colorado River Basin and Western Colorado in particular when the House member representing the City and County of Denver voted to sustain a Presidential veto of congressionally-passed funding of reclamation projects with the basin fund carrying the portion irrigators could not pay. Politics!

During the early days of the Carter Administration a "Hit List" was largely developed by national so-called environmental groups brought into the Administration, some say because of early political support. Some projects in the upper basin survived the "Hit List" in modified form. Because of "Hit List" engendered delays and other reasons, it does not appear likely that water will be delivered on the 5 Western Colorado projects simultaneously with the Central Arizona Project. The politics of the Congress, Congressional committees and the Administration could put Colorado into a position of having

to make some very difficult decisions.

The intrastate issues involving the waters of the Colorado River are no less political than the interstate and national issues. Early transmountain diversions resulted in associations and ultimately legislation aimed at trying to protect as the western slope's interest in the Colorado River. Recognizing that the Colorado Constitution and supporting case law provide that water originating in any part of the State of Colorado may be beneficially used in any other part of the State, there were nevertheless early efforts to try to protect western slope users of Colorado River water. The effort was heavily politicized and west slope legislators were united. The result was the creation of the Colorado River Water Conservation District in 1937. The River District's statutory responsibility is to conserve, apply to beneficial use and safeguard the waters of the Colorado River to which the State of Colorado is equitably entitled under the 1922 compact. The Conservancy District Act was also passed and it includes a provision that it will not be more costly to beneficially use Colorado River water in the Colorado River basin with a transmountain diversion than without. This has resulted in what is often referred to as compensating storage on the western slope. Two examples are Green Mountain and Ruedi Reservoirs. At the present time there are widely differing opinions about the use of water from Ruedi Reservoir. The potential availability of water from Ruedi Reservoir and the terms and conditions of its availability appears to be misunderstood by both energy companies and interests who want to keep the reservoir full to the spillway lip for recreation purposes.

Colorado has enough water available from its allocated compact share from the Colorado River for its present and future irrigated agriculture and reasonable energy development, which could probably include as much as 1 - 1½ million barrels per day of crude shale oil and the associated municipal requirements. However, this will require the construction of new reservoirs which until now at least has been politically unacceptable to the present Administration.

The River District and others have been carrying on discussions with the Congress and the Administration concerning energy and water in the Colorado River Basin. We are confident that the hydrological and engineering problems can be solved. We hope the political issues can be resolved too.