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SAN LUIS PROJECT, CALIFORNIA

MAY 27, 1959.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROGERS of Texas, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 7155]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 7155) to authorize the Secretary of the Interior to construct the San Luis unit of the Central Valley project, California, to enter into an agreement with the State of California with respect to the construction and operation of such unit, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 11, line 9, strike out the word "December" and insert in lieu thereof the word "October".

SAN LUIS LEGISLATION

The bill here reported, H.R. 7155 by Mr. Sisk, is a clean bill, introduced subsequent to the committee's favorable action on H.R. 5687, also by Mr. Sisk. It incorporates the committee's amendments to H.R. 5687, which was one of four identical bills introduced at the time all California interests reached agreement on principle and language. The others were H.R. 5681 (Hagen), H.R. 5682 (Hosmer), and H.R. 5684 (Johnson of California). Prior to the agreement among California interests on language that all could support there were before the committee several bills involving three different approaches to the problem of providing service to the San Luis area. In view of the agreement and the introduction of new bills, the committee discarded these earlier bills—H.R. 301 (Sisk), H.R. 302 (Gubser), H.R. 812 (Hosmer), H.R. 2343 (Johnson of California), and H.R. 5501 (Hagen)—except that portion of H.R. 302 which relates to extending service from the Central Valley project to lands and municipalities in Santa Clara, San Benito, Santa Cruz, and Monterey Counties.

PURPOSE

H.R. 7155 would authorize the Secretary of the Interior to construct the San Luis unit of the Central Valley project, California, and to enter into an agreement with the State of California with respect to the construction and operation of such unit in order that there may be joint Federal-State use of the San Luis Reservoir site. The operation of the Federal San Luis unit would conserve and regulate surplus wintertime water now wasting into the Pacific Ocean through the Golden Gate and make it usable, along with additional Central Valley project water from storage, in the water-deficient San Joaquin Valley to the south. The water made available would provide a supplemental water supply for the irrigation of about 480,000 acres of highly productive land on the west side of the San Joaquin Valley. The unit would also provide some domestic and municipal water as well as important benefits to recreation and to the preservation and propagation of fish and wildlife. As far as they serve the Federal San Luis service area the project works would be integrated physically and financially with other features of the Central Valley project and the Federal unit would depend upon certain existing works of that project for the regulation, pumping, and transportation of water.

PREVIOUS CONSIDERATION

Legislation to authorize the San Luis project is not new to the committee. During the last several years the committee has spent many days studying the project proposal, and several members of the committee have visited the project service area for an on-the-ground examination. In the 85th Congress the committee reported legislation to authorize the San Luis unit but the report was too late for floor action. Similar legislation passed the Senate in the 85th Congress and again in the present Congress.

SAN LUIS SERVICE AREA

The San Luis unit is situated on the west side of the San Joaquin Valley in California about 150 miles southeast of San Francisco and about 30 miles west of Fresno. Lands which would be irrigated lie between elevations of about 200 and 500 feet above sea level on a broad, gently sloping plain extending eastward from the coast range. The area forms a strip about 65 miles long and 13 miles wide, totaling about 480,000 acres. Summers are hot and dry and the rainfall averages only about 7 inches annually. There is little natural surface water supply in the area with only a few small rain-fed creeks flowing intermittently during the winter storms. Actually, present irrigation in the area relies entirely on ground water which is being heavily overdrawn. At the present time, there are about 400,000 acres within the service area developed for irrigation and served by pumping from ground water sources.

NEED

The ground water reservoir, which is the present source of irrigation in the San Luis service area, is being seriously overdrawn and the water table rapidly lowered. It is estimated that the recharge of the ground water reservoir averages only about 200,000 acre-feet annually

compared with annual withdrawals averaging around 1 million acre-feet. The resultant overdraft has caused a steady decline in water levels and pump lifts have increased by more than 200 feet. It is estimated that under present conditions less than 150,000 acres can be sustained in irrigation and that, unless an imported water supply is made available to the area, the majority of the presently irrigated land will eventually return to desert. Because there is no firm water supply and because of the poor quality of the water that is available, this area does not lend itself, under present conditions, to the development of family-size farms. With a firm supply of good quality water it is expected that there will be a big change in the crop pattern. This, together with application of the acreage limitation provisions of the Federal reclamation laws, will cause the large holdings to be broken up into family-size operations.

Although the amount of water involved is smaller, the need in the area for additional and better quality municipal water is just as pressing as the need for irrigation water. The water obtained from the underground reservoir for municipal uses is of very poor quality and in many areas it is not potable. At least one city, Coalinga, with a population of more than 6,000 people, has been hauling its drinking water in by tank car and is now constructing a saline water treatment plant.

Governor Brown, of California, in urging prompt action on this legislation, had this to say:

> Time has become an increasingly important factor. In the Federal service area on the west side of the San Joaquin Valley there is right now a pressing need for water. * * * California is only a decade away from being the most populous State in the Union. Only immediate and rapid action to meet its water problems will support the requirements of the hundreds of thousands who come to our State each year. * * * The whole future of the State of California depends on sound development of its water resources as soon as possible. The San Luis Dam and reservoir project is central to such development. * * * The State itself is launching an unprecedented water development program of its own. * * * In order to do the complete job and to do it in time we must have Federal assistance. * * * The joint venture at San Luis represents, I believe, the best example of a proper method for Federal-State action in water resources development.

PROPOSAL FOR JOINT FEDERAL-STATE USE OF PROJECT FACILITIES

Preparation of satisfactory San Luis legislation has been complicated by the fact that the undertaking involves joint use by the Federal Government and the State of California of the San Luis Reservoir and certain other project facilities. This joint-use plan is the outcome of a situation in which both the Federal Government and the State found themselves proposing projects utilizing the same reservoir site. The State's Feather River project plan calls for storage at the San Luis site as does the Bureau of Reclamation's plan for the San Luis unit. The San Luis reservoir site appears to be the only adequate and feasible storage site in the area.

H.R. 7155 would authorize the Secretary to enter into an agreement with the State of California under which the State and the Federal Government would jointly use a reservoir at the San Luis site and other project facilities. The joint-use facilities would be constructed in such a way, either initially or by provision for enlargement, as to permit service to both the Federal San Luis service area and to areas proposed to be served by the State under its water development plans. The bill sets out the substance of the provisions that will have to be incorporated in such an agreement. The details of the agreement will have to be worked out by negotiation. After execution, the agreement will have to be submitted to Congress and appropriation of funds for construction will be contingent upon its not being disapproved by the Interior and Insular Affairs Committee of either House. The legislation provides that if agreement is not reached by January 1, 1962, construction of the San Luis unit can proceed as an all-Federal project after the Secretary of the Interior reported such failure to reach agreement to the Congress. In the latter event the State could still acquire an irrevocable right to enlarge the facilities for its use by paying the additional initial cost of constructing the dam and reservoir so as to permit enlargement and agreeing to pay, prior to using them for the storage or delivery of water, its full equitable share of the construction cost of the joint-use facilities as initially constructed, plus the entire cost of enlarging them.

PLAN OF DEVELOPMENT

The physical plan of development of the San Luis unit is described in the report of the Secretary of the Interior transmitted to the Congress on December 17, 1956. The principal engineering features of the San Luis unit would be the San Luis Dam and Reservoir, a forebay and afterbay, the San Luis Canal, the Pleasant Valley Canal, and necessary pumping plants, distribution systems, drains, channels, levees, flood works and related facilities. Water available in the Sacrament-San Joaquin Delta, either as unregulated flows or as a result of Central Valley project storage, would be pumped via the existing Tracy pumps and the Delta-Mendota Canal to the San Luis Reservoir or directly to the irrigation canal system through which it would be distributed to the project service area. The distribution and drainage systems could be constructed either by the Federal Government or by the local districts.

The final design of the San Luis Dam and Reservoir, the forebay, the afterbay, the pumping plant, and the San Luis Canal would depend upon whether a joint-use agreement is reached between the Federal Government and the State as previously discussed and, if such an agreement is reached, upon the provisions thereof. If agreement with respect to joint use of project facilities is reached, it could provide that the San Luis Reservoir be constructed with a capacity of 1 million acre-feet and provision for enlargement or it could provide that it be constructed initially with a capacity of 2,100,000 acre-feet. Likewise, such joint-use agreement will specify the capacities of the other project facilities mentioned. If agreement is not reached, then construction of the San Luis Reservoir capacity would be limited to 1 million acre-feet, with provisions for later enlargement to 2,100,000 acre-feet. Water requirements in California are growing at such a

rate that there is no question but that the extra capacity will be called for in a relatively short time.

PROVISION FOR FUTURE ENLARGEMENT

It is pointed out that the bill requires either initial construction of the dam and reservoir to capacities necessary to serve both the Federal San Luis service area and the State's service area or provision in the initial construction for their future enlargement. Provision in initial construction for enlargement of other facilities is permissive. In other words, in no circumstance will the dam and reservoir be built without provision for enlargement, and in the event there is no joint-use agreement and the State acquires no right to enlarge pursuant to section 2 of the bill it is contemplated that the modifications for future enlargement would accommodate expansion of the Federal San Luis unit. Such expansion is, of course, subject to further authorization processes.

The cost estimate for the Federal San Luis unit includes $17,701,000 for modifications which would permit enlargements later to provide specifically for irrigation service to lands additional to those now included in the San Luis unit. This $17,701,000 comprises $10,814,000 for modification of the San Luis dam and outlet works, $4 million for modification of the pumping plant, and $2,887,000 for modification of the San Luis Canal.

The modifications for future enlargement of the reservoir and the pumping plant to accommodate the State's Feather River project would be essentially the same as those contemplated to accommodate expansion of the Federal San Luis unit. However, there is no practical way to construct the San Luis Canal now for enlargement later to accommodate the State's Feather River project. If the canal is not constructed initially to ultimate capacity, it would be better for the Bureau's canal to follow the original alinement and for the State to construct a second canal in the future when it is needed.

AGRICULTURAL EFFECTS

At the present time the irrigated land in the San Luis service area is devoted primarily to grain and cotton, with relatively small amounts devoted to miscellaneous field crops, truck crops, and forage crops. Livestock production is not a significant element in the area's economy. As previously indicated, unless an outside source of water is provided the irrigated area will be drastically reduced. It is estimated that without the project, the lands that remain under irrigation will be devoted primarily to grain and cotton, with about two-thirds devoted to grain, probably barley, and one-third to cotton.

Provision of an adequate and dependable water supply under project conditions is expected to bring considerable changes in the agricultural economy of the service area. The increased supply and better quality of the water would permit more intensive or diversified land use and would facilitate the transition from present large-scale operations to a type of agricultural settlement more nearly characteristic of irrigated areas on the east side of the San Joaquin Valley. Operation of the project under reclamation law would, of course, require that the large ownerships be broken up into family size operations.

The shift from large-scale farming to smaller operations will result in a shift in proportionate relationships among the crops presently grown. While there probably will be little change in the cotton acreage, it is expected that the acreage in irrigated grain will be drastically reduced. At the same time, truck crops, deciduous fruits and grapes, alfalfa, irrigated pasture, and miscellaneous field crops will replace grain acreage and will be grown on the new lands that are irrigated. The Bureau's projected crop pattern shows 88,000 acres in truck crops, 22,000 acres in deciduous fruits and grapes, 66,000 acres in miscellaneous field crops, 88,000 acres in alfalfa, and 44,000 acres in irrigated pasture. The projection of cotton and grain shows 132,000 acres in cotton and 44,000 acres in irrigated grain and grain hay.

ECONOMIC AND FINANCIAL ASPECTS

The present estimated cost of the San Luis unit, not including distribution and drainage systems, is $290,430,000. As previously indicated, this amount includes $17,701,000 for making provision in the initial construction for future enlargement. This amount also includes about $11 million for electric transmission facilities. Under a provision in the bill, these facilities would not be constructed if the Secretary determines electric transmission service can be obtained at less cost from a local public or private agency. About $210 million of the total estimated cost is for facilities which would be jointly used if agreement with the State is reached. In the event of agreement and joint use of project facilities, there would, of course, be a saving in cost to the United States. The equitable sharing of this saving between the Federal Government and the State, as required by language in the legislation, would probably result in a reduction in Federal cost amounting to approximately $50 million. The bill provides that the total amount authorized to be appropriated shall be diminished by the amount of such saving.

Tentatively, the total Federal cost of the San Luis unit, except for about $100,000 for basic recreational facilities, is allocated to irrigation and municipal water supply and would be repaid by the water users or from surplus power revenues of the Central Valley project. It is estimated that payments by the water users will be sufficient to repay about 76 percent of the $290,430,000. Of course, if there is a decrease in the Federal cost as a result of joint development and use, the water users would pay a larger percentage.

The distribution and drainage systems which, as previously stated, could be constructed by the Federal Government or by the water users are estimated to cost $192,650,000. If built by the Federal Government the total cost of the distribution systems would be repaid by the water users in 40 years under a separate contract.

The Department's economic studies covering the San Luis unit indicate that the annual benefits attributable to the irrigation and municipal water service are 2½ times the annual costs.

STATE'S POSITION UNIFIED

Last year when the committee considered the San Luis legislation, various interests within the State of California were not in agreement on it. Certain interests in southern California and Kern County were

opposed to the legislation. This year the situation is different. Governor Brown, in his appearance before the committee, stated:

> For the first time in these long discussions with which many of you are familiar, Californians come before you united, offering a single plan with unanimous support. In conferences during the past 2 weeks, representatives of the Westlands Water District, the Metropolitan Water District of Southern California, and Los Angeles Department of Water and Power, the State Farm Bureau Federation, and Kern County interests have worked with my administration and the authors of this legislation to remove potential sources of conflict. The bill before you reflects the minor amendments to which all concerned have agreed.

In addition to this statement by Governor Brown, the organizations that have in the past opposed the legislation testified in favor of it. These include the Metropolitan Water District of southern California, the Los Angeles Department of Water and Power, and the Kearn County Farm Bureau. It does not appear that the changes which the committee made in the legislation would upset in any way the unanimous agreement among California interests.

OPERATION UNDER FEDERAL RECLAMATION LAW

Judged in accordance with Federal reclamation law, about 325,000, acres of the 480,000 acres in the Federal San Luis service area—that is, the area within the Westlands, Panoche and San Luis Water Districts—are in large ownerships that will have to be divided into smaller ownerships. The owners of these large holdings are fully aware of the requirements of the antispeculation and excess land provisions of reclamation law, and the committee was advised that, with the exception of the Southern Pacific Co., they are willing to sign recordable contracts, in compliance with reclamation law, agreeing to dispose of their excess acreage. The Panoche and San Luis districts have already signed contracts with the Department calling for compliance with the excess land provisions. The Southern Pacific Co. owns about 58,000 acres within the San Luis service area as defined above, all of which is in the Westlands Water District. A representative of the Southern Pacific Co., appearing before the committee, stated that the company was not interested in selling its lands. At the same time, he stated that in the event of operation of the San Luis project under reclamation law the company would be willing to sit down with the district and the Bureau of Reclamation and explore the possibilities of obtaining water for company lands. The committee understands that the feasibility of the project does not depend upon furnishing water to the Southern Pacific Co. lands, and that the Westlands district will take all the water it can get regardless of whether it serves the company lands. If the company lands are not served, it would enable the district to pump less from underground. The district has the power to tax the company lands even if they take no project water.

The committee certainly recognizes the problems raised by the land ownership situation in the San Luis service area. During the committee's consideration of this legislation, concern was expressed by many individuals and groups lest the large landowners in the San

Luis service area might, in some way, be exempt from the land limitation provisions of the Federal reclamation laws. For instance, the committee received this expression from the California Labor Federation:

> This language of the San Luis bills opens the door to unjust enrichment, to monopoly of water resources, and to subsidized giantism in agriculture. * * * We hope that the Congress of the United States will not breach long-established national policy * * *.

The committee gave careful consideration to all the views and comments it received along this line and amended the bill in several respects.

The committee wants to make it unmistakably clear that the legislation it is hereby reporting requires the operation of the Federal San Luis unit under Federal reclamation law, including the excess land provisions thereof, and that there is no way the large landowners in the Federal San Luis service area can avoid compliance with such provisions.

Section 1 of the bill provides that, "In constructing, operating, and maintaining the San Luis unit, the Secretary shall be governed by Federal reclamation laws (act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto)". An additional phrase—"except so far as the provisions thereof are inconsistent with this act"—which was formerly appended to this sentence was deleted by the committee. While this phrase obviously related only to provisions set out in the bill and could not be interpreted as exempting the project from other unmentioned provisions of reclamation law, the committee nevertheless removed it in order to allay the fears of those objecting to it and on the basis that the provisions in the bill will speak for themselves and that such deletion will do no harm. The following colloquy illustrates the careful consideration the committee gave to this particular matter, including its consideration of a substitute phrase reading "except as otherwise provided in this act."

> Mr. ROGERS. For a question of counsel: What is referred to by the language "except as otherwise provided in that act"? In other words, what does the "otherwise" mean?
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> Mr. WITMER. As you will recall, Mr. Chairman, during the hearing substantially the same question was asked of witness after witness. Each one had in mind those things which were particularly pertinent to him * * *. None of the witnesses covered the field fully, however, It seems to me that "except as herein otherwise provided in this act" covers virtually everything in the bill that follows those words.
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> Now, let me illustrate, if I may, sir. If this were authorized in the usual manner to be constructed, operated, and maintained under the Federal reclamation laws, the Secretary could forthwith send up a request for appropriations and, having gotten the appropriations, begin to construct. But the bill, immediately following the words you are considering, lays conditions on such construction.
>
> One condition: The Secretary has to negotiate with the State. Another condition: Until January 1, 1962, arrives, he cannot proceed without an agreement. Another condition:

He must have made some arrangement for drainage works. Another condition: He must specifically have gotten necessary water rights to carry out the purposes of the project. And so on throughout the bill.

In other words, it seems to me that every provision of the bill from there on is an exception to the general authorization which precedes. If you wanted to go into it more specifically, you could mention, as one of the witnesses did, the authorization for recreation facilities, which are not provided for in general reclamation law. You could mention, as the chairman of the full committee has just mentioned, the provision for joint operation and joint control with the State. If you wanted to be still more specific, you could mention the provision which authorizes the Secretary to turn over the operation and maintenance of the project to the State, for which there is no provision in general reclamation law. And so on.

Mr. ROGERS. In that particular situation, is it your opinion that the authority of the Secretary to turn over joint use facilities to the State for operation would open the door for exempting the project from the application of the 160-acre limitation?

Mr. WITMER. My answer, sir, to that is a clear and unequivocal "No."

* * * * *

Mr. ULLMAN. May I ask just one additional question: What is your interpretation of the effect of the amendment offered by the gentlemen from California [to strike the language "except so far as the provisions thereof are inconsistent with this Act"] as against that offered by the gentleman from Colorado [to substitute "except as otherwise provided in this Act"], for instance, in connection with the operation of the dam? Would the language in the two instances make any difference?

Mr. WITMER. I think the language will make no difference. The effect of the language will be no different. In other words, may I put it this way, I think the exceptions will speak for themselves as being exceptions.

To avoid any possible misinterpretation on the matter of operation of the Federal San Luis unit service area under Federal reclamation law and in order that there could be no question as to the committee's position that the State should not be allowed to serve lands within the Federal service area the committee adopted several clarifying amendments. It amended section 3(h) of the bill to read as follows:

> (h) notwithstanding transfer of the care, operation and maintenance of any works to the State, as hereinbefore provided, any organization which has theretofore entered into a contract with the United States under the Reclamation Project Act of 1939, and amendments thereto, for a water supply through the works of the San Luis unit, including joint-use facilities, shall continue *to be subject to the same limitations and obligations and* to have and to enjoy the same rights which it would have had under its contract with the

> United States and the provisions of paragraph (4) of section 1 of the Act of July 2, 1956 (70 Stat. 483, 43 U.S.C. 485h–1), in the absence of such transfer, and its enjoyment of such rights shall be without added cost or other detriment arising from such transfer;

Attention is called to the italicized language added by the committee.

The committee also (1) added language in section 2 which provides that the additional capacity in the joint-use facilities for State use shall be limited to service outside of the Federal San Luis unit service area and (2) added a subsection to section 3 stating that the State shall not serve any lands in the Federal San Luis service area except as required in connection with its acceptance of the care, operation, and maintenance of the joint-use facilities. In this connection, it is quite clear that if the State takes over the operation and maintenance of the joint-use facilities it will be acting as an agent of the Federal Government under reclamation law, so far as its service to the Federal San Luis service area is concerned. The situation would be no different from that in the many instances in which irrigation districts take over the operation and maintenance of the works serving such districts. The districts are still bound by all the provisions of Federal reclamation law. A portion of the committee's discussion on this particular matter follows:

> Mr. ROGERS. * * * Your answer would indicate, Mr. Witmer, that in the event the Secretary did, under the authority of this act, turn over the operation and maintenance of this project to the State authority, the State authority would then be bound by the 160-acre limitation?
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> Mr. WITMER. The State authority would in my judgment, be operating in effect as an agent of the United States, under the laws of the United States. And there would be no waiver of any provisions.
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> Mr. ROGERS. And as this bill is written, there is no place in it, in your opinion, where the Secretary himself, if he continued to operate it, would have the power or the authority to waive the 160-acre limitation?
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> Mr. WITMER. No, sir.
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> * * * * *
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> Mr. ULLMAN. I would like to ask counsel a question.
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> I am rather intrigued by this last statement of yours—that the State of California would be acting as an agent of the Federal Government under the reclamation law. Is that correct?
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> Mr. WITMER. In effect, yes.
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> Let me give you an analogy. The general reclamation laws provide for turning over operation and maintenance of projects to irrigation districts. That is done every year. In fact, Congress encourages their being taken over. But the districts are still operating for the United States. They are still subject to the control of the United States and the Secretary of the Interior. They are still bound by the excess land laws, by the requirement that water be not delivered if there is nonpayment, etc. You can run down the whole list of requirements. What you are doing is substituting the

districts for the Secretary in the operation only. In the case of San Luis it would be the State substituting for the Secretary instead of an irrigation district.

RECLAMATION LAW NOT APPLICABLE TO STATE SERVICE AREAS

Section 7 of the bill provides that the Federal reclamation laws shall not be applicable to areas served by the State of California. Objection was raised in committee to this provision on the ground that it will "exempt" the State-served lands from the acreage limitation provisions of the Federal laws. In accepting section 7, a majority of the committee points out that there is nothing in the reclamation laws which, in the absence of a provision in the bill affirmatively making the land-limitation provisions applicable in the State-served area, would forbid the State from serving whatever lands it chooses on whatever terms it chooses. In other words, mere deletion of section 7 would not accomplish the purpose of those who advocate requiring owners of the State-served lands to observe the limitations which are imposed on those served by the Federal Government. It is, furthermore, the view of the majority that there is no justification for writing an affirmative provision into the bill which would require such observance. Its reasons for this conclusion are these:

(1) It is only by chance that there is any connection between the Federal and State projects. That connection arises from the physical fact that there is one and only one adequate reservoir site in the area and that both the Federal and State Governments need to use this site. If two sites existed, each government would be free to use one of them on its own terms, and the excess lands question as applied to State-served lands would not even have arisen.

Speaking, during committee debate, to the matter of applying Federal law to the State's service area, Mr. Hosmer, one of the authors of the legislation, clarified the matter this way:

> So, I ask you gentlemen to realize that this particular project we are talking about which the Federal Government would build and the project the State wants to build, are two separate and entirely different projects.
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> Of necessity they must occupy the same particular space. But just because in an office building there are several law firms and one of the law firms is representing the plaintiff in a case and another law firm is representing the defendant does not mean they have a conflict of interest because they are operating out of the same building. They are separate enterprises and this is exactly what is occurring here.

(2) The water supply for the State's project will be derived from sources independent of the Federal project's water supply and, except for the joint works, will be handled through an entirely different system of reservoirs, canals, and other works. The Federal impoundment and transportation systems in the Central Valley will, with the construction of the Federal San Luis project, be fully utilized and could not, even if there were inclination to do so, be used to supply the State service area.

(3) The State will, under the terms of the bill, have paid its entire share of the cost of constructing the joint facilities prior to its utilization of them for storage and delivery of water. Even if the State

were a customer of the United States—a water right applicant or an irrigation district, for instance—it would not be bound by the acreage limitation provisions under existing law in these circumstances. The committee sees no reason for treating the State, in its capacity as a partner in a joint venture rather than a customer, more onerously than it would a private citizen or an irrigation district.

(4) Insofar as there is a problem of large ownerships in the State-served area, the committee is confident that the legislature of the State of California can and will enact legislation expressing the public policy of the State and representing the will of the majority of the people of the State. There would be no more justification for the United States, in other words, to decline to enter into this joint venture with the State unless the State makes its land-ownership policy conform to that of the United States than there would be for the State to refuse to enter into the arrangement unless the United States modified its policy to suit that of the State.

In order to make clear the present state of the law and the committee's reasons for believing that no exemption is provided by section 7, the following more complete explanation is offered.

Section 3 of the act of August 9, 1912 (37 Stat. 266, 43 U.S.C. 544) provides, in pertinent part, that—

> no person shall at any one time or in any manner * * * acquire, own, or hold irrigable land for which entry or water right application shall have been made under the said reclamation act of June 17, 1902, and acts supplementary thereto and amendatory thereof, before final payment in full of all installments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess * * *.

During the period when irrigation water contracts were entered into with individuals rather than organized districts, it is thus clear that the law forbade delivery of water to more than one farm unit held by an individual only so long as the entire construction cost allocated to the excess unit had not been fully paid. That the law was so read and applied by the Interior Department is shown in detail in the Bureau of Reclamation's printed publication entitled "Landownership Survey on Federal Reclamation Projects" (1946) and the Interior Department's two-volume document prepared for the Subcommittee on Public Works and Resources of the House Committee on Government Operations entitled "Excess Land Provisions of the Federal Reclamation Laws and the Payment of Charges" (1956).

The same rule has been held to be applicable to irrigation district contracts. Speaking of the relation between the 1912 act and the excess-land provisions of the act of May 25, 1926 (44 Stat. 649, 43 U.S.C. 423e), the Associate Solicitor of the Interior Department

advised the Commissioner of Reclamation on October 22, 1947, as follows:

> * * * The specific question is whether the release of the limitation by section 3 of the 1912 act upon "final payment in full of all installments of building and betterment charges" on account of "irrigable land for which entry or water-right application shall have been made" can be held to apply to the payment in full of the joint obligation assumed by an irrigation district under a contract entered into as required by section 46 of the 1926 act.
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> In construing an ambiguous enactment, it is held proper to consider acts passed at prior and subsequent sessions to which the act does not refer. * * * It seems clear that the various excess-land enactments were intended by Congress to provide a uniform and comprehensive procedure for the implementation of its land-limitation policy.
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> Section 46 of the 1926 act, supra, sets out the substance of the provisions required to be incorporated in joint-liability repayment contracts with irrigation districts. That section does not purport to contain all the excess-land provisions applicable to lands affected by such contracts. * * * Since joint-liability repayment contracts were not in general use when the act of August 9, 1912 was adopted, the language used in those acts was not specifically directed at situations arising under contracts of that type. Congress apparently intended that the land-limitation provisions, in effect when the act of May 15, 1922 (42 Stat. 541), the act of May 25, 1926, and other acts covering the use of irrigation district contracts were adopted, would be applicable thereto, as nearly as practicable. Otherwise, substantially different acreage restrictions might result from the discontinuance of water-right applications and the adoption of the joint-liability repayment contract procedures.
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> When all construction costs due under a joint liability repayment contract have been paid in full, there is no apparent reason why the lands receiving water under such contract should not be deemed relieved of the excess-land restrictions in the same manner as paidup water right application lands. The fact that Congress did not, in connection with the various acts authorizing or requiring joint liability repayment contracts, enact complete excess-land provisions couched in language adapted to joint-liability contracts does not in itself deny a congressional intention that the principles of its excess-land policy, as previously expressed with reference to water-right applications, should apply to such contracts. The enactment of new excess-land provisions, relative to the phases not specifically covered by the said acts, was undoubtedly deemed unnecessary because these acts became a part of the reclamation laws for all purposes and would be interpreted on that basis. The existing excess-land provisions would, therefore, become applicable.
>
> In the light of the foregoing, it is my view that upon full payment of construction obligation under a joint-liability

> repayment contract, the lands receiving water under such contract are, under the provisions contained in section 3 of the act of August 9, 1912, relieved of the statutory excess-land restrictions.

In accordance with this conclusion, a large number of repayment contracts which the Bureau of Reclamation entered into during the years 1949–54 with irrigation districts in Oregon, Idaho, Washington, California, and Montana have had written into them the following provision or its substantive equivalent:

> Pursuant to the provisions of the Federal reclamation laws, water made available hereunder shall not be delivered to more than 160 irrigable acres in the ownership of any one person * * *. The limitations stated in this subarticle shall cease to operate when the construction charge provided in this contract has been paid in full.

Many of these contracts were approved by Congress.

The present Secretary of the Interior has, in effect, announced his concurrence in this view of the law. On July 12, 1957, he said that he was unwilling to enter into a contract with the Kings River Conservation District, California, which would permit individual water users within the district to pay off their proportionate share of the construction costs to be paid by the district and thus come out, as individuals, from under the acreage limitations. But he also said—

> The Department continues to recognize and support the basic concept of reclamation law that full and final payment of the obligation of a district to the Federal Government ends the applicability of the acreage limitations—

and added—

> So long as the present acreage limitations remain in the basic reclamation law, they should be complied with, until the district has fully discharged its obligations to the Federal Government.

It is true that the provisions of the 1912 act and their relation to district obligations under the 1926 act have not been construed in any reported judicial decision, but the administrative history is such that the committee has little doubt that the payout rule could and would be properly applied in the present instance even if the State were to be thought of not as a partner but as a customer of the Federal Government. Whatever may be the merits or demerits of continuing to apply the prevailing construction of the 1912 and 1926 acts to irrigation districts in situations in which, although final payment is made only after a period of years during which they have received the benefits of interest-free Federal money and, in many cases, assistance from power revenues, it remains true that (1) the administrative practice of doing so is now so well fortified by history that it can probably be successfully attacked by no one except Congress and (2) that there is no legislation now pending before Congress, nor has any ever been introduced, which would overrule the departmental interpretation of these acts or provide other standards to guide it. The committee cannot, in this circumstance, apply to the special case of the State of California a rule which is not applicable to others.

The Warren Act (36 Stat. 925, 43 U.S.C. 523, 524) adds no substance to the claim of those who see section 7 of the bill as a breach in the Federal Government's land limitation policy. In the first place, that act, limited as its cooperative provisions are to "irrigation districts, water users' associations, corporations, entrymen, or water users," is clearly not applicable to the Federal-State venture proposed in H.R. 7155. In the second place, the Warren Act was enacted before the act of August 9, 1912, cited above and thus, as the Associate Solicitor of the Interior Department in the opinion which has already been quoted in part said, must be regarded as qualified by the payout provisions of the later act.

The whole matter is aptly summed up in the following message from Gov. Edmund G. Brown of California to Senator Engle which appears in the Congressional Record for May 7, 1959 (p. 6890):

SACRAMENTO, CALIF., *May 7, 1959.*

Senator CLAIR ENGLE,
Senate Office Building,
Washington, D.C.

Having seen many statements in the press regarding the application of the Federal reclamation laws to the San Luis project, I wish to reiterate what I have said in the past regarding this matter. Upon the basis of my own legal analysis and that of all my legal advisors I am convinced that the Federal reclamation laws do and will apply to all Federal facilities and service areas of the San Luis project. In addition, with or without the language contained in section 6(a) under S. 44, the Federal reclamation laws do not and, in my view, should not apply to the State facilities and State service areas of the project. I am, and I believe that the California Legislature also is, opposed to any unjust enrichment or monopolization of benefits by owners of large landholdings as a result of either Federal or State operation.

However, I feel that the handling of this matter, insofar as State activities are concerned in relation to this project or other State construction, should come as a result of State legislation. I intend, at an appropriate time and before contracts are executed, to take this matter up with the California Legislature in order to preclude the undesirable results which I have described, but I firmly believe that this matter should not delay either Federal or State authorization or construction.

EDMUND G. BROWN, *Governor.*

The worst that can be said about section 7, then, is that it is surplusage. Its deletion from the bill would have no substantive effect on the law applicable to the San Luis undertaking. Only an amendment affirmatively requiring adherance to the Federal acreage limitations notwithstanding the State's full payment of its share of the construction cost of the project would accomplish that which those who seek to delete section 7 mistakenly believe would be the effect of doing so.

The committee recognizes that the inclusions of surplusage is usually undesirable in a bill, but it also recognizes that the author of a bill, particularly when he is dealing with a subject that has involved bringing together as many diverse interests and points of view in his State and district as the San Luis project involves, should be given considerable latitude in the way he expresses the position that is

arrived at, more latitude than the committee might give itself if it were to start drafting a bill ab initio.

The committee concludes that section 7 of the bill in nowise changes established principles of reclamation law. It can well understand the possibility, however, that there might be difficulties in securing both statewide agreement and financing for the State project if there were doubt in anyone's mind concerning the relationship and the applicable laws under which each project would be constructed and operated. The committee therefore concludes that inclusion of section 7 in the bill will contribute to clarity and advance construction of the projects. The inclusion of this section, to put the matter otherwise, it is not to be interpreted as indicative of a belief on the committee's part that without it the excess land provisions of the Federal reclamation laws would be applicable to the State-served lands.

It was in the light of such considerations as those that have just been set forth that the committee rejected, by rollcall votes, amendments which would, in one case, have deleted section 7 from the bill and, in the other, replaced it with language requiring the State to agree not to serve lands which would be ineligible to receive water if they were being served by the Bureau of Reclamation.

CONGRESS TO HAVE ANOTHER OPPORTUNITY TO REVIEW PROJECT

Since the proposal for joint Federal-State development at the San Luis site presents a novel situation and involves novel problems, the committee felt that it would be desirable to review any final agreement between the Federal Government and the State before appropriations are made or, if no agreement is reached, to be advised as to why there was no agreement. This is accomplished by two provisions in section 2 of the bill. The first requires that any agreement shall recite that the liability of the United States thereunder is contingent upon the availability of appropriations and that no funds shall be appropriated to commence construction of the San Luis unit under such agreement prior to 90 days after it has been submitted to the Congress and then only if neither the House nor the Senate Interior and Insular Affairs Committee disapproves it. The second provision requires that the Secretary of the Interior, in the event of failure to reach agreement, report such failure to the Congress and not commence construction of the San Luis unit as an all-Federal project for a period of 90 days.

Under this language Congress would be given an opportunity to review the final provisions of any agreement for joint Federal-State development and use. For instance, this would permit the Congress to know what arrangements are to be made with respect to meeting the drainage problems, to know the amount of saving to the Federal Government as a result of sharing the cost of the joint-use facilities, to be advised as to the plan of operating the joint-use facilities, and so forth. The Congress and the committees would be assured that there is no misinterpretation of the language in the act and that all the requirements are met. In the event no agreement is reached Congress would have an opportunity to review the negotiations between the Federal Government and the State prior to the time construction of the San Luis unit was started as an all-Federal project.

ELECTRIC TRANSMISSION SERVICE FOR SAN LUIS UNIT

The Pacific Gas & Electric Co. has offered to furnish offpeak energy from its system for San Luis project pumping and, in exchange, take an equal amount of Central Valley project energy when it becomes available. It appears, prima facie, that such an exchange would benefit both the Federal Government and the company, and the plan of development presented to the committee includes the necessary works to accommodate the use of offpeak energy. It is probable, therefore, that the company's offer for exchange of energy will be accepted.

The Pacific Gas & Electric Co. also offered to make its facilities available for transmission of power from the Tracy load center to all San Luis project pumps. To implement this offer, the company proposed the following amendment:

> After the listing of the features of the San Luis unit, in section 1 of the bill, add the following: "except those facilities for electric transmission or distribution service which can be obtained at less cost to the Federal Government from local public or private agencies."

The Department of the Interior advised the committee that it had no objection to the proposed amendment if the words "the Secretary determines" were added between the words "which" and "can".

This proposed amendment is somewhat similar to language which has been included in annual appropriation acts for many years. In the committee's view, the Secretary not only already has authority to contract for wheeling service in lieu of constructing electric transmission lines but would necessarily consider this alternative as a matter of good administration. Nevertheless, while there was some objection to this language, the majority favored its inclusion as a matter of principle provided the meaning was clarified. The language proposed by the company, following as it did the listing of project features to be authorized, would have permitted the Secretary, by his determination with respect to the cost of service, to delete the transmission facilities from the authorized features. It would seem more appropriate if the Secretary's determination related to whether or not the transmission facilities should be constructed rather than whether or not they are authorized. Conditions might change sometime in the future to make it desirable to construct the transmission lines.

On another point, members of the committee expressed some concern as to the meaning of the phrase "at less cost." For instance, there was no time element stated. It seemed to the committee that a comparison of the annual cost of constructing the transmission facilities with the annual cost of wheeling service could be fairly made only on a long-term basis and that therefore, in order to make a determination, the Secretary would have to have a long-term commitment on wheeling service. The consideration of these two matters resulted in the committee's adoption of language reading as follows:

> but no facilities shall be constructed for electric transmission or distribution service which the Secretary determines, on the basis of an offer of a firm 50-year contract from a local public or private agency, can through such contract be obtained at less cost to the Federal Government than by construction and operation of Government facilities.

CENTRAL VALLEY PROJECT SERVICE TO AREAS IN SANTA CLARA, SAN BENITO, SANTA CRUZ, AND MONTEREY COUNTIES

Section 5 of H.R. 7155 requires that the San Luis project works be planned so as to make it possible to later furnish water through such works to areas in Santa Clara, San Benito, Santa Cruz, and Monterey Counties. The committee understands that this would not require any additional capacity in the San Luis Reservoir or any other modifications of consequence. Construction of the works required to provide the additional service could not be undertaken until a feasibility report has been completed and approved by the Secretary of the Interior and the works have been authorized by the Congress.

The committee inserted this section in the bill in recognition of previous congressional directives relating to Central Valley project service to this area. The American River Development Act of October 14, 1949, contains this language:

> The Secretary of the Interior, through the Bureau of Reclamation, is hereby further authorized and directed to conduct the necessary investigations, surveys, and studies for the purpose of developing plans for disposing of the water and electric power which would be made available by the project, * * * and render reports thereon which would set forth the works required for such disposition, together with findings as to their engineering and financial feasibility, including * * * a conduit or conduits with necessary pumping plants and supplemental works extending from the most feasible diversion point on the Central Valley project, California, to serve lands and municipalities in Contra Costa, Alameda, Santa Clara, San Joaquin, and San Benito Counties.

The matter was again considered in the 85th Congress and the act of August 27, 1958 provides:

> That the Secretary of the Interior is hereby authorized and directed to conduct the necessary studies and render a report to the Congress on the feasibility of a plan to provide Central Valley project service, by way of the Pacheco tunnel route, to lands and municipalities in Santa Clara, San Benito, Santa Cruz, and Monterey Counties.

The Pacheco tunnel route involves the use of San Luis project works.

As adopted by the committee, the language in section 5 is somewhat different from the original language in H.R. 302 (Gubser). The language in H.R. 302 would have authorized the works to provide service to these counties with construction conditioned upon the approval by the Secretary and the Congress of a feasibility report. Several members of the committee objected, as a matter of principle, to authorizing a project before receiving the feasibility report and the findings and recommendations of the Department even though construction was made contingent upon later approval of the report by the Congress, and the subcommittee rejected the H.R. 302 provision. The matter was again considered in full committee and the language of the present section 5 was adopted in lieu.

SUMMARY OF COMMITTEE'S FINDINGS AND COMMITTEE'S RECOMMENDATIONS

On the basis of its extensive consideration and examination of the San Luis project over the past several years, the committee finds that the Federal San Luis unit is physically and economically feasible and a desirable and logical addition to the Federal Central Valley project.

The committee finds that water service to this area is urgently needed to prevent most of the area from returning to desert, and the committee believes that the San Luis unit should be authorized and construction undertaken at the earliest possible date.

The legislation here reported provides a sound basis for joint Federal-State development and use of the San Luis Reservoir site and for an agreement between the Secretary of the Interior and the State with respect to such development. At the same time the legislation provides the means whereby the project can be constructed as an all-Federal development in the event an agreement between the Department and the State is not reached.

The committee is pleased that all interested groups in California have reached agreement on the need for proceeding immediately with the San Luis project and on the legislation to provide for jointFed eral-State develop nent and use of the San Luis Reservoir site, and the committee believes that the legislation as here reported has not been changed in any way which would upset this unanimous agreement among State interests.

With respect to the Federal San Luis service area, the committee believes that the Federal reclamation laws, including the land limitation provisions thereof, should apply and concludes that this is made absolutely clear in the legislation here reported.

In the view of a majority of the committee, there is no justification for providing in the legislation limitations to State-served areas with respect to ownership of land and such limitations are the responsibility of the State. The committee is confident that the State of California will enact legislation expressing the public policy of the State and representing the will of the majority of the people of the State.

The Committee on Interior and Insular Affairs recommends enactment of H.R. 7155, the language of which includes all the amendments which the committee adopted.

DEPARTMENT REPORTS

Reports of the Department of the Interior on San Luis legislation follow:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 16, 1959.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. ASPINALL: This responds to your requests for the views of this Department on H.R. 301 and H.R. 302, both of which are bills to authorize the Secretary of the Interior to construct the San Luis

unit of the Central Valley project, California, to enter into an agreement with the State of California with respect to the construction and operation of such unit, and for other purposes, and H.R. 812, a bill to provide for Federal cooperation with the State of California in the construction of the San Luis unit of the Feather River project, to authorize the Secretary of the Interior to negotiate an agreement therefor, and for other purposes.

We recommend that H.R. 301 be enacted.

If it is enacted, H.R. 301 will permit the carrying out of the proposals made in this Department's project planning report on the San Luis unit, Central Valley project, dated August 1, 1956. After clearance through the Bureau of the Budget, copies of this report were transmitted to the Congress on December 17, 1956. The general plan of Federal development of the unit was described in our report to your committee dated June 28, 1957, on H.R. 2452, H.R. 6035, and H.R. 7295, 85th Congress, and need not be repeated in this report. We also submitted reports to your committee on May 28, 1958, with respect to H.R. 9969, and on July 30, 1958, with respect to H.R. 12899, other proposals introduced in the 85th Congress relating to the authorization of the San Luis unit, Central Valley project.

H.R. 301 would provide, also, that certain of the main supply works could be constructed in a manner and to capacities to permit their joint use by the United States and the State of California. It would authorize the Secretary of the Interior to enter into an agreement with respect to the construction, operation, and financing of these joint-use facilities. Under the provisions of the bill, an equitable division of the costs of construction, operation, and maintenance of such facilities would be arrived at by negotiation. While rights to the use of capacities in the joint-use features would be similarly the subject of negotiation and agreement, subsection (f) of section 3 of the bill would require that the United States be unrestricted in its right to the use of sufficient capacities to serve the Federal San Luis unit.

In addition to favoring the enactment of legislation authorizing the construction by the Federal Government of the San Luis unit of the Central Valley project, we support the concept embraced in H.R. 301 that the main supply features may be constructed, pursuant to suitable agreement, also to serve proposed water developments by the State of California. We are of the opinion that the bill would furnish adequate authority to accomplish both of these objectives. It would provide a legislative framework within which the United States and the State could work out appropriate, mutually acceptable arrangements for the operation of the joint-use works of the San Luis unit so that the State's water development requirements could be served without adversely affecting the operation of the Federal project and without any impairment of the Federal investment. The provisions of the bill properly recognize, we believe, that such matters as the sharing of costs and of capacities of the joint-use works cannot be determined by any fixed statutory formulas but must be worked out by the contracting parties upon taking into account all relevant factors. The terms of H.R. 301 with respect to the contents of the agreement between the United States and the State of California are preferable to those of H.R. 812 which, in addition, has the disadvantage of providing no authority for

construction of the Federal San Luis unit as such under any set of circumstances.

In order to clarify certain of the provisions of the bill dealing with the sharing of costs, we suggest the following amendments for the committee's consideration:

1. In place of the sentence appearing in lines 12 through 18 on page 2, substitute the following:

"Upon agreement by the State or some other public agency to equitably share the cost as later provided in this Act, those joint-use facilities may be constructed initially either to permit future expansion or to capacities necessary to serve both the San Luis unit service area and the State's service area."

2. In line 24 on page 4, after the word "State" insert the words "shall agree to equitably share the total cost of constructing the joint-use facilities and as a part of its share".

3. In lines 3 and 23 on page 6 substitute the word "equitable" for the word "appropriate".

The sentence beginning at line 12 on page 2 indicates that the costs of the joint-use facilities should be apportioned between the United States and the State on an equitable basis. The amendments suggested above are designed, first, to rephrase the language of that sentence to make it clearer without changing its meaning in this respect and, second, to make the other provisions consistent with that sentence.

In addition, we suggest the following minor amendments:

(1) On page 2, in line 6, after the words "pumping plants" delete the word "and" and insert a comma;

(2) On page 8, in line 22, after the comma insert the words "as amended,".

The above comments with respect to H.R. 301 are equally applicable to H.R. 302. The latter bill is substantially identical to H.R. 301 but also includes a provision relating to the construction of works as a part of the Central Valley project, to serve lands and municipalities in Santa Clara, San Benito, Santa Cruz, and Monterey Counties. In connection with this provision, we should like to note the recent action of the Congress in passing the act of August 27, 1958 (72 Stat. 937) which authorized this Department to make an investigation of the feasibility of the proposed work and to report thereon to the Congress.

The data called for by Public Law 801, 84th Congress, are attached for your information.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee. However, that Bureau has requested that your committee be advised that it would recommend that the provisions of H.R. 301 and H.R. 302 be modified to provide for treating the cost of minimum basic recreational facilities as part of the overall Federal cost to be allocated to the major purposes of the project subject to the cost-sharing or reimbursement requirements applicable to such purposes.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

SUBJECT MATTER: BILL TO AUTHORIZE CONSTRUCTION OF THE SAN LUIS UNIT, CENTRAL VALLEY PROJECT

Estimated additional man-years of civilian employment and expenditures for the 1st 5 years of proposed new or expanded programs

	1959	1960	1961	1962	1963
Estimated additional man-years of civilian employment:					
Executive direction:					
Executive			1	1	1
Clerical			1	1	1
Total, executive direction			2	2	2
Administrative services and support:					
Account				3	3
Clerical				7	7
Property management				6	6
Records maintenance				4	4
Total, administrative services and support				20	20
Substantive (program):					
Engineering aids			10	30	30
Engineers			15	59	59
Geologist			5	5	5
Total, substantive			30	94	94
Total, estimated additional man-years of civilian employment			32	116	116
Estimated additional expenditures:					
Personal services			200,000	700,000	700,000
All other			2,450,000	9,000,000	32,000,000
Total, estimated additional expenditures			2,650,000	9,700,000	32,700,000

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 16, 1959.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: This responds to the request made of departmental witnesses during the recent hearings on the San Luis unit, Central Valley project, authorization bills for the views of this Department on H.R. 5681, H.R. 5682, H.R. 5684, and H.R. 5687, identical bills relating to the authorization of the San Luis unit.

This Department would not object to the enactment of any one of the bills, provided it is amended to conform with the views expressed herein.

In a report to your committee dated March 16, 1959, we recommended the enactment of H.R. 301. The bills designated above are the same as H.R. 301 except in the following respects:

(1) They would require that the joint-use facilities must be constructed either in a manner to permit future expansion to accommodate both the Federal San Luis unit and the State's water plan or to the enlarged capacities initially. This requirement is without regard to the consummation of an agreement between the Secretary of the Interior and the State of California for the sharing of costs of construction, operation and maintenance, and for the coordinated opera-

tion of the joint-use facilities. Under the provisions of H.R. 301, in the absence of such an agreement, the Secretary of the Interior would be permitted to undertake the construction of the San Luis unit without making provision in the main supply works for future enlargement.

(2) Under the provisions of the recently introduced bills, the time during which the Secretary and the State would be required to negotiate an agreement as a condition precedent to construction of the San Luis unit would extend to January 1, 1962. Under the provisions of H.R. 301, this period would run to July 1, 1960.

(3) The subject bills incorporate a new section designated section 6, which provides specifically that the Federal reclamation laws would not be applicable to water service by the State. H.R. 301 does not contain such a provision.

The provision of the bills requiring that the joint-use facilities be constructed initially to capacities to accommodate both the Federal San Luis unit and the proposed State water plan or that they be constructed in such a manner as to permit necessary future expansion is intended to assure that the State will not be precluded from sharing in the use of the main supply features of the San Luis unit by reason of initial construction to serve only the Federal unit. In view of the efforts and progress being made by State authorities in attempting to meet locally their water needs, we are sympathetic to the objective of the local groups which favor the provision. Our estimate of the cost of the San Luis Dam and Reservoir includes provision for some future expansion so that, in the event the State water plan does not materialize, the facilities might at some future date be used to serve additional Federal irrigation developments. Accordingly, we would be agreeable to the provisions of the bills insofar as they relate to the construction of the dam and reservoir.

However, the construction of the main canal would present some serious problems, both from the standpoint of engineering design and costs. Accordingly, in the event the committee should act favorably upon any one of the subject bills, we recommend that it be amended in such manner as to require either initial construction to the enlarged capacity or provision in initial construction to permit future enlargement with respect to the dam and reservoir only, and that such construction be permitted with respect to the other joint-use facilities.

In view of the fact that we are rapidly approaching the middle of calendar year 1959, it would seem reasonable to extend the cutoff date after which construction of the Federal unit could be undertaken without an agreement from July 1, 1960, to January 1, 1962.

This Department has never contended that the proposed delivery of water by the State to its service areas from and through the joint-use works would be subject to the provisions of the Federal reclamation laws, on the assumption, of course, that the State's share of the costs of construction would be met concurrently with the construction period. Therefore, we would not object to the new section 6 of the bill, but suggest that it be clarified in this respect by adding, after the figure "1956" at the end of section 6, the following: ", *Provided*, That the State's share of the construction costs of the facilities for joint use shall have been paid prior to completion of construction of such facilities".

In the event the committee should act favorably upon any one of the subject bills, we recommend the adoption of amendments to make clear in the bill that under any circumstances of construction of works for joint use, either initially or at a later date through enlargement, the State and the United States shall share the total costs of construction, operation, and maintenance of the joint-use works on an equitable basis. We do not consider that the contribution by the State of sufficient funds to pay the additional costs of designing and constructing the joint-use facilities so as to permit future enlargement will necessarily meet this requirement.

In addition to the provisions discussed above, the subject bills contain language in the last sentence of section 1 relating to the construction of drainage facilities which differs from the language of the corresponding provision of H.R. 301. However, the change in language would result in no substantive effect upon project construction or programing.

Since we are informed that there is a particular urgency for the submission of the views of the Department, this report has not been cleared through the Bureau of the Budget and, therefore, no commitment can be made concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

SEPARATE VIEWS

The undersigned members of the committee do not concur in the inclusion of section 7 in H.R. 7155. We strongly oppose this section and are convinced that it marks a serious departure from fundamental reclamation law as written by Congress over a period of 57 years. Without the inclusion of section 7 we support H.R. 7155 and recommend its enactment. It is noteworthy that earlier bills introduced in this Congress authorizing the San Luis project did not contain any section comparable to section 7. The bill is complete without it.

This matter is important from a public viewpoint because there exist in this area predominantly large landholdings consisting of thousands of acres of rich fertile soil. We cannot ignore the public interest in the handling of any Federal reclamation project in connection with the real possibility of enhancement of huge private interests through interest-free Federal investment. The intent of the basic Reclamation Act was to use such Federal investment so that no right to the use of water for land in private ownership exceeded 160 acres to any one landowner.

H.R. 7155 authorizes a Federal reclamation project upon which the State is given authority to superimpose a State project addition. The arrangement will be worked out by contract. These are new and untried areas for reclamation. Under these circumstances it is imperative that we protect Federal interests and the basic concept of Federal reclamation law. By deleting section 7, we feel that this will be accomplished.

If the purpose of this legislation is to amend the reclamation law to eliminate the 160-acre limitation, it should be done in a clean bill which will do just that. But the undersigned cannot agree that such an amendment should be accomplished under a single project authorization in this manner.

We believe it would be most unwise to make such a basic change in reclamation law as is involved in section 7, and we recommend its deletion.

May 18, 1959.

GRACIE PFOST.
AL ULLMAN.
LEROY ANDERSON.
QUENTIN BURDICK.
WM. J. RANDALL.
RALPH S. RIVERS.