

STATEMENT OF
GOVERNOR R. C. STANFORD OF ARIZONA
TO
BOULDER DAM POWER CONFERENCE
CALLED BY HON. HAROLD L. ICKES, SECRETARY OF INTERIOR
AT
WASHINGTON, D. C.
APRIL 16, 1937

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Statement of
Governor R. C. Stanford of Arizona
To Boulder Dam Power Conference

Called by Hon. Harold L. Ickes, Secretary of the Interior,
At Washington, D. C.

April 16, 1937.

Mr. Secretary and honorable representatives of the Colorado
River Basin States:

I appear before you as governor of the State of Arizona in
response to an invitation from the Honorable Harold L. Ickes, secre-
tary of the interior, to attend this meeting on the subject of
Boulder Dam power contracts, and therefore respectfully submit the
following statement on behalf of the rights and interests of Arizona
and those claiming under it in the Colorado River and its tributaries

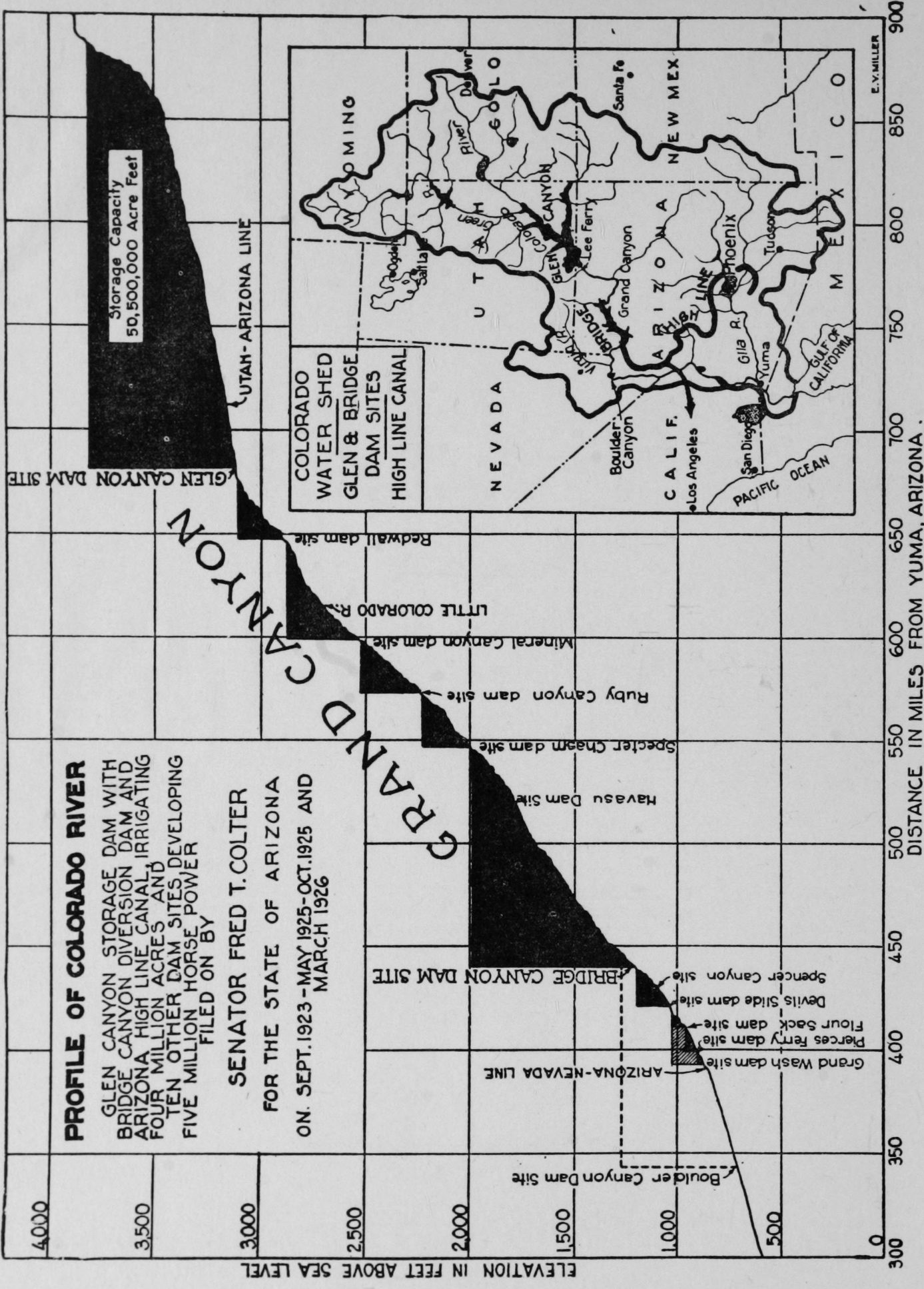
I

LEGAL STATUS

The power contracts which are the subject of this assembly are
pursuant to the terms of the Boulder Canyon Project Act (45 Stat.
1057) approved in 1923 and power regulations issued in accordance
therewith by the secretary of the interior on April 25, 1930. By
Section 13 (c) of said act such power contracts and water contracts
or any other privileges thereunder, as well as the act itself, are
expressly subject to the Colorado River Compact, and same is pro-
vided in Paragraph XIV of the power regulations.

These restrictions are without effect and not binding on the
State of Arizona, which has rejected the compact for fifteen years,
by virtue of decisions of the United States Supreme Court. In the
first and basic Arizona vs. California decision, 283 U. S. 522,
handed down May 13, 1931, the Supreme Court held that Arizona is
not bound nor its rights impaired by the Boulder Canyon Project
Act or the Colorado River Compact, and that "the Act interposes no
legal inhibitions" on execution of Arizona's projects or "with
the exercise by Arizona of its right to make further appropriations
by means of diversions above the dam or with the enjoyment of water
so appropriated."

57/58-G The Supreme Court significantly extended this protection of
Arizona by its decision in United States vs. Arizona, 295 U. S. 132,
decided May 25, 1935, in which the Court refused to enjoin Arizona
from interfering with construction of Parker Dam by the United States
and ruled that Arizona's "jurisdiction in respect of the appropria-
tion, use and jurisdiction of an equitable share of the waters flow-
ing therein is unaffected by the Colorado River Compact or federal
reclamation law," of which law the Boulder Canyon Project Act is



PROFILE OF COLORADO RIVER

GLEN CANYON STORAGE DAM WITH BRIDGE CANYON DIVERSION DAM AND ARIZONA HIGH LINE CANAL IRRIGATING FOUR MILLION ACRES AND TEN OTHER DAM SITES DEVELOPING FIVE MILLION HORSE POWER FILED ON BY

SENATOR FRED T. COLTER

FOR THE STATE OF ARIZONA

ON SEPT. 1923 - MAY 1925 - OCT. 1925 AND MARCH 1926

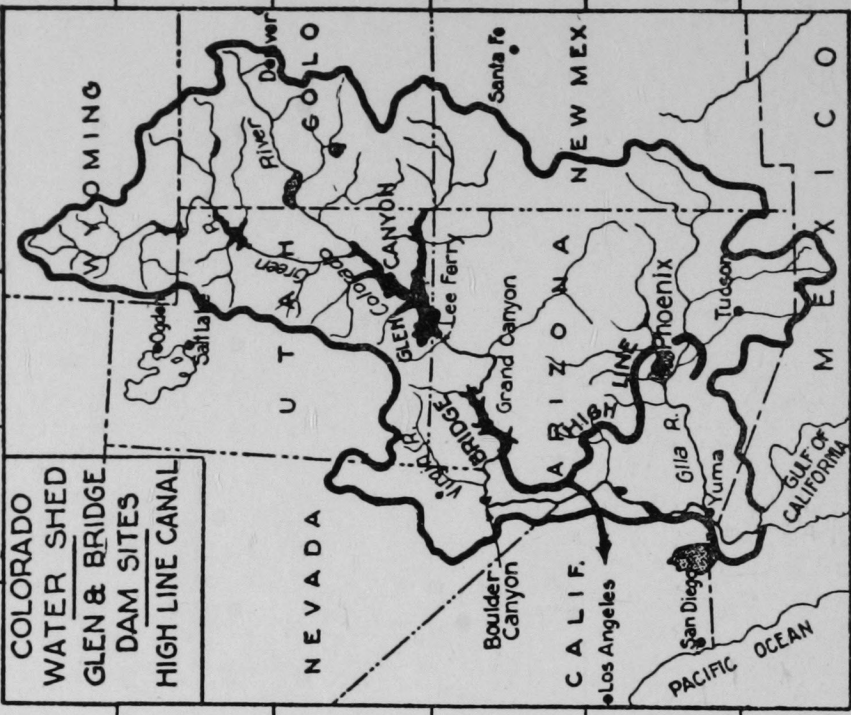
Storage Capacity
50,500,000 Acre Feet

UTAH - ARIZONA LINE

COLORADO
WATER SHED
GLEN & BRIDGE
DAM SITES
HIGH LINE CANAL

GRAND CANYON

Grand Wash dam site
Percies Ferry dam site
Flour Sack dam site
Devils Slide dam site
Spencer Canyon site
Boulder Canyon Dam Site
ARIZONA-NEVADA LINE
BRIDGE CANYON DAM SITE
Havasu Dam Site
Specter Chasm dam site
Ruby Canyon dam site
Mineral Canyon dam site
Little Colorado R.
Redwall dam site



E. V. MILLER

ELEVATION IN FEET ABOVE SEA LEVEL

300 350 400 450 500 550 600 650 700 750 800 850 900

DISTANCE IN MILES FROM YUMA, ARIZONA

a part by Section 14 thereof. In this decision the court reiterated the Boulder Dam had been allowed for navigation only, stating that "the Boulder Canyon Project Act is an example of the exertion of that power".

II

ARIZONA'S POSITION

Arizona contains 92% of the electrical horsepower and 43% of the entire drainage basin of the Colorado River (United States Geological Survey Water Supply Paper No. 553, by E. C. LaRue), and half of the irrigable land in the river system. Practically all of Arizona lies within the watershed of the river, and the state has no other source of water. Nature has centered the wealth and wonders of this unique river in Arizona, together with the blessings and burden of obtaining and defending its proper development in accordance with accepted engineering principles, the constitution, and the time-tested water laws and decisions of state and federal courts, which have safeguarded Arizona and its water resources.

The Grand Canyon of the Colorado is entirely within Arizona, and the river is the most rapidly falling in the world with steep and narrow canyons for economical storage and diversion dam sites. In close proximity to these sites and from 500 to 2000 feet below them are millions of fertile desert acres in Arizona with all-year growing season to which the water can be economically conveyed to irrigate the lands by gravity and the power generated by the fall of the water to the land levels and combined with such projects, including power in the tributary canyons, will many times overpay the cost of development. As much power can be generated in the Grand Canyon in Arizona as is now generated by water over the entire United States.

The superior practicality and feasibility of such Arizona development is proven by comparison with other large water projects built or under construction, including the Colorado River Aqueduct being built by the Metropolitan Water District of Southern California which is complaining here today as to costs. This aqueduct calls for a pump-lift of 1523 feet and approximately 100 miles of tunnel to carry only one-sixteenth the water of Arizona's projects which will cost less and irrigate twenty times more land by gravity, and the power generated by fall of the water to the land will overpay all costs as qualified engineers have stated in the official engineering reports which I shall file and make of record as exhibits to accompany my statement.

III

THE COLORADO RIVER COMPACT

The Colorado River Compact, to which Arizona is not signatory and by which it is not bound, includes in its purported allocations present perfected water rights and both the main stream and tributaries of the Colorado River System. As alleged by the Attorney-

General of Arizona in the bill of complaint, pages 6 and 22, Arizona vs. California supra, present used waters and rights thereto in Arizona in 1929 amounted to 3,500,000 acre feet, while the compact, and the supplemental tri-state compact, (Sec. 4, Boulder Canyon Project Act, supra), would limit Arizona in perpetuity to 2,800,000 acre feet which is already over-consumed and "less than the quantity of water already appropriated in Arizona and would provide for water for future appropriation in said state." Thus the compact would allocate Arizona 700,000 acre feet less than it now uses, and in dry years by Articles III and VIII thereof would have required Arizona to supply any Mexican water deficiency from its developed reservoirs, projects and cities, bring ruin to the state and its people.

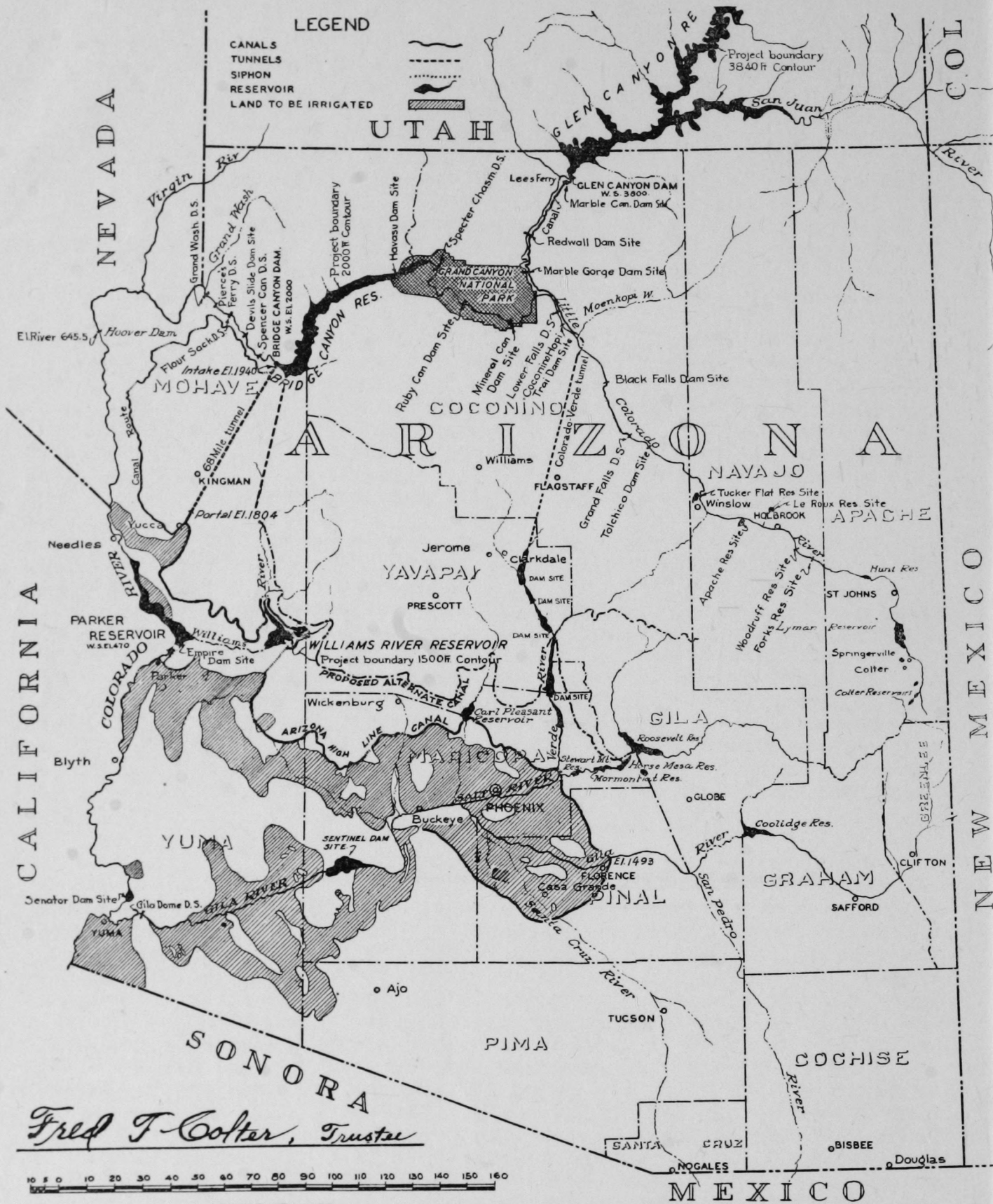
The California Limitation Act, Ch. 16, Stats. of Calif., 1929, p. 38, includes the water divisions of both compacts, which would give California and Mexico practically the entire river, or 4,400,000 acre feet plus one-half of the surplus water, amounting to approximately 14,330,000 acre feet annually (Bill of Complaint, Arizona vs. California, decided May 25, 1936, 80 S. Ct. Reports, Law Editors' Advance Opinions, page 877). By articles III and VIII of the compact, Mexico would receive all surplus water.

It would be disastrous for Arizona, being situated in the higher elevations and having one-half of the irrigable land and 92% of the power to be limited to any permanently bound, stipulated amount, as all surplus waters would then be contracted or forced to Mexico. Such would prevent the maximum use obtained through re-use, reflow and reprecipitation of water, which is the major portion of the entire river and increases the amount in succeeding years, for when higher elevations are given preference, the same water will be counted as water appropriations a multiplicity of times and will serve dams and lands below. On this principle the application of water by the upper basin states within the river system will not deplete the flow of the river at the Utah-Arizona line.

IV

ARIZONA'S WATER RIGHTS, FILINGS AND PROJECTS

As set forth more fully in my special Colorado River message to the Arizona Legislature February 18, 1937 on diversion of water into Central Arizona above Boulder Dam, copy of which is included among the exhibits filed herewith, initiations began in 1916 and water filings were made beginning in 1923 and thereafter before the Arizona Water Commissioner and Federal Power Commission for and on behalf of the State of Arizona and those claiming under it, on some forty (40) projects throughout Arizona on the Colorado River and its tributaries. Of these the principal and key projects are the Glen Canyon Storage Dam, the Bridge Canyon Diversion Dam, Arizona Highline Canal, and Marble Gorge Storage Dam or alternate Verde Tunnel to irrigate 6,000,000 acres and develop 5,000,000 electrical horse-power. As the main canal crosses all rivers in Southern and Central Arizona, which are arms of the Colorado, it can furnish supplemental main stream water to already built projects below the canal, which



Fred T. Colter, Trustee

Map showing dam and canal sites filed on by Fred T. Colter with the Arizona Water Commission and the Federal Power Commission for Arizona and Water Users under said projects. First filings made in 1923. Projects to develop 5,000,000 electrical horse power and irrigate 4,455,000 Acres of land.

are short of water even in years of normal rainfall, allowing upper users and lands to take all the water needed, which after use will return to the lower lands. These water filings and rights have continued to be maintained with due and reasonable diligence and are now vested as property rights in land holders and water-users resident on lands under the projects and dependent on these rights for water. In these filings it is stipulated that the irrigation and power are combined, with irrigation superior, as required by nature and state and federal statutes, with water storage and diversion at highest practicable elevations to reclaim maximum lands in Arizona.

V

CONFORMITY WITH PROPER DEVELOPMENT

Arizona's position conforms with proper development of the entire river system and President Roosevelt's main program, with which all conservationists are agreed, of conserving American Land and water by beginning development in the upper reaches and sources of stream systems, which is required for all watershed conservation purposes, including maximum reclamation, flood control, navigation, and soil erosion and silt control, Arizona's position favoring upstream development injures no legitimate interest in the river system and is especially advantageous to the upper basin states.

On the other hand, the Colorado River Compact would have contracted Arizona's and the nation's Colorado River waters in perpetual ownership to irrigate 2,000,000 acres in Mexico at the foot and wrong end of the river to build up a foreign stronghold against our border compete with our present industry, agriculture and labor and threaten national security. It would drain out and denude the entire watershed, leaving 14,000,000 acres desert in Arizona by preventing reflow usage from first application in the upper reaches, subvert the constitution and the common laws of property, private rights and contracts and especially water law, which never in history has permitted ownership of water but only rights to the beneficial use thereof as determined by the courts, and by the Boulder Dam power contract would separate irrigation and power which by law and nature are combined. In the words of President Roosevelt to the Third World Power Conference on Sept. 11, 1936, power should "be used primarily for the conserving of the water supply" which the compact and the Boulder power and water contracts based on it would defeat and destroy.

The President's National Resources Committee, the chairman of which is Hon. Harold L. Ickes, secretary of the interior, in its December, 1935 report to the president on Regional Factors in National Planning, page 70, described the Colorado River Compact as impractical and impossible.

I call your attention to the only case of record in which a ratified interstate water division compact has been brought into question before the highest state and federal courts. The compact

between the states of Colorado and New Mexico on the waters of the La Plata River, although ratified by the legislatures of both states, was found unconstitutional by the supreme court of the State of Colorado in La Plata River and Cherry Creek Ditch Co. vs. Hinderlider (25 Pac. 2nd Series, 187), decided July 3, 1933, and appeal was denied by the United States Supreme Court March 12, 1934. The La Plata River Compact, which provided merely for the rotation of water, was not so unconstitutional, illegal and damaging as the Colorado River Compact which attempted to put water into perpetual ownership.

VI

DUE NOTICE AND PROTEST

As Governor of the State of Arizona here to represent its interests, I hereby protest, notify and warn claimants adverse to Arizona and all others concerned that any invasion of the vested and inchoate water rights, filings and projects of the State of Arizona and those claiming under it, will be at their own risk and hazard, and any loss resulting to them will be due to their own neglect and failure to heed the several decisions of the United States Supreme Court that Arizona is not bound nor her rights impaired by the Colorado River Compact and Boulder Canyon Project Act, or any water or power contracts subject thereto, including the Boulder Dam power contracts which are before this meeting and against which I specifically protest and warn against any attempts to carry out the same, since the carrying out of said contracts would prevent the diversion of water above Boulder Dam into Central Arizona and the development of irrigation projects on the tributaries in Arizona, and which contracts if allowed to be completed would result in Arizona's and the nation's Colorado River water going to Mexico. This notice and protest is an act of continued due and reasonable diligence in keeping up such water rights and filings of Arizona and those claiming under it, and is in addition to previous such protests and the public record of such filings in the offices of the Arizona Water Commissioner and Federal Power Commission.

VII

CONCLUSION

In conclusion, I have come before you with the most serious and earnest purpose of enunciating truths and fundamentals which are indispensable to defend and develop properly Arizona and all the basin states, and in order to lay the base on which the basin states can aid and successfully cooperate among themselves and with the federal government, in policies of construction and conservation for maximum development of land and water resources in the Colorado River system, leaving determination and adjustment of water rights to the courts which alone have the power and are equipped to do so and reopen water cases to allow growth and new projects in accordance with expanding population. Neither congress nor any compact, authority or board can divide water or put it in perpetual ownership, as attempted by the Colorado River Compact which would have destroyed Arizona and proper development of the whole river system. On such

a base and the water law which has come down through the centuries and requires dams and canals to be placed so as to afford the greatest benefit, rapid progress in water development in all the basin states can be assured, especially in view of the president's concern and support for proper water usage and reclamation projects to save the nation's agriculture now menaced by soil erosion and dust condition.

I hereby file and make of record with my statement several exhibits on legal and engineering facts with respect to Colorado River protection and development in Arizona.

R. C. Stanford
Governor of Arizona

Washington, April 16, 1937.

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GOVERNOR R. C. STANFORD OF ARIZONA
TO BOULDER DAM POWER CONFERENCE

CALLED BY HON. HAROLD L. ICKES
SECRETARY OF THE INTERIOR,
AT WASHINGTON, D. C.
April 16, 1937.

EXHIBIT: Special Message of Governor R. C. Stanford to the Thirteenth Legislature on the Colorado River delivered on February 18, 1937.

EXHIBIT: Report of Colorado River Commission of Arizona 1931-1932.

EXHIBIT: Summary of Scott Engineering Report to Arizona Attorney General on Glen-Bridge-Verde-Highline Project and Parker - Gila Project, submitted March 28, 1933.

Letter of transmittal of Fred T. Colter, Arizona Water Trustee, accompanying his authorized report to the Arizona Attorney-General entitled "DILIGENCE IN PROTECTION AND DEVELOPMENT OF ARIZONA WATER RESOURCES," comprising approximately 1200 pages and 50 maps and illustrations, bound in three separate books: Volume I, Part I, Introductory Report; and Volume I, Part II (in two books), Acts of Due and Reasonable Diligence to the Water Filings in the Colorado River System Made by the Trustee for and on behalf of Arizona and Water Users" submitted April 14, 1933.

EXHIBIT: Highline Book published by Fred T. Colter, Arizona Water Trustee. Summary with maps and illustrations of Arizona's Rights on Colorado River, Arizona's only water.

EXHIBIT: Engineering, Legal, U. S. Supreme Court and other Data since 1916 on Colorado River protection and development by Fred T. Colter, Arizona Water Trustee, published in the Arizona Republic, February 23, 1937.

Analysis of Ruinous Colorado River Compact and Tri-State Compact.

EXHIBIT: Letter of Secretary of State and acting Governor James H. Kerby, November 18, 1933, approving Public Works Administration loan application of \$350,000,000 to construct Glen-Bridge-Verde-Highline Projects by trustee and pre-organization irrigation-power districts.

(wkm)